

CODE OF THE CITY OF GALENA KANSAS

Published Under the Authority and by the Direction of
The Governing Body of the City of Galena,
Kansas, this 23rd day of March, 2015

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



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ROSTER OF CITY OFFICIALS

CITY OF GALENA

GOVERNING BODY

Mayor

Dale Oglesby

Councilmembers

Paul Allen

Todd Martin

Lance Nichols

Ashley Qualls

Joshua Reed

Linda Watkins

Roy Watkins

Administrative Officials

Flora R. Charles
City Clerk

Kevin Cure
City Attorney

Tracy Roberts
City Treasurer

Bill W. Lyerla
Municipal Judge

Bill Hall
Fire Chief

Larry Delmont
Chief of Police

PREFACE

This volume contains the Code of the City of Galena, Kansas, 2015. As expressed in the adopting ordinance, the code supersedes all ordinances passed before March 23rd, 2015, which are not included herein or recognized as continuing in force by reference thereto. The code was prepared by the staff of the League of Kansas Municipalities, the Galena City Attorney, and Galena 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 by ordinary ordinance by reference to the code section number as follows:

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

A new section of the code may be added by ordinary ordinance as follows:

"The Code of the City of Galena is hereby amended by adding the following section(s) (or article or chapter): (the new provision(s) shall be set out in full)."

All sections, articles, or chapters may be repealed by ordinary ordinance as follows:

"Section 1-105 (or article or chapter) of the Code of the City of Galena is hereby repealed."

The user's attention is directed to the **Governing Body Handbook**, published by the League of Kansas Municipalities, 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 that may appear in standard codes incorporated by reference in this Code.

PREPARED AND PUBLISHED BY
THE LEAGUE OF KANSAS MUNICIPALITIES

Nicole Proulx Aiken
Legal Counsel

ORDINANCE NO. _____

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

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

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

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

Passed and Approved by the Governing Body this _____ day of _____, 20____.

/s/ _____
Mayor

ATTEST: /s/ _____, City Clerk

(SEAL)

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ORDINANCE NO. 2015-02

AN ORDINANCE ADOPTING THE CODIFICATION OF ORDINANCES OF THE CITY OF GALENA, KANSAS, AUTHORIZED BY ORDINANCE NO. 84-16 PROVIDING FOR THE REPEAL OF CERTAIN OTHER ORDINANCES NOT INCLUDED THEREIN, EXCEPTING CERTAIN ORDINANCES FROM REPEAL AND SAVING CERTAIN ACCRUED RIGHTS AND LIABILITIES.

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

Section 1. The codification of ordinances of the City of Galena, Kansas, authorized by Ordinance No. 84-16 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 Galena, Kansas, 2015," is hereby adopted and ordained as the "Code of the City of Galena, Kansas, 2015," and said codification shall become effective upon publication of no fewer than 10 copies of said code in book form.

Section 2. All ordinances and parts of ordinances of a general nature passed before March 23, 2015, in force and effect at the date of the publication of no fewer than 10 copies of the "Code of the City of Galena, Kansas, 2015," and this ordinance, are hereby repealed as of the date of publication of said code except as hereinafter provided.

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

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

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

Section 4. The arrangement and classification of the several chapters, articles, and sections of the code adopted by Section 1 of this ordinance and the 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 therefrom.

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

Section 6. If for any reason any chapter, article, section, subsection, sentence, portion, or part of the "Code of the City of Galena, Kansas, 2015," or the application thereof to any person or circumstances is declared to be unconstitutional or invalid, such decision will not affect the validity of the remaining portions of this code.

Section 7. This ordinance shall take effect and be in force from and after the publication of the "Code of the City of Galena, Kansas, 2015," as provided in K.S.A. 12-3015.

Passed by the Governing Body of the City of Galena, Kansas, this 23rd day of March, 2015.

/s/ Dale Oglesby, Mayor

ATTEST: /s/ Flora R. Charles, City Clerk

(SEAL)

CERTIFICATE OF THE CITY CLERK

Office of the City Clerk
City of Galena, Kansas

State of Kansas)
)
Cherokee County)

I, Flora R. Charles, City Clerk of the City of Galena, Cherokee County, Kansas do hereby certify that said city is a city of the second class of the modified mayor-council form of government under the statutes of Kansas; that this codification of the general ordinances of said city and the publication thereof in book form were ordered and authorized by the governing body by Ordinance No. 84-16 and in accordance therewith is entitled the "Code of the City of Galena, Kansas, 2015," that said codification was adopted as the "Code of the City of Galena, Kansas, 2015," by the governing body by Ordinance No. 2015-02 passed on the 23rd day of March, 2015, as authorized by Section 12-3015 of the Kansas Statutes Annotated; that said Ordinance No. 2015-02 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. 2015-02 constitute due passage of this code and all general ordinances contained therein; that the codification and adoptive Ordinance No. 2015-02 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 Galena, Kansas, 2015," and the matter therein contained will take effect upon publication and be in force from and after March 23rd, 2015.

Witness my hand and the seal of the City of Galena, Kansas, at my office in Galena, Kansas, this ____ day of _____, 2015.

Flora R. Charles, City Clerk
City of Galena, Kansas

(S E A L)

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ARTICLE 1. GENERAL PROVISIONS

- 1-101. CODE DESIGNATED. The chapters, articles and sections herein shall constitute and be designated as "The Code of the City of Galena, Kansas," and may be so cited. The Code may also be cited as the "Galena City Code."
(Code 2015)
- 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 Galena, Kansas.
 - (a-1) City council, council – shall mean all members of the governing body, except the mayor;
 - (a-2) City Inspector – shall perform all inspecting duties throughout this Code that are not specifically or impliedly delegated to the code enforcement officer or other officer or employee of the city, and shall be able to perform any duties assigned to a city inspector, building official, electrical inspector, or plumbing inspector, and of inspectors of similar designations;
 - (b) Code - shall mean "The Code of the City of Galena, 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 Cherokee in the State of Kansas.
 - (e) Delegation of Authority. - Whenever a provision appears requiring or authorizing the head of a department or officer of the city to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.
 - (f) Gender. - Words importing the masculine gender include the feminine and neuter.
 - (g) Governing Body - shall be construed to mean the mayor and city council of the city, or those persons appointed to fill a vacancy in the office of mayor or the city council as provided in this code. The governing body shall consists of a mayor and three members of the council elected at large and four members of the council elected by districts; (K.S.A. 12-10a02)

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

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

(j) Month - shall mean a calendar month.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code 2015)

1-103.

EXISTING ORDINANCES. The provisions appearing in this code, so far as they are in substance the same as those of ordinances existing at the time of the effective date of this code, shall be considered as continuations thereof and not as new enactments. (Code 1988)

- 1-104. **EFFECT OF REPEAL.** The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which has accrued, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein. (Code 1988)
- 1-105. **CATCHLINES OF SECTIONS.** The catchlines of the sections of this code printed in capital letters are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted. (Code 1988)
- 1-106. **PARENTHETICAL AND REFERENCE MATTER.** The matter in parenthesis at the ends of sections is for information only and is not a part of the code. Citations indicate only the source and the text may or may not be changed by this code. This code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015. Reference matter not in parenthesis is for information only and is not a part of this code. (Code 1988)
- 1-107. **AMENDMENTS; REPEAL.** Any portion of this code may be amended by specific reference to the section number as follows: "Section _____ of the code of the City of Galena 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 Galena is hereby amended by adding a section (or article or chapter) which reads as follows: . . . (the new provisions shall be set out in full). ." All sections, or articles, or chapters to be repealed shall be repealed by specific reference as follows: "Section (or article or chapter) ____ of the code of the City of Galena is hereby repealed." (Code 1988)
- 1-108. **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 1988)
- 1-109. **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 Galena 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 1988)
- 1-110. **SCOPE OF APPLICATION.** Any person convicted of doing any of the acts or things prohibited, made unlawful, or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed in violation of this code and punished in accordance with section 1-116. Each day any violation of this code continues shall constitute a separate offense. (Code 1988)

- 1-111. 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 1988)
- 1-112. SEVERABILITY. If for any reason any chapter, article, section, subsection, sentence, clause or phrase of this code or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this code.
- (Code 1988)
- 1-113. FEE WAIVER. The city council, upon request by a person or entity to the council, may by a unanimous vote of those council members present, waive or reduce any fee provided for in the Code of the City of Galena if the imposition thereof would cause a financial hardship to the party requesting such waiver, or the waiver of such fee would likely result in a financial benefit, directly or indirectly, to the City of Galena, or the waiver of such fee would aid in removing or repairing a hazardous condition or hazardous property. (Ord. 7-4; Code 2015)
- 1-114. MAPS INCORPORATED BY REFERENCE; SAFEKEEPING; PLACE OF STORAGE.
- (a) The City Clerk shall safely keep the following maps at the city clerk's office to be kept there unless the same shall be released to a department head or chairman of the planning commission for a period of no more than 3 days in order for such office head to perform his or her duties: enterprise zone map, zoning map, flood map, and voting district map. Such maps shall be kept on display in the city clerk's office.
 - (b) A copy of the original of every such map referenced in subsection (a) of this section shall be forthwith made and such copy shall be kept separate from the original map so that in the event any original map is lost or destroyed measures may be undertaken to reproduce the original map as a part of an ordinance. In the event of the loss of an original map the reproduction and substitution of the copy of such map is so authorized upon the city council making a finding such copy is a true and accurate representation of the original map and a certified copy of the minutes of such proceeding is attached to such copy.
- (Code 2015)
- 1-115. GRANT INDEX. A master list of all federal and state grants, both applied for and granted, shall be maintained in the office of the city clerk. Such list shall include the following: date of application; date granted; date completed; grant number; authority or agency from which a grant is sought or granted; a brief statement of the purposes of the grant application; amount applied for; amount granted; specific representative of the city primarily responsible for administering the grant; amount granted; and payments received by the city as a result of the grant. (Code 2015)

1-116. CODE BOOK; SECTION CHANGES; INDICATORS THEREOF.

(a) Changes to be indicated in codebook. Amendments to any section of the code book after the initial adoption of this code shall be placed on yellow sheets of paper to be inserted at the end of the relevant article or chapter in which the section was amended until any reproduction of the entire code book is ordained by the governing body. Beside each section in the codebook that is amended or repealed subsequent to the enactment of this Code, the city clerk shall place in the margin of the relevant section, an indication such section was repealed or amended, as is the case, and the ordinance number amending or repealing such section. Whenever a section is added subsequent to the enactment of this code, the city clerk shall place a notation after the section of the codebook preceding the added section, indicating the section number added and the ordinance number adding such section.

(b) Inventory of codebook. All official versions of the codebook shall be supplemented within 20 days after the effective date of the addition, amendment or repeal of any section thereof. The city clerk shall keep a file labeled "2015 Codebook Inventory" bearing an inventory of all official versions of the codebook, number each one 1 through 10, and indicate on an inventory kept in such file the location of each of these 10 codebooks. No Codebook shall leave the city clerk's office unless a receipt therefore is signed by the member of the governing body or department head provided such codebook by the city clerk. The city clerk shall place his or her signature and the date in the inventory when any codebook is returned to the city clerk's custody. (Code 2015)

1-117. RESOLUTIONS BOOK; LISTING OF RESOLUTIONS INCLUDED IN CODE BOOK; GENERAL RESOLUTIONS.

(a) There shall be kept by the city clerk a book that shall contain only the resolutions of the city enacted after January 1, 2015.

(b) Further, resolutions that are of a general nature, that is, resolutions that have general application, rather than limited application to a specific property, person, entity, transaction or event, shall be designated as being general resolutions during or immediately after passage by the governing body.

(c) General resolutions shall be listed and reproduced in a section to this code that shall follow the section containing charter ordinances of the city and shall be entitled, "General Resolutions Listing."

(d) Nothing in this section shall be construed as creating an ordinance from a resolution by reason of the listing or reproduction of a resolution in this code as such listing is done for information and convenience purposes only. (Code 2015)

ARTICLE 2. GOVERNING BODY

- 1-201. **GOVERNING BODY.** The governing body shall consist of a mayor and three (3) members of the council elected at large and four (4) members of the council elected by districts. (K.S.A. 12-10a02; Code 2015)
- 1-202. **SAME; POWERS GENERALLY.** The city council shall act as the policymaking body of the city. All powers exercised by cities of the second class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law. All executive and administrative authority granted or limited by law shall be vested in the mayor and city council as governing body of the city. (K.S.A. 12-103; Code 2015)
- 1-202A. **MODIFIED MAYOR-COUNCIL STATUTES SUPERCEDE CHAPTER 12 AND CHAPTER 14 STATUTORY PROVISIONS THAT ARE IN CONFLICT THEREWITH.** In the event of a conflict in the provisions of K.S.A. 12-10a01 through 12-10a09, and any amendments thereto, and any provisions of Chapter 12 or Chapter 14 of the Kansas Statutes Annotated, the provisions of K.S.A. 12-10a01 through 12-10a09, and any amendments thereto, shall control. (Code 2015)
- 1-203. **SAME; MEETINGS.** (a) Regular meetings of the city council shall occur on the first and third Mondays of each calendar month at 7:00 p.m. in the city council room at the city hall for the purpose of taking under advisement and acting upon such business as may come before the governing body. In the event a regular city council meeting scheduled to occur on the first or third Monday of a calendar month should fall on a holiday recognized by the city, such meeting shall not occur. Instead, the meeting shall be held at 7:00 p.m. on the next day that is not a holiday or weekend day. Any meeting cancelled due to inclement weather or other hazards shall be held on the next day at 7:00 p.m. that is not a holiday, weekend day, or date in which inclement weather or hazards prevent it from occurring.
 (b) Special meetings may be called by the mayor or acting mayor, on the written request of any four members of the council, specifying the object and purpose of such meeting, which request shall be read at a meeting and entered at length on the journal.
 (c) Regular or special meetings of the governing body may be adjourned for the completion of its business at such subsequent time and place as the governing body shall determine in its motion to adjourn. (K.S.A. 14-111; Ord. 14-10; Code 2015)
- 1-204. **SAME; QUORUM.** In all cases, it shall require a majority of the council-elect to constitute a quorum to do business. (K.S.A. 14-111; Code 2015)
- 1-205. **POWERS OF THE MAYOR, ADMINISTRATIVE, CONTRACTS, ENFORCEMENT OF LAWS.** The following powers are vested in the mayor:
 (a) The mayor shall be titular head and chief administrative officer of the city;
 (b) The mayor shall preside at all meetings of the council;
 (c) The mayor shall sign all contracts of the city before the city shall be liable thereon;

(d) The mayor shall represent the city governing body at all official city functions, and shall be the official city representative of the governing body at all meetings, conferences and negotiations relating to policy matters involving other governmental units and shall recommend council action relating thereto; and,

(e) The mayor shall be responsible for the administration of all of the affairs of the city, including the enforcement of laws and ordinances and all other administrative functions within the scope of ordinances relating to the management of the city. (Code 2015)

1-205A. POWERS OF THE MAYOR CONCERNING VOTING, VETO, ABOUT.

(a) The mayor may submit proposals for the consideration of the council, but may not vote on any matter before the council, except as follows:

(1) Charter ordinances, the passage of which requires a vote of not less than two-thirds of the members-elect of the governing body voting in favor thereof (Article 12 of Section 5 of the Kansas Constitution);

(b) The mayor shall sign all ordinances and resolutions passed by the council, except that the mayor shall have the power to veto any ordinance or resolution passed by the council, except a charter ordinance. Within two (2) days of the veto of any ordinance or resolution, the mayor shall give written notice thereof to the council. Any ordinance or resolution vetoed by the mayor may subsequently be passed, notwithstanding such veto, by a vote of five (5) members of the council. If within two (2) weeks after the next regular meeting of the council following the date of notification of a veto the council fails to pass the vetoed ordinance or resolution notwithstanding such veto, such ordinance or resolution shall not take effect. If the mayor has failed to sign or veto such ordinance or resolution within two (2) weeks following the adoption of such ordinance or resolution, the same shall take effect without the signature of the mayor.

(c) Any veto of the mayor shall be in writing, signed by him or her with the date of such signature, specifically stating the ordinance or resolution number that is vetoed, or the same shall not constitute a sufficient veto. Such written veto must be delivered to the city clerk's office or personally to the city clerk or the same shall not be a valid veto. (K.S.A. 12-10a06; Code 2015)

1-206. PRESIDENT OF THE COUNCIL. (a) Within 30 days after every city general election, the council shall elect one its members as president of the council who, in the absence or disability of, and at the request of the mayor shall become the acting mayor.

(b) The president of the council shall, while acting as mayor, have only those powers immediate and necessary to carry out the duties of the office of mayor, including all administrative, ceremonial and contractual powers, but shall not have the power to veto any measure passed by the council.

(c) The president of the council shall continue to have the regular voting privileges of a councilmember during any meeting in which he presides.

(d) Whenever any position specified under this section is vacated, the position shall be filled within 30 days of such vacation by the city council.

(e) The president of the council does not holdover after the next general city election and must be elected by the council to the position of president of the council by no less than four (4) votes.
(K.S.A. 12-10a02, Code 2015)

- 1-207. ADMINISTRATIVE POWERS. The governing body may designate whether the administration of a policy or the carrying out of any order shall be performed by a committee, an appointive officer, or the mayor. If no administrative authority is designated it shall be vested in the mayor. (Code 2015)
- 1-208. VACANCIES IN GOVERNING BODY; HOW FILLED. (a) Whenever there shall be a vacancy in the office of mayor, the president of the council, upon being qualified, shall become mayor until the next city general election and a mayor has been duly elected for the unexpired term and has qualified or a mayor has been duly elected for a full term and has qualified, as the case may be.
(b) Whenever the president of the council becomes mayor there shall be a vacancy in the council.
(c) A vacancy in the office of council member shall be filled by the council until the next city general election and a member of the council has been duly elected for the unexpired term and has qualified or a member of the council has been duly elected for a full term and has qualified, as the case may be.
(d) Whenever any position specified under this section is vacated, the position shall be filled within 45 days of such vacation by the city council. (K.S.A. 12-10a04; Code 2015)
- 1-209. GOVERNING BODY MEMBERSHIP; RESTRICTIONS.
(a) In the event the city council votes to fill a vacant position on the city council, the person appointed shall not be a person holding a supervisory or employee position within the city.
(b) A person's immediate family is defined as that person's spouse, mother, father, daughter, son, daughter-in-law, son-in-law, mother-in-law, father-in-law, brother, sister, brother-in-law, and sister-in-law.
(c) Supervisory positions are defined as city clerk, municipal judge, police chief, fire chief, city attorney, city superintendent, and any police officer above the rank of patrolman.
(d) The foregoing definitions apply only to section 1-209 herein and for no other purposes. (Ord. 94-17, Sec.1:5; Code 1998)
- 1-210. COMPENSATION. The council shall fix by ordinance the compensation of the mayor and members of the council. The compensation of the mayor and members of the council shall be \$0.00 per month. (K.S.A. 12-10a05; Code 2015)
- 1-211. EXPENSES. Each member of the governing body shall receive for his or her services and as reimbursement for his or her expenses, compensation as follows:
(a) Mileage at the same rate as is established by law by the state of Kansas for state employees for each mile traveled by the shortest route upon the performance of duties assigned by the mayor and/or council.
(b) Reimbursement for actual food and lodging expenses upon the performance of duties assigned by the mayor and/or council, provided such expenses shall be documented by proper receipts. (Code 2015)
- 1-212. ORDINANCES; CONSIDERATION, PASSAGE. (a) All regular and charter ordinances of the city shall be considered at a public meeting of the governing body, except as otherwise provided by law. The vote on any regular ordinance

shall be by "yeas" and "nays" which shall be entered on the journal by the city clerk. The vote on any charter ordinance shall be by roll call vote which shall be entered on the journal by the city clerk. No regular ordinance shall be valid unless a majority of all members elect of the city council shall vote in favor thereof. An abstention from voting shall not be considered as a vote in favor or against the passage of such ordinance. No charter ordinance shall be valid unless a majority of all members elect of the entire governing body, including the mayor, shall vote in favor thereof and all other laws of the state of Kansas pertaining to the passage of charter ordinances, are followed;

(b) Section 1-217 should be referred to for the passage of motions and resolutions. (K.S.A. 12-3001, 3002; Code 2015)

1-212A. ABSTENTIONS FROM VOTING UPON ORDINANCES. An abstention from voting shall not be considered as a vote in favor or against the passage of any regular ordinance or charter ordinance. (Code 2015)

1-213. SAME; STATEMENT AFTER LAST SECTION. (a) After the last section of each ordinance or resolution there shall be a statement substantially as follows: "Passed by the city council this ___ day of _____, 20__."; followed by "Signed by the Mayor" with the signature of the mayor; or, as applicable, in the event an ordinance has been passed, "The Mayor not having signed or vetoed such ordinance within two (2) weeks following the adoption of such ordinance, the same shall take effect without the mayor's signature"; or, in the event a resolution has been passed, "The Mayor not having signed or vetoed such resolution within two (2) weeks following the adoption of such resolution, the same shall take effect without the mayor's signature"; or, in the event of the passage of an appropriation ordinance where the mayor refuses or neglects to sign or is absent from the meeting, an appropriate statement thereof.

(b) The city clerk shall attest the signature and affix the seal of the city to all ordinances and resolutions. (K.S.A. 12-3003; Code 1998)

1-214. SAME; SUBJECT, TITLE, AMENDMENTS, ORDAINING CLAUSE. No ordinance shall contain more than one subject which shall be clearly expressed in its title; and no section or sections of the ordinance shall be amended unless the amending ordinance shall contain the entire section or sections as amended and the section or sections so amended shall thereby be repealed. The style of the ordaining clause of all ordinances shall be: "Be it ordained by the Governing Body of the City of Galena. (K.S.A.12-3004; Code 2015)

1-215. SAME; PUBLICATION. (a) No ordinance, except those appropriating money, shall be in force until published in the official city newspaper by the city clerk. One publication of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication.

(b) In lieu of subsection (a), a city may opt to publish a summary of an ordinance so long as:

(1) The publication is identified as a "summary" and contains notice that the complete text of the ordinance may be obtained or viewed free of charge at the office of the city clerk;

(2) The city attorney certifies the summary of the ordinance prior to publication to ensure that the summary is legally accurate and sufficient; and

(3) The publication contains the city's official website address where a reproduction of the original ordinance is available for a minimum of one week following the summary publication in the newspaper.

If an ordinance is subject to petition pursuant to state law, then the summary shall contain a statement that the ordinance is subject to petition.

(K.S.A. 12-3007; Code 2015)

1-216 SAME; ORDINANCE BOOK. Following final passage and approval of each ordinance, the city clerk shall enter the same in the ordinance book of the city as provided by law. Each ordinance shall have appended thereto the manner in which the ordinance was passed, the date of passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which published, and the date of publication.

(K.S.A. 12-3008; Code 2015)

1-217 VOTING REQUIREMENTS FOR RESOLUTIONS AND MOTIONS. Except where a state statute or city ordinance specifically requires otherwise, all motions and resolutions shall be by a majority vote of the members of the council serving on the council. Section 1-212 should be referred to for the passage of ordinances. The passage of ordinances is not governed by this Section 1-217.

(K.S.A. 12-10a02; Code 2015)

1-218. INCORPORATING CODE OF PROCEDURE FOR KANSAS CITIES. There is hereby incorporated by reference for the purpose of establishing a code of procedure for the conduct of city council meetings of the City of Galena, Kansas, that certain code known as the "Code of Procedure for Kansas Cities," Edition of 2006, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. One copy of said Code of Procedure for Kansas Cities shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Galena, 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 2015)

1-219. CODE OF ETHICS. (a) Declaration of Policy - The proper operation of our government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in the proper channels and that the public have confidence in the integrity of its government. In recognition of those goals, there is hereby established a Code of Ethics for all officials and employees, whether elected or appointed, paid or unpaid. The purpose of this code is to establish ethical standards by setting forth those acts or actions that are incompatible with the best interests of the city.

(b) Responsibilities of Public Office - Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and to carry out impartially the laws of the nation, state, and city and thus to foster respect for all government. They are bound to observe in their official acts

the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the long term public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach.

(c) Dedicated Service - All officials and employees of the city should be responsive to the political objectives expressed by the electorate and the programs developed to attain those objectives. Appointive officials and employees should adhere to the rule of work and performance established as the standard for their positions by the appropriate authority.

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

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

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

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

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

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

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

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

(3) Gifts and Favors. - No elected or appointive city official or employee shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm, or corporation which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the city; nor shall any such official or employee (a) accept any gift, favor or thing of

value that may tend to influence him or her in the discharge of his or her duties or (b) grant in the discharge of his or her duties any improper favor, service, or thing of value. The prohibition against gifts or favors shall not apply to: (a) an occasional non-pecuniary gift, of only nominal value or (b) an award publicly presented in recognition of public service or (c) any gift which would have been offered or given to him or her if not an official or employee.

(4) Representing Private Interest Before City Agencies or Courts -

No elected or appointive city official or employee whose salary is paid in whole or in part by the city shall appear in behalf of private interest before any agency of this city. He or she shall not represent private interests in any action or proceeding against the interest of the city in any litigation to which the city is a party.

(Code 2015)

- 1-220. GIFTS. In addition to the salary and compensation paid to city employees, the governing body is hereby empowered to provide the city employees with certain gifts, not to exceed \$100.00 per year, per person. Such gifts, if awarded at the discretion of the governing body, shall be provided to all city employees, however, gifts made for retiring employees are not required to be given to any employee except the retiring employee.
(Ord. 83-20; Code 2015)

ARTICLE 3. OFFICERS AND EMPLOYEES

- 1-301. DEPARTMENT HEADS, DEPARTMENTS. (a) The mayor shall appoint all heads of departments, subject to confirmation by the city council, and such department heads shall serve at the pleasure of, and report directly to, the mayor. Department heads shall make regular reports to the mayor and the council and furnish the mayor and council with any information they may require.
- (b) The mayor with the approval of the council, shall establish such departments as deemed necessary for efficient operation of the city, the powers and duties of which shall be prescribed by ordinance.
- (c) The following departments are hereby established: city clerk's office, fire department, police department, municipal court, city attorney, and city superintendent.
- (d) The following departments head positions are hereby established: city clerk, fire chief, police chief, municipal judge, city attorney, and city superintendent.
- (e) The city council, upon a unanimous vote of the members of the council serving on the council, may remove any department head.
- (K.S.A. 12-10a07; Code 2015)
- 1-302. CITY CLERK. The duties of the city clerk shall be as follows:
- (a) Keep his or her office in the city building, which office shall be open at such times during business hours in the city as may be fixed by the council;
- (b) Attend all meetings of the council and make and keep a record of all proceedings and meetings of the council in minute form entered in the journal of council proceedings. In the absence of the city clerk from any meeting, an assistant city clerk shall keep an account of the proceedings and to report the same to the city clerk;
- (c) Carry on all the official correspondence of the city, giving the same prompt attention and shall present for the consideration of the governing body at each meeting all correspondence received and replies given by him or her;
- (d) Have charge of the corporate seal of the city and shall affix the same to the official copy of all ordinances, deeds, contracts and similar documents required to be authenticated, and shall be authorized to administer oaths for all purposes pertaining to the business and affairs of the city;
- (e) Be custodian of all the city records, books, papers, contracts, petitions, documents and other personal effects belonging to the city not properly pertaining to any other office and shall keep suitable files and records of the same;
- (f) Receive and audit all claims against the city and shall present them for the consideration of the council at its regular meetings each month. He or she shall draw warrants (or warrants and checks) only when claims against the city have been audited and approved;
- (g) Be prepared to report to the council at its regular meeting each month in regard to the financial condition of the funds of the city so that the governing body may not create debts nor authorize the issuance of warrants in violation of the budget law or cash basis law relating to the duties of city officers;
- (h) Keep a separate account of each fund of the city, whether the funds be derived from taxation or otherwise, no money belonging to one fund shall be placed to the credit of another fund, or be transferred to another fund unless there is lawful authority for the same. Each separate tax levy shall constitute a separate fund, and income derived from other sources shall be credited to the proper fund of the city;

(i) Render such assistance as may be required by the governing body in preparing the annual city budget, any ordinance for the levying of taxes, and shall certify the same to the county clerk, in the form and manner required by law together with a copy of the budget: provided, that a copy of the budget shall be filed with the appropriate state of Kansas agency;

(j) Keep a fully accurate account of all bonds issued by the city, recording them in the book by date, number, amount thereof, rate of interest, number of each coupon, amount of each, to whom payable, where payable and when canceled upon return of the same to the city;

(k) Keep a record of all special assessments made by the city council for any purpose and shall certify the assessments to the county clerk for collection and payment in the manner provided by law;

(l) Act as the withholding agent to the city for the purpose of the federal revenue (income) act as authorized by K.S.A. 75-3042, and any amendments thereto, and shall receive from each officer and employee of the city the withholding certificate required by virtue of the revenue act. He or she shall maintain a suitable record of the sums so withheld from wages and salaries and remit the same to the director of the internal revenue service at such times and in such form as may be required by the regulations;

(m) After an ordinance shall have been passed, the city clerk shall assign to it a number. Appropriation ordinances shall be numbered in a separate series;

(n) Cause all ordinances, except appropriation ordinances, as soon as practicable after they have been passed and signed, to be published once in the official city newspaper, unless a statute requires more publication;

(o) Keep an "ordinance book" in which shall be entered a copy of every ordinance immediately after its publication, or in the case of appropriation ordinances, immediately after passage; provided, that if the ordinance book be a loose-leaf book, the original ordinance typed on paper designed for the purpose may be inserted therein. Appropriation ordinances may be entered in a separate ordinance book;

(p) Append at the end of each ordinance entered in the ordinance book a certificate substantially as follows: "I hereby certify that the foregoing is a true and correct copy of the original ordinance; that the ordinance was passed on the ____ day of _____, 20__; that the record of the final vote on its passage is found on page ____ of Journal ____; that it was published in the (name of the newspaper) on the ____ day of _____, 20__;"

(q) Receive from the court clerk, such funds as are required to be credited to the funds of the police department training fund, the police department DUI fund, the city attorney training fund, and the city attorney DUI fund with the remainder to the general fund;

(r) Register the qualified electors of the precincts and wards of the city as prescribed by law, and he or she shall prepare and keep such poll books and records, administer oaths, issue the necessary certificates, registration lists and notices as may be required. He or she shall perform all duties incident upon his or her office as may be directed by the governing body and required by law relative to any general or special city election or a primary or general election of the state.

(s) Operate in compliance with 1-701 through 1-708 of the Code pertaining to the investment of idle funds; and,

(t) Any other duties required by this Code or by law.
(K.S.A. 12-3007:3008; Rev. Ord. 1951, 1-501:511; Code 2015)

- 1-303. FIRE CHIEF, POLICE CHIEF; DUTIES. The duties of the fire chief are found in Chapter 7 of this Code and are also the duties required by this Code or by law. The duties of the police chief are found in Chapter 10 of this Code and are also the duties required by this Code or by law. (Code 2015)
- 1-304. CITY TREASURER; DUTIES. The duties of the city treasurer shall be as follows:
- (a) Receive and safely keep all moneys belonging to the city possessed or controlled by him or her by virtue of his or her office, giving his or her receipt therefore and for all moneys received by him or her from any source, he or she shall give duplicate receipts causing one of them to be filed with the city clerk, and shall keep a copy thereof in his or her own office;
 - (b) Keep proper records and accounts of all moneys received and disbursed by him or her from any source and funds in behalf of the city specifying the time of receipt and disbursements, from whom received and to whom disbursed on account of the city;
 - (c) Publish or cause to be published a quarterly financial statement of the city in the manner and style required by K.S.A. 12-1608;
 - (d) Deposit all funds of the city coming into his or her hands in his or her official capacity or responsibility in a depository bank or banks that have main or branch offices in Cherokee County, Kansas, and only after the same has been designated by the city council and after the depository bank shall have given security in those instances when a depository of public moneys must give security. All such deposits shall be made in his or her name and in his or her official title as treasurer of the City of Galena;
 - (e) Payout funds of the city upon warrants (warrants and checks) properly signed by the mayor, attested by the city clerk and countersigned by him or her. He or she shall cancel all warrants as soon as paid, and in cancelling paid warrants, he or she shall write across the face of such warrant the word "Paid" in red ink and sign the same: provided, that in case a combination warrant and check is used and such warrant is stamped by a depository bank of the city, the endorsement of the treasurer shall not be required;
 - (f) Operate in compliance with 1-701 through 1-708 of the Code pertaining to the investment of idle funds; and,
 - (g) Any other duties required by this Code or by law.
- (K.S.A. 9-1401:1403, 10-801:809; Rev. Ord. 1951, 1-601:609; Code 1988)
- 1-305. EXPENDITURES; BIDS. The city shall neither make nor become obligated to make an expenditure of \$301.00 or more, whether for goods or services, unless; (1) the proposed expenditure is approved by the city council after solicitation of public bids and the presentation of the same to the city council; or (2) the expenditure qualifies as an emergency expenditure. However, there shall be no bidding requirement for professional services. Professional services shall be limited in definition to services provided by the following persons: an engineer, architect, physician, accountant, surveyor, or attorney. Further, the city council may waive by a unanimous vote the requirement that bids be solicited for other types of services that are not defined above as being professional services. Further, the city council may waive by a unanimous vote the requirement that bids be solicited for the purchase of goods.
- (a) An emergency expenditure is a necessary expenditure which cannot be postponed until it can be submitted to the entire city council for approval.

(b) No emergency expenditure shall be incurred until it has been approved by the city council.

(c) No emergency expenditure shall be approved for an amount in excess of \$1,000.00.

(g) Approval of an emergency expenditure shall first be made by the City Manager, and the City Manager shall also obtain the approval of the Mayor, and in the absence of the Mayor, the approval shall be obtained from the Mayor Pro Tem before such expenditure can be made.

(Ord. 04-11; Code 2015)

1-306.

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 council;

(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;

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

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

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

(Code 2015)

1-307.

CITY SUPERINTENDENT; DUTIES. There is hereby created the office of superintendent of public works. The superintendent of public works shall:

(a) Have the general supervision of the waterworks plant, sewers and drains, streets, alleys, sidewalks, public highways, public grounds, city refuse and sanitation;

(b) Request of the governing body employment of such personnel as needed in the operation, repair and maintenance of such services;

(c) Perform inspections as may be necessary during the absence of the city inspector;

(d) Maintain necessary books and records pertaining to his or her office;

(e) Recommend to the governing body projects for improvement of the waterworks, streets and sewers, city refuse and sanitation;

(f) Furnish all facts and information requested by the governing body;

(g) Attend all meetings of the governing body and advise them on all matters under his or her jurisdiction; and

(h) Perform such other duties as requested by the governing body; and,

(i) Any other duties required by this Code or by law.

(Ord. 83-10; Code 2015)

- 1-308. CODE ENFORCMENT OFFICER/ANIMAL CONTROL; METER READER/CEMETERY SEXTON; COURT CLERK/OFFICE ASSOCIATE;
- (a) There is hereby established the following full-time positions:
 - (1) Code Enforcement Officer/Animal Control Officer - who shall be under the direct supervision of the police chief;
 - (2) Court Clerk/Office Associate - who shall be under the direct supervision of the municipal judge when performing the duties of court clerk, and, be under the direct supervision of the city clerk when performing the duties of office associate. The employee's duties of court clerk shall take precedence over the duties of office associate;
 - (3) Meter Reader/Cemetery Sexton - who shall be under the direct supervision of the city clerk. (Ord. 07-13; Code 2015)
- 1-309. CITY SURVEYOR. (a) There is hereby created the position of city surveyor to be filled by the mayor.
- (b) The duties of the position shall be to perform such surveying work and related duties as are required and specifically requested by the mayor, governing body, city attorney, city superintendent, or city clerk.
 - (c) The salary of the city surveyor shall be set in the same manner as other employee salaries are set by the city, but in no event shall be less than \$500.00 per month. (Ord. 95-18; Code 2015)
- 1-310. HIRING OF EMPLOYEES.
- (a) Definitions.
 - (1) All city workers shall be designated as either officers or employees for the purposes of this section as follows:
 - (A) Officers shall include the following appointed positions: fire chief, city attorney, city superintendent, city clerk, municipal judge, and chief of police.
 - (B) Employees shall include all regular workers paid by the city, whether full-time or part-time, except those designated above as officers.
 - (b) Advertising.
 - (1) The city clerk shall advertise at least one time all officer and employee positions, whether a vacancy exists or not, in the official city newspaper during the first two weeks of December of each year.
 - (2) Each advertisement shall state that the city is an Equal Opportunity Employer and will not discriminate against any applicant on the basis of race, color, creed, sex, age, national origin, ancestry, religion, or physical handicap.
 - (3) The department heads shall prepare and maintain a file of job descriptions for all city positions. These job descriptions shall be provided to the city clerk who shall make such descriptions available to any applicant during normal business hours. Job descriptions shall include the duties specified in the Code, which need not be specifically enumerated, as well as any duties specifically stated in the job description. The job descriptions of city officers are hereby deemed to include at least those duties specified in Article 3 of Chapter 1 of this Code, and any provisions such Article may reference, as well as any job functions required by this Code. The city council shall supplement or revise the job descriptions of city officers as may be needed.

(4) The city clerk shall maintain a file of job applications submitted by applicants for each position. The applications shall be retained on file for one year and then discarded.

(c) Appointments.

(1) All city officers shall begin their duties only upon appointment by the mayor, except as provided in subsection (d) of this section.

(d) Temporary Appointments.

(1) If one or more vacancies occur in employee positions, the mayor may fill them on a temporary basis.

(2) The temporary appointee must have an application on file with the city clerk for the position.

(3) If one or more vacancies occur in department head positions, the mayor may fill them on a temporary basis. The temporary appointee shall serve until a permanent appointee is made by the mayor. The mayor shall promptly make such appointments.

(Ord. 86-10, Sec. 1:4; Code 1998)

1-311. APPOINTMENT OR EMPLOYMENT IN MORE THAN ONE POSITION. The same person may be appointed to more than one appointive office, or employed in more than one department, except that the same person shall not be appointed to incompatible offices. Salaries or wages of such persons shall be prorated between the proper funds of the several offices or departments. (Code 2015)

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

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

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

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

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

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

(2) Contracts for property or services for which the price or rate is fixed by law. (Code 2015)

1-313. EMERGENCY REQUESTS. (a) Any officer or employee of the city who is a regular member of an emergency unit shall be allowed to leave his or her duties with the city in order to respond to an emergency request for his or her services as a member of the unit, provided that the business of the city is not adversely affected in a material manner.

(b) An Emergency Unit shall be defined as a fire department, ambulance crew, state or national military organization, or similar unit.

(c) An Emergency Request shall be defined as an official request from the supervisor of the emergency unit pertaining to a situation constituting a reasonable and immediate threat to human safety or property.

(d) The officer or employee responding to an emergency request under this section shall receive full pay and benefits from the city for not more than one full working day. (Ord. 86-3; Code 2015)

ARTICLE 4. PERSONNEL POLICY AND EMPLOYEE BENEFITS

- 1-401. PERSONNEL POLICIES AND GUIDELINES. There is hereby incorporated by reference for the purpose of establishing employee personnel rules and regulations the document entitled "Uniform Personnel Policies and Guidelines for the City of Galena – April 24, 2007." One copy of said document shall be marked or stamped "Official Copy as adopted by the Code of the City of Galena" and which there shall be attached a copy of this section. Said official copy shall be filed with the city clerk and shall be open to inspection and available to the public at all reasonable hours. All departments of the city shall be supplied with copies of such rules and regulations as may be deemed necessary. (Ord. 07-09; Code 2015)
- 1-402. PERSONNEL RULES; INAPPLICABLE. The personnel rules stated in this article do not apply to the employees of Premier Surgical Institute. Such employees shall be subject to a separate set of personnel policies and employee benefits. (Ord. 13-9; Code 2015)

ARTICLE 5. OATHS AND BONDS

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

Oath: "I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Kansas and faithfully discharge the duties of _____ (here enter name of office or position). So help me God."

Affirmation: "I do solemnly, sincerely and truly declare and affirm that I will support the Constitution of the United States and of the State of Kansas and faithfully discharge the duties of _____ (enter name of office or position). This I do under the pains and penalties of perjury.
(K.S.A. 54-104; K.S.A. 54-106; K.S.A. 75-4308; Code 2015)

1-502. OATHS FILED. All governing body members, 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 2015)

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

- (1) City treasurer - \$10,000;
- (2) City clerk - \$10,000;
- (3) Clerk of municipal court - \$1,000;
- (4) Judge of municipal court - \$1,000.
- (5) City Superintendent - \$1,000.

(b) The governing body may provide for the coverage by blanket bond of such officers and employees and in such amounts as the governing body may, by resolution, designate. (Code 1998)

1-504. SAME; PREMIUMS. All premiums on surety bonds shall be paid by the city. (K.S.A. 78-111; Code 1988)

1-505. CONDITION OF BONDS. Each of the bonds required in section 1-503 of this article shall be conditioned for the faithful performance of duty and all acts required by the laws of Kansas and of the city, and for the application and payment over to the proper persons of all moneys or property coming into the hands of each such officer by virtue of his or her office. (Code 1988)

1-506. APPROVAL OF BONDS. All bonds given to the city shall be approved as to their form by the city attorney and as to surety and sufficiency by the governing body, unless otherwise provided by the laws of the State of Kansas. (Code 1988)

ARTICLE 6. OPEN RECORDS

- 1-601. **POLICY.** (a) It is hereby declared to be the policy of the city that all public records which are made, maintained or kept by or are in the possession of the city, its officers and employees, shall be open for public inspection as provided by, and subject to the restrictions imposed by, the Kansas Open Records Act.
- (b) Any person, upon request, shall have access to such open public records for the purpose of inspecting, abstracting or copying such records while they are in the possession, custody and control of the appointed or designated record custodian thereof, or his or her designated representative.
- (Code 1988)
- 1-602. **RECORD CUSTODIANS.** (a) All city officers and employees appointed or designated as record custodians under this article shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the city; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this city for inspecting and copying open public records.
- (b) The official custodian shall prominently display or distribute or otherwise make available to the public a brochure in the form prescribed by the Local Freedom of Information Officer that contains basic information about the rights of a requester, the responsibilities of a public agency, and the procedures for inspecting or obtaining a copy of public records under the Kansas Open Records Act. The official custodian shall display or distribute or otherwise make available to the public the brochure at one or more places in the administrative offices of the city where it is available to members of the public who request public information in person.
- (Code 2015)
- 1-603. **LOCAL FREEDOM OF INFORMATION OFFICERS.** The Local Freedom of Information Officer shall:
- (a) Prepare and provide educational materials and information concerning the Kansas Open Records Act;
- (b) Be available to assist the city and members of the general public to resolve disputes relating the Kansas Open Records Act;
- (c) Respond to inquiries relating to the Kansas Open Records Act;
- (d) Establish the requirements for the content, size, shape and other physical characteristics of a brochure required to be displayed or distributed or otherwise made available to the public under the Kansas Open Records Act. In establishing such requirements for the content of the brochure, the Local Freedom of Information Officer shall include plainly written basic information about the rights of a requester, the responsibilities of the city, and the procedures for inspecting and obtaining a copy of public records under the Act.
- (Code 2015)
- 1-604. **PUBLIC REQUEST FOR ACCESS.** All city offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to an open public record. Such hours shall be no fewer than the hours each business day the office is regularly open to the public. For any

city office not open Monday through Friday, hours shall be established by the record custodian for each such day at which time any person may request access to an open public record. (Code 1988)

- 1-605. FACILITIES FOR PUBLIC INSPECTION. All city offices keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. The office of the city clerk, being the principal record-keeper of the city, shall be used as the principal office for providing access to and providing copies of open records to the maximum extent practicable. Requesters of records shall be referred to the office of the city clerk except when the requested records are not in that office and are available in another city office. (Code 1988)
- 1-606. PROCEDURES FOR INSPECTION. Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the governing body for record inspection and copying, including those procedures established by record custodians as authorized by the governing body. Such procedures shall be posted in each city office keeping and maintaining open public records. (Code 1988)
- 1-607. APPOINTMENT OF OFFICIAL CUSTODIANS. The following city officers are hereby appointed as official custodians for purposes of the Kansas Open Records Act and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed public records:
- (a) City Clerk - All public records kept and maintained in the city clerk's office and all other public records not provided for elsewhere in this section.
 - (b) City Treasurer - All public records not on file in the office of the city clerk and kept and maintained in the city treasurer's office.
 - (c) Chief of Police - All public records not on file in the office of the city clerk and kept and maintained in the city police department.
 - (d) Fire Chief - All public records not on file in the office of the city clerk and kept and maintained in the city fire department.
 - (e) City Attorney - All public records not on file in the office of the city clerk and kept and maintained in the city attorney's office.
 - (f) Clerk of the Municipal Court - All public records not on file in the office of the city clerk and kept and maintained in the municipal court.
 - (g) City Superintendent - All public records not on file in the office of the city clerk and kept and maintained in the public works department.
 - (h) City Librarian - All public records not on file in the office of the city clerk and kept and maintained in the city library.
- (Code 2015)
- 1-608. APPOINTMENT OF LOCAL FREEDOM OF INFORMATION OFFICER. The city clerk is hereby appointed as the local freedom of information officer and charged with all of the duties as set forth in section 1-603. (Code 2015)
- 1-609. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS. (a) Each of the official custodians appointed in section 1-607 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record

custodians shall have such duties and powers as are set out in the Kansas Open Records Act.

(b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations. (Code 1988)

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

(b) Whenever any city officer or employee appointed or designated as a custodian under this article is presented with a request for access to, or copy of, a public record which record the custodian does not have in his or her possession and for which he or she has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. Further, the person making the request shall be informed as to which custodian the request should be addressed to, if such is known by the custodian receiving the request. (Code 1988)

1-611. FEE ADMINISTRATION. The city clerk is hereby authorized to provide the clerk's office, and the office of each record custodian, with sufficient cash to enable the making of change for record fee purposes. Each custodian shall transmit all record fee moneys collected to the city treasurer not less than monthly. Each custodian shall maintain duplicates of all records and copy request forms, completed as to the amount of fee charged and collected, which amounts shall be periodically audited by the clerk-finance officer and treasurer of the city. (Code 2015)

1-612. INSPECTION FEE. (a) Where a request has been made for inspection of any open public record which is readily available to the record custodian, there shall be no inspection fee charged to the requester.

(b) In all cases not covered by subsection (a) of this section, a record inspection fee shall be charged at the rate of \$15 per hour per employee engaged in the record search. A minimum charge of \$15 shall be charged for each such request if the time to obtain the information for the party requesting such records exceeds 15 minutes. (Code 1988)

1-613. COPYING FEE. (a) A fee of \$.30 per page shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment.

(b) For copying any public records which cannot be reproduced by the city's photocopying equipment, the requester shall be charged the actual cost to the city, including staff time, in reproducing such records. (Code 1988)

1-614. PREPAYMENT OF FEES. (a) A record custodian may demand prepayment of the fees established by this article whenever he or she believes this to be in the best interest of the city. The prepayment amount shall be an estimate of the inspection and/or copying charges accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to inspection of the requested record or delivery of the requested copies.

(b) Prepayment of inspection and/or copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed \$15.

(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 1988)

1-615. PAYMENT. All fees charged under this article shall be paid to the custodian of the records inspected and/or copied unless the requester has established an account, for purposes of billing and payment, with the city.

(Code 1988)

ARTICLE 7. INVESTMENT OF PUBLIC FUNDS

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

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

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

(Code 2015)

1-702. **ACTIVE FUNDS; DESIGNATION OF DEPOSITORIES; ELIGIBLE DEPOSITORIES.** (a) The governing body shall designate the banks, savings and loan associations and savings banks which shall serve as depositories of its funds. The clerk, treasurer or other city officer or employee having the custody of city funds shall deposit such funds only at the designated banks, savings and loan associations and savings banks. Only banks, savings and loan associations and savings banks that have main or branch offices in Cherokee County shall be designated as official depositories. No such bank, savings bank or savings and loan association shall be designated as a depository until the city is assured that it can obtain satisfactory security for its deposits.

(b) The clerk, treasurer or other city officer or employee depositing public funds shall deposit all such public funds coming into such person's possession in their name and official title as such officer. If the governing body fails to designate an official depository or depositories, the officer thereof having custody of city funds shall deposit such funds with one or more banks, savings and loan associations or savings banks which have main or branch offices in Cherokee County if satisfactory security can be obtained therefor and if not then elsewhere. In such event, the officer or employee shall serve notice in writing on the governing body showing the names and locations of such banks, savings and loan associations and savings banks where such funds are deposited, and upon so doing the officer or employee having custody of such funds shall not be liable for the loss of any portion thereof except for official misconduct or for the misappropriation of such funds by the officer or employee.

(c) If eligible banks, savings and loan associations or savings banks under subsections (a) or (b) cannot or will not provide an acceptable bid, which shall include services, for the depositing of public funds under this section, then banks, savings and loan associations or savings banks which have main or branch offices in any immediately adjoining county may receive deposits of the city's active funds, if such banks, savings and loan associations or savings banks have been designated as official depositories under subsection (a) and the city can obtain satisfactory security therefor.

(Code 2015)

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

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

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

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

(d) Main office - means the place of business specified in the articles of association, certificate of authority or similar document, where the business of the institution is carried on and which is not a branch;

(e) Branch - means any office within this state, other than the main office, that is approved as a branch by a federal or state supervisory agency, at which deposits are received, checks paid or money lent. Branch does not include an automated teller machine, remote service unit or similar device or a loan production office;

(f) Investment rate - means a rate which is the equivalent yield for United States government securities having a maturity date as published in the Wall Street Journal, nearest the maturity date for equivalent maturities. The 0-90 day rate shall be computed on the average effective federal funds rate as published by the Federal Reserve System for the previous week.

(Code 2015)

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

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

(b) In savings deposits, demand deposits, time deposit, open accounts, certificates of deposit or time certificates of deposit with maturities of not more than two years:

(1) In banks, savings and loan associations and savings banks, which have main or branch offices located in the city; or

(2) If no main or branch office of a bank, savings and loan association or savings bank is located in the city, then in banks, savings and loan associations and savings banks, which have main or branch offices in the county or counties in which all or part of the city is located;

(c) In repurchase agreements with:

(1) Banks, savings and loan associations and savings banks, which have main or branch offices located in the city, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or

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

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

loan associations or savings banks which have main or branch offices in the county or counties in which all or part of the city is located; or

(3) If no bank, savings and loan association or savings bank, having a main or branch office in such county or counties is willing to enter into such an agreement with the city at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks located within the State of Kansas;

(d) In direct obligations of or obligations that are insured as to principal and interest by the United States or any agency thereof, not including mortgage-backed securities with maturities as the governing body shall determine, but not exceeding two years. Such investment transactions shall only be conducted with banks, savings and loan associations and savings banks; the federal reserve bank of Kansas City, Missouri; or with primary government securities dealers which report to the market report division of the federal reserve bank of New York, or any broker-dealer engaged in the business of selling government securities which is registered in compliance with the requirements of section 15 or 15C of the securities exchange act of 1934 and registered pursuant to K.S.A. 2005 Supp. 17-12a401, and amendments thereto;

(e) In the municipal investment pool fund established in K.S.A. 12-1677a, and amendments thereto;

(f) In the investments authorized and in accordance with the conditions prescribed in K.S.A. 12-1677b, and amendments thereto; or

(g) In multiple municipal client investment pools managed by the trust departments of banks which have main or branch offices located in county or counties where city is located or with trust companies incorporated under the laws of this state which have contracted to provide trust services under the provisions of K.S.A. 9-2107, and amendments thereto, with banks which have main or branch offices located in the county or counties in which Galena is located. Public moneys invested under this paragraph shall be secured in the same manner as provided for under K.S.A. 9-1402, and amendments thereto. Pooled investments of public moneys made by trust departments under this paragraph shall be subject to the same terms, conditions and limitations as are applicable to the municipal investment pool established by K.S.A. 12-1677a, and amendments thereto.

(h) The investments authorized in subsections (d), (e), (f) or (g) of this section shall be utilized only if the banks, savings and loan associations and savings banks eligible for investments authorized in subsection (b), cannot or will not make the investments authorized in subsection (b) available to the city at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto.

(i) In selecting a depository pursuant to subsection (b), if a bank, savings and loan association or savings bank eligible for an investment deposit thereunder has an office located in the city and such financial institution will make such deposits available to the city at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and such financial institution otherwise qualifies for such deposit, the governing body shall select one or more of such eligible financial institutions for deposit of funds pursuant to this section. If no such financial institution qualifies for such deposits, the city shall select for such deposits one or more eligible banks, savings and loan associations or savings banks which have offices in the county or counties in which all or a part of the city is located which will make such deposits

available to the city at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and which otherwise qualify for such deposits.
(Code 2015)

- 1-705. **PROCEDURES AND RESTRICTIONS.** The city clerk shall periodically report to the governing body as to the amount of money available for investment and the period of time such amounts will be available for investment, and shall submit such recommendations as deemed necessary for the efficient and safe management of city finances. The recommendations of the city clerk shall provide for an investment program which shall so limit the amounts invested and shall schedule the maturities of investments so that the city will, at all times, have sufficient moneys available on demand deposit to assure prompt payment of all city obligations. (Code 2015)
- 1-706. **CUSTODY AND SAFEKEEPING.** Securities purchased pursuant to this article shall be under the care of the city clerk, city treasurer and _____ and shall be held in the custody of a state or national bank or trust company, or shall be kept by such officers in a safety deposit box of the city in a bank or trust company. Securities in the original or receipt form held in the custody of a bank or trust company shall be held in the name of the city, and their redemption, transfer, or withdrawal shall be permitted only upon the written instruction of the city officers. Securities not held in the custody of a bank or trust company shall be personally deposited by such officer in a safety deposit box in the name of the city in a bank or trust company, access to which shall be permitted only in the personal presence and under the signature of two of the abovementioned officers. (Code 2015)
- 1-707. **SALE OR TRANSFER.** If, in order to maintain sufficient moneys on demand deposit in any fund as provided in 1-705, it becomes necessary to transfer or sell any securities of such funds, the officers specified in 1-706 may transfer said securities to any other fund or funds in which there are temporarily idle moneys, or shall sell such securities, and for such purpose they shall have authority to make any necessary written direction, endorsement or assignment for and on behalf of the city. (Code 2015)
- 1-708. **INTEREST ON TIME DEPOSITS.** The city clerk shall deposit the interest earned on invested idle funds to the general fund, unless otherwise required or authorized by law. (Code 2015)

ARTICLE 8. FUNDS

- 1-801. **PETTY CASH FUND.** The city clerk shall be the custodian of the petty cash fund when the governing body shall deem it necessary to create the same by resolution adopted. The fund shall not exceed the sum of \$50 at any appropriation therefore made by it for the fund. The petty cash fund shall be used for the prompt payment of incidentals coming to the office of city clerk, as the same shall be necessary, for the payment of postage, express charges, drayage, and other like incidentals connected with matters relating to the city which shall be administered by and incidental of the office of the clerk of this city.
(Rev. Ord. 1951, 1-512; Code 1988)
- 1-802. **ZELLIKEN FUND.** (a) The governing body of the city accepts the responsibility of the administration of the Zelliken Fund. This fund is represented by a \$2,000 United States Government Bond Series H. The purpose of this fund shall be to aid and assist transients within the city.
 (b) The annual interest on the aforesaid bond will be used by the chief of police, the police sergeant, or the mayor, at their discretion, to aid and assist transients. The expenditure shall not exceed \$25 for gasoline, per vehicle, or \$10 for food per occasion. The fund will be used until the interest is depleted. If this occurs, the fund will be inactive until more interest is accumulated. Any officer making a distribution of such funds shall within 5 days make a full accounting thereof to the city clerk.
 (c) Any purchases in accordance with subsection (b) shall be at local businesses and charged to the city to be paid on approval by regular appropriations.
(Ord. 1056, Sections 1, 3; Ord. 84-9, Sec. 1; Code 1988)
- 1-803. **PARK IMPROVEMENT FUND.** There is hereby created a park improvement fund for the improvement of parks of the city. (Ord. 917, Sec.1; Code 1988)
- 1-804. **EBAY TRANSACTIONS FUND.** There is hereby created an EBAY transactions fund. The fund shall be used for the receipt of proceeds received by the City of Galena from authorized sales of materials and products through EBAY listings. The fund may also be used for incidental expenses related to the administration thereof. Further, the account to be used for the deposit of such funds shall not be commingled with any other city proceeds or funds. Any transactions related to the transfer of proceeds from this account shall bear the signature of the city treasurer and mayor. (Code 2015)

CHAPTER II. ANIMAL CONTROL AND REGULATION

- Article 1. General Provisions
- Article 2. Dogs and Cats
- Article 3. Pit Bull Dogs
- Article 4. Other Animals

ARTICLE 1. GENERAL PROVISIONS

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

(a) Abandon - includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care over a 48-hour-period.

(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, puncture, tear, bruise, or piercing of the skin, caused by any animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

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

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

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

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

(j) Harbor - means any person who shall allow any animals to 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) Kenel - means any establishment, commercial or otherwise, engaged in the commercial business of breeding, buying, selling, trading, training, or boarding cats or dogs or both cats and dogs or in an enclosure in one location only of a number of more than three dogs of six months of age or older or more than one litter of pups, or more than three cats of more than six months of age or more than one litter of kittens, or more than a total of three dogs and cats more than six months of age in combination.

(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.

(Ord. 87-13; Code 1988)

2-102.

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

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

(c) As an alternative to the provisions of subsection (b) of this section, any law enforcement officer or the animal control officer may issue a citation to the owner, harbinger or keeper of an animal in violation of this chapter, and the person receiving the citation shall, within 30 days, appear in the municipal court of the city to answer the charged violation of this chapter.

(Code 2015)

2-103.

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

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

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

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

(Code 2015)

2-104. SAME; RIGHT OF ENTRY; UNLAWFUL INTERFERENCE. (a) The animal control officer or any law enforcement officer shall have the right of entry upon any private unenclosed lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this chapter, to the extent allowed by law.

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

(Ord. 87-13, Sec. 4; Code 1998)

2-105. MUNICIPAL POUND ESTABLISHED. A municipal pound shall be established to carry out the provisions of this chapter. Such a pound may be operated by a contractor and all services required herein may be provided by a contractor. When so contracted, the pound shall have the following services and facilities as a minimum:

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

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

(c) Individual isolation facilities for sick, biting, rabid and suspected rabid animals.

(d) Facilities for the humane destruction of animals.

(Ord. 87-13, Sec. 5; Code 1988)

2-106. BREAKING POUND. (a) It shall be unlawful for any unauthorized person to open, unlock, break open or attempt to break open the pound, or to take or let out any animal placed therein, or take or attempt to take from an authorized officer of this city any animal taken up by him or her under the provisions of this chapter, or in any manner interfere with or hinder any authorized officer or employee of this city in catching, taking up, or impounding any animal.

(b) It shall be unlawful for any person or persons, other than those duly authorized, to care for, feed, attempt to feed, or interfere in any way with the care of impounded animals.

(87-13, Sec. 6; Code 1988)

2-107. DUTY OF LAW ENFORCEMENT OFFICER OR ANIMAL CONTROL OFFICER; USE OF FIREARMS PROHIBITED TO EUTHANIZE ANIMALS. All law enforcement and animal control officers of the city shall be familiar with state regulations regarding the use of deadly force upon animals and may not use a firearm solely to euthanize an animal. (Code 2015)

- 2-108. **KEEPING ANIMALS.** It shall be unlawful for the owner, lessee, occupant or person in charge of any premises in the city to possess and maintain any animal or fowl within the city or permit to be maintained thereon any stable, shed, pen or other place where horses, mules, cattle, sheep, goats or swine, or undomesticated animals are kept. This provision shall not apply to:
- (a) The maintaining of a stockyard or sales barn for the loading, unloading, temporary detention and sale of such livestock, if the location of such stockyard or sales barn does not otherwise violate the zoning ordinances of the city;
 - (b) The maintaining of dogs and cats which are regulated by Article 2 of this chapter;
 - (c) The maintaining of non-poisonous and non-vicious animals and fowl which are commonly kept as household pets, such as cats, hamsters, rabbits, parakeets, and comparable animals, when kept as household pets and in a safe and sanitary manner in accordance with section 2-113 of this chapter;
 - (d) The transporting of animals through the city by ordinary and customary means. (Code 2015)
- 2-109. **ANIMAL TRAPS.** It shall be unlawful for any person to use, place, set out, or deploy any animal trap aboveground, which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap; except that nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals. (Code 2015)
- 2-110. **NUISANCE; ANIMAL ACTIVITIES PROHIBITED.** It shall be unlawful for the owner of any animal to keep or maintain such animal in the city so as to constitute a nuisance. For the purpose of this section, nuisance is defined as any animal which:
- (a) Molests or interferes with persons in the public right-of-way;
 - (b) Attacks or injures persons, or other domestic animals;
 - (c) Damages public or private property other than that of its owner or harbinger by its activities or with its excrement;
 - (d) Scatters refuse that is bagged or otherwise contained;
 - (e) Causes any condition which threatens or endangers the health or well-being of persons or other animals.
- Any owner or harbinger of an animal that constitutes a nuisance, as defined in Section 2-111 hereof, shall be fined not less than \$100 nor more than \$300 for each day in which a violation occurs. (Ord. 87-13, Sec. 9; Code 1988, 2-109)
- 2-111. **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. (Ord. 87-13, Sec. 10; Code 1988, 2-110)

- 2-112. ANIMAL CONFINES; SHELTERS. (a) It shall be unlawful for any person to keep or maintain any animal in any yard, structure or area that is not clean, dry and sanitary, free from debris and offensive odors that annoy any neighbor, and devoid of rodents and vermin.
- (b) Excrement shall be removed at least once each week from any animal shelter, pen or yard area where animals are kept, or more often if necessary to prevent or control odors, fly breeding, or rodent infestation. If excrement is stored on the premises by any animal owner, it shall be stored in adequate containers with fly-tight lids, and all such stored or accumulated wastes shall be disposed of at least once each week.
- (c) All animal shelters, pens and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.
- (d) All animal shelters and board fences confining animals shall be maintained in good repair, and all animal shelters and board fences confining animals subject to residential and commercial classification shall be protected from deterioration by painting or comparable treatment.
- (e) Barbed wire fences and electrically charged fences shall not be permitted for animal confines except on properties for which an agricultural classification permit is held or where the barbed wire fence or electrically charged fence is protected by an exterior fence.
- (f) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized law enforcement officer, or public health official. If the officer or official determines from such inspection that the premises are not being maintained in a clean and sanitary manner, he or she shall notify the owner of the animals in writing to correct the sanitation deficiencies within 24 hours after notice is served on the owner. Any animal kept under any condition which could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected.
(Ord. 87-13, Sec. 11; Code 1995, 2-111)
- 2-112A. SAME; STOCKYARDS; COMMERCIAL HOLDING PENS. Animal shelters owned or operated as a stockyard or commercial holding pen shall be adequately maintained and cleaned as often as is necessary, as determined by the health officer, to control fly breeding or to control other conditions adversely affecting the public health including the following:
- (a) Collected fecal material and other solid organic waste shall be disposed of at a sanitary landfill, fertilizer processing plant, or by proper dispersal on land used for agricultural purposes.
- (b) Grain or protein feed shall be stored in tightly covered rodent- proof metal containers or rodent-proof bins.
- (c) Premises subject to the terms of this section shall be maintained free of rodent harborage and in accordance with sections 8-701:708 of this code.
- (d) Wherever reasonable, use shall be made of anti-coagulant rodenticides for the control of rodents and organo-phosphorus insecticides for the control of flies or any other effective chemical means for the control of rodents and flies.
- (e) Wherever reasonable, use shall be made of soil sterilants and herbicides or other effective means for the control of weeds and grass around structures and buildings.

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

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

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

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

(Code 2015)

2-113. DEATH OF ANIMALS. All dead animals shall be disposed of by the owner or keepers within 24 hours of the animal's death, by burial, incineration in a facility approved by the animal control officer, by rendering or by other lawful means approved by the animal control officer. No dead animal shall be dumped on any public or private property. (Ord. 87-13, Sec. 12; Code 1988, 2-112)

2-114. VICIOUS ANIMALS. (a) Prohibited: It shall be unlawful for any person to keep, possess or harbor a vicious animal within the city. Impoundment of animals whose owners have been cited for violation of this section shall be at the discretion of the animal control officer. If the animal presents a clear and present danger to the public health or safety, it shall be the duty of the animal control officer or his or her agent to impound such animal.

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

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

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

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

(4) Any animal which is urged by its owner or harborer to attack, or whose owner or harborer threatens to provoke such animal to attack, any law

enforcement officer while such officer is engaged in the performance of official duty.

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

- (1) The seriousness of the attack or bite;
- (2) Past history of attacks or bites;
- (3) Likelihood of attacks or bites in the future;
- (4) The condition and circumstances under which the animal is kept or confined;
- (5) Other factors which may reasonably relate to the determination of whether or not the animal is vicious.

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

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

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

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

(Ord. 87-13, Sec. 13; Code 1988, 2-113)

- 2-115. **ANIMALS AND FOWL RUNNING AT LARGE PROHIBITED.** (a) It shall be unlawful for the owner or any person having the care, custody or control of any animals to:
- (1) permit the same to run at large upon any public or private grounds in the city other than property in the possession or under the control of the owner or person having the care, custody or control of such animals or fowl or
 - (2) to abandon such animals.
- (b) This section does not apply to dogs and cats running at large.
(Ord. 87-13, Sec. 7; Code 2015)
- 2-116. **IMPOUNDMENT; FEE; NOTICE; RECORD.** (a) The animal control officer or law enforcement officer shall impound any animal or fowl found at large in the city or constituting a nuisance or otherwise in violation of this chapter in a suitable pound or enclosure provided or contracted for by the city. The impounding officer shall make diligent inquiry as to the owner of the animal and shall notify the owner thereof of such impoundment as soon as reasonably possible.
- (b) The city shall be entitled to receive from such owner an impoundment fee of \$35 plus the actual cost of feeding and maintaining the animal while impounded.
- (c) In case the identity of the owner of the impounded animal or fowl cannot be ascertained, the animal control officer or police officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding, and shall thereupon immediately post a public notice stating that the animal, describing the same with the date and place of taking, has been taken up, and that unless the charges of impounding the same, together with any license fees due and unpaid, are paid within three business days from the date of the notice, that the animal will be disposed of as provided in this code.
- (d) The animal control officer shall each month submit a report to the city clerk showing the number of animals impounded and disposed of, and the fees collected pursuant to this article and shall pay those fees to the city clerk for credit to the general operating fund.
- (e) Section 2-206 shall apply to the impoundment of dogs and cats running at large, and Section 2-115 shall not apply to dogs and cats.
(Code 2015)
- 2-117. **REDEMPTION OF IMPOUNDED ANIMALS.** (a) At any time before the sale or destruction of any animal impounded under the provisions of this article, except for animals impounded under sections 2-114 (vicious) and 2-118 (rabid), the owner thereof may redeem the animal by paying the animal control officer or any person in charge, the impounding fee and all costs incurred as a result of such impoundment.
- (b) Section 2-207 shall apply to the redemption from impoundment of dogs and cats, and Section 2-116 shall not apply to dogs and cats. (Code 2015)
- 2-118. **IMPOUNDMENT OF RABIES SUSPECTS.** (a) Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in the city pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such

animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. If in the opinion of the local health officer symptoms develop justifying a microscopic examination, then the animal shall be killed and examination made by the state board of health.

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

(c) Any animal desired for observation by the local health officer under this section shall be delivered to the animal control officer or any law enforcement officer upon demand and shall not be withheld, hidden or harbored. Any person violating this 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 2015)

2-118A. IMPOUNDMENT OF ANIMALS SUSPECTED OF BEING RABID. Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner.
(Ord. 87-13, Sec. 14; Code 1988, 2-114)

2-119. ANIMALS BITTEN BY RABID ANIMALS. Whenever a dog, cat or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten, to report that fact to the local health officer and/or the police department. It shall also be the duty of the owner of the bitten animal to either destroy or have his or her bitten animal destroyed unless:

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

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

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

(d) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of. (Ord. 87-13, Sec. 15; Code 1988, 2-115)

- 2-120. 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.
(Ord. 87-13, Sec. 16; Code 1988, 2-116)
- 2-121. EMERGENCY; PROCLAMATION. The mayor is hereby authorized whenever in his or her opinion the danger to the public safety from rabid animals is made imminent to issue a proclamation ordering all persons owning any animal in the city to confine the animal in a good and sufficient enclosure from which the animal cannot escape, or fasten such animal by means of a chain on the premises where the owner may reside, for such time as may be specified in such proclamation. Any animal not confined during such time may be disposed of wherever found by any police officer, or the animal control officer of the city. The owner of such animal shall be prosecuted for such violation thereof.
(Code 2015)
- 2-122. KENNEL LICENSES. (a) No person or household shall own or harbor more than 3 dogs of six months of age or older or more than one litter of pups, or more than 4 cats of more than six months of age or more than one litter of kittens, or more than a total of 4 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 dog or cats or both cats and dog or cats, 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 law 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 \$250. Payment of such license fee is in addition to, and not in lieu of, the dog license fees otherwise required under this chapter. Such fee is due before the 4th dog or cat is acquired.

(f) This section shall not apply to and will not be construed to require a kennel license for a licensed veterinarian to operate an animal hospital.
(Ord. 89-8, Sec. 1; Code 1998, 2-210; Code 2015)

2-123.

SAME; SPECIFICATIONS. (a) Dogs and cats shall be kept in a fenced area with proper shade, ventilation, food and water; the fence shall be at least four feet tall and of sturdy construction; the fenced area shall be kept clean of animal waste; and the fenced area shall not be within 500 feet of any human habitation without the written consent of the people dwelling therein, which consent shall be obtained prior to the establishment of a kennel.

(b) A person shall be considered to operate a kennel if the person has on the premises four or more cats at least one month of age or a combination of four or more of the cats and dogs and has received any income or compensation in the previous 12 months from selling or boarding or otherwise dealing in cats and dogs.
(Ord. 89-8, Sec. 1; Code 1998, 2-211, Code 2015)

ARTICLE 2. DOGS AND CATS

2-201. **REGISTRATION AND VACCINATION REQUIRED; FEE.** (a) Every owner of any dog or cat over six months of age shall annually register with the city clerk his or her name and address with the name, sex and description of each dog or cat owned and kept within the city. It shall be unlawful for the owner of any newly acquired dog or cat or any dog or cat brought into the city to fail to register such animal within 30 days from acquisition or bringing the dog or cat into the city. It shall be unlawful for the owner of any previously registered dog or cat to fail to maintain current registration of such dog or cat.

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

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

(d) The city clerk shall collect an annual registration fee of \$2 for each neutered male dog or cat and for each spayed female dog or cat, and \$2 for each unneutered male dog or cat and for each unsplayed female dog or cat.

(e) The registration year shall be from January 1st through December 31st of each year. The fee shall be payable before March 1st of each year without penalty.

Registration fees as enumerated above may be prorated for newly acquired dog(s) or cat(s) owned by a person or persons moving to and establishing a home in the city during a calendar year. Every owner or harbinger of dog(s) or cat(s) who shall fail to register the same prior to the 1st day of March of each year shall pay in addition to the registration fee herein provided a penalty fee for late registration of \$30.

(Code 2015)

2-201A. **INOCULATION.** The owner, keeper or harbinger of any dog(s) or cat(s) shall cause the same to be inoculated against rabies by a licensed veterinarian at the cost and expense of the person or persons having the same done, and shall be furnished with a certificate showing that the dog(s) or cat(s) have been fully inoculated against rabies and containing a full and accurate description of the dog(s) or cat(s) with the date of inoculation and the name and street number of the residence of the owner thereof and have a metal tag or plate bearing a number corresponding to the certificate of inoculation.
(Ord. 87-13, Sec. 18; Code 1988)

2-202. **DOG OR CAT TAGS.** It shall be the duty of the city clerk or designated agent, upon a showing of current rabies immunization and receipt of the registration fee hereinbefore required, to keep in a record of the registration of dogs or cats, the time of the registration, the name of the owner or keeper, the number of the registration and the amount paid therefor, and shall deliver to the owner or keeper of the dog or cat a certificate in writing, stating that the person has registered the dog or cat and the number by which the dog or cat is

registered, and shall also deliver to the owner or keeper of the dog or cat a tag with the registration number and the registration year thereon, which shall be, by the owner or keeper, attached to the collar to be used on the dog or cat so registered. When any tag has become lost during a registration period, the owner of the dog or cat may request a duplicate tag for the remainder of the registration period. When so requested, the city clerk shall, upon presentation of the registration certificate, issue a duplicate of such tag upon the payment of \$2 fee. It shall be unlawful for any person to take off or remove the city registration tag from any dog or cat belonging to another, or remove the strap or collar on which the same is fastened. (Code 2015)

2-203. SAME; COUNTERFEIT TAG. It shall be unlawful for any person to place on any dog or cat a tag issued for any other dog or cat, or to make or use any false, forged or counterfeited tag or imitation thereof.
(Ord. 87-13, Sec. 21; Code 1988)

2-204. EVIDENCE OF VACCINATION. It shall be unlawful for the owner of any dog or cat kept within the city to fail to display a current certificate of immunization against rabies issued by an accredited veterinarian evidencing the vaccination of such dog or cat within two years, when requested by the animal control officer or any law enforcement officer. (Code 2015)

2-205. VISITING DOGS OR CATS. The provisions of this article with respect to registration shall not apply to any dog or cat owned by any person visiting or temporarily remaining within the city for less than 30 days. However, such dog(s) or cat(s) shall be kept under restraint by the owner thereof at all times.
(Code 2015)

2-206. RUNNING AT LARGE; FINE. (a) It shall be unlawful for the owner or harbinger of any dog or cat to permit such dog or cat to run at large within the city at any time;
(b) Any dog or cat running at large within the city shall be impounded as set out in section 2-207;
(c) The owner or harbinger of any dog or cat that shall run at large shall be subject to a fine not to exceed \$200 for such offense.
(Ord. 08-01; Code 2015)

2-207. IMPOUNDMENT; RECORD; NOTICE; REDEMPTION; MINIMUM FEE.
(a) Any dog or cat found in violation of the provisions of this article shall be subject to impoundment by the city.
(b) A record of all dogs or cats impounded shall be kept by the city containing the following information: color, sex, weight, height, identifying marks, registration number (if any) and the date of impoundment.
(c) No dog or cat 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 or cat 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 or cat impounded by such facility if the owner or custodian is known or reasonably ascertainable. Such dog or cat 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 or cat was a gift to the animal shelter, or euthanized by a licensed veterinarian if it appears to the veterinarian that the dog or cat is diseased or disabled beyond recovery. If within three full business days the owner does not appear to claim the dog or cat, then the dog or cat may be sold, euthanized or otherwise disposed of.

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

(e) The impoundment fee to be assessed against such owner or harbinger shall be as follows: if the animal is kept at a city pound, an impoundment fee of \$35 per day plus the actual cost of feeding and maintaining the animal while impounded, or, if the animal is kept at a facility other than a pound that the city may operate, the actual costs of such impoundment charged by the impounding facility.

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

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

(h) The redemption of any dog or cat impounded for a violation of any provision of this chapter shall be prima facie evidence of the violation of such provision by the person redeeming the dog or cat. (Code 2015)

2-208.

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

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

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

(2) The prospective owner signs an agreement to have the dog or cat 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 or cat has been spayed or neutered. If such person does not reclaim the deposit within six months after receiving custody of the dog or cat, the city shall keep the deposit and may reclaim the unspayed or unneutered dog or cat.

(c) Nothing in this section shall be construed to require sterilization of a dog or cat 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 2015)

- 2-209. **CONFINEMENT OF DOGS OR CATS IN HEAT.** Any unspayed female dog or cat in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog or cat or 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 2015)
- 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 or cats kept within the city to be effectively muzzled for such length of time as may be specified in the order, to prevent them from biting or injuring persons or animals. Such order shall be published in the official newspaper of the city for such period of time as the mayor may deem necessary.
(Code 2015)

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:
- (a) Any warm-blooded, carnivorous or omnivorous, wild or exotic animal (including but not limited to nonhuman primates, raccoons, skunks, foxes and wild and exotic cats; but excluding fowl, ferrets and small rodents of varieties used for laboratory purposes);
 - (b) Any animal having poisonous bites;
 - (c) Any pit bull dog: provided, that pit bull dogs registered with the city on May 25, 1988 may be kept within the city subject to the standards and requirements set forth in section 2-302 of this article. Pit bull dog is defined to mean:
 - (1) The Staffordshire bull terrier breed of dog;
 - (2) The American pit bull terrier breed of dog;
 - (3) The American Staffordshire terrier breed of dog; or,
 - (4) Any dog which has the appearance and characteristics of being predominantly of the breeds of Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier; or a combination of any of these breeds.(Ord. 88-8, Sec. 1; Code 1988)
- 2-302. KEEPING OF REGISTERED PIT BULLS. Pit bull dogs, as defined in 2-301, registered with the city on or before May 25, 1988, shall be subject to the following standards:
- (a) Leash and Muzzle: No person shall permit a registered pit bull dog to go outside its kennel or pen unless the dog is securely leashed with a leash no longer than four feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. The dogs may not be leashed to inanimate objects such as trees, posts, building, etc. In addition, all pit bull dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent the dog from biting persons or other animals;
 - (b) Confinement: All registered pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. The pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine registered pit bull dogs must be locked with a key or combination lock when the animals are within the structure. The structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground not less than two feet. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the city. All the structures must be adequately lighted and ventilated and kept in a clean and sanitary condition;
 - (c) Confinement Indoors: No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit the building on its own volition. In addition, no animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure;
 - (d) Signs: All owners, keepers or harborers of registered pit bull dogs within the city shall within 10 days after May 25, 1988, display in a prominent place on the premises a sign easily readable by the public using the words "Beware of

Pit Bull Dog." In addition, a similar sign is required to be posted on the kennel or pen of the animal;

(e) Insurance: All owners, keepers or harborers of registered pit bull dogs must within 10 days after May 25, 1988, provide proof to the animal control officer of public liability insurance in a single incident amount of \$50,000 for bodily injury to or death of a person or persons and for damage to property owned by any persons which may result from the ownership, keeping or maintenance of the animal. The insurance policy shall provide that no cancellation of the policy will be made unless 10 days written notice is first given to the city clerk.

(f) Identification Photographs: All owners; keepers or harborers of registered pit bull dogs must within 10 days of May 25, 1988, provide to the animal control officer two color photographs of the registered animal clearly showing the color and approximate size of the animal.

(g) Reporting Requirements: All owners, keepers or harborers of registered pit bull dogs must within 10 days of the incident, report the following information in writing to the city clerk as required hereinafter:

- (1) The removal from the city or death of a registered pit bull dog;
- (2) The birth of offspring of a registered pit bull dog; and,
- (3) The new address of a registered pit bull dog owner should the owner move within the corporate city limits.

(h) Sale or Transfer of Ownership Prohibited: No persons shall sell, barter or in any other way dispose of a pit bull dog registered with the city to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the registered owner of the dog; provided that the registered owner of a pit bull dog may sell or otherwise dispose of a registered dog or the offspring of the dog to persons who do not reside within the city.

(i) Animals born of Registered Dogs: All offspring born of pit bull dogs registered within the city must be removed from the city within two (2) weeks of the birth of the animal.

(j) Irrebuttable Presumptions: There shall be an irrebuttable presumption that any dog registered with the city as a pit bull dog or any of those breeds prohibited by section 2-301 of this article is in fact a dog subject to the requirements of this article.

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

(l) Violations and Penalties: Any person violating or permitting the violation of any provision of this article shall upon conviction in municipal court be fined a sum not less than \$500.00 and not more than \$2,000. In addition to the fine imposed the court may sentence the defendant to imprisonment in the county jail for a period not to exceed 180 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 foregoing penalties, any person who violates this article shall pay all expenses, including

shelter, food, handling, veterinary care and expert testimony necessitated by the enforcement of this article. (Ord. 88-8, Sec. 1; Code 1988)

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 members of the deer family, for example, white-tailed deer, elk, antelope and moose.
- (13) Elephants.
- (14) Game cocks and other fighting birds.
- (15) Hippopotami.
- (16) Hyenas.
- (17) Jaguars.
- (18) Leopards.
- (19) Lions.
- (20) Lynxes.
- (21) Monkeys.
- (22) Ostriches.
- (23) Pumas; also known as cougars, mountain lions and panthers.
- (24) Raccoons.
- (25) Rhinoceroses.
- (26) Skunks.
- (27) Tigers.
- (28) Wolves.

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

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

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

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

(d) The municipal judge shall have the authority to order any animal deemed vicious confined, destroyed or removed from the city. (Code 2015)

CHAPTER III. BEVERAGES

Article 1.	General Provisions
Article 2.	Cereal Malt Beverages
Article 3.	Alcoholic Liquor
Article 4.	Private Clubs
Article 5.	Drinking Establishments
Article 6.	Caterers
Article 7.	Temporary Permits
Article 8.	Special Event CMB Permits
Article 9.	Keg Registration

ARTICLE 1. GENERAL PROVISIONS

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

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

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

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

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

(e) Class A Club - means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the State of Kansas, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members), and their families and guests accompanying them.

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

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

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

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

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

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

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

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

(Code 2015)

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

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

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

(Code 2015)

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

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

(c) This section shall not apply if the person under the age of 21 years is accompanied by his or her parent or guardian, or if the licensed or permitted premises derive not more than 30 percent of its gross receipts in each calendar year from the sale of alcoholic liquor for on-premises consumption.

(Code 2015)

3-104. CONSUMPTION ON PUBLIC PROPERTY. No person shall drink or consume any alcoholic liquor on city owned public property.

(K.S.A. Supp. 41-719; Code 2015)

- 3-105. PUBLIC SALE; CONSUMPTION. (a) It shall be unlawful for any person to sell, serve or dispense any cereal malt beverage or alcoholic beverage in any public place not licensed to sell, serve or dispense such beverage at such public place within or under the jurisdiction of the city.
- (b) It shall be unlawful for any person to drink or consume any cereal malt beverage or alcoholic beverage in any public place not licensed to sell and serve such beverage for public consumption at such public place within or under the jurisdiction of the city.
- (c) For purposes of this section, the term "public place" shall include upon any street, public thoroughfare, public parking lot or any privately owned parking area made available to the public generally, within any parked or driven motor vehicle situated in any of the aforesaid places or upon any property owned by the state or any governmental subdivision thereof unless such property is leased to others under K.S.A. 12-1740 et seq. if the property is being used for hotel or motel purposes or purposes incidental thereto or is owned or operated by an airport authority created pursuant to Chapter 27 of the Kansas Statutes Annotated. (K.S.A. 41-719; Code 2015)
- 3-106. CONSUMPTION WHILE DRIVING. It shall be unlawful for any person to consume any cereal malt beverage or alcoholic beverage while operating any vehicle upon any street or highway. (K.S.A. 8-1599, K.S.A. 41-719; Code 2015)
- 3-107. IDENTIFICATION CARD. (a) It shall be unlawful for any person to:
- (1) Display, cause or permit to be displayed, or have in possession, any fictitious, fraudulently altered, or fraudulently obtained identification card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.
- (2) Display or represent any identification card not issued to such person as being his or her card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.
- (3) Permit any unlawful use of an identification card issued to a person for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.
- (4) Photograph, Photostat, duplicate or in any way reproduce any identification card or facsimile thereof in such a manner that it could be mistaken for a valid identification card or display or have in possession any such photograph, Photostat, duplicate, reproduction or facsimile for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.
- (b) It shall be unlawful for any person to:
- (1) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase or consumption of any alcoholic liquor.
- (2) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase or consumption of any cereal malt beverage.
- (Code 2015)
- 3-108. EXPOSURE BY WAITERS, WAITRESSES, AND ENTERTAINERS; PROHIBITED. It shall be unlawful for any person, while acting as a waiter, waitress or entertainer in establishments which are licensed either for the consumption of

alcoholic liquor pursuant to K.S.A. 41-2601 et seq. or the sale or consumption of cereal malt beverages pursuant to K.S.A. 41-2701 et seq. to do the following:

(a) Expose his or her genitals, pubic hair, buttocks, anal region, natal cleft, perineum or pubic hair region; or,

(b) Expose any devise, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region; or,

(c) Expose any portion of the female breasts at or below the areola thereof. It is the purpose of this section to promote and secure the general welfare, health and safety of the citizens of the city.

(Ord. 1000, Sec. 1:2, Code 1998, 3-106)

3-109. SAME; COUNSELING OR ASSISTING. It shall be unlawful for any person to cause, permit, procure, counsel or assist any person to expose or simulate exposure as prohibited in this section. (Ord. 1000, Sec. 3; Code 1998, 3-107)

3-110. EMPLOYMENT OR PAYMENT NOT NECESSARY TO CONSTITUTE OFFENSE. A person shall be deemed to be a waiter, waitress or entertainer if such person acts in that capacity without regard to whether such person is paid any compensation by the management of the establishment in which the activity is performed. (Ord. 1000, Sec. 4; Code 1998, 3-108)

3-111. EXPOSURE BY PERFORMERS IN PUBLIC; PROHIBITED. It shall be unlawful for any person who, while participating in any live act, demonstration or exhibition in any public place, place open to the public, or place open to public view, to:

(a) Expose his or her genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region; or

(b) Expose any devise, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region; or

(c) Expose any portion of the female breasts at or below the areola.

(Ord. 1000, Sec. 5; Code 1998, 3-109)

3-112. PENALTY. Any person in violation of sections 3-107 or 3-110 is guilty of a violation of this code and upon conviction shall be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment for not more than six months, or shall be both so fined and imprisoned. (Ord. 1000, Sec. 7; Code 1998, 3-111)

ARTICLE 2. CEREAL MALT BEVERAGES

- 3-201. **LICENSE REQUIRED OF RETAILERS.** (a) It shall be unlawful for any person to sell any cereal malt beverage at retail without a license for each place of business where cereal malt beverages are to be sold at retail.
- (b) It shall be unlawful for any person, having a license to sell cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any cereal malt beverage in any other manner.
- (K.S.A. 41-2702; Code 1988)
- 3-202. **APPLICATION.** Any person desiring a license shall make an application to the governing body of the city and accompany the application by the required license fee for each place of business for which the person desires the license. The application shall be verified, and upon a form prepared by the attorney general of the State of Kansas, and shall contain:
- (a) The name and residence of the applicant and how long he or she has resided within the State of Kansas;
- (b) The particular place for which a license is desired;
- (c) The name of the owner of the premises upon which the place of business is located;
- (d) The names and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired.
- (e) A statement that the applicant is a citizen of the United States and not less than 21 years of age and that he or she has not within two years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States;
- (f) Each application for a general retailer's license shall be accompanied by a certificate from the city health officer certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of chapter 8 of this code.
- (g) Each application for a general retailer's license must be accompanied by a certificate from the 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 application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the chief of police of the city for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The chief shall report to the mayor 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 2015)

- 3-202A. LICENSE APPLICATION PROCEDURES. (a) All applications for a new and renewed cereal malt beverage license shall be submitted to the city clerk 10 days in advance of the governing body meeting at which they will be considered.
- (b) The city clerk's office shall notify the applicant of an existing license 30 days in advance of its expiration.
- (c) The clerk's office shall provide copies of all applications to the police department, to the fire department, and to the city-county health department, when they are received. The police department will run a records check on all applicants and the fire department and health department will inspect the premises in accord with chapters 7 and 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 will be considered.
- (Code 1988)
- 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 1988)
- 3-204. LICENSE TO BE POSTED. Each license shall be posted in a conspicuous place in the place of business for which the license is issued. (Code 1988)
- 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 Cherokee County for at least six months prior to filing of such application.
- (b) A person who is not a citizen of the United States.
- (c) A person who is not of good character and reputation in the community in which he or she resides.
- (d) A person who, within two years immediately preceding the date of making application, has been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of drunkenness or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States.
- (e) A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license.
- (f) A corporation if any manager, officer or director thereof or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation would be ineligible to receive a license hereunder for any reason other than 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.

(j) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under the Cereal Malt Beverage Act.
(K.S.A. 41-2703; Code 1988)

3-206. RESTRICTION UPON LOCATION. (a) No license shall be issued for the sale at retail of any cereal malt beverage on premises which are located in areas not zoned for such purpose.

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

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

(d) The distance limitation of subsection (b) above shall not apply to any establishment holding a cereal malt beverage license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation. The governing body shall grant such a waiver only following public notice and hearing.
(K.S.A. 41-2704; Ord. 948; Code 1988)

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

(a) General Retailer - for each place of business selling cereal malt beverages at retail, \$100 per calendar year.

(b) Limited Retailer - for each place of business selling only at retail cereal malt beverages in original and unopened containers and not for consumption on the premises, \$50 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 1988)

3-208. SUSPENSION OF LICENSE. The chief of police, upon five days' written notice, shall have the authority to suspend such license for a period not to exceed 30 days, for any violation of the provisions of this chapter or other laws pertaining to cereal malt beverages, which violation does not in his or her judgment justify a recommendation of revocation. The licensee may appeal such order of suspension to the governing body within seven days from the date of such order. (Code 1988)

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

(1) The licensee has violated any provisions of K.S.A. 41-2701, et seq., and amendments thereto, or any rules or regulations of the city;

(2) Drunkenness of the licensee or permitting any intoxicated person to remain in or upon the licensee's place of business;

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

(4) 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;

(5) 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;

(6) The licensee has been convicted of a violation of the beer and cereal malt beverage keg registration act.

The provisions of subsections (a)(4) and (5) shall not apply if the place of business or premises also are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act.

(b) The city, upon five days' notice to the persons holding a license, shall revoke or suspend the license for any one of the following reasons:

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

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

(3) The nonpayment of any license fees;

(4) Permitting any gambling in or upon the licensee's place of business;

(5) The employment of persons under 18 years of age in dispensing or selling cereal malt beverage;

(6) The employment or continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or any violation of the intoxicating liquor laws of this state, another state or the United States; or

(7) There has been a violation of K.S.A. 21-4106 or K.S.A. 21-4107, prior to their repeal or K.S.A. 2013 Supp. 21-6204, and amendments thereto, (public nuisance) in or upon the licensee's place of business.
(K.S.A. 41-2708; Ord. 85-9; Code 2015)

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 Cherokee 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 or suspension during the pendency of such appeal. In case of the revocation of the license of any licensee, no new license shall be

issued to such person or any person acting for or on his or her behalf, for a period of six months thereafter. (K.S.A. 41-2708; Ord. 85-9; Code 1988)

- 3-211. **LAPSE OF LICENSE.** The license of any corporation shall lapse and become void within 72 hours after the manager listed on the corporation's application is no longer actively associated with the corporation, unless the corporation shall have filed an amended application showing a new manager who meets all legal requirements for acting as manager. (Ord. 85-9, Sec. 2; Code 1988)
- 3-212. **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 \$20. 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 2015)
- 3-213. **WHOLESALE AND/OR DISTRIBUTORS.** It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver cereal malt beverages within the city, to persons authorized under this article to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the State of Kansas authorizing such sales.
(K.S.A. 41-307:307a; Code 2015)
- 3-214. **BUSINESS REGULATIONS.** It shall be the duty of every licensee to observe the following regulations.
- (a) The place of business licensed and operating under this article shall at all times have a front and rear exit unlocked when open for business.
 - (b) The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition and shall at all times be open to the inspection of the police and health officers of the city, county and state.
 - (c) Except as provided by subsection (d), no cereal malt beverages may be sold or dispensed between the hours of 12:00 midnight and 6:00 a.m., or consumed between the hours of 12:30 a.m. and 6:00 a.m., or on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30 percent of its gross receipts from the sale of food for consumption on the licensed premises; closing hours for clubs shall conform to K.S.A. 41-2614 and any amendments thereto.
 - (d) Cereal malt beverages may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. 41-2601 et seq., and licensed as a club by the State Director of Alcoholic Beverage Control.
 - (e) The place of business shall be open to the public and to the police at all times during business hours, except that premises licensed as a club under a license issued by the State Director of Alcoholic Beverage Control shall be open to the police and not to the public.
 - (f) It shall be unlawful for any licensee or agent or employee of the licensee to become intoxicated in the place of business for which such license has been issued.

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

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

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

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

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

(Code 2015)

3-215. PROHIBITED CONDUCT ON PREMISES. The following conduct by a cereal malt beverage licensee, manager or employee of any licensed cereal malt beverage establishment is deemed contrary to public welfare and is prohibited:

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

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

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

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

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

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

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

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

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

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

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

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

(Code 1988, 3-214)

- 3-216. **SANITARY CONDITIONS REQUIRED.** All parts of the licensed premises including furnishings and equipment shall be kept clean and in a sanitary condition, free from flies, rodents and vermin at all times. The licensed premises shall have at least one restroom for each sex easily accessible at all times to its patrons and employees. The restroom shall be equipped with at least one lavatory with hot and cold running water, be well lighted, and be furnished at all times with paper towels or other mechanical means of drying hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self closing and toilet paper at all times shall be provided. Easily cleanable receptacles shall be provided for waste material and such receptacles in toilet rooms for women shall be covered. The restrooms shall at all times be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspection by the city health officer or designee. (Code 1988, 3-215)
- 3-217. **MINORS ON PREMISES.** (a) It shall be unlawful for the owner of premises wherein cereal malt beverage or alcoholic liquor is sold and consumed to knowingly allow any person under the age of 21 years to enter and remain on the premises unless the person's parent or court-appointed guardian is also physically present on the premises and aware of the person's presence.
- (b) In determining whether the owner in subsection (a) has knowingly violated this section, the knowledge of agents and employees of the owner shall be attributed to the owner.
- (c) It shall be a completed defense to a violation of subsection (a) of this section if the owner or his or her agent or employee; upon learning that a prohibited person is upon the premises, immediately demand that the prohibited person leave and immediately report the incident to the police department.
- (d) It shall be unlawful for any person under the age of 21 years to knowingly enter or remain on the premises wherein cereal malt beverages are sold and consumed unless the person's parent or court-appointed guardian is also physically present on the premises and aware of the person's presence.
- (e) Any person attempting to enter or remain upon the premises wherein cereal malt beverages are sold and consumed shall carry upon his or her person proof of age as shown by a photo type identification card and shall present the card to the owner, his or her agent, or any law enforcement officer upon demand. Any person failing to present the identification upon demand shall be ordered to leave the premises at once. Failure to leave shall be a violation of this section.
- (f) This section shall not apply to premises wherein more than 50 percent of the gross annual receipts are from the sale of tangible products other than intoxicating liquors and cereal malt beverages.
- (g) An owner convicted of violating subsection (a) of this section shall, upon first conviction, be fined not more than \$500 and sentenced to 10 days in jail, or both, and upon a second conviction within a 12 month period, be fined not more than \$1000 and sentenced to 20 days in jail, or both, and all licenses issued to him or her for the premises by the city shall immediately become void and of no effect.
- (h) Any person convicted of violating subsections (d) or (e) of this section shall be fined not more than \$500.00 for each offense and sentenced to not more than 20 days in jail.
- (Ord. 93-12, Sec. 1:8; Code 1998)

- 3-218. **NUMBER OF LICENSES RESTRICTED.** (a) The governing body of the city shall issue no more than 10 cereal malt beverage licenses for carry-out purposes and no more than eight cereal malt beverage licenses for consumption on-premises purposes to be in force and effect at the same time.
- (b) Any entity holding a cereal malt beverage license from the city on December 9, 1987, shall be entitled to a renewal of its license so long as it continues to be in full compliance with the laws of the State of Kansas and the ordinances of the city and makes timely application for the renewal.
- (c) Any entity acquiring a cereal malt beverage license from the city after December 9, 1987, shall be entitled to a renewal of its license so long as it continues to be in full compliance with the laws of the State of Kansas and the ordinances of the city and makes timely application for the renewal.
- (d) Any entity applying for a new cereal malt beverage license, as opposed to a renewal of an existing license, shall be considered on a first-come first-serve basis, provided the entity otherwise qualifies for a license under the laws of the State of Kansas and the ordinances of the city.
- (Ord. 87-16, Sec. 1:4; Code 1988)

ARTICLE 3. ALCOHOLIC LIQUOR

- 3-301. STATE LICENSE REQUIRED. (a) It shall be unlawful for any person to keep for sale, offer for sale, or expose for sale or sell any alcoholic liquor as defined by the "Kansas liquor control act" without first having obtained a state license to do so.
(b) The holder of a license for the retail sale in the city of alcoholic liquors by the package issued by the state director of alcoholic beverage control shall present such license to the city clerk when applying to pay the occupation tax levied in section 3-302 and the tax shall be received and a receipt shall be issued for the period covered by the state license.
(Rev. Ord. 1951, 6-201; Code 1988)
- 3-302. OCCUPATIONAL TAX. There is hereby levied a biennial occupation tax of \$600 on any person holding a license issued by the state director of alcoholic beverage control for the retail sale within the city of alcoholic liquors for consumption off the premises. Such tax shall be paid by the retailer to the city clerk before business is begun under an original state license and shall be paid within five days after any renewal of a state license. (K.S.A. 41-310; Code 2015)
- 3-303. POSTING OF RECEIPT. Every licensee under this article shall cause the city alcoholic liquor retailer's occupation tax receipt to be placed in plain view, next to or below the state license in a conspicuous place on the licensed premises.
(Rev. Ord. 1951, 6-201; Code 1988)
- 3-304. HOURS OF SALE. No person shall sell at retail any alcoholic liquor:
(a) On the day of any national, state, county or city election, including primary elections, during the hours the polls are open within the political area in which such election is being held;
(b) On any Sunday;
(c) On Decoration Day or Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day;
(d) Before 9:00 a.m. or after 11:00 p.m. on any day when the sale thereof is permitted. (K.S.A. 41-712; Code 1988)
- 3-305. BUSINESS REGULATIONS. It shall be unlawful for a retailer of alcoholic liquor to:
(a) Permit any person to mix drinks in or on the licensed premises unless the person is preparing or mixing samples for the purposes of conducting wine, beer, or distilled spirit tastings, or any combination thereof, as authorized by K.S.A. 2012 Supp. 41-308d, and amendments thereto;
(b) Employ any person under the age of 21 years in connection with the operation of the retail establishment;
(c) Employ any person in connection with the operation of the retail establishment who has been adjudged guilty of a felony;
(d) Furnish any entertainment in his or her premises or permit any pinball machine or game of skill or chance to be located in or on the premises; or
(e) Have in his or her possession for sale at retail any bottles, cask, or other containers containing alcoholic liquor, except in the original package.
(f) Sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person under 21 years of age.
(K.S.A. 41-713; Code 2015)

3-306. MINORS, INCAPACITATED PERSONS. (a) It shall be unlawful for any person under the age of 21 to represent that he or she is of age for the purpose of purchasing or attempting to purchase any alcoholic liquor, or to attempt to purchase any alcoholic liquor from any person. No person under the age of 21 shall have alcoholic liquor in his or her possession.

(b) No person shall knowingly sell, give away, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person who is an incapacitated person, or any person who is physically or mentally incapacitated be the consumption of such liquor.

(K.S.A. 41-715; Code 1988)

3-307. RESTRICTIONS ON LOCATION. No person shall knowingly or unknowingly sell, give away, furnish, dispose of, procure, exchange or deliver, or permit the selling, giving away, furnishing, disposing of, procuring, exchanging or delivering of any alcoholic beverage in any building, structure or premises, for consumption in such building or upon such premises if such consumption is within 200 feet from the nearest property line of any existing hospital, school, church or library.

(K.S.A. 41-710; Code 2015)

ARTICLE 4. PRIVATE CLUBS

- 3-401. **LICENSE REQUIRED.** It shall be unlawful for any person granted a private club license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a local license from the city clerk. (Ord. 83-21, Sec. 1; Code 1988)
- 3-402. **LICENSE FEE.** (a) There is hereby levied a biennial license fee on each private club located in the city which has a private club license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days before the license expires. The city license fee for a Class A club shall be \$500 and the city license fee for a Class B club shall be \$500.
- (b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage laws, building construction laws, and the police chief signs a consent thereto.
- (c) The police chief shall not sign a consent to the issuance of such license until he or she shall first perform a visual inspection of the premises and obtains a check of the applicant's history of criminal and traffic record of arrests and convictions and performs any investigation reasonably required therefrom to determine the applicant's suitability to be issued a license.
- (c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.
- (d) Every licensee shall cause the city club license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises. (Code 2015)
- 3-403. **CONTENTS OF LICENSE.** Every license issued by the city shall be dated on the date of its issue and shall show the name of the licensee and designate that the licensee is authorized to engage in the operation of a private club, including its classification. It shall also contain the statement required in 3-405. (Ord. 83-21, Sec. 6; Code 1988)
- 3-404. **DURATION OF LICENSE.** A license issued under this article shall expire on December 31st next following its issuance and shall be renewed by payment of the fee prescribed in section 3-402 herein. (Code 2015)
- 3-405. **NONTRANSFERABLE.** (a) A license issued under this article shall not be transferred to any person or entity. The license shall so state and the licensee shall keep the license posted in a conspicuous place in the licensee's place of business.
- (b) No club membership shall be sold to any person under 21 years of age, nor shall alcoholic beverages or cereal malt beverages be given, sold or traded to any person under 21 years of age. (K.S.A. Supp. 41-2614; Code 2015)
- 3-406. **BUSINESS REGULATIONS.** (a) No club licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.

(b) Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverages for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.

(c) No club membership shall be sold to any person under 21 years of age, nor shall alcoholic beverages or cereal malt beverages be given, sold or traded to any person under 21 years of age.

(K.S.A. Supp. 41-2614; Code 2015)

ARTICLE 5. DRINKING ESTABLISHMENTS

- 3-501. **LICENSE REQUIRED.** It shall be unlawful for any person granted a drinking establishment license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a city license from the city clerk. (Code 2015)
- 3-502. **LICENSE FEE.** (a) There is hereby levied a biennial license fee in the amount of \$500 on each drinking establishment located in the city which has a drinking establishment license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license.
- (b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.
- (c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.
- (d) Every licensee shall cause the city drinking establishment license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.
(Code 2015)
- 3-503. **BUSINESS REGULATIONS.** (a) No drinking establishment licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.
- (b) Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverage for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.
- (c) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age.
(K.S.A. Supp. 41-2614; Code 2015)

ARTICLE 6. CATERERS

- 3-601. **LICENSE REQUIRED.** It shall be unlawful for any person licensed by the State of Kansas as a caterer to sell alcoholic liquor by the drink, to sell or serve any liquor by the drink within the city without obtaining a local caterer's license from the city clerk. (Code 2015)
- 3-602. **LICENSE FEE.** (a) There is hereby levied an annual license fee in the amount of \$250 on each caterer doing business in the city who has a caterer's license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license.
- (b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.
- (c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.
- (d) Every licensee shall cause the caterer license to be placed in plain view on any premises within the city where the caterer is serving or mixing alcoholic liquor for consumption on the premises.
(Code 2015)
- 3-603. **BUSINESS REGULATIONS.** (a) No caterer licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 9:00 a.m. on any day.
- (b) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age.
(K.S.A. Supp. 41-2614; Code 2015)
- 3-604. **NOTICE TO CHIEF OF POLICE.** Prior to any event at which a caterer will sell or serve alcoholic liquor by the individual drink, the caterer shall provide written notice to the chief of police at least 48 hours prior to the event if the event will take place within the city. The notice shall contain the location, name of the group sponsoring the event, and the exact date and times the caterer will be serving.
(Code 2015)

ARTICLE 7. TEMPORARY PERMITS

- 3-701. PERMIT REQUIRED. It shall be unlawful for any person granted a temporary permit by the State of Kansas to sell or serve any alcoholic liquor within the city without first obtaining a local temporary permit from the city clerk. (Code 2015)
- 3-702. PERMIT FEE. (a) There is hereby levied a temporary permit fee in the amount of \$50 per day on each group or individual holding a temporary permit issued by the state director of alcoholic beverage control authorizing sales within the city, which fee shall be paid before the event is begun under the state permit.
(b) Every temporary permit holder shall cause the temporary permit receipt to be placed in plain view on any premises within the city where the holder of the temporary permit is serving or mixing alcoholic liquor for consumption on the premises.
(Code 2015)
- 3-703. CITY TEMPORARY PERMIT. (a) It shall be unlawful for any person to conduct an event under a state issued temporary permit without first applying for a local temporary permit at least 7 days before the event. Written application for the local temporary permit shall be made to the city clerk and shall clearly state:
(1) The name of the applicant;
(2) The group for which the event is planned;
(3) The location of the event;
(4) The date and time of the event;
(5) Any anticipated need for police, fire or other municipal services.
(b) Upon presentation of a state temporary permit, payment of the city's temporary permit fee and a written application as provided for in subsection (a), the city clerk shall issue a local temporary permit to the applicant if there are no conflicts with any zoning or other ordinances of the city.
(c) The city clerk shall notify the chief of police whenever a temporary permit has been issued and forward a copy of the permit and application to the chief of police.
(Code 2015)
- 3-704. PERMIT REGULATIONS. (a) No temporary permit holder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 9:00 a.m. at any event for which a temporary permit has been issued.
(b) No alcoholic beverages shall be given, sold or traded to any person under 21 years of age.
(Code 2015)

ARTICLE 8. SPECIAL EVENT CMB PERMITS

- 3-801. SPECIAL EVENT CMB PERMITS; PERMIT REQUIRED. It shall be unlawful for any person to sell or serve any CMB at any special event within the city without first obtaining a local special event permit from the city clerk.
(K.S.A. 41-2703; Code 2015)
- 3-802. SAME; PERMIT FEE. (a) There is hereby levied a special event permit fee in the amount of \$100 on each group or individual, which fee shall be paid before the event begins. Such fee shall be in addition to the \$25 fee to be remitted to the Division of Alcohol Beverage Control.
(b) Every special event permit holder shall cause the permit receipt to be placed in plain view on any premises within the city where the holder of the special event permit is serving CMB for consumption on the premises.
(K.S.A. 41-2702; Code 2015)
- 3-803. SAME; CITY SPECIAL EVENT PERMIT. (a) It shall be unlawful for any person to sell or serve CMB at a special event without first applying for a local special event permit at least 3 days before the event. Written application for the local special event permit shall be made to the city clerk on the form used for annual cereal malt beverage sales or, when available, the special event CMB permit application approved by the Attorney General, as directed by the city clerk. In addition to any other information required, the applicant shall provide the following:
(1) The name of the applicant;
(2) The group for which the event is planned;
(3) The location of the event;
(4) The date and time of the event; and
(5) Any anticipated need for police, fire, or other municipal services.
(b) Upon meeting the requirements to obtain a special event permit, the city clerk shall issue a local special event permit to the applicant if there are no conflicts with any zoning or other ordinances of the city.
(c) The city clerk shall notify the chief of police whenever a special event permit has been issued and forward a copy of the permit and application to the chief of police.
(Code 2015)
- 3-804. SAME; PERMIT REGULATIONS. (a) No special event permit holder shall allow the serving of CMB between the hours of 12:00 a.m. and 6:00 a.m. at any event for which a special event permit has been issued.
(b) No CMB shall be given, sold or traded to any person under 21 years of age.
(c) No more than four special event permits may be issued in a calendar year to the same applicant.
(d) No special event permit issued hereunder may be transferred or assigned to any other vendor.
(e) All local ordinances and state statutes for the sale and consumption of CMB apply to holders of special event permits.
(K.S.A. 41-2703; Code 2015)

ARTICLE 9. KEG REGISTRATION

- 3-901. DEFINITIONS. As used in this article, the words and phrases herein defined shall have the following meaning, unless the context otherwise requires:
- (a) Beer means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.
 - (b) Cereal malt beverage means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any such liquor which is more than 3.2% alcohol by weight.
 - (c) Keg means a reusable container of beer or cereal malt beverage having a liquid capacity of four or more gallons.
 - (d) Legal age for consumption means 21 years of age.
 - (e) Person means any natural person, corporation, partnership, limited liability company, trust or association.
 - (f) Retailer means a person who sells at retail, or offers for sale at retail, beer or cereal malt beverage for use or consumption and not for resale in any form, and includes sales of beer or cereal malt beverage in a keg returnable to the seller. Such terms shall not refer to or mean sales by a distributor or sales by one retailer to another.
 - (g) Sell or sell at retail refers to and means sales of beer or cereal malt beverage for use or consumption and not for resale in any form, and includes sales of beer or cereal malt beverage in a keg returnable to the seller. Such terms shall not refer to or mean sales by a distributor or sales by one retailer to another.
 - (h) Proper proof of identification means 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 and birth date of the person. (Code 2015)
- 3-902. RETAILER DUTIES. A retailer, or retailer's employee or agent, prior to or at the time of any sale at retail of a keg, shall:
- (a) Affix or cause to be affixed to the keg a keg identification tag, in accordance with the provisions of section 3-904;
 - (b) Require the purchaser to exhibit proper proof of identification. If the purchaser fails to provide such proof of identification, the retailer shall refuse to sell the keg to such person;
 - (c) Require the purchaser to sign a Declaration and Receipt for the keg in the form provided for in section 3-904;
 - (d) Record on the declaration the keg identification tag number, the date of sale, the purchaser's name and address, and the type, number and expiration date of the purchaser's identification;
 - (e) Inform the purchaser, that any deposit paid by the purchaser for the keg, if required, shall be forfeited if the keg is returned without the original keg identification tag intact and readable;
 - (f) Require each purchaser of any such keg to acknowledge as part of the declaration that persons under 21 are not of legal age for consumption of beer or cereal malt beverage and that the declaration is subject to inspection by law enforcement personnel; and

(g) Provide a copy of the Declaration and Receipt to the purchaser.
(Code 2015)

3-903. PURCHASER REQUIREMENTS. Any person who purchases a keg or the contents thereof shall:

- (a) Be of legal age to purchase, possess, or use beer and cereal malt beverage;
- (b) Provide proof of identification and such other information as the retailer may require in accordance with 3-902.
- (c) Sign a Declaration and Receipt in the form required by section 3-902;
- (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 section 3-902; and
- (f) Maintain a copy of the Declaration and Receipt with the keg during the time the keg is in the purchaser's possession or control.

(Code 2015)

3-904. IDENTIFICATION REQUIREMENTS. (a) The keg identification tag required under this article shall be in the form of a uniquely numbered and coded tag or label, prescribed and furnished by the city clerk. Such tag or label is used for a single sale of the marked keg and is to be removed from the keg by the retailer upon return of the keg to the retail seller and maintained with the records of the sale. Such tags shall be fabricated and made attachable in such a manner as to make the tag removable for the purpose of the cleaning and reusing the keg by a manufacturer.

(b) The Declaration and Receipt required shall be on a form prescribed and furnished by the city clerk and shall include the information as required by sections 3-902 and 3-903 thereof, and may include such other identifying information as the city clerk may deem necessary and appropriate.

(c) Retailers may apply for and receive keg identification tags and Declaration and Receipt forms from the city clerk upon submittal of an application on a form as prescribed by the city clerk and such proof as may be required by the city clerk that the applicant is duly licensed to sell beer or cereal malt beverages in a keg. The city clerk may charge a reasonable fee for furnishing the tags and forms required by this article not to exceed the actual cost of furnishing such tags and forms.

(d) The retailer shall retain a copy of all such Declarations and Receipts required on the retailer's licensed premises for a period of six months. Such Declarations and Receipts shall be available for inspection and copying by any law enforcement officer during normal business hours for the purpose of identifying persons suspected of a violation of law.

(e) Falsifying any information on a Declaration and Receipt shall be a violation of this section.

(Code 2015)

3-905. DEPOSIT REFUND. No retailer may refund any deposit upon return of a keg that:

- (a) Does not have the required identification tag; or
- (b) Has an identification tag that has been defaced to the extent that the information contained on the tag cannot be read. (Code 2015)

3-906.

VOLATIONS. 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 article;
- (b) Deface a keg identification tag to the extent the information contained on the tag cannot be read;
- (c) Fail to return a keg within 10 days of the due date; or
- (d) Possess a keg that does not have the keg identification tag.

Provided that the provisions of this section shall not apply to 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 2015)

CHAPTER IV. BUILDINGS AND CONSTRUCTION

- Article 1. (Reserved)
- Article 1A. Standard Building and Structural Codes
Incorporated
- Article 2. Building Code
- Article 3. Electrical Code
- Article 4. Plumbing Code
- Article 5. Natural Gas Hook-ups
- Article 6. Dangerous Structures and Demolition
Of Buildings
- Article 7. Structures Unfit for Habitation
- Article 8. Abandoned Mine Shafts
- Article 9. Moving Buildings
- Article 10. Numbering Buildings
- Article 11. Contractors
- Article 12. Signs and Billboards
- Article 13. Adult Care Homes

ARTICLE 1. FIRE LIMITS (Reserved)

ARTICLE 1A. STANDARD BUILDING AND STRUCTURE CODES INCORPORATED

- 4-1A01. CODES; INCORPORATED. The following are hereby adopted by reference as though fully set forth herein:
- 2006 International Building Code
 - 2006 International Residential Code for One- and Two- Family Dwellings
 - 2006 International Fire Code
 - 2006 International Plumbing Code
 - 2006 International Fuel Gas Code
 - 2006 International Mechanical Code
 - 2006 International Existing Building Code
 - 2006 International Code Council Electrical Code
 - 2006 Code Council Performance Code for Buildings and Facilities
- (Ord. 7-23; Code 2015)
- 4-1A02. SAME; FILED. One copy of the aforementioned codes shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Galena" and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business. (Ord. 7-23; Code 2015)

ARTICLE 2. BUILDING 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 Galena, 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 Galena;
 - (c) Whenever the term building official is used in the building code, it shall be held to mean the city inspector or his or her authorized designee.
(Code 2015)
- 4-202. ADDITIONAL PROVISIONS. The following sections of this article are in addition to the provisions of the standard code incorporated by reference in section 4-1A01 and 4-1A02. Any provisions of the general city code that are not in conflict with the provisions specified in 4-1A01 and 4-1A02 shall remain applicable.
(Code 2015)
- 4-203. CITY INSPECTOR. The following part-time position is established for the city: City Inspector. The city inspector shall perform the duties of inspecting building and premises to determine whether compliance has been made with the international codes and other code provisions as are adopted by the City of Galena and shall perform such duties as may be directed. (Ord. 7-24; Code 2015)
- 4-204. CITY INSPECTOR; DUTIES. The city inspector shall have the following duties:
- (a) The city inspector shall receive applications required by the codes contained in section 4-1A01, issue permits and furnish the prescribed certificates. He or she shall examine the premises for which permits have been issued and shall make necessary inspections to see that the provisions of law are complied with and that construction is prosecuted safely. The city inspector shall enforce all provisions of the building code, and when requested by proper authority, or when the public interest so requires, make investigations in connection with matters referred to in the building code and render written reports on the same. He or she shall issue such notices or orders as may be necessary to enforce compliance with law, to remove illegal or unsafe conditions, to secure the necessary safeguards during construction, or to require adequate exit facilities in buildings and structures.
 - (b) The city inspector or his or her duly appointed assistant shall make inspections required under provisions of the building code. He or she may accept reports of inspectors of recognized inspection services, after investigation of their qualifications and reliability. No certificate called for by any provision of the building code shall be issued on such reports unless the same are in writing and certified to by a responsible officer of such service.
 - (c) The city inspector shall keep comprehensive records of applications, of permits issued, of certificates issued, of inspections made, of reports rendered, and of notices or orders issued. All such records shall be open to public inspection for good and sufficient reasons at the stated office hours, but shall not be removed from the office of the city inspector without his or her written consent.
 - (d) The city inspector shall make written reports to the city council once each month, or more often if requested, including statements of permits and certificates issued, and orders promulgated.
(Ord. 839; Code 1998)

- 4-205. SAME; POWERS. The city inspector shall have the following powers:
- (a) To enter any building or structure or premises at any reasonable hour, whether complete or in the process of erection, to perform the duties contained in this chapter;
 - (b) To adopt and enforce all such prudent emergency measures as he or she may deem necessary and expedient for the public safety under the laws of the city;
 - (c) May cause any work done in violation of this chapter to be discontinued until he or she shall have satisfactory evidence that the work will be done in accordance with the building regulations of the city, subject to the right of any builder or owner to appeal to the governing body. (Code 2015)
- 4-206. SAME; RIGHT OF ENTRY. The city inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties as set out in this chapter. (Ord. 839; Code 1998)
- 4-207. 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 city inspector shall have power to modify any of the provisions of the building code upon application in writing by the owner or lessee or his or her authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code. In approving modifications, the city inspector shall see that the spirit of the code is observed, public safety secured and substantial justice done. The particulars of a modification when granted or allowed and the decision of the inspector thereon shall be entered upon the records of the city inspector and a signed copy shall be furnished to the applicant and forwarded to the chairman of the planning commission for informational purposes with no further action by the planning commission being required unless an irregularity is suspected in which case it shall hold a meeting to review the matter. (Code 2015)
- 4-208. LIABILITY. Any officer or employee, or member of the planning commission, board of zoning appeals, or governing body, charged with the enforcement of this code acting for the city in the discharge of his or her duties, shall not thereby render himself or herself liable personally, and he or she is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his or her duties. Any suit brought against any officer or employee because of such act performed by him or her in the enforcement of any provision of this code shall be defended by the city until the final termination of the proceedings. (Ord. 839; Code 1998)
- 4-209. BUILDING PERMIT REQUIRED; APPLICATION; APPROVAL. It shall be unlawful for any person to hereafter erect or cause to be erected within the city any building or structure of any kind or enlarge or add to the outside dimension thereof, or relocate any building or structure already erected or which may hereafter be erected or remodel any building or structure within the city without a building permit being first obtained therefor from the 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 2015)

4-210. SAME; APPLICATION INFORMATION REQUIRED. (a) A building permit shall be issued upon an application in writing to the office of city clerk on a form or forms provided for the purpose. This application shall, among other things, disclose the following:

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

(b) 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 city 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 2015)

4-211. SAME; PLANS AND SPECIFICATIONS. Whenever an application for a building permit is made, the chief building official may, if he or she finds it necessary to determine whether building work described in the application will comply with the laws pertaining to such work, require that the applicant file a written description or drawing of the proposed building as may be prepared for the purpose. If such drawing or description is insufficient for the purposes of determining whether a permit should be issued, the building official may require the applicant to file complete architectural and engineering plans and specifications for such building, or any part thereof, as may be necessary for the inspector to determine compliance with this article. The filing of such plans and specifications and the approval thereof in connection with an application for a permit shall not in any way affect the authority of the city to deny or issue a permit, or to inspect any building work for conformity with this article. (Code 2015)

- 4-212. SAME; FEES. (a) The building permit fee shall be as follows: for the first \$1,000 of construction costs the fee shall be \$20; for every additional \$1,000 of construction costs the fee shall be \$10. The maximum amount that may be charged for a building permit is \$250. A building permit shall be obtained for every separate structure at a location. Each separate structure is subject to the \$250 maximum fee for building permits.
(b) The fee herein shall be paid to the city clerk upon obtaining a building permit and the same shall be credited to the general operating fund of the city. (Ord. 07-08; Code 2015)
- 4-213. SAME; POSTING. A copy of the building permit shall be kept on the premises for public inspection during the performance of the work and until the completion of the same. The building inspector may require a certified copy of the approved plans to be kept on the premises at all times from the commencement of the work to the completion thereof. (Code 2015)
- 4-214. 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 the work. A copy of such certificate shall be given the owner. (Code 2015)
- 4-215. ENTERPRISE ZONE FEE WAIVER; MAP THEREOF. An enterprise zone is hereby established. In such enterprise zone the building permit fee is waived for all construction of a business, including original construction and remodeling construction. The building permit fee shall not be waived for businesses that commenced construction without first obtaining a building permit. Residential rental property shall not be considered to be a business hereunder. The enterprise zone shall be comprised of all property on the enterprise zone map that was passed by the City Council on June 5, 1984, as reflected in the minutes thereof, specifically, the areas indicted by shading in the aforesaid map, which are incorporated by reference as though fully set forth herein. In addition, the enterprise zone shall also be comprised of all property that abuts 7th Street in Galena, Kansas, from the Missouri and Kansas state line in the east to the city limits in the west, as such city limits currently or hereafter exist. (Ord. 09-05; Code 2015)
- 4-216. INSPECTIONS OF BUILDING; LAYOUT OF BUILDING; FOUNDATIONS AND FOOTINGS; NOTICE TO INSPECTOR. (a) The contractor or builder having a permit for new construction, or additions to existing buildings, shall notify the chief building official or building inspector immediately upon the marking or laying out of the site and foundation for such work. The official or inspector shall inspect the layout for conformity with this article and with respect to lot lines, setbacks and location of the proposed buildings to determine conformity with the city zoning regulations. In case of doubt respecting the required location, the chief building official may require an official survey of the lot lines to determine conformity, at the expense of the permit holder.
(b) Upon completion of the excavation for the building foundation and footings and the construction of the necessary forms thereof and before the foundation and footings are poured or laid, the official or inspector shall be notified

as in the first case, and it shall be his or her duty to inspect all such work for conformity with laws respecting location of the building foundations and footings.

(c) The city 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 2015)

- 4-217. REQUEST FOR INSPECTION. Upon the completion of any building construction work covered by this article, it shall be the duty of the person doing such work to notify the city inspector and request that it be inspected; after which such work shall be inspected promptly as hereinafter provided.
(Code 2015)

- 4-218. INSPECTION FEE. An initial inspection fee of \$50 and an inspection fee of \$50 for subsequent inspections required shall be paid before any building or construction work will be approved or a certificate of approval issued.
(Code 2015)

- 4-219. 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, 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, gas fitters, 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 2015)

4-220. BUILDER'S OR BUILDING CONTRACTOR'S LICENSE REQUIRED; BUILDING PERMITS; UNLAWFUL ACTS. (a) Each builder or building contractor shall before entering upon any building or construction work subject to regulation by city laws, apply to the city clerk for a builder's or building contractor's license and receive the same as hereinafter provided and have in his or her possession a valid license authorizing him, her or it to engage in the trade or occupation of a builder or building contractor in the city.

(b) No permit for any building or construction work shall be issued for any such work to be performed by a builder or building contractor, as defined, who has not first obtained a license upon making a proper application and payment of the license fee as required.

(c) It shall be unlawful for any person, firm, company, association or corporation to enter into a contract or agreement with another so as to bring himself, herself, or itself under the definition of builder or building contractor herein, or to perform any work as a builder or building contractor or any work under a contract for any work involving the construction, wrecking or moving of any building, without first having obtained a builder's or building contractor's license issued by the city. (Code 2015)

4-221. SAME; APPLICATION; GRANTING. Application for a builder's or building contractor's license shall be made upon a form to be supplied by the city which shall disclose the name of the applicant, his or her place of business in the city (and home office if a nonresident), the kind of contracting work engaged in (as general contracting, roofing, siding, masonry, plastering, lathing, excavating, waterproofing, metal work, foundation work, sign hanging, cement work and painting and paper hanging, house wrecking or moving and the like), the length of time engaged in such work and places where work has been performed within the past two years. The application shall be signed by the builder or building contractor or his or her authorized agent. The applications shall be, by the chief building official, referred to the governing body at its next meeting for action thereon. Such license shall be issued by the city clerk, upon payment of the fees hereinafter provided after approval of the governing body. (Code 2015)

4-222. SAME; LICENSE FEES; CONDITIONS; RENEWAL; UNLAWFUL ACTS.

(a) The following license fees shall be paid for the calendar year or major fraction thereof:

(1) General Builder or Building Contractor, who shall qualify to engage in more than one kind of contract work, except house moving, the sum of \$50;

(2) Limited Builder or Building Contractor, who shall qualify to engage in not more than one kind of contract work, the sum of \$25;

(3) House Wreckers or Movers, the sum of \$50;

(4) Sign Hangers and Panel Posters, the sum of \$50.

Any license issued on or after July 1 of each year shall be issued upon payment of one-half the annual license fee.

(b) Each such license shall set forth the kind of contract work in which the licensee may engage. The licensee shall display his or her license at any place

where he or she may be engaged in contract work or produce the same on demand of any city officer. All licenses shall be renewable annually as in the case of an original license on or before the first day of January of the year for which issued.

(c) It shall be unlawful for any person, firm or corporation to contract for any kind of work covered by this article without having a valid license issued by the city to perform such contracts.

(Code 2015)

4-223. BUILDER'S OR BUILDING CONTRACTOR'S BOND REQUIRED; CONDITIONS; APPROVAL; RIGHTS RESERVED. (a) Before any license shall be issued, to any builder or building contractor required by this article to obtain a license and pay a fee to the city, the builder or building contractor shall secure and file with the city clerk a good and sufficient corporate surety bond in the principal sum of \$1,000 conditioned that the principal named therein shall faithfully and fully observe all laws of the city relating to the business or occupation for which a license is desired and further conditioned to hold and save the city harmless and free of claims for loss or damage to persons or property, or from damage, injury or destruction of property belonging to the city, resulting from, or arising out of, the negligence or failure of the principal or any of his, her or its employees, agents, servants to use due care or diligence respecting any opening or excavation made in, or adjacent to any street, alley or public ground in the city, or any materials stored, placed or used in any such places, or the operation or use of any vehicle, machinery or equipment in the streets, alleys or public grounds in connection with the business or occupation licensed. Each such bond shall be issued by a company authorized to do business in the State of Kansas and shall be executed by an agent of the company residing in the County of Cherokee, Kansas and further conditioned that in the event of cancellation or expiration that the company or agent will give 10 days' notice of such fact to the city clerk. Each such bond shall be approved as to form by the city attorney and approved as to surety by the city council and the approval thereof shall be endorsed on the bond by the city attorney and by the mayor over their signatures.

(b) Each bond shall be dated to run from the first day of any license issued by the city to the principal and may cover a period of not to exceed two years. No bond shall be renewed by an extension certificate but a new bond shall be filed by the principal for each successive period following the renewal thereof. The city reserves the right to furnish the form of all surety bonds as may be required by this article. (Code 2015)

4-224. INSURANCE. In addition to obtaining a corporate surety bond as required by section 4-223 of this article, a builder or building contractor must procure and maintain a liability insurance policy in the amount of \$100,000 for the death or injury of any one person and \$300,000 for the death or injury of any number of persons in any one accident and \$50,000 for property damage in any one accident. Such policies of insurance shall be issued by some insurance company authorized to do business in the State of Kansas. A builder or building contractor may qualify as to the insurance requirements by filing a certificate with the city clerk executed by the resident agent of such company stating that the required policy of insurance has been issued by such company for the purpose required by this article and that such insurer will not cancel the policy except upon giving 30 days notice in writing to the city; and that the certificate shall be filed for an annual period beginning January 1 and ending December 31 of such year. (Code 2015)

4-225. LICENSE SUSPENSION; REVOCATION; APPEAL; UNLAWFUL ACTS.

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

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

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

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

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

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

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

(c) It shall be unlawful to engage in the occupation or trade of builder or building contractor during the time any license of such builder or building contractor has been suspended or revoked. (Code 2015)

4-226. WORK BY PROPERTY OWNERS. Nothing herein contained shall prohibit any property owner from personally performing any building or construction work within and upon his or her own residence and intended for his or her personal use and permanent occupancy; provided, the owner shall satisfy the building inspector as to his or her ability to perform such work, secure a permit, pay required fees, do work in accordance with this article, and apply for an inspection and receive a certificate of approval. Personal building or construction performed by an owner under this section shall be by himself, herself, for himself or herself on his or her own residence, without compensation and no person shall be employed to assist him or her in any way on such work except a builder or building contractor licensed by the city. (Code 2015)

4-227. LIABILITY. This article shall not be construed to relieve from any liability or lessen the liability of any person performing any activity connected herewith, nor shall the city be held as assuming any liability by reason of any inspection authorized herein, by reason of any certificate of inspection issued by it or by reason of any permit or license granted herein. (Code 2015)

4-228. SEVERABILITY. If any section of the International Building Code or of this article shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, then such section shall be considered separate and apart from the remaining sections, the section to be completely severable from the remaining provisions which shall continue in full force and effect. (Code 2015)

ARTICLE 3. ELECTRICAL CODE

- 4-301. **DEFINITIONS.** For the purpose of this article, the words and phrases used herein shall have the meanings ascribed to them in this section, unless the context clearly indicates to the contrary.
- (a) Approved - shall mean approved by the chief building official, the electrical inspector or his or her designee.
 - (b) Authorized person - shall mean any individual, firm or corporation who or which is licensed under the provisions of this article to do the work as permitted under the specified provisions of this article.
 - (c) City - shall mean the territory within the corporate limits of this city.
 - (d) Conductor - shall mean a wire or cable or other form of metal suitable for carrying the electric current or potential.
 - (e) Electrical construction or installation - shall mean and include all work and materials used in installing, maintaining or extending a system of electrical wiring and all appurtenances, apparatus or equipment used in connection therewith, inside or attached to any building, structure, lot or premises, except industrial plants where fulltime maintenance is provided and other agencies providing inspections of installations and facilities. Electrical construction shall not be held to mean or include any of the following:
 - (1) The replacement of lamps, fuses, bulbs or the connection of portable electrical equipment to suitable permanently installed receptacles and replacement of receptacles and switches, lighting fixtures and apparatus where no changes or alterations are made to the wiring;
 - (2) Any work involved in the manufacturing, repair or testing of any electrical equipment or apparatus, but not including any permanent wiring; or
 - (3) Any work in industrial establishments where inspections come under the scope of other inspection agencies.
 - (f) Equipment - shall mean conductors, materials, fittings, devices, appliances, fixtures, apparatus, motors and the like, used as a part of or in connection with an electrical installation.
 - (g) Inspector - shall mean the chief building official or any individual who has been appointed by the city as electrical inspector.
 - (h) Person - shall mean a natural person, his or her heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors, assigns, or the agent of any of the aforesaid.
 - (i) Special permission - shall mean the written consent of the chief building official or the electrical inspector.
 - (j) Special ruling - shall mean a written ruling filed in the office of the chief building official or the electrical inspector.
- (Code 2015)

- 4-302. **ADOPTION OF ELECTRICAL CODE BY REFERENCE.** The standard code known as the 2006 International Code Council Electrical Code, the same being a standard code for the installation of electrical wiring and apparatus and available in book and pamphlet form is hereby incorporated by reference herein and made a part of this article as authorized and in the manner prescribed by K.S.A. 12-3009:3012. One copy shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Galena," and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business.

Any person violating any provision of such code shall be punished as provided in section 1-116 of this code.

(Code 2015)

4-303. ADDITIONAL PROVISIONS. The following sections of this article are in addition to the provisions of the standard code incorporated by reference in section 4-302. (Code 2015)

4-304. CITY INSPECTOR; QUALIFICATIONS. The city inspector performing an electrical inspection shall have had at least two years-experience as an electrician, shall be of good moral character, and be versed in the approved methods of electrical construction for safety of life and property and the applicable city codes. (Ord. 838, Sec. 2; Code 2015)

4-305. SAME; DUTIES. The city inspector shall have the following duties:

(a) To enforce all regulations relating to electrical construction, alteration, repair or removal;

(b) May permit, with the approval of the governing body, on the basis of duly authenticated reports from recognized sources, the use of new materials or modes of electrical construction, not provided for in this article, and may, for the purpose of carrying out the intent of this article adopt an accepted standard of material or workmanlike practices of federal or state bureaus, national, technical organizations or fire underwriters;

(c) To examine all buildings requiring electrical construction in the process of erection, construction, alteration or relocation in the city for the purpose of determining whether the work is in compliance with the permit given and in compliance with the regulations of the city pertaining to such work, including zoning regulations; and

(d) To keep comprehensive records of applications, of permits or certificates issued, of inspections made, of reports rendered, and of notices or orders issued. All such records shall be open to public inspection during stated office hours, but shall not be removed from the office of the building official or electrical inspector without his or her written consent.

(Code 2015)

4-306. SAME; POWERS. The city inspector shall have the following powers:

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

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

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

(Code 2015)

4-307. SAME; RIGHT OF ENTRY. The city inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties as set out in this chapter. (Code 2015)

- 4-308. CLARIFICATION; MODIFICATION. (a) The governing body shall be the final determiner of the scope and meaning of all provisions of the electrical code which may be unclear, ambiguous, or requiring interpretation.
- (b) The city inspector shall have power to modify any of the provisions of the electrical code upon application in writing by the owner or lessee or his or her authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code. In approving modifications, the electrical inspector shall see that the spirit of the code is observed, public safety secured and substantial justice done. The particulars of a modification when granted or allowed and the decision of the inspector thereon shall be entered upon the records of the city inspector and a signed copy shall be furnished to the applicant.
- (Code 2015)
- 4-309. ELECTRICAL PERMIT REQUIRED; APPLICATION; APPROVAL. (a) Except as provided in subsection (b), it shall be unlawful for any person to engage in any electrical construction as defined in section 4-301 within the city without an electrical permit being first obtained therefor from the city clerk, after approval by the chief building official or his or her duly authorized assistant. The application for such permit shall be made and the permit obtained before any electrical construction work is commenced.
- (b) No electrical permit shall be required for any of the following:
- (1) The replacement of lamps, fuses, bulbs or the connection of portable electrical equipment to suitable permanently installed receptacles and replacement of receptacles and switches, lighting fixtures and apparatus where no changes or alterations are made to the wiring;
 - (2) Any work involved in the manufacturing, repair or testing of any electrical equipment or apparatus, but not including any permanent wiring; or
 - (3) Any work in industrial establishments where the issuance of electrical permits comes under the scope of other agencies.
- (Code 2015)
- 4-310. SAME; APPLICATION INFORMATION REQUIRED. (a) An electrical permit shall be issued upon an application in writing to the office of city clerk on a form or forms provided for the purpose. This application shall, among other things, disclose the following:
- (1) The name of the owner of the lot or tract of ground;
 - (2) The location of the building or structure;
 - (3) The electrical construction work proposed;
 - (4) The class of occupancy;
 - (5) The class of electrical construction;
 - (6) The kind of materials to be used;
 - (7) The estimated cost of the work;
 - (8) The date work will commence;
 - (9) Expected date of completion;
 - (10) Name and address of electrical contractor or contractors doing the work;
 - (11) Such other information as may be pertinent to the issuance of the required permit.
- (b) An application for an electrical permit shall be signed by the owner or his or her duly authorized agent, or an electrician or electrical contractor licensed by the city. If the application is made by the owner or his or her agent, it shall contain

the name or names of the licensed electrician or electrical contractor or contractors doing the work described, or an electrical permit may be issued to the owner upon his or her application disclosing satisfactory evidence that the proposed work will be performed by the owner, himself or herself and not by a licensed electrical contractor, and likewise subject to the final approval of the electrical inspector for work performed.

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

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

(Code 2015)

4-311. SAME; PLANS AND SPECIFICATIONS. Whenever an application for a electrical permit is made, the chief building official or the city inspector may, if he or she finds it necessary to determine whether electrical construction work described in the application will comply with the laws pertaining to such work, require that the applicant file a written description or drawing of the proposed electrical construction as may be prepared for the purpose. If such drawing or description is insufficient for the purposes of determining whether a permit should be issued, the building official may require the applicant to file complete electrical and engineering plans and specifications for such electrical construction, or any part thereof, as may be necessary for the inspector to determine compliance with this article. The filing of such plans and specifications and the approval thereof in connection with an application for a permit shall not in any way affect the authority of the city to deny or issue a permit, or to inspect any electrical construction work for conformity with this article. (Code 2015)

4-312. LICENSING OF ELECTRICIANS. Any person, firm or corporation desiring to engage in the business of electrical construction or of the installation of wiring and apparatus for electric lights, appliances, heating or power in the city, shall, before doing so, obtain a license therefore, the fee for which shall be \$25 per year which shall be paid into the city treasury before such license shall become effective. (Ord.1060, Sec. 2; Code 1998)

4-313. SAME; POSTING. A copy of the electrical permit shall be kept on the premises for public inspection during the performance of the work and until the completion of the same. The city inspector may require a certified copy of the approved plans to be kept on the premises at all times from the commencement of the work to the completion thereof. (Code 2015)

4-314. REQUEST FOR INSPECTION. Upon the completion of any electrical work covered by this article, it shall be the duty of the person doing such work to notify the city inspector and request that it be inspected; after which such work shall be inspected promptly as hereinafter provided. (Code 2015)

- 4-315. **INSPECTION; CONCEALMENT OF PRIOR WORK.** (a) When any electric equipment is to be hidden from view by the permanent placement of parts of the building, the person, firm or corporation installing the equipment shall notify the building inspector and such equipment shall not be concealed until it has been inspected, approved or authorized by the city inspector or until 24 hours, exclusive of Saturdays, Sundays and holidays, shall have elapsed from the time of such notification. On large installations, where the concealment of equipment proceeds continuously, the person, firm or corporation installing the electrical equipment shall give the city inspector due notice and inspections shall be made periodically during the progress of the work.
- (b) The city inspector shall have the authority to require building contractors to open such work which, in any manner, conceals electrical wiring that has been closed without his or her knowledge or permission, and in no case shall the inspector issue a certificate of approval until satisfied that the work is in accordance with the provisions of this article. The inspector shall also have the right to refuse to issue a certificate of approval on any wiring, that is concealed in such manner that it cannot be fully determined that it has been done in accordance with this article.
(Code 2015)
- 4-316. **INSPECTION FEE.** An initial inspection fee of \$50, and an inspection fee of \$50 for subsequent inspections required shall be paid before any electrical installation will be approved or a certificate of approval issued.
(Code 2015)
- 4-317. **CERTIFICATE OF APPROVAL.** (a) When the city inspector finds an electrical construction or installation to be in conformity with the provisions of this article, he or she shall issue to the person, firm, or corporation performing the electrical construction work or making the installation, a certificate of approval, with duplicate copy for delivery to the owner, authorizing the use of the installation and connection to the supply of electricity.
- (b) When a certificate of approval is issued authorizing the connection and use of a temporary installation, the certificate shall expire at a time to be stated therein and shall be revocable for cause by the city inspector.
- (c) In no case shall certificates of approval be issued on electrical construction, installations or parts of installations where the work installed does not conform to the requirements of this article.
- (d) If, upon inspection, the installation is not found to be fully in conformity with the provisions of this article, the city inspector shall immediately notify the person, firm, or corporation performing the electrical construction work or making the installation of the existing defects.
- (e) No certificate of approval shall be issued unless the electric conductor or equipment has been installed in strict conformity with the provisions of this article and unless the electrical construction or installation is made in compliance with nationally approved methods of construction for safety to life and property as herein set forth.
- (f) The city inspector shall be deemed the judge of whether the installation of electric conductors and equipment has been made in accordance with the requirements of this article.
- (g) No certificate of approval shall be required for any of the following:
- (1) The replacement of lamps, fuses, bulbs or the connection of portable electrical equipment to suitable permanently installed receptacles and replacement

of receptacles and switches, lighting fixtures and apparatus where no changes or alterations are made to the wiring;

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

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

(Code 2015)

- 4-318. CONNECTION TO INSTALLATIONS. It shall be unlawful for any person, firm, or corporation to make connection to a supply of electricity to any building or electrical equipment for which an inspection is required, or which has been disconnected by the order of the city inspector, until a certificate of approval has been issued by the city inspector authorizing the connection and use of such electric supply. The city inspector may, at his or her discretion, authorize a temporary connection.

(Code 2015)

- 4-319. REINSPECTION. The city inspector shall periodically re-inspect existing installations of electrical conductors and equipment. When the installation of any conductors or equipment is found to be in a dangerous or unsafe condition, the person, firm, or corporation owning, using, or operating the installation shall be notified in writing and shall make the necessary repairs or changes required to place the conductors or equipment in safe condition and have the work completed within the period specified by the city inspector.

(Code 2015)

- 4-320. CONDEMNATION; APPEAL. (a) If in the judgment of the city inspector, after an inspection, any electrical conductors, appliances or equipment in any building are unsafe or dangerous to persons or property, the inspector shall have the power to cause the wires or appliances to be disconnected from the source of electrical energy supplying these conductors or equipment, and may, at his or her discretion, seal the control switches for the same in an open or disconnected position, whereupon he or she shall give notice to the owner, or his or her agent, or by posting such notice at the site and shall also notify the utilities serving the premises. Thereafter, it shall be unlawful for any person to cause or permit electric current to be supplied to the electrical conductors, appliances or equipment so sealed until they shall have been made safe and the inspector shall have issued a certificate of approval to that effect.

(b) It shall be the duty of the city inspector to cause all dead wires, unused poles or electric apparatus on the outside of the buildings or in streets or alleys to be removed at the expense of the owners thereof by giving the owners written notice.

(c) When the city inspector condemns all or part of any electrical installation, the owner may, within 10 days after receiving written notice thereof, file a petition in writing for review of the action of the city inspector by the governing body, upon the receipt of which the governing body shall at once proceed to determine the facts, and within 10 days from receiving the petition make a decision in accordance with their findings.

(Code 2015)

- 4-321. INTERFERENCE BY UNAUTHORIZED PERSON. It shall be unlawful for any unauthorized person to, in any manner, change or alter electrical conductors or equipment in or on any building. If in the course of the erection of a building or structure, electrical conductors or equipment are in such position as to interfere with the erection or completion of the structure, notice shall be immediately given the authorized person or firm installing the electrical conductors or equipment, and the needed change shall be made by such authorized person or firm. (Code 2015)
- 4-322. ELECTRICIAN OR ELECTRICAL CONTRACTORS DEFINED. (a) An electrician or electrical contractor for purposes of this article shall be any person, firm, co-partnership, corporation, association, or any combination thereof, whether a resident or not of the city:
- (1) Who or which undertakes with or for another, for a fixed sum, price, fee or any other compensation to install, construct, alter, repair, add to, or move any electrical installation or performs any electrical construction work in the city, for which an electrical construction permit may now or hereafter be required by the laws of the city; or
 - (2) Who or which advertises or represents himself, herself, or itself to the public to have the capacity or ability to undertake, or submit a bid or offer to install, construct, alter, repair, add to, remove, restore or replace any electrical installation or perform any electrical construction work; or
 - (3) Who or which installs, constructs, alters, adds to or removes any electrical installation or performs any electrical construction work either on his or her own or other property for purposes of sale or speculation.
- (b) An electrician or electrical contractor as defined shall not mean or include:
- (1) Any owner or his or her authorized agents or employees making ordinary repairs to his, her or its own building or structure not involving electrical construction and for which a permit is not required or on which an electrician or electrical contractor, as defined, is not required, employed or engaged to perform; or
 - (2) Any property owner personally performing any improvements, alterations or electrical construction within or upon his or her own residence and intended for his or her own personal use and permanent occupancy; provided, the owner shall satisfy the electrical inspector as to his or her ability to perform such work, secure a permit, pay required fees, do work in accordance with this article, and apply for an inspection and receive approval. Personal electrical construction by an owner under this section shall be by himself, herself, for himself or herself on his or her own residence, without compensation and no person shall be employed to assist him or her in any way on such work except an electrician or electrical contractor licensed by the city.
- (Code 2015)
- 4-323. ELECTRICIAN'S OR ELECTRICAL CONTRACTOR'S LICENSE REQUIRED; ELECTRICAL PERMITS; UNLAWFUL ACTS. (a) Each electrician or electrical contractor shall before entering upon any electrical construction work subject to regulation by city laws, apply to the city clerk for an electrician's or electrical contractor's license and receive the same as hereinafter provided and have in his or her possession a valid license authorizing him, her or it to engage in the trade or occupation of electrician or electrical contractor in the city.

(b) No permit for any electrical construction work shall be issued for any such work to be performed by an electrician or electrical contractor, as defined, who has not first obtained a license upon making a proper application and payment of the license fee as required.

(c) It shall be unlawful for any person, firm, company, association or corporation to enter into a contract or agreement with another so as to bring himself, herself, or itself under the definition of an electrician or electrical contractor herein, or to perform any work as an electrician or electrical contractor or any work under a contract for any work involving electrical construction, without first having obtained an electrician's or electrical contractor's license issued by the city.
(Code 2015)

4-324. SAME; APPLICATION; GRANTING. Application for an electrician's or electrical contractor's license shall be made upon a form to be supplied by the city which shall disclose the name of the applicant, his or her place of business in the city (and home office if a nonresident), the kind of contracting work engaged in the length of time engaged in such work and places where work has been performed within the past two years. The application shall be signed by the electrician or electrical contractor or his or her authorized agent. The applications shall be, by the chief building official referred to the governing body at its next meeting for action thereon. Such license shall be issued by the city clerk, upon payment of the fees hereinafter provided after approval of the governing body. (Code 2015)

4-325. SAME; LICENSE FEES; CONDITIONS; RENEWAL; UNLAWFUL ACTS.

(a) The following license fees shall be paid for the calendar year or major fraction thereof:

(1) General Electrician or Electrical Contractor, who shall qualify to engage in more than one kind of electrical construction work, the sum of \$50;

(2) Limited Electrician or Electrical Contractor, who shall qualify to engage in not more than one kind of electrical construction work, the sum of \$25;

Any license issued on or after July 1 of each year shall be issued upon payment of one-half the annual license fee.

(b) Each such license shall set forth the kind of electrical construction work in which the licensee may engage. The licensee shall display his or her license at any place where he or she may be engaged in contract work or produce the same on demand of any city officer. All licenses shall be renewable annually as in the case of an original license on or before the first day of January of the year for which issued.

(c) It shall be unlawful for any person, firm or corporation to contract for any kind of work covered by this article without having a valid license issued by the city to perform such contracts. (Code 2015)

4-326. ELECTRICIAN'S OR ELECTRICAL CONTRACTOR'S BOND REQUIRED; CONDITIONS; APPROVAL; RIGHTS RESERVED. (a) Before any license shall be issued to any electrician or electrical contractor required by this article to obtain a license and pay a fee to the city, the electrician or electrical contractor shall secure and file with the city clerk a good and sufficient corporate surety bond in the principal sum of \$1,000 conditioned that the principal named therein shall faithfully and fully observe all laws of the city relating to the business or occupation for which a license is desired and further conditioned to hold and save the city harmless and free of claims for loss or damage to persons or property, or from damage, injury or

destruction of property belonging to the city, resulting from, or arising out of, the negligence or failure of the principal or any of his, her or its employees, agents, servants to use due care or diligence respecting any opening or excavation made in, or adjacent to any street, alley or public ground in the city, or any materials stored, placed or used in any such places, or the operation or use of any vehicle, machinery or equipment in the streets, alleys or public grounds in connection with the business or occupation licensed. Each such bond shall be issued by a company authorized to do business in the State of Kansas and shall be executed by an agent of the company residing in the County of Cherokee, Kansas and further conditioned that in the event of cancellation or expiration that the company or agent will give 10 days' notice of such fact to the city clerk. Each such bond shall be approved as to form by the city attorney and approved as to surety by the city council and the approval thereof shall be endorsed on the bond by the city attorney and by the mayor over their signatures.

(b) Each bond shall be dated to run from the first day of any license issued by the city to the principal and may cover the period of not to exceed two years. No bond shall be renewed by an extension certificate but a new bond shall be filed by the principal for each successive period following the renewal thereof. The city reserves the right to furnish the form of all surety bonds as may be required by this article. (Code 2015)

4-327. **INSURANCE.** In addition to obtaining a corporate surety bond as required by section 4-326 of this article, an electrician or electrical contractor must procure and maintain a liability insurance policy in the amount of \$100,000 for the death or injury of any one person and \$300,000 for the death or injury of any number of persons in any one accident and \$50,000 for property damage in any one accident. Such policies of insurance shall be issued by some insurance company authorized to do business in the State of Kansas. An electrician or electrical contractor may qualify as to the insurance requirements by filing a certificate with the city clerk executed by the resident agent of such company stating that the required policy of insurance has been issued by such company for the purpose required by this article and that such insurer will not cancel the policy except upon giving 30 days notice in writing to the city; and that the certificate shall be filed for an annual period beginning January 1 and ending December 31 of such year. (Code 2015)

4-328. **LICENSE SUSPENSION; REVOCATION; APPEAL; UNLAWFUL ACTS.**

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

- (1) Misrepresentation of a material fact by applicant in obtaining a license;
- (2) Use of license to obtain an electrical permit for another;
- (3) Failure or neglect to observe conditions of permit authorizing encumbering of streets or sidewalks for safety of public;
- (4) Performance of any electrical construction work without a permit where one is required by law; or

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

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

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

(Code 2015)

4-329. WORK BY PROPERTY OWNERS. Nothing herein contained shall prohibit any property owner from personally performing any electrical construction or installing electrical wiring or equipment within and upon his or her own residence and intended for his or her personal use and permanent occupancy; provided, the owner shall satisfy the city inspector as to his or her ability to perform such work or install such electrical wiring, secure a permit, pay required fees, do work in accordance with this article, and apply for an inspection and receive a certificate of approval. Personal electrical construction or installation performed by an owner under this section shall be by himself, herself, for himself or herself on his or her own residence, without compensation and no person shall be employed to assist him or her in any way on such work except an electrician or electrical contractor licensed by the city. (Ord. 838, Sec. 13; Code 2015)

4-330. APPROVED MATERIALS. No electric materials for wiring of appliances or equipment shall be installed in the city unless they are in conformity with the provisions of this article and with the approved standards of construction for safety to life and property. Conformity of materials for wiring appliances and equipment to the standards of the Underwriters Laboratories, Inc. shall be prima facie evidence that the materials, devices, appliances and equipment comply with the requirements of this article. (Code 2015)

4-331. LIABILITY. This article shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or installing any electrical equipment for damages to persons or property caused by any defect therein, nor shall the city be held as assuming any such liability, by reason of the inspection or re-inspection authorized herein, or the certificate of approval of any work or equipment authorized herein or by reason of any permit or license granted herein. (Code 2015)

4-332. SEVERABILITY. If any section of the National Electrical Code or of this article shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, then such section shall be considered separate and apart from the remaining provisions of the National Electrical Code or of this article, the section is to be completely severable from the remaining provisions which shall continue in full force and effect. (Code 2015)

ARTICLE 4. PLUMBING CODE

- 4-401. DEFINITION OF PLUMBING. The term plumbing as used in this article shall be construed to mean the installation of gas or water pipes, fixtures, apparatus and the necessary connections either for supplying gas or water to premises or for the removing of liquid and water-borne wastes from premises in the city, or both such purposes, and shall also denote installed fixtures, drainage and vent systems and gas or water distribution systems as the case may be. (Code 2015)
- 4-402. UNIFORM PLUMBING CODE INCORPORATED. There is hereby adopted and incorporated by reference, for the purpose of establishing rules and regulations for the practice of plumbing and gas-fitting, including the installation, maintenance, extension and alteration of all pipes, fixtures, appliances and appurtenances in connection with sanitary sewers and public and private water and fuel gas systems, the 2006 International Plumbing Code, as recommended by the International Association of Plumbing and Mechanical Officials, such code being made as a part of the ordinances and code of the city as if the same had been set out in full herein, all as authorized and in the manner prescribed by K.S.A. 12-3009 through 12-3012 including any amendments thereto. One copy of the uniform code shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Galena," and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business.
Any person violating any provisions of such code shall be punished as provided in section 1-116 of this code.
(Code 2015)
- 4-403. ADDITIONAL PROVISIONS. The following sections of this article are in addition to the provisions of the standard code incorporated by reference in section 4-402. (Code 2015)
- 4-404. PLUMBING INSPECTOR; APPOINTMENT; QUALIFICATIONS The city inspector performing plumbing inspection shall have had at least two years-experience as a plumber, shall be of good moral character, and be versed in the approved methods of plumbing construction for safety of life and property and the applicable city codes. The plumbing inspector shall have experience in plumbing to the extent that enables him or her to determine when plumbing is installed correctly. The city inspector shall not be directly connected in any way with any person, firm, corporation, directly or indirectly engaged in the business of plumbing, or plumbing suppliers. (Ord. 837, Sec. 2; Code 1998)
- 4-405. SAME; DUTIES. The plumbing inspector shall have the following duties:
(a) To enforce all regulations relating to plumbing construction, alteration, repair or removal;
(b) May permit, with the approval of the governing body, on the basis of duly authenticated reports from recognized sources, the use of new materials or modes of construction, not provided for in this article, and may, for the purpose of carrying out the intent of this article adopt an accepted standard of material or workmanlike practices of federal or state bureaus, national, technical organizations or fire underwriters;
(c) To examine all buildings in the process of erection, construction, alteration or relocation in the city for the purpose of determining whether the work is

in compliance with the plumbing permit given and in compliance with the regulations of the city pertaining to such work, including zoning regulations; and

(d) To keep comprehensive records of applications, of permits or certificates issued, of inspections made, of reports rendered, and of notices or orders issued. All such records shall be open to public inspection during stated office hours, but shall not be removed from the office of the building official or plumbing inspector without his or her written consent. (Code 2015)

4-406. SAME; POWERS. The plumbing inspector shall have the following powers:

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

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

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

(Code 2015)

4-407. SAME; RIGHT OF ENTRY. The plumbing inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties as set out in this chapter. (Code 2015)

4-408. CLARIFICATION; MODIFICATION. (a) The governing body shall be the final determiner of the scope and meaning of all provisions of the plumbing code which may be unclear, ambiguous, or requiring interpretation.

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

(Code 2015)

4-409. PLUMBING PERMIT REQUIRED; EXCEPTION. (a) It shall be unlawful to install, alter or reconstruct any plumbing or plumbing system, as defined by the plumbing code and section 4-401, in any building in the city without first making application to and receiving a permit therefor from the city clerk, after approval by the chief building official or his or her authorized assistant. The application for such permit shall be made and the permit obtained before any plumbing work is commenced.

(b) No permit shall be required for making minor repairs of any plumbing including repair of leaks in water pipes, traps or cocks, opening up stoppage in waste or supply pipes, traps or drains, replacing fixtures when waste pipes are not disturbed, or replacing frozen pipes inside the building, and like repair work not involving original installation or reconstruction.

(Code 2015)

4-410. SAME; APPLICATION INFORMATION REQUIRED. (a) A plumbing permit shall be issued upon an application in writing to the office of city clerk on a form or forms provided for the purpose. This application shall, among other things, disclose the following:

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

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

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

(d) Any permit issued under this section shall be valid and subsisting for a period of not more than six months from the date of issuance unless the permittee shall have commenced, within the period so limited, the plumbing work authorized by such permit. Plumbing work commenced for the purpose of this section shall mean the beginning of plumbing work other than the preparation of plans or the letting of a plumbing contract. (Code 2015)

4-411. SAME; PLANS AND SPECIFICATIONS. Whenever an application for a plumbing permit is made, the chief building official or the plumbing inspector may, if he or she finds it necessary to determine whether work described in the application will comply with the laws pertaining to such work, require that the applicant file a written description or drawing of the proposed plumbing construction as may be prepared for the purpose. If such drawing or description is insufficient for the purposes of determining whether a permit should be issued, the chief building official or the plumbing inspector may require the applicant to file complete architectural and engineering plans and specifications for such building or construction, or any part thereof, as may be necessary for the inspector to determine compliance with this article. The filing of such plans and specifications and the approval thereof in connection with an application for a permit shall not in any way affect the authority of the city to deny or issue a permit, or to inspect any plumbing work for conformity with this article. (Code 2015)

- 4-412. SAME; FEES. The fee for a plumbing permit shall be \$50, however no fee shall be required to obtain a permit where the total estimated cost, the reasonable value of all services, labor and materials required, is under \$100. The fee herein shall be paid to the city clerk upon obtaining a plumbing permit and the same shall be credited to the general operating fund of the city. (Code 2015)
- 4-413. SAME; POSTING. A copy of the plumbing permit shall be kept on the premises for public inspection during the performance of the work and until the completion of the same. The plumbing inspector may require a certified copy of the approved plans to be kept on the premises at all times from the commencement of the work to the completion thereof. (Code 2015)
- 4-414. REQUEST FOR INSPECTION. Upon the completion of any plumbing work covered by this article, it shall be the duty of the person doing such work to notify the plumbing inspector and request that it be inspected; after which such work shall be inspected promptly as hereinafter provided. (Code 2015)
- 4-415. INSPECTION; CONCEALMENT OF PRIOR WORK. (a) When any plumbing is to be hidden from view by the permanent placement of parts of the building, the person, firm or corporation installing the plumbing shall notify the plumbing inspector and such equipment shall not be concealed until it has been inspected, approved or authorized by the plumbing inspector or until 24 hours, exclusive of Saturdays, Sundays and holidays, shall have elapsed from the time of such notification. On large installations, where the concealment of plumbing proceeds continuously, the person, firm or corporation installing the plumbing shall give the plumbing inspector due notice and inspections shall be made periodically during the progress of the work.
- (b) The plumbing inspector shall have the authority to require owners or contractors to open such work which, in any manner, conceals plumbing that has been closed without his or her knowledge or permission, and in no case shall the inspector issue a certificate of approval until satisfied that the work is in accordance with the provisions of this article. The inspector shall also have the right to refuse to issue a certificate of approval on any plumbing, that is concealed in such manner that it cannot be fully determined that it has been done in accordance with this article. (Code 2015)
- 4-416. INSPECTION FEE. An initial inspection fee of \$50, and an inspection fee of \$50 for subsequent inspections required shall be paid before any plumbing will be approved or a certificate of approval issued. (Code 2015)
- 4-417. CERTIFICATE OF APPROVAL. (a) When the plumbing inspector finds plumbing construction to be in conformity with the provisions of this article, he or she shall issue to the person, firm, or corporation performing the plumbing construction, a certificate of approval, with duplicate copy for delivery to the owner, authorizing the use of the plumbing system and connection to the supply of gas or water, as the case may be.
- (b) When a certificate of approval is issued authorizing the connection and use of a temporary gas or water supply, the certificate shall expire at a time to be stated therein and shall be revocable for cause by the plumbing inspector.

(c) In no case shall certificates of approval be issued on plumbing or plumbing systems or parts of systems where the work installed does not conform to the requirements of this article.

(d) If, upon inspection, the plumbing or plumbing system is not found to be fully in conformity with the provisions of this article, the plumbing inspector shall immediately notify the person, firm, or corporation making the installation of the existing defects.

(e) No certificate of approval shall be issued unless the plumbing or plumbing system has been installed in strict conformity with the provisions of this article and unless the plumbing or plumbing system is made in compliance with nationally approved methods of construction for safety to life and property as herein set forth.

(f) The plumbing inspector shall be deemed the judge of whether the plumbing or plumbing system has been made in accordance with the requirements of this article.

(g) No certificate of approval shall be required for making minor repairs of any plumbing including repair of leaks in water pipes, traps or cocks, opening up stoppage in waste or supply pipes, traps or drains, replacing fixtures when waste pipes are not disturbed, or replacing frozen pipes inside the building, and like repair work not involving original installation or reconstruction.

(Code 2015)

4-418. CONNECTION TO GAS OR WATER SUPPLY. It shall be unlawful for any person, firm, or corporation to make connection to a supply of gas or water for which an inspection is required, or which has been disconnected by the order of the plumbing inspector, until a certificate of approval has been issued by the plumbing inspector authorizing the connection and use of such plumbing or plumbing system. The plumbing inspector may, at his or her discretion, authorize a temporary connection. (Code 2015)

4-419. CONDEMNATION; APPEAL. (a) If in the judgment of the plumbing inspector, after inspection, the plumbing or plumbing system in any building are unsafe or dangerous to persons or property, the inspector shall have the power to cause the plumbing or plumbing system to be disconnected from the supply of gas or water and may, at his or her discretion, seal the control valves for the same in a closed or disconnected position, whereupon he or she shall give notice to the owner, or his or her agent, or by posting such notice at the site and shall also notify the utilities serving the premises. Thereafter, it shall be unlawful for any person to cause or permit gas or water to be supplied to the plumbing or plumbing system so sealed until they shall have been made safe and the inspector shall have issued a certificate of approval to that effect.

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

(Code 2015)

4-420. PLUMBER OR PLUMBING CONTRACTOR; DEFINED. (a) A plumber or plumbing contractor shall mean:

(1) Any person engaged in the business of installing, altering, maintaining, or repairing plumbing, which shall include all materials and plumbing fixtures, water pipes, portable water treatment equipment, traps, drainage and vent piping, and building drains, including their respective points, connections, devices, receptacles and appurtenances located within the property lines of any premises or in any building.

(2) Any gasfitter or person engaged in the business of installing, altering, or repairing fuel gas piping, gas systems or fixtures.

(b) A plumber or plumbing contractor as defined in subsection (a) of this section shall not mean or include the owner of a residence who personally installs plumbing piping or equipment within and upon his or her own residence and intended for his or her own personal use and permanent occupancy; provided, the owner shall satisfy the plumbing inspector as to his or her ability to install such piping or equipment, secure a permit, pay required fees, do work in accordance with this article, and apply for an inspection and receive approval. Personal installation by an owner under this section shall be himself, herself, for himself or herself on his or her own residence, without compensation and no person shall be employed to assist him or her in any way on such work except a plumber or plumbing contractor licensed by the city. (Code 2015)

4-421. PLUMBER'S OR PLUMBING CONTRACTOR'S LICENSE REQUIRED; PLUMBING PERMITS; UNLAWFUL ACTS. (a) Each plumber or plumbing contractor shall before entering upon any plumbing work subject to regulation by city laws, apply to the city clerk for a plumber's or plumbing contractor's license and receive the same as hereinafter provided and have in his or her possession a valid license authorizing him, her or it to engage in the trade or occupation of a plumber or plumbing contractor in the city.

(b) No permit for any plumbing work shall be issued for any such work to be performed by a plumber or plumbing contractor, as defined, who has not first obtained a license upon making a proper application and payment of the license fee as required.

(c) It shall be unlawful for any person, firm, company, association or corporation to enter into a contract or agreement with another so as to bring himself, herself, or itself under the definition of a plumber or plumbing contractor herein, or to perform any work as a plumber or plumbing contractor or any work under a contract for any work involving plumbing construction, without first having obtained a plumber's or plumbing contractor's license issued by the city. (Code 2015)

4-422. SAME; APPLICATION; GRANTING. Application for a plumber's or plumbing contractor's license shall be made upon a form to be supplied by the city which shall disclose the name of the applicant, his or her place of business in the city (and home office if a nonresident), the kind of contracting work engaged in, the length of time engaged in such work and places where work has been performed within the past two years. The application shall be signed by the plumber or plumbing contractor or his or her authorized agent. The applications shall be, by the chief building official referred to the governing body at its next meeting for action thereon. Such license shall be issued by the city clerk, upon payment of the fees hereinafter provided after approval of the governing body. (Code 2015)

4-423. SAME; LICENSE FEES; CONDITIONS; RENEWAL; UNLAWFUL ACTS.

(a) The following license fees shall be paid for the calendar year or major fraction thereof:

(1) General Plumber or Plumbing Contractor, who shall qualify to engage in more than one kind of plumbing work, the sum of \$50;

(2) Limited Plumber or Plumbing Contractor, who shall qualify to engage in not more than one kind of plumbing work, the sum of \$25;

Any license issued on or after July 1 of each year shall be issued upon payment of one-half the annual license fee.

(b) Each such license shall set forth the kind of plumbing work in which the licensee may engage. The licensee shall display his or her license at any place where he or she may be engaged in plumbing work or produce the same on demand of any city officer. All licenses shall be renewable annually as in the case of an original license on or before the first day of January of the year for which issued.

(c) It shall be unlawful for any person, firm or corporation to contract for any kind of work covered by this article without having a valid license issued by the city to perform such contracts.

(Code 2015)

4-424. PLUMBER'S OR PLUMBING CONTRACTOR'S BOND REQUIRED; CONDITIONS; APPROVAL; RIGHTS RESERVED. (a) Before any license shall be issued to any plumber or plumbing contractor required by this article to obtain a license and pay a fee to the city, the plumber or plumbing contractor shall secure and file with the city clerk a good and sufficient corporate surety bond in the principal sum of \$1,000 conditioned that the principal named therein shall faithfully and fully observe all laws of the city relating to the business or occupation for which a license is desired and further conditioned to hold and save the city harmless and free of claims for loss or damage to persons or property, or from damage, injury or destruction of property belonging to the city, resulting from, or arising out of, the negligence or failure of the principal or any of his, her or its employees, agents, servants to use due care or diligence respecting any opening or excavation made in, or adjacent to any street, alley or public ground in the city, or any materials stored, placed or used in any such places, or the operation or use of any vehicle, machinery or equipment in the streets, alleys or public grounds in connection with the business or occupation licensed. Each such bond shall be issued by a company authorized to do business in the State of Kansas and shall be executed by an agent of the company residing in the County of Cherokee, Kansas and further conditioned that in the event of cancellation or expiration that the company or agent will give 10 days' notice of such fact to the city clerk. Each such bond shall be approved as to form by the city attorney and approved as to surety by the city council and the approval thereof shall be endorsed on the bond by the city attorney and by the mayor over their signatures.

(b) Each bond shall be dated to run from the first day of any license issued by the city to the principal and may cover the period of not to exceed two years. No bond shall be renewed by an extension certificate but a new bond shall be filed by the principal for each successive period following the renewal thereof. The city reserves the right to furnish the form of all surety bonds as may be required by this article. (Code 2015)

4-425. **INSURANCE.** In addition to obtaining a corporate surety bond as required by section 4-424 of this article, a plumber or plumbing contractor must procure and maintain a liability insurance policy in the amount of \$100,000 for the death or injury of any one person and \$300,000 for the death or injury of any number of persons in any one accident and \$50,000 for property damage in any one accident. Such policies of insurance shall be issued by some insurance company authorized to do business in the State of Kansas. A plumber or plumbing contractor may qualify as to the insurance requirements by filing a certificate with the city clerk executed by the resident agent of such company stating that the required policy of insurance has been issued by such company for the purpose required by this article and that such insurer will not cancel the policy except upon giving 30 days notice in writing to the city; and that the certificate shall be filed for an annual period beginning January 1 and ending December 31 of such year. (Code 2015)

4-426. **LICENSE SUSPENSION; REVOCATION; APPEAL; UNLAWFUL ACTS.**

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

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

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

(c) It shall be unlawful to engage in the occupation or trade of plumber or plumbing contractor during the time any license of such plumber or plumbing contractor has been suspended or revoked. (Code 2015)

4-427. **EXCAVATIONS.** When it appears that the laying or repairing of any water or sewer pipes or the making of any connection therewith shall require excavation in any street, alley or public way of the city or the cutting or removal of any pavement, curb or gutter or any sidewalk, during the course of such work, the application for a permit shall so state and describe the location and extent of the excavation, cutting or removal. Before the city clerk shall issue any permit for such work, the applicant shall pay any fee required by this code. All excavations shall be barricaded and guarded as provided by the appropriate sections of this code. Before any such

excavation shall be backfilled, new plumbing work therein shall be inspected and the bottom of the excavation holding any sewer, drain or water pipe shall be so filled, leveled and tamped as to properly support the pipe and permit proper drainage when carrying sewage, and the excavation shall be backfilled and all paving, curbing, guttering or sidewalks shall be restored as near as possible to their last condition, subject always to the approval of the plumbing inspector or the superintendent of streets. (Code 2015)

4-428. STREET OPENINGS. (a) All openings made in the public streets or alleys to install plumbing must be made as carefully as possible and all materials excavated from, the trenches shall be removed or placed where the least inconvenience to the public will be caused.

(b) All openings must be replaced in precisely the same condition as before the excavation started and all rubbish and materials must be removed at once, leaving the street or sidewalks clean and in perfect repair.

(c) All openings shall be marked with sufficient barriers. Flares or red lamps shall be maintained around the opening at night and all other precautions shall be taken by the plumber or excavator to protect the public from damage to person or property. (Ord. 837, Sec. 5; Code 1998)

4-429. CROSS CONNECTIONS; BACK FLOW. (a) The city water department and the city inspector, be and they are hereby authorized to discontinue or cause to be discontinued all water service or services to any and all premises, lands, buildings, or structures where it is found that an immediate hazard exists to the purity or potability of the city water supply.

(b) The city water department and the city plumbing inspector, be and they are hereby authorized and directed to take such steps as necessary to determine all potential hazards to the purity or potability of the city water supply which exist. Upon determining the potential hazards it shall be the duty of the department and the inspector to immediately cause notice to go to the owner or such other person responsible for said premises, specifying said hazards, and notifying the person that in the event that said hazard is not corrected within 30 days from the date of the notice, all water services shall be discontinued thereafter until the requirements of this code have been complied with. (Ord. 837, Sec. 6; Code 1998)

4-430. 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 2015)

4-431. APPROVED MATERIALS. No plumbing materials, appliances or equipment shall be installed in the city unless they are in conformity with the provisions of this article and with the approved standards of construction for safety to life and

property. Conformity of materials for plumbing materials, appliances and equipment to the standards of the Underwriters Laboratories, Inc. shall be prima facie evidence that the materials, devices, appliances and equipment comply with the requirements of this article. (Code 2015)

4-432. LIABILITY. This article shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or performing any plumbing construction for damages to persons or property caused by any defect therein, nor shall the city be held as assuming any such liability, by reason of the inspection or re-inspection authorized herein, or the certificate of approval of any work or equipment authorized herein or by reason of any permit or license granted herein. (Code 2015)

4-433. SEVERABILITY. If any section of the Uniform Plumbing Code or of this article shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, then such section shall be considered separate and apart from the remaining provisions of the Uniform Plumbing Code or of this article, the section is to be completely severable from the remaining provisions which shall continue in full force and effect. (Code 2015)

ARTICLE 5. NATURAL GAS HOOK-UPS

- 4-501. **BUILDING INSPECTOR TO INSPECT HOOK-UPS.** No natural gas service shall be provided to any consumer in the city until the city building inspector has examined the structure and all lines and hook-ups are determined that the facilities are in compliance with the current city building code.
(Ord. 91-1, Sec. 1; Code 1998)
- 4-502. **DISCONNECTS.** It shall be the duty of the provider of gas service to promptly inform the city clerk's office of all disconnects made by the provider within the city, all reconnects within the city, and all new applications for gas service within the city.
(Ord. 91-1, Sec. 2; Code 1998)
- 4-503. **INTENT TO ACQUIRE SERVICE.** It shall be the responsibility of anyone seeking gas service to inform the city of their intent to acquire service.
(Ord. 91-1, Sec. 3; Code 1998)

ARTICLE 6. DANGEROUS AND UNFIT STRUCTURES

- 4-601. **PURPOSE.** The governing body has found that there exist within the corporate limits of the city structures which are unfit for human use or habitation because of dilapidation, defects increasing the hazards of fire or accidents, structural defects or other conditions which render such structures unsafe, unsanitary or otherwise inimical to the general welfare of the city, or conditions which provide a general blight upon the neighborhood or surrounding properties. It is hereby deemed necessary by the governing body to require or cause the repair, closing or demolition or removal of such structures as provided in this article. (K.S.A. 12-1751; Ord. 06-09; Code 2015)
- 4-602. **DEFINITIONS.** For the purpose of this article, the following words and terms shall have the following meanings:
- (a) Enforcing officer - means the code enforcement 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; Ord. 06-09; Code 2015)
- 4-603. **ENFORCING OFFICER; DUTIES.** The enforcing officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this article, including the following:
- (a) Inspect any structure which appears to be unsafe, dangerous or unfit for human habitation;
 - (b) Have authority to enter upon premises at reasonable hours for the purpose of making such inspections. Entry shall be made so as to cause the least possible inconvenience to any person in possession of the structure. If entry is denied, the enforcing officer may seek an order for this purpose from a court of competent jurisdiction;
 - (c) Report all structures which he or she believes to be dangerous, unsafe or unfit for human habitation to the governing body;
 - (d) Receive petitions as provided in this article.
- (Ord. 06-09; Code 2015)
- 4-604. **PROCEDURE; PETITION.** Whenever a petition is filed with the enforcing officer by at least five residents charging that any structure is dangerous, unsafe or unfit for human habitation, or whenever it appears to the enforcing officer on his or her own motion that any structure is dangerous, unsafe or unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges, report such findings to the governing body. (Ord. 06-09; Code 2015)
- 4-605. **SAME; NOTICE.** The governing body upon receiving a report as provided in section 4-604 shall by resolution fix a time and place at which the owner, the owner's agent, any lienholder of records and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished. (K.S.A. 12-1752; Ord. 06-09; Code 2015)

- 4-606. SAME; PUBLICATION. (a) The resolution shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing.
(b) A copy of the resolution shall be mailed by certified mail within three days after its first publication to each owner, agent, lienholder and occupant at the last known place of residence and shall be marked "deliver to addressee only."
(K.S.A. 12-1752; Ord. 06-09; Code 2015)
- 4-607. SAME; HEARING, ORDER. If, after notice and hearing, the governing body determines that the structure under consideration is dangerous, unsafe or unfit for human use or habitation, it shall state in writing its findings of fact in support of such determination and shall cause the resolution to be published once in the official city newspaper and a copy mailed to the owners, agents, lienholders of record and occupants in the same manner provided for the notice of hearing. The resolution shall fix a reasonable time within which the repair or removal of such structure shall be commenced and a statement that if the owner of such structure fails to commence the repair or removal of such structure within the time stated or fails to diligently prosecute the same until the work is completed, the governing body will cause the structure to be razed and removed. (Ord. 06-09; Code 2015)
- 4-608. DUTY OF OWNER. Whenever any structure within the city shall be found to be dangerous, unsafe or unfit for human use or habitation, it shall be the duty and obligation of the owner of the property to render the same secure and safe or to remove the same. (Ord. 06-09; Code 2015)
- 4-609. SAME; FAILURE TO COMPLY. (a) If, within the time specified in the order, the owner fails to comply with the order to repair, alter, improve or vacate the structure, the enforcing officer may cause the structure to be repaired, altered, improved, or to be vacated and closed.
(b) If, within the time specified in the order, the owner fails to comply with the order to remove or demolish the structure, the enforcing officer may cause the structure to be removed and demolished.
(Ord. 06-09; Code 2015)
- 4-610. SAME; MAKE SITE SAFE. Upon removal of any structure, the owner shall fill any basement or other excavation located upon the premises and take any other action necessary to leave the premises in a safe condition. If the owner fails to take such action, the enforcing officer may proceed to make the site safe.
(Ord. 06-09; Code 2015)
- 4-611. ASSESSMENT OF COSTS. (a) The cost to the city of any repairs, alterations, improvements, vacating, removal or demolition by the enforcing officer, including making the site safe, shall be reported to the city clerk.
(b) The city shall give notice to the owner of the structure by restricted mail of the cost of removing the structure and making the premises safe and secure. The notice shall also state that payment of the cost is due and payable within 30 days following receipt of the notice.
(c) If the costs remain unpaid after 30 days following receipt of notice, the city clerk may sell any salvage from the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing the structure and making the

site safe. Any proceeds in excess of that required to recover the costs shall be paid to the owner of the premises upon which the structure was located.

(d) If the proceeds of the sale of salvage or from the proceeds of any insurance policy in which the city has created a lien pursuant to K.S.A. 40-3901, *et seq.*, and amendments thereto, are insufficient to recover the above stated costs, or if there is no salvage, the balance shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments against the lot or parcel of land on which the structure was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs to the county clerk and who shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115 and amendments thereto, but only until the full cost and applicable interest has been paid in full.

(e) If there is no salvage material, or if the moneys received from the sale of salvage or from the proceeds of any insurance policy in which the city has created a lien pursuant to K.S.A. 40-3901, *et seq.*, and amendments thereto, are insufficient to pay the costs of the work and the costs of providing notice, such costs or any portion thereof in excess of that received from the sale of salvage or any insurance proceeds may be financed, until the costs are paid, out of the general fund or by the issuance of no-fund warrants.

(K.S.A. 12-1755; Ord. 06-09; Code 2015)

4-612. IMMEDIATE HAZARD. When in the opinion of the governing body any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the governing body may direct the enforcing officer to erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay. Such action may be taken without prior notice to or hearing of the owners, agents, lienholders and occupants. The cost of any action under this section shall be assessed against the property as provided in section 4-611. (K.S.A. 12-1756; Ord. 06-09; Code 2015)

4-613. APPEALS FROM ORDER. Any person affected by an order issued by the governing body under this article may, within 30 days following service of the order, petition the district court of the county in which the structure is located for an injunction restraining the enforcing officer from carrying out the provisions of the order pending final disposition of the case. (Ord. 06-09; Code 2015)

4-614. SCOPE OF ARTICLE. Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this article shall be in addition to and supplemental to the powers conferred by the constitution, any other law or ordinance. Nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise or to exercise those powers granted specifically by K.S.A. 12-1750:1756. (Ord. 06-09; Code 2015)

ARTICLE 7. STRUCTURES UNFIT FOR HABITATION

- 4-701. **PURPOSE.** The governing body of the city has found that there exists within the corporate limits of the city, structures which are unfit for human use or habitation due to defects increasing the hazards of fire or other calamities, lack of ventilation, light or sanitary facilities or other conditions which renders such structures unsafe, unsanitary, or otherwise inimical to the welfare of the residents of the city, and it is hereby deemed necessary by the governing body to require or cause the repair, closing or demolition or removal of such structures in the manner hereinafter provided. (Ord. 929, Sec. 1; Code 1995)
- 4-702. **DEFINITIONS.** For the purpose of this article, certain terms and words are hereby defined as follows:
- (a) Structure - Any construction or production or piece of work built up or composed of parts joined together in some definite manner and intended for entry by human beings, including houses, buildings, apartments, barns, sheds, garages, mobile homes and travel trailers, and further including all devices intended for habitation by human beings for residential or business purposes.
- (b) Residential Structures - Any building, dwelling or structure, or part hereof, used and occupied for human habitation or intended to be used and including any appurtenances belonging thereto or usually enjoyed therewith.
- (c) Non-Residential Structures - Any structure which is used for other than residential purposes, or a part of such structure, or a structure a part of which is used for other than non-residential purposes, and, where applicable, the premises on which such structures are situated.
- (d) Public Officer - Such person appointed by the governing body to exercise the authority and conduct proceedings in accordance with this article.
- (e) Unsafe or Unfit Condition - Any defect, damage or dilapidation in any structure which unreasonably increases the hazards of fire, accident, disease or other calamity to any human being.
(Ord. 929, Sec. 2; Ord. 94-21, Sec. 1; Code 1995)
- 4-703. **PROCEDURE; PETITION; WARNING; CITATION; PENALTIES.**
- (a) Whenever a petition is filed with the public officer by at least five residents of the municipality charging that any structure is unfit for human use or habitation or whenever any public officer reasonably believes he or she has encountered an unsafe or unfit condition in any structure which represents an unreasonable risk to the health or safety of any human being, he or she shall immediately ascertain the name of the owner of the structure and the person responsible for repairs to the structure.
- (b) The owner shall be that person shown as the last owner of record of the property according to the deed records at the Cherokee County Courthouse unless the identity of the owner can otherwise be clearly ascertained.
- (c) The public officer shall issue either a written warning to both the owner and the person responsible for the repair of the structure to correct the problem within 72 hours or a written citation to appear in municipal court at a certain time to answer the charge of allowing an unfit or unsafe condition to exist which unreasonably poses a threat to the health or safety of any human being. The public official may use his or her discretion in determining whether a warning or citation may be issued. However, no person shall be allowed more than one written warning in any 12-month period for the same structure.

(d) If the public officer issues a written warning, he or she shall return promptly at the end of the 72 hours to determine if the condition has been corrected. If it has not been completely corrected, he or she shall issue a citation to appear in municipal court. The public officer shall not extend the time in which to correct the condition and he or she must issue a citation if the condition has not been completely corrected.

(e) Upon issuing a citation hereunder, the public officer shall cause sufficient visual evidence and other evidence to be taken to fully document the condition and shall appear in municipal court with the evidence.

(f) Each day that the unsafe or unfit condition is allowed to exist can be the subject of a separate citation and the imposition of separate penalties.

(g) Upon conviction of allowing an unsafe or unfit condition to exist, the municipal judge shall fine the offender \$100.00 plus assess the applicable court costs for each violation and shall order the offender to correct the condition forthwith. The municipal judge shall direct the public officer to ascertain whether the order to correct was carried out and to make a report thereof to the municipal court at its next regularly scheduled session. The municipal judge shall order the offender to appear at the next regularly scheduled session of the municipal court to respond to the report of the public officer. If at that time the municipal judge determines that the order to correct was not carried out promptly and in good faith, he or she shall commit the offender to jail for a period not exceeding 30 days. If the offender continues to fail to carry out the order of the municipal court, the municipal judge shall commit the offender to jail for a period not exceeding 30 days for each failure. An order to correct shall be as follows:

(1) If repair, alteration, or improvement of the structure can be made at a reasonable cost in relation to the value of the structure which cost shall not exceed 50 percent of the fair market value of such structure, the owner of the structure shall within a specified time, repair, alter or improve such structure to render it fit for human use or habitation or shall vacate and close the structure until conformance with this article is met; or

(2) If the repair, alteration or improvement of the structure cannot be made at a reasonable cost in relation to the value of the structure, that is to say, 50 percent or less of the fair market value of such structure, which percentage is hereby deemed to be a reasonable standard by which to require either repair, alteration or improvement, or removal or demolition, the owner shall within a specified time remove or demolish such structure.

(Ord. 929, Sec. 3; Ord. 94-21; Code 1995)

4-704.

FAILURE TO COMPLY; COSTS. If the owner fails to comply with an order to repair, alter or improve or to vacate and close the structure, the public officer may cause such structure to be repaired, altered or improved, or to be vacated and closed. If the owner fails to comply with an order to remove or demolish the structure, the public officer may cause such structure to be removed or demolished. The amount of the cost of such repairs, alterations or improvements or vacating, closing, or removal or demolition by the public officer, shall be a lien against the real property upon which such cost was incurred and such lien, including as part thereof allowance of his or her costs and the necessary attorney fees, may be foreclosed in judicial proceedings in the manner provided or authorized to be assessment against the lot or parcel of land on which the structure was located, and the city clerk shall at the time of certifying other city taxes, certify the unpaid portion of the aforesaid costs and the county clerk shall extend the same on the tax rolls of the county

against the lot or parcel of land. If the structure is removed or demolished by the public officer, he or she shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and if there be any balance remaining, it shall be paid to the parties entitled thereto as determined by proper judicial proceedings instituted by the public officer after deducting the cost of such judicial proceedings, including his or her necessary attorney fees incurred therein, as determined by the court. (Ord. 929, Sec. 3; Code 1995)

- 4-705. **RESPONSIBLE PARTIES.** The owner and the person responsible for the repairs are jointly responsible for insuring that no unfit or unsafe condition exists, and it shall not be a defense for either to attempt to shift the responsibility to the other party. Additionally, in a residential rental situation, it shall not be a defense to shift the responsibility to the residential tenant. In a commercial rental situation, it shall not be a defense responsibility to the commercial tenant unless this is done in a written lease signed by the tenant. (Ord. 94-21 Sec. 8; Code 1995)
- 4-706. **CITATION; SERVICE.** If it is impossible to immediately serve the citation on either the owner or the person responsible for repairs to the property, the public officer shall forthwith present his or her affidavit to the municipal judge setting forth the alleged violations, the evidence thereof, and the alleged offender. It shall then be sufficient to mail by certified mail, return receipt requested, a summons signed by the judge of the municipal court to the person's last known address, directing the person to appear in municipal court at a time certain to answer the citation. If the person fails to appear, the municipal judge may issue a warrant based upon the affidavit. (Ord. 94-21, Sec. 6:7; Code 1995)
- 4-707. **APPEAL; INJUNCTION RESTRAINING PUBLIC OFFICER.** Any person affected by an order issued by the municipal court may make an appeal to the district court of Cherokee County, Kansas and may petition the district court for an injunction restraining the public officer from acting on the order, and the court may, upon such petition, issue a temporary injunction restraining the public officer, pending the final disposition of the case; provided however, that such person shall petition such court within 30 days after the posting and service of the order of the municipal court. The remedies herein provided shall be exclusive remedies, and no person affected by an order of the municipal court shall be entitled to recover any damages for action taken, pursuant to any order of the municipal court or because of compliance by such person with any order of the municipal court. (Ord. 929, Sec. 6; Code 1995)
- 4-708. **PUBLIC OFFICER; POWERS.** The public officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article, including the following powers in addition to others herein granted:
- (a) To investigate the structure conditions in the city in order to determine which structures therein are unfit for human use or habitation;
 - (b) To enter upon premises for the purpose of making examinations, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;

(c) To appoint and fix the duties of such officers, agents and employees as he or she deems necessary to carry out the purposes of this article; and

(d) To delegate any of his or her functions and powers under this article to such officers, agents and employees as he or she may designate.

(Ord. 929, Sec. 7; Code 1995)

4-709.

ENTRY UPON PREMISES. (a) For the purpose of determining compliance with the provisions of this article, the public officer or his or her authorized representative upon presentation of proper identification to the owner, agent, or tenant in charge of such property may enter dwellings, multiple dwellings, rooming units, or premises, during all reasonable hours; provided, in cases of emergency where extreme hazards are known to exist which may involve the potential loss of life or severe property damage, the above limitation shall not apply.

(b) In the event of the refusal of the occupant or the owner of unoccupied property to allow such inspection, examination and survey to determine compliance with the provisions of this article, the public officer shall petition a court of competent jurisdiction in the city or in the county, and shall show probable cause by virtue of evidence, oath or affirmation, that a substantial violation of this article exists, and request legal and property right to enter subject premises for the purpose of inspection.

(c) This section shall in no manner violate or curtail the rights of the citizens as provided in Amendment 4 of the Constitution of the United States of America, as regarding rights against the unreasonable searches and seizures, and the issuing of warrants without probable cause.

(d) Every occupant of a dwelling shall give the owner thereof or his or her agent or employee, access to any part of such dwelling, or its premises, at all reasonable times, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any rule or regulation adopted and promulgated, or any order pursuant to the provisions of this article. (Ord. 929, Sec. 8; Code 1995)

4-710.

RESERVED.

4-711.

ADDITIONAL POWERS. Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this article shall be in addition to and supplemental to the powers conferred by the constitution, any other law or ordinance. Nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise or to exercise those powers granted specifically by K.S.A. 12-1750 through K.S.A. 12-1756; both sections inclusive, and any amendments thereto. (Ord. 929, Sec. 10; Code 1995)

ARTICLE 8. ABANDONED MINE SHAFTS

- 4-801. ABANDONED MINE SHAFTS; INSPECTION; NOTICE. (a) The code enforcement officer, or his designee, shall inspect all shafts, caves, or places in the city which endanger the safety of persons or domestic animals.
- (b) Upon determination by the code enforcement officer that any shaft, cave, or place within the city is endangering the safety of persons or domestic animals, this officer shall issue notice in writing to the landowner upon whose property is located the shaft, cave, or place endangering the safety of persons or domestic animals, to fill or case over the shaft, cave, or place upon the land endangering the safety of persons or domestic animals. (Ord. 1003; Code 1998)
- 4-801A. SAME; BARRICADES. The code enforcement officer is given authority to order that the owner of the subject land containing the dangers stated in section 4-801 erect an appropriate fence or other barricade, as determined within the discretion of the code enforcement officer that will assure the safety of persons and or domestic animals against such dangers. The code enforcement officer is given authority to order that the owner of the subject land containing the dangers stated in section 4-801 to place a sufficient sign, as determined within the discretion of the code enforcement officer that will assure the safety of persons and or domestic animals against such dangers. (Ord. 1003; Code 1998)
- 4-802. FAILURE TO COMPLY; ABATEMENT BY CITY. (a) If the landowner fails within 20 days after service of notice by the city, to fill or case over the shaft, cave or place upon the landowner's land, the city may fill or case over the shaft, cave, or place endangering the safety of persons or domestic animals and charge the owner actual wages incurred by the city, to be not less than \$15 per hour assessment of wages, and \$125 per machine hour as costs spent by the city, to abate the danger to the safety of persons or domestic animals.
- (b) If the landowner fails within a period of 20 days to pay the charges of the city, for filling or casing over the shaft, cave, or place endangering persons or domestic animals, the city clerk shall certify the charges of the city to the county clerk of Cherokee County Kansas, at Columbus, Kansas to be put on the tax records of Cherokee County, Kansas, and collected as taxes upon the land of the landowner.
- (c) The city may use such gravel, dirt, rock, debris, or earthy substances from the land of the landowner in filling or casing over the shaft, cave, or place on the land endangering the safety of human beings or domestic animals, to be abated in accordance with this article, or may transport the substance at the cost of the landowner.
- (d) This article shall be enforced consistent with the requirements of the Environmental Protection Agency, including land and grant restrictions of such agency. (Ord. 1003; Code 1998)

ARTICLE 9. MOVING BUILDINGS

- 4-901. **BUILDING OFFICIAL; AUTHORITY.** The police chief 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 2015)
- 4-902. **PERMIT REQUIRED.** No person, firm or corporation shall move, haul, or transport any house, building, derrick, or other structure of the height when loaded for movement of 16 feet or more from the surface of the highway, road, street or alley, or a width of eight feet or more or which cannot be moved at a speed of four miles per hour or faster, upon, across or over any street, alley or sidewalk in this city without first obtaining a permit therefor. (K.S.A. 17-1914; Code 2015)
- 4-903. **SAME: APPLICATION FOR PERMIT.** All applications for permits required under the provisions of this article shall be made in writing to the city clerk specifying the day and hour said moving is to commence and the route through the city's streets over which the house, building, derrick or other structure shall be moved and stating whether it will be necessary to cut and move, raise, or in any way interfere with any wires, cables or other aerial equipment of any public or municipally-owned utility, and if so, the application shall also state the name of the public or municipally-owned utility, and the time and location that the applicant's moving operations shall necessitate the cutting, moving, raising or otherwise interfering with such aerial facilities. (K.S.A. 17-1915; Code 2015)
- 4-904. **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 2015)
- 4-905. **SAME; FEE.** Before any permit to move any house or structure is given under the provisions of this article, the applicant shall pay a fee of not less than \$5.00 to the city clerk; plus the additional cost for the time for any city crews involved in such moving. (Code 2015)
- 4-906. **BUILDINGS CONFORM TO EXISTING STRUCTURES IN AREA.** No permit shall be issued therefore, and no building shall be moved into, or from one location to another in the city unless the general height and outward appearance of such building conforms to the other buildings in the block to which it is to be moved and in the block opposite, to such an extent that its relocation shall have no substantial adverse effect on property values in the neighborhood. (Code 1988, 4-902)

- 4-907. CONTRACTOR; LICENSE REQUIRED; FEE. The provisions of sections 4-219:225 of this chapter shall apply in a like manner to this article. (Code 2015)
- 4-908. ROUTE; DUTIES OF BUILDING OFFICIAL. The city clerk shall, upon filing of the above application, refer the same to the chief building official or his or her authorized designee to check the proposed route and determine if it is practical to move such house or other structure over the route proposed. If it shall appear that such route is not practical and another route may be used equally well with less danger to street and travel, then he or she may designate such other route as the one to be used and shall notify the applicant of the same. The building official may also require the planking of any street, bridge or culvert or any part thereof to prevent damage thereto. It shall also be the duty of the chief building official or his or her authorized designee to inspect the progress of moving any house or other structure to see that the same is being moved in accordance with the provisions of this article. (Code 2015)
- 4-909. NOTICE TO OWNERS. (a) Upon issuance of a moving permit the applicant shall give not less than 15 days written notice to any person owning or operating any wires, cables or other aerial equipment along the proposed route of the intent to move the structure, giving the time and location that the applicants moving operation shall necessitate the cutting, moving, raising or interfering of any wires, cables or other aerial equipment.
 (b) The notice provision of subsection (a) shall not apply where the person owning or operating any wires, cables or other aerial equipment has waived their right to advance notice.
 (c) Should the moving operation be delayed, the applicant shall give the owner or his or her agent not less than 24 hours advance notice of the actual operation. (K.S.A. 17-1916; Code 2015)
- 4-910. DUTY OF OWNERS. (a) It shall be the duty of the person or the city owning or operating such poles or wires after service of notice as provided herein, to furnish competent lineman or workmen to remove such poles, or raise or cut such wires as will be necessary to facilitate the moving of such house or structure. The necessary expense which is incurred thereby shall be paid by the holder of the moving permit.
 (b) The owner of any wires, cables or other aerial equipment, after service of notice as provided in section 4-909, shall be liable to the permit holder for damages in an amount not to exceed \$100.00 per day for each day the owner shall fail or refuse to accommodate the permit holder's moving operations.
(K.S.A. 17-1917; Code 2015)
- 4-911. 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 2015)
- 4-912. 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 2015)

ARTICLE 10. NUMBERING BUILDINGS

- 4-1001. **NUMBERING REQUIRED.** All houses and buildings fronting on any public street in this city shall be numbered as hereinafter provided.
(Rev. Ord. 1951, 4-601)
- 4-1002. **METHOD OF NUMBERING.** The system of numbering herein adopted shall be known as the Philadelphia system, allowing 100 numbers to each block, each number representing 25 feet frontage on the streets running north and south and 25 feet fronting on the streets running east and west. The numbers on streets running north and south shall be numbered commencing at number one on the east side and number two on the west side, from First Street each way; and the streets running east and west shall be numbered from Main Street each way commencing at number one on the north side and number two on the south side; the odd numbers to be on the east and north and the even numbers on the west and south sides of the streets respectively. On those streets that do not connect with First or Main Streets the numbering shall begin at the end of such street nearest to First or Main Streets as the case may be, and shall correspond in numbers with the streets parallel therewith. (Rev. Ord. 1951, 4-602)
- 4-1003. **COMPLIANCE.** All buildings hereafter erected shall be numbered as herein provided and within 30 days after completion or new occupancy.
(Rev. Ord. 1951, 4-603)
- 4-1004. **SIZE AND PLACEMENT OF NUMBERS.** Numbers shall be legible and of sufficient size as to be easily read from the street, and shall be placed in a conspicuous place upon the front of the buildings. (Rev. Ord. 1951, 4-604)
- 4-1005. **PENALTY.** Any person who shall remove, destroy, or in any way injure any number put on any house as herein provided, or who shall fail, neglect or refuse to comply with any of the provisions of this article shall be deemed guilty of a violation of this code and upon conviction shall be fined in a sum not less than \$50.00 nor more than \$500. (Code 2015)

ARTICLE 11. MISCELLANEOUS PROVISIONS REGARDING CONTRACTORS

- 4-1101. **CONTRACTORS.** Any person or organization or other entity offering to perform for hire or performing for hire any of the following services within the corporate limits of the city shall be subject to the conditions of this article:
- (a) Electrical work- electrical construction or installation of wiring and apparatus for electric lights, appliances, heating or power;
 - (b) Plumbing- work-constructing or fitting or repairing gas, water and soil pipes, cisterns, tanks, toilets, baths, faucets, water closets, their fittings and other sanitary and fire protection apparatus for a house or other building, including junctions to mains and sewers;
 - (c) Carpentry/Construction- work-constructing, framing building, repairing, painting, plastering, roofing or remodeling any house or other building or any particular room or part thereof;
 - (d) Heating and air conditioning- work-installing, maintaining or repairing any device or apparatus central or auxiliary to the heating and air conditioning system of any house or other building;
 - (e) Low job value, no license and bond required- If the job is less than the minimum requiring a permit then a bond will not be required; and,
 - (f) Broken sewer line work- Any time a sewer line, privately-owned or city-owned, is broken into, a permit and inspection shall be required prior to closing the hole. (Ord. 93-5, Sec. 1; Code 1995)
- 4-1102. **LICENSE REQUIRED.** All persons or organizations or other entities subject to this article shall obtain a city license from the city clerk prior to performing or offering to perform any services in the city. This article shall apply to independent contractors and not to employees. An employee is defined as a person who works for an employer and for whom the employer provides worker's compensation coverage and unemployment benefits and pays employer's payroll taxes. Anyone not an employee is deemed to be an independent contractor. (Ord. 93-5, Sec. 2; Code 1995)
- 4-1103. **SERVICE FEE COLLECTION PROHIBITED.** No person or organization or other entity shall charge a fee or collect a fee for any services performed while not holding a current, valid license, except in the case covered above in section 4-1101(e). (Ord. 93-5, Sec. 4; Code 1995)
- 4-1104. **INVESTIGATIONS.** Nothing in this article shall require the building inspector or the licensing committee or the city to investigate any applicant beyond the information submitted with the application, and approval of a license shall not mean that the city in any way guarantees the work of the license holder or endorses the license holder. (Ord. 93-5, Sec. 8; Code 1995)
- 4-1105. **LICENSEE; DUTIES.** All license holders shall perform their work in the city in a fair, honest and competent manner. (Ord. 93-5, Sec. 10; Code 1995)
- 4-1106. **GRIEVANCES.** Any person or entity with a grievance against any license holder over the quality of the service performed may present the grievance in writing to the city inspector. The licensing committee shall conduct a public hearing on the grievance, giving a copy of the complaint and due notice of the hearing date

to the license holder. The hearing shall only consider issues raised in the written grievance. The licensing committee shall submit its findings and recommendations to the council as a whole. (Ord. 93-5, Sec. 11; Code 1995)

- 4-1107. LICENSE REVOCATION. A license may be revoked or suspended by the council as a whole for any violation of this article. If a license is revoked, the license holder may reapply one year after the license is revoked, unless a shorter time is provided by the council. If a license is suspended, it shall be reinstated at the end of the suspension period which shall be set by the council at no more than 60 days, including holidays and weekends, unless some provision is contained elsewhere in this code that provides for a different length of suspension. (Ord. 93-5, Sec. 12; Code 1995)
- 4-1108. LICENSE; NONTRANSFERABLE. No license issued hereunder shall be transferable, and any license holder shall be responsible for any acts of his or her agents done while performing or directing a job in the city. (Ord. 93-5, Sec. 13; Code 1995)

ARTICLE 12. SIGNS AND BILLBOARDS

- 4-1201. ACTIVITY; PLACEMENT. Sections 4-1201 through 4-1203 apply to any sign, placard, billboard or other device used to advertise any activity, whether charitable or otherwise, and whether the device is designed for permanent or temporary placement. (Ord. 89-6, Sec. 1; Code 1995)
- 4-1202. ADVERTISING DEVICE; OWNER'S PERMISSION. It is a violation of this article to place an advertising device on any property, whether it be a utility pole, tree, fence, building or other structure or whether it be real estate owned privately or publicly, without first obtaining the express permission of the owner or owners thereof and following all laws applicable thereto.
(Ord. 89-6, Sec. 2; Code 1995)
- 4-1203. VIOLATIONS. It shall be a violation of this article if any advertising device describing an activity which is of temporary or limited duration, such as a yard sale, rummage sale or car wash, is not removed and properly stored or disposed of within 24 hours of the end of the activity to which it refers.
(Ord. 89-6, Sec. 3; Code 1995)
- 4-1204. DEFINITIONS. As used in this Article 12 of Chapter 4 of the Code the following words and phrases shall have the meanings respectively ascribed to them herein:
- (a) "Adjacent area/controlled area" means an area which is adjacent to the right-of-way on any interstate, primary highway, or street, and is visible from the main traveled way.
 - (b) "Center line of the highway or street" means a line equidistant from the edges of the median separating the main traveled ways on a divided highway or street, or the center line of the main traveled way on a non-divided highway or street.
 - (c) "Comprehensive zoning" means zoning by the city of Galena, of each parcel of land under the jurisdiction of the city placed in a zoning classification pursuant to a comprehensive plan or reserved for future classification.
 - (d) "Department" means the Kansas Department of Transportation.
 - (e) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish, but it shall not include any of the foregoing activities when performed as an incident to the change of advertising or customary maintenance or repair of a sign structure.
 - (f) "Freeway" means any primary highway which is a divided arterial highway with four or more lanes available for through traffic with full control of access and grade separation at intersections.
 - (g) "Highway" means a highway as defined by K.S.A.8-1424, and amendments thereto. For the purpose of this act, a highway shall be considered a highway when the project for improvement and final alignment has been approved by the appropriate authorities.
 - (h) "Interstate highway" means any highway at any time officially designated as a part of the national system of interstate and defense highways by the secretary of transportation and approved by the appropriate authority of the federal government.

(i) "Local zoning authority" means the city of Galena, Kansas, which is authorized by law to zone areas within its jurisdiction and which is hereby deemed to have an active zoning authority of a city with comprehensive zoning.

(j) "Main traveled way" means the traveled way of a highway or street on which through traffic is carried. On a divided highway or street, the traveled way of each of the separate roadways for traffic in opposite directions is a main traveled way, but such term does not include such facilities as frontage roads, turning roadways or parking areas.

(k) "Maintain" means to keep in a state of continuing existence. A sign must remain substantially the same as it was when permitted on the effective date of compliance with this ordinance. Customary maintenance of a sign includes only change of message, replacing electrical wiring and bulbs, painting of the face and structure, clearing of vegetation on the parcel the sign is located, reinforcing the structure and repairing the apron or catwalks or any addition or enhancements to safety equipment on structures including safety cables, railings and other modifications necessary to meet current safety standards. An increase in dimension, a change in dimension, any change in location, increase in height or the addition of lighting does not constitute customary maintenance. Additional maintenance activities, other than customary maintenance, require a new sign permit.

(l) "Primary highway" means any highway, other than an interstate highway, that was part of the federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the national highway system.

(m) "Safety rest area" means an area or site established and maintained within or adjacent to the highway right-of-way, which area is under public supervision or control and for the convenience of the traveling public.

(n) "Sign" or "outdoor advertising device" means any outdoor sign structure, display, light, device, notice, bulletin, figure, painting, drawing, message, placard, poster, billboard, vehicle or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents which is visible from any place on the main traveled way or any portion of an interstate or primary highway.

(o) "Sign facing" means and includes a sign display or displays at the same location and facing the same direction.

(p) "Sign display" means a single panel or part of the sign, including trim and background, which contains a message or messages.

(q) "Sign structure" means and includes all components of the sign, which may include poles, bracings, lateral supports, vehicles, displays and other materials of every kind and nature used to support a facing or facings on which advertising is placed.

(r) "Street" means a traveled way on which traffic is carried. For the purpose of this article, a street shall be considered a street when the project for improvement and final alignment has been approved by the appropriate authorities.

(s) "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

(t) "Visible" means capable of being seen without visual aid by a person of normal visual acuity.

(Ord. 13-8; Code 2015)

- 4-1205. **SIGNS; TRAFFIC SIGN RESEMBLANCE PROHIBITED.** Signs shall not be erected or maintained which imitate or resemble any official traffic sign, signal or device or are erected or maintained upon trees or painted or drawn upon rocks or other natural features. (Ord. 13-8; Code 2015)
- 4-1206. **CONFIGURATION AND SIZE.** (a) Signs shall not be erected with sign faces which exceed 30 feet in height, 60 feet in length or 900 square feet in area, per facing, including border, trim and embellishments, but not including base or apron, supports, and other structural members.
- (b) The maximum size limitations shall apply to each sign facing;
- (c) Two sign displays not exceeding 450 square feet each may be erected in a facing, side by side or "double decked," and double-faced, back-to-back or V-type signs shall be permitted and shall be treated as one structure with a maximum area of 900 square feet permitted for each side or facing. In order to be classified as "back-to-back" there must not be more than 15 feet between structures or faces, to all for cross-bracing.
- (d) The area of any sign structure shall be measured by the smallest square, rectangle, circle or combination thereof which will encompass the area of the sign display or displays.
- (e) The height of any portion of the sign structure, excluding cutouts or extensions, as measured vertically from the adjacent edge of the road grade of the main traveled way shall not exceed 60 feet.
- (f) Cutouts or extensions shall be permitted on legal conforming signs at a size not to exceed 30% of the size of the main display area, with a maximum extension of five feet along the top edge, two feet along the sides and 3 feet along the bottom of the main display area. Cutouts or extensions shall not be permitted where the configuration and size requirements of this subsection will be exceeded. (Ord. 13-8; Code 2015)
- 4-1207. **SPACING.** (a) Signs shall conform to all applicable building codes and ordinances of the city.
- (b) Signs shall not be erected or maintained in such a manner as to obscure or otherwise physically interfere with an official traffic sign, signal or device or to obstruct or physically interfere with a driver's view of approaching, merging or intersecting traffic.
- (c) Except for official and on-premises signs, as defined in K.S.A. 68-2233(a) through (c), and amendments thereto, any signs or sign structures visible from any a street shall not be spaced less than 400 feet apart within Galena, Kansas, unless located within 50 feet of an intersection regulated by traffic control lights, in which event the distance limitation shall be 90 feet rather than 400 feet.
- (d) Any signs or sign structures visible from any interstate highway shall not be spaced less than 500 feet apart, except for official and on-premises signs, as defined in 23 U.S.C. 131(c), and as provided in K.S.A. 68-2233, and amendments thereto.
- (e) The minimum distance between two signs prescribed by paragraphs (c) and (d) of this section shall be measured along the nearest edge of the pavement between points directly opposite the signs along the same side of the highway. Such minimum distance shall not apply to signs described by subsection (a), (b) or (c) of K.S.A. 68-2233, and amendments thereto, nor shall such signs be counted or be used in measuring distances for the purpose of determining compliance with the spacing requirements of this subsection.

(f) The minimum distances between two signs prescribed by paragraphs (3) and (4) of this subsection shall not apply where such signs are separated by a building, structure, roadway or other obstruction which prevents a view of both signs at the same time by traffic proceedings on any one highway.

(g) Nothing in this subsection shall be construed as preventing the erection of double-faced, back-to-back or V-type signs with a maximum of two sign displays per sign facing, as permitted by Section 4-1206. Nothing in this subsection shall prevent the owner of a single face sign to change the position of the sign face to a different or opposite direction of traffic flow so long as an additional face or additional square feet are not added to the sign structure. No such change may be affected until approval is granted by the planning commission.
(Ord. 13-8; Code 2015)

4-1208. LIGHTING. (a) Signs shall not be erected which contain, include or are illuminated by any flashing, intermittent, revolving or moving light, except those giving public service information such as, but not limited to, time, date, temperature, weather or news; steadily burning lights in configuration of letters or pictures are not prohibited.

(b) Signs shall not be erected or maintained which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of any interstate, primary highway, or street, and are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle or to otherwise interfere with any driver's operation of a motor vehicle; and

(c) Signs shall not be erected or maintained which are so illuminated that they obscure any official traffic sign, device or signal, or imitate or may be confused with any official sign, device or signal. (Ord. 13-8; Code 2015)

4-1209. AUTOMATIC CHANGEABLE FACING SIGNS. (a) Automatic changeable facing signs shall be permitted within adjacent or controlled areas under the following conditions:

(1) The sign does not contain or display flashing, intermittent or moving lights, including animated or scrolling advertising;

(2) The changeable facing remains in a fixed position for at least five seconds;

(3) If a message is changed electronically, it must be accomplished within an interval of two seconds or less;

(4) The sign is not placed within 400 feet of another automatic changeable facing sign on the same side of the highway, street or road, with the distance being measured along the nearest edge of the pavement and between points directly opposite the signs along each side of the highway, unless such sign is located within 90 feet of an intersection regulated by traffic control lights, in which event the distance limitation shall be 40 feet rather than 400 feet;

(5) If the sign is a legal conforming structure it may be modified to an automatic changeable facing sign upon compliance with the standards and approval by the planning commission. A nonconforming structure shall not be modified to create an automatic changeable facing sign;

(6) If the sign contains a default design that will freeze the sign in one position if a malfunction occurs; and

(7) If the sign application meets all other permitting requirements.

(8) Such sign is located with a C-1, C-2, M-1 or M-2 zone.

(b) Any outdoor advertising sign use that does not comply with this Article may be ordered discontinued by the planning commission upon notice and opportunity to be heard by the owner or operator thereof at a hearing to be conducted before the planning commission.

(Ord. 13-8; Code 2015)

4-1210. INTERSTATE, HISTORIC AND SCENIC HIGHWAYS. Along interstate highways, the size and spacing requirements of subsections (b) and (c) of K.S.A. 68-2233, and amendments thereto, shall apply to zoned commercial or industrial areas. The provisions of K.S.A. 68-2233(g)(1) through (4) shall not apply to signs and billboards within the city of Galena, Kansas.

(Ord. 13-8; Code 2015)

4-1211. LEGISLATIVE FINDING. This section of the Code regulating outdoor advertising is deemed a part of the city's comprehensive zoning and is not created primarily to permit outdoor advertising structures.

(Ord. 13-8; Code 2015)

ARTICLE 13. ADULT CARE HOMES

- 4-1301. **DEFINITIONS.** “Adult care home” shall include the following facilities, as defined by Kansas Administrative Regulation 28-39-144 (1) through 28-39-144 (5), specifically: nursing facility, nursing facility for mental health, an intermediate care facility for the mentally retarded, an assisted living facility, and a residential health care facility. This Article shall apply to all adult care homes, as defined, in the city of Galena, Kansas.
(Ord. 10-4; Code 2015)
- 4-1302. **GENERATORS REQUIRED FOR HEATING AND VENTILATION.** Adult care homes must have one or more on-site electrical generators which are capable of providing reasonable emergency heating and cooling for the patients and occupants of adult care homes, or, in the alternative, the adult care home must have a written contract with a supplier that assures such generator or generators, as required, will be supplied to the adult care home within 5 hours of a power interruption. Connections shall be through a switch which shall automatically transfer the circuits to the emergency power source in case of power failure. In the event that existing equipment does not sustain automatic transfer, the adult care home shall be required to manually change these items from a non-emergency powered outlet to an emergency powered outlet or other power source. All emergency power transfer switches shall be labeled as such. Switches affecting the heating and cooling systems shall be labeled as such.
(Ord. 10-4; Code 2015)
- 4-1303. **FUEL REQUIREMENTS.** The emergency power system shall be supplied with a minimum of 24 hours of propane, gasoline or diesel fuel located at the site of the adult care home to supply the alternative power source required hereunder. The quantity shall be based on its reasonably expected or known connected load consumption during power interruptions. In addition, an adult care home shall have a written contract with an area fuel distributor which guarantees first priority service for re-fills during power interruptions. Such fuel distributor shall be capable of supplying fuel within the expiration of the above-stated 24 hours period.
(Ord. 10-4; Code 2015)
- 4-1304. **REGULAR TESTING OF EMERGENCY POWER SOURCE REQUIRED.** The emergency power system, including generators, shall be inspected weekly, and exercised under actual load and operating temperature conditions for at least 30 minutes, once each month, including for automatic and manual transfer of equipment. The generator shall be exercised by trained facility staff familiar with the operation of the system. Instructions for the operation of the emergency power system shall be located upon the adult care home facility premises in a location sufficient to assure prompt access to the aforesaid instructions.
(Ord. 10-4; Code 2015)
- 4-1305. **INSPECTIONS.** Adult care homes shall permit any official of the city of Galena, Kansas, acting in the performance of their duties, to inspect the premises, as necessary, to ensure the adult care home is complying with all applicable regulations created hereunder. A copy of any contract required to be maintained by this Article shall be immediately available for inspection upon request by such city official. An inspection to determine compliance with Sections 13-101 through 13-

107 shall occur within 60 days of the effective date of this ordinance to make a determination of the status of compliance issues and a written report shall be provided by the inspector to the inspected adult care home within 30 days after inspection. A copy of such report shall also be provided to the City Clerk's Office for public inspection. The city inspector shall be primarily responsible for enforcing Sections 13-101 through 13-107 of the Code, and the event the city inspector is not able to do so, the code enforcement officer shall so perform the duties designated herein to the city inspector.
(Ord. 10-4; Code 2015)

4-1306. COMPLIANCE DEADLINE. All adult care homes shall comply with the provisions of this Article by September 30, 2010. Any adult care home not in compliance with this Article by such date shall apply to the City Council by August 31, 2010, for any desired extension of time to comply with this Article. No extension of time shall be granted for a period longer than two months from the existing deadline and such extension shall be granted only upon a showing of hardship.
(Ord. 10-4; Code 2015)

4-1307. PENALTIES. Any person or legal entity violating any of the terms of Sections 13-102, 13-103 or 13-106 of this Article shall be subject to a fine not to exceed \$2500.00 for each violation thereof. Any person or legal entity violating the terms of Sections 13-104 or 13-105 of this Article shall be subject to a fine not to exceed \$1000.00 for each violation thereof. Upon each day that a violation of the terms of this Article occurs, a separate offense shall have been committed.
(Ord. 10-4; Code 2015)

CHAPTER V. BUSINESS REGULATIONS

- Article 1. General Regulations and Licenses
- Article 2. Pawnbrokers
- Article 3. Garage Sales
- Article 4. Junkyards
- Article 5. Mobile Home Parks
- Article 6. Pool and Billiard Halls
- Article 7. Solicitors, Canvassers, Peddlers
- Article 8. Scrap Metal Dealer Registration

ARTICLE 1. GENERAL REGULATIONS AND LICENSES

- 5-101. **LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation, either as principal or agent or employee, to conduct, pursue carry on or operate any calling, trade, profession or occupation in the city without first paying the license fee prescribed and procuring such a license from the city clerk whenever the procuring of the license is required by the city. (Code 2015)
- 5-102. **APPLICATION FOR LICENSE.** Every person, firm or corporation desiring to do business in the city shall apply to the city clerk for a license to operate such business, and in the case of new licenses, shall appear before the governing body before the commencement of business and issuance of the license. Upon approval by the governing body, the city clerk shall issue to the applicant a license which shall be signed by the city clerk. It shall be the duty of the city clerk to pay over the amount so collected on each license issued, to the city treasurer of the city. (Code 2015)
- 5-103. **NOT ASSIGNABLE OR TRANSFERABLE.** No license granted by the city shall be assignable or transferable; nor shall such license authorize any person to do business or act under it but the person named therein, nor at more than one place. There shall be no refunds except as specifically provided. (Code 2015)
- 5-104. **LICENSE PERIOD; DURATION.** Unless otherwise provided, licenses shall commence and endure from January 1 and expire on December 31 of the same year, except that all semi-annual licenses issued as provided in this chapter shall expire on the 30th day of June or the 31st day of December, next following the date of their issuance. (Code 2015)
- 5-105. **EXEMPTION OF FARMERS.** No producer or grower, or his or her agents or employees, selling in the city, farm or garden products or fruits grown by him or her in the state shall be required to pay any license fee or occupation tax imposed by any law of this city, and he or she, his or her agents or employees, are hereby exempt from the payment of any such fees or taxes, or the securing of a license. (K.S.A. 12-1617; Code 2015)

- 5-106. **LICENSE FEE; PAYMENT.** (a) The license or occupation fee hereby levied shall be in the following amounts hereinafter set out on the following occupations, trades, professions and businesses conducted, or pursued within the limits of the city for an annual period unless a shorter time is specifically stated:
- (1) Financial Institutions - \$100.00;
 - (2) Transportation Lines, Railroads, Buses - \$100.00;
 - (3) Electric, Gas and cable companies - as per franchise agreements;
 - (4) Telephone Company – as per franchise agreements;
 - (5) Carnivals -\$50.00 per day;
 - (6) Door to Door Canvassers - \$10.00 per day;
 - (7) General Contractors, Electricians, and Plumbers – as stated in Chapter 4 of the Code;
 - (8) Cereal Malt Beverage - as stated in Chapter 3 of the Code.
- (b) Any agent selling or canvassing or offering for sale any kind of merchandise not herein mentioned or enumerated or engaging in any kind of business not herein specifically mentioned - \$35.00.
- (c) Upon the commencement of a new profession or business for which the same are required, all license shall be due and payable immediately. If after July 1st, a half year's license may be issued. All licenses are due and payable on or before January 1st of each year and expire December 31st.
(Ord. 1060, Sec. 2:3; Code 1998)
- 5-107. **SAME; WHEN PAYABLE; TIME PERIOD.** (a) All license fees shall be due and payable before the commencement of a trade, occupation, business or profession for which license fees are required.
- (b) No license shall be issued until the fee is paid.
 - (c) Licenses shall be renewed on or before the expiration date of the current licenses.
 - (d) If the license prescribed is for an annual, quarterly, monthly, weekly or daily period, the license shall not be issued for any part or fraction of the year, quarter, month, week or day, respectively.
 - (e) The license for a day shall expire at midnight.
(Code 2015)
- 5-108. **PAYMENT OF FEES; RECEIPT.** The city clerk shall, upon payment of any license fee specified, give a receipt therefor stating the amount paid, the nature of the licenses issued, for what time, and to whom issued, and if possible, the exact location where the business is to be carried on, and the kind of business.
(Code 2015)
- 5-109. **CONTENTS OF LICENSE.** Unless otherwise provided all licenses shall be dated on the date of their issue, and shall state the name of the licensee, the kind of business he or she desires to engage in and the location thereof, the amount paid, and time the license shall expire; and the person having such license shall be authorized to carry on the business therein named.
(Code 2015)

- 5-110. **RECORD BOOK.** The city clerk shall keep a book in which shall be entered the name of each person licensed, his or her address, the date of the license, the purpose for which it is granted, the amount paid therefor, and the time the same shall expire and within 24 hours after any license has expired, the city clerk shall notify the chief of police of such expiration, unless the same shall have been renewed. (Code 2015)
- 5-111. **DISPLAY OF LICENSE.** All persons doing business in a permanent location are required to have their license conspicuously displayed in their place of business, and all persons to whom licenses are issued not having a permanent place of business are required to carry their licenses with them and any licensee shall present the license for inspection when requested to do so by any citizen or officer of the city. (Code 2015)
- 5-112. **ADDITIONAL BUSINESS.** Any person, firm, or corporation which shall engage in or carry on more than one kind of business at the same location at the same time shall be required to pay the full license fee for the first business and \$5 a year for each additional kind of business or occupation.
(Ord. 1060, Sec. 5; Code 1998)
- 5-113. **REVOCATION OF LICENSE.** That any license issued under the provisions of this article shall be subject to revocation upon 10 days- notice to licensee and after hearing by the governing body of this city. When it appears from competent evidence that any licensee is not competent to carry on the trade, profession or business for which he or she received a license and the governing body may refuse to grant a license to carry on any calling, trade, profession or business for which the applicant is notoriously known to be unqualified. Any conviction in the municipal court of the city for any misdemeanor affecting the competency or desirability of a licensee shall be deemed presumptive evidence of his or her unfitness and conviction of any felony under the laws of the State of Kansas, shall work an immediate revocation without further notice or process.
(Ord. 1060, Sec. 6; Code 1998)
- 5-114. **PENALTY.** Any person, firm or corporation violating any of the provisions of this article shall upon conviction thereof be deemed guilty of a violation of this code and shall be punished by a fine of not less than \$10 nor more than \$100.
(Ord. 1060, Sec. 7; Code 1998)

ARTICLE 2. PAWNBROKERS

5-201. DEFINITIONS. For the purposes of this article, the following words and phrases shall mean:

(a) Pawnbroker - means any person who loans money on deposit or pledge of personal property or other valuable thing, other than intangible personal property, or who deals in the purchase of personal property on the condition of selling the same back again at a stipulated price. Pawnbroker does not include any person operating under the supervision of the state banking commissioner, credit union administrator or the consumer credit counselor of this state.

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

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

(d) Precious metal dealer - means any person who engages in the business of purchasing precious metal for the purpose of reselling such metal in any form. (Ord. 84-13, Sec. 1; Code 1995)

5-202. RECORDS OF TRANSACTIONS. (a) At the time of making the loan or purchase, pawnbroker shall enter in a book kept for that purpose:

(1) The date and the amount of every loan or purchase made by the pawnbroker;

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

(3) The name, age, residence, driver's license number, and state of issuance, date of birth, and other personal identification number(s) of the pledger or seller, which may be required.

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

(1) The date of the purchase;

(2) A full and accurate description of each item purchased, including any identifying letters, numbers or marks on the item, serial number, model numbers and other identifying marks; and

(3) The name, age, residence and driver's license number and state of issuance, date of birth, and other personal identification which may be required, or other personal identification numbers of the seller.

(c) The pawnbroker or precious metal dealer shall make such entries within one hour after receiving the property and such entries shall be made in ink and shall not be in any manner erased, obliterated or defaced.

(d) The record required by this section shall be maintained by the pawnbroker or the precious metal dealer at the pawnbroker's or dealer's place of business for not less than three (3) years following the date of the transaction. (Ord. 84-13, Sec. 2, Code 1995)

5-203. REPORTS. (a) It shall be the further duty of every pawnbroker and every precious metal dealer, on a form provided by the police department, to report legibly the description of all property received in pledge or purchase. Such report shall include all property purchased as second hand merchandise at wholesale, second hand merchandise taken in for sale or possessed on consignment for sale, second

hand merchandise taken in trade and merchandise which the pledger used all collateral for the loan of money. This report shall also include information to positively identify the pledger or seller. No such report need be made concerning property or merchandise acquired from another pawnbroker or precious metal dealer licensed in this state in a transaction involving the purchase or other acquisition from the other pawnbroker or precious metal dealer of the other pawnbroker's or dealer's stock in trade, or a substantial thereof in bulk, where the other pawnbroker has made the reports required by this section with respect to such property or merchandise.

(b) Activity reports made pursuant to this section will be delivered monthly to an employee of the police department. The records collected will be those made during the preceding calendar month of business and shall be so delivered by the 10th day of the month immediately following the activity report period. Such reports shall only be available to law enforcement officers and city and state prosecutors for law enforcement purposes only. (Ord. 83-13, Sec. 3; Code 1995)

5-204. INSPECTION BY POLICE. Law enforcement officers of the city shall have access during regular business hours to the place of business of any pawnbroker or precious metal dealer conducting business in the city. Access shall be for the purpose of periodically inspecting property pledged or purchased in the transaction of the business of the pawnbroker or precious metal dealer, and records relating to those transactions, to determine if the pawnbroker or dealer is complying with the provisions of this article. (Ord. 84-13, Sec. 4; Code 1995)

5-205. MINORS; PROHIBITED TRANSACTIONS. (a) No pawnbroker shall receive in pledge, or as security for any loan, transfer, service, undertaking or advantage, anything of value from any person under the age of 18 years.

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

(c) No pawnbroker or precious metal dealer shall purchase or receive any stolen property or any property which he or she may for any cause have reason to believe or suspect cannot rightfully by lawfully be sold by the persons offering it for sale or pledge. (Ord. 84-13, Sec. 5; Code 1995)

5-206. RESALE, DISMANTLING. (a) No pawnbroker shall, for a period of 40 days from the time of purchase of any article or property by him or her, resale, dismantle, overhaul, dispose of, change or alter the same.

(b) Every precious metal dealer shall retain all precious metal purchased as a precious metal dealer, for a period of 40 days, and such metal shall remain in the condition in which it was purchased.

(c) The 40 day period, in (a) and (b) above, shall commence on the date that the police department received the report of its acquisition in compliance with section 5-203. If a law enforcement officer has probable cause to believe that any property reported by a dealer has been stolen the police chief may give written notice to the dealer to retain such property for an additional period of 15 days. Upon such notice, the dealer shall retain such property in an unaltered condition for an additional 15 day period unless the police chief notifies the dealer in writing that the waiting period is terminated at an earlier time.

(Ord. 84-13, Sec. 6; Code 1995)

5-207. TRANSACTIONS IN PRECIOUS METALS, REQUIREMENTS: REFUSAL TO REDELIVER STOLEN PROPERTY TO OWNER, EFFECT.

(a) A precious metal dealer shall require of every person from whom the dealer purchases precious metal for resale:

(1) Proof of identification; and

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

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

(Ord. 84-1.3, Sec. 7; Code 1995)

5-208. PENALTY. Any person, upon conviction in the municipal court of the city shall be deemed guilty of a violation of this code and shall be fined a sum of not more than \$500 or confined in jail for a definite term not to exceed one (1) year or by both such fine and imprisonment.

(Ord. 84-13, Sec. 9; Code 1995)

ARTICLE 3. GARAGE SALES

- 5-301. **GARAGE SALES; NUMBER.** No person, partnership, corporation or voluntary association shall advertise, conduct, carryon or permit any garage, patio, yard, or rummage sale on the grounds of or within any dwelling, within the city, more than two times in anyone calendar year; however, this section shall not apply to any person, partnership, corporation or voluntary association, conducting any such sale under and pursuant to a valid merchant's license issued by the city, or to any sale by the executor, administrator or conservator for an estate.
(Ord. 1028, Sec. 1; Code 1998)
- 5-302. **PERMIT REQUIRED.** Before any person, partnership, corporation or voluntary association shall have any such sale as described in section 5-301, other than those to which this article does not apply, they shall apply for and be issued a permit by the city clerk's office. Such permit shall set forth in writing the name of the person, partnership, corporation or voluntary association holding or conducting the sale, the location of such sale, and the date such sale is to be held. No sale for which a permit is required shall be held or scheduled for more than three calendar days. No permit shall be issued to any person, partnership, corporation or voluntary association more often than once every 60 days, and shall be subject to two times per year limitation above set forth. Further, no permit shall be issued for such sale to be held on the same premises more often than once every 60 days, and are still subject to the two times per year limitation above set forth. However, schools, churches, and non-profit organizations may carryon rummage sales of miscellaneous items for the benefit of the organization only, with no restrictions on the number of days when the sale is conducted on school, church or commercial property. (Ord. 1028, Sec. 2; Code 1998)
- 5-303. **PERMIT FEE.** The city clerk's office shall issue a permit to the applicant and the fee for the permit shall be an amount of \$5 per sale.
(Ord. 1028, Sec. 3; Code 1998)
- 5-304. **PENALTY.** Every person, member of a partnership, or officers of a corporation or members of a voluntary association convicted of a violation of any of the provisions of this article shall be considered guilty of a violation of this code and be fined not less than \$27, nor more than \$105.
(Ord. 1028, Section A; Code 1998)
- 5-305. **WAIVER.** Upon a majority vote of the city council, any part of this code concerning garage or rummage sales may be waived temporarily as they may deem necessary.
(Ord. 90-16, Sec. 1; Code 1995)

ARTICLE 4. JUNKYARDS

- 5-401. **PURPOSE.** It is for the purpose of promoting the public safety, health, welfare, and to enhance the appearance and beauty of the city and is hereby declared to be in the public interest and necessary and appropriate to regulate and restrict the establishment, operation, and maintenance of junkyards and salvage. (Ord. 892, Sec. 1; Code 1995)
- 5-402. **PERMIT REQUIRED.** (a) It shall be unlawful for any person, firm, or corporation to own, operate, extend, create, install, establish, or maintain a junkyard, auto wrecking yard, or unsightly storage yard for the storage or excess accumulation of junk, vehicles or equipment, appliances, or other scrap metals upon any lot, block, tract or parcel of land within the corporate limits of the city, or the owner of any lot, block, tract or parcel of land within the city to permit thereon the operation, establishment, or maintenance of such yard, except as provided herein.
- (b) Before any junkyard or storage yard as above described shall be operated, extended, created, installed, established, or maintained upon any property within the city on which storage, parking or dumping outside of a completely enclosed building, the owner or operator thereof shall submit under oath and in writing to the governing body an application for a permit for such junk, or storage yard, including the complete plans and specifications therefore together with a favorable petition signed by four-fifths of the resident property owners within 300 yards in all directions of the lot lines of the lot, block, tract or parcel on which junkyard or storage yard is to be operated, extended, created, installed, established, or maintained. Provided, that no application for permit as herein required shall be accepted by the governing body of the city without complete plans and specifications showing a neat, orderly and safe arrangement for the storage of all classifications of junk vehicles or equipment, appliances, and scrap metals and showing that there shall be constructed around the premises where such yard is to be located a solid board, screen, or other view obstructing type fence of permanent construction wholly enclosing such yard and rising from the ground to a uniform height of not less than 10 feet, or of sufficient uniform height as shall be reasonably necessary to prevent children from entering therein or thereon and so as to screen the junk, wrecked or disabled vehicles or equipment, appliances or scrap metals kept therein from the view of persons passing or living within 300 yards of the premises. (Ord. 892, Sec. 2:3; Code 1995)
- 5-403. **INVESTIGATION; LICENSE FEE.** Upon receipt of the application for the permit referred to in section 5-402 above, if the same shall be found to be in proper form, the mayor shall appoint a city council committee to go upon the premises and conduct an investigation to determine full compliance with the provisions of this article and the application submitted, and that the operation of the yard will not constitute a public nuisance or hazard to the health or safety of the inhabitants of the city, or of any neighborhood, family or resident of the city, and is upon physical investigation found to be in full compliance with this article and that the operation thereof will not constitute a public nuisance, or hazard to the health or safety of any of the inhabitants of the city, they shall so report and the permit requested shall be issued upon applicant's payment of an annual license fee of \$50. (Ord. 892, Sec. 4; Code 1998)

- 5-404. NOTICE AND HEARING. If the governing body of the city shall find upon receipt of the application that the same is not in compliance with the provisions of this article, or shall find upon investigation that the operation of the yard shall constitute a public nuisance or hazard to the health or safety of the inhabitants of the city, they shall so report and the mayor shall order a public hearing thereon and cause notice thereof to be sent to the applicant by registered mail and the notice shall be published once in the official city newspaper. The date of the hearing shall not be less than ten (10) nor more thirty (30) days from the date of application. At the conclusion of the public hearing, the governing body may grant the permit for the junk or storage yard, or it shall deny the granting of the permit upon make a finding that the existence or continued operation or maintenance of the yard constitutes a public nuisance or a hazard to the health or safety to the inhabitants of the city, or any neighborhood, family or resident of the city. (Ord. 892, Sec. 5; Code 1995)
- 5-405. FINDINGS. If, at the conclusion of such public hearing, the governing body shall make a finding that the existence or continued operation or maintenance of the junk or storage yard constitutes a public nuisance or a health or safety hazard, it shall issue notice of such finding ordering the owner or operator to appear before the city council on a date not less than 10 days nor more than 60 days from the date of service of such notice, to show cause why an order should not be issued to have the nuisance or health or safety hazard removed or abated from the premises. (Ord. 892, Sec. 6; Code 1995)
- 5-406. ABATEMENT OF NUISANCE; COSTS. (a) If no cause be shown, the governing body of the city shall by resolution recite the specific nuisance or health and safety hazard to be removed or abated and shall cause notice of the same to be served upon the owner and operator, or served upon any responsible employee of at least 14 years of age on the premises or by mailing the notice to the last known address of the owner, occupant, agent or operator requiring that the nuisance or health or safety hazard be removed and abated from the premises within 10 days from the date of service or mailing. If the owner, occupant, agent or operator of the junk or storage yard shall fail to comply with the requirements of the notice within the period of time, then the chief of police shall proceed to have the things described in the notice removed and abated from the lot, block, tract or parcel of land, and report the cost thereof to the city clerk and the cost of such removal or abatement shall be assessed and charged against the lot or parcel of ground on which the nuisance was located.
- (b) It shall be the duty of the city clerk at the time of certifying other city taxes to the county clerk, to certify the aforesaid costs, and the county clerk shall charge the same on the tax roll of the county against the lot, block, tract or parcel of land, and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (Ord. 892, Sec. 7:8; Code 1995)
- 5-407. PENALTY. Any person who shall make or cause to be made any false or fraudulent representations in the application herein required or who shall knowingly and willfully violate any of the regulations herein prescribed or who shall directly or indirectly prevent or obstruct the administration of this article, shall upon conviction thereof, be fined in a sum not exceeding \$500.00, or be imprisoned not to exceed 60 days, or so fined and imprisoned. (Ord. 892, Sec. 10; Code 1995)

ARTICLE 5. MOBILE HOME PARKS

5-501. DEFINITIONS. For the purposes of this article, the following words and phrases shall mean:

(a) Mobile Home – A structure which is transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width or 36 body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and is not subject to the Federal Manufactured Home Construction and Safety Standards established pursuant to 42 U.S.C. 5403.

(b) Camper Trailer - means any vehicle or portable structure capable of being towed by a private vehicle and intended for recreational purposes or for temporary living quarters.

(c) Mobile Home Park - means any plot of ground containing mobile home spaces, regardless of whether or not a charge is made for the occupation of such space.

(d) Camper Trailer Park - means any plot of ground of one acre or more in size and containing camper trailer spaces, regardless of whether or not a charge is made for the occupation of such spaces.

(e) Mobile Home Spaces - means a plot of ground designed for the accommodation of one mobile home within a mobile home park, which plot shall be clearly and permanently marked and designated by iron rods, pipes, or pins not less than one-half inch in diameter and extending at least 24 inches below grade.

(f) Camper Trailer Space - means a plot of ground designed for the accommodation of one camper trailer within a camper trailer park.

(g) Person - means any individual, firm, trust, estate, partnership, association, or corporation.

(h) Manufactured Homes – A structure which is transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and is subject to the Federal Manufactured Home Construction Standards established pursuant to 42 U.S.C. 5403.

(i) Modular Homes. - A structure which is transportable in one or more sections; not constructed on a permanent chassis; designed to be used as a dwelling on a permanent foundation when connected to required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and certified by its manufacturer as being constructed in accordance with a nationally recognized building code. (Ord. 82-6, Sec. 1, Ord. 00-12; Code 2015)

5-502. LOCATION OF MOBILE HOMES AND CAMPERTRAILERS. Except as set forth in Section 5-517, no person shall occupy any mobile home or camper trailer on any premises within the city limits, outside a mobile home or camper trailer park. The parking of an unoccupied mobile home or camper trailer in a garage or in a rear yard shall be permitted anywhere within the city limits, provided that no living quarters shall be maintained or any business conducted in such a mobile home or camper trailer while so parked. No camper trailer shall be permitted to remain in a

mobile home park, and no mobile home shall be permitted to remain longer than 30 days in a camper trailer park. (Ord. 14-9; Code 2015)

- 5-503. **LICENSES OR TEMPORARY PERMIT REQUIRED.** It shall be unlawful for any person to maintain or operate a mobile home park or camper trailer park within the city limits after the 26th day of May, 1982, unless such mobile home park or camper trailer park is licensed according to the terms of this article, except that the maintenance or operation of a mobile home park or camper trailer park as herein defined, in existence on the effective date of this article, may be continued under a temporary permit for such period of time and under such conditions as are hereinafter prescribed.

(Ord. 82-6, Sec. 3: Code 1988)

- 5-504. **APPLICATION FOR LICENSE.** Application for a license shall be filed with the building inspector. The application shall include:

- (a) The name and address of the applicant;
- (b) The location and legal description of existing or proposed mobile home park or camper trailer park;
- (c) A drawing at a scale of not less than 1:20 that shall show:
 - (1) Accurate dimensions of the existing or proposed mobile home park or camper trailer park;
 - (2) All roads and approaches and the method of ingress and egress from public streets;
 - (3) The complete installations for electric service, gas service, water service; sanitary-sewer service, street lighting and telephone service;
 - (4) Location, dimensions, construction, and surfacing of all interior streets, parking areas, patios, and other all-weather surfaces;
 - (5) The location and dimensions of all buildings and structures.
 - (6) The locations and dimensions of all mobile home spaces;
 - (7) The specific location of camper trailer spaces provided with electric service, potable water, and sanitary facilities.

If the city building inspector determines that such mobile home park or camper trailer park is in compliance with the provisions of this article and with the provisions of other ordinances of the city, he or she shall issue to applicant a license that shall, be valid for a period of one year from the date of its issuance. Any enlargement of an existent park shall require that prior application for enlargement be submitted to and approved by the building inspector. (Ord. 82-6, Sec. 4; Code 1988)

- 5-505. **RENEWAL OF LICENSE.** Such license shall be renewed each year upon determination of the building inspector that operation and maintenance of the mobile home park or camper trailer park has been in accordance with the provisions of this article. Application for renewal of license shall be filed not less than 60 or more than 90 days prior to date of expiration of current license. Any deficiencies in construction, operation, or maintenance provided to the applicant in written form by the building inspector shall be corrected within 60 days of the date of such written notice. Failure to correct the deficiencies within 60 days of written notification shall void the current license.

(Ord. 82-6, Sec. 5; Code 1988)

- 5-506. **LICENSE FEES.** The annual license fee shall be \$25, plus \$2 per mobile home space. The annual license fee for a camper trailer park shall be \$25. The fee

for reinstatement of a mobile home park shall be \$15 plus \$1 per mobile home space and the fee for reinstatement of a camper trailer park shall be \$15.
(Ord.82-6, Sec. 6; Code 1988)

5-507. **TEMPORARY PERMIT.** A temporary permit shall be issued by the building inspector, upon written request therefore, for every mobile home park or camper trailer park in existence on the 26th day of May, 1982. A temporary permit shall permit the mobile home park or camper trailer park to be operated and maintained for one year without being subject to the provisions of this article, provided further that such operation and maintenance does not conflict with any ordinances of the city. No more than four additional temporary permits shall be issued for any park, and thereafter any mobile home park or camper trailer park shall be required to be licensed. (Ord. 82-6, Sec. 7; Code 1988)

5-508. **TEMPORARY PERMIT FEES.** The fee for a temporary permit shall be the same as that set forth in section 5-507.
(Ord. 82-6, Sec. 8; Code 1988)

5-509. **MOBILE HOME PARK REQUIREMENTS.** Mobile home parks shall be designed, constructed, and maintained in accordance with the following requirements, except that subsections (a), (d), (g), (i), (j), (k), (o), and (q) shall not be applicable within the perimeters of mobile home parks existent at the time of the passage of this article; provided that when an existent park is expanded in area, subsequent to passage of this article, the expansion area shall be subject to all of the requirements of this section.

(a) Construction permit shall be required in conformance with the building code and public works manual of the city.

(b) The minimum mobile home park established after the passage of this article shall have an area of at least two acres.

(c) Land that the council, with the recommendation of the director of public works finds to be detrimental to the public interest if developed because of exposure to 50-year floods, standing water because of infeasibility of proper drainage, potential damage because of excessive or rapid run-off, or other problems shall not be developed as a mobile home park until such objectionable features are corrected.

(d) Mobile home spaces shall be provided and shall each contain a minimum lot size of 50 feet in width by 100 feet in length.

(e) Mobile homes shall be so harbored on each space that there shall be at least 15 feet between mobile home and other buildings.

(f) Mobile homes and accessory structures shall be located not closer than five feet to the perimeter line of any mobile home space.

(g) There shall be along the side and rear property lines of the park a buffer zone of at least 20 feet in width, which buffer zone shall be free of mobile homes, buildings, and structures, and which shall be landscaped with two belts of shrubs and two belts of trees of varieties approved and placed in accordance with standards prescribed by the public works director. There shall be along the front property line a set-back, free of buildings, structures, and mobile homes, of at least 15 feet.

(h) Each mobile home park shall abut upon a public street.

(i) Each mobile home space shall have direct access to a hard surface drive. The minimum width of one-way interior drives serving enclaves of mobile

home spaces and permitting no parking shall be 10 feet. The minimum width of two-way interior drives permitting no parking shall be 20 feet. The minimum width of one-way interior drives permitting parking on one side only shall be 18 feet. The minimum width of interior two-way drives permitting parking shall be 28 feet. All interior drives and public streets shall be designed and paved according to city specifications for residential streets and maintained in good condition. Street lights approved by the council upon recommendation by the electric utility director, shall be installed to provide 0.2 horizontal foot-candle maintained average with a maximum uniformity ratio of one to six. There shall be at least two paved off-street parking spaces for each mobile home.

(j) There shall be four-foot sidewalks installed along one side of all drives serving more than one mobile-home space, such sidewalks to be designed and constructed according to city specifications.

(k) Each mobile home shall be provided with at least one electrical outlet providing at least 100-amperage service. All electrical service cables shall be placed underground. All mobile homes shall be grounded.

(l) Each mobile home shall be provided with an adequate supply of potable water. The water system shall be installed in accordance with city specifications.

(m) Each mobile home shall be provided with a sewer of at least four inches in diameter, which shall discharge mobile home waste into a public or approved sanitary sewer system.

(n) Each mobile home in a park the perimeter of which is within 500 feet of a source of natural gas service shall be provided with natural gas outlet. If natural gas is not available within 500 feet of the perimeter of a mobile home park, each mobile home shall be provided with a compounded gas outlet.

(o) Each mobile home shall be provided with an underground telephone cable if telephone service is made available.

(p) Fire hydrants shall be located in accordance with the specifications of the supervisor of the department of public works.

(q) Common recreation areas of at least 10 percent of the total mobile home park area shall be provided. Required buffer zones shall not constitute recreation area.

(r) Sufficient storm shelters shall be provided for all mobile home residents.
(Ord. 82-6, Sec. 9; Code 1988)

5-510. MOBILE HOME STANDS. (a) The mobile home stands shall be improved to provide adequate support for the placement and tie down of mobile. home. The stand shall not heave or settle unevenly, under the weight of mobile home, due to frost action, inadequate drainage, vibration, wind, or their forces, acting on the structure. Anchors or tie-downs, if provided, such as cast-in-places concrete "dead men," eyelets imbedded in concrete, screw augers or arrow head anchors shall be placed at each corner of the mobile home stand and at intervals of at least 20 feet. Each device shall be able to sustain a minimum load of 4,800 pounds. Every mobile home shall be skirted with noncombustible material that is approved by the city building inspector.
(Ord. 82-6, Sec. 10; Code 1988)

5-511. ENFORCEMENT OF MINIMUM STANDARDS.

(a) It shall be the duty of the building official to enforce the provisions of section 5-510 of this article in accordance with the interpretations thereof contained in "Regulations Relating to Minimum Standards for Mobile Home Tie-Town

Systems," of the American National Standard Code. ANSI No. AI 19 and amendments thereto.

(b) The building official or his or her authorized representative shall inspect all mobile homes within the city as often as he or she deems necessary to insure the enforcement of the provisions of section 5-510 of this article.
(Ord. 82-6, Sec. 11; Code 1988)

5-512. VARIANCE. The governing body of the city may grant variances from requirements of section 5-510 of this article, the variances to be applicable only to mobile home spaces existent before passage of this article, in the event that such variance is justified by one or more of the following hardships: unusual topographical or geological problems that can be satisfactorily overcome by specific variance; or substantial, but not complete, conformity of the existent park as a whole with the requirements of this article, so that the alleviation of particular requirements would result in the rest of the mobile home park being in full compliance with this article; or inability to meet certain requirements because of factors beyond the applicant's control. Variance shall be granted only upon receipt by the board of adjustment of adequate documentation that a hardship as herein defined does exist and of a plan fully setting forth the exact nature of the variance or variances requested. A variance may be limited in time of applicability and shall become void by any construction not specifically described in the application for variances. Financial hardship is not sufficient ground for the granting of variance.
(Ord. 82-6, Sec. 13; Code 1988)

5-513. CAMPER-TRAILER PARK REQUIREMENTS. Camper-trailer parks shall be designed, constructed and maintained in accordance with the following requirements;

(a) Construction permits shall be required in conformance with the building code of the city.

(b) The minimum camper park or trailer park shall have an area of at least one acre.

(c) Land that the council, with the recommendation of the director of public works, finds to be detrimental to the public interest if developed because of exposure to 50-year floods, standing water because of infeasibility of proper drainage, potential damage because of excessive or rapid run-off, or other problems shall not be developed as a camper trailer park until such objectionable features are corrected.

(d) Camper trailer spaces shall be provided and shall each contain a minimum size of 25 feet in depth by 40 feet in width.

(e) Camper-trailers shall be so harbored on each space that there shall be at least 25 feet between camper trailers or camper trailers and other buildings.

(f) There shall be along all exterior property lines a buffer zone of at least 20 feet in width, which buffer zone shall be free of camper trailers, buildings, and structures, and shall be landscaped with two belts of shrubs and two belts of trees of varieties approved and placed in accordance with the standards prescribed by the city public works director.

(g) Each camper trailer space shall have direct access to a hard surface drive. The minimum width of one-way interior drives serving enclaves of camper trailer spaces and permitting no parking shall be 10 feet. The minimum width of two-way interior drives permitting no parking shall be 18 feet. The minimum width of one-way interior drives permitting parking on one side only shall be 18 feet. The

minimum width of interior two-way drives permitting parking shall be 28 feet. All interior drives and public streets shall be designed and paved according to city specifications for residential streets and maintained in good condition. Street lights approved by the council upon recommendation by the electric utility director shall be installed to provide 0.2 horizontal foot-candle maintained average with a maximum uniformity ratio of one to six.

(h) Each camper trailer space shall be hard surfaced.

(i) At least 30 percent of all camper trailer spaces shall be equipped with one electrical outlet per space, one outlet for an adequate supply of potable water per space, and a hook-up to a sanitary sewer system per space.

(j) Camper trailers without sanitary facilities shall not be located farther than 200 feet from a service building containing sanitary facilities and an adequate supply of potable water. Service buildings shall provide separate toilet facilities for each sex and shall be constructed in accordance with the building code of the city.

(k) Tip-proof garbage cans with tight-fitting covers shall be provided in quantities to permit disposal of all garbage and rubbish. Garbage cans shall be located not farther than 100 feet from any camper trailer space. The cans shall be kept in sanitary condition at all times. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to insure that the garbage cans shall not overflow.

(Ord. 82-6, Sec. 14; Code 1988)

- 5-514. **CONDITION.** The grounds of the mobile home park or camper trailer park and all buildings and structures shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or create a nuisance. All areas not used for access, parking, circulation, building, and service shall be completely and permanently landscaped.
(Ord. 82-6, Sec. 15; Code 1988).

- 5-515. **TEMPORARY USES.** Temporary use of house and travel trailers and mobile homes as living quarters for those persons temporarily deprived of the use of their permanent living quarters by fire, flood, tornado, windstorm, or other catastrophe, shall be authorized subject to the following terms, conditions and limitations:

(a) That the use of the trailer or mobile home shall be limited to the time required for repairs of the permanent living quarters provided that such period shall not exceed six months.

(b) That the trailer or mobile home shall be located during the period of the temporary use on the same lot as the damaged permanent quarters.

(c) That the permanent living quarters damaged by such catastrophe shall have been occupied as the permanent residence by the person or persons requesting temporary use of a trailer or mobile home as living quarters at the time of such catastrophe.

(d) That persons so deprived of the use of their permanent living quarters and wishing to make use of a trailer or mobile home as temporary living quarters shall make written application to the city inspector. The application shall set forth the circumstances which necessitated such application.

(e) That the city inspector may authorize the use of the temporary living quarters for a period not to exceed 30 days. When it is evident that the time required to effect repairs on the permanent living quarters involved, will exceed 30

days, the city inspector shall refer the application to the city council, at a regularly scheduled meeting, within the 30 day period, for their consideration and action.
(Ord. 82-6, Sec. 17; Code 1988)

5-516. MOBILE HOME PARK STORM SHELTERS. (a) Definitions. As used in this article, the following terms shall have the following meaning:

(1) *Building Inspector*- The building inspector of this city.

(2) *Mobile Home Park Storm Shelter*- Any shelter designed to protect occupants from results of any natural disaster, including but not limited to a storm or tornado shelter (hereinafter referred to as "storm shelter" herein Section 5-518).

(b) Permit Required. No person, firm or corporation shall construct a storm shelter without first obtaining a permit therefore. The fee for the permit shall be as established by Galena, Kansas, for any other structure. If the shelter is a designated area in a building built for other purposes, no additional fee is required for the shelter part of the building.

(c) Application. The application for a permit to build a shelter shall be accompanied by drawings and specifications sufficient to show compliance with this ordinance.

(d) Requirements. The shelter shall comply with all of the following provisions:

(1) *Masonry Construction*. The building shall be of masonry construction, provided that the roof may be of any material adequate to withstand any anticipated wind forces.

(2) *Waterproof Walls*. All outside walls that will be below ground level when grading is completed shall be waterproof. Masonry shall be coated with water-sealant or the equivalent. Drain tile shall be provided at the footings of all outside walls, and shall drain to an adequate outlet.

(3) *Drain*. A drain shall be provided at the lowest point in the floor. The floor shall be concrete. The drain shall connect to an adequate storm sewer or other outlet. If the outlet is not low enough for the water to drain by gravity, a sump pump will be provided, with a standby pump operated by hand power or foot power.

(4) *Ventilation*. There shall be adequate ventilation provided. The ventilation system shall be designed to operate without any outside power source, using batteries and backup muscle power.

(5) *Occupancy Restricted*. No disaster shelter shall be occupied, except for occasional visits and inspections and except when being used as a shelter from a natural disaster. There shall be no items of personal property included in such storm shelter except as is required for emergency purposes in this Section 5-518.

(6) *Furniture, Plumbing, Equipment, Fixtures*. All furniture and equipment shall be noncombustible. All plumbing shall have shut-off valves where the water line or gas line enters the shelter, accessible from inside the shelter and capable of being turned off without tools. Flashlights shall be stored in the shelter, and tested regularly to make sure the batteries are at full strength. The shelter shall have a self-contained toilet that does not require outside connections. Food and water shall be stored in the shelter.

(7) *Entrances or Exits*. In addition to the entrance, there shall be at least one escape hatch, as far as possible from the entrance. A ladder, stairway or ramp shall be installed in each underground shelter to enable people to use the escape hatch to get to the ground surface, unless, due to the shelter being in a hill or slope, the escape hatch is low enough to be used without a ramp or ladder.

(8) *Emergency Radio.*

(e) Cleanliness. Such storm shelter shall be kept free of mold and other irritants and the unreasonable accumulation of dust, dirt and trash.
(Ord. 13-11; Code 2015)

5-517. PENALTY. Any person violating any provision of this article shall be deemed guilty of a violation of this code and upon conviction shall be punished by a fine of not more than \$500.00. Each day that such violation is permitted to continue shall constitute a separate offense. (Ord. 82-6, Sec. 16; Code 1988)

ARTICLE 6. POOL AND BILLIARD HALLS.

- 5-601. **LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation, either as principal, agent or employee, to operate a public recreation parlor containing billiard, snooker, or pool tables, shuffle board or bowling lanes without a license issued by the governing body and signed by the mayor and the city clerk.
(Code 1988)
- 5-602. **RULES AND REGULATIONS.** The proprietor shall be responsible for the general conduct of the patrons of the recreation parlor and lawlessness, vagrancy, gambling, drinking of intoxicants or disorderly conduct is forbidden strictly.
(Code 1988)
- 5-603. **LOCATION.** No public billiard, pool, snooker, shuffle board or bowling establishment shall be located other than on the first floor, commonly called ground floor, and such room shall have an opening entrance directly to the street.
(Code 1988)
- 5-604. **BUSINESS HOURS.** It shall be unlawful to operate the billiard, pool, or snooker tables, shuffle board or bowling establishment between the hours of midnight and 6:00 a.m. It shall be unlawful to operate the tables, shuffle board or lanes at any time during the first day of the week.
(Code 1988)
- 5-605. **MINORS.** It shall be unlawful for any owner, operator, or manager of a pool hall or billiard hall to allow any person under the age of 18 years to loiter, play pool or be employed in the establishment unless written permission has been given by a parent or legal guardian.
(Code 1988)
- 5-606. **LICENSE FEES.** The license fee shall be the amount of the city general business license as found in section 5-106 of this Code.
(Code 2015)
- 5-607. **VIEW AND INSPECTION.** The view of the outside shall be unobstructed by any curtains, blinds or lattice placed before the doors or windows except as a roller blind may be needed to exclude direct sunlight that would be detrimental to equipment or play. The hall shall be open for a public inspection by city officials or police at any-time in performing their duties.
(Code 1988)
- 5-608. **PENALTIES.** Any person violating any of the provisions of this article or failing or refusing to perform any duty imposed by this article shall, upon conviction thereof, be fined in the sum of not less than \$25, nor more than \$200, for each offense. Upon conviction of such offense the city council may by a majority vote revoke any such license. (Code 1988)

ARTICLE 7. SOLICITORS, CANVASSERS, PEDDLERS

5-701. DEFINITIONS. For the purpose of this article, the following words shall be considered to have the following meanings:

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

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

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

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

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

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

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

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

so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

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

(Ord. 13-6; Code 2015)

5-702. LICENSE REQUIRED. (a) It shall be unlawful for any person to engage in any of the activities defined in the preceding sections of this article, within the corporate limits of the city without then having an unrevoked and unexpired license therefor in his or her possession and issued by the city clerk.

(b) The governing body may waive the license requirements of this section for any person, firm or corporation exempt from the payment of a license fee under section 5-707(d).

(Ord. 13-6; Code 2015)

5-703. SAME; APPLICATION REQUIRED. Before the city clerk may issue any license required by this article, he or she shall require a sworn application in writing prepared in duplicate on a form to be supplied by the city clerk which shall give the following information:

(a) Name and description of applicant;

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

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

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

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

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

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

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

(i) A photograph of the applicant, taken within 90 days prior to the date of making application which picture shall be at least two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner; or in lieu thereof, the fingerprints of the applicant may be taken by the chief of police and filed with the application;

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

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

(Ord. 13-6; Code 2015)

- 5-704. ISSUANCE; COUNTY RESIDENTS. (a) Except as provided in section 5-709, if the applicant is a current resident of Cherokee County, Kansas, upon receipt of an application for a license and payment of the license fee, the city clerk shall issue the license. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the date of issuance and length of time the license shall be operative, and the nature of the business involved. The city clerk shall keep a permanent record of all such licenses issued and submit a copy of such license to the chief of police. The licensee shall carry the license certificate at all times.
- (b) If the applicant is not a current resident of Cherokee County, Kansas, a license will not be issued until after investigation and payment of the investigation fee as provided in sections 5-705:706.
(Ord. 13-6; Code 2015)
- 5-705. SAME; INVESTIGATION AND ISSUANCE; NON-COUNTY RESIDENT.
- (a) Upon receipt of the above application from an applicant who is not a current resident of Cherokee County, Kansas, the city clerk shall refer the same to the chief of police who shall cause an investigation of the facts stated therein to be made within not to exceed five days.
- (b) If as a result of the investigation, the applicant's character or business responsibility is found to be unsatisfactory or the facts stated therein to be untrue, the chief of police shall endorse on such application his or her findings and endorse his or her disapproval of the application and the reasons for the same and shall return the application to the city clerk who then shall notify the applicant that his or her application is disapproved and that no license will be issued.
- (c) If however, the investigation of such application discloses that the character and business responsibility and the facts stated in the application are satisfactory and true, the chief of police shall endorse his or her findings and approval on the application and return the same to the city clerk who shall, upon payment of the license and investigation fees prescribed, issue a license to the applicant to engage in the business described in the application. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the date of issuance and length of time the license shall be operative, and the nature of the business involved. The city clerk shall keep a permanent record of all such licenses issued and submit a copy of such license to the chief of police. The licensee shall carry the license certificate at all times.
(Ord. 13-6; Code 2015)
- 5-706. SAME; INVESTIGATION FEE. At the time of filing the application, a fee of \$25 shall be paid to the city clerk to cover the cost of investigation of the facts stated in the foregoing application. (Ord. 13-6; Code 2015)
- 5-707. LICENSE FEE; TIME LIMITS; EXEMPTIONS. (a) Except as provided in subsection (c), the fee for the license required pursuant to section 5-702 shall be in the amount of \$100 per each day, or portion thereof, that the licensee shall operate within the city limits. In no event, however, shall fees in excess of \$1,000 be collected from a licensee during any six-month period of 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. Solicitation or sales by any peddler, solicitor or canvasser shall be conducted only between the hours of 8:00 a.m. and sunset.

(c) Persons and firms not having a permanently established place of business in the city, but having a permanently established house-to-house or wholesale business shall receive a license as required by section 5-702 upon the payment of \$100 for any year, and may make solicitations or sales only between the hours of 8:00 a.m. and sunset, or upon invitation at any hour.

(d) No license fee shall be required of: (1) any person selling products of the farm or orchard actually produced by the seller; (2) any businesses, trades or occupations which are part of fairs or celebrations sponsored by the city or any other governmental subdivision, or the state, or when part of all of the expenses of the fairs or celebrations are paid for by the city, any other governmental subdivision, or the state; and (3) any not-for-profit or charitable organization as determined by the governing body.

(K.S.A. 12-1617; Ord. 13-6; Code 2015)

5-708. RENEWAL. All licenses issued shall be subject to renewal upon a showing of compliance with sections 5-702:703 of this article within a six month period prior to the renewal date. The city clerk need not require an additional application under section 5-703 or an additional investigation and investigation fee under sections 5-705:706 unless complaints have been received of violations of the conditions under which any license has heretofore been issued. The city clerk shall not renew or extend any license where there is satisfactory evidence of any grounds for the suspension or revocation of any prior license, and the applicant shall be required to apply for a license as in the case of an original license. (Ord. 13-6; Code 2015)

5-709. DENIAL, REVOCATION OR SUSPENSION OF LICENSE; NOTICE. (a) The city clerk or chief of police may deny any application or may revoke or suspend for a period of not to exceed 30 days any license issued under this article, for any of the following causes:

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

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

(3) Any violation of this article.

(4) Conducting a business as defined in section 5-701 in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the city. Notice of the denial, revocation or suspension of a license shall be given in writing to the applicant or mailed to his or her last known address and the city clerk shall set forth the grounds of such denial, revocation or suspension.

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

(Ord. 13-6; Code 2015)

5-710. APPEAL TO GOVERNING BODY. (a) Any person aggrieved by the action of the chief of police or city clerk in the denial of an application or revocation or suspension of a license as provided in this article, shall have the right of appeal to the governing body.

(b) Such appeal shall be taken by filing with the city clerk within 14 days after notice of revocation, suspension or denial of the license has been given to or mailed to such applicant's last known address and setting forth the grounds for appeal.

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

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

(Ord. 13-6; Code 2015)

5-711. REGULATIONS. (a) It shall be unlawful for any licensee to make false or fraudulent statements concerning the quality of nature of his or her goods, wares and merchandise for the purpose of inducing another to purchase the same.

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

(Ord. 13-6; Code 2015)

5-712. USE OF STREETS AND SIDEWALKS. Except when authorized in writing by the city clerk, no peddler, solicitor or canvasser or any other person shall have exclusive right to any location in the public streets for the purpose of selling or soliciting sales, nor shall any person be permitted a stationary location in the public streets, nor shall any person be permitted to operate in the sidewalks and streets within the fire limits of the city or any congested area where his or her operations might impede or inconvenience the public. (Ord. 13-6; Code 2015)

5-713. DISTURBING THE PEACE. Except when authorized in writing by the city clerk, no licensee nor any person in his or her behalf, shall use any sound device, including any loud-speaking radio or sound-amplifying system upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell. (Ord. 13-6; Code 2015)

ARTICLE 8. SCRAP METAL DEALER REGISTRATION

- 5-801. **SCRAP METAL DEALERS; REGISTRATION REQUIRED.** On and after the effective date of this ordinance, it shall be unlawful for any business to purchase any regulated scrap metal without having first registered each place of business with the city as herein provided. (Code 2015)
- 5-802. **SAME; DEFINITIONS.** The words and phrases listed below when used in this ordinance shall have the following meanings:
- (a) Scrap metal dealer means any person that operates a business out of a fixed location, and that is also either:
 - (1) Engaged in the business of buying and dealing in regulated scrap metal;
 - (2) Purchasing, gathering, collecting, soliciting or procuring regulated scrap metal; or
 - (3) Operating, carrying on, conducting or maintaining a regulated scrap metal yard or place where regulated scrap metal is gathered together and stored or kept for shipment, sale or transfer.
 - (b) Regulated scrap metal yard means any yard, plot, space, enclosure, building or any other place where regulated scrap metal is collected, gathered together and stored or kept for shipment, sale or transfer.
 - (c) Regulated scrap metal shall mean wire, cable, bars, ingots, wire scraps, pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle parts, pipes or connectors made from aluminum; catalytic converters containing platinum, palladium or rhodium; and copper, titanium, tungsten, stainless steel and nickel in any form; for which the purchase price described in K.S.A. 2010 Supp. 50-6,110 and 50-6,111, and amendments thereto, was primarily based on the content therein of aluminum, copper, titanium, tungsten, nickel, platinum, palladium, stainless steel or rhodium; any item composed in whole or in part of any nonferrous metal other than an item composed of tin, that is purchased or otherwise acquired for the purpose of recycling or storage for later recycling. Aluminum shall not include food or beverage containers.
 - (d) Bales of regulated metal means regulated scrap metal properly processed with professional recycling equipment by compression, shearing or shredding, to a form in which it may be sold by a scrap metal dealer consistent with industry standards.
 - (e) Ferrous metal means a metal that contains iron or steel.
 - (f) Junk vehicle means a vehicle not requiring a title as provided in Chapter 8 of the Kansas Statutes Annotated, and amendments thereto, aircraft, boat, farming implement, industrial equipment, trailer or any other conveyance used on the highways and roadways, which has no use or resale value except as scrap.
 - (g) Nonferrous metal means a metal that does not contain iron or steel, including but not limited to, copper, brass, aluminum, bronze, lead, zinc, nickel and their alloys.
 - (h) Tin means a metal consisting predominantly of light sheet metal ferrous scrap, including large and small household appliances, construction siding and construction roofing.
 - (i) Vehicle part means the front clip consisting of the two front fenders, hood, grill and front bumper of an automobile assembled as one unit; or the rear clip consisting of those body parts behind the rear edge of the back doors, including

both rear quarter panels, the rear window, trunk lid, trunk floor panel and rear bumper, assembled as one unit; or any other vehicle part.

(Code 2015)

5-803. SAME; REGISTRATION; APPLICATION; FEES; PENALTY.

(a) Application for registration for a scrap metal dealer shall be verified and made upon a form furnished by the city and approved by the attorney general and shall contain:

(1) The name and residence of the applicant;

(2) The length of time that the applicant has resided within the state of Kansas and a list of all residences outside the state of Kansas during the previous 10 years;

(3) The particular place of business for which a registration is desired;

(4) The name of the owner of the premises upon which the place of business is located; and,

(5) The applicant shall disclose any prior convictions within 10 years immediately preceding the date of making the registration for theft, as defined in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2011 Supp. 21-5801, and amendments thereto, theft of property lost, mislaid or delivered by mistake, as defined in K.S.A. 21-3703, prior to its repeal, or K.S.A. 2011 Supp. 21-5802, and amendments thereto, theft of services, as defined in K.S.A. 21-3704, prior to its repeal, criminal deprivation of property, as defined in K.S.A. 21-3705, prior to its repeal, or K.S.A. 2011 Supp. 21-5803, and amendments thereto, or any other crime involving possession of stolen property.

(6) In addition to the information required in subsection (a)(5), above, the applicant shall also disclose any prior convictions within 10 years immediately preceding the date of making the application for registration for any federal or local crime or offense similar to those stated in subsection (a)(5), to include, but not be limited to, sections 6.1, theft, 6.3, theft of lost or mislaid property, and 6.5, criminal deprivation of property, and amendments thereto, of the Uniform Public Offense Code for Kansas Cities.

(b) Each registration for a scrap metal dealer to purchase regulated scrap metal shall be accompanied by a fee of \$250.

(c) The city clerk shall provide the chief of police written notice of the filing of registration by a scrap metal dealer within 10 days of registration or renewal.

(Code 2015)

5-804. SAME; ISSUANCE OF REGISTRATION; RENEWAL; RENEWAL FEES.

(a) Upon receipt of the application for registration, the application fee and verifying the information contained in the registration application that the applicant is qualified, the city clerk shall forward the application to the governing body, or its designee. The governing body, or its designee, shall accept a registration for a scrap metal dealer as otherwise provided for herein, from any scrap metal dealer engaged in business in the city and qualified to file such registration, to purchase regulated scrap metals.

(b) Registrations issued hereunder, unless revoked as herein provided, shall be effective for a period of 10 years.

(c) If an original registration is accepted, the governing body, or its designee, shall grant and issue renewals thereof upon application of the registration holder, if the registration holder is qualified to receive the same and the registration has not

been revoked as provided by law. The registration fee for such renewal shall be \$50.

(d) No registration or renewal issued hereunder shall be transferable.
(Code 2015)

5-805 SAME; PENALTY. Violation of section 5-801 is a class A violation and punishable by a fine of not more than \$2,500 or imprisonment in jail for not more than 12 months or by both such fine and imprisonment. (Code 2015)

5-806. SAME; EXCEPTION. This ordinance shall not apply to a business licensed under the provisions of K.S.A. 8-2404, and amendments thereto, unless such business buys or recycles regulated scrap metal that are not motor vehicle components. (Code 2015)

5-807. SAME; ISSUANCE; DISQUALIFICATION. (a) After examining the information contained in a filing for a scrap metal dealer registration and determining the registration meets the statutory requirements for such registration, the governing body, or its designee, shall accept such filing and the scrap metal dealer shall be deemed to be properly registered.

(b) No scrap metal registration shall be accepted for:

(1) A person who is under 18 years of age and whose parents or legal guardians have been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that such parents or legal guardians held a registration under this ordinance.

(2) A person who, within five years immediately preceding the date of filing, has pled guilty to, been convicted of, released from incarceration for or released from probation or parole for committing, attempting to commit, or conspiring to commit a violation of article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or K.S.A. 2011 Supp. 21-5801 through 21-5839 and subsection (a)(6) of K.S.A. 2011 Supp. 21-6412, perjury, K.S.A. 21-3805, prior to its repeal, or K.S.A. 2011 Supp. 21-5903, compounding a crime, K.S.A. 21-3807, prior to its repeal, obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal, falsely reporting a crime, K.S.A. 21-3818, prior to its repeal, interference with law enforcement, K.S.A. 2011 Supp. 21-5904, interference with judicial process, K.S.A. 2011 Supp. 21-5905, or any crime involving moral turpitude.

(3) A person who, within the five years immediately preceding the date of registration, has pled guilty to, been found guilty of, or entered a diversion agreement for violating the provisions of section 5-801, and amendments thereto, K.S.A. 50-6,109 et seq., and amendments thereto, the laws of another state comparable to such provisions or laws of any county or city regulating the sale or purchase of regulated scrap metal three or more times.

(4) A person who within the three years immediately preceding the date of registration held a scrap metal dealer registration which was revoked, or managed a facility for a scrap metal dealer whose registration was revoked, or was an employee whose conduct led to or contributed to the revocation of such registration.

(5) A person who makes a materially false statement on the registration application or has made a materially false statement on a registration or similar filing within the last three years.

(6) A partnership or limited liability company, unless all members of the partnership or Limited Liability Company are otherwise qualified to file a registration.

(7) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason.

(8) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses all of the qualifications for registration.

(9) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that the spouse held a registration under this ordinance. (Code 2015)

5-808.

SAME; SUSPENSION OR REVOCATION OF REGISTRATION.

(a) The governing body, upon five days' notice to the persons holding a registration, may suspend the scrap metal dealer's registration for up to 30 days for any one of the following reasons:

(1) The registrant has been convicted of violating any of the provisions of K.S.A. 50-6,109 et seq., and amendments thereto, or any similar ordinance or code provisions adopted by the city;

(2) The employment or continuation in employment of a person if the registered scrap metal dealer knows such person has, within the 24 months prior to the notice of suspension or revocation action, been convicted of violating any of the provisions of K.S.A. 50-6,109 et seq., and amendments thereto, or the laws of another state comparable to such provisions, or any city ordinance, or regulation controlling scrap metal sale or purchase in Kansas or any other state; or

(3) Permitting any criminal activity under the Kansas criminal code, or similar ordinance adopted by the city in or upon the registrant's place of business.

(b) The governing body may revoke the registration of a scrap metal dealer who has had its registration suspended three or more times within a 24-month period.

(c) The governing body, upon five days' notice to the person holding the registration, shall revoke or suspend the registration for any one of the following reasons:

(1) The registrant has fraudulently registered by knowingly giving materially false information on the registration form;

(2) The registrant has become ineligible to obtain a registration under this ordinance;

(3) The nonpayment of any registration fees after receiving written notice that such registration fees are more than 30 days past due; or

(4) Within 20 days after the order of the governing body denying, revoking or suspending any registration, the registrant may appeal to the district court and the district court shall proceed to hear such appeal as though the court had original jurisdiction of the matter. Upon request by the registrant, the district court may enjoin the revocation or suspension of a registration until final disposition of any action brought under this ordinance.

(d) Any action brought under subsections (a), (b) or (c) shall be brought individually against a single registrant's site and not against any other scrap metal sites or locations registered by the same individual, company or business entity.

(Code 2015)

CHAPTER VI. ELECTIONS

Article 1. City Elections

Article 2. Voting District Map

ARTICLE 1. CITY ELECTIONS

- 6-101. CONDUCT OF ELECTION. The election of city officials shall be conducted in all respects as provided by the laws of Kansas governing the holding of city elections. (K.S.A. 25-2101 et seq.; Code 2015)
- 6-102. HOURS OF VOTING. At all city elections the polls shall be open at 7:00 a.m. and close at 7:00 p.m., unless different hours are set and publicly announced by the county election officer. (K.S.A. 25-2111, K.S.A. 26-206; Code 2015)
- 6-103. COMMENCEMENT OF TERMS OF OFFICE; OATH OF OFFICE. (a) The term of office for newly elected city officials shall commence with and include the first regular meeting of the governing body following certification of the election by the county election officer.
(b) Every person elected or appointed to city office, before entering upon the duties of such office, shall take and subscribe an oath or affirmation as specified in K.S.A. 54-106, and amendments thereto, and every such oath or affirmation shall be filed with the city clerk.
(K.S.A. 25-2120; Code 2015)
- 6-104. ELECTION OF COUNCILMEMBERS; POSITIONS AND TERMS. At the first regular city election in April of 2005 following the adoption of the provisions of the Modified Mayor-Council Form of Government Act as stated in K.S.A. 12-10a01 through K.S.A. 12-10a09 by the electors of the city, the member of the council elected at large receiving the greatest number of votes shall hold office for a term of four (4) years and the other two (2) members of the council elected at large shall hold office for terms of two (2) years. Of the members of the council elected by districts, those members elected from districts 1 and 3 shall hold office for terms of four (4) years and those members elected from districts 2 and 4 shall hold office for terms of (2) years. At all subsequent city elections the term for members of the council shall be for four years and until their successors have been duly elected and qualified. (K.S.A. 12-10a04; C. O. No. 7; Code 2015)
- 6-105. ELECTION OF MAYOR; TERM. In April of 2005, after the first regular city election following the adoption of the provisions of the Modified Mayor-Council Form of Government Act as stated in K.S.A. 12-10a01 through K.S.A. 12-10a09 by the electors of the city, the mayor shall hold office for a term of 4 years. At all subsequent city elections the term for mayor shall be for four years and until his or her successor has been duly elected and qualified.
(K.S.A. 12-10a04; Code 2015)

- 6-106. **ELIGIBILITY FOR APPOINTIVE OFFICE.** No person shall be eligible to any appointive office unless he or she shall be a bona fide resident of the city or of the territory within a ten (10) mile radius of such city prior to his or her appointment, except that the city may hire nonresident expert employees or appoint nonresidents as municipal judge, city attorney, or as law enforcement officers when deemed necessary by the governing body, including the appointment of nonresidents of another municipality or public agency. Nonresidents of the State of Kansas may be appointed as expert employees. Expert employees shall be defined to include the appointed offices of the Municipal Judge, City Attorney, and City Surveyor or such other positions requiring specialized expertise as shall be defined by and deemed necessary by the governing body.
(Code 2015)
- 6-107. **OATH OF OFFICE.** Every person elected or appointed to city office, before entering upon the duties of his or her office, shall take and subscribe an oath or affirmation as specified in K.S.A. 54-106, and amendments thereto, and every such oath or affirmation shall be filed with the city clerk.
(Code 2015)

ARTICLE 2. VOTING DISTRICTS

- 6-201. VOTING DISTRICT MAP. The designation, location and boundaries of the voting districts of the City of Galena, Kansas, shall be shown on the map entitled "A Voting District Map of the City of Galena," date January 12, 2005, and signed by the mayor and city clerk and hereafter referred to as the "Voting District Map." (Ord. 05-03, Sec. 1; Code 2015)
- 6-202. EIGHT YEAR ADJUSTMENT OF VOTING DISTRICT MAP. In every eighth calendar year thereafter from January 12, 2005, in the month of January, the governing body of the city shall adjust district boundaries to reflect approximately equal population. (K.S.A. 12-10a03; Code 2015)

CHAPTER VII. FIRE

- Article 1. Fire Department
- Article 2. Fire Prevention
- Article 3. Interlocal Cooperation
- Article 4. Fireworks
- Article 5. Open Burning

ARTICLE 1. FIRE DEPARTMENT

- 7-101. CITY FIRE DEPARTMENT ESTABLISHED. The fire department of the city is hereby established and the department shall be organized to consist of a fire chief, an assistant fire chief and not less than 10 nor more than 15 firefighters in the city company, together with not less than 10 nor more than 15 firefighters in the rural company. Members of the fire department shall be appointed by the fire chief. (Ord. 786, Sec. 1; Code 1998)
- 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 consecutive meetings shall automatically become expelled from membership. (Ord. 786, Sec. 2; Code 1988)
- 7-103. SUPERVISION OF DEPARTMENT. The chief of the fire department shall be under the supervision of the mayor and shall have immediate superintendency and control over and be responsible for the care and condition of the fire apparatus and equipment. It shall be the chief's duty to see that all such apparatus and equipment is ready at all times for immediate use. It shall also be the chief's duty to submit a written report as to the condition of all fire apparatus and equipment to the governing body at their first meeting in October of each year. (Code 2015)
- 7-104. FIRE CHIEF; POWERS. (a) The fire chief shall be responsible for the discipline of members and is hereby given the authority to suspend or expel any member for the refusal to obey orders, or for misconduct or failure to do his or her duty at a fire. The chief shall also have the right to summon any and all adult 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, except that the chief shall no authority to require a person who is not a member of the fire department to enter into a building that is on fire or in danger of collapse.
- (b) The fire chief shall have full power, control and command over all persons whomsoever present at fires, and he or she shall direct the use of all fire apparatus and equipment, and command all firefighters in the discharge of their duties. He or she shall take such measures as he or she may deem necessary in the preservation and protection of property and the extinguishing of fires.
- (c) The fire chief 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.

(d) It shall be the duty of the fire chief to adopt all prudent measures for the prevention of fires and for this purpose he or she may, upon request or whenever he or she has reason to believe that the safety of life and property demands it, and as often as he or she may deem necessary, enter any building, yard or premises in the city during reasonable hours for the purpose of inspection, and where dangerous, unsafe or hazardous conditions are found to exist he or she shall give such directions for the alteration, change or removal or better care or management of the same as he or she may deem proper, and such directions shall be obeyed and complied with by the person directed in that regard and at their expense. (Ord. 726, Sec. 3:7; Code 1988)

7-105. RESERVED.

7-106. ASSISTANT CHIEF. In the absence of the chief, the assistant fire chief and the captains shall perform all the duties and have all the authority and responsibility of the chief, in accordance with their ranks in the chain of command, as conferred by this chapter. (Ord. 726, Sec. 8; Code 1988)

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. (Ord. 726, Sec. 13; Code 1988)

7-108. FIRE EQUIPMENT; EMERGENCY RIGHT-OF-WAY AND USE. (a) All fire apparatus and equipment is hereby given and granted the exclusive right-of-way over and through all streets, avenues, alleys and public thoroughfares in the city while enroute to fires or in response to any alarm, and it shall be unlawful for any person or persons to in any manner obstruct or hinder the apparatus or equipment. (b) All emergency vehicles of the fire department, while proceeding on official business, shall be operated in strict accordance with the requirements of the Kansas Statutes regarding the operation of emergency vehicles, and each departmental member assigned to the operation of emergency vehicles shall familiarize himself or herself with the requirements of the law and govern himself or herself accordingly. Any operator violating the provisions of the state law shall be liable for disciplinary action. (Ord. 726, Sec. 9; Code 2015)

7-109. RESERVED.

7-110. OBSTRUCTION OF FIRE HYDRANT. It shall be unlawful for any person to place or cause to be placed upon or about any fire hydrant any rubbish, building material, fence or other obstruction of any character, or in any manner obstruct, hinder, or delay the fire department in the performance of its duties in case of fire. Nor shall any person fasten to any fire hydrant any guy rope or brace, nor stand any vehicle within 15 feet of any such hydrant. (Ord. 726, Sec. 11; Code 1988)

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 2015)

7-112. PENALTY. Any person violating any of the provisions of this article or refusing or neglecting to comply with any of the requirements thereof, shall, upon conviction, be deemed guilty of a violation of this code and fined not less than \$100.00 nor more than \$1000.00.
(Ord. 726. Sec. 14; Code 1988)

ARTICLE 2. FIRE PREVENTION

- 7-201. FIRE PREVENTION CODE INCORPORATED. There is hereby adopted by the governing body of the city, for the purpose of prescribing regulations, governing conditions hazardous to life and property from fire or explosion, that certain code and standards known as the Uniform Fire Code Standards, and the National Fire Codes of the National Fire Protection Association (NFPA) 2003 and amendments hereafter, Fire Protection Association (NFPA) 2003 and amendments hereafter, published by the Western Fire Chiefs Association and the International Conference of Building Officials, one copy shall be filed in the office of the clerk of the City of Galena, Kansas, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city. (Code 2015)
- 7-202. SAME; ENFORCEMENT. The code hereby adopted shall be enforced by the chief of the fire department. (Code 1988)
- 7-203. SAME; AMENDMENTS. (a) Wherever the word municipality is used in the code hereby adopted, it shall be held to mean the City of Galena.
(b) All sections of the Uniform Fire Code relating to fireworks are hereby deleted in their entirety. (Code 1988)
- 7-204. 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 2015)
- 7-205. 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 2015)
- 7-206. KEEPING OF PACKING MATERIALS. It shall be unlawful to keep excelsior or other packing material in any other than metal or wood metal lined boxes or bins having self-closing or automatic covers. All refuse and trash from rooms where packing or unpacking is done shall be removed daily. (Code 2015)
- 7-207. 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 2015)
- 7-208. 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 2015)

- 7-209. FIRE HAZARDS GENERALLY. It is unlawful for any person to cause or create anywhere within the city, or to permit on any premises under his or her control, any situation or condition that is conducive to or likely to cause or permit the outbreak of fire or the spreading of fire. Any situation or condition conducive to the outbreak of or spreading of fire is declared to be a fire hazard. The violation of or failure to comply with any law pertaining to the storage, handling or use of inflammable oils, explosives, liquefied petroleum gases, or fertilizers and all wires and other conductors charged with electricity, is declared to be a fire hazard. The placing of stools, chairs or any other obstruction in the aisles, hallways, doorway, or exit of any theater, public hall, auditorium, church or other place of indoor public assemblage, or the failure to provide any such place of public assemblage with sufficient, accessible and unobstructed fire exits and escapes is also declared to be a fire hazard. The obstruction of any street, avenue, alley, fire hydrant or any other condition that might delay the fire department in fighting fire is declared to be unlawful. (Code 2015)
- 7-210. SAME; INSPECTIONS TO DISCOVER. It shall be the duty of the fire chief to inspect or cause to be inspected by fire department officers or members, as often as may be necessary all buildings, particularly all mercantile buildings, manufacturing plants, warehouses, garages, hotels, boarding houses, rooming houses, theaters, auditoriums and all places of public assemblage, for the purpose of discovering the violation of any fire preventive law or any fire hazard and ascertaining and causing to be corrected any conditions liable to cause fires and to see that all places of public assemblage, hotels and rooming houses have sufficient and unobstructed facilities for escape therefrom in case of fire. (Code 2015)
- 7-211. ABATEMENT OF FIRE HAZARDS; ISSUING ORDER. Whenever any officer or member of the fire department shall find or discover any fire hazard or shall find in any building or upon any premises combustible or explosive material or dangerous accumulation of rubbish or unnecessary accumulation of paper, boxes, shavings or any other inflammable material, so situated as to endanger property by the probability of fire, or shall find or discover any violation of this chapter or any other law hazardous to public safety from fires, the fire chief shall order the fire hazard or danger from the fire forthwith abated and remedied and such order shall be complied with immediately by the owner or occupant of such buildings or premises. If the hazard or condition ordered abated and remedied is a violation of, or a failure to comply with any law, the fire chief shall report the matter to the city attorney and he or she shall, if he or she deems it advisable, prosecute the offender. (Code 2015)
- 7-212. SAME; SERVICE OF ORDER; RECORDS. Any order made under section 7-212 shall be in writing and may be served personally upon the owner or occupant of the premises or by leaving it with any person in charge of the premises or if the premises are unoccupied and the owner is a nonresident of the city, then by mailing a copy to the owner's last known post-office address. One notice to either the occupant or owner shall be sufficient. The fire chief shall keep a record of and copies of all such orders and notices and shall follow up such notices at the

expiration of the time for compliance therewith and when complied with make proper entry, and if not complied with, file complaint with the municipal court against the property owner and/or occupant. (Code 2015)

ARTICLE 3. INTERLOCAL COOPERATION

- 7-301. INTER LOCAL COOPERATION. The City of Galena, Kansas is hereby authorized and empowered to contract with the cities of Carthage, Neosho, Webb City, Duenweg, Carl Junction, Carterville, Seneca, and Joplin, all in the State of Missouri, and the cities of Baxter Springs, Columbus, and Pittsburg, in the State of Kansas, subject to the acceptance provisions contained in such contract for the operation and interchange of firefighting services of the respective fire departments in the cities in case of major conflagration or disaster.
(Ord. 83-24; Code 1988)

ARTICLE 4. FIREWORKS

- 7-401. FIREWORKS DEFINED. For purposes of this article, the term fireworks shall mean those items as defined by the rules and regulations of the Kansas state fire marshal, and shall include but not be limited to: firecrackers, torpedoes, sparklers, Roman candles, sky rockets, pin wheels, cap or toy pistols (except such pistols or any like device designed to discharge paper caps containing not more than .25 grains of explosive mixture), canes, bombs, cannons or other like devices and all classes of fireworks that may be shot into the air or propelled over the ground by explosive discharges or any device using blank cartridges. (Code 2015)
- 7-402. FIREWORKS PROHIBITED. (a) Except as provided in sections 7-403:406; 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 2015)
- 7-403. SAME: EXCEPTIONS; DISCHARGES. (a) On any date, except the 1st through the 4th of July annually, except when the 4th of July falls on a Sunday and the 5th day of July is declared a national holiday. Discharge shall be allowed between the hours of 9:00 a.m. and 10:30 p.m. on the 1st, 2nd and 3rd and from 9:00 a.m. to 12:00 midnight on the 4th or 5th if such is a national holiday.
- (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. (Ord. 00-4; Code 2015)
- 7-404. SAME: EXCEPTION; SALE OF FIREWORKS. Any person who has first obtained a valid permit to sell fireworks within the city may so sell between the hours of 9:00 a.m. and 10:30 p.m. on July 1st through July 3rd of each year and between the hours of 9:00 a.m. to midnight on July 4th of each year and on July 5th when July 4th is on a Sunday and July 5th was therefore declared a national holiday. (Code 2015)
- 7-405. PERMIT FOR SALE OF FIREWORKS REQUIRED; FEE; ISSUANCE. (a) It shall be unlawful for any person to sell, display for sell, offer to sell or give away any type of fireworks within the city without first paying a fee of \$200 per

establishment or premises to the city clerk and applying for and securing a permit therefor on or before June 25th of the permit year.

(b) No permit shall be issued for any location where retail sales are not permitted under the zoning laws. Prior to the issuance of the permit, an inspection will be made of the applicant's facility for compliance with this chapter and other pertinent laws, and no permit shall be issued for any premises not in compliance with such laws. Upon qualifying for the permit, the permittee shall prominently display the same at the establishment or premises where fireworks are to be sold or displayed for sale. The permit fee shall not be refundable upon failure to qualify for the permit or withdrawal or cancellation of the application or permit.

(Code 2015)

7-406. PERMIT FOR PUBLIC FIREWORKS DISPLAY REQUIRED. (a) It shall be unlawful for any person to give or provide a fireworks display for the public or for organized groups without first obtaining a permit to do so by making application at least 30 days in advance of the desired display. Approval of the permit shall be by the governing body. No permit shall be approved unless the applicant furnishes a certificate of public liability insurance for the display in a minimum amount of \$150,000, written by an insurance carrier licensed to do business in Kansas, conditioned as being non-cancellable except by giving 10 days advance written notice to the city clerk. In the event of cancellation of the insurance prior to the display, the permit shall automatically be revoked and void. The application for the permit shall clearly state:

- (1) The name of the applicant.
- (2) The group for which the display is planned.
- (3) The location of the display.
- (4) The date and time of the display.
- (5) The nature or kind of fireworks to be used.
- (6) The name of the person, firm or corporation that will make the actual discharge of the fireworks.

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

(b) No permit shall be issued if the location, nature of the fireworks or other relevant factor is such as to create an undue hazard or risk of harm or damage to persons or property.

(Code 2015)

7-407. 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 2015)

7-408. DISCHARGE ON STREETS AND PUBLIC PROPERTY PROHIBITED. It shall be unlawful for any person to discharge, ignite or fire any fireworks upon any public street, alley or avenue or in any park or public place within the city. (Code 2015)

7-409. 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 2015)

- 7-410. SALE OF FIREWORKS; WHERE PROHIBITED. (a) It shall be unlawful for fireworks to be stored, sold or displayed for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable substances are kept, unless such fireworks are in a separate and distinct section or department of the premises.

(b) Where the fire chief deems there is a fire hazard, he or she is hereby authorized to have such hazard abated. (Code 2015)

- 7-411. RETAIL DISPLAY OF FIREWORKS. (a) All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where such fireworks are in the original package.

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

(c) Signs reading "Fireworks for Sale--No Smoking Allowed" shall be displayed in the section of a store or premises set aside for the sale of fireworks. (Code 2015)

- 7-412. 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 2015)

- 7-413. 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 2015)

- 7-414. 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 2015)

- 7-415. BANNING FIREWORKS. The Fire Chief or Assistant Fire Chief shall have the authority and discretion to ban the discharge of all fireworks within the corporate limits of the City of Galena if the weather conditions make discharge of fireworks in the City hazardous to persons or property. (Code 2015)

ARTICLE 5. OPEN BURNING

7-501. DEFINITIONS. For the purposes of this article, the following words and phrases shall have the following meanings:

(a) Air contaminant - Any particulate matter, gas or vapor (exclusive of water vapor), including but not limited to smoke, charred paper, dust, soot, grime, carbon or any other particulate matter or irritating odorous matter, fumes or gases, or any combination thereof.

(b) Air contaminate source - Any source of emission of an air contaminate whether privately or publicly owned or operated.

(c) Air pollution - The presence in the ambient air of one or more air contaminants in quantities, of characteristics and of a duration which directly or proximately cause or contribute to injury to human, animal or plant life, health or property, or which unreasonably interferes with the enjoyment of life or use of property.

(d) Ambient air - All space outside of buildings, stacks or exterior ducts.

(e) Open burning - The burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion takes place, only such apertures, ducts, stacks, flues or chimneys are open as are necessary to provide combustion air and to permit the escape of exhaust gases. A fifty-five gallon metal drum or wire trash burner or similar vehicle does not qualify as a proper combustion chamber.

(f) Refuse - Garbage, rubbish, trade wastes, leaves, salvageable material, agricultural wastes or other wastes.

(g) Trade wastes - Solid, liquid or gaseous material resulting from construction, the conduct of any business trade of industry or any demolition operation including but not limited to plastics, cardboard cartons, grease, oil or chemicals. (Code 1988)

7-502. OPEN BURNING PROHIBITED. (a) It shall be unlawful for any person to dispose of refuse by open burning or to cause, allow or permit open burning within the city.

(b) A citation may be issued by a member of the police department or firefighter in any situation where such official observes an illegal fire, whether or not a complaint has been received.
(Code 1988)

7-503. EXCEPTION; PERMIT. Exceptions to section 7-502, as provided in this section, shall be made by permit only.

(a) Open burning shall be permitted only when it can be shown that such open burning is the only feasible method of disposal and that disposal by burning is in the public interest. Any person intending to engage in such open burning shall file a request in writing, in duplicate, and obtain the written approval of the fire chief. The application shall state the following:

(1) The name, address and telephone number of the person submitting the application.

(2) The type of business or activity involved.

(3) A description of the proposed equipment and operating practices, the type, quantity and composition and amount of air contaminants to be released to the atmosphere, where known.

(4) The schedule of burning operations.

(5) The exact location where the open burning will occur.

(6) Reasons why open burning is the only feasible method of disposal and why disposal is in the public interest.

(b) Upon approval of the application by the fire chief, the person may proceed with the operation without being in violation of this article, but such approval shall not exempt the applicant from the provisions of any other law, ordinance or regulations.

(c) Approved burning will only be performed under constant supervision of the applicant or his or her agent.

(Code 1988)

7-504. LICENSED DISPOSAL AREAS. The open burning of tree trunks, tree limbs, vegetation, untreated waste timber or other waste material shall not be a violation of this article when such burning takes place at the site of a disposal area licensed for that purpose pursuant to the laws of the county, and located outside of the city limits. (Code 1988)

7-505. EXEMPTIONS. This article shall not apply to:

(a) Fires set in connection with agricultural operations related to the commercial growing or harvesting of crops or for the purpose of clearing brush or trees for agricultural purposes from areas zoned for agriculture.

(b) Fires set for the purpose of instruction and training of city firefighters in the methods of fighting fires.

(c) Fires used for noncommercial preparation of food, such as barbecuing.

(d) Campfires in approved camping areas.

(Code 1988)

CHAPTER VIII. HEALTH AND WELFARE

Article 1.	Health Nuisances
Article 1A.	Environmental Code
Article 2	Weeds
Article 3.	Junked Motor Vehicles on Private Property
Article 4.	Fair Housing
Article 4A.	Minimum Housing Code
Article 5.	Emergency Medical Services
Article 6.	Waste Vehicle Tires
Article 7.	Rodent Control
Article 8.	Insurance Proceeds Fund
Article 9.	Assistance to Other Jurisdictions

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 deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed therefrom;
 - (g) All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;
 - (h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city.
- (K.S.A. 21-4106:4107; Code 1988)
- 8-102. **PUBLIC OFFICER.** The code enforcement officer, or in his or her absence some other designee of the mayor, shall be charged with the administration and enforcement of this ordinance. (Code 2015)
- 8-103. **COMPLAINTS; INQUIRY AND INSPECTION.** The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing

the same and where located or is informed that a nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings. (Code 1988)

8-104. RIGHT OF ENTRY. The public officer has the right of access and entry upon private property at any reasonable time to the extent allowed by law for the purpose of making inquiry and inspection to determine if a nuisance exists. (Code 1988)

8-105. ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-101 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (K.S.A. 12-1617e; Code 2015)

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

(a) He, she or they shall have 10 days from the receipt of the order to abate the condition(s) in violation of section 8-101; provided, however, that the governing body [or its designee named in section 8-105] shall grant one or more extensions of the 10 day period if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions in violation of section 8-101; or,

(b) He, she or they have 10 days from the receipt of the order, plus any additional time granted under subsection (a), to request a hearing before the governing body or its designated representative 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 8-107 and/or abatement of the condition(s) by the city as provided by section 8-108. (Code 2015)

8-107. FAILURE TO COMPLY; PENALTY. Should the person, corporation, partnership or association fail to comply with the order to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of section 8-101, be fined in an amount not

to exceed \$1,000 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 2015)

8-108. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-107, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to 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 officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-110. 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;
- (b) Certified mail, return receipt requested; or
- (c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

- (d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.

(Code 2015)

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 officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the manner provided in section 8-108. (Code 2015)

8-110. **COSTS ASSESSED.** If the city abates or removes the nuisance pursuant to section 8-208, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115 and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Code 2015)

ARTICLE 1A. ENVIRONMENTAL CODE

- 8-1A01. TITLE. This article shall be known as the "Environmental Code." (Code 2015)
- 8-1A02. LEGISLATIVE FINDING OF FACT. The governing body has found that there exist within the city unsightly and hazardous conditions due to: dilapidation, deterioration or disrepair of walls, siding, fences or structure exteriors; accumulations increasing the hazards of accidents or other calamities; structural defects; uncleanness; 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 2015)
- 8-1A03. 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 2015)
- 8-1A04. RULES OF CONSTRUCTION. For the purpose of this article, the following rules of construction shall apply:
- (a) Any part thereof - Whenever the words premises, structure, building or yard are used they shall be construed as though they were followed by the words "or any part thereof."
 - (b) Gender - Words of gender shall be construed to mean neuter, feminine or masculine, as may be applicable.
 - (c) Number - Words of number shall be construed to mean singular or plural, as may be applicable.
 - (d) Tense - Words of tense shall be construed to mean present or future, as may be applicable.
 - (e) Shall - The word shall is mandatory and not permissive.
- (Code 2015)
- 8-1A05. DEFINITIONS. The words and phrases listed below when used in this article shall have the following meanings:
- (a) 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 ordinance; or incapable of moving under its own power; or in a junked or wrecked condition.
 - (b) 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.
 - (c) Commercial or Industrial - used or intended to be used primarily for other than residential purposes.
 - (d) 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.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) Refuse - garbage and trash.

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

(k) 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.

(l) 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.

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

(n) Yard - the area of the premises not occupied by any structure.
(Code 2015)

8-1A06. PUBLIC OFFICER. The mayor shall designate a public officer to be charged with the administration and enforcement of this article.
(Code 2015)

8-1A07. ENFORCEMENT STANDARDS. No person shall be found in violation of this article unless the public officer, after a reasonable inquiry and inspection of the premises, believes that conditions exist of a quality and appearance not commensurate with the character of the neighborhood. Such belief must be supported by evidence of a level of maintenance significantly below that of the rest of the neighborhood. Such evidence shall include conditions declared unlawful under section 8-2A08 but shall not include conditions which are not readily visible from any public place or from any surrounding private property. (Code 2015)

8-1A08. UNLAWFUL ACTS. It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood or the city. For the purpose of fair and efficient enforcement and administration, such unlawful conditions shall be classified as follows:

(a) Exterior conditions (yard) shall include, but not be limited to, the scattering over or the parking, leaving, depositing or accumulation on the yard of any of the following:

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

(2) abandoned motor vehicles; or

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

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

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

(1) exteriors of any structure;

(2) exteriors of any accessory structure; or

(3) fences, walls, or retaining walls.

(Code 2015)

8-1A09.

ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-1A09 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. The order shall state:

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

(2) That the person in violation shall have:

(A) 10 days from the receipt of the order to alleviate the exterior conditions (yard) violation; and/or;

(B) 45 days from the receipt of the order to alleviate the exterior conditions (structure) violation; or in the alternative to subsections (1) and (2) above,

(C) 10 days from the receipt of the order, plus any additional time granted under subsection (c), to request, as provided in section 8-1A12 a hearing before the governing body or its designated representative on the matter; and;

(c) Provided, however, that the governing body [or its designee named herein] shall grant one or more extensions to the time periods stated in subsections (2) and (3), above, if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions which have caused the violation of this article; and,

(d) That failure to alleviate the condition or to request a hearing may result in prosecution under section 8-1A10 and/or abatement of the condition by the city according to section 8-1A11 with the costs assessed against the property under section 8-1A14.

(K.S.A. 12-1617e; Code 2015)

8-1A10. PENALTY. The public officer may file a complaint in the municipal court against any person found to be in violation of section 8-1A08, provided however, that such person shall first have been sent a notice as provided in section 8-1A09 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 8-1A09. Upon such complaint in the municipal court, any person found to be in violation of section 8-1A08 shall upon conviction be punished by a fine of not less than \$50 nor more than \$100, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purposes of this article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. (Code 2015)

8-1A11. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-1A10, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to section 8-1A09 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-1A09, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-1A14.

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

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

- (d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (Code 2015)

8-1A12. HEARING. If a hearing is requested within the 10 day period as provided in section 8-1A09 such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefor, and the person shall be advised by the city of the time and

place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the manner provided in section 8-1A11. (Code 2015)

8-1A13. APPEALS. Any person affected by any determination of the governing body under sections 8-1A11:1A12 may appeal such determination in the manner provided by K.S.A. 60-2101. (Code 2015)

8-1A14. COSTS ASSESSED. If the city abates or removes the nuisance pursuant to section 8-1A11, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Code 2015)

8-1A15. CONSTRUCTION. Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its laws nor to prevent or punish violations thereof. The powers conferred by this article shall be in addition to and supplemental to the powers conferred by the Kansas Constitution, by any other law or by ordinance. (Code 2015)

ARTICLE 2. WEEDS

- 8-201. WEEDS TO BE REMOVED. It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided.
(Ord. 10-8; Code 2015)
- 8-202. DEFINITIONS. Weeds as used herein, means any of the following:
- (a) Brush and woody vines shall be classified as weeds;
 - (b) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
 - (c) Weeds which bear or may bear seeds of a downy or wingy nature.
 - (d) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare;
 - (e) Weeds and grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height. (Ord.10-8; Code 2015)
- 8-203. CODE ENFORCEMENT OFFICER; NOTICE TO REMOVE.
- (a) The Mayor shall designate the code enforcement officer to be charged with the administration and enforcement of this article. The code enforcement officer or authorized assistant shall give written notice to the owner, occupant or agent of such property by certified mail, return receipt requested, or by personal service to cut or destroy weeds; provided, however, that if the property is unoccupied and the owner is a nonresident, such notice shall be sent by certified, return receipt requested, to the last known address of the owner. Such notice shall only be given once per calendar year.
 - (b) The notice to be given hereunder shall state:
 - (1) that the owner, occupant or agent in charge of the property is in violation of the city weed control law;
 - (2) that the owner, occupant or agent in control of the property is ordered to cut or destroy the weeds within 10 days of the receipt of the notice;
 - (3) that the owner, occupant or agent in control of the property may request a hearing before the governing body or its designated representative within five days of the receipt of the notice or, if the owner is unknown or a nonresident, and there is no resident agent, 10 days after notice has been published by the city clerk in the official city newspaper;
 - (4) that if the owner, occupant or agent in control of the property does not cut or destroy the weeds or fails to request a hearing within the allowed time the city or its authorized agent will cut or destroy the weeds and assess the cost of the cutting or destroying the weeds, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property;
 - (5) that the owner, occupant or agent in control of the property will be given an opportunity to pay the assessment, and if it is not paid within 30 days of such notice, it will be added to the property tax as a special assessment;

(6) that no further notice will be given during the current calendar year prior to the removal of weeds from the property; and,

(7) that the code enforcement officer should be contacted if there are questions regarding the order.

(c) If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this subsection, the city may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided notice as required by this ordinance. (Ord. 10-8; Code 2015)

8-204. ABATEMENT; ASSESSMENT OF COSTS. (a) If the owner, occupant or agent in charge of the property has neither alleviated the conditions causing the alleged violation nor requested a hearing within the time periods specified Section 8-203, the code enforcement officer or an authorized assistant shall abate or remove the conditions causing the violation.

(b) If the city abates or removes the nuisance pursuant to this section, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section.

(c) The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (K.S.A. 12-1617f; Ord. 10-8; Code 2015)

8-205. RIGHT OF ENTRY. The code enforcement officer, and the code enforcement 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 ordinance. (Ord. 10-8; Code 2015)

8-206. UNLAWFUL INTERFERENCE. It shall be unlawful for any person to interfere with or to attempt to prevent the code enforcement officer or the code enforcement officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute an ordinance violation. (Ord. 10-8; Code 2015)

8-207. NOXIOUS WEEDS. (a) Nothing in this article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.

(b) For the purpose of this article, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea repens*), hoary cress (*Cardaria draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Ambrosia grayii*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L.), Johnson grass (*Sorghum halepense*) and sericea lespedeza (*Lespedeza cuneata*) (K.S.A. 2-1314; Code 2015)

8-208. **MOWING SERVICE FEE.** The fee for the first instance in a calendar year when mowing service is performed or contracted by the city of Galena to enforce City Code Sections 8-201 through 8-207 at a property location shall be as follows: The city shall assess for such mowing services as described above a fee of the higher of twice the contracted amount for mowing services, or \$50, for each 2500 square feet unit upon any property in which the city causes to be performed mowing in order to enforce City Code Sections 8-201 through 8-207. Any property mowed at a particular address that is 2500 square feet or less shall be billed by the city to the owner at one unit price. Any property with dimensions of more than 2500 square feet and not greater than 5000 square feet shall be billed by the city to the owner for two units. Every mowed additional unit of property in excess of 5000 feet square at a particular address shall be billed by the city at the above unit price. The fee for the second or subsequent instance in a calendar year of mowing at a property location shall be twice the above-stated amount.
(Ord. 10-13; Code 2015)

8-209. **UNIT MEASUREMENT METHOD.** Measurements shall be determined by dimensions recorded in the Cherokee County Appraiser's Office. Structures shall not be excluded in determining the square feet. In the event the square footage of a property, or the structures(s) thereon, is not calculated in the records of Cherokee County, then the city may utilize any resource it may choose, to determine the square footage. The city's determination thereof shall be conclusive. In determining the measurements of a property location, the measurements shall not be combined of property that is separated by a street, alley, railroad, and property in which the owner of the mowed property does not own. (Ord. 10-13; Code 2015)

8-210. **FAILURE TO COMPLY; PENALTY.** Should the person fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a complaint in the municipal court of the city against such person and upon conviction of any violation of provisions of Section 8-201, be fined in an amount not to exceed one thousand \$1,000 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. 13-10; Code 2015)

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) Serves 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 1998)
- 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 1998)
- 8-303. NUISANCES UNLAWFUL; DEFINED; EXCEPTIONS. It shall be unlawful for any person to maintain or permit any motor vehicle nuisance within the city.
- (a) A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable;
 - (1) Absence of a current registration plate upon the vehicle;
 - (2) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;
 - (3) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway.
 - (b) The provisions of this article shall not apply to:
 - (1) Any motor vehicle which is enclosed in a garage or other building;
 - (2) To the parking or storage of a vehicle inoperable for a period of 30 consecutive days or less; or
 - (3) To any person conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this subsection shall be construed to authorize the maintenance of a public nuisance.
- (Code 1998)

- 8-304. PUBLIC OFFICER. The code enforcement officer, or in his or her absence some other designee of the mayor, shall be charged with the administration and enforcement of this ordinance. (Code 2015)
- 8-305. COMPLAINTS; INQUIRY AND INSPECTION. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings. (Code 1998)
- 8-306. RIGHT OF ENTRY. The public officer has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Code 1998)
- 8-307. ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the code enforcement officer to be in violation of section 8-303 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.
- (b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (K.S.A. 12-1617e; Code 2015)
- 8-308. SAME; CONTENTS. The order shall state the condition(s) which is (are) in violation of section 8-303. The order shall also inform the person, corporation, partnership or association that
- (a) He, she or they shall have 10 days from receipt of the order to abate the condition(s) in violation of section 8-303; or
- (b) He, she or they have 10 days from receipt of the order to request a hearing before the governing body or its designated representative of the matter as provided by section 8-312;
- (c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-309 and/or abatement of the condition(s) by the city as provided by section 8-310. (Code 2015)

8-309. **FAILURE TO COMPLY; PENALTY.** Should the person fail to comply with the notice to abate the nuisance or request a hearing, the code enforcement officer may file a complaint in the municipal court of the city against such person and upon conviction of any violation of provisions of section 8-303, be fined in an amount not to exceed \$1,000 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 2015)

8-310. **ABATEMENT.** In addition to, or as an alternative to prosecution as provided in section 8-309, the code enforcement officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been sent pursuant to section 8-307 has neither alleviated the conditions causing the alleged violation or requested a hearing before the governing body within the time period specified in section 8-308, the code enforcement officer may present a resolution to the governing body for adoption authorizing the code enforcement officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution.

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

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

- (d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.

(Code 2015)

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

- (b) Any person attempting to recover a motor vehicle impounded as provided in this article, shall show proof of valid registration and ownership of the motor vehicle before the motor vehicle shall be released. In addition, the person desiring the release of the motor vehicle shall pay all reasonable costs associated with the impoundment of the motor vehicle, including transportation and storage fees, prior to the release of the motor vehicle. (Code 2015)

- 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 code enforcement officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the matter provided in section 8-310. (Code 1998)
- 8-313. **COSTS ASSESSED.** If the city abates or removes the nuisance pursuant to section 8-310, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Code 2015)

ARTICLE 4. FAIR HOUSING

- 8-401. POLICY. It is the policy of the city to provide, within constitutional limitations and the laws of the State of Kansas, fair housing opportunity throughout the city. (Ord. 87-15, Sec. 1; Code 1988)
- 8-402. DEFINITIONS.
- (a) Fair Housing Opportunity - in this context means the absence of discriminatory housing activity and unlawful practice as delineated in sections 8-403:406 of this article.
 - (b) Dwelling - means any building, structure, or portion thereof, which is occupied as, or designed or intended for any occupancy as, a residence by one or more families, and shall by implication include any vacant land offered for sale or lease for the construction or location thereon of any building, structure or portion thereof.
 - (c) Rent - includes any lease, sublease, the letting of property, and any other activity which grants for a consideration the right to occupy premises owned by another. (Ord. 87-15, Sec. 2; Code 1988)
- 8-403. DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING. Except as exempted elsewhere in this article, it shall be unlawful:
- (a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.
 - (b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion or national origin.
 - (c) To make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement, which indicates any preference, limitation, or discrimination based on race, color, religion or national origin in the sale or rental of a dwelling.
 - (d) To represent to any person that any dwelling is not available for inspection, sale, or rental, when, in fact, the dwelling is available because of race, color, religion, or national origin of the person involved.
 - (e) For profit, to induce or attempt to induce any person to sell or rent any dwelling through use of representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion or national origin. (Ord. 87-15, Sec. 3; Code 1988)
- 8-404. DISCRIMINATION IN THE FINANCING OF HOUSING. It shall be unlawful for any lending association, insurance company or other corporation, or association, whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to any person for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against the person in the fixing of the amount, interest rate, duration, or other terms or conditions of the loan or other financial assistance because of the race, color, religion, or national origin of the person or persons associated with him or her. (Ord. 87-15, Sec. 4; Code 1988)

- 8-405. **DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.** It shall be unlawful to deny any person access to, or membership or participation in any multiple-listing service, real estate brokers' organization; or other service organization or facility relating to the business of selling or renting dwellings, or to discriminate against any person in terms of conditions of the access, membership, or participation on account of race, color, religion or national origin.
(Ord. 87-15, Sec. 5; Code 1988)
- 8-406. **INTERFERENCE, COERCION, OR INTIMIDATION.** It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of or on account of his or her having exercised or enjoyed or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by other sections of this article.
(Ord. 87-15, Sec. 6; Code 1998)
- 8-407. **EXEMPTIONS.** (a) Nothing in this article shall prohibit a generally recognized religious organization or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a generally recognized religious organization from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to the persons, unless membership in the religion is restricted on the basis of race, color or national origin. Nor shall anything in this article prohibit a private club, not in fact open to the public, which is incidental to its primary purpose from providing lodgings which it owns or operates for other than a commercial purpose from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members, provided membership in the club is not restricted on account of race, religion or national origin.
 (b) Single-family houses sold or rented by an owner shall be exempt from the conditions of this article, provided that the owner does not own more than three single-family houses at any one time, and provided that the owner does not own any interest in the sale or rental of any additional houses. Provided further, that in the case of the sale of any house by an owner not residing in the house or who was not the most recent resident of the house, the exemption shall apply only to one sale within any 24 month period. Provided, further, that the sale or rental is made without the use of any manner of the facilities of any real estate broker, agent or salesman or any person in the business of selling or renting dwellings.
 (c) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his or her residence. (Ord. 87:15, Sec. 7; Code 1998)
- 8-408. **ADMINISTRATION.** The authority and responsibility for administering this article shall be the governing body of the city or their officially appointed delegate who may be an employee of the city or a board of employees. The governing body shall by rule prescribe the rights of appeal from decisions of the city, as shall employees to other employees or to the elected officials of the city, as shall be appropriate and in accordance with the law. The governing body shall provide the educational and conciliatory activities as will further the purposes of this article, including conferences of persons in the housing industry, with the intent of establishing programs of voluntary compliance and of enforcement.
(Ord. 87-15, Sec. 8; Code 1988)

8-409.

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

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

(c) If, within 30 days after a complaint is filed with the governing body, the governing body has been unable to obtain voluntary compliance with this article, the person aggrieved may, within 30 days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The governing body will assist in this filing.

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

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

(f) Whenever an action filed by an individual shall come to trial, the governing body shall immediately terminate all efforts to obtain voluntary compliance.

(g) Any person who has intimidated any other person from the exercise or enjoyment of his or her rights under section 8- 406, shall be subject to a fine of not more than \$1,000 or imprisoned not more than a year or both.

(Ord. 87-15, Sec. 9; Code 1998)

ARTICLE 4A. MINIMUM HOUSING CODE

- 8-4A01. TITLE. This article shall be known as the "Minimum Standard for Housing and Premises Code," and will be referred to herein as "this code." (Code 2015)
- 8-4A02. GENERAL. Buildings used in whole or in part as a home or residence of a single family or person and every building used in whole or in part as a home or residence of two or more persons or families living in separate apartments and all premises, either residential or non-residential, shall conform to the requirements of this code. (Code 2015)
- 8-4A03. 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 2015)
- 8-4A04. DEFINITIONS. 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 adjoining 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 persons 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 has 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 record owner and notice to any such person shall be deemed and taken to be a good and sufficient notice as if such person or persons were actually the record owner or owner of such property.

(l) Person - shall mean and include any individual, firm, corporation, association or partnership.

(m) Plumbing - shall mean and include all of the following supplied facilities and equipment: gas or fuel pipes, gas or fuel burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes- washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer, gas or fuel lines.

(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 Officer - shall mean the code 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 used or intended to be used for living and sleeping, but not for cooking or 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 on 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 article, they shall be construed as though they were followed by the words "or any part thereof."
(Code 2015)

8-4A05. 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 any accumulation of filth, rubbish, garbage, or any similar matter as covered by sections 8-4A08:4A09.

(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 unit shall be responsible for such extermination whenever his or her dwelling unit is the unit primarily infested.

(e) Notwithstanding, the foregoing provisions of this section, whenever infestation is caused by failure of the owner to maintain a dwelling in a vermin proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner and operator.

(f) Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.
(Code 2015)

8-4A06. 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 resistant wall and if the dwelling and garage are covered by a common or connecting roof, then the ceiling also must have a fire resistance rating of not less than one hour as defined in the building code.

(b) Basement or 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 8-4A06(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 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 area.

(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 no pooling of the water thereon. Properly constructed wading and swimming pools and fish ponds are excepted 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 closets 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 openable directly to the outside air and the total area of such window or windows shall be not less than five percent of the floor area of such room. An approved system of mechanical ventilation or air conditioning may be used in lieu of openable windows. Such system shall be capable of providing not less than four air changes per hour, except that in toilet compartments such system shall provide a complete air change every five minutes and be automatically put in operation when the toilet compartment light is in the "on" position.

(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 reasonably weather-tight, lockable, and rodent-proof and shall be kept in good working condition and good repair.

(Code 2015)

8-4A07. MAINTENANCE AND REPAIR; DWELLINGS. Every dwelling and every part thereof shall be maintained in good repair by the owner or agent and be fit for human habitation. The roof shall be maintained so as not to leak and all rainwater shall be drained therefrom so as not to cause dampness in the walls or ceilings. All floors, stairways, doors, porches, windows, skylights, chimneys, toilets, sinks, walls, and ceilings shall be kept in good repair and usable condition. (Code 2015)

8-4A08. 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 Officer may determine, or five citizens may petition in writing, that any dwelling unit is unfit for human use or habitation if he, she or they find that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such buildings or other residents of the neighborhood, or which shall have a blighting influence on properties in the area.

- (b) 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 officer shall be vacated within a reasonable time as so ordered.
- (d) Notice of Violation. Procedures as outlined in section 8-4A12 are applicable hereto.
- (e) Compliance Required before Re-occupancy. 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 officer.
- (1) The public officer shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.
 - (2) It shall be unlawful for anyone to let, lease, occupy or permit the occupancy, whether for a consideration or not, of any dwelling so posted and any violation of this provision shall constitute a public offense within the meaning of this code.
 - (3) It shall be unlawful for any person to deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except the public officer as herein provided, and any violation of this provision shall constitute a public offense within the meaning of this code.
- (Code 2015)

8-4A09. 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 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 a blight to the adjoining property or the neighborhood or the city for such reasons as, but not limited to:
- (1) Dead trees or other unsightly natural growth.
 - (2) Unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof; vermin infestation, inadequate drainage.

(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 8-4A12 are applicable hereto.

(Code 2015)

8-4A10. DESIGNATION OF BLIGHTED BUILDINGS AND PREMISES (NON-RESIDENTIAL). (a) Certain Blighted Conditions covered in sections 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 Violation. Procedures of notification shall follow those prescribed in section 8-4A12.

(Code 2015)

8-4A11. INSPECTION OF BUILDINGS AND STRUCTURES, AND PREMISES.

(a) For the Purpose of Determining Compliance with the provisions of this code, the public officer or his or her authorized representative is hereby authorized to make inspections to determine the condition, use, and occupancy of dwellings, dwelling units, rooming units, and the premises upon which the same are located. This requirement is applicable to existing dwellings or buildings.

(b) The Public Officer is not limited by the conditions in 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 officer, or his or her authorized representative, during reasonable hours, free access to such dwelling, dwelling unit, and rooming unit, and its premises, for the purpose of such inspection, examination and survey after identification by proper credentials.

(d) Every Occupant of a dwelling shall give the owner thereof, or his or her authorized agent or employee, access to any part of such dwelling, or its premises, at all reasonable times, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this code or with any rule or regulation adopted and promulgated, or any order issued pursuant to the provisions of this code. (Code 2015)

8-4A12. NOTICE OF VIOLATIONS; PROCEDURES. (a) Informal Discussion. Whenever the public officer or his or her authorized representative determines that there has been a violation of any provision of this code, the public officer will arrange with the alleged violator for an informal discussion of violations, and whether repair and correction is justified.

(b) Formal Hearing. If a satisfactory solution to the violations, either by correction, demolition or removal, is not forthcoming, then a legal notice of a formal hearing will be issued according to the following procedures:

(1) Shall be in writing.

(2) Shall list the violations alleged to exist or to have been committed.

(3) Shall provide a reasonable time, but not less than 30 days in any event for the correction of the violations particularized.

(4) Shall be addressed to and served upon the owner of the property, the operator of the dwelling, and the occupant of the dwelling unit or the rooming unit concerned, if the occupant is or may be responsible for violation.

(5) If one or more persons whom the notice is addressed cannot be found or served after diligent effort to do so, service may be made upon such person or persons by posting a notice in a conspicuous place in or about the dwelling affected by the notice, in which event the public officer or his or her authorized representative shall include in the record a statement as to why such posting was necessary.

(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 2015)

8-4A13. PUBLIC OFFICER: AUTHORITY. For the purpose of protecting the city against unsightly or blighted premises, also the health, welfare, and safety of the inhabitants of dwellings or dwelling units, the public officer referred heretofore is hereby authorized, with the consent and prior knowledge of the governing body, to enforce provisions of this code and of other laws which regulate or set standards affecting buildings and premises. (Code 2015)

8-4A14. GOVERNING BODY; AUTHORITY. The governing body is hereby authorized:
(a) To Informally Review all alleged violations as provided in section 8-4A12(a) prior to notification prescribed in section 8-4A12(b).

(b) To Take Action as prescribed in section 8-4A12(b).

(c) To Hear Appeals where there is opposition to any order, requirement, decision or determination by the public officer in enforcement of this code as outlined in section 8-4A18.

(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 2015)

8-4A15. ORDER TO CORRECT AND/OR REPAIR, REMOVE OR DEMOLISH. At the time of the placarding and order to vacate specified by section 8-4A08(c) hereof, the public officer shall also issue and cause to be served upon the owner a notice advising of the option of removal or demolition in lieu of correction and/or repair following the procedures as outlined in section 8-4A12. (Code 2015)

8-4A16. DEMOLITION BY PUBLIC OFFICER; PROCEDURE AND COSTS.

(a) Failure to Comply with the order under section 8-4A15 hereof for the alteration or improvement of such structure, the public officer, with the consent and prior knowledge of the governing body, may cause such condemned structure to be removed or demolished and the premises improved to eliminate the conditions outlined in section 8-4A09 of the code.

(b) The Cost of Demolition by a Public Officer shall be a lien upon the property upon which the cost was incurred and such lien, including as a part thereof an allowance of his or her costs and necessary attorney's fees, may be foreclosed in judicial proceedings in the manner provided or authorized by law for loans secured by liens on real property or shall be assessed as a special assessment upon the lot or parcel of land on which the structure was located and the city clerk

at the time of certifying other city taxes, shall certify the unpaid portion of the aforesaid costs and the county clerk shall extend the same on the tax rolls against the lot or parcel of land.

(c) If the Structure is Removed or Demolished by the Public Officer he or she shall offer for bids and sell the structure or the materials of such structure. The proceeds of such sale shall be credited against the cost of the removal or demolition and, if there is any balance remaining, it shall be paid to the parties entitled thereto after deduction of costs or judicial proceedings, if any, including the necessary attorney's fees incurred therein, as determined by the court, if involved. (Code 2015)

8-4A17. 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 establishes the higher standard.

(b) Conflicts between this article with a provision of any other ordinance or code of the city existing on the effective date of this article which establishes a lower standard, the provisions of this article shall be deemed to prevail and such other laws or codes are hereby declared to be repealed to the extent that they may be found in conflict with this code. (Code 2015)

8-4A18. GOVERNING BODY; APPEALS. (a) Any person, firm, or corporation considering themselves aggrieved by the decision of the public officer and who desires to present a formal protest to the governing body shall in writing, request a hearing before the governing body within 10 days after receiving notice of the decision from the public officer, as provided in section 8-4A12(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 4-612 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 officer's order until such time as the governing body has reached a decision on the matter. (Code 2015)

8-4A19. RIGHT OF PETITION. After exhausting the remedy provided in section 8-4A18, any person aggrieved by an order issued by the public officer and approved by the governing body after a hearing on the matter, may within 30 days from the date which the order became final petition the district court of the county in which the property is located to restrain the public officer from carrying out the provisions of the order. (Code 2015)

ARTICLE 5. EMERGENCY MEDICAL SERVICE

- 8-501. EMERGENCY MEDICAL SERVICE ESTABLISHED. The governing body of the city is hereby authorized, when it deems that an emergency exists and that in order to properly protect or insure the health of the city and the public, to establish an emergency medical service pursuant to and in accordance with K.S.A. 65-4302 and to enter into a contract with any person or governmental entity for the purpose of furnishing emergency medical service within the boundaries of the city.
(Ord. 1049, Sec. 1:2; Code 1988)

ARTICLE 6. WASTE VEHICLE TIRES

8-601.

DEFINITIONS.

- (a) Abatement - means the processing or removing to an approved storage site of waste tires which are creating a danger or nuisance.
- (b) Beneficial Use - means the use or storage of waste tires in a way that creates an on-site economic benefit, other than from processing or recycling, to the owner of the tires.
- (c) Landfill - means a disposal site in which the method of disposing of solid waste is by landfill, dump or pit and which has a solid waste disposal area permit issued under K.S.A. 65-3401 et seq., and amendments thereto.
- (d) Person means any individual, association, partnership, limited partnership, corporation or other entity.
- (e) Secretary - means the Kansas Secretary of Health and Environment.
- (f) Store or Storage - means the placing of waste tires in a manner that does not constitute disposal of the waste tires. Storage includes the beneficial use of waste tires as fences, silo covers and erosion control, in such other beneficial uses as the secretary determines do not create health or environmental risks.
- (g) Tire - means a continuous solid or pneumatic rubber covering encircling the wheel of a vehicle.
- (h) Tire Retailer - means a person in the business of selling new or used replacement tires at retail.
- (i) Vehicle - has the meaning provided by K.S.A. 8-1485 and amendments thereto.
- (j) Waste Tire - means a whole tire that is no longer suitable for its original intended purpose because of wear, damage or defect.
- (k) Waste Tire Collection Center - means a site where used or waste tires are collected from the public prior to being offered for recycling and where fewer than 1,000 tires are kept on the site on any given day.
- (l) Waste Tire Processing Facility - means a site where equipment is used to cut, burn or otherwise alter whole waste tires so that they are no longer whole.
- (m) Waste Tire Site - means a site at which 100 or more whole tires are accumulated.
- (n) Dispose - means to deposit, dump, spill or place any waste tire on any land or into any water.
- (o) Financial Assurance - means a performance bond, letter of credit, cash deposit, insurance policy or other instrument for the purpose of guaranteeing a required regulatory action that must be performed by the permittee.
- (p) Recycle or Recycling - means any process by which solid waste materials are transformed into new products in such a manner that the original products lose their identity.
- (q) Retreaded - means a person engaged in the business of recapping fire casings to produce recapped tires for sale to the public.
- (r) Rick - means stacking tires securely by overlapping so that the center of a tire is offset from the center of the tire below it.
- (s) Tire Collection - means a person who transports waste tires to a permitted tire collection center, processing facility or permitted solid waste disposal facility for the purpose of storage, processing or disposal of waste tires. The term tire collector does not include the following:
 - (1) Solid waste collectors collecting mixed residential solid waste and who transport fewer than five tires at a time from any location; and

- (2) Persons who transport fewer than five tires for disposal.
- (t) Tire Monofill - means a permitted solid waste landfill or landfill cell in which only processed waste tires are placed.
- (u) Tire Processor - means a person engaged in the processing of waste tires.
- (v) Tire Derived Products - means tire chips or other usable materials produced from the physical processing of a waste tire.
- (w) Truck Tire - means a tire with a rim diameter of 18 inches or more.
- (x) Waste Tires Generated in Kansas - means those tires which first become a waste tire in Kansas. A tire casing imported into Kansas for potential recapping, but which proves unusable for that purpose, is a waste tire generated in Kansas. Other examples of waste tires generated in Kansas include but are not limited to:
 - (1) Tire accepted by a Kansas tire retailer at the time of exchange for new replacement; and
 - (2) Tires removed from a junked motor vehicle at a wrecking yard in Kansas. (Ord. 92-15, Sec. 1; Code 1998)

- 8-602. DISPOSAL; PROHIBITIONS. (a) Maintain a waste tire site unless:
- (1) Such site is an integral part of the person's waste tire processing facility; or,
 - (2) The tires accumulated at such site are for use in the person's tire retreading business.
- (b) Dispose of waste tires in the state unless, the waste tires are disposed of for processing, or collected for processing, at a solid waste processing facility, a waste tire site which is an integral part of a waste tire processing facility, a waste tire processing facility or a waste tire collection center or are made available to:
- (1) The department of wildlife and parks for use by the department; or,
 - (2) A person engaged in a farming or ranching activity, including the operation of a feedlot as defined by K.S.A. 47-1501, and amendments thereto, as long as the accumulation has a beneficial use to the person accumulating the tires and
 - (A) the secretary determines that the use has no adverse environmental effects and
 - (B) the accumulation is in accordance with all applicable zoning regulations.
- (c) Deposit waste tires in a landfill as a method of ultimate disposal, except that the secretary, by rules and regulations, may:
- (1) Authorize the final disposal of waste tires at a permitted solid waste disposal facility provided the tires have been cut into sufficiently small parts to assure their proper disposal or are utilized as part of a proven and approved leachate collection system in their original state; and
 - (2) Allow waste tire material which has been cut into sufficiently small parts to be used as daily cover material for a landfill.
- (Ord. 92-15, Sec. 2; Code 1998)

- 8-603. WASTE TIRE PROCESSING FACILITY; REGULATIONS, EXEMPTIONS
- (a) No person shall:
 - (1) Own or operate a waste tire processing facility or waste tire collection center or act as a waste tire collector unless such person holds a valid permit issued therefore by the secretary;

(2) Own or operate a waste tire processing facility or waste tire collection center or act as a waste tire collector except in compliance with the standards established by the secretary.

(b) The provisions of subsection (a) above shall not apply to:

(1) A tire retreading business where fewer than 1,000 waste tires are kept on the business premises;

(2) A business that, in the ordinary course of business, removes tires from motor vehicles if fewer than 1,000 of these tires are kept on the business premises;

(3) A retail tire-selling business which is serving as a waste tire collection center if fewer than 1,000 waste tires are kept on the business premises;

(4) The department of wildlife and parks;

(5) A person engaged in farming or ranching activity, including the operation of a feedlot as defined by K.S.A. 47-1501, and amendments thereto, as long as the accumulation has a beneficial use.

(Ord. 92-15, Sec. 3; Code 1998)

8-604. WASTE TIRE PROCESSING FACILITY; OUTDOOR STORAGE STANDARDS. If waste tires are stored, collected or held outdoors, the following standards shall be observed:

(a) All requirements of K.A.R. 28-29-31 (b)(1), as amended from time to time.

(b) No waste tire pile shall be more than 50 feet wide or six feet tall, and no waste tire pile shall occupy more than 5,000 square feet.

(c) Each waste tire pile shall be ricked if the tires are held or to be held more than one month.

(d) Each waste tire pile shall be completely surrounded by at least 50 feet of clear space.

(e) Each waste tire pile shall be located at least 100 feet from the nearest real property not owned or controlled by the person owning or controlling the waste tire pile, and all vegetation within 100 feet of a waste tire pile shall be maintained at a maximum height of four inches.

(f) No building shall be located within 60 feet of a waste tire pile.

(Ord. 92-15, Sec. 4; Code 1998)

8-605. TRANSPORTING WASTE TIRES. Any person who transports waste tires and who qualifies as a waste tire collector, i.e., transports five or more tires at one time, must:

(a) Display on the vehicle a current permit issued by the Kansas Department of Health and Environment; and,

(b) Keep and maintain records for three years showing the number of tires collected, where and from whom the tires were collected, and where the tires were deposited. (Ord. 92-15, Sec. 5; Code 1998)

8-606. VIOLATIONS AND PENALTIES.

(a) Any person who violates any portion of this action shall be subject to a fine of not less than \$10 nor more than \$200 for each violation.

(b) Each day that a violation continues shall be deemed a separate violation.

(Ord. 92-15, Sec. 6; Code 1998)

ARTICLE 7. RODENT CONTROL

- 8-701. **DEFINITIONS.** For the purposes of this article, the following words and phrases shall have the following meanings:
- (a) Building. - Any structure, whether public or private, that is adapted for occupancy as a residence, the transaction of business, the rendering of professional services, amusement, the display, sale or storage of goods, wares or merchandise or the performance of work or labor, including office buildings, public buildings, stores, theaters, markets, restaurants, workshops and all other houses, sheds and other structures on the premises used for business purposes.
- (b) Occupant. - The person that has the use of, controls or occupies any business building or any portion thereof, whether owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, the owner, agent or other person having custody of the building shall have the responsibilities of an occupant of a building.
- (c) Owner. - The owner of any building or structure, whether individual, firm, partnership or corporation.
- (d) Rat harborage. - Any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside a structure of any kind.
- (e) Rat-stoppage. - A form of rat-proofing to prevent the ingress of rats into buildings from the exterior or from one building to another, consisting essentially of the closing of all openings in the exterior walls, ground or first floors, basements, roofs and foundations, that may be reached by rats from the ground by climbing or by burrowing, with material or equipment impervious to rat-gnawing.
(Code 2015)
- 8-702. **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 2015)
- 8-703. **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 2015)
- 8-704. **FAILURE TO COMPLY.** If the owner fails to comply with such written notice or extension, then the governing body is authorized to take such action as may be necessary to completely rat-stop the building or structure at the expense of the owner, and the city clerk shall submit bills for the expense thereof to the owner of the building or structure. If the bills are not paid within 60 days, the city clerk shall certify the amount due to the city treasurer and the charge shall be a lien against the property where the work has been done, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for rat-stoppage. (Code 2015)

- 8-705. **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 2015)
- 8-706. **NOTICE TO ERADICATE RATS.** Whenever the governing body notifies in writing the owner of any building or structure theretofore rat-stopped as hereinabove defined, that there is evidence of rat infestation of the building or structure, the owner shall immediately institute appropriate measures for freeing the premises so occupied of all rats. Unless suitable measures for freeing the building or structure of rats are instituted within five days after the receipt of notice, and unless continually maintained in a satisfactory manner, the city is hereby authorized to free the building or structure of rats at the expense of the owner thereof and the city clerk shall submit bills for the expense thereof to the owner of the building or structure and if the same are not paid, the city clerk shall certify the amount due from the owner to the city treasurer, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for the eradication measures. (Code 2015)
- 8-707. **CONDITIONS CONDUCIVE TO HARBORAGE OF RATS.** (a) All food and feed kept within the city for feeding animals shall be kept and stored in rat-free and rat-proof containers, compartments, or rooms unless kept in a rat-stopped building.
 (b) It shall be unlawful for any person to place, leave, dump or permit to accumulate any garbage or trash in any building or premises so that the same shall afford food and harborage for rats.
 (c) It shall be unlawful for any person to accumulate or to permit the accumulation on any premises or on any open lot any lumber, boxes, barrels, bricks, stone or similar materials that may be permitted to remain thereon and which are rat harborages, unless the same shall be placed on open racks that are elevated not less than 12 inches above the ground, evenly piled or stacked.
 (d) Whenever conditions inside or under any building or structure provide such extensive harborage for rats that the health department deems it necessary to eliminate such harborage, he or she may require the owner to install suitable cement floors in basements or to replace wooden first or ground floors or require the owner to correct such other interior rat harborage as may be necessary in order to facilitate the eradication of rats in a reasonable time and thereby to reduce the cost of such eradication. (Code 2015)
- 8-708. **INSPECTIONS.** The code enforcement 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 2015)

ARTICLE 8. INSURANCE PROCEEDS FUND

- 8-801. SCOPE AND APPLICATION. The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this article. (Code 1998)
- 8-802. LIEN CREATED. The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss. (Code 1998)
- 8-803. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 8-802, the insurer or insurers shall contact the county treasurer, Cherokee County, Kansas, to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the county treasurer, Cherokee County, Kansas. (Code 1998)
- 8-804. SAME; PRO RATA BASIS. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure. (Code 1998)
- 8-805. PROCEDURE. (a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75 percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the city treasurer in an amount equal to the sum of 15 percent of the covered claim payment, unless the chief building inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.
- (b) Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.

(c) Upon the transfer of the funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the named insured or insureds, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the chief building inspector shall contact the named insured or insureds by certified mail, return receipt requested, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this article.
(Code 1998)

8-806. FUND CREATED; DEPOSIT OF MONEYS. The city treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this article shall be placed in said fund and deposited in an interest-bearing account. (Code 1998)

8-807. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.

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

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

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

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

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

8-808. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the chief building inspector has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured. (Code 1998)

8-809. SAME; DISPOSITION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged by fire, explosion, or windstorm, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of section 8-805(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the

insurance proceeds, the chief building inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under section 8-805(a), the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred. (Code 1998)

8-810. EFFECT UPON INSURANCE POLICIES. This article shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy. (Code 1998)

8-811. INSURERS; LIABILITY. Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this article, or releasing or disclosing any information pursuant to this article. (Code 1998)

ARTICLE 9. ASSISTANCE TO OTHER JURISDICTIONS

- 8-901. ASSISTANCE PROVIDED. In the event of a disaster when there is a request for assistance, if the city can provide assistance without unduly jeopardizing the protection of its own community, that this article hereby authorizes the city mayor or his or her designee to provide such assistance as may be required under authority granted in Chapter 75 of the 1994 Session Laws of Kansas, with all the privileges and immunities provided therein.
(Ord. 95-9, Sec. 1; Code 1998)
- 8-902. SAME. Nothing in this article is intended to conflict or circumvent any existing interlocal agreement, any automatic aid, intergovernmental or mutual aid agreement, or any authority to enter into those in the future.
(Ord. 95-9, Sec. 2; Code 1998)
- 8-903. SAME. It is the intent of this article to provide assistance in any form of service including, but not limited to, police, fire, emergency management services, public works, administrative and clerical during times of disaster as defined in Chapter 75 of the 1994 Session Laws of Kansas, with all the privileges and immunities described therein.
(Ord. 95-9, Sec. 3; Code 1998)

CHAPTER IX. MUNICIPAL COURT

Article 1. General Provisions

ARTICLE 1. GENERAL PROVISIONS

- 9-101. MUNICIPAL COURT ESTABLISHED. There is hereby established a municipal court for the City of Galena, Kansas. The municipal court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city. (Code 1988)
- 9-102. SAME; PRACTICE AND PROCEDURE. The Kansas code of procedure for municipal courts, as set forth in K.S.A. 12-4101 *et seq.* and all acts amendatory or supplemental thereto shall govern the practice and procedure in all cases in the municipal court. (Code 1988)
- 9-103. COURT DATE. The municipal judge shall designate the official court date for the month for the processing of all criminal cases pending before the municipal court. The court is given the authority to conduct special sessions in the event that an emergency exists and the administration of justice would be best served. (Ord. 90-7; Sec. 1:2; Code 1988)
- 9-104. MUNICIPAL JUDGE; APPOINTMENT. The municipal court shall be presided over by a municipal judge. The mayor, subject to the approval of the city council, shall appoint the judge of the municipal court. (Code 2015)
- 9-105. SAME; ABSENCE; VACANCY; PRO TEM. In the event the municipal judge is temporarily unable to preside due to absence, illness or disqualification, the municipal judge shall designate an attorney or other qualified person to act as judge pro tempore. In the event the municipal judge fails to appoint a judge pro tempore, the judge pro tempore shall be appointed in the same manner as the municipal judge is selected. The judge pro tempore shall receive compensation as shall be provided by ordinance, payable in the same manner as the compensation of the regular municipal judge.
In the event a vacancy shall occur in the office of municipal judge, a successor shall be appointed to fill the unexpired term in the same manner as the municipal judge was appointed.
(K.S.A. 12-4107; Ord. 947, Code 1988)
- 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 1988)
- 9-107. SAME; SALARY. The municipal judge shall receive a salary as shall be fixed by the governing body. (Code 1988)

- 9-108. **COURT CLERK.** There is hereby established the office of the clerk of the municipal court of the City of Galena, Kansas, which office shall be filled by appointment by the municipal judge of the municipal court. The duties of the office shall be those prescribed by the Code for Municipal Courts set forth in Chapter 12, Article 41 of the Kansas Statutes, and shall include the following duties:
- (a) The clerk shall issue all process of the court, administer oaths, file and preserve all papers, docket cases and set same for trial and shall perform such further acts as may be necessary to carry out the duties and responsibilities of the court. The clerk shall receive, account for and pay to the city treasurer monthly all fines and forfeited bonds paid into the court. The clerk shall make reports to the judicial administrator and furnish the information when requested by him, her or a departmental justice on such forms furnished by the judicial administrator, and approved by the Supreme Court.
 - (b) The clerk of the municipal court shall within 10 days after selection and before entering upon the duties of office, execute to the city such bond as the governing body may require, which shall be approved by the governing body, and file in the office of the city clerk, conditioned for the faithful performance of the duties required of him or her by law, and for the faithful application and payment of all moneys that may come into his or her hands in the execution of the duties of the office. The city shall pay the cost of such bond.
 - (c) The monthly salary of the clerk shall be fixed by the governing body.
 - (d) A majority of all members of the council may remove the clerk appointed under the authority of this article, or for good cause the mayor may temporarily suspend any such appointed clerk.
- (K.S.A. 12-4108; Ord. 87-1; Code 1988)
- 9-109. **INDIGENT COUNSEL.** Indigent defendants charged with violation of any city ordinance that could result in a jail sentence shall be appointed counsel by the court. Any counsel so appointed shall be assigned at the discretion of the municipal judge. The position shall receive compensation as shall be fixed by local court rule. (Code 2015)
- 9-110. **WITNESS FEES.** There is hereby established a Witness Fees Fund for the city. All regular police officers, members of the auxiliary police force, and any other witnesses, shall receive witness fees in an amount to be determined by the court, pursuant to Kansas statute for appearing to testify at a hearing by the city municipal court concerning any alleged ordinance violation; provided, that no witness fees shall be allowed if a witness is on duty as a regular officer or assigned to special duty at the time of hearing. (Code 2015)
- 9-111. **ASSESSMENT CONCERNING DRIVING UNDER THE INFLUENCE FOR PURCHASE OF PROSECUTION EQUIPMENT AND LAW ENFORCEMENT EQUIPMENT.**
- (a) When a complaint is charged in the municipal court of Galena, Kansas, charging Driving While Under the Influence of Alcohol or Drugs that results in the defendant entering a guilty plea, no contest plea, or a diversion agreement thereto, or, in which there is a forfeiture of the defendant's bond, there shall be assessed an additional fee of \$100.00.
 - (b) Such fee may be waived by the prosecutor in diversion agreements and by the court for convictions, if the defendant is found to be indigent.

(c) The monies collected under the provisions of this section shall be distributed to the Galena Police D.U.I. Assessment Fund and the Galena Municipal Prosecutor D.U.I. Assessment Fund for purchase or equipment that will help assist in the prevention and prosecution of alcohol and drug related crimes or for training to assist in the prevention or prosecution of alcohol and drug related crimes. Such equipment shall include, but not be limited to, in-car video cameras, radar and laser speed detection devices and blood or breath alcohol concentration equipment.

(d) 75% of the fees collected under this section shall be placed in the Galena Police D.U.I. Assessment Fund and 25% of the fees collected under this section shall be placed in the Prosecutor D.U.I. Assessment Fund.

(Ord. 00-11; Code 2015)

9-112. COURT COSTS. (a) That court costs shall be assessed against the accused person in all cases in the city of Galena, Kansas, Municipal Court, where the accused person is convicted or enters into a diversion agreement with the city of Galena. The municipal court costs established herein shall not apply to parking violations.

(b) The court costs of the Municipal Court of the City of Galena, Kansas shall be assessed as follows: \$100 for a traffic infraction or traffic misdemeanor case and \$162 for a misdemeanor case that is not a traffic infraction or traffic misdemeanor case.

(c) The court costs paid to the city shall be allocated as follows:

(1) to the General Fund of the City of Galena, Kansas for the administration of justice in the amount of \$73.50 for a traffic infraction or traffic misdemeanor case and \$135.50 for each misdemeanor case that is not a traffic infraction or traffic misdemeanor case;

(2) to the Local Law Enforcement Training Reimbursement Fund established pursuant to K.S.A. 74-5620, and amendments thereto, the sum \$1;

(3) to the Law Enforcement Training Center Fund established pursuant to K.S.A. 74-5619, and amendments thereto, the sum of \$11.50;

(4) to the Juvenile Detention Facilities Fund established pursuant to K.S.A. 79-4803, and amendments thereto, to be expended for operational costs of facilities for the detention of juveniles, the sum of \$2;

(5) to the Protection From Abuse fund established pursuant to K.S.A. 74-7325, and amendments thereto, the sum of \$0.50;

(6) to the Crime Victims Assistance Fund established pursuant to K.S.A. 74-7334, and amendments thereto, the sum of \$.50;

(7) to the Trauma Fund established pursuant to K.S.A. 75-5670, and amendments thereto, the sum of \$1;

(8) to the Kansas Commission on Peace Officers' Standards and training fund established by K.S.A. 74-5619, and amendments thereto, the sum of \$2.50;

(9) to the Department of Corrections Forensic Psychologist Fund established pursuant to K.S.A. 75-52,151, and amendments thereto, the sum of \$1;

(10) to the Training, Testing and Continuing Judicial Education of Municipal Judges as provided in K.S.A. 12-4114 and K.S.A. 12-4116 and K.S.A. 20-1a11 and amendments thereto, the sum of \$0.50, such payment is sent directly from the court clerk to the state of Kansas;

(11) to the Galena City Attorney Equipment, Training and Continuing Legal Education Fund which is hereby established to defer the costs of continuing

legal education and equipment which shall be administered by the City Clerk of the City of Galena, Kansas, the sum of \$1; and,

(12) to the City of Galena Local Law Enforcement Training Fund the sum of \$5.

For the purpose of determining the amount to be assessed according to this Section 9-112 of this Code, if more than one complaint is filed in the municipal court against one individual arising out of the same incident, all such complaints shall be considered as one case. (Ord. 13-7; Code 2015)

9-113. SAME; MONEYS COLLECTED; REMITTANCE. (a) The judge or clerk of the municipal court shall remit the appropriate assessments received in subsections (c)(2) through (c)(10) of Section 9-112 and above to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto.

(b) All other money collected by the court not specifically designated to a fund pursuant to Section 9-112 herein, shall be distributed as follows by the court:

(1) to the Kansas Bureau of Investigation, any laboratory fee received; and,

(2) all other money shall be paid to the city clerk for credit to the general fund (C.O. No. 2000-14; Ord. 13-7, Code 2015)

9-114. 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 2015)

9-115. SAME; FAILURE TO PAY SEPARATE VIOLATION. It shall be unlawful for any person to willfully fail to pay any lawfully imposed fine for a violation of any law of the city within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the fine is due. Such conduct constitutes a violation of this article, regardless of the full payment of the fine after such time. (Code 2015)

9-116. FAILURE TO APPEAR. Shall be punishable by contempt proceedings. (Code 2015)

CHAPTER X. POLICE

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

ARTICLE 1. POLICE DEPARTMENT

- 10-101. **POLICE DEPARTMENT.** The police department shall consist of a chief of police, assistant chief of police, regular and part-time law enforcement officers, dispatchers, auxiliary police, and such other members as shall be deemed necessary. (Code 1998)
- 10-102. **LAW ENFORCEMENT PERSONNEL; GENERAL DUTIES.** It shall be the general duty of the chief of police and all sworn law enforcement personnel to the best of their ability to preserve good order, peace and quiet throughout the city as provided by law or ordinance.
- The chief of police and all sworn law enforcement personnel shall at all times have power to make arrest under proper process or without process on view of any offense against the laws of the State of Kansas or laws of the city and to keep all persons so arrested, unless admitted to bail, in the city jail, county jail or other proper place to prevent their escape until their trial can be had before the proper officer.
- All persons arrested for violation of any law of the state and who shall not be charged with an offense under any law of the city shall be released to the custody of the sheriff of the county and such arrest shall be reported to the county attorney. (Code 2015)
- 10-103. **RULES AND REGULATIONS.** The chief of police shall have power to make such rules and regulations as may be necessary for the proper and efficient conduct of the department. Such rules and regulations shall be approved by the governing body. (Code 2015)
- 10-104. **PRIVATE, UNMARKED VEHICLES; PLAIN CLOTHES.** (a) The chief of police and other police officers shall at all times have power to use a private and unmarked vehicle for police business in an emergency, or when off-duty while in sight of a violation of the law, and to apprehend and make arrests therefore. Provided, however, that any such car so used shall be equipped with proper lights and a siren, and such officer shall be properly armed.
- (b) The chief of police and all members of the police force are hereby authorized to perform their duties in plain clothes if and when it is for the best interest and welfare of the citizens of the city, and for proper law enforcement. (Ord. 867, Sec. 1:2; Ord. 94-16, Sec. 4; Code 1998)
- 10-105. **EQUIPPING AND USE OF VEHICLES.** (a) Police officers may equip their private, unmarked cars with emergency equipment such as lights, sirens, and radios at their own expense but the city shall have no liability to pay any part of the cost of the equipment or the cost of insuring the vehicle and its equipment or the

cost of liability insurance for the vehicle and its driver. Further there is no obligation on the part of any police officer to equip his or her private vehicle with emergency equipment.

(b) In the event any police officer, whether full-time, part-time, or auxiliary, equips his or her private vehicle with emergency equipment, he or she must previously have passed a course in emergency vehicle operation, the course being approved by the chief of police, and he or she must file with the police department a copy of his or her emergency vehicle insurance in a form and in amounts approved by the chief of police and the governing body.

(c) No police officer may make a traffic stop in his or her private vehicle, even if the vehicle is equipped with emergency equipment.

(d) No police officer shall exceed the posted speed limits when driving a private vehicle, even if it is equipped with emergency equipment, and no police officer shall exceed the posted speed limits by more than 15 miles per hour when driving a city vehicle equipped with emergency equipment.

(Ord. 94-16, Sec. 5:8; Code 1998)

10-106. ASSISTANT CHIEF OF POLICE. There is hereby created the position of assistant chief of police.

(a) The position shall be under the supervision of the chief of police and shall be that of a hired employee.

(b) The duties shall include any tasks deemed necessary by the chief of police.

(c) The pay of the assistant police chief will be established by the governing body. The holder of this position shall be entitled to all other benefits available to full-time employees.

(Ord. 91-6, Sec. 1:4; Ord. 95-7, Sec. 2; Code 1998)

10-107. PART-TIME POLICE OFFICER. (a) The position of part-time police officer is hereby created.

(b) Part-time police officers shall not be full-time employees of the city, shall not be entitled to any of the benefits of full-time employment, shall not work over 1,000 hours during any 12 consecutive months, shall only work when necessary, shall be appointed by the mayor, after consultation with the police chief and police committee, and shall be compensated at an hourly rate established by the governing body.

(Ord. 94-16; Code 2015)

10-108. CHAIN OF COMMAND. The police department is under the control and direction of the chief of police. In the absence of the chief of police, the next position in the chain of command will assume control and direction of the police department. The chain of command is chief of police, assistant chief of police, lieutenant, and sergeant. In the event any of the positions in the chain of command do not exist or have no one currently appointed to the position, they will be disregarded for purposes of following the chain of command.

(Ord. 94-16, Sec. 3; Code 1998)

ARTICLE 2. AUXILIARY POLICE

- 10-201. **CREATED.** An auxiliary police force of not more than eighteen (18) persons is hereby established for the city for the better and more efficient police protection of the city. (Ord. 87-2, Sec. 1; Code 1988)
- 10-202. **QUALIFICATIONS.** The members of the auxiliary police force shall be residents of a 10 mile radius of the city shall be appointed by the mayor, after consultation with the police chief and police committee, and shall be compensated at an hourly rate established by the governing body. Auxiliary police shall hold their office for a term of one year or until their successors are appointed and qualified. No person shall be eligible to serve as a member of the auxiliary police force unless he or she shall have attained the age of 21 years at the time of his or her appointment and confirmation and have a high school diploma or equivalent. No member of the city council shall be eligible to so serve.
(Ord. 87-2, Sec. 2; Code 1988)
- 10-203. **CONTROL.** The auxiliary police force shall be under the general supervision of the mayor and chief of police and shall not draw any compensation for their services except for such time as they shall be on duty as a regular officer or assigned to a special duty, in which case their compensation shall be equivalent to the patrolman they replace. (Ord. 87-2, Sec. 3; Code 1988)
- 10-204. **AUTHORITY.** The members of the auxiliary police force shall have no greater authority to make arrests than the ordinary citizen, except when they shall be serving as a regular or special officer under the orders and direction of the mayor or chief of police or their delegate. (Ord. 87-2, Sec. 4; Code 1988)
- 10-205. **VOLUNTEER STATUS.** The officers of the Galena auxiliary police shall serve strictly as volunteers without pay, and the officers shall not be compensated in any manner at any time for their duties as auxiliary police officers.
(Ord. 94-10, Sec. 1; Code 1998)

ARTICLE 3. PROPERTY IN POLICE CUSTODY

- 10-301. **REGULATIONS.** The police department is required to establish regulations detailing the collection, storage, and inventory of property which may come under its control by any manner. (Code 1988)
- 10-302. **DISPOSITION.** Any property which has been acquired or turned over to the police department and has been classified in accordance with procedures existing in the police department as unclaimed or for which the proper owner cannot be ascertained shall be kept for a minimum of 90 days. After a period of 90 days, such property, except as provided in section 10-303, shall be sold at public auction to the highest bidder and the proceeds after expenses shall be paid to the city general fund. (Ord. 83-17; Code 1988)
- 10-303. **SAME; EXEMPT PROPERTY.** The following classes of property shall be considered exceptions to section 10-302 and shall be dealt with in the following manner:
- (a) Cash money shall be turned over to the city general fund unless it shall be determined to have collector's value, in which case it shall be auctioned according to the provisions in section 10-302.
 - (b) Except as provided in subsections (c) and (d), any weapon or ammunition, in the discretion of the court having jurisdiction of the property, shall be:
 - (1) Forfeited to the law enforcement agency seizing the weapon for use within such agency, for sale to a properly licensed federal firearms dealer, for trading to a properly licensed federal firearms dealer, for trading to a properly licensed federal firearms dealer for other new or used firearms or accessories for use within such agency or for trading to another law enforcement agency for that agency's use;
 - (2) Forfeited to the Kansas bureau of investigation for law enforcement, testing or comparison by the Kansas bureau of investigation forensic laboratory;
 - (3) Forfeited to a county regional forensic science center, or other county forensic laboratory for testing, comparison or other forensic science purposes; or
 - (4) Forfeited to the Kansas department of wildlife, parks and tourism for use pursuant to the conditions set forth in K.S.A. 32-1047, and amendments thereto.
 - (c) Except as provided in subsection (d), any weapon which cannot be forfeited pursuant to subsection (b) due to the condition of the weapon, shall be destroyed.
 - (d) If a weapon is seized from an individual and the individual is not convicted of the violation for which the weapon was seized, then within 30 days after the declination or conclusion of prosecution the case against the individual, including any period of appeal, the law enforcement agency that seized the weapon shall verify that the weapon is not stolen, and upon such verification shall notify the person from whom it was seized that the weapon may be retrieved. Such notification shall include the location where such weapon may be retrieved.
 - (e) If weapons are sold as authorized by subsection (b), the proceeds of the sale shall be credited to the asset seizure and forfeiture fund of the seizing agency.

(f) For purposes of subsections (b), (c), and (d), the term "weapon" means any:

(1) bludgeon, sand club, metal knuckle, or throwing star;
(2) dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged razor, stiletto, or any other dangerous or deadly weapon or instrument of like character;

(3) spring gun; or
(4) firearm.

(g) Homemade weapons or weapons of a contraband nature shall be destroyed.

(h) Any items determined to be contraband such as explosives, narcotics, etc., shall be destroyed.

(i) Items of a pharmaceutical nature, which, while not contraband when properly dispensed, or which are of an over-the-counter-variety, shall be destroyed.

(j) Foodstuffs, if sealed and undamaged may be turned over to any appropriate social service agency or destroyed, but shall not be auctioned.

(k) Alcohol products such as beer, wine, whiskey, etc., shall be destroyed.

(l) Items with a value in excess of \$500 may be sold after advertising said item in a general circulation newspaper on at least two occasions. Such sales shall be by closed bid.

(Code 2015)

10-304. CLAIMING PROPERTY. The police department shall be required to make reasonable attempts to locate the owner of any property in storage. However, the responsibility for claiming and identifying any such property shall rest solely with the owner. (Code 1988)

10-305. PROOF OF OWNERSHIP. Claimants to any property in police storage shall be required to present reasonable proof of ownership and no property shall be released unless such reasonable proof is presented. (Code 1988)

10-306. MOTOR VEHICLE IMPOUNDMENT FEE. Whenever the Galena Police Department shall come into the possession of a motor vehicle or other similar property, and shall cause the same to be placed in the city impoundment lot, a storage fee of \$10 per day shall be charged the owner thereof for every day the vehicle remains in the impoundment lot. (Ord. 02-03A, Code 2015)

10-307. AUCTION. At such time as it has been determined that an auction is necessary to dispose of unclaimed property, an inventory listing all property to be disposed of shall be prepared and kept on file in the police department. Notice of an auction shall be published at least twice in a general circulation newspaper prior to the date of the auction. The notice shall specify the date, time and place of the auction and shall also notify prospective buyers or potential claimants that a list of items to be auctioned is available at the police department and any claims on property must be made prior to the start of the auction.
(Ord. 83-17, Sec.2; Code 1988)

CHAPTER XI. PUBLIC OFFENSES

Article 1. Uniform Offense Code

Article 2. Local Regulations

Article 3. Sale of Methamphetamine Precursors

ARTICLE 1. UNIFORM OFFENSE CODE

11-101. INCORPORATING UNIFORM PUBLIC OFFENSE CODE. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Galena, Kansas, that certain code known as the "Uniform Public Offense Code," Edition of 2014, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. One copy of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Galena, 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 2015)

11-102. SAME; AMENDMENT. The definition of "vessel" as found in "Section 1.1 Definitions" is hereby amended from that definition thereof found in the aforesaid "Uniform Public Offense Code, Edition of 2014," to "Vessel - Any watercraft designed to be propelled by machinery for navigation on the water."

(Code 2015)

ARTICLE 2. LOCAL REGULATIONS

11-201. POSSESSION OF MARIJUANA. Except as authorized by the uniform controlled substances act of the Kansas Statutes Annotated, it shall be unlawful for any person to possess or have under such person's control any hallucinogenic drug that is a Tetrahydrocannabinol as such an act constitutes the offense of Possession of Marijuana. A person convicted of Possession of Marijuana may be sentenced to pay a fine of not more than \$1000, or to be confined in jail for a period of not greater than six months, or sentenced to both such fine and confinement.

Tetrahydrocannabinol includes synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures are included herein, regardless of the numerical designation of atomic positions covered.) (Ord. 5-11; Code 2015)

11-202. POSSESSION OF DRUG PARAPHERNALIA. It shall be unlawful for any person to use or possess with intent to use any drug paraphernalia to: store, contain, conceal, inject, ingest, inhale or otherwise introduce a controlled substance into the human body. Possession of Drug Paraphernalia is punishable by imprisonment not to exceed one year, or a fine not to exceed \$2500, or both such fine and imprisonment. (Code 2015)

11-203. CURFEW; PENALTY. (a) It shall be unlawful for any child less than 18 years of age to loiter, ramble, play or frequent the streets or other places in this city after 10:30 p.m. and before 7:00 a.m. on Sundays, Mondays, Tuesdays, Wednesday and Thursdays, and after midnight and before 7:00 a.m. on Fridays and Saturdays, unless such minor is accompanied by a parent, guardian or other person having legal custody of such minor or is in the performance of an errand or duty directed by such parent, guardian or legal custodian, or whose employment makes it necessary to be upon the streets or other public places during the night or after the specified hours.

(b) It is hereby made unlawful for any parent, guardian or other person having the legal custody of any child less than 18 years of age to allow or permit the minor to loiter or frequent the streets or other public places of this city within the time prohibited in this section.

(c) Any person found guilty of violating any of the provisions of this section shall be deemed guilty of a violation of this code and upon conviction thereof shall be punished by a fine not to exceed \$100.00 or confinement in the city jail not to exceed 30 days.

(Ord. 860, Sec.1:3; Code 1998)

ARTICLE 3. SALE OF METHAMPHETAMINE PRECURSORS

- 11-301. **DEFINITIONS.** For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:
- (a) Ephedrine- All forms of ephedrine, ephedrine hydrochloride and all combinations of these chemicals and any methamphetamine precursor drug containing these chemicals.
 - (b) Pseudoephedrine - All forms of pseudoephedrine, pseudoephedrine hydrochloride and all combinations of these chemicals and any methamphetamine precursor drug containing these chemicals.
 - (c) Methamphetamine precursor drug - Any drug or substance used to manufacture methamphetamine that contains pseudoephedrine or ephedrine.
 - (d) Person - Any individual, corporation, partnership, trust, limited liability company, firm, association or other entity.
 - (e) Sell - To knowingly furnish, give away, exchange, transfer, deliver, surrender, or supply, whether for monetary gain or not.
 - (f) Package - Any number of pills, tablets, capsules, caplets or individual units of a substance held within a container intended for sale.
(Ord. 13-4; Code 2015)
- 11-302. **PROHIBITION OF SALE OF METHAMPHETAMINE PRECURSOR DRUGS.** It shall be illegal for any person to sell, deliver or distribute ephedrine, pseudoephedrine, and pseudoephedrine or ephedrine containing products, their salts, their optical isomers or salts of their optical isomers except as set forth in the specific exceptions contained in Section 11-303 of this Article.
(Ord. 13-4; Code 2015)
- 11-303. **EXCEPTIONS.** (a) Ephedrine, pseudoephedrine and pseudoephedrine or ephedrine containing products, their salts, their optical isomers or salts of their optical isomers may be sold by a Kansas licensed pharmacist after being authorized to do so by a written prescription from a physician or other healthcare professional licensed by the State of Kansas or any other state to write prescriptions.
- (b) Ephedrine, pseudoephedrine and pseudoephedrine or ephedrine containing products, their salts, their optical isomers or salts of their optical isomers may be distributed by a licensed physician within the physician's office, or any clinic, nursing home or other licensed healthcare facility upon the orders of a physician or other healthcare professional licensed by the State of Kansas or any other state to write prescriptions.
- (c) This Article regulating ephedrine, pseudoephedrine or other methamphetamine precursor drugs shall not apply to the sale of animal feed containing ephedrine or dietary supplement products containing naturally occurring or herbal ephedra or extracts of herbal ephedra.
(Ord. 13-4; Code 2015)
- 11-304. **PRIMA FACIE EVIDENCE.** It shall be prima facie proof that a substance is regulated by this Section if the substance is contained in its original packaging and is labeled as being or containing ephedrine or pseudoephedrine.
(Ord. 13-4; Code 2015)

11-305.

REPORTING THEFT OF METHAMPHETAMINE PRECURSOR DRUGS.

(a) All thefts, shortages, disappearances, miscounts or other losses of ephedrine, pseudoephedrine or other methamphetamine precursor drugs shall be reported to the Galena, Kansas, Police Department, within twenty-four hours of discovery.

(b) Any person selling ephedrine, pseudoephedrine or other methamphetamine precursor drugs shall report any difference between the quantity of the aforementioned drugs shipped and the quantity received to the Galena Police Department within twenty-four (24) hours of discovery.

(Ord. 13-4; Code 2015)

11-306.

PENALTY. Every act or omission constituting a violation of any of the provisions of this Article by any agency or employee of any person shall be deemed and held to be an act of such person, and said person shall be punishable in the same manner as if said act or omission had been done or omitted by him/her or it personally, provided such an act or omission was within the scope of employment or the scope of authority of such agent or employee. Each such violation of this Article shall be considered a separate offense. Violation of this Article shall be considered and punished as a class A misdemeanor, wherein the defendant shall be subject to a fine not to exceed \$2500 or a term of incarceration in the city jail not to exceed one year, or both such fine and incarceration.

(Ord. 13-4; Code 2015)

CHAPTER XII. PUBLIC PROPERTY

- Article 1. Cemeteries
 - Article 2. Library
 - Article 3. City Parks
 - Article 4. City Landfill
 - Article 5. Swimming Pool
-

ARTICLE 1. CEMETERIES

- 12-101. CEMETERIES ESTABLISHED. There are hereby established for the city, the following cemeteries:
- (a) Oak Hill Cemetery;
 - (b) Hillcrest Cemetery; and,
 - (c) Galena Cemetery.
- (Code 1988)
- 12-102. CEMETERY SEXTON; DUTIES. The primary duties of the cemetery sexton are to care for and maintain the cemeteries owned and operated by the city and to sufficiently document the locations of graves.
- (Ord. 83-6, Sec. 1:2; Ord. 84-11, Sec. 1; Ord. 94-6, Sec. 1; Code 1998)
- 12-103. GRAVE SITES AND OPENINGS; PRICES AND FEES. (a) The price of a grave site (burial plot) at the Oak Hill, Hillcrest, or Galena Cemeteries is hereby set at \$200.00 per site.
- (b) A fee of \$225.00 to open a grave site at the Oak Hill, Hillcrest, or Galena Cemeteries, shall be charged Monday through Friday, unless (d) applies below in such event (d) shall be the only grave opening fee.
 - (c) An additional fee of \$150.00 shall be charged for Saturday grave openings, unless (d) applies below in which case (d) shall be the only grave opening fee.
 - (d) A fee of \$125.00 shall be charged for a grave opening under five feet or for emergency county burials.
 - (e) An infant grave opening is free.
 - (f) There shall be no grave openings on Sundays or other city holidays.
- (Ord. 02-01, Sec. 1; Ord. 06-05, Code 2015)
- 12-104. VAULT OR MAUSOLEUM. All cemetery vaults or individual mausoleum in which a body is or to be interred or buried, and all retaining walls surrounding any lot, lots, or part of a lot, shall be flush and level with the ground, except that the granite slab on top of any vault or mausoleum may extend above the ground.
- (Ord. 885, Sec. 2, Code 1988)
- 12-105. SAME; LIABILITY. In the event that a vault or mausoleum has been placed in any cemetery of the city in advance and in expectation of a burial therein, and if when and upon opening thereof, the person, firm or corporation from which the

vault or mausoleum was purchased should not be available or in existence for the same, then the owner thereof or next of kin shall be liable and responsible for the opening and closing costs thereof. (Ord. 923, Sec. 4, Code 1998)

- 12-106. PERPETUAL CARE FUND. The governing body of the city hereby authorizes the city treasurer to accept the Perpetual Care Fund, formerly in the custody and control of the Galena Cemetery Association, in accordance with K.S.A. 12-1416. (Ord. 84-8, Sec. 1; Code 1988)
- 12-107. SAME; INVESTMENTS AND EARNINGS; PURPOSE. (a) No part of the principal of the perpetual care fund shall be used and in no case shall the principal fund herein created be depleted or lessened. The principal of the fund shall be invested in county, state, municipal bonds, U.S. bonds, or shall be placed in an account with any state, national or savings and loan association bank in an amount not to exceed that which would be covered by the Federal Deposit Insurance Corporation.
(b) The earnings derived from the investments shall be transferred to the city general fund where the use thereof shall be for any purpose. (Ord. 84-8, Sec. 2; Code 1988)
- 12-108. SAME; MONTHLY REPORT. It shall be the duty of the city treasurer to see that the principal from the perpetual care fund be properly invested. The city treasurer shall also issue a monthly report to the city's governing body showing investments and amount of earnings. The perpetual care fund shall be audited when and at the same time and under the same rules of procedure that the regular city audit takes place. (Ord. 84-8, Sec. 3; Code 1988)
- 12-109. SAME; RULES AND REGULATIONS. The governing body shall from time to time adopt and promulgate rules and regulations as they shall deem necessary for the perpetual care and management of the city cemeteries. (Ord. 84-8, Sec. 4; Code 1988)
- 12-110. RESERVED.
- 12-111. SAME; DONATIONS AND CONTRIBUTIONS. The City Clerk is hereby authorized and empowered to accept and receive any and all donations and contributions from persons for the betterment, improvement and beautification of the city cemeteries, the same to be collected at the city cemeteries on Memorial Day and at other places and at other times where the same may be offered and given. Such donations and contributions are to be deposited in the perpetual care fund. (Ord. 84-8, Sec. 6; Code 2015)
- 12-112. OAK HILL CEMETERY, GALENA CEMETERY AND HILLCREST CEMETERY; CONDUCT OF FUNERALS. The Oak Hill Cemetery, Hillcrest Cemetery and Galena Cemetery shall be open for the conduct of funerals during normal working hours, subject to the following provisions and regulations:
(a) The cemetery sexton shall not normally be required to be on duty between the hours of 4:30 p.m. on Friday and 8:00 a.m. on Monday of any week of any year.

(b) No funeral services are to be conducted on any official recognized holiday observed by the city, on any Sunday, or after 2:00 p.m. on any Saturday, except for emergency county burials.

(c) In the event that any funeral home shall desire to conduct a funeral at any of the above cemeteries on a Saturday, the fees stipulated in Section 12-103 shall apply and be the responsibility of the funeral home conducting the funeral.
(Ord. 02-1, Code 2015)

12-113. SAME; BURIAL SPACES AND PLOTS. (a) All spaces on a burial plot and around it that are inaccessible to being mowed by power mower may be, at the discretion of the superintendent of city cemeteries, either concreted over or sprayed by chemical in order to prevent the growth of vegetation.

(b) Extended corners on curbs around burial plots may be eliminated at the discretion of the superintendent of city cemeteries.
(Ord. 738, Secs.1:2; Code 1988)

12-114. SAME; PLANTS SHRUBS; FLORAL PIECES. Plants, shrubs or artificial floral pieces, shall be limited to one for each grave except for a period of time on Memorial Day to be determined and set by the governing body.
(Ord. 738, Sec. 3; Code 2015)

12-115. SAME; FOOT STONES AND BURIAL MARKERS. (a) All new foot stones shall be installed at surface level and all present foot stones will not be driven down or reinstalled at surface level.

(b) Burial markers and plot holders shall not be erected in any city cemetery.
(Ord. 738, Sec. 4:5; Code 1988)

12-116. SAME; BOULDER MARKERS. The city superintendent has discretion to determine and perform consistent with proper maintenance, care or safety within any cemetery, that: present bolder markers and plot borders be eliminated; or that walls that have deteriorated or become unsightly be removed; or that graves with high mounds be reduced to permit proper mowing and care.
(Ord. 738, Sec. 6, Code 2015)

12-117. SAME; STREETS AND ALLEYS. Within the discretion of the city superintendent, boulders lining the sides of streets and alleys may be eliminated and a chemical spray may be used along the sides of such streets and alleys to eliminate vegetation. (Ord. 738, Sec. 7; Code 1988)

12-118. SAME; HEADSTONES. Headstones shall be installed on a concrete foundation extended three inches beyond the base of the marker, and where installed adjacent to a curb wall, to be extended to the wall, except where the marker is installed at surface level.
(Ord., 738, Sec. 8; Code 1988)

12-119. CEMETERY HOURS. All cemeteries shall be open to the public from 7:00 a.m. to 9:00 p.m. on April 6th through October 26th of each year, and from 7:00 a.m. to 7:00 p.m. on October 27th through April 5th of each year. All persons, except those persons authorized by their public office or employment, shall be prohibited from entering into or remaining upon the grounds of said cemeteries

during hours that such are not open to the public. Persons violating this section shall be guilty of Criminal Trespass, a Class B violation, punishable by a sentence of no more than 6 months incarceration or a fine not to exceed \$1000.00, or both such fine and imprisonment.
(Ord. 05-01; Code 2015)

ARTICLE 2. LIBRARY

- 12-201. **PUBLIC LIBRARY ESTABLISHED.** There is hereby established in the city a free, public library and reading-room for the inhabitants of the city, which shall be located and maintained in the city hall or at such other place as shall be designated by the governing body. The library shall be known and designated as "The Public Library of the City of Galena, Kansas."
(Rev. Ord. 1951, 11-101; Code 2015)
- 12-202. **PUBLIC LIBRARY BOARD.** There is hereby created a board of nine directors, to be known as the "Public Library Board" for the library, to be appointed by the mayor of this city with the approval of the city council. The appointed directors shall be qualified electors of the city, and chosen from the city at large with particular reference to their fitness for such office, and with the fullest consideration for mental and educational and intellectual attainments. The mayor of this city shall be ex-officio one of such board of directors. No director shall receive compensation unless specifically authorized by the city's governing body.
(Rev. Ord. 1951, 11-102; Code 2015)
- 12-203. **TERM OF OFFICE OF BOARD MEMBERS.** At the first regular meeting of the governing body of this city in October of each year, the mayor shall appoint two directors on the board with the approval of the city council who shall hold their term of office for a period of four years thereafter and until their successors are appointed and qualified, unless removed from office as provided by law. Each director of the library board shall take and subscribe an official oath of office and file the same with the city clerk of the city within 10 days after his or her appointment, and failure to so do shall create a vacancy on the library board, which shall be filled by the mayor at the next regular meeting of the governing body thereafter as provided by law. The city governing body may remove any director for misconduct or neglect of duty. Vacancies in the board of directors occasioned by removals either from the city or for cause, resignation or otherwise, shall be reported at once by the city librarian to the city clerk, and filled in like manner as original appointments. (Rev. Ord. 1951, 11-103; Code 2015)
- 12-204. **DUTY OF LIBRARY BOARD.** The board of directors shall within 30 days of the annual appointment and qualification of board members as specified in section 12-203, meet and elect one of their members as president, and the conduct the election of such other officers as the board may deem necessary. The board shall:
- (a) Make and adopt such bylaws, rules and regulations for their own guidance and for the government of the library and reading room as may be expedient, not inconsistent with this act;
 - (b) Have charge of the rooms and quarters and that part of the building where the library and reading room is housed and maintained and set apart for that purpose;
 - (c) Have power to purchase such books, magazines, papers and other essential material including maps and equipment, as shall in their judgment be necessary and advisable, and to recommend the appointment of a suitable librarian and assistants when circumstances require to the mayor and city council;
 - (d) Have power in general to carry out the spirit and intent of this article, in establishing and maintaining a public library and reading room; and,

(e) Have the exclusive control of the expenditures of all moneys collected to the credit of the "Library Fund," which fund shall be kept by the treasurer of the library board.
(Rev. Ord. 1951, 11-104; Code 1998)

- 12-205. **TREASURER OF THE BOARD.** The treasurer of the library board shall hold office for a term of two years and until his or her successor is elected and qualified, and shall have to give bond, to be approved by the city council of the city, for the safe-keeping and due disbursement of all funds that may come into the hands of such treasurer, in such amount as the board may direct. The salary of the librarian shall have priority in the payment of all claims which shall be payable from the library fund, and no debts or other obligations shall be created or contracted for by the board of directors unless there is sufficient money in the library fund in excess of the annual salary of the librarian to pay the same, and in the purchase and creation of obligations by the board of directors at all times they shall comply with the cash basis law and the budget law of the State of Kansas and the priority of the salary of the librarian, and shall be governed accordingly.
(Rev. Ord. 1951, 11-104; Code 2015)
- 12-206. **MEETINGS; QUORUM; JOURNAL.** The board of directors shall meet in regular session each month at such time as they shall fix by rule or regulation and the meeting shall be held in the public library of this city, and shall hold such other meetings at such time as they deem necessary. Five directors of the board shall be necessary to constitute a quorum. The minutes and proceedings of the meetings of the board of directors shall be kept and recorded in a journal by the board and the librarian. (Rev. Ord. 1951, 11-104; Code 2015)
- 12-207. **QUARTERLY REPORT.** The board of directors of the library shall make and file with the city clerk, a written report quarterly hereafter to be presented to the governing body of this city, which report shall show the number of meetings held during the last quarter of the year previous, the amount of books, magazines and other material purchased for the library and a further report showing the condition of progress of the library, together with suggestions and recommendations, if any, that the board may deem necessary for the betterment and advancement for the purpose of the establishment of the same. The quarterly reports shall be made on or before the 15th day of the months of January, April, July and October of each year, signed by the president and secretary of the board, and shall be published in the official city paper.
(Rev. Ord. 1951, 11-106; Code 1998)
- 12-208. **REGULATIONS AND RULES OF LIBRARY.** The library and reading room established under this article shall be forever free to the use of the inhabitants of the city, where located, subject always to such reasonable rules and regulations as the library board of directors may see fit to adopt, in order to render the use of the library and reading room of the greatest benefit to the greatest number.
(Rev. Ord. 1951, 11-107; Code 1998)
- 12-209. **ANNUAL REPORT.** The board of directors shall on or before the 15th day of January, of each year, make an annual report in writing to the governing body of this city, stating the number of books on hand, the condition of their trust on the 31st day of December of the year next preceding, the various sums of money

received from the "Library Fund," and from other sources, and amounts received and amounts expended, and for what purposes; the number of books catalogued and periodicals on hand, the number of added books by purchase, gift or otherwise during the year; the number and value of books lost or missing; the number of visitors attending; the number of books loaned out, and the general character and kind of such books, with such other statistics, information and suggestions as they may have and deem of general interest. Such report shall be verified by affidavit of the president and secretary.

(Rev. Ord. 1951, 11-108; Code 1998)

- 12-210. DONATIONS. Any person desiring to make donation of money, personal property or real estate for the benefit of such library shall have the right to vest the title to the money or real estate so donated in the board of directors of the public library created and established under this article, to be held and controlled by such board, when accepted, according to the terms of the deed, gift, devise or bequest of such property; and as to such property, the board shall be held and considered to be special trustee.

(Rev. Ord. 1951, 11-109; Code 1998)

- 12-211. HOURS OF LIBRARY. The library shall be open at such hours of the day as the board of directors shall designate on Monday through Saturday.

(Rev. Ord. 1951, 11-110, Code 2015)

- 12-212. SALARY OF LIBRARIAN. The salary of the librarian shall be fixed by the library board and shall be paid as provided by law.

(Rev. Ord. 1951, 11-111; Code 1998)

- 12-213. LEVY OF TAX. Taxes for the support and maintenance of the public library of the city, shall be levied annually by the governing body of this city at the annual levy of taxes for the city for other municipal purposes; and shall be duly certified, collected and received by the city, as other taxes are, as provided by law.

(Rev. Ord. 1951, 11-112; Code 1998)

- 12-214. UNLAWFUL DAMAGE TO LIBRARY PROPERTY. It shall be unlawful for any person to willfully injure or damage any building occupied by the public library of the city or to willfully injure or destroy any book, map, chart, magazine, picture, statuary or other personal property belonging to or under the control of the public library of the city. (Rev. Ord. 1951, 11-114; Code 1998)

- 12-215. FAILURE TO RETURN LIBRARY MATERIALS. It shall be unlawful for any person to fail to return any book, newspaper, magazine, pamphlet, manuscript, article, art print, phonograph record, film or any other property owned by the public library after notice in writing to return the same within 30 days has been given to such person; such notice shall be given after the expiration of the time which, by the rules of the library board, the book or other library material may be kept.

(Ord. 1042; Code 1998)

- 12-216. FRAUD IN PROCURING LIBRARY PRIVILEGES. It shall be unlawful for any person to give a fictitious name or address at the public library in order to obtain possession or use of any book or any other property of the public library, or to use a library card other than his or her own to secure without permission of the owner

thereof possession of any book or other property of the public library, or to conceal his or her identity or place of employment or residence in any manner whatsoever in order to secure possession of any book, library card, or any other property of the public library. (Ord. 1042; Code 1998)

12-217. NOTICE OF VIOLATION. Whenever it appears there has been a violation of this article, the librarian of the public library shall give notice of such alleged violation to the person(s) responsible therefore as herein provided. Such notice shall:

- (a) Be in writing;
- (b) Particularize the violations alleged to exist or have been committed and
- (c) Specify that the person to whom the notice is issued shall have 30 days within which to correct the violations particularized; and
- (d) Be addressed to and served upon the holder of the library card at the address which is most recent as it appears from such person's application for a library card.

Provided that such notice shall be deemed properly served upon such holder or owner of a library card if a copy thereof is served upon him or her personally, or a copy thereof is sent by certified mail to the address listed as most recent on his or her application for a library card.

(Ord. 1042; Code 1998)

12-218. PROSECUTION - PRESUMPTION OF PROOF. In any prosecution charging a violation of this article, proof that a particular individual was the registered holder of a particular library card which was used to secure any book or any other property, shall constitute in evidence a prima facie presumption that the record owner or holder of such library card was the person who utilized the same to secure a particular book or other property of the public library at the point where and at the time when such violation occurred. The foregoing stated presumption shall apply only when the procedure as mandated in this article has been followed.

(Ord. 1042, Code 1988)

12-219. PENALTY. Any violation of any of the provisions of this article shall constitute a violation of this code and shall be punished by a fine of not less than \$5 nor to exceed \$200. (Ord. 1042; Code 2015)

ARTICLE 3. CITY PARKS

- 12-301. **PARK BOARD CREATED.** A park board may be established by the governing body of the city to consist of five members who shall serve without compensation during their term of office. (Rev. Ord. 1951; Code 1998)
- 12-302. **APPOINTMENT; QUALIFICATIONS; TERM; SECRETARY.** The mayor shall be one member of the board and shall be ex-officio chairperson thereof. The mayor shall appoint the other four members, none of whom shall be related by blood or marriage to the mayor, to any member of the governing body, or to any officer of the city government. Such members so appointed, shall hold their office for a term of two years unless sooner removed by the mayor. The board shall elect one of their members secretary and he or she shall perform the usual functions of that office. (Rev. Ord. 1951, 16-102; Code 1998)
- 12-303. **ANNUAL REPORT.** The city park board or commission shall make an annual report of all its proceedings and the conditions of the parks of the city to the governing body in the month of January of each year.
(Rev. Ord. 1951, 16-103; Code 1998)
- 12-304. **MEETINGS.** The park board or commission shall hold monthly meetings on the first Monday of each month and at such other special meetings as they may necessary for the transaction of the business of the board.
(Rev. Ord. 1951, 16-104; Code 1998)
- 12-305. **RULES AND POWERS.** The city park board shall look after and care for all city parks and shall have full power and control thereof. It shall keep a record of all money expended and received by it, and shall recommend, as provided by law, the amount to be levied by the city council, not to exceed one mill, each year for the care and maintenance of the city parks. Any recommendation of the park board regarding the amount of the mill levy shall be advisory only to the city governing body. The city governing body possesses final authority as to any mill levy that may be imposed. (Rev. Ord. 1951, 16-105; Code 2015)
- 12-306. **PARK CARETAKER ESTABLISHED.** The position of park caretaker is established and shall serve at the discretion of the mayor. The park caretaker shall reside in the dwelling house located at Schemerhorn Park, upon his appointment to the position of park caretaker if the city governing body so designates by a vote of no less than four (4) of its members.
(Ord. 84-14, Sec. 1:5; Code 2015)
- 12-307. **SAME; DUTIES.** The park caretaker shall have the following duties:
 (a) Clean daily all public restrooms in all parks;
 (b) Keep the grass mowed and premises trimmed in all city parks;
 (c) Maintain all machinery used in the maintenance of the parks, unless the city superintendent shall designate another public works employee to perform such duties;
 (d) Maintain the structures in all city parks in a clean and orderly manner;
 (e) Place any wood which is available from the maintenance of the parks at the cook sheds;

(f) Monitor activities in Schemerhorn Park to assure public safety and prevent destruction of park property.
(Ord. 84-14, Sec. 3; Code 1988)

- 12-308. CITY PARK MAINTENANCE PROJECTS. The park committee and cemetery committee of the governing body will review conditions in both city parks prior to November 1st of each year. The committee will compile a list of projects that are necessary to the upkeep or would improve either park. The committee will submit this list to the mayor. The mayor will authorize the park caretaker to work in the street or water department at such time as he believes all work in the parks is complete. During the time the park caretaker works in the street or water department, he or she shall come under the direct supervision of the city superintendent. (Ord. 84-14, Sec. 4; Code 2015)
- 12-309. VEHICLE REGULATIONS. (a) It shall be unlawful for any person to park any motor vehicle in any area not designated for such purpose, unless such vehicle is parked by a city employee or a third party at the direction of a city employee who is performing maintenance to the park. The city council committee overseeing parks shall designate such areas where parking is prohibited. The governing body may change such designations by motion duly passed.
(b) Motorized vehicles shall be operated in a safe and prudent manner in city parks, and in no event operated at a rate of speed that is more than 20 miles per hour. The operator of any vehicle within a city park shall slow his or her vehicle when approaching pedestrians and yield to pedestrians.
(Code 2015)
- 12-310. 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 2015)
- 12-311. 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 2015)
- 12-312. SANITATION; LITTERING. Any person using and making waste material, paper, trash, rubbish, cans, bottles, containers, garbage and refuse of any kind whatsoever in a city park shall immediately upon leaving the park deposit such items in disposal containers provided by the city or its contractors for such purposes or such park visitor shall cause such items to be removed from the park concomitant with such park visitor leaving the park. Neither stone, gravel, rock or any other item listed in this section shall be thrown or discarded in or on any park land, fountain, pool, drinking fountain, sanitary facility, or other improvement. It shall be unlawful to violate any of the provisions of this section and any violator thereof is subject to a fine ranging from \$50 to \$2500. (Code 2015)
- 12-313. PROHIBITION AGAINST ALCOHOLIC BEVERAGES AND CEREAL MALT BEVERAGES. It shall be unlawful for any person or persons to use, consume or have on the premises of any park any alcoholic liquor or cereal malt beverage.
(Code 2015)

- 12-314. **PRESERVATION OF NATURAL STATE.** It shall be unlawful for any person, except authorized city employees, to take, injure, or disturb any live or dead tree, plant, shrub, or flower, or otherwise interfere with the natural state of city parks, unless such person is doing so under the direction, control and approval of the city superintendent or park caretaker or is otherwise authorized by the city governing body, including but not limited to, any volunteer clean-up days.
(Code 2015)
- 12-315. **GENERAL REGULATIONS.** The city may post such rules and regulations, as are approved by the governing body, pertaining to the use of the city parks in a conspicuous place in each city park. Violations of these posted rules shall constitute a violation of this code. (Code 2015)
- 12-316. **PARK BOARD; PROVISIONS.** In the event that a park board has not been appointed the governing body shall assume the responsibilities designated for the park board under article 3 of chapter 12 hereof. (Code 2015)

ARTICLE 4. CITY LANDFILL

12-401. APPLICATION OF 12-402 TO 12-407; NOT EFFECTIVE UNDER CERTAIN CONDITIONS. Sections 12-402 through 12-407 hereof are only applicable whenever the landfill of the city is both operated and owned by the city. (Code 2015)

12-402. USAGE RULES; PAYMENTS. Persons using a construction and demolition landfill operated and owned by the City of Galena shall comply with all directives of the attendant and any other rules posted at the landfill. Large appliances, furniture and large bulky items shall only be unloaded into a roll-off container unless the city employee attending the premises directs otherwise. No unauthorized materials under city, state or federal law, shall be unloaded at the site. Hazardous chemicals, materials and waste, shall not be dumped at the site. Scavenging or salvaging of material from the landfill is prohibited. The refrigerant gas from refrigerators, air conditioners and other similar items using such gas must be removed from these items prior to unloading such items in the landfill. The unloading of materials at the landfill shall only occur during the times the gate is open and an attendant, who is an employee of the City of Galena, is on duty. Persons unloading materials shall take reasonable precautions to minimize the spillage of nails and screws. The attendant shall have full discretion to reject any request to unload any materials at the landfill. The prohibitions applying to any person above shall also equally apply to any entity. (Ord. 05-24; Code 2015)

12-403. OFFENSE DECLARED. It is unlawful to violate any of the rules of usage specified herein and any person or entity violating the provisions of this section pertaining to usage shall be guilty of the offense of Unlawful Unloading of Materials at a Landfill and subject to the penalties stated elsewhere in this Code in Section 1-111 hereof. (Ord. 05-24; Code 2015)

12-404 FEE SCHEDULE. The following fees shall be paid at the landfill to the attendant before any unloading of materials.

<u>Type of vehicle hauling materials</u>	<u>Fee amount</u>
Local resident rate- pick-ups of no larger than one-half or three-quarter ton size or a small utility trailer, bearing a single axle, hauling only items not removed from a business enterprise	\$5.00
Pick-ups- not a local resident	\$30.00
Small utility trailers- single axle only- not a local resident	\$30.00
16 foot trailers with the side height 2 feet or less	\$60.00
16 foot trailers with the side height more than 2 feet	\$60.00
20 foot trailer with the side height 2 feet or less	\$80.00
20 foot trailer with the side height more than 2 feet	\$120.00
6 wheel dump trucks- local resident rate	\$60.00
6 wheel dump truck- not a local resident	\$120.00
10 wheeler dump trucks	\$150.00
20 yard dumpsters	\$150.00
30 yard dumpsters	\$175.00
40 yard dumpsters	\$250.00
Small-end dump trailers	\$200.00
Large-end dump trailers	\$250.00

Only local residents may dispose of furniture and appliances in the landfill and the charge shall be \$5 per item disposed. This fee is waived during the first Saturday of each month. During the first Saturday of each month the disposal fee shall be waived for any hauling to which local residential rates specified above apply. Local residents shall not be charged for delivering brush to the construction and demolition landfill at any time, provided, the brush is from property that receives water service from the city of Galena. A "local resident" to which lower residential rates apply under the circumstances described above is defined as a person who pays a monthly fee to the city of Galena for water service provided by the city. (Ord. 05-24; Code 2015)

12-405. FEES APPLICABLE TO DEBRIS FROM STRUCTURES DEMOLISHED WITHIN THE CITY. In the event a structure within the city is demolished, the following rates shall apply in the event the person or entity paying the debris disposal fee indicates such person or entity agrees to be billed at the rate established under section 12-404. In the event the combined square footage of all structures found upon the premises that are to be demolished and disposed of at the city landfill are 1500 square feet or less, a \$500 fee shall apply. In the event the combined square footage of all structures found upon the premises that are to be demolished and disposed of at the city landfill are 1501 square feet or more, a \$750 fee shall apply. These rates are an exception to usual rates set forth in 12-404 and shall only apply if the code enforcement officer examines the premises at the request of the person or entity that is demolishing the structure, or the owner thereof, and is able to have sufficient access to determine the square footage of the structures located thereon. (Ord. 07-22; Code 2015)

12-406. SAME; PERMIT ISSUANCE. Upon payment of the fee, as is applicable, by such person or entity, as specified above, a permit shall be issued for the disposal of debris from the location. This permit shall expire 90 days after its issuance, unless a written extension is granted thereto by the code enforcement officer. The person or entity granted the permit shall inform the landfill operator on the date when the last load of debris from the permitted site has been hauled to the landfill. The landfill operator shall notify the appropriate city office or city official, as directed by the mayor, to assure an inspection of the debris removal site has occurred. (Ord. 07-22; Code 2015)

12-407. SALVAGING; RECYCLING. (a) The salvaging of material from the city landfill by any person or entity is prohibited, unless by motion of the city council a permit for such activity is authorized. Such authorization may be issued to a particular person or entity to conduct salvaging operations for profit, or to the city for purposes of recycling, salvaging or saving material, or to both a private person or entity and the city.

(b) In the event the city holds a permit, it may establish an incentive program for employees that permit such employees to a percentage share of the proceeds from the sale of such materials. However, the purchase price paid by a third party shall be to the city clerk's office for deposit to the city's general fund and paid to any incentivized city employees by appropriations authorized by the city council.

(c) Any permit shall specify the beginning and ending dates of authorized scavenging, salvaging or saving of material and shall not extend for more than one year.

Such permit shall require and state the following:

- (1) Its length;
 - (2) To what person or entity the permit is issued;
 - (3) The materials that may be salvaged;
 - (4) A statement that all materials shall be inspected by a city employee at the landfill site before the removal of the same;
 - (5) A landfill site city employee, upon satisfactory inspection, shall approve and render an inventory thereof;
 - (6) Such inventory shall be forwarded to the city superintendent and city clerk within 7 days of its rendering;
 - (7) In the event the permit holder is the city, the permit shall state a requirement that simultaneously upon the sale of such materials to a person or entity that is not the permit holder, a receipt be issued by the purchaser to the permit holder and that the purchaser within 24 hours transmit by fax a copy of the receipt to the city clerk's office; and,
 - (8) Any other conditions the city council may require, including any that incentivize recycling.
- (Code 2015)

ARTICLE 5. SWIMMING POOL

- 12-501. **SWIMMING POOL MANAGER; COMPENSATION; LEASE.** (a) The position of city swimming pool manager is hereby established. The pool manager shall be an independent contractor to the city and shall be selected on an annual basis by the city council.
- (b) The compensation for labor of the swimming pool manager shall be determined on an annual basis by the city council.
- (c) In addition to labor compensation the swimming pool manager shall be entitled and permitted to operate all concessions within the swimming pool enclosure, providing his or her own supplies and merchandise and retaining all profit therefrom during his or her term of office.
- (d) The swimming pool shall be leased under contract between the city, as lessor, and the swimming pool manager, as lessee.
- (e) The lessee of the pool shall be bound by the regulations of this article, any additional requirements set forth in the contract, and assume the responsibilities for administration of the pool.
- (Ord. 832; Ord. 90-13; Code 2015)
- 12-502. **SAME POWERS AND DUTIES.** (a) The manager shall have general supervision of the swimming pool, plant and enclosure and shall maintain proper order and decorum at all times.
- (b) The manager shall be in charge of all equipment appurtenant or pertaining to the swimming pool and buildings and enclosure thereof, and shall make an inventory of any and all city equipment situated at the swimming pool and file the same in the office of the city clerk within five (5) days after taking office and shall keep strict account of the same and any and all addition thereto and alterations thereof and report the same to the city clerk and shall make and file a final inventory of equipment not later than the first day of October of each year and shall not receive final pay until the inventory is filled and approved by the city council.
- (c) The manager shall keep accurate and complete daily records showing the attendance at the pool; all results of tests made of swimming pool water for disinfectants, turbidity (water clarity), pH value (degree of activity or alkalinity) and the presence of bacteria. Entries shall be made daily of the amount of new water and disinfectants or coagulants added, the chemicals used to correct the pH value, the number of times the bathhouse and deck are disinfected and other pertinent records that may be required by the governing body, including all cash receipts for swimming pool admissions.
- (d) The manager shall conduct any and all daily tests necessary to make the daily reports prescribed in subsection (c) herein, and shall be responsible for same and for all income received from sale of admissions to swimming pool.
- (e) The manager shall have supervision of any and all persons employed at the swimming pool of the city and shall and is hereby vested with power to enforce any and all rules, regulations, and laws relating to the swimming pool.
- (f) The manager shall attend any city council meetings, as the mayor or city council may require, during his or her term of office and report upon the condition of the swimming pool, plant and equipment and recommend necessary work to be done to properly maintain the pool, plant and equipment in proper condition and the general welfare of the financial receipts connected therewith.
- (Ord. 832; Code 2015)

- 12-503. SAME; BOND REQUIRED. The swimming pool manager shall not be required to provide a bond. (Code 2015)
- 12-504. MONEY FROM ADMISSION CHARGES. The manager shall provide all money received by such manager from admissions to the swimming pool to the city clerk on or before noon of each Monday during his or her term of office and take a receipt therefore. Further, such manager shall deliver his or her books and records to the city clerk on or before the first day of October, which shall be approved by the governing body before he or she receives his or her final pay as such officer, and the records shall be kept by the city clerk and shall be included in the annual audit of the books of the city. If leased, this section shall not apply, and the requirements regarding money received from admission charges shall be specified in any lease to operate the city swimming pool.
(Ord. 832; Code 2015)
- 12-505. SWIMMING POOL; RULES AND REGULATIONS. The following shall be the rules and regulations for the city's swimming pool:
- (a) No person with a communicable disease or skin infection will be admitted to the pool. Persons having symptoms that are suspect will be denied entry unless they possess a physician's statement that the condition is not contagious.
 - (b) Swimmer's suits and towels must be clean and dry,
 - (c) Food, drinks and containers are not permitted in the pool area.
 - (d) Bandages shall not be worn in the pool.
 - (e) A soap and water shower must be taken before entering the pool and again before entry when using toilet facilities.
 - (f) No running, pushing or rough play is permitted on any of the premises.
 - (g) Swimmers may be required to swim the width of the pool before being permitted entry to the deep end.
 - (h) Swimmers shall not swim in the area beneath diving boards.
 - (i) Any person, who appears to be under the influence of alcoholic beverage or other substances, whether prescribed or not, shall be excluded and refused admittance.
 - (j) No person shall drink beer, whiskey, wine, cereal malt beverage or malt liquors, or any other form of intoxicants, nor consume illegal drugs upon the premises.
 - (k) No person shall be permitted to remain upon the premises with beer, whiskey, wine, cereal malt beverages or malt liquors or illegal drugs in his or her possession.
 - (l) No person or persons, except authorized personnel, shall be permitted upon the premises except during the hours of admission.
 - (m) The hours of admission shall be determined by the governing body.
 - (n) Any person of tender years, or one lacking in skill, or any person, who in the judgment of the manager, could be dangerous to himself, herself or to other bathers, may be excluded or denied admittance to the pool.
 - (o) The swimming pool manager is hereby granted full power and authority to remove or cause to be removed, to exclude and to refuse admittance to any person or persons who fail or refuse to comply with any part of this section,

(p) Any person who refuses to leave the premises when so ordered by the swimming pool manager, shall constitute a public offense and may be punished a fine of not to exceed \$150.

(q) Any other rules made to assure the order and safety of the pool area to persons present. (Ord. 774; Code 2015)

12-506. LIFEGUARDS. The governing body shall employ lifeguards to properly safeguard the patrons at the swimming pool. The number of life guards shall be decided upon by the city council each year when the swimming pool manager is appointed. The lifeguards shall be paid an hourly wage to be determined by the city council. Any person so employed as a lifeguard must be qualified to so act by proper credentials and senior-life saving certificate from the American Red Cross, YMCA, or other similar organization, and must present his or her certificate before entering upon his or her duty. (Ord. 832; Code 1988)

CHAPTER XIII. STREETS AND SIDEWALKS

Article 1. Sidewalks

Article 2. Streets

Article 3. Trees and Shrubs

ARTICLE 1. SIDEWALKS

- 13-101. **PERMIT REQUIRED.** It shall be unlawful to construct, reconstruct or repair any sidewalk within the city until the plans first have been approved by the governing body and a permit issued for such work by the city clerk. (Code 2015)
- 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, K.S.A. 12-1807; Code 1988)
- 13-103. **SAME; SPECIFICATIONS.** Hereafter all sidewalks shall be of single-course construction and shall be constructed and laid in accordance with standard plans and specifications hereby adopted by reference and filed in the office of the city clerk as provided by K.S.A. 12-1802. It shall be unlawful for any person, firm or corporation to construct, reconstruct or repair any sidewalk except as provided by this article. (Code 1988)
- 13-104. **SAME; PETITION.** When a petition signed by no fewer than 10 citizens owning real estate in the city requesting construction of a sidewalk is filed with the city clerk, the governing body may in its discretion, by a resolution, order such sidewalk constructed as herein provided. (K.S.A. 12-1803; Code 1988)
- 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 1988)
- 13-106. **NOTICE; PUBLICATION.** The resolution providing for the construction or reconstruction of a sidewalk, as the case may be, shall give the owner of the abutting property not less than 30 days nor more than 60 days after its publication one time in the official city paper in which to construct or cause to be constructed or reconstructed the sidewalk at his or her own expense. If the sidewalk is not constructed by the property owner within the time specified, the governing body shall cause the work to be done by contract. (K.S.A. 12-1805; Code 1988)

- 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 1988)
- 13-108. **REPAIRS BY OWNER OR CITY.** It shall be the duty of the owner of the abutting property to keep the sidewalk in repair, but the city may, after giving five days' notice to the owner or his or her agent, if known, of the necessity for making repairs or without notice if the lot or piece of land is unoccupied, make all necessary repairs at any time. The same shall be done and the cost thereof assessed against the lot or piece of land abutting on the sidewalk so repaired as may be provided by law. (K.S.A. 12-1808; Code 1988)
- 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. 60-1111 shall be furnished. (Code 1988)
- 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 2015)
- 13-111. **SAME; EXCEPTIONS.** (a) The governing body may authorize the granting of temporary permits in connection with a building or moving permit for limited times only to the owner of property abutting on any sidewalk to use or encumber such sidewalk or public way of the city during the construction of any building or improvement thereon. No permit shall be issued for such purpose until plans for warning and safeguarding the public during such use of sidewalks shall have been submitted by the owner or his or her contractor and approved by the governing body.
- (b) The governing body may authorize the granting of temporary permits in connection with the usage or cordoning of sidewalks or streets for special events, including but not limited to, parades or shows. Such permit shall require that sponsors of such events clear debris and refuse generated by the special event. Further, entrances to buildings in any areas designated for special events shall not be unreasonably obstructed. (Code 2015)

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 1988)
- 13-202. SAME; BOND. (a) No permit authorized in this article shall be issued until the applicant has given to the city a good and sufficient bond in the sum of \$5,000 conditioned that the applicant will faithfully comply with all the terms and conditions of this article, and will indemnify and hold the city harmless against all costs, expenses, damages and injuries by persons or by the city sustained by reason of the carelessness or negligence of the permit holder. No bond for this purpose shall run for longer than two years without being renewed. The bond shall remain in full force and effect as to each excavation for two years after the same has been made or completed.
- (b) Any utility operating under a franchise or a contractor under contract with the city for municipal improvement shall not be required to give bond as provided in subsection (a).
- (c) Each bond given under this section shall be approved by the city attorney and filed with the city clerk.
(Code 2015)
- 13-203. SAME; FILED. If the application is approved by the city, the city clerk shall issue a permit upon payment of a fee of \$10. Each permit issued under the provisions of this section shall cover only one specified excavation. (Code 2015)
- 13-204. SAME; BARRICADES. Any person to whom an excavation permit is issued shall enclose all excavations which they make with sufficient barricades and danger signs at all times, and shall maintain sufficient warning lights or flares at nighttime. The holder of an excavation permit shall take all necessary precautions to guard the public against all accidents from the beginning of the work to the completion of the same. (Code 1988)
- 13-205. SAME; UNLAWFUL ACTS. It shall be unlawful for any person, except those having authority from the city or any officer thereof to throw down, interfere with or remove any barriers, barricades, or lights placed in any street to guard and warn the traveling public of any construction work thereon or adjacent thereto.
(Code 1988)
- 13-206. CUTTING CURBS; PAVEMENT. (a) No person shall cut any curb, gutter, pavement, blacktop, sidewalk or excavate any street, alley or other public grounds of the city for any purpose without first obtaining a permit authorizing the same from the city clerk.
- (b) Once the work for which the excavation was made has been completed the city shall restore the pavement, blacktop, sidewalk or other surfacing at the expense of the person from whom the excavation was made.
- (c) In lieu of the city replacing pavement, it may elect to authorize utility companies or contractors to resurface streets or sidewalks with like materials, subject to approval of the street superintendent. (Code 1988)

- 13-207. **ALTERING DRAINAGE.** No person shall change or alter any gutter, storm sewer, drain or drainage structure which has been constructed, or is being lawfully maintained or controlled by the city unless such change or alteration has been authorized or directed by the governing body. (Code 1988)
- 13-208. **UNFINISHED PAVEMENT.** No person shall walk upon, drive or ride over or across any pavement, sidewalk or incomplete grading which has not been opened for traffic. (Code 1988)
- 13-209. **USING STREETS.** (a) No person shall occupy any portion of any street, alley or sidewalk for the purpose of temporarily storing building materials without first obtaining a permit for such temporary use from the governing body.
 (b) No person may use any portion of any sidewalk or street right-of-way for the purpose of displaying or offering for sale wares, goods, merchandise or other items. Nothing in this article, however, shall be construed as prohibiting the city governing body from temporarily waiving the prohibition of this subsection in connection with community promotions or community-wide celebrations when such waiver is considered to be in the best interest of the city. (Code 1988)
- 13-210. **DANGEROUS OBJECTS IN.** It shall be unlawful for any person to place, throw or cause to be placed or thrown in or on any street, alley, sidewalk or other public grounds of the city, any glass, tacks, nails, bottles, wire or other dangerous objects that might wound any person or animal, or cut or puncture any pneumatic tire while passing over the same. (Code 1988)
- 13-211. **PETROLEUM PRODUCTS IN STREETS.** It shall be unlawful for any person, firm or corporation to deposit or throw any waste oil, fuel oil, kerosene, gasoline or other products of petroleum or any acids into or upon any street or public grounds of the city, or willfully to permit the same to be spilled, dripped or otherwise to come into contact with the surface of any street, alley, or sidewalk within the city. (Code 1988)
- 13-212. **DISCHARGING WATER ON STREETS.** It shall be unlawful for any person, firm or corporation to throw or discharge water into any ditch, street, avenue or alley in the city or to cause any water to stand or form pools or to flow in a stream thereon. This section shall not apply to persons cleaning or flushing such streets, avenues or alleys under the authority of the governing body, nor to members of the fire department. (Code 2015)
- 13-213. **BURNING IN STREETS.** It shall be unlawful for any person to make or cause to be made, any fire upon any of the paved streets, alleys, or street intersections within the city. (Code 1988)
- 13-214. **THROWING IN STREETS.** It shall be unlawful to throw or bat any ball, stone, or other hard substance into, on or across any street or alley or at or against any building or vehicle. (Code 2015)
- 13-215. **HAULING LOOSE MATERIAL.** It shall be unlawful to haul over the streets or alleys of this city any loose material of any kind except in a vehicle so constructed or maintained as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alleys. (Code 1988)

- 13-216. PENALTY. Any person, firm or corporation violating any of the provisions of this article or failing or refusing to perform any of the duties imposed by this article, shall upon conviction thereof, be subject to the following penalties: a fine of not less than \$100 nor more than \$1000, imprisoned not to exceed 30 days, or both such fine or imprisonment. (Code 2015)
- 13-217. MAIN TRAFFICWAY DESIGNATION. Pursuant to K.S.A. 12-685 et seq. (the "Act") Main Street within the City of Galena, Kansas, is designated as a main traffic way by and under the authority of the Act.
(Ord. 11-03; Code 2015)

ARTICLE 3. TREES AND SHRUBS

- 13-301. **PUBLIC TREE CARE.** The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure safety when servicing city utilities or to preserve the symmetry and beauty of public grounds. The city may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest. (Code 2015)
- 13-302. **DISEASED TREES; DETERMINATION.** Whenever any competent city authority or competent state or federal authority shall file with the governing body a statement in writing based upon a laboratory test or other supporting evidence that trees or tree materials or shrubs located upon private property within the city are infected or infested with or harbor any tree or plant disease or insect or larvae, the uncontrolled presence of which may constitute a hazard to or result in the damage or extinction of other trees or shrubs in the community, describing the same and where located, the governing body shall direct the city clerk to forthwith issue notice requiring the owner or agent of the owner of the premises to treat or to remove any such designated tree, tree material or shrub within a time specified in the notice. (Code 2015)
- 13-303. **SAME; NOTICE SERVED.** Notice shall be served by a police officer by delivering a copy thereof to the owner, and the person in possession of such property, or if the same be unoccupied or the owner a nonresident of the city, then the city clerk shall notify the owner by mailing a notice by certified mail to his or her last known address. (Code 2015)
- 13-304. **SAME; FAILURE OF OWNER; DUTY OF CITY.** If the owner or agent shall fail to comply with the requirements of the notice within the time specified in the notice, then the chief of police shall proceed to have the designated tree, tree material or shrub, treated or removed and report the cost thereof to the city clerk. In lieu of city employees performing any such work, the governing body may contract with any competent person, company or corporation for the performance of such work. (Code 2015)
- 13-305. **SAME; PREVENT SPREAD OF DISEASE.** No tree, tree materials or shrubs as mentioned herein which have been cut down, either by the property owner or by the city, shall be permitted to remain on the premises, but shall be immediately treated, removed and burned or immediately burned upon the premises, if safe to do so, so as to prevent the spread of the tree disease. (Code 2015)
- 13-306. **DANGEROUS, DEAD OR DISEASED TREES ON PRIVATE PROPERTY.**
(a) Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 14 feet above the surface of the street or right-of-way. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the

proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign.

(b) The city shall have the right to cause the removal of any dangerous, dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property. The city will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. The owners, within 30 days of the notice, may request a hearing covering the ordered removal. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove the trees and charge the cost of removal on the owner's property tax notice.
(Code 2015)

- 13-307. **TREES ON PUBLIC PROPERTY; COST BORNE BY CITY.** The city shall have the authority to treat or to remove any tree as defined in section 13-301 of this article, or to remove any dead tree as mentioned herein, which is located within the limits of any public right-of-way within the city. The adjacent property owners shall not be responsible for the cost of treatment or removal of any such trees within the public right-of-way and this expense shall be borne by the city at large.
(Code 2015)
- 13-308. **COSTS ON TAX ROLLS.** The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for treatment or removal performed under the authority of sections 13-304:306 and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the general fund or other proper fund of the city, and such fund shall be reimbursed when payments therefor are received or when such assessments are collected and received by the city. (Code 2015)
- 13-309. **INJURING TREES AND SHRUBS.** No person shall willfully break, cut, take away, destroy, injure, mutilate, or attempt to willfully break, cut, take away, destroy, injure or mutilate any tree, shrub, vine, flower or landscaping standing, growing, or being upon the premises in the possession of another, or growing on any public ground, street, sidewalk, promenade or park in the city. (Code 2015)
- 13-310. **FIRE HYDRANTS, PLANTINGS ADJACENT TO.** No person shall plant or cause to be planted nor allow to grow upon property owned by him or her any shrubs, trees, or planting of any kind within 10 feet of any fire hydrant in the city, in order that every fire hydrant shall be in full view day or night, to fire apparatus approaching from any direction. (Code 2015)

CHAPTER XIV. TRAFFIC

- Article 1. Standard Traffic Ordinance
- Article 2. Local Traffic Regulations
- Article 3. Hazardous Materials
- Article 4. Work-Site Utility and Small Vehicles

ARTICLE 1. STANDARD TRAFFIC ORDINANCE

- 14-101. **INCORPORATING STANDARD TRAFFIC ORDINANCE.** There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Galena, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2014, prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. 12-3009 through 12-3012, inclusive, as amended. One copy of said standard ordinance shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Galena, 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 2015)
- 14-102. **SAME; TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES.** (a) An ordinance traffic infraction is a violation of any section of this article that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. Supp. 8-2118.
(b) All traffic violations which are included within this article, and which are not ordinance traffic infractions as defined in subsection (a) of this section, shall be considered traffic offenses.
(Code 2015)
- 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 be not less than \$10, nor more than \$2500. Any person, upon conviction of an ordinance traffic offense for which a fine has been established in a schedule of fines, shall pay such fine as is fixed by the court in an amount not to exceed \$2500. (Code 2015)
- 14-104. **BOND FOR INFRACTIONS.** In regard to traffic infractions, violators shall be allowed to post bond for their appearance in the amount of the fine set forth in the fine schedule, plus court costs. (Code 2015)

ARTICLE 2. LOCAL TRAFFIC REGULATIONS

- 14-201. **THROUGH STREETS.** In accordance with the provisions of Section 59 of the Standard Traffic Ordinance incorporated by reference in section 14-101, and when signs are erected giving notice thereof, drivers of vehicles shall stop or yield as the sign directs at every intersection before entering any of the following streets or parts of streets, which are hereby designated "through streets":
- (a) All streets running north and south in the City of Galena, Kansas;
 - (b) East Fourth Street from Joplin Street to Wood Street;
 - (c) East Fifth Street from Joplin Street to Euclid Avenue;
 - (d) East Sixth Street from Joplin Street to Euclid Avenue;
 - (e) East Eleventh Street from Main Street to Euclid Avenue;
 - (f) West Eleventh Street from Main Street to Dewey Avenue;
 - (g) Twelfth Street from Euclid Avenue to the State Line Road;
 - (h) West Thirteenth Street from Main Street to Dewey Avenue;
 - (i) East Seventeenth Street from Main Street to Wood Street;
 - (j) East Twenty-first Street from Main Street to the State Line Road;
 - (k) West Twenty-first Street from Main Street to the west city limits;
 - (l) East Twenty-second Street from Main Street to Wood Street;
 - (m) East Twenty-third Street from Main Street to Wood Street;
 - (n) Jefferson Street and Columbus Street;
 - (o) East Thirteenth Street from Keller Street to State Line Road.
 - (p) New streets that have been dedicated or brought within the city limits by annexation or otherwise; and
 - (q) Streets designated as through streets by previous ordinances or governing body action.
- (Ord. 84-24, Sec. 2, Code 1988)
- 14-202. **SCHOOL ZONE SPEED LIMITS.** The following shall constitute school zones in which school zone speed limits shall apply during any time when official flashing indicators of a school zone are activated: 7th Street between Lincoln and Wood and Main Street between 18th Street and 20th Street. (Code 2015)
- 14-203. **NO RIGHT TURNS ON RED, AT 7TH AND MAIN, ONTO 7th STREET.**
No right turn shall be made at the intersection of 7th Street and Main Street if the right turn is to proceed in a westward direction upon a red light.
(Ord. 12-3; Code 2015)
- 14-204. **TRUCK PARKING.** (a) No truck shall remain parked more than 45 minutes on any street of the city.
- (b) No truck shall park on any street of the city so as to block the lanes of traffic or hinder the free flow from traffic from either direction.
 - (c) For purposes of loading or unloading at businesses located along Main Street, a truck may park parallel to the curb on Main Street, provided that such truck is otherwise legally parked, including but not limited to the truck not blocking fire hydrants and not parking on curbs.
 - (d) Subsections (b) and (c) shall not apply to a truck smaller than pickup trucks, provided that such truck is otherwise legally parked, including but not limited to the truck not blocking fire hydrants and not parking on curbs.
 - (e) Any violation of this section shall be punishable by a fine of not less than \$30, nor more than \$200. (Ord. 88-5; Code 2015)

14-205. RESERVED.

14-206. ONE-WAY STREETS. The following streets and avenues are hereby designated as one-way traffic streets and avenues:

(a) Traffic shall proceed only in an eastern direction along 19th Street between Joplin Street and Galena Avenue. Traffic shall proceed only in a western direction along 20th Street between Galena Avenue and Joplin Street. Traffic shall proceed only in a southern direction along Galena Avenue between 19th Street and 20th Street.

(b) Traffic shall proceed only in a northern direction along Water Street between 6th Street and 7th Street. (Ord. 07-21; Code 2015)

14-207. TRUCK ROUTE. This section applies only to tractor-trailer rigs or 18 wheelers.

(a) The following are hereby designated as truck routes for the use of tractor-trailer rigs or 18 wheelers in the City of Galena, as follows:

(1) Commencing at the intersection of Main Street and Clark Street, then along Clark Street eastward to the intersection of Clark Street and Old Highway 66, then eastward along Old Highway 66 to Stateline Road, then southward along Stateline Road to the intersection of Stateline Road and Seventh Street, then southward along Stateline Road to the intersection of 11th Street extended eastward and Stateline Road;

(2) All of 7th Street;

(3) All of Highway 26;

(4) Main Street from the intersection of 7th Street and Main Street to the intersection of Main Street and Clark Street.

(b) It shall be a violation of this section for any of the above described vehicles to be operated on any street in the City of Galena, Kansas, that is not a designated truck route, except when said vehicles are making a pick-up or delivery of freight or merchandise in areas within the city not accessible solely by travel along a designated truck route and such vehicles are on the most direct route between a designated truck route and the place of pick-up or delivery.

(c) Any person convicted of a violation of this section shall be guilty of the offense of "Failure to Follow a Truck Route" and upon such conviction shall be subject to a fine of not less than \$50 or more than \$250.

(Ord. 07-05; Code 2015)

ARTICLE 3. HAZARDOUS MATERIALS

- 14-301. **HAZARDOUS MATERIAL DEFINED.** As used in this article, the term hazardous material shall mean any material or combination of materials which, because of its quantity, concentration, or physical, chemical, biological, or infectious characteristics, poses a substantial present or potential hazard to human health or safety or the environment if released into the workplace or environment or when improperly treated, stored, transported, or disposed of or otherwise managed. (Code 2015)
- 14-302. **SAME; EXCEPTIONS.** The provisions of this article shall not apply to any container which shall have a capacity of 150 gallons or less which shall be used for the purpose of supplying fuel for the vehicle on which it is mounted. (Code 2015)
- 14-303. **TRANSPORTATION OF HAZARDOUS MATERIALS.** Except as provided in section 14-304 it shall be unlawful for any person, firm, corporation or other entity to transport any hazardous material upon any street, avenue, highway, road, alley or any other public right-of-way in the city. (Code 2015)
- 14-304. **HAZARDOUS MATERIALS ROUTES.** The provisions of section 14-303 shall apply to all streets, avenues, highways, roadways, alleys or other public right-of-ways within the city except those specified within this section where transportation of hazardous materials shall be allowed. Transportation of hazardous materials shall be allowed upon the following streets, avenues, highways or roadways:
- (a) Seventh Street within the city
 - (b) Hwy. 26 within the city.
 - (c) (Reserved)
- (Code 2015)
- 14-305. **PARKING OF VEHICLES OR TRAILERS CARRYING HAZARDOUS MATERIALS.** It shall be unlawful for any person, firm, corporation or other entity to park any vehicle, trailer or semi-trailer carrying any hazardous material, except as follows:
- (a) Vehicles, trailers or semi-trailers parked for continuous periods of time not to exceed one hour where such vehicles, trailers or semi-trailers are parked along those routes specified in Section 14-304 of this section.
- (Code 2015)
- 14-306. **REMOVAL OF ILLEGALLY PARKED TRAILERS.** If any vehicle, trailer or a semi-trailer is found parked in violation of the provisions of this article, the fire chief or assistant chief or any law enforcement officer may require the owner, operator or lessee of the trailer to move it within two hours. If such removal is not accomplished on the order of any such officer, the officer may cause it to be immediately removed. (Code 2015)
- 14-307. **UNATTENDED VEHICLES.** No vehicle shall be left unattended by the operator or owner thereof. (Code 2015)
- 14-308. **VIOLATIONS; PENALTY.** It shall be unlawful to commit any violation of this article. (Code 2015)

ARTICLE. 4 WORK-SITE UTILITY AND SMALL VEHICLES

14-401. DEFINITIONS. The following definitions shall apply: Small vehicles shall include all of the following vehicles listed within this subsection, as follows:

(a) An "all-terrain vehicle" means any motorized non-highway vehicle which is 48 inches or less in width, having a dry weight of 1,000 pounds or less, traveling on three or more low-pressure tires, having a seat designed to be straddled by the operator. As used in this section, "low-pressure tire" means any pneumatic tire six inches or more in width, designed for use on wheels with a 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.

(b) A "work-site utility vehicle" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an un-laden weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. "Work-site utility vehicle" does not include a micro utility truck;

(c) A "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 un-laden weight, including fuel and fluids, of more than 1500 pounds, can exceed 40 miles per hour as originally manufactured, and is manufactured with a metal cab. A "micro utility truck" does not include a work-site utility vehicle;

(d) A "low speed vehicle" means any four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured in compliance with the national highway and traffic safety administration standards for low-speed vehicles pursuant to 49 C.F.R. 571.500;

(e) A "motorized bicycle" means every device having two tandem wheels or three wheels which may be propelled by either human power or helper motor, or by both, and which has:

- (1) a motor which produces not more than 3.5 brake horsepower;
- (2) a cylinder capacity of not more than 130 cubic centimeters;
- (3) an automatic transmission; and
- (4) the capability of a maximum design speed of no more than 30 miles per hour, except a low power cycle; and,

(f) An "electric-assisted bicycle" means a bicycle with two or more wheels, a saddle, fully operative pedals for human propulsion, and an electric motor. The electric-assisted bicycle's electric motor must have a power output of not more than 1000 watts, be incapable of propelling the device at a speed of more than 20 miles per hour on level ground and incapable of further increasing the speed of the device when human power alone is used to propel the device beyond 20 miles per hour.

(g) "Operation" means the operation of a small vehicle upon the streets and roads of the city of Galena, Kansas.
(Ord. 08-12; Code 2015)

14-402. OPERATION OF SMALL VEHICLES; INSPECTION. (a) All vehicles described in Section 14-401 shall not be operated within a half hour after dawn and a half hour before dusk, except that a "work-site utility vehicle" may be operated without regard to the time of the day.

(b) The operator of a "micro utility truck" shall be required to carry motor vehicle liability insurance upon such vehicle.

(c) The operators of all small vehicles upon authorized streets within the city shall by December 31st before the upcoming year obtain an annual inspection of the small vehicle by the City of Galena before operating such small vehicle upon the streets of the city. The inspection fee shall be paid at the time of the inspection and shall be \$35 for a micro-utility vehicle and \$20 for all other small vehicles. An inspection shall be made and approved by the city before any small vehicle may operate therein.

(d) Upon an approved inspection, a permit shall be issued by the city to be affixed to the small vehicle prior to the operation of such vehicle upon city streets.

(e) In the event the request for inspection is done for the purpose of operating a small vehicle during the same year in which the request is made, the inspection fee shall be as stated immediately above, and such fee shall not be subject to proration. (Ord. 08-12, Code 2015)

14-403.

LIMITATIONS UPON OPERATION. (a) No small vehicles may be operated within the city on 7th Street or on Main Street from the southern boundary of the intersection of Main Street and 1st Street southward to the southern city limits, except a micro-utility vehicle which may be operated upon any streets within the city. However, small vehicles may cross Main Street and 7th Street in the areas of such streets where the operation of small vehicles are otherwise prohibited, provided the length of travel along such prohibited street shall not be greater than the entry point upon such prohibited street to the next intersection such prohibited street has with a non-prohibited street.

(b) All operators of small vehicles upon streets within the city shall have a valid driver's license.

(c) No all-terrain vehicles shall be operated upon streets in the city unless such vehicle has a 4 cycle engine with a standard muffler. No all-terrain vehicle with 2 cycle engine shall be operated upon the streets of the city.

(d) No person under 18 years of age shall operate, or be a passenger during the operation of, a small vehicle upon the streets of Galena, Kansas, without wearing a helmet that meets the standards set forth in the Code of Federal Regulations of the United States of America in Title 49, Section 571.218, that fits snugly to the head of the operator or passenger, and contains no visible defects.

(e) Small vehicles are entitled to full use of a lane, and no motor vehicle shall be driven in such a manner as to deprive any small vehicle of the full use of a lane. The operator of a small vehicle shall not overtake and pass in the same lane occupied by the vehicle being overtaken. No person shall operate a small vehicle between lanes of traffic or between the adjacent lines or rows of vehicles. No small vehicles shall pass any other vehicles upon the streets of the city. (Ord. 08-12; Code 2015)

14-404.

PENALTIES FOR VIOLATIONS. No person shall knowingly operate a small vehicle, as described above, within the corporate limits of the City of Galena, Kansas, in violation of the terms of this Article 4 of Chapter 14 of the Code of the City of Galena, Kansas. Violation of the terms hereof shall constitute the offense of "Unlawful Operation of a Small Vehicle" and shall be punishable by a fine of not less than \$100, nor more than \$500. (Ord. 08-12; Code 2015)

CHAPTER XV. UTILITIES

Article 1. General Provisions

Article 2. Water

Article 3. Sewers

Article 4. Solid Waste

Article 5. Water Conservation

ARTICLE 1. GENERAL PROVISIONS

- 15-101. DEFINITION. For purposes of this article utility services shall include water, sewer, solid waste (refuse) and other utility services provided by the city. (Code 2015)
- 15-102. DELINQUENT ACCOUNTS. Unless otherwise provided, water, sewer, solid waste (refuse) or other utility service shall be terminated for nonpayment of service fees or charges in accordance with sections 15-103:104. (Code 2015)
- 15-103. NOTICE; HEARING. (a) If a utility bill has not been paid on or before the due date as provided in this chapter, a delinquency and termination notice shall be issued by the city clerk within five days after the delinquency occurs and mailed to the customer at his or her last known address. A copy also shall be mailed to the occupant of the premises if the occupant and the customer are not the same person.
- (b) The notice shall state:
- (1) The amount due, plus delinquency charge;
- (2) Notice that service will be terminated if the amount due is not paid within 10 days from the date of the notice unless the date on the notice to pay the charges due shall be on a Saturday, Sunday or legal holiday, in which event such notice will give the consumer until the close of the next business day in which to pay the charges;
- (3) Notice that the customer has the right to a hearing before the designated hearing officer;
- (4) Notice that the request for a hearing must be in writing and filed with the city clerk no later than three days prior to the date for termination of service.
- (c) Upon receipt of a request for hearing, the city clerk shall advise the customer of the date, time and place of the hearing which shall be held within three working days following receipt of the request.
- (d) The hearing officer shall be the water committee of the city council. (Code 2015)
- 15-104. SAME; FINDING. Following the hearing, if the hearing officer shall find that service should not be terminated, then notice of such finding shall be presented to the city clerk. If the officer finds that service should be terminated, an order shall be issued terminating service five days after the date of the order. The customer shall be notified either in person or by mailing a letter to his or her last known address by

certified mail, return receipt requested. However, if the order is made at the hearing in the presence of the customer, then no further notice need be given. The hearing officer has a right, for good cause, to grant an extension, not to exceed 10 days, for the termination of such service. (Code 2015)

15-105. UTILITY DEPOSIT. (a) Each new customer making application for utility service shall make a cash deposit to the city to serve as a guaranty for the payment of service thereafter furnished to the customer's premises.

(b) The deposit(s) required by subsection (a) shall not exceed an amount equal to the expected average bill for a three month period for such utility service(s). At its discretion, the city may require a single utility deposit to be paid by the property owner or customer. If a single deposit is requested, the total amount of the deposit shall not exceed an amount equal to the expected average bills for a three month period for all such utility services provided by the city.

(c) In the event that utility service shall be disconnected or discontinued for failure to pay any bill due the city for such utility, such cash deposit shall be applied as a credit against all amount due from the customer to the city, and if there shall remain any surplus of such deposit, the same shall be returned to the customer.

(d) Deposits collected pursuant to this ordinance shall be governed by the provisions of K.S.A. 12-822 as amended.
(Code 2015)

15-106. DELINQUENT ACCOUNTS; REFUSAL OF SERVICE; TERMINATION OF SERVICE; LIEN AGAINST PROPERTY. (a) In the event that any person, except the United States or the state of Kansas, shall fail to pay the fees or charges for such utility services(s), utility service shall be terminated as provided in sections 15-102:104. The governing body may refuse the delivery of utility service(s), as permitted by law, until such time as the fees and charges are paid in full.

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

(c) The lien, described in subsection (b) of this section, shall not attach to property for unpaid utility fees or charges when the utility service(s) have been contracted for by a tenant and not by the landlord or owner of the property to which the utility service is provided.

(d) If at the time of application for utility service the applicant has an outstanding balance or unpaid fees or charges for utility services provided by the city, the application shall not be accepted until all fees or charges are paid in full.
(Code 2015)

15-107. LANDLORD LIABILITY. (a) Owners of premises served by utility service under this article shall be liable for payment of the costs of any utility service account delinquency arising from service provided to such premises, regardless of whether the utility service was furnished upon the application and request of the owner or lessee of the premises. This provision shall also apply when the premises are leased by or through an agent or other representative of the owner.

(b) In the event that a delinquency arises involving leased premises, in addition to the tenant, the owner or owner's agent shall be notified in writing of the delinquency of the lessee by first class regular mail within 10 days after the billing to the lessee becomes delinquent. Notice shall be sufficient if mailed to the last known address of the owner or owner's agent known to city personnel responsible for said mailing, after reasonable inquiry.

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

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

(Code 2015)

15-108. PETTY CASH FUND. A petty cash fund in the amount of \$1,000 is established for the use of the city utilities department, for the purpose of paying postage, freight, temporary labor, and other emergency expenses, including refund of deposits made to secure payment of accounts. (Code 2015)

15-109. SAME; DEPOSITS. The petty cash fund shall be deposited in the regular depository bank of the city and paid out on the order of the city clerk by check which shall state clearly the purpose for which issued. (Code 2015)

15-110. SAME; VOUCHERS. Whenever the petty cash fund becomes low or depleted, the city clerk shall prepare vouchers covering expenses as have been paid from the petty cash fund and shall submit such vouchers together with the paid checks to the governing body for review and allowance of the amounts from the regular funds of the utilities. Warrants issued therefor shall be payable to the petty cash fund and shall be deposited therein to restore said petty cash fund to its original amount. (Code 2015)

15-111. UTILITY REPAIRS. In the event any utility installation causes damage to the street, a sidewalk, or curb and guttering, an additional repair fee of the higher of \$150 or actual costs to the city, factoring in to the costs reasonable expenses for material, labor, and any equipment rental, shall be assessed. (Ord. 06-05; Code 2015)

ARTICLE 2. WATER

- 15-201. **SUPERINTENDENT OF WATER AND SEWAGE.** The general management, care, control and supervision of the city water system shall be in the superintendent. (Code 2015)
- 15-202. **REGULATIONS.** The furnishing of water to customers by the city through its waterworks system shall be governed by the regulations set out in this article. (Code 1988)
- 15-203. **SERVICE NOT GUARANTEED.** The city does not guarantee the delivery of water through any of its mains and connecting services at any time except only when its mains, pumping machinery, power service connection are in good working order, and the supply of water is sufficient for the usual demand of its consumers. (Code 1988)
- 15-204. **SERVICE CONNECTIONS REQUIRED.** (a) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the city abutting on any street, alley, or right-of-way in which there is now located or may in the future be located near public water mains, is hereby required at his or her own expense to make connection to such public water main.
(b) Before any connection is made to the city's water system an application must be made in writing to the city clerk by the owner of the premises, or his or her authorized representative, for a permit to make such connection. (Code 1988)
- 15-205. **APPLICATION FOR SERVICE.** (a) Any person, firm or corporation desiring a connection with the municipal water system shall apply in writing to the city clerk, on a form furnished by the city for that purpose, for a permit to make the connection.
(b) The application shall:
(1) Contain an exact description including street address of the property to be served;
(2) State the size of tap required;
(3) State the size and kind of service pipe to be used;
(4) State the full name of the owner of the premises to be served;
(5) State the purpose for which the water is to be used;
(6) State any other pertinent information required by the city clerk;
(7) Be signed by the owner or occupant of the premises to be served, or his or her authorized agent.
(c) Each application for a connection permit shall be accompanied by payment of fees and/or costs specified in section 15-207. (Code 2015)
- 15-206. **CITY TO MAKE CONNECTIONS.** All taps shall be given, street excavations made, corporation cocks inserted, pipes installed from main to curb, and the curb cock installed in a meter box to which the service pipe is to be connected by city employees only. (Code 2015)
- 15-207. **CONNECTION FEES.** The fees for connection to the city waterworks system shall be as follows:

<u>Tap Size- inches</u>	<u>Inside the City Limits</u>	<u>Outside the City Limits</u>
1 or less	\$500.00	\$750.00
more than 1 but not more than 2	\$2500.00	\$3125.00
more than 2 but not more than 4	\$4000.00	\$5000.00
more than 4 but not more than 6	\$6500.00	\$8125.00

The fees for water taps stated above apply only to property that is within 20 feet of the city water main line. Any further distance will require additional fees to be determined solely in the discretion of the city based upon existing product and labor costs. The city reserves the right to not supply a water tap to anyone outside the city limits. (Ord. 06-05; Code 2015)

- 15-208. CURB COCKS. There shall be a curb cock in every service line attached to the city main, the same to be placed within the meter box. Curb cocks shall be supplied with strong and suitable "T" handles. (Code 2015)
- 15-209. CHECK VALVES. Check valves are required on all connections to steam boilers or on any other connection deemed necessary by the water superintendent. Safety and relief valves shall be placed on all boilers or other steam apparatus connected with the water system where the steam pressure may be raised in excess of 40 pounds per square inch. (Code 2015)
- 15-210. UNAUTHORIZED SERVICE. It shall be unlawful for any person, firm, or corporation, other than duly authorized city officials or employees to turn water on or off at the water meter or curb cock shut off, with a key or in any other manner, without first obtaining written permission from the mayor or the governing body. (Code 2015)
- 15-211. METERS. (a) All water furnished to customers shall be metered.
 (b) Meters shall be located between the sidewalk or property line and curbing when the main is in the street and on private property within three feet of the alley line when the main is in the alley. In the business district the meters may be installed in the basement at a location specified by the city.
 (c) The city's responsibility stops at the property line.
 (d) The following meter rental fees shall apply:
 Household meters- \$0.45 per month;
 High demand meters- \$0.80 per month;
 1.5 inch high demand meters- \$3.90 per month;
 2 inch Turbo meters- \$5.10 per month;
 2 inch Compound meters- \$9.70 per month;
 3 inch Rockwell Turbo meter- \$6.10 per month;
 4 inch Turbo meter- \$11.60 per month;
 4 inch Compound meters- \$9.70 per month;
 6 inch Eagle meters- \$22.10 per month
 (Ord. 1054; Code 2015)

- 15-212. SAME; TESTING. Meters shall be tested before being set and at any other time thereafter when they appear to be measuring incorrectly. If a test is requested by the customer and the meter is found to be accurate within two percent, the meter will be deemed correct and a charge of \$10 will be made to the customer. (Code 1988)
- 15-213. TAMPERING WITH METER. It shall be unlawful for any person to break the seal of any meter, to alter the register or mechanism of any meter, or to make any outlet or connection in any manner so that water supplied by the city may be used or wasted without being metered. It shall be unlawful for any person except an authorized employee of the water department to turn any curb cock on or off. (Code 1988)
- 15-214. LEAKS PROHIBITED; PENALTY. No allowances shall be made for water used or lost through leaks, carelessness, and neglect or otherwise after the same has passed through the meter. However, every customer shall have the right to appeal to the city from water bill or meter reading which he or she may consider excessive. (Code 2015)
- 15-215. DISCONNECTION, RECONNECTION CHARGE. The governing body shall establish, by ordinance, a water service disconnection and reconnection charge. Whenever the city receives a request from a customer for termination of water service the disconnection charge shall be added to the customer's final bill. Any service disconnected for nonpayment of delinquent bill shall be reconnected only upon payment of the delinquent bill, interest penalty thereon, and the reconnection charge. (Code 2015)
- 15-216. UTILITY DEPOSIT. At the time of making application for water service, the property owner or customer shall make a cash deposit in the amount and manner specified in section 15-105 to secure payment of accrued bills or bills due on discontinuance of service. (Code 2015)
- 15-217. INTERRUPT SERVICE. The city reserves the right to interrupt water service for the purpose of making repairs or extensions to water lines or equipment. (Code 1988)
- 15-218. PROHIBITED ACTS. It shall be a violation of this article for any unauthorized person to:
- (a) Perform any work upon the pipes or appurtenances of the city's waterworks system beyond a private property line unless such person is employed by the city;
 - (b) Make any connections with any extension of the supply pipes of any consumer without written permission to do so having been first obtained from the governing body;
 - (c) Remove, handle or otherwise molest or disturb any meter, meter lid, cutoff, or any other appurtenances to the water system of the city.
- (Code 2015)
- 15-219. WASTING WATER. (a) Water users shall prevent unnecessary waste of water and shall keep sprinklers, hydrants, faucets and all apparatus, including the

service line leading from the property to the meter in good condition at their expense. Wasting water may include but is not limited to:

- (1) Permitting water to escape down a gutter, ditch, or other surface drain;
- (2) Failing to repair an irrigation system's malfunction; or
- (3) Failing to repair a controllable water leak due to defective plumbing.

(b) It shall be a violation of this article and unlawful for any owner, occupant, or manager of real property served by the city water utility to waste water or to permit the wilful waste of water to occur.

(c) In the event of a violation of this section, the superintendent of water, or such other person as may be designated by the city, shall give written notice of the violation and opportunity for hearing in accordance with section 15-608.

(d) The penalties for violating this section shall be the same as those set forth in section 15-608. (Code 2015)

15-220. RIGHT OF ACCESS. Authorized employees of the city may enter upon any premises at reasonable hours for the purpose of reading the meter or servicing or inspecting meters or water lines. (Code 1988)

15-221. RATES. The rates per month for the use of water in the city shall be as follows:

(a) INSIDE CITY LIMITS:

Base Rate: \$13.31 per month

Usage Rate: \$4.24 per 1,000 gallons consumed

(b) OUTSIDE CITY LIMITS:

Base Rate: \$20.57 per month

Usage Rate: \$4.84 per 1,000 gallons consumed

The rates specified herein shall be in effect commencing June, 2014.
(Ord. 14-11; Code 2015)

15-222. PAYMENT OF BILLS. All water bills for the previous month's water service shall be paid on or before the 1st day of the month following the service. After the 15th day of the month in which the billing is due a late charge will be assessed. Late fees shall be determined by the city council. (Ord. 07-25; Code 2015)

15-223. DELINQUENT ACCOUNTS; NOTICE; HEARING; FINDING; LIABILITY. Water service shall be terminated for nonpayment of service fees or charges as provided in sections 15-102:104. (Code 2015)

15-224. USE DURING FIRE. No person owning or occupying premises connected to the municipal water system shall use or allow to be used during a fire any water from the water system except for the purpose of extinguishing the fire. Upon the sounding of a fire alarm it shall be the duty of every such person to see that all water services are tightly closed and that no water is used except in extraordinary cases of emergency during the fire. (Code 2015)

15-225. CROSS-CONNECTIONS PROHIBITED. No person shall establish or permit to be established or maintain or permit to be maintained, any cross connection whereby a private, auxiliary, or emergency water supply other than the regular public water supply of the city may enter the supply and distributing system of the city unless specifically approved by the Kansas Department of Health and Environment and the governing body. (Code 2015)

- 15-226. SAME; PROTECTIVE BACKFLOW DEVICES REQUIRED. Approved devices to protect against backflow or backsiphonage shall be installed at all fixtures and equipment where backflow and/or backsiphonage may occur and where there is a hazard to the potable water supply in that polluted water or other contaminating materials may enter into the public water supply. Any situation in which a heavy withdrawal of water, such as a sudden break in the main or water being used from a fire hydrant, may cause a negative pressure to develop which could lead to backsiphonage of polluted water into the system shall be improper and must be protected by approved backflow preventive valves and systems as determined by the superintendent. (Code 2015)
- 15-227. SAME; INSPECTION. The city utility superintendent or other designee of the governing body shall have the right of entry into any building or premises in the city as frequently as necessary in his or her judgment in order to ensure that plumbing has been installed in accordance with the laws of the city so as to prevent the possibility of pollution of the water supply of the city. (Code 2015)
- 15-228. SAME; PROTECTION FROM CONTAMINANTS. Pursuant to the city's constitutional home rule authority and K.S.A. 65-163a, the city by its utility superintendent may refuse to deliver water through pipes and mains to any premises where a condition exists which might lead to the contamination of the public water supply system and it may continue to refuse the delivery of water to the premises until that condition is remedied. In addition, the city utility superintendent may terminate water service to any property where the cross connections or backsiphonage condition creates, in the judgment of the superintendent, an emergency danger of contamination to the public water supply. (Code 2015)
- 15-229. WATER SERVICE ACTIVATION FEE. The fee for an application to activate water service shall be \$75.00. (Code 2015)

ARTICLE 3. SEWERS

15-301. DEFINITIONS. Unless the context clearly indicates otherwise, the meaning of words and terms as used in this article shall be as follows:

(a) Building Drain - shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the innerface of the building wall.

(b) Building Sewer - shall mean the extension from the building drain to the public sewer or other place of disposal.

(c) B.O.D. (denoting Biochemical Oxygen Demand) - shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees centigrade, expressed in parts per million by weight.

(d) PH - shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

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

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

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

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

(i) Sewage - shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, and storm waters as may be present.

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

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

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

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

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

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

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

(q) User - means any person as defined in section 1-102, including an institution, governmental agency or political subdivision producing wastewater

requiring processing and treatment to remove pollutants and having premises connected to the wastewater facilities.

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

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

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

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

(3) Hydrogen ion concentration of 5.0 to 9.0.

(Ord. 1021; Code 2015)

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 toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 90 days after date of official notice to do so, provided that said public sewer is within 140 feet of the property line. (Code 2015)

15-303. PERMIT; CONNECTION FEE. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city.

(b) There shall be charged a fee of \$600 payable at the time of making application for a permit for a sewer tap from a 4 inch or 6 inch private line to a city 8 inch or larger main sewer line if the distance between the precise location of the sewer main within the city right-of-way and the closest edge of the boundary of the private property to which the tap extends is 20 feet or less. In the event this distance is greater than 20 feet an additional fee will be added to the aforesaid \$600 fee, to be determined solely at the discretion of the city based upon existing product and city labor costs.

(Code 2015)

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 2015)

15-305. COSTS. All costs and expense incident to the installation and connection of the building sewer shall be paid by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (Code 2015)

- 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 at a suitable location. Where no properly located "Y" branch is available, the connection shall be made in the manner approved by the utility superintendent and at a location designated by the superintendent. (Code 2015)
- 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 2015)
- 15-308(1) SAME; SPECIFICATIONS. The building sewer shall be constructed of cast iron pipe, ASTM specifications A74-42, or approved equal; vitrified clay sewer pipe, ASTM specifications C13-44T, or approved equal; or an approved plastic pipe. Any plastic pipe to be installed on any building sewer shall not be approved by the city until the owner has furnished descriptive literature and typical sample section of the plastic pipe proposed for installation, to the city for inspection and review. All joints on all pipe installed shall be tight and waterproof. Any part of the building sewer that is located within 10 feet of a water service pipe or city water main shall be constructed of approved cast iron soil pipe with approved joints. No building sewer shall be installed within three feet of existing gas lines. If installed in filled or unstable ground, the building sewer shall be constructed of cast iron soil pipe, except that non-metallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the city. (Code 2015)
- 15-308(2) SAME. The size and slope of the building sewer to be installed shall be subject to the approval of the city inspector, but in no event shall the diameter of the pipe be less than four inches. The slope at which a six inch pipe is to be laid shall be not less than 1/8 inch per foot and for four inch pipe, not less than 1/4 inch per foot. Any grades for the pipe, which are proposed for installation at grades less than these specified, shall be approved by the city inspector prior to placement. (Code 2015)
- 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 2015)
- 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 costs of pumping equipment and pumping equipment operational costs shall be those of the owner. (Code 2015)

- 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 2015)
- 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 2015)
- 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.
- Cast iron pipe with lead joints shall be firmly packed with oakum or hemp and filled with molten lead, Federal Specifications QQ-L-156, not less than one inch deep. Lead shall be run in one pour and caulked and packed tight. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved.
- All joints in vitrified clay pipe shall be the polyurethane-compression type joints, approved by the city inspector.
- Joints for all plastic pipe used in building sewers shall be the slip type joints or solvent weld type, approved by the city.
- Joints between any two different type of pipes shall be made with lead, asphaltic jointing materials or concrete, as approved by the city. All joints shall be watertight and constructed to insure minimum root penetration and to the satisfaction of the city. (Code 2015)
- 15-309. SEWER EXCAVATIONS: DAMAGES. All excavations for buildings sewers shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, curb and gutters, sidewalks, parkways and other public property removed or damaged during the installation of the building sewer, shall be repaired or replaced in a manner acceptable to the city and at the total expense of the owner. It is further agreed that any parties involved in any excavating or installation work for sewer installations as above set out, will hold the city harmless from any and all damages to persons or property resulting from or growing out of any opening or excavation or any negligent act or from any operation made within the city. (Code 2015)
- 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 noticed, the city may cause such buildings to be connected with the sewer system as authorized by K.S.A. 12-631.
- (b) The cost and expense, including inspection fees, shall be assessed against the property. Until such assessments shall have been collected and paid to the city, the cost of making such connection may be paid from the general fund or through the issuance of no fund warrants. (Code 2015)

- 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 2015)
- 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 disposal system complying with the provisions of sections 15-311 to 15-316. (Code 2015)
- 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. A permit and inspection fee of \$50 shall be paid to the city at the time the application is filed. (Code 2015)
- 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 2015)
- 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 article, and any septic tank, cesspool, and similar private sewage disposal facilities shall be abandoned and filled with suitable and acceptable materials. (Code 2015)
- 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 2015)
- 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. 12-1617e; K.S.A. 12-1617g; Code 2015)

- 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 2015)
- 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 2015)
- 15-320. **STANDARDS.** The size, slope, alignment, materials, excavation, placing of pipe, jointing, testing and backfilling shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city. (Code 2015)
- 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 2015)
- 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 2015)
- 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 2015)
- 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 2015)
- 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;
- (i) Noxious or malodorous gas or substance capable of creating a public nuisance. (Code 2015)

15-326. **BILLS.** (a) Bills shall be rendered monthly as provided in section 15-222 and shall be collected as a combined utility bill.

(b) Any person at the time of beginning or terminating service who receives service for a period of less than 17 consecutive days shall be billed at no less than one-half of the regular minimum monthly rate. For service of 17 consecutive days or more the charge shall be not less than full regular minimum monthly rate. (Code 2015)

15-327. **DELINQUENT ACCOUNTS; LIEN AGAINST PROPERTY; OTHER REMEDIES.**

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

(b) All other remedies regarding delinquent accounts, and exceptions thereto, contained in section 15-106 shall apply to sewer service fees, charges and services. (Code 2015)

15-328. **SEWER SERVICE CHARGE.** The monthly charge for sewer service shall be as follows:

Base rate:	\$7.26	per month (applies to both residential and commercial customers)
Residential Usage rate:	\$3.03	per 1,000 gallons for residential customer.

Residential service customers exceeding 15,000 gallons delivered into the sewage system during a metering period shall not be charged for any such usage over 15,000 gallons.

Commercial Usage Rate	\$3.03	per 1,000 gallons used.
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The rates specified herein shall be in effect commencing June 1, 2014. (Ord. 14-12; Code 2015)

- 15-329 SEWER MAINTENANCE AND EQUIPMENT FEE; FUND. (a) There is hereby created a fund entitled, "Sewer Equipment and Maintenance Fund." In such fund shall be credited by the city clerk all proceeds collected from the assessment of the fee described in subsection (b) of this section.
- (b) There is hereby charged a monthly fee of \$0.77 applicable to all users of city sewer service for dedication to the "Sewer Equipment and Maintenance Fund." (Code 2015)
- 15-330 SEWER TAP FEES. Sewer Tap Fees. Any request for a sewer tap from a four inch or six inch private line to a city eight inch or larger main sewer line shall be \$600 and shall be paid before any connection is undertaken. The \$600 fee for a sewer tap applies only to property that is within 20 feet of the city sewer main line. Any further distance will require additional fees to be determined solely in the discretion of the city based upon existing product and labor costs. The city reserves the right to not supply a sewer tap to anyone outside the city limits. (Ord. 06-05; Code 2015)

ARTICLE 4. SOLID WASTE

- 15-401. DEFINITIONS. Unless the context clearly indicates otherwise, the meaning of words and terms as used in this article shall be as follows:
- (a) Commercial Waste. - All refuse emanating from establishments engaged in business including, but not limited to stores, markets, office buildings, restaurants, shopping centers, theaters, hospitals, governments and nursing homes.
 - (b) Dwelling Unit. - Any enclosure, building or portion thereof occupied by one or more persons for and as living quarters;
 - (c) Garbage. - Waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking and serving of meat, produce and other foods and shall include unclean containers;
 - (d) Multi-Family Unit. - Any structure containing more than four individual dwelling units;
 - (e) Refuse. - All garbage and/or rubbish or trash;
 - (f) Residential. - Any structure containing four or less individual dwelling units, rooming houses having no more than four persons in addition to the family of the owner or operator, and mobile homes;
 - (g) Rubbish or Trash. - All nonputrescible materials such as paper, tin cans, bottles, glass, crockery, rags, ashes, lawn and tree trimmings, stumps, boxes, wood, street sweepings and mineral refuse. Rubbish or trash shall not include earth and waste from building operations or wastes from industrial processes or manufacturing operations;
 - (h) Single Dwelling Unit. - An enclosure, building or portion thereof occupied by one family as living quarters.
 - (i) Solid Waste. - All non-liquid garbage, rubbish or trash.
- (Code 2015)
- 15-402. COLLECTION. All solid waste accumulated within the city shall be collected, conveyed and disposed of by the city or by contractors specifically authorized to collect and dispose of solid waste.
(Ord. 1052; Code 1998)
- 15-403. CONTRACTS. The city shall have the right to enter into a contract with any responsible person for collection and disposal of solid waste.
(Code 2015)
- 15-404. DUTY OF OWNER, OCCUPANT. The owner or occupant of every dwelling unit or commercial enterprise shall provide at his or her own expense a suitable container for the storage of solid waste as provided in this article. No owner or occupant shall permit to accumulate quantities of refuse or other waste materials within or close to any structure within the city unless the same is stored in approved containers and in such a manner as not to create a health or fire hazard.
(Code 2015)
- 15-405. CONTAINERS. Residential containers shall have a capacity of not more than 30 gallons. They shall be of galvanized metal or other non-rusting material of substantial construction. Each container shall have a tight fitting lid and shall be leak-proof and fly-tight. All containers shall have handles of suitable construction to permit lifting. Plastic bags manufactured for garbage and refuse disposal may be

substituted for residential containers. Plastic bags, when used, shall be securely closed. All garbage shall be drained of all liquids before being placed in bags or containers. (Code 2015)

- 15-406. **BULK CONTAINERS.** On premises where excessive amounts of refuse accumulate or where cans or bags are impractical bulk containers for the storage of refuse may be used. Containers shall have a capacity and shall be equipped with appurtenances for attaching mechanical lifting devices which are compatible with the collection equipment being used. Containers shall be constructed of durable rust and corrosion resistant material which is easy to clean. All containers shall be equipped with tight fitting lids or doors to prevent entrance of insects or rodents. Doors and lids shall be constructed and maintained so they can be easily opened. Containers shall be watertight, leakproof and weather proof construction. (Code 2015)
- 15-407. **ENTER PRIVATE PREMISES.** Solid waste collectors, employed by the city or operating under contract with the city, are hereby authorized to enter in and upon private property for the purpose of collecting solid waste therefrom as required by this article. (Code 2015)
- 15-408. **OWNERSHIP OF SOLID WASTE.** Ownership of solid waste when placed in containers by the occupants or owners of premises upon which refuse accumulates, shall be vested in the city and thereafter shall be subject to the exclusive control of the city, its employees or contractors. No person shall meddle with refuse containers or in anyway pilfer or scatter contents thereof in any alley or street within the city. (Code 2015)
- 15-409. **WRAPPING GARBAGE.** All garbage shall be drained of all excess liquid, and wrapped in paper or other disposable container before being placed in solid waste containers. (Code 2015)
- 15-410. **HEAVY, BULKY WASTE.** Heavy accumulations such as brush, tree limbs, broken concrete, sand or gravel, automobile frames, dead trees, and other bulky, heavy materials shall be disposed of at the expense of the owner or person controlling same. (Code 2015)
- 15-411. **HAZARDOUS MATERIALS.** No person shall deposit in a solid waste container or otherwise offer for collection any hazardous garbage, refuse, or waste. Hazardous material shall include:
- (a) Explosive materials;
 - (b) Rags or other waste soaked in volatile and flammable materials;
 - (c) Chemicals;
 - (d) Poisons;
 - (e) Radio-active materials;
 - (f) Highly combustible materials;
 - (g) Soiled dressings, clothing, bedding and/or other wastes, contaminated by infection or contagious disease;
 - (h) Any other materials which may present a special hazard to collection or disposal personnel, equipment, or to the public. (Code 2015)

- 15-412. **PROHIBITED PRACTICES.** It shall be unlawful for any person to:
- (a) Deposit solid waste in any container other than that owned or leased by him or under his control without written consent of the owner and/or with the intent of avoiding payment of the refuse service charge;
 - (b) Interfere in any manner with employees of the city or its contractors in the collection of solid waste;
 - (c) Burn solid waste except in an approved incinerator and unless a variance has been granted and a written permit obtained from the city or the appropriate air pollution control agency;
 - (d) Bury refuse at any place within the city except that lawn and garden trimmings may be composted.
- (Code 2015)
- 15-413. **OBJECTIONABLE WASTE.** Manure from cow lots, stables, poultry yards, pigeon lofts and other animal or fowl pens, and waste oils from garages or filling stations shall be removed and disposed of at the expense of the person controlling the same and in a manner consistent with this article.
- (Code 2015)
- 15-414. **UNAUTHORIZED DISPOSAL.** No person shall haul or cause to be hauled any garbage, refuse or other waste material of any kind to any place, site or area within or without the limits of the city unless such site is a sanitary landfill, transfer point or disposal facility approved by the Kansas State Department of Health and Environment.
- (Code 2015)
- 15-415. **PRIVATE COLLECTORS; LICENSE REQUIRED.** (a) It shall be unlawful for any person, except an employee of the city specifically authorized for that purpose, to collect or transport any solid waste within the city, without securing a license from the city.
- (b) Nothing herein shall be construed to prevent a person from hauling or disposing of his or her own solid waste providing it is done in such a manner as not to endanger the public health or safety or not to become an annoyance to the inhabitants of the city, and not to litter the streets and alleys of the city.
- (Code 2015)
- 15-416. **SAME; APPLICATION.** Any person desiring to collect or transport solid waste within the city shall make application for a license to the city clerk. The application shall set forth the name and address of the applicant, the make and type of vehicle to be operated for collecting and transporting solid waste. The application shall be accompanied by a certificate of inspection and approval of said vehicle by the county health officer issued not more than 15 days prior to the date of application.
- (Code 2015)
- 15-417. **SAME; FEE.** No license shall be issued unless the applicant shall pay to the city clerk the sum of \$100 per annum for each vehicle used in the collection and transportation of solid waste. The permit shall be effective only for the calendar year and shall expire on December 1st of the calendar year in which said permit is issued. (Code 2015)

- 15-418. SAME; NUMBER TO BE DISPLAYED. The city clerk shall issue a license receipt together with a number, which shall be painted on each vehicle. Said number shall be conspicuously placed upon the vehicle in a place and position to be clearly visible and in a condition to be clearly legible. The number shall be used only on the vehicle for which it is issued. (Code 2015)
- 15-419. CLOSED VEHICLE. Any vehicle used by any person for the collection and transportation of solid waste shall be maintained in a good mechanical condition. Vehicle shall be equipped with an enclosed covered body to prevent the contents leaking or escaping therefrom. Only tree trimmings or brush may be transported in open-bodied vehicles provided the material is securely tied in place to prevent scattering along the streets and alleys. (Code 2015)
- 15-420. RULES AND REGULATIONS. The collection and transportation of trash and waste materials shall be at all times under the general supervision of the mayor or his or her duly authorized agent, who shall have the authority by and with the consent of the governing body to make additional rules and regulations not inconsistent with the terms and provisions of this article requiring that the collection and transportation of trash and waste materials shall be conducted in such manner as not to endanger the public health, or to become an annoyance to the inhabitants of the city, and providing for a proper fee to be charged to the customer. (Code 2015)
- 15-421. FAILURE TO SECURE LICENSE. Any person who shall conduct or operate within the city limits any vehicle for the purpose of collecting and transporting solid waste without first obtaining a license as required by this article or who shall violate the terms and provisions of this article shall be deemed guilty of a violation of this code and upon conviction thereof shall be punished as provided in section 1-116. (Code 2015)
- 15-422. CHARGES. The city shall establish and collect a service charge to defray the cost and maintenance of the collection and disposition of solid waste within the city. (Code 2015)
- 15-423. SAME; FEE SCHEDULE. Fees for collection of refuse and garbage are as follows:
- (a) Each residential unit within the city, using water or sewer service, shall be charged at the rate of \$8.61 per month for one person or \$12.01 per month if more than one person resides at the address.
 - (b) All residential units outside the city limits using water or sewer service, and those otherwise using the refuse and garbage collection services of the city, shall be charged at the rate of \$13.03 per month for one person or \$16.43 per month if more than one person resides at the address.
 - (c) The minimum charge for commercial and industrial business, listed as a water customer, shall be \$21.53 per month. If a dumpster is required by a commercial or industrial business rather than the minimum charge of \$21.53 being assessed the charge shall be as stated in section (d) below.

(d) Dumpster charges shall be as follows, stated as per month charges:

<u>Size</u>	<u>Minimum</u>	<u>2 Pickups</u>	<u>3 Pickups</u>
1 1/2 yard	\$40.56	\$54.16	\$73.19
2 yard	\$55.52	\$697.11	\$89.51
3 yard	\$65.03	\$78.63	\$99.02
4 yard	\$73.19	\$86.79	\$107.18
6 yard	\$82.71	\$96.31	\$116.70

(e) Refuse and garbage collection fees not paid shall become a lien upon the real estate to which the services were furnished.

(f) The City of Galena shall have sole discretion for purposes hereunder to determine whether service at a particular location should be classified as residential, commercial or business. If a premises is used for both residential and commercial or business purposes it shall be classified as commercial or business for purposes of assessing the above rates.

(Ord. 6-16, Code 2015)

15-424. BILLING. Solid waste charges shall be billed monthly and shall be included on water or utility bills. No payment shall be accepted on utility bills except for the full amount billed for all services. Delinquent solid waste bills shall carry the due dates, grace periods and penalties as water bills. (Code 2015)

15-425. SAME; DELINQUENT ACCOUNT. In the event the owner or occupant of any property shall fail to pay the solid waste bills within 60 days following the date upon which it becomes due, the city clerk shall annually certify such unpaid bills to the county clerk as a lien upon the property. The lien shall be collected subject to the same regulations and penalties as other property taxes are collected.
(K.S.A. 65-3410; Code 2015)

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 such an emergency is declared. (Code 2015)
- 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 uses of water are established:
- Class 1: Water used for outdoor watering, either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational area; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.
- Class 2: Water used for any commercial or industrial, including agricultural, purposes; except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their place of employment.
- Class 3: Domestic usage, other than that which would be included in either classes 1 or 2.
- Class 4: Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.
(Ord. 91-1; Code 1998)
- 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 supply emergency exists and that it will encourage voluntary water conservation or impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water supply emergency shall be effective upon their publication in the official city newspaper. (Ord. 91-1; Code 1998)
- 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.
(Ord. 91-1; Code 1998)

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.

(Ord. 91-1; Code 1998)

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 increasing usage per unit of the use (increasing block rates);

(b) Uniform charges for water usage per unit of use (uniform unit rate); or

(c) Extra charges in excess of a specified level of water use (excess demand surcharge).

(Ord. 91-1; Code 1998)

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 water supply emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the governing body at its next regular or special meeting. (Ord. 91-1; Code 1998)

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 sections 15-505 or 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 specified time due to the violation and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the city governing body or a city official designated as a hearing officer by the governing body.

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

(3) The governing body or hearing official shall make findings of fact and order whether service should continue or be terminated.

(b) A fee of \$50 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 city or county jail which shall be fixed by the court and which shall not exceed 30 days. The penalty for a second or subsequent conviction shall be a mandatory fine of \$200. In addition, such customer shall serve a definite term of confinement in the city or county jail which shall be fixed by the court and which shall not exceed 30 days.

(Ord. 91-1; Code 1998)

15-509. **EMERGENCY TERMINATION.** Nothing in this article shall limit the ability of any properly authorized city official from terminating the supply of water to any or all service connections as required to protect the health and safety of the public.
(Code 2015)

CHAPTER XVI. ZONING AND PLANNING

- Article 1. City Planning Commission/
Board of Zoning Appeals
- Article 2. Zoning Regulations
- Article 3. Mobile Home Placement Guidelines
- Article 4. Flood Plain Zoning
- Article 5. Subdivision Regulations

ARTICLE 1. CITY PLANNING COMMISSION/ BOARD OF ZONING APPEALS

16-101. CITY PLANNING COMMISSION CREATED. There is hereby created a City Planning Commission for the City of Galena, Kansas, which shall consist of seven members, five of which shall be residents of the city and two of which shall reside outside of but within 3 miles of the corporate limits of the city. The City Planning Commission shall perform the duties of the following bodies as listed throughout Chapter 16 of the code and Kansas statutes applying to the subjects of granting or monitoring zoning, conditional uses, and variances: board of zoning appeals and planning commission. (Ord. 05-04; Code 2015)

16-102. MEMBERSHIP; APPOINTMENT; REMOVAL. The members of the city planning commission shall be appointed by the mayor by and with the consent of the city council. The members of the planning commission first appointed shall serve respectively for terms of one year, two years and three years, to expire on the dates set forth below, and divided equally or so nearly equal as is possible between those terms. Thereafter members shall be appointed for terms of three years each. Vacancies shall be filled by appointment for the unexpired term only. The mayor by and with the consent of the city council may remove any member of the city planning commission at any time. Members of the planning commission shall serve without compensation. The following position numbers are designated for the membership of the planning commission with the expiration date of the original term of such position stated immediately following the position number. Positions #1, #2, #3, #4, and #5 shall be residents of the City of Galena, Kansas. Positions #6 and #7 shall reside outside of but within 3 miles of the corporate limits of Galena, Kansas. The Mayor is directed to make reasonable efforts to nominate new members to fill the seven designated positions below on or before first regular meeting of the city council in November, 2006. Any subsequent appointments shall designate the position number being filled.

- Position #1- expires October 17, 2007
 - Position #2- expires October 17, 2007
 - Position #3- expires October 17, 2008
 - Position #4- expires October 17, 2009
 - Position #5- expires October 17, 2009
 - Position #6- expires October 17, 2007
 - Position #7- expires October 17, 2008
- (Ord. 6-14; Code 2015)

- 16-103. **MEETINGS.** The members of the planning commission shall meet at least semi-annually. They shall select one of their number as chairperson and one as vice chairperson who shall serve one year and until their successor has been selected. They shall annually appoint a secretary who may be an officer or employee of the city. Special meetings may be called at any time by the chairperson, or in his or her absence, by the vice chairperson. A majority of the planning commission shall constitute a quorum for the transaction of business. The planning commission shall cause a proper record to be kept of its proceedings. (Code 2015)
- 16-104. **POWERS AND DUTIES.** (a) The planning commission and city governing body shall have all the powers and duties set forth in K.S.A. 12-701 et seq., and amendments thereto, and such other powers and duties as are now or may hereafter be prescribed by law.
 (b) In the event the city has no city planning commission or the city planning commission lacks a quorum, the city council may exercise the duties thereof. (Ord. 93-15; Code 1998)
- 16-105. **BOARD OF ZONING APPEALS.** The planning commission is hereby designated to also serve as the city's board of zoning appeals with all the powers and duties as provided for in K.S.A. 12-759. The board shall adopt rules in the form of bylaws for its operation which shall include hearing procedures. Such bylaws shall be subject to the approval of the governing body. Public records shall be kept of all official actions of the board which shall be maintained separately from those of the commission. The board shall keep minutes of its proceedings showing evidence presented, findings of fact, decisions and the vote upon each question or appeal. A majority of the members of the board present and voting at the hearing shall be required to decide any appeal. Subject to subsequent approval of the governing body, the board shall establish a scale of reasonable fees to be paid in advance by the appealing party. (Code 2015)
- 16-106. **BUDGET.** The governing body shall approve a budget for the planning commission and make such allowances to the commission as it deems proper, including funds for the employment of such employees or consultants as the governing body may authorize and provide, and shall add the same to the general budget. Prior to the time that moneys are available under the budget, the governing body may appropriate moneys for such purposes from the general fund. The governing body may enter into such contracts as it deems necessary and may receive and expend funds and moneys from the state or federal government or from any other resource for such purposes. (Code 2015)

ARTICLE 2. ZONING REGULATIONS

16-201. PURPOSES. The several purposes of this article are: to encourage the most appropriate use of land; to conserve and stabilize the value of property; to aid in the rendering of fire and police protection; to provide adequate open space for light and air; to lessen the congestion on streets; to give an orderly growth to the city; to prevent undue concentrations of population; to facilitate adequate provisions for community utilities and facilities such as water, sewerage, electrical distribution systems, transportation, schools, parks and other public requirements; and in general to promote public health, safety, and general welfare.
(Ord. 82-5, Art. 1, Sec. 2; Code 2015)

16-201A. POLICY REGARDING PROTECTION OF IMPORTANT LAND RESOURCES AND ORDERLY DEVELOPMENT. As a condition for receiving Farmers Home Administration financial assistance, the city agrees to comply with federal, state and local laws and regulations regarding protection of productive agricultural land and other land resources (wetland and floodplains) and the orderly development land for residential, commercial and industrial uses. When decisions concerning land use arise from requests for service from our utility system, the city agrees to:

(a) Avoid unwarranted conversion of important farmland, wetlands and unwarranted encroachment on flood plains.

(b) Encourage development patterns which insure compact community development, contiguous development and in filling of development.

(c) Encourage planning which emphasizes sound land use and development patterns.

(d) To publicly announce the city's position relative to providing service to new users.

(e) To be guided by the local Soil and Water Conservation District and the results of the Land Evaluation Site Assessment System (LESA) with regard to service connections on prime and important farmland areas.

(f) Not to agree to service connections for properties that may be constructed on wetland or floodplains.

(g) To comply with the provision of Form FMHA 1942-47, "Loan Resolution (Public Bodies)" with regard to avoiding or reducing any adverse environmental impacts of the facility's construction or operation.

(Ord. 92-7, Sec. 1; Code 2015)

16-202. DEFINITIONS. As used in this article, the masculine includes the feminine and neuter and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

(a) Accessory Structure or Use. A structure or use incidental and subordinate to the main use of the property, including a home occupation, and which is located on the same lot with the main use.

(b) Alley. A narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.

(c) Apartment House. See dwelling, multi-family.

(d) Basement. That portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from the grade to the floor below is less than the vertical distance from the grade to the ceiling.

- (e) Billboard. See Sign.
- (f) Building. A structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.
- (g) City or Community. The City of Galena, Kansas.
- (h) City Development Plan. An official map, master or development plan, street plan, land use plan, building setback plan, design plan, or other map, plan or policy pertaining to the physical development of the city which has been officially adopted by the council.
- (i) Dwelling, Duplex: or Dwelling, Two-Family. A detached building containing two dwelling units.
- (j) Dwelling, Multi-Family. A building containing three or more dwelling units.
- (k) Dwelling, Single-Family. A detached building containing one dwelling unit, including a mobile home.
- (l) Dwelling Unit. One or more rooms designed for occupancy by one family and not having more than one cooking facility.
- (m) Employees. All persons, including proprietors, working on the premises during the largest shift at peak season.
- (n) Family. An individual, or two or more persons related by blood, marriage, legal adoption, custodianship, or guardianship living together in a dwelling unit in which board and lodging may also be provided for not more than four additional persons, excluding servants; or a group of not more than five persons who need not be related by blood, marriage, legal adoption, custodianship or guardianship living together in a dwelling unit.
- (o) Fence, Sight Obscuring. A fence or evergreen planting arranged in such a way as to obstruct vision.
- (p) Floor Area. The area including in surrounding walls of a building, or portion thereof, exclusive of vents, shafts and courts.
- (q) Garage, Private. An accessory building or portion of a main building used for the parking or temporary storage of vehicles or used by occupants of the main building.
- (r) Garage, Public. A building other than a private garage used for the care and repair of motor vehicles or where such vehicles are parked or stored for compensation, hire or sale.
- (s) Grade (ground level). The average of the finished ground level at the center of all walls of the building. In case walls are parallel to and within five feet of a sidewalk, the above-ground level should be measured at the sidewalk.
- (t) Height of Building. The vertical distance from the "grade" to the highest point of the coping of a flat roof or to the deck line of mansard roof or to the average height of the highest gable of a pitch or hip roof.
- (u) Home Occupation. An occupation carried on within a dwelling or accessory building by members of the family occupying the dwelling with no servant, employee, or other person being engaged, provided the residence character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their home.
- (v) Hospital. An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical or surgical care and nursing service on a continuous basis.

(w) Hotel. A building in which lodging is provided for guests for compensation and in which no provision is made for cooking the guest rooms.

(x) Kennel - means any establishment, commercial or otherwise, engaged in the commercial business of breeding, buying, selling, trading, training, or boarding cats or dogs or both cats and dogs in an enclosure in one location only of a number of more than three (3) dogs of six months of age or older or more than one litter of pups, or more than three (3) cats of more than six months of age or more than one litter of kittens, or more than a total of 3 dogs and cats more than six months of age in any combination.

(y) Lot. A parcel or tract of land which is occupied by a structure together with the yards and other open spaces required by this article.

(z) Lot Area. The total horizontal area within the lot lines of a lot.

(aa) Lot, Corner. A lot abutting on two intersecting streets other than an alley, provided that the streets do not intersect at an angle greater than 135 degrees.

(bb) Lot, Depth. The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line.

(cc) Lot, Interior. A lot other than a corner lot.

(dd) Lot Line. The property line bounding a lot.

(ee) Lot Line, Front. In the case of an interior lot, the lot line separating the lot from the street other than an alley and in the case of a corner lot, the shortest lot line along a street other than an alley.

(ff) Lot Line, Rear. A lot line which is opposite and most distant from the front lot line, and in the case of an irregular triangular, or other shaped lot, a line 10 feet in length within the lot parallel to and at a maximum distance from the front lot line.

(gg) Lot Line, Side. Any lot line not a front or rear lot line.

(hh) Lot Width. The horizontal distance between the side lot lines. ordinarily measured parallel to the front lot line.

(ii) Motel. A building or group of buildings on the same lot containing guest units with separate entrances from the building exterior and consisting of individual sleeping quarters, detached or in connecting rows, with or without cooking facilities, for rental to transients.

(jj) Nonconforming Structure or Use. A lawful existing structure or use at the time this ordinance or any amendments thereto becomes effective which does not conform to the requirements of the zone in which it is located.

(kk) Parking Space. A rectangle area containing not less than 200 square feet with maneuvering and access space required for a standard automobile to park within the rectangle.

(ll) Person. Every natural person, firm, partnership, association, or corporation.

(mm) Screening. See fence, sight obscuring.

(nn) Service Drive. A driveway entering a street from a drive-in business establishment or an off-street parking area, excluding residential driveways, serving fewer than 10 dwelling units.

(oo) Sign. A presentation or representation, other than a house number. by words, letters, figures, designs, pictures, or colors publicly displayed so as to give notice relative to a person, a business, an article or merchandise, a service, an assemblage, a solicitation, or a request for aid in other type of advertising.

This includes the board, metal, or surface upon which the sign is painted, included, or attached. Each display surface of a sign shall be considered to be a sign.

(pp) Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six feet above grade, such basement or cellar shall be considered a story.

(qq) Street. The entire width between the boundary lines of every way which provides for public use of the purpose of vehicular and pedestrian traffic and the placement of utilities including the terms "road," "highway," "lane," "place," "avenue," "alley," or other similar designations.

(rr) Structure. That which is built or constructed. An edifice or building of any kind or any place of work artificially built up or composed of parts jointed together in some definite manner and which requires location on the ground or which is attached to something having a location on the ground.

(ss) Structural Alteration. Any change to the supporting member of a structure including foundations, bearing walls or partitions, columns, beams or girders, or any structural change in the roof.

(tt) Mobile Home. As defined in Section 5-501 of this Code (refer thereto). All mobile homes shall be skirted according to the standards of the State of Kansas and as may be proscribed in the code and shall be anchored to the ground.

(uu) Mobile Home Park. As defined in Section 5-501 of this Code (refer thereto). Such mobile home parks shall be under the ownership and control of one person or entity, and in no circumstance shall the mobile home space be sold or offered for sale in individual lots. The term "mobile home park" does not include a sales area on which unoccupied mobile homes, whether new or used, are parked for the purposes of sale, storage, or inspection. A mobile home, however, may be parked on a space for purposes of sale by the resident owner. In addition to the rental of the space, the mobile home park owner may also rent mobile home spaces made for that person.

(vv) Use. The purpose of which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

(ww) Vision Clearance Area. A triangular area on a lot at the intersection of two streets or a street and a railroad sides of which are lot lines measured from the corner in section of the lot lines to a distance specified in the regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lot lines at intersection have rounded comers, the lot lines will be extended in a straight line to a point of intersection. The vision clearance area shall not contain plantings, walls, structures, or temporary or permanent obstructions exceeding 3 feet in height measured from the top of the curb or existing grade.

(xx) Yard. An open space on a lot which is unobstructed from ground upward except as otherwise provided in this article.

(yy) Yard, Front. A yard between side lot lines and measured horizontally at right angles to the front lot line from front lot line to the nearest point of the main building.

(zz) Yard, Rear. A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of the main building.

(aaa)Yard, Side. A yard between a building and the side lot line measured horizontally at right angles to the side lot line from the side lot line to the nearest point of building.

(Ord. 82-5, Art. I, Sec. 3, Ord. 86-5, Sec. 1; Ord. 05-07; Code 2015)

16-203. COMPLIANCE WITH PROVISIONS. No structure or premises shall hereafter be used or occupied and no structure or part hereof shall be erected, moved, reconstructed, extended, enlarged, or altered contrary to the provisions of this article. (Ord. 82-5, Art. 1, Sec. 4; Code 1988)

16-204. CLASSIFICATION OF DISTRICTS. For the purpose of this article the city is divided into zones designated as follows:

<u>Districts</u>	<u>Abbreviated Designations</u>
Residential	R
Single-family residential	R-1
Two-family residential	R-2
Multi-family residential	R-3
Business Districts	
Retail business	C-1
General business	C-2
Industrial Districts	
General industry	M-1
Heavy industry	M-2
Agricultural	A
Mobile Home Park	MHP
Mobile Home Subdivision	MHS

(Ord. 82-5, Art. 1, Sec. 5; Code 1988)

16-205. ZONING MAP. The location and boundaries of the district designated in section 16-204 are hereby established as shown in the map entitled "A Zoning Map of the City of Galena" dated January 12, 2005, signed by the mayor and city clerk and hereafter referred to as the "Zoning Map."
(Ord. 05-02; Code 2015)

16-206. R DISTRICT: ONE-FAMILY RESIDENTIAL DISTRICT. This district is composed of certain quiet, low-density residential areas of the city plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where children are members of most families and to prohibit activities of a commercial nature. To these ends, development is limited to single-unit dwellings providing homes for the residents plus certain public facilities which serve the residents in the district. The following regulations shall apply to all R Districts. (Ord.82-5. Art. 2, Part 1, Sec. 1; Code 1988)

- 16-207. SAME; USES PERMITTED OUTRIGHT. Single-family dwellings and their accessory uses are permitted out-right in an R District.
(Ord. 82-5, Art. 2, Part 1, Sec. 2; Code 1988)
- 16-208. SAME; CONDITIONAL USES PERMITTED. The following uses and their accessory uses are permitted in an R District, when authorized in accordance with the requirements governing conditional units.
- (a) Church.
 - (b) Governmental structure or use including public park, playground, recreational building fire station, library or museum.
 - (c) School, nursery, primary, elementary, junior high or senior high.
 - (d) Utility substation or pumping station with no equipment storage.
 - (e) Hospital, sanitarium, rest home, home for the aged, nursing or convalescent home.
 - (f) Excavation of natural resources.
- (Ord. 82-5, Art. 2, Part 1, Sec. 3; Code 1988)
- 16-209. SAME; SIGNS. Signs permitted in an R District shall be erected and maintained at least 15 feet from the street line and shall be of a kind and character not unsightly or unduly conspicuous in the neighborhood in which they are erected. In event of a complaint on the character or kind of sign being maintained, the decision of the planning commission shall be final as to compliance of the sign with this provision, which decision shall be made after an investigation and report. The following signs are permitted in an R zone:
- (a) One name plate or sign indirectly illuminated or not illuminated less than three square feet in area for each dwelling.
 - (b) One temporary sign, not illuminated, less than six square feet in area advertising the sale, lease, or rental of the property.
 - (c) One temporary sign per tract of land or subdivision advertising the sale of the tract of the lots in the tract and not exceeding 48 square feet in area. The sign shall be reduced in size by six square feet for each lot less than eight in the subdivision.
 - (d) One name plate or sign associated with uses other than those indicated in (a), (b), and (c) above, provided such sign or name plate shall not exceed 48 square feet in area.
- (Ord. 82-5, Art. 2, Part 1, Sec. 4; Code 1988)
- 16-210. SAME; LOT SIZE. The lot size in an R District shall be as follows:
- (a) The minimum lot area shall be 5,000 square feet for an interior lot and 5,000 square feet for a corner lot.
 - (b) The minimum lot width at the front building line shall be 50 feet for an interior lot and 50 feet for a corner lot.
 - (c) The minimum lot depth shall be 100 feet.
- (Ord. 82-5, Art. 2, Part 1, Sec. 5, Ord. 13-12; Code 2015)
- 16-211. SAME; SETBACK REQUIREMENTS. The yards in an R District shall be as follows:
- (a) The front yard shall be a minimum of 15 feet.

(b) The side yard shall be a minimum of eight feet on one side and eight feet on the other side, except that on corner lots the setback for all buildings shall be a minimum of 15 feet on all the sides abutting a street.

(c) The rear yard shall be a minimum of 10 feet.

(d) The entrance side of a garage or carport shall be set back at least 15 feet from the access street, in the case of an alley, the entrance shall be set back at least 15 feet from the center line of the alley.

(Ord. 82-5, Art. 2, Part 1, Sec. 6, Ord. 13-12; Code 2015)

16-212. SAME; HEIGHT OF BUILDINGS. In an R District, no building shall exceed the height of 2 stories or 35 feet, whichever is less.

(Ord. 82-5, Art. 2, Part 1, Sec. 7; Code 1988)

16-213. SAME; LOT COVERAGE. In an R District, buildings shall not occupy more than 30 percent of the lot area.

(Ord. 82-5, Art. 2, Part 1, Sec. 8; Code 1988)

16-214. R-1 DISTRICT: ONE-FAMILY RESIDENTIAL DISTRICT. This district is composed of certain quiet, low-density residential areas of the city plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where children are members of most families and to prohibit activities of a commercial nature. To these ends, development is limited to single-unit dwellings providing homes for the residents plus certain public facilities which serve the residents of the district. The following regulations shall apply to all R-1 Districts. (Ord. 82-5, Art. 2, Part 2, Sec. 1; Code 1988)

16-215. SAME; USES PERMITTED OUTRIGHT. (a) Single-family dwellings and their accessory uses are permitted outright in an R-1 District. Mobile homes are permitted if all conditions of Article Three of this chapter are complied with.

(b) Home occupations, provided that any such occupation shall not occupy more than 10 percent of the total floor area, of the main building or if located in an accessory building, shall not occupy more than five percent of the total lot area.

(Ord. 82-5, Art. 2, Part 2, Sec. 2; Ord. 86-5, Sec. 2; Code 1988)

16-216. SAME; CONDITIONAL USES PERMITTED. The following uses and their accessory uses are permitted in an R-1 District, when authorized in accordance with the requirements governing conditional uses.

(a) Church.

(b) Governmental structure or use including public park, playground, recreational building, fire station, library or museum.

(c) School, nursery, primary, elementary, junior high or senior high.

(d) Utility substation or pumping station with no equipment storage.

(e) Hospital, sanitarium, rest home, home for the aged, nursing or convalescent home.

(f) Excavation of natural resources.

(Ord. 82-5, Art. 2, Part 2, Sec. 3; Code 2015)

- 16-217. SAME; SIGNS. Signs permitted in an R-1 District shall be erected and maintained at least 15 feet from the street line and shall be of a kind and character not unsightly or unduly conspicuous in the neighborhood in which they are erected. In the event of a complaint on the character or kind of sign being maintained, the decision of the planning commission shall be final as to compliance of the sign with this provision, which decision shall be made after an investigation and report. The following signs are permitted in an R-1 zone:
- (a) One name plate or sign indirectly illuminated or not illuminated less than three square feet in area for each dwelling.
 - (b) One temporary sign, not illuminated, less than six square feet in area advertising the sale, lease, or rental of the property.
 - (c) One temporary sign per tract of land or subdivision advertising the sale of the tract or the lots in the tract and not exceeding 48 square feet in area.
The sign shall be reduced in size by six square feet for each lot less than eight in the subdivision.
 - (d) One name plate or sign associated with uses other than those indicated in (a), (b), and (c) above, provided such sign or name plate shall not exceed 48 square feet in area.
- (Ord. 82-5, Art. 2, Part 2, Sec. 4; Code 1988)
- 16-218. SAME; LOT SIZE. The lot size in an R-1 District shall be as follows:
- (a) The minimum lot area shall be 5,000 square feet for an interior lot and 5,000 square feet for a corner lot.
 - (b) The minimum lot width at the front building line shall be 50 feet for an interior lot and 50 feet for a corner lot.
 - (c) The minimum lot depth shall be 100 feet.
- (Ord. 82-5, Art. 2, Part 2, Sec. 5, Ord. 13-12; Code 2015)
- 16-219. SAME; SETBACK REQUIREMENTS. The yards in an R-1 District shall be as follows:
- (a) The front yard shall be a minimum of 15 feet.
 - (b) The side yard shall be a minimum of eight feet on one side and eight feet on the other side, except that on corner lots the setback for all buildings shall be a minimum of 15 feet on all the sides abutting a street.
 - (c) The rear yard shall be a minimum of 10 feet.
 - (d) The entrance side of a garage or carport shall be set back at least 15 feet from the access street, except that in the case of an alley, the entrance shall be set back at least 15 feet from the center line of the alley.
- (Ord. 82-5, Art. 2, Part 2, Sec. 6, Ord. 13-12; Code 2015)
- 16-220. SAME; HEIGHT OF BUILDINGS. In an R-1 District, no building shall exceed the height of 2 stories or 35 feet, whichever is less.
(Ord. 82-5, Art. 2, Part 2, Sec. 7; Code 1988)
- 16-221. SAME; LOT COVERAGE. In an R-1 District, buildings shall not occupy more than 30% of the lot area. (Ord. 83-5, Art. 2, Part 2, Sec. 8; Code 1988)
- 16-222. R-2 DISTRICT: TWO-FAMILY RESIDENTIAL DISTRICT. This district is composed of certain quiet, medium-density residential areas of the city representing a compatible co-mingling of single-family and two-family dwelling plus

certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district to promote and encourage a suitable environment for family life where children are members of many families and to prohibit activities of a commercial nature. To these ends, development is limited to a medium concentration and uses are typically single-family and two-family dwellings, plus certain additional uses, such as schools, parks, churches and certain public facilities which serve the residents of the district. The following regulations shall apply to all R-2 Districts. (Ord. 82-5, Art. 2. Part 3. Sec. 1; Code 1988)

- 16-223. SAME; USES PERMITTED OUTRIGHT. The following uses and their accessory uses are permitted outright in an R-2 District.
- (a) Any use permitted out-right in an R-1 District.
 - (b) Two-family dwellings.
 - (c) Mobile homes are permitted if all conditions of Article Three of this chapter are complied with.
- (Ord. 82-5, Art. 2. Part 3. Sec. 2, Ord. 86-5, Sec. 3; Code 1988)
- 16-224. SAME; CONDITIONAL USES PERMITTED. A use permitted as a conditional use in an R-1 District is permitted as a conditional use in an R-2 District. (Ord. 82-5, Art. 2, Part 3, Sec. 3; Code 1988)
- 16-225. SAME; SIGNS. A sign permitted in an R-1 District is permitted in an R-2 District. (Ord. 82-5, Art. 2. Part 3, Sec. 4; Code 1988)
- 16-226. SAME; LOT SIZE. The lot size in an R-2 District shall be as follows:
- (a) The minimum lot area shall be 5,000 square feet.
 - (b) The minimum lot width at the front building line shall be 50 feet for an interior lot and 50 feet for a corner lot.
 - (c) The minimum lot depth shall be 100 feet.
- (Ord. 82-5, Art. 2, Part 3, Sec. 5. Ord. 13-12; Code 2015)
- 16-227. SAME; SETBACK REQUIREMENTS. In an R-2 District, the yards shall be the same as those required in an R-1 District. (Ord. 82-5, Art. 2, Part 3, Sec. 6; Code 1988)
- 16-228. SAME; HEIGHT OF BUILDINGS. In an R-2 District, no building shall exceed the height of 2 stories or 35 feet, whichever is less. (Ord. 82-5, Art. 2, Part 3, Sec.7; Code 1988)
- 16-229. SAME; LOT COVERAGE. In an R-2 District, buildings shall not occupy more than 30% of the lot area. (Ord. 83-5, Art. 2, Part 3, Sec. 8; Code 1988)
- 16-230. R-3 DISTRICT: MULTIPLE-RESIDENTIAL DISTRICT. This district is composed of certain high-density residential areas of the city plus certain open areas where similar development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life and to prohibit activities of a commercial nature. To these ends, development is limited to

a relatively high concentration and uses are typically single-family, two-family and multiple-family dwellings, plus certain additional uses such as schools, parks, churches, and certain public facilities which serve the residents of the district. The following regulation shall apply to all R-3 Districts.

(Ord. 82-5, Art. 2, Part 4, Sec. 1; Code 1988)

16-231. SAME: USES PERMITTED OUTRIGHT. The following uses and their accessory uses are permitted outright in an R-3 District.

(a) A use permitted outright in an R-2 District.

(b) Multi-family dwelling.

(c) Mobile homes are permitted if all conditions in Article Three of this chapter are complied with.

(Ord. 82-5, Art. 2, Part 4, Sec. 2; Ord. 86-5, Sec. 4; Code 1988)

16-232. SAME; CONDITIONAL USES PERMITTED. The following uses and their accessory uses are permitted in an R-3 District in accordance with the requirements governing conditional uses.

(a) A use permitted as a conditional use in an R-2 District.

(b) Multi-family dwelling exceeding the lot area per dwelling unit standard specified in Section 16-234 or exceeding the height limits specified in Section 16-236, provided the gross floor area does not exceed 2 1/2 times the lot area And provided further that the side yards are increased one foot for every two foot increase in building height over 35 feet.

(c) Office for a doctor, dentist, or other practitioner of the healing arts; attorney; architect; engineer; surveyor; accountant; or realtor but only in a one-story building or a lot adjacent to or directly across a street from a business or industrial district and meeting the fire district standards of the business or industrial zone.

(d) Hotel, motel, boarding house, lodge, club.

(e) Mortuary.

(Ord. 82-5, Art. 2, Part 4, Sec. 3; Code 2015)

16-233. SAME; SIGNS. A sign permitted in an R-1 District is permitted in an R-3 District.

(Ord. 82-5, Art. 2, Part 4, Sec. 4; Code 1988)

16-234. SAME; LOT SIZE. The lot size in an R-3 District shall be as follows:

(a) The minimum lot area shall be 5,000 square feet for a single-family dwelling; 7,200 square feet for a duplex dwelling; and 7,500 square feet to 2,500 square feet per dwelling or whichever is greater, for a multi-family dwelling except provided by Section 16-232.

(b) The minimum lot width at the front building line shall be 50 feet for an interior lot and 50 feet for a corner lot.

(c) The minimum lot depth shall be 100 feet.

(Ord. 82-5, Art. 2, Part 4, Sec. 5, Ord. 13-12; Code 2015)

16-235. SAME; SETBACK REQUIREMENTS. In an R-3 District, the yards shall be as follows:

(a) The front yard shall be the same as required in an R-1 District.

(b) Each side yard shall be a minimum of eight feet, except that on a corner the setback for all buildings shall be a minimum of 15 feet on the side abutting a street.

(c) The rear yard shall be the same as required in an R-1 District.

(d) A garage or carport shall be set back as required in an R-1 District.
(Ord. 82-5, Art. 2, Part 4, Sec. 6, Ord. 13-12; Code 2015)

16-236. SAME; HEIGHT OF BUILDINGS. In an R-3 District, no building shall exceed a height of 40 feet except as provided by section 16-232(b).
(Ord. 82-5, Art. 2, Part 4, Sec. 7; Code 1988)

16-237. SAME; LOT COVERAGE. In an R-3 District, buildings shall not occupy more than 40 percent of the lot area.
(Ord. 82-5, Art. 2, Part 4, Sec. 8; Code 1988)

16-238. MH-P DISTRICT: MOBILE HOME PARKS. This district is designed to provide for medium density mobile home parks where such uses may be located along arterial or collector streets. Mobile homes will not be allowed on individually owned zoning lots; mobile homes may be for rent or for the rental of space. Mobile home parks may be further governed in accordance to Mobile Homes Ordinance No. 82-6. (Ord. 82-5, Art. 2, Part 4-A. Sec. 1; Code 1988)

16-239. SAME; USES PERMITTED OUTRIGHT.

(a) Mobile home parks if all of the requirements of Article 5 of Chapter 5 are met.

(b) Group day care centers and nursery schools.

(c) Recreational facilities such as playgrounds, swimming pools, tennis courts, shuffleboards, ball fields, and lakes providing boating and fishing for residents of the mobile home to the exclusion of the general public.

(d) Recreation or community buildings, washrooms, restrooms, laundry facilities, storm shelters and offices for the mobile home parks.
(Ord. 82-5, Art. 2, Part 4-A, Sec. 2; Code 2015)

16-240. SAME; SIGNS. Signs permitted in an MH-P District shall be erected and maintained at least 15 feet from the street line and shall be of a kind and character not unsightly or unduly conspicuous in the neighborhood in which they are erected. In event of a complaint on the character or kind of sign being maintained, the decision of the board of appeals shall be final as to compliance of the sign with this provision, which decision shall be made after an investigation and report by the planning commission, if deemed desirable by the board. The following signs are permitted in an MH-P zone:

(a) The name plate or sign indirectly illuminated or not illuminated less than eight square feet in area for each park.

(b) One temporary sign, not illuminated, less than six square feet in area advertising the sale, lease or rental of the park.
(Ord. 82-5, Art. 2. Part 4-A, Sec. 4; Code 1988)

16-241. SAME; LOT SIZE. The lot size in an MH-P District shall be as follows:

(a) The minimum lot area shall be 5,000 square feet.

(b) The minimum lot width shall be 50 feet.

(c) The minimum lot depth shall be 100-feet.
(Ord. 82-5, Art. 2, Part 4-A, Sec. 5; Code 1988)

16-242. SAME; BULK REGULATIONS. Bulk regulations in an MH-P District shall be as follows:

- (a) Maximum height shall be 35 feet.
- (b) Minimum yard requirements shall be on all sides abutting a street.
 - (1) 20 feet for the mobile home parks.
 - (2) 20 feet for all other uses.
- (c) Minimum side yards shall be:
 - (1) 10 feet for the mobile home park.
 - (2) 15 feet for all other permitted uses.
- (d) Minimum rear yards shall be:
 - (1) 20 feet for mobile home parks.
 - (2) 20 feet for all other permitted uses.

(Ord. 82-5, Art. 2, Part 4-A, Sec. 6; Code 1988)

16-243. STANDARDS FOR MH-P MOBILE HOME PARKS. Each mobile home park shall be designed so as to comply with the following standards:

(a) The mobile home park shall be located on a well-drained site which is properly graded to insure rapid drainage and freedom from stagnant pools of water.

(b) Mobile homes shall be located so that there is at least a 15 foot clearance between mobile homes; provided, however, with respect to mobile homes parked end-to-end, the clearance shall not be less than 10 feet. No mobile home shall be located less than 10 feet from the front.

(c) All mobile homes spaces shall abut on a street or on a driveway that is not less than 24 feet in width. Such driveways shall have unobstructed access to a public street and shall have an all-weather surface which is well maintained and adequately lighted.

(d) Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light on any property located in another residential district.

(e) Each mobile home park is required to devote at least 10% of its gross area to open space provided for the recreational use and enjoyment of the occupants of the park. Required yards between mobile homes and vehicular driveways shall not be counted in computing such open space.

(f) Mobile home park owners are required to provide a landscape buffer area or fence, or both along yards which are adjacent to other residential areas and to include a storm shelter for the residents.

(g) In all other respects, mobile home parks shall comply with all of the applicable statutes of the State of Kansas and all applicable ordinances and regulations of all political subdivisions of the state.

(Ord. 82-5, Art. 2, Part 4-A, Sec. 7; Code 1988)

16-244. UNUSED MOBILE HOME PARK. Whenever a property, zoned for the MH-P Mobile Home Park District ceases to be used for such purposes a period of two years, the city planning commission may initiate an application to rezone the property to some other district compatible with the surrounding neighborhood area.
(Ord. 82-65, Art. 2, Part 4-A, Sec. 8; Code 1988)

- 16-245. MH -S: MOBILE HOME SUBDIVISION DISTRICT. This district is intended as a medium density area of individually owned lots for locating all types of mobile homes with or without permanent foundations, but in any event must have a foundation or be skirted. (Ord. 85-2, Art. 2, Part 4-B, Sec. 1; Code 1988)
- 16-246. SAME; USES PERMITTED OUTRIGHT.
(a) Mobile homes, but not modular housing, if all requirements of Mobile Home Ordinance No. 82-6 are met.
(b) Agriculture, as defined in these regulations.
(Ord. 82-5, Art. 2, Part 4-B, Sec. 2; Code 1988)
- 16-247. SAME; CONDITIONAL USES PERMITTED. None.
(Ord. 82-5, Art. 2, Part 4-B, Sec. 3)
- 16-248. SAME; SIGNS. Signs permitted in an MH-S Mobile Home Subdivision District, shall be erected and maintained at least 15 feet from the street line and shall be of a kind and character not unsightly or unduly conspicuous in the neighborhood in which they are erected. In the event of a complaint on the character or kind of sign being maintained, the decision of the board of appeals shall be final as to compliance of the sign with this provision, which decision shall be made after an investigation and report by the planning commission, if deemed desirable by the appeals board. The following signs are permitted in an MH-S Mobile Home Subdivision Zone:
(a) One name plate or sign indirectly illuminated, or not illuminated, less than three square feet in area for each mobile home.
(b) One temporary sign, not illuminated, less than six square feet in area, advertising the sale, lease or rental of the property.
(c) One temporary sign per tract of land or subdivision advertising the sale of the subdivision, or the lots in the subdivision, and not exceeding 48 square feet in the area. The sign shall be reduced in size by six square feet for each lot less than eight in the subdivision.
(d) One name plate or sign associated with uses other than those indicated in (a), (b), and (c) above, provided the sign name plate does not exceed 48 square feet area. (Ord. 82-5, Art. 2, Part 4-8, Sec. 4; Code 1988)
- 16-249. SAME; BULK REGULATIONS. Bulk regulations in an MH-S Mobile Homes Subdivision District shall be as follows:
(a) Maximum height shall be 35 feet.
(b) Yard requirements shall be:
(1) Minimum front yard is 25 feet on a lot abutting a street.
(2) Minimum side yards shall be eight feet each for each lot.
(3) Minimum rear yards shall be 20 feet on each lot.
(c) Maximum lot coverage shall be 50 percent of each lot.
(Ord. 82-5, Art. 2, Part 4-8, Sec. 5; Code 1988)
- 16-250. SAME; USE LIMITATIONS. Use limitations shall be as follows:
(a) A mobile home subdivision shall have a minimum gross area per lot of 20,000 square feet.
(b) A mobile home subdivision must be on land platted for each lot.

(c) All mobile home structures must be oriented on the lot so that the longest length of the home is parallel to the sides of the lot unless granted a variance by the board of appeals where the shape of the lot would warrant an orientation parallel to the front lot line.

(Ord. 82-5, Art. 2, Part 4-B, Sec. 6; Code 1988)

16-251. C-1 DISTRICT: RETAIL BUSINESS DISTRICT. This district is composed of certain land and structures used primarily to provide retailing and personal services, such as clothing stores and banks, and basically conducted within an enclosed structure. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for providing service to the families of the city, and to prohibit activities of an industrial nature. To these ends, development is primarily limited to retailing and personal services plus those uses permitted in any residential district. The regulations are designed to permit development of the enumerated functions limited by standards designed to retaining a favorable environment for the proper functioning of the district, plus certain public facilities which are needed to serve the occupants of the district. The following uses and

(a) There shall be no manufacturing, compounding, processing or treatment of products other than that which is clearly incidental and essential to a retail store or business and where all such products are customarily sold at retail on the premises, and

(b) Such uses, operations or products are not objectionable due to odor, dust, smoke, noise, vibration or other similar causes.

(c) All articles for sale, rent, display, storage, or hire must be kept within an enclosed building.

(Ord. 82-5, Art. 2, Part 5, Sec. 1; Code 1988)

16-252. SAME; USES PERMITTED OUTRIGHT. (a) Any use permitted outright in an R-3 District, excluding dwellings, except as stated in (g-1) below.

(b) Auditorium, exhibit or hall, or other public assembly room.

(c) Automobile or boat sales showrooms.

(d) Bank, loan company, or similar financial institution.

(e) Bus passenger station.

(e-1) Casino

(f) Club, lodge.

(g) Custom dressmaking, tailor shop.

(g-1) Dwellings – so long as such are located on the second floor of structures adjacent to Main Street between 8th Street and Front Street.

(h) Eating or drinking establishment.

(h-1) Hospital, medical office building, skilled nursing care facility, nursing home, medical or dental laboratory.

(i) Hotel, boarding house, motel.

(j) Laundry, cleaning, or pressing establishment using non-explosive and non-inflammable cleaning fluid.

(k) Locksmith.

(l) Hospital, medical office building, skilled nursing care facility, nursing home, medical or dental laboratory.

(m) Mortuary.

(n) News stand.

- (o) Parking lot or parking garage.
 - (p) Pet shop.
 - (q) Railway passenger station or express office.
 - (s) Retail store or business.
 - (t) Shoe repair shop.
 - (u) Studio, art, music, dance, health, photographic, radio or television broadcasting.
 - (v) Second-hand store.
 - (w) Theater, except drive-in type.
 - (x) Pawnshop.
 - (y) Watch and clock repair shop.
 - (z) Wholesale office and showroom with merchandise on the premises limited to samples only.
 - (aa) Other similar retail commercial uses but not including a use first listed in the C-2 District.
 - (bb) Governmental structure, including but not limited to, recreational building, fire station, library or museum.
- (Ord. 82-5, Art. 2, Part 5, Sec. 2, Ord. 12-1, Ord. 13-13; Code 2015)

16-253. SAME; CONDITIONAL USES PERMITTED. The following uses and their accessory uses are permitted in C-1 District when authorized in accordance with the requirements of governing conditional uses:

- (a) Dwellings: one-family, two-family and multi-family provided they shall be governed by the requirements of the R-1 District for single-family, the R-2 District for two-family and the district for multi-family.
 - (b) Any use permitted as a conditional use in an R-1 District.
 - (c) Automobile service station including minor auto repairs but excluding body and fender work, painting, and upholstery.
 - (d) Drive-in establishment offering goods or services to customers waiting in parked motor vehicles, except drive-in theaters.
- (Ord. 82-5, Art. 2, Part 5, Sec. 3, Ord. 12-1; Code 2015)

16-254. SAME; SIGNS. The following signs are permitted in the C-1 District:

- (a) Signs permitted in the R-1 District.
 - (b) Any sign that complies with the requirements of Article 12 of Chapter 4 of the code. No business sign shall be located within 50 feet of a lot in a residential district, a public park, or a school, except that such distance limitation shall not apply to Pappy Litch Park.
- (Ord. 82-5, Art. 2, Part 5, Sec. 4, Ord. 13-15; Code 2015)

16-255. SAME; LOT SIZE. (a) Lots used for dwelling purposes shall be governed by the requirements specified for R-3 Districts.

- (b) There shall be no minimum lot area.
 - (c) There shall be no minimum lot width.
 - (d) There shall be no minimum lot depth.
- (Ord. 82-5, Art. 2, Part 5, Sec. 5; Code 1988)

16-256. SAME; SETBACK REQUIREMENTS. (a) There shall be no requirements (front yard) for a building used for non-residential purposes.

(b) There shall be no requirements (rear yard) for a building used for non-residential purposes.

(c) There shall be no requirements (side yard) for a building used for non-residential purposes.

(Ord. 82-5, Art. 2, Part 5, Sec. 6; Code 1988)

16-257. SAME: HEIGHT OF BUILDINGS. In a C-1 District, a building height shall not exceed 60 feet. (Ord. 82-5, Art. 2, Part 5, Sec. 7; Code 1988)

16-258. SAME; LOT COVERAGE. There shall be no limitations as to lot coverage. (Ord. 82-5, Art. 2, Part 5, Sec. 8; Code 1988)

16-259. SAME: LIMITATIONS ON USE. In a C-1 District, the following conditions and limitations shall apply:

(a) All business, service, repair, processing, storage, or merchandise display shall be conducted wholly within an enclosed building, except for off-street parking and loading, drive-in windows, minor services for motor vehicles and display of merchandise along the wall of the building not extending more than five feet from the wall.

(b) All items produced or wares and merchandise handled shall be sold at retail on the premises except in the case of section 16-252(z).

(Ord. 82-5, Art. 2, Part 5, Sec. 9; Code 1988)

16-260. C-2 DISTRICT: GENERAL BUSINESS DISTRICT. This district is composed of certain land and structures used primarily to provide retailing and personal services of all kinds, including those uses permitted in the C-1 Districts, plus activities not basically conducted within an enclosed structure, such as used car lots. The regulations for this district, are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for providing service to the people of the area, and to prohibit activities of an industrial nature. To these ends, development is primarily limited to all types of retailing and personal services plus those uses permitted in any residential district. The regulations are designed to permit development of enumerated functions limited by standards designed to retaining a favorable environment for the proper functioning of the district; plus certain public facilities which are needed to serve the occupants of the district. The following regulations shall apply to all C-2 District. (Ord. 82-5, Art. 2, Part 6, Sec. 1; Code 1988)

16-261. SAME; USES PERMITTED OUTRIGHT. The following uses and their accessory uses are permitted outright in a C-2 District:

- (a) Any use permitted outright in a C-1 District.
- (b) Automobile, boat, or trailer sales establishment.
- (c) Automobile, boat, truck, or trailer storage garage, truck rental or
- (d) Automobile laundry.
- (e) Automobile service station.
- (f) Business, technical or trade school.
- (g) Catering establishment.
- (h) Blueprinting, photo-stating, or other reproduction process.
- (i) Bookbindery.
- (j) Building materials, retail outlet only.

- (k) Commercial amusements, if conducted wholly within an enclosed.
 - (l) Custom manufacturing of goods for retail sale on the premises.
 - (m) Electric power generator, transformer station, or substation.
 - (n) Fuel oil storage and distribution with underground tanks.
 - (o) Laboratory
 - (p) Newspaper or printing establishment.
 - (q) Public garage, including automobile repairing, and incidental automobile body and fender work, painting, and upholstering, if conducted completely within an enclosed building.
 - (r) Storage building for household goods.
 - (s) Telephone exchange.
 - (t) Tire shop, including incidental recapping.
 - (u) Plumbing, sign painting, upholstering, cabinet or carpenter shop.
 - (v) Utility station or substation.
 - (w) Veterinary office or animal hospital.
 - (x) Sign painting shop.
 - (y) Other similar uses, but not including a use first listed in the M-1 District.
- (Ord. 82-5, Art. 2, Part 6, Sec. 2, Ord. 13-13; Code 2015)

16-262. SAME; CONDITIONAL USES PERMITTED. The following uses are permitted in the C-2 District when authorized in accordance with the requirements governing conditional uses.

- (a) Any use permitted as a conditional use in a C-1 District.
- (b) New railroad tracks and facilities such as switching yards, spur or holding tracks, freight depots.
- (c) Drive-in theater.

(Ord. 12-1; Code 2015)

16-263. SAME; SIGNS. The following signs are permitted in the C-2 District:

- (a) Signs permitted in the R-1 District.
- (b) Any sign that complies with the requirements of Article 12 of Chapter 4 of the code. No business sign shall be located within 50 feet of a lot in a residential district, a public park, or a school, except that such distance limitation shall not apply to Pappy Litch Park.

(Ord. 82-5, Art. 2, Part 6, Sec. 4, Ord. 13-15; Code 2015)

16-264. SAME; LOT SIZE. The lot size in a C-2 District shall be as follows:

- (a) Lots used for dwelling purposes shall be governed by the requirements as specified for R-3 Districts.
- (b) The minimum lot area for non-residential uses shall be 5,000 square feet.
- (c) The minimum lot width at the front building line shall be 50 feet.
- (d) The minimum lot depth shall be 100 feet.

(Ord. 82-5, Art. 2, Part 6, Sec. 5; Code 1988)

16-265. SAME: SETBACK REQUIREMENTS. In a C-2 District, the yards shall be as follows:

- (a) The minimum yard dimensions of the residential district shall apply on the sides of a lot abutting a residential district.

(b) The front yard shall be a minimum of 15 feet, and in the case of corner lots, the minimum requirements shall be 15 feet for all yards abutting a street.

(c) Side Yard. There shall be no side yard requirements for Non-residential uses, except as provided above; provided further that corner lots shall have a minimum yard of 15 feet for all yards abutting a street.
(Ord. 82-5, Art. 2, Part 6, Sec. 6; Code 2015)

16-266. SAME; HEIGHT OF BUILDINGS. In a C-2 District no structure shall exceed 60 feet in height.
(Ord. 82-5, Art. 2, Part 6, Sec. 7; Code 1988)

16-267. SAME; LOT COVERAGE. In a C-2 District, business buildings shall not occupy more than 50 percent of the lot area.
(Ord. 82-5, Art. 2, Part 6, Sec. 8; Code 1988)

16-268. SAME; LIMITATION ON USE. In a C-2 District, the following conditions and limitations shall apply:

(a) All business, service, repair, processing, storage, or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building unless screened from the residential district by a sight-obscuring fence permanently maintained at least six feet in height.

(b) Openings to structures on sides adjacent to or across a street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise, or other adverse effects on the residential properties.

(c) Motor vehicle, boat, or trailer rental or sales lots shall be drained and surfaced with crushed rock or pavement except in those portions of the lot maintained as landscape areas.
(Ord. 82-5, Art. 2, Part 6, Sec. 9; Code 1988)

16-269. M-1DISTRICTS: GENERAL INDUSTRIAL DISTRICTS. This district is composed of certain lands and structures used primarily for wholesaling and light industrial purposes. The regulations of this district are intended to provide intensity standards and standards of external effect compatible with the surrounding or abutting districts. To these ends, development is limited to wholesaling and light industrial which can be operated in a clean and reasonably quiet manner, plus certain public facilities which are needed to serve the occupants of the district. The following regulations shall apply to all M-1 Districts.
(Ord. 82-5, Art. 2, Part 7, Sec. 1; Code 1988)

16-270. SAME; USES PERMITTED OUTRIGHT. The following uses and their accessory uses are permitted outright in an M-1 District:

(a) Any use permitted outright in a C-2 District.

(b) Assembly, manufacture, or preparation of articles and merchandise from the following types of previously prepared materials; bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, hair, glass, horn, lacquer, leather, paper, plastics, precious or semi-precious metals or stones, shells, textiles, tobacco, wax, wire, wood (excluding sawmills, lumber mills, planing mills, and molding plants, but not cabinet shops or woodworking shops), yarn, or paint not employing a boiling process.

- (c) Assembly of electrical appliances or equipment, electronic instruments and devices, radios, phonographs, television, including the manufacture of small parts such as coils, condensers, transformers, crystal holders.
 - (d) Assembly of metal products.
 - (e) Manufacture of figurines, pottery, or similar ceramic products using only previously pulverized clay.
 - (f) Manufacture of musical instruments, novelties, rubber or metal stamps, toys.
 - (g) Manufacture of optical goods, scientific or precision instruments or equipment.
 - (h) Manufacture of artificial limbs, dentures, hearing aids, surgical instruments or dressings, or other devices employed by the medical and dental professions.
 - (i) Manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products or meat, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, except that the rendering of fat or oils, fish or meat slaughtering, and processing of fermented food such as sauerkraut, vinegar, or yeast shall be excluded.
 - (j) Manufacture or maintenance of signs, billboards, commercial advertising structures or name plates.
 - (k) Manufacture of medicines.
 - (l) Auto or truck storage garage; truck rental or sales.
 - (m) Automobile painting or upholstering.
 - (n) Building of marine pleasure craft.
 - (o) Building materials storage or sale yard.
 - (p) Bottling plant.
 - (p-1) Casino
 - (q) Cabinet or carpenter's shop.
 - (r) Coin machine manufacture or repair.
 - (s) Contractor's equipment storage.
 - (t) Cold Storage Plant.
 - (u) Creamery.
 - (v) Dwelling or caretaker or watchman working on the property.
 - (w) Electroplating shop.
 - (x) Equipment sales, rental, storage; or repair.
 - (y) Farm machinery sales or service.
 - (z) Fuel supply outlet or distributor, providing no dust is produced.
 - (aa) Laundry, dry cleaning, dyeing, or rug cleaning plant
 - (bb) Railroad tracks and facilities such as switching yards, spur or holding tracks, freight depots.
 - (cc) Sheet metal shop or other metal working shop, machine shop not using drop hammer or punch press.
 - (dd) Plumbing contractor.
 - (ee) Warehousing.
 - (ff) Welding shop.
 - (gg) Wholesale distributor or outlet.
 - (hh) A landfill owned or operated by the city.
 - (ii) Any other similar use but not including a use first listed in the M-2 District.
- (Ord. 82-5, Art. 2, Part 7, Sec. 1, Ord. 04-03, Ord. 13-13; Code 2015)

- 16-271. SAME; CONDITIONAL USES PERMITTED. The following uses are permitted in an M-1 District when authorized in accordance with the requirements of Article 3.
- (a) Governmental structure or use.
 - (b) Drive-in theater.
- (Ord. 82-5, Art. 2, Part 7, Sec. 3; Code 1988)
- 16-272. SAME; SIGNS. In an M-2 District any sign that complies with the requirements of Article 12 of Chapter 4 of the code. No business sign shall be located within 50 feet of a lot in a residential district, a public park, or a school, except that such distance limitation shall not apply to Pappy Litch Park.
- (Ord. 82-5, Art. 2, Part 8, Sec. 4, Ord. 10-15; Code 2015)
- 16-273. SAME; LOT SIZE. The lot size in an M-1 District shall be as follows:
- (a) The minimum lot area shall be 5,000 square feet.
 - (b) The minimum lot width at the front building line shall be 50 feet.
 - (c) The minimum lot depth shall be 100 feet.
- (Ord. 82-5, Art. 2, Part 7, Sec. 5; Code 1988)
- 16-274. SAME; SETBACK REQUIREMENTS. (a) In an M-1 District, lots across a street from or abutting a residential district shall have a minimum yard dimension of 25 feet for that side of the lots facing the residential district.
- (b) There shall be a minimum side yard of not less than 10 feet.
 - (c) There shall be a minimum rear yard of not less than 25 feet.
- (Ord. 82-5, Art. 2, Part 7, Sec. 6; Code 1988)
- 16-275. SAME; HEIGHT OF BUILDINGS. In an M-1 District, no structure shall exceed a height of 60 feet except that within 100 feet of a residential district no structure shall exceed 50 feet in height.
- (Ord. 82-5, Art. 2, Part 7, Sec. 7; Code 1988)
- 16-276. SAME; LOT COVERAGE. In an M-1 District, buildings shall not occupy more than 70 percent of the lot area except that not more than 50% of the area of that part of the lot which is within 100 feet of a residential district shall be covered by buildings. (Ord. 82-5, Art. 2, Part 7, Sec. 8; Code 1988)
- 16-277. SAME; LIMITATION ON USE. In an M-1 District, the following conditions and limitations shall apply:
- (a) All business, service, repair, processing, storage, or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building unless screened from the residential zone by a sight obscuring fence permanently maintained at six feet in height.
 - (b) Openings to structures on sides adjacent to or across a street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise or other adverse effects on residential properties.
 - (c) Motor vehicle, boat, or trailer rental, sales or storage lots shall be drained and surfaced with crushed rock or pavement except in those portions of the lot maintained as landscape area.

(d) Yards abutting or across a street from a residential district shall be continuously maintained in lawn or other landscaping unless screened from the residential district as provided in section 57(1).

(e) Access points from a public road to properties in an M-1 District shall be so located as to minimize traffic congestion and to avoid directing traffic onto local access streets or primarily residential character.

(f) All materials including wastes shall be stored and all ground shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.

(g) The emission of odorous gases or matter in such quantities to be readily detectable at any point beyond the property line of the use creating the odors is prohibited.

(Ord. 82-5, Art. 2, Part 7, Sec. 9; Code 1988)

16-278. M-2 DISTRICTS: HEAVY INDUSTRIAL DISTRICTS. This district is composed of certain lands suitable for relatively heavy industrial uses, such as flour and feed milling, and chemical plants. The purpose of this district is to permit the normal operations of most all industries, subject to the regulations of this article and other ordinances of the city regulating nuisances or special fire hazards. The regulations for this district are to promote and encourage a suitable environment for the proper functioning of the district, plus certain public facilities which are needed to serve the occupants of the district. The following regulations shall apply to all M-2 Districts. (Ord. 82-5, Art. 2, Part 8, Sec. 1; Code 1988)

16-279. SAME; USES PERMITTED OUTRIGHT. The following uses and their accessory uses are permitted outright in an M-2 District.

(a) Any use permitted in an M-1 District, except those uses permitted in any R, R-1, R-2, or R-3 District.

(b) Acetylene gas manufacture.

(c) Aircraft manufacture.

(d) Alcoholic beverage manufacture.

(e) Asphalt manufacture or refining.

(f) Asphalt or concrete mixing plant.

(g) Automobile manufacture.

(h) Blast furnace.

(i) Boiler works.

(j) Brick, tile, terra cotta or clay products manufacture.

(k) Coal and petroleum products, refining or wholesale storage of petroleum.

(l) Concrete, cinder, pumice block manufacture.

(m) Creosote treatment of manufacture.

(n) Emery cloth or sand paper manufacture.

(o) Fat rendering or tallow grease or lard refining or manufacturing of products from fats.

(p) Flour and feed milling and storage.

(q) Forge plant.

(r) Gas (illuminating or heating).

(s) Glucose or starch manufacture.

(t) Iron, steel, brass or copper foundry, fabrication or works.

(u) Nitrating process.

- (v) Oilcloth or linoleum manufacturing.
- (w) Oiled rubber or leather goods manufacture.
- (x) Paint, oil shellac, varnish, or turpentine manufacture.
- (y) Paper manufacture.
- (z) Rock crushers.
- (aa) Rolling mills.
- (bb) Rubber, natural or synthetic, or treatment from crude or scrap materials or the manufacture of articles therefrom.
- (cc) Salt works.
- (dd) Sauerkraut or pickle, etc., manufacture.
- (ee) Saw mills.
- (ff) Shoe polish manufacturing
- (gg) Soap manufacture.
- (hh) Soda ash manufacture.
- (ii) Stone mill.
- (jj) Sugar manufacture.
- (kk) Tar or asphalt roofing or water-proofing manufacture.
- (ll) Vinegar Manufacture.
- (mm) Yeast plant.
- (nn) The following uses, provided that the location and development are first approved by the planning commission after a recommendation by the planning commission:
 - (1) Acid manufacture.
 - (2) Ammonia, bleaching powder or chlorine manufacture.
 - (3) Automobile or machine wrecking and salvage yards.
 - (4) Crematory.
 - (5) Disinfectants, cattle dips, exterminators or insecticides manufacture.
 - (6) Dyestuff manufacture.
 - (7) Fertilizer and industrial chemical manufacture.
 - (8) Fireworks or explosive manufacture or storage or the handling of explosives.
 - (9) Gas manufacture or storage (other than illuminating or heating).
 - (10) Gelatine, glue or size manufacture or process involving recovery from animal material.
 - (11) Incineration or other reduction of garbage.
 - (12) Junk yards, including the handling and baling of paper, rags, or junk of other description.
 - (13) The manufacture of cement, lime, gypsum or plaster of Paris.
 - (14) Pulp mills.
 - (15) Pyroxylin or celluloid manufacture, or explosive or inflammable cellulose or pyroxylin products manufacture.
 - (16) Stock yards.
 - (17) Tanning, curing or storage of raw hides or skins.
 - (18) Other uses which in the judgment of the planning commission are of the same general character as those listed in this section have been approved by formal action of the planning commission may be recommended to the board of appeals.

(Ord. 82-5, Art. 2, Part 8, Sec. 2, Ord. 13-13; Code 2015)

- 16-280. SAME; CONDITIONAL USES PERMITTED. The following uses are permitted in an M-2 District when authorized in accordance with the requirements of sections 16-285:291.
- (a) Governmental structure or use.
 - (b) Drive-in theater.
- (Ord. 82-5, Art. 2, Part 8, Sec. 3; Code 1988)
- 16-281. SAME; SIGNS. In an M-2 District any sign that complies with the requirements of Article 12 of Chapter 4 of the code. No business sign shall be located within 50 feet of a lot in a residential district, a public park, or a school, except that such distance limitation shall not apply to Pappy Litch Park.
- (Ord. 82-5, Art. 2, Part 8, Sec. 4, Ord. 10-15; Code 2015)
- 16-282. SAME; LOT SIZE. The lot size in an M-2 District shall be as follows:
- (a) The minimum lot area shall be 5,000 square feet.
 - (b) The minimum lot width at the front building line shall be 50 feet.
 - (c) The minimum lot depth shall be 100 feet.
- (Ord. 82-5, Art. 2, Part 8, Sec. 5; Code 1988)
- 16-283. SAME; SETBACK REQUIREMENTS. (a) In an M-2 District, lots across a street from or abutting a residential zone shall have a minimum yard dimension of 25 feet for that side of the lots facing the residential district.
- (b) There shall be a minimum side yard of not less than 10 feet.
 - (c) There shall be a minimum rear yard of not less than 25 feet.
- (Ord. 82-5, Art. 2, Part 8, Sec. 6; Code 1988)
- 16-284. SAME; HEIGHT OF BUILDINGS. In an M-2 District, no structure shall exceed a height of 85 feet, except that within 100 feet of a residential district, no structure shall exceed 50 feet in height.
- (Ord. 82-5, Art. 2, Part 8, Sec. 7; Code 1988)
- 16-285. SAME; LOT COVERAGE. In an M-2 District, buildings shall not occupy more than 70 percent of the lot area except that not more than 50 percent of the area of that part of the lot which is within 100 feet of a residential district shall be covered by buildings.
- (Ord. 82-5, Art. 2, Part 8, Sec. 8; Code 1988)
- 16-286. SAME; LIMITATIONS ON USE. In an M-2 District, the following conditions and limitations shall apply:
- (a) All business, service, repair, processing, storage, or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building unless screened from the residential zone by a sight obscuring fence permanently maintained at least six feet in height.
 - (b) Openings to structures on sides adjacent to or across a street from a residential district shall be prohibited if the access or openings will cause glare, excessive noise, or other adverse effects on residential properties.
 - (c) Motor vehicle, boat, or trailer rental, sales, or storage lots shall be drained and surfaced with crushed rock or pavement except in those portions of the lot maintained as landscape areas.

(d) Yards abutting or across a street from a residential district shall be continuously maintained in lawn or other landscaping unless screened from the residential district as provided in this section.

(e) Access points from a public road to properties in an M-2 District shall be so located as to minimize traffic congestion and to avoid directing traffic onto local access streets of a primarily residential character.

(f) All materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.

(g) The emission of odorous gases or matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited.

(Ord. 82-5, Art 2, Part 8, Sec. 9; Code 1988)

- 16-287. A-DISTRICT: AGRICULTURAL DISTRICT. This district is created to establish and protect areas within which agricultural uses may exist and prosper free from future intrusion from residential developments and other urban land uses. It is intended to avoid the operational conflicts which occur when farm and nonfarm residential uses become interspersed and to reduce the adverse pressures upon farm livelihood caused by speculative land values and consequent increases in property tax levies upon farmland.
(Ord. 82-5, Art. 2, Part 9, Sec. 1; Code 1988)

- 16-288. SAME; USES PERMITTED OUTRIGHT. The following uses and their accessory uses are permitted outright in the A District.

(a) General farming including dairying, livestock, and poultry raising, greenhouses and other similar uses, except that no buildings for the production of livestock or poultry shall be located within 600 feet of any boundary of a residential lot other than that of the owner or lessee of the buildings producing livestock or poultry.

(b) Single-family dwellings whose occupants are engaged in general farming.

(c) Single-family dwellings whose lot size conforms to the regulations set forth in section 16-282.

(d) Roadside stands selling produce from the farm operation on the premises.

(e) Churches.

(f) Agricultural processing facilities such as feed mills and similar operations.

(g) Golf Courses.

(h) Cemeteries

(i) Public parks and recreational areas.

(j) Public utility substations for the transmission of natural gas or electricity.

(Ord. 82-5, Art. 2, Park 9, Sec. 2; Code 1988)

- 16-289. SAME; CONDITIONAL USES PERMITTED. (a) Institutional and public uses.
(b) Excavation of natural resources.
(c) Commercial recreational areas.
(d) Drive-in theaters.
(e) Veterinary offices or animal hospital.

(f) Mobile home.
(Ord. 82-5, Art. 2, Part 9, Sec. 3; Code 1988)

16-290. SAME; SIGNS. The only type of signs permitted in the A District are name-plate signs; construction signs; real estate signs and business signs pertaining only to the sale of agricultural products produced on the premises. There shall be only one sign permitted for each structure or use being identified. The sign shall not exceed 50 square feet in size and the maximum height shall be 20 feet.
(Ord. 82-5, Art. 2, Part 9, Sec. 4; Code 1988)

16-291. SAME; LOT SIZE. There shall be a minimum lot size of three acres, and each lot shall have a minimum width of 200 feet, and/or, a minimum lot depth of 200 feet.
(Ord. 82-5, Art. 2, Part 9, Sec. 5; Code 1988)

16-292. SAME; SETBACK REQUIREMENTS. (a) There shall be a minimum of 50 feet for a front yard setback of a residential building.
(b) There shall be a minimum of 75 feet for a front yard setback for a non-residential building.
(c) There shall be no rear or side yard setback requirements.
(Ord. 82-5, Art. 2, Part 9, Sec. 6; Code 1988)

16-293. SAME; HEIGHT OF BUILDINGS. In an A District the height restrictions for residential buildings as set forth in section 16-212, shall be utilized. There are no height restrictions on a non-residential building.
(Ord. 82-5, Art. 2, Part 9, Sec. 7; Code 1988)

16-294. LOT COVERAGE. There shall be no limitations as to lot coverage.
(Ord. 82-5, Art. 2, Part 9, Sec. 8; Code 1988)

16-295. AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES. Uses designated in this ordinance as conditional uses permitted shall be permitted or enlarged or altered upon approval by the board of appeals following a recommendation of the planning commission if necessary, all in accordance with the standards and procedures specified in 16-295:2,101. In permitting a conditional use, the board of appeals may impose, in addition to the regulations and standards expressly specified by this ordinance, other conditions found necessary to protect the best interest of the surrounding property or neighborhood or the city as a whole. These conditions may include requirements increasing the required lot size or yard dimensions, increasing street widths, controlling the location and number of vehicular access points to the property, increasing the number of off-street parking and loading spaces required, limiting the number of signs, limiting the coverage of height of buildings because of obstruction to view and reduction of light and air to adjacent property, requiring screening and landscaping where necessary to reduce noise and glare and maintain the property in a character in keeping with the surrounding area, and requirements under which any future enlargement or alteration of the use shall be reviewed by the board of appeals and new conditions imposed. Change in use, expansion or contraction of site area, or alteration of structures or uses classified as conditional existing prior

to the effective date of this article, shall conform to all regulations pertaining to conditional uses.

(Ord. 82-5, Art. 3, Sec. 1; Code 1988)

- 16-296. **APPLICATION FOR A CONDITIONAL USE.** A request for a conditional use or modification of any existing conditional use may be initiated by a property owner or his or her authorized agent by filing an application with the city clerk upon forms prescribed for the purpose. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development, and by a fee of \$25. The board of appeals may require other drawings or material essential to an understanding of the proposed use and its relationship to surrounding properties.
(Ord. 82-5, Art. 3, Sec. 2; Code 1988)

- 16-297. **PUBLIC HEARING ON A CONDITIONAL USE.** Before approving or disapproving a conditional use by the board of appeals, such conditional use shall be considered by the board of appeals at a public hearing held within 45 days after filing of the application. The city clerk shall give notice of the hearing in the following manner.

 (a) By publication of a notice in a newspaper of general circulation in the city not less than 20 days nor more than 30 days prior to the date of the hearing.

 (b) By sending notices by mail not less than 10 days prior to the date of the hearing to the property owners within the area enclosed by lines parallel to and 200 feet from the exterior boundaries of the property involved, using for this purpose the name and address of owners as shown upon the records of the register of deeds of Cherokee County, Kansas. Failure to send notice to a person specified in this section or failure of a person to receive the notice shall to invalidate any proceedings in connection with the application for a conditional use.
(Ord. 82-5, Art. 3, Sec. 3; Code 1988)

- 16-298. **RECESS OF THE HEARING BY BOARD OF APPEALS.** The board of appeals may recess a hearing on a request for a conditional use in order to obtain additional information or to serve further notices upon other property owners or persons who it decides may be interested in the proposed conditional use. Upon recessing for this purpose, the board of appeals shall announce the time and date when the hearing will be resumed.
(Ord. 82-5, Art. 3, Sec. 4; Code 1988)

- 16-299. **ACTION ON A CONDITIONAL USE.** The board of appeals shall either approve or disapprove a conditional use within 60 days after an application is filed. If no action is taken within 60 days, it shall be deemed to be disapproved. A file containing a written record of the action taken by the board of appeals with regard to conditional uses shall be maintained by the board of appeals.
(Ord. 82-5, Art. 3, Sec. 5; Code 1988)

- 16-2,100. **NOTIFICATION OF ACTION.** The city clerk shall notify the applicant for a conditional use in writing of the board of appeals action within seven days after the decision has been rendered.
(Ord. 82-5, Art. 3, Sec. 6; Code 1988)

16-2,101.

STANDARDS GOVERNING CONDITIONAL USES. A conditional use shall ordinarily comply with the standards of the district concerned for uses permitted outright except as specifically modified in granting the conditional permit or as otherwise follows:

(a) Setbacks. In any residential district, no yards provided shall be less than 2/3 the height of the principal structure. In other district, yards may be increased over those required for uses permitted outright when necessary to meet the general objective of conditional use control.

(b) Height Exception. The height limitations of any district may be exceeded by a conditional use to a maximum permitted height of 60 feet, provided that total floor area of the conditional use shall not exceed 1 times the area of the site and provided that yards have a minimum width equal to at least 2/3 of the height of the principal structure.

(c) Limitations on access to lots and on openings to buildings. The board of appeals may limit or prohibit vehicular access from a conditional use to residential streets not designated as arterial streets on an officially adopted street plan, and it may limit or prohibit openings in sides of a building or structure permitted as a conditional use within 50 feet of a residential district if such openings will cause glare, excessive noise, or other adverse effects on adjacent residential properties.

(d) Signs permitted within the district or one indirectly illuminated or non-illuminated sign on each side of a conditional use abutting a street shall be permitted, whichever is less restrictive. A sign shall not exceed 20 square feet in area, shall pertain to the conditional use, and may not be located in required yards.

(e) Drive-in establishments, drive-in theaters, access and egress drives serving drive-in establishments, including drive-in theaters, shall meet the requirements of 16-294 for access and egress drives serving off street parking areas, and shall be reviewed with regard to adequacy and safety of vehicular and pedestrian circulation.

(f) Automobile Service Stations. In addition to the other standards of this section, automobile service stations, when permitted as conditional uses shall meet the following requirements:

(1) The maximum permitted lot size shall be 10,000 square feet.

(2) Sales of merchandise shall be confined to items used for the maintenance and servicing of passenger cars.

(3) No automobile repairs other than incidental minor repairs, battery, or tire changing shall be allowed on the property.

(4) A sight obscuring fence of not less than five feet nor more than six feet shall be provided between the station site and abutting residential property.

(g) Schools.

(1) Nursery schools shall provide and thereafter maintain outdoor play areas with a minimum area of 100 square feet per child of total capacity. A sight obscuring fence at least four feet but not more than six feet in height shall be provided separating the play area from abutting lots.

(2) Primary schools shall provide one acre of site area for each 90 pupils or one acre for each three classrooms, whichever is greater.

(h) Elementary schools shall provide one acre of site area for each 75 pupils or one acre for each 2 classrooms, whichever is greater.

(i) Utility substation or pumping substation. The minimum lot size of the district in which a public utility facility is to be located may be waived only on finding that the waiver will not result in noise or other detrimental effect on adjacent

property. No equipment storage shall be permitted on the site in a residential district or in a C-1 District. Such uses shall be fenced and provided with landscaping as found necessary.
(Ord. 82-5, Art. 3, Sec. 7; Code 1988)

16-2,102. OFF STREET PARKING. At the time of erection of a new structure or at the time of enlargement or change in use of an existing structure with any district in the city, off-street parking spaces shall be as provided in this section unless greater requirements are otherwise established. If parking spaces has been provided in connection with an existing use or is added to an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by 16-2,102(a)-(g). Where square feet are specified, the area measured shall be the floor area primary to the functioning of the particular use of property and shall exclude stairwells; elevator shafts; hallways; ornamental balconies; space occupied by heating, air conditioning or other utility equipment; and space devoted to off-street parking or loading. The number of employees of a new or expanding business shall be estimated in a manner approved by the board of appeals and the number of employees of an established business shall be determined from an examination of the payroll. The following off-street parking requirements shall apply to all districts, except the C-1 District.

Uses

(a) Residential Uses:

- (1) One-two and multi- family dwellings.
- (2) Residential hotel rooming or boarding house.

Standard-One space per dwelling unit.

Four spaces per five guest accommodations plus one additional space for owner.

(b) Commercial Residential Uses:

- (1) Hotel: One space per two guest rooms plus one space per two employees.
- (2) Motel: One space per guest room or suite plus one additional space for owner or manager.
- (3) Club, Lodge: Spaces to meet the combined requirements of the uses being conducted such as hotel, restaurant, auditorium, etc.

(c) Institutions:

- (1) Welfare or correctional institutions:
One space per five beds for patients or inmates.
- (2) Convalescent hospital,
sanitarium, for patients or residents
Rest home, home for aged:
One space per two beds nursing home,
- (3) Hospital: Three spaces per two beds.

(d) Places of Public Assembly:

- (1) Church: One space per four seats or eight feet of bench
Length in the main auditorium.
- (2) Library; reading room: One space per 400 feet of floor
area plus one space per 2 employees.
- (3) Pre-school nursery;
kindergarten: Two spaces per teacher.

- (4) Elementary or Junior: One space per classroom plus one space per administrative employee or one space per four seats or eight feet of bench length in the auditorium or assembly room, whichever is greater.
- (5) High School: One space per classroom plus one space per administrative employee plus one space for each six students or one for four seats or eight feet of bench length in the main auditorium, whichever is greater.
- (6) College; commercial One space per five seats school for adults: in classrooms.
- (7) Other auditoriums; One space per four seats meeting rooms: or eight feet of bench length.
- (e) Commercial amusements:
 - (1) Stadium, arena; theater: One space per four seats or eight feet of bench length.
 - (2) Bowling alley: Five spaces per alley plus one space per two employees.
 - (3) Dance hall; skating rink: One space per 100 feet of floor area plus one space per two employees.
- (f) Commercial:
 - (1) Retail store except as provided in section 16-2,102(f) (2) One space per 125 square feet of floor space.
 - (2) Service or repair shop; retail store handling exclusively bulky merchandise such as automobiles and furniture: One space per 400 square feet floor space.
 - (3) Bank; office (except medical and dental): One space per 400 square feet of floor area plus one space per two employees.
 - (4) Medical and dental clinic: One space per 100 square feet of floor area plus one space per two employees.
 - (5) Eating or drinking establishment: One space per 100 square feet of floor area.
 - (6) Mortuaries: One space per four seats or eight feet of bench length in chapels.
 - (7) Storage warehouse; manufacturing establishment; air, rail or trucking freight terminal: One space per employee.
 - (8) Wholesale establishment: One space per employee plus one space per 700 square feet of patron serving area.

(Ord. 82-5, Art. 4, Sec. 1; Code 1988)

16-2,103. OFF-STREET LOADING. (a) Passengers. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than 25 students.

(b) Merchandise, materials, or supplies. Buildings or structures to be built or substantially altered which receive and distribute material by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this article shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs. (Ord. 82-5, Art. 4, Sec. 2; Code 1988)

16-2,104. GENERAL PROVISIONS - OFF-STREET PARKING AND LOADING.

(a) The provision and maintenance of off-street parking and loading space is a continuing obligation of the property owner. No building or other permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this ordinance. Use of property in violation hereof shall be a violation of this ordinance. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be unlawful and a violation of this ordinance to begin or maintain such altered use until such time as the increased off-street parking or loading requirements are complied with.

(b) Requirements for types of buildings and uses not specifically listed herein shall be determined by the board of appeals, after a report and recommendation from the planning commission, based upon the requirements of comparable uses listed.

(c) In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

(d) Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the building inspector in the form of deeds, leases, or contractors to establish the joint use.

(e) Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located not farther than 500 feet from the building or use they are required to serve, measured in a straight line from the building.

(f) Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

(g) Unless otherwise provided, required parking and loading spaces shall not be located in a required front yard but may be located within a required side or rear yard.

(h) A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be fulfilled shall accompany an application for a building permit. The plan shall show all elements necessary to indicate that the requirement is being fulfilled, including the following:

- (1) Delineation of individual parking and loading spaces.
- (2) Circulation area necessary to serve spaces.
- (3) Access to streets and property to be served.
- (4) Curb cuts.
- (5) Dimensions, continuity, and substance of screening.
- (6) Grading, drainage, surfacing and sub-grading details.
- (7) Delineation of obstacles to parking and circulation in finished parking area.
- (8) Specifications as to signs and bumper guards.
- (9) Other pertinent details.

(i) Design requirements for parking lots.

(1) Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces maintained adequately for all weather use and so drained as to avoid flow of water across sidewalks.

(2) Except for parking to serve residential uses, parking and loading areas adjacent to or within residential districts or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight obscuring fence of not less than five feet nor more than six feet in height except where vision clearance is required.

(3) Parking spaces along the outer boundaries of a parking lot shall be contained by a curb at least four inches high and set back a minimum of four feet from the property line or by a bumper rail.

(4) Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential district or on any adjacent dwelling.

(5) Access aisles shall be of sufficient width for all vehicles turning and maneuvering.

(6) Except for single-family and duplex dwellings, groups more than two parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.

(7) Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic to provide maximum safety of traffic access and egress and maximum safety for pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate the traffic to be anticipated. Service drives shall not be more than 30 feet in width and shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers on frontage not occupied by service drives. Service drives on the same lot frontage shall be separated by a minimum length of curb of 30 feet, provided that for every foot by which the lot frontage exceeds 100 feet, the minimum required length of curb shall be increased by one foot, up to a maximum requirement of 200 feet. In the case of a corner lot, service drives shall be located not closer than 30 feet to the intersecting street line. Service drives shall be located not closer than 10 feet to a side lot line except that a common service drive to two adjacent properties with width not exceeding 30 feet may be provided at the common lot line.

(8) Service drives shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining the lines through points 30 feet from their intersection.

(9) Completion time for parking lots. Required parking spaces shall be improved as required and made available for use before the final inspection is completed by the building inspector. An extension of time may be granted by the building inspector, providing a performance bond or its equivalent, is posted equaling the cost to complete the improvements as estimated by the building inspector provided the parking space is not required for immediate use. In the event the improvements are not completed within one year's time, the bond or its equivalent shall be forfeited and the improvements thenceforth constructed under the direction of the city.

(Ord. 82-5, Art. 4, Sec. 3; Code 1988)

16-2,105. DISTRICT BOUNDARIES. Unless otherwise specified, district boundaries are lot lines or the center line of streets, alleys, railroad right-of-way, or such lines extended. Where a district divides a land parcel under a single ownership into two districts, then the entire parcel shall be zoned for the less restrictive use by the adjustment of the boundaries, provided the boundary adjustment is a distance of less than 20 feet. If the adjustment involves a distance of more than 20 feet, the procedures for a district change shall be followed.

(Ord. 82-5, Art. 5, Sec. 1; Code 1988)

16-2,106. GENERAL PROVISIONS REGARDING ACCESSORY USES. Accessory uses shall comply with all requirements for the principal use except where specifically modified by this ordinance and shall comply with the following limitations;

(a) Fences, which may be located within yards, shall not exceed 3 feet in height measured from the curb elevation in the front yard or in a vision clearance area.

(b) A greenhouse or hothouse may be maintained accessory to a dwelling only if there are no sales.

(c) A guest house may be maintained accessory to a dwelling provided there are no cooking facilities in the guest house.

(d) Regardless of the side yard requirements of the zone a side yard may be reduced to three feet for an accessory structure erected more than 40 feet from a street other than an alley provided the structure is detached from other buildings by five feet or more and does not exceed a height of one story nor any area of 700 square feet. (Ord. 82-5, Art. 5, Sec. 2; Code 1988)

16-2,107. PROJECTIONS FROM BUILDINGS. Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features may project not more than three feet into a required yard or into required open space as established by coverage standards.

(Ord. 82-5, Art. 5, Sec. 3)

16-2, 108. MAINTENANCE OF MINIMUM ORDINANCE REQUIREMENTS. No lot area, yard, or other open space, or required off-street parking or loading area existing on or after the effective date of this ordinance shall be reduced in area, dimension, or

size below the minimum required by this article, nor shall any lot area, yard, or other open space or off-street parking or loading area which is required by this article for one use be used as the lot area, yard, or other open space or off street parking or loading area requirement for any other use.

(Ord. 82-5, Art. 5, Sec. 4; Code 1988)

- 16-2,109. **GENERAL EXCEPTION TO LOT SIZE REQUIREMENTS.** If, at the time of passage of this ordinance, a lot, or the aggregate of contiguous lots or land parcels held in a single ownership, has an area or dimension which does not meet the lot size requirements of the district in which the property is located, the lot or aggregate holdings may be occupied by any use permitted outright in the district subject to the other requirements of the district, and providing, if there is an area deficiency, residential use shall be limited to a single-family residence.

(Ord. 82-5, Art. 5, Sec. 5; Code 1988)

- 16-2,110. **EXCEPTIONS TO YARD REQUIREMENTS.** The following exception to the front yard requirement for a dwelling is authorized for a lot in any district. If there are dwellings on both abutting lots with front yards of less than the required depth for the district, the front yard for the lot need not exceed the average front yard of the abutting dwellings. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the district, the front yard for the lot need not exceed a depth of one-half way between the depth of the abutting lot and the required front yard depth.

(Ord. 82-5, Art. 5, Sec. 6; Code 1988)

- 16-2,111. **GENERAL EXCEPTION TO BUILDING HEIGHT LIMITATIONS.** The following type of structures or structural parts are not subject to the building height limitations of this ordinance: chimneys, tanks, church spires, belfries, domes, monuments, fire and hose towers, observation towers, transmission towers, smokestacks flagpoles, radio and television towers, masts, aerials, cooling towers, elevator shafts, and other similar projections.

(Ord. 82-5, Art. 5, Sec. 7; Code 1988)

- 16-2,112. **ACCESS.** (a) All lots shall abut a street other than an alley for a width of at least 35 feet.

(b) Service drives to drive-in business establishments shall meet the requirements of section 16-2,104(i)(1), (7) and (8).

(Ord. 82-5, Art. 5, Sec. 8; Code 1988)

- 16-2,113. **VISION CLEARANCE.** Vision clearance areas shall be provided with the following distance establishing the size of the vision clearance area:

(a) In a residential district, the minimum distance shall be 30 feet at intersections except an alley which shall have 10 feet.

(b) In all other districts, except a C-1 district, the minimum distance shall be 15 feet or, at intersections including an alley, 10 feet, except that when the angle or intersection between streets is less than 30 degrees, the distance shall be 25 feet.

(Ord. 82-5, Art. 5, Sec. 9; Code 1988)

- 16-2,114. **ZONING OF ANNEXED AREAS.** Any territory hereafter annexed to the city shall, simultaneously with annexation, be referred to the planning commission for classification. The city council shall have 30 days from the decision of the planning commission to vote to confirm, deny, or alter such zoning classification. If the city council shall not take action on the decision of the planning commission within such timeframe the decision of the planning commission shall take effect upon the expiration of such 30 day period.
(Ord. 82-5, Art. 5, Sec. 10, Ord. 13-14; Code 2015)
- 16-2,115. **CONTINUATION OF NONCONFORMING USE OR STRUCTURE.** Subject to the provisions of 16-2,115:2,122 a nonconforming structure or use may be continued and maintained in reasonable repair but shall not be altered or extended. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this ordinance is not an extension of a nonconforming use. A complete record of the location, value, nature and extent of all nonconforming uses shall be made and kept by the planning commission.
(Ord. 82-5, Art. 6, Sec.1; Code 1988)
- 16-2, 116. **NONCONFORMING STRUCTURE.** A structure conforming as to use but nonconforming as to height, setback, or coverage may be altered or extended providing the alteration or extension does not result in a violation of this article.
(Ord. 82-5, Art. 6, Sec. 2; Code 1988)
- 16-2,117. **DISCONTINUANCE OF A NONCONFORMING USE.** (a) If a nonconforming use involving a structure is discontinued from use for a period of one year, further use of the property shall be for a conforming use.
 (b) If a nonconforming use not involving a structure is discontinued for a period of six months, further use of the property shall be for a conforming use.
(Ord. 82-5, Art. 6, Sec. 3; Code 1988)
- 16-2,118. **TERMINATION OF CERTAIN NONCONFORMING USES.**
 (a) A nonconforming use not involving a structure or one involving a structure having an assessed value of less than shall be discontinued within two years from the date of passage of this article.
 (b) Notwithstanding any other provision of this ordinance, any automobile wrecking yard or other junkyard in existence in any residential district at the date of enactment of this ordinance shall at the expiration of three years from such date become a prohibited an unlawful use and shall be discontinued.
 (c) A use which is nonconforming with respect to provision for screening shall provide screening within a period of two years from the date of passage of this article.
(Ord. 82-5, Art. 6, Sec. 4; Code 1988)
- 16-2,119. **CHANGE OF NONCONFORMING USE.** If a nonconforming use is changed, it shall be changed to a use conforming to the regulations of the district, and after change, it shall not be changed back against the original nonconforming use.
(Ord. 82-5, Art. 6, Sec. 6; Code 1988)

- 16-2,120. **DESTRUCTION OF A NONCONFORMING USE.** If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 50 percent of the cost of replacement of the building using new materials, a future structure or use on the property shall conform to the provisions of this article.
(Ord. 82-5, Art. 6, Sec. 6; Code 1988)
- 16-2,121. **COMPLETION OF BUILDING.** Nothing contained in this ordinance shall require any change in the plans, construction, alteration, or designated use of a building for which a building permit has been issued and construction work has commenced prior to the adoption of this ordinance, except that if the designated use will be nonconforming it shall, for the purpose of 16-2,117 be a discontinued use if not in operation within two years of the date of issuance of the building permit.
(Ord. 82-5, Art. 6, Sec. 7; Code 1988)
- 16-2,122. **DISTRICT CHANGES.** Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, sections 16-2,115:2,121 shall also apply to any nonconforming uses existing therein.
(Ord.82-5, Art. 6, Sec. 8; Code 1988)
- 16-2,123. **PLANNED DEVELOPMENTS.** In view of the trend toward the development of group houses, planned neighborhoods, shopping centers or other planned developments intended for greater convenience or utility, which may necessitate variations from existing zoning classifications or regulations, such variations may be permitted, provided development plan shall be referred to the planning commission for study, public hearing and report to the city council, and the city council may approve or disapprove the development plan. If the city council approves the plan, the city council may authorize the issuance of building permits and certificates of occupancy.
(Ord. 82-5, Art. 7, Sec. 1; Code 1988)
- 16-2,124. **BOARD OF APPEALS; ESTABLISHMENT.** The board of zoning appeals, hereinafter called the board, shall consist of five members appointed by the mayor. The board shall organize, adopt rules, hold meetings and keep records all as provided by law.
(Ord. 82-5, Art.8, Sec. 1; Code 1988)
- 16-2,125. **POWERS AND DUTIES.** The board shall have the powers and duties prescribed by law and by this article, which are more particularly specified in 16-2, 127:2, 129.
(Ord. 82-5, Art. 8, Sec. 2; Code 1988)
- 16-2,126. **INTERPRETATIONS.** The board shall hear and make decisions upon the following:
 (a) Appeal from a decision by an official or agency charged with administering this ordinance.

(b) Questions involving the interpretation of any provision of this ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

(c) Review and approve or disapprove conditional uses which shall be considered as exceptions under state statutes.
(Ord. 82-5, Art.8, Sec. 3; Code 1988)

16-2,127. VARIANCES. The board of appeals may authorize variances from the requirements of this article where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of this article would cause an undue or unnecessary hardship except a variance shall not be granted to allow the use of property for purposes not authorized within the district in which the proposed use would be located. In granting a variance the board of appeals may attach conditions which it finds necessary to protect the best interest of the surrounding property or neighborhood and to otherwise achieve the purposes of this article. No variance shall be granted unless it can be shown that all of the following conditions exist:

(a) Exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same district or vicinity, which conditions are a result of lot size or shape, topography, or other circumstances over which the applicant has no control.

(b) The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of the property in the same district or vicinity.

(c) The authorization of the variance shall not be materially detrimental to the purposes of this article, be injurious to property in the district or vicinity in which the property is located, or be otherwise detrimental to the objectives of any city development plan or policy.

(d) The variance requested is the minimum variance from the provisions and standards of this article which will alleviate the hardship.
(Ord. 82-5, Art. 8, Sec. 4; Code 1988)

16-2,128. PROCEDURE. The procedures to be followed by the board of appeals shall be as follows:

(a) Written application for the approval of the variances referred to in sections 16-2, 126 and 16-2, 127 shall be filed with the board upon forms and in a manner prescribed by the board. A fee of \$25 shall be paid to the city clerk or his or her agent upon the filing of each application for variance for the purpose of defraying costs of the proceedings described herein. A written receipt shall be issued to the person making such payment, and records thereof shall be kept in such manner as prescribed by law. Such applications, which appeal decisions by the enforcing officer, shall be made within 20 days of the date of such decision.

(b) The board shall hold a public hearing on each application for a variance. Applications must be accompanied with a certified list of property owners of record, and their addresses, if available, and if not available, then the addresses of the occupant of the premises, if tenanted, in all directions from the subject property, for a distance of twice the frontage the property included in the application provided no distance need be more than 1,000 feet, and cannot be less than 200 feet.

(c) The board shall make its findings and determination in writing within 40 days from the date of filing the application and shall forthwith transmit a copy thereof to the applicant.

(d) The board shall keep minutes of its proceedings, showing the vote of each member upon each question and shall keep record of its examinations and other official actions, which shall be a public record.

(e) In approving applications for variances, the board shall have authority to impose such conditions as it deems necessary to protect the best interests of the surrounding property or neighborhood.

(Ord. 82-5, Art. 8, Sec. 5; Code 1988)

16-2,129. AUTHORIZATION TO INITIATE AMENDMENTS. An amendment to the text of the zoning map of this ordinance may be initiated by the city council, by the planning commission, or by application of a property owner or his or her authorized agent. The planning commission shall, within 30 days after a hearing, recommend to the city council approval, disapproval, or modification of the proposed amendment. The planning commission shall initially consider proposed amendments initiated by a property owner or his or her authorized agent only at the regularly scheduled meetings.

(Ord. 82-5, Art. 9, Sec. 2; Code 1988)

16-2,130. APPLICATION AND FEE. An application for amendment by a property owner or his or her authorized agent shall be filed with the city clerk 30 days prior to the planning commission meeting at which the proposal is to be considered. The application shall be accompanied by a fee of \$30.

(Ord. 82-5, Art.9, Sec. 2; Code 1988)

16-2,131. PUBLIC HEARING ON AN AMENDMENT. Before taking final action on proposed amendment, the planning commission shall hold a public hearing thereon. After receipt of the report on the amendment from the planning commission, the council takes appropriate action.

(a) Notice of Hearing. Notice of time and place of the public hearing before the planning commission and of the purpose the proposed amendment shall be given to the city in the following manner:

(1) Prior to an amendment to the zoning map or text, a notice shall be published in a newspaper of general circulation, the city not less than 21 days prior to the date of hearing and by mailing written notice not less than 10 days prior to the date of hearing to owners of property within the area enclosed by lines parallel to and 200 feet from the exterior boundaries of the property involved, using for this purpose the names and addresses of the owners as shown upon the records of the county assessor. Where all property abutting that of the same ownership shall be notified in the same manner as provided in this section.

(2) Failure to send notice to a person specified in this section or failure of a person to receive the notice shall not invalidate any proceedings in connection with the proposed zone change.

(b) Recess of Hearing. The planning commission may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposed amendment. Upon recessing for this purpose, the planning commission shall announce the time and date when the hearing will be resumed. (Ord. 82-5, Art. 9, Sec. 3; Code 1988)

- 16-2,132. **APPROVAL OF AMENDMENT TO ZONING MAP.** In granting an amendment to the zoning map, upon application by a property owner or his or her authorized agent, the city council may require the dedication of additional street right-of-way where an officially adopted street plan indicates need for increased width or where the nature of the proposed development warrants increased street width, and the council may require permanent screen strips or other devices to minimize conflict with residential land use.
(Ord. 82-5, Art. 9, Sec. 4; Code 1988)
- 16-2,133. **RECORDS OF AMENDMENTS.** The city clerk shall maintain a record of amendments to the text and map of this article in a form convenient for the use of the public.
(Ord. 82-5, Art. 9, Sec. 5; Code 1988)
- 16-2,134. **ENFORCEMENT.** The building inspector shall have the power and duty to enforce the provisions of this article. An appeal from a ruling of the building inspector shall be made to the board of appeals.
(Ord. 82-5, Art. 10, Sec. 1; Code 1988)
- 16-2,135. **FORM OF PETITIONS, APPLICATIONS AND APPEALS.** All petitions, applications and appeals provided for in this ordinance shall be made on forms provided for the purpose or as otherwise prescribed by the administrator (building inspector) in order to assure the fullest practical presentation of pertinent facts and to maintain a permanent presentation of pertinent facts and to maintain a permanent record. All applications for building and occupancy permits shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be used and/or built upon; the exact sizes and locations on the lot of the buildings and other structures, existing and proposed, the existing and intended use of each building, structure or part thereof; the number of families to be accommodated, if any; and such other information as is needed to determine conformance with the provisions of this article and of the building code. (Ord. 82-5, Art. 10, Sec. 2; Code 1988)
- 16-2,136. **TEMPORARY PERMITS.** The building inspector shall issue temporary permits for buildings to be constructed and used for storage incidental to construction of buildings on the property and for signs advertising a subdivision or tract of land or the lots thereon. (Ord. 82-5, Art. 10, Sec. 3; Code 1988)
- 16-2,137. **TIME LIMIT ON A PERMIT FOR A CONDITIONAL USE OR A VARIANCE.**
A building permit for a conditional use or for a use involving a variance shall be void after six months if no substantial construction has taken place.
(Ord. 82-5, Art. 10, Sec. 4; Code 1988)
- 16-2,138. **INTERPRETATION.** The provisions of this article shall be held to be the minimum requirements fulfilling its objectives. Where the conditions imposed by any provisions of this article are less restrictive than comparable conditions imposed by any other ordinance, resolution or regulation, the provisions which are more restrictive shall govern. (Ord. 82-5, Art. 10 Sec. 5; Code 1988)

- 16-2,139. SEVERABILITY. The provisions of this article are hereby declared to be severable. If any section, sentence, clause, or phrase of this article is adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this article.
(Ord. 82-5, Art. 10, Sec. 6; Code 1988)
- 16-2,140. PENALTY. The owner or owners of any building or buildings or premises or part thereof where anything in violation of this article exists or is placed or maintained; and any architect, builder, or contractor who assists in the commission of any such violation, and all persons or corporations who violate or maintain any violation of any of the provisions of this article or who fail to comply therewith or with any requirements thereof or who build in violation of any statement of plan submitted and approved thereunder shall, for each and every violation or noncompliance, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$5 nor more than \$500 for each offense. Every person violating or contributing in any way to the violation of any provision of this article shall be deemed guilty of a separate offense for each day during which such violation continues, and may be punished therefor as herein provided.
(Ord. 82-5, Art. 10, Sec. 7; Code 1988)

ARTICLE 3. MOBILE HOME PLACEMENT GUIDELINES

16-301. **GUIDELINES FOR APPLICATION.**

(a) A request for placement of a mobile home must be initiated by the property owner by obtaining an application for a mobile home permit in the office of the city clerk. The application must be conspicuously displayed at the intended site for a period of not less than 30 days. Upon obtaining the application, the applicant is to pay to the city clerk a fee of \$50, to cover the cost of publishing a notice in the official city newspaper, the Galena Sentinel-Times, cost of research and notification of property owners within 200 feet.

(1) All applications for placement of mobile homes shall be forwarded to the planning commission for review. A date shall be set for the public hearing.

(2) The city clerk will cause a notice to be placed in the official city newspaper not less than 21 days before the hearing.

(3) The city clerk will also notify the property owners located within 200 feet of the proposed location of the mobile home by mail, the proposed location of the mobile home, the date of the public hearing, and include a sample of any written protests to the placement of the mobile home.

(b) A public hearing shall be held on each application for placement of a mobile home in R-1, R-2 and R-3 zoned areas. The following guidelines are to be implemented as a method of determining where mobile homes are located. This does not include recreational vehicles or travel trailers.

(Ord. 86-6, Sec. 3; Code 1988)

16-302. **FORM AND METHOD OF HANDLING PROTEST.** (a) The planning commission shall within 30 days after the hearing is concluded, recommend some action to the council. More than one-half of the members must be present to make a quorum.

(b) Regardless of whether or not the planning commission approves or disapproves a proposed location of a mobile home, if a protest against the location is filed in the office of the city clerk within 14 days after the date of the public hearing, duly signed and acknowledged by the owners of 20 percent or more of any real property or by owners of 20 percent of the total area, excepting public streets and ways, located within 200 feet of the boundary of proposed location of the mobile home, shall not be passed except by at least three-fourths vote of all of the members of the city council.

(Ord. 86-6, Sec. 4; Code 1988)

16-303. **PERMIT REQUIREMENTS.** No mobile home permit shall be approved by the planning and zoning commission or city council unless it is established that all city and public utilities are available for immediate hook-up service. It shall be unlawful to occupy a mobile home unless all utility hook-ups have first been established and inspections made by the city building inspector. All mobile homes must have individual meters and hook-ups for all utilities.

(Ord. 86-6, Sec. 6; Code 1988)

- 16-304. **PERMIT ISSUED TO LAND OWNER.** Mobile home permits will be issued for land owner occupied inhabitation only. Placing of mobile homes for rental purposes shall not be allowed outside a mobile home park. If anyone other than the owner is found to be living in a mobile home, the utilities shall be immediately disconnected and the owner of the property shall be subject to a fine of \$25 per day until the mobile home is removed or occupied by the owner.
(Ord. 86-6, Sec. 6; Code 1988)
- 16-305. **ADOPTION OF STANDARDS.** In order to protect the health and welfare of the public body of the city, the body and frame design and construction requirements and the installation of plumbing, heating, and electrical systems of all mobile homes located within the city limits shall be governed by the standards promulgated by the Southern Building Code on mobile homes.
(Ord. 86-6, Sec. 7; Code 1988)
- 16-306. **MOBILE HOME PLACEMENT.** (a) All mobile or manufactured homes located in residential areas within the City of Galena, Kansas shall be set upon a permanent or masonry foundation and if the structure is in a Mobile Home Park, such mobile or manufactured home shall be completely fitted with appropriate skirting as shall be determined by City Code Enforcement Official.
 (b) No single wide mobile home shall be located in any area within the corporate limits of the City of Galena, Kansas unless such dwelling is within a Mobile Home Park that is operating under the approval of and compliance with the City of Galena, Kansas.
(Ord. 01-02, Ord. 01-03; Code 2015)
- 16-307. **TIE DOWNS, ETC.** All mobile homes shall be secured with tie-downs, ground anchors, and block foundations with piers under the outside frame.
 (a) Tie-downs required.
 (1) 50-70 feet mobile homes- four over the top type
 (2) 70 feet and longer- five over the top type
 (3) Doublewide 50 feet and longer- four frame tie downs on each side.
 (b) Ground anchors shall consist of steel auger anchors, cast in place concrete "deadman" eyelets embedded in concrete, or arrowhead augers. Screw augers shall be sunk to a depth of at least four feet.
(Ord. 86-6, Sec. 8; Code 1988)
- 16-308. **AGE OF MOBILE HOME.** No mobile home over 10 years old shall be allowed, and all mobile homes allowed shall be subject to the mobile home standards as set forth in section 16-305.
(Ord. 86-6, Sec. 9; Code 1988)
- 16-309. **LOT SIZE.** Lot size and coverage and setback requirements for individual mobile homes placed outside mobile home parks shall conform to zoning codes for specified mobile home areas in R-1, R-2 and R-3 zones.
(Ord. 86-6, Sec 10; Code 1988)

- 16-310. VIOLATIONS. Each violation is a separate offense. Every person violating or contributing in any way to the violation of any provision of this article, shall upon conviction, be deemed guilty of a separate offense for each day during which the violation continues and shall be punished as hereinafter provided by a fine of not less than \$25 nor more than \$150 per day.
(Ord. 86-6, Sec. 12; Code 1988)
- 16-311. ENFORCEMENT. The building inspector shall have the power and duty to enforce the provisions of this article. An appeal from a ruling of the building inspector shall be made to the board of appeals.
(Ord. 86-6, Sec. 13; Code 1988)

ARTICLE 4. FLOOD PLAIN ZONING

16-401. REGULATIONS INCORPORATED. There are hereby incorporated by reference, as if set out fully herein, the floodplain management regulations adopted by the governing body of the City of Galena, Kansas, in Ordinance No. 08-08, and entitled "Floodplain Management for Galena, Kansas".

One copy of the floodplain management regulations marked "Official Copy as incorporated by the Code of the City of Galena" and to which there shall be a published copy of this section attached, shall be filed with the city clerk to be open for inspection and available to the public at all reasonable business hours.
(Ord. 08-08; Code 2015)

ARTICLE 5. SUBDIVISION REGULATIONS

- 16-501. **INTERPRETATION AND PURPOSES.** In the interpretation, the provisions of these regulations shall be held to be the minimum requirements adopted for the protection of the health, safety, and welfare. To protect the public, among other purposes, such provisions are intended to provide for permanently wholesome community environment, adequate municipal services, and safe streets.
(Code 2015)
- 16-502. **SCOPE.** These regulations shall apply to any lots forming a part of subdivision created and recorded after the effective date of this document. It is not intended by these regulations to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances or with restrictive covenants running with the land to which the City is a party. Where these regulations impose a greater restriction upon land than is imposed or required by such existing provisions of law, ordinances, contract, or deed, the provisions of these regulations shall control. (Code 2015)
- 16-503. **APPROVING AGENCY.** The provisions of these regulations shall be administered by the Planning Commission and the Galena City Council.
(Code 2015)
- 16-504. **DEFINITIONS.** For the purposes of these regulations, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" or "will" are always mandatory and not merely directory.
- (a) City - the City of Galena, Kansas
 - (b) City Council - the City Council of the City of Galena, Kansas
 - (c) Final Plat - the map, drawing, chart, or other media, on which the subdivider's plan of subdivision is presented to the Planning Commission for approval and which, if approved, will be submitted to the County Recorder for recording.
 - (d) Lot - A parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions as on a subdivision or record of survey map or by metes and bounds, for the purpose of sale or lease to, or separate use of, another.
 - (e) Official Map - The map established by the City Council showing the streets, highways, and parks theretofore laid out, adopted, and established by law and any amendments thereto adopted by the City Council, or additions thereto, resulting from the approval of subdivision plats by the Planning Commission and the subsequent filing of such approved plats.
 - (f) Owner - Any individual, firm, association, syndicate, co-partnership, corporation, trust, or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.
 - (g) Planning Commission - The Planning Commission of the City of Galena, Kansas.

(h) Preliminary Plat - The preliminary map, drawing, or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission for its consideration.

(i) Streets and Alleys - "Street" is a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated. "Alley" is a minor way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street; "Cul-de-Sac" or "Dead-end Street" is a minor street with only one outlet; "Width, Street" is the shortest distance between the lines delineating the right-of-way of a street.

(j) Sub-divider - Any individual, firm, association, syndicate, co-partnership, trust, corporation, or other entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself or herself or for another.

(k) Subdivision - The division of a parcel of land into three (3) or more lots or parcels for the purpose of transfer of ownership or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land which may be ordered or approved by a court or affected by testamentary or in testate provisions, or a division of land for agricultural purposes into lots or parcels of ten (10) acres or more and not involving a new street shall not be deemed a subdivision. The term "subdivision" includes "re-subdivision" and, when appropriate to the context, relates to the process of subdividing, or to the land or territory subdivided. The term shall include any division in an existing subdivision of two (2) or more parcels into three (3) or more parcels for the purpose of transfer of ownership or building development, whether the newly created parcels are divided simultaneously or in stages.

(Code 2015)

16-505. APPLICATION OF REGULATIONS. Except as provided herein, no person shall subdivide any tract of land, which is located within the city, except in conformity with the provisions these regulations. (Code 2015)

16-506. ENFORCEMENT. (a) Recording of Plat. No plat of any subdivision shall be entitled to recording in the County Recorder's office or have any validity until it shall have been approved in the manner prescribed herein. In the event any such unapproved plat is recorded it shall be considered invalid.

(b) Sale of Land in Subdivision. No owner or agent of the owner of any land located within a subdivision shall transfer, sell, agree to sell, or negotiate to sell any land by reference to, exhibition of, or by the use of a plan or plat of a subdivision before such plan or plat has been approved and recorded in the manner prescribed herein. The description of such lot or parcel of land by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall exempt the transaction from the provisions of these regulations.

(c) Permits. The Code Enforcement Officer shall not issue building or repair permits for any structure on a lot in a subdivision for which a plat has not been approved and recorded in the manner prescribed herein.

(d) Public Improvements. The City hereby defines its policy to be that the City will withhold all public improvements of whatever nature, including the maintenance of streets and the furnishing of sewerage facilities and water service from all subdivisions which have not been approved, and from all areas dedicated

to the public which have not been approved by the City Council in the manner prescribed herein.

(e) Revision of Plat After Approval. No changes, erasures, modifications, or revisions shall be made in any plat of a subdivision after approval has been given by the Planning Commission, and endorsed in writing on the plat, unless said plat is first resubmitted to the Planning Commission.

(Code 2015)

16-507.

PROCEDURE.

(a) Preliminary Plat.

(1) Contents. The preliminary plat shall show, on a map, all the facts needed to enable the Planning Commission to determine whether the proposed layout of the land in a subdivision is satisfactory from the standpoint of public interest.

(2) Preparation. The preliminary plat shall be prepared by a registered engineer or surveyor.

(3) Filing. The sub-divider three days prior to the Planning Commission meeting at which consideration is desired, shall file an application for preliminary approval with the City Clerk and provide at least three (3) copies of the preliminary plat according to the standards and other provisions of these regulations.

(b) Approval.

(1) Time Requirement. The Planning Commission shall act on the preliminary plat within sixty (60) days after filing unless time is extended by agreement with the sub-divider or his/her agent. If no action is taken within said sixty (60) days after filing or such longer period as may have been agreed upon, the preliminary plat as filed shall be deemed approved and it shall be the duty of the Chairman of the planning Commission to comply with the provisions below.

(2) Notice of Action Taken. The Planning Commission shall determine whether the preliminary plat shall be approved, approved with modifications, or disapproved and shall give notice to the sub-divider in the following manner:

(A) If approved, the Chairman of the Planning Commission shall affix his/her signature to the plat and attach thereto a notation that it has received preliminary approval and return it to the sub-divider for compliance with final approval requirements.

(B) If approved with modification or disapproved, the Chairman of the Planning Commission shall attach to the plat a statement of the reasons for such action and return it to the sub-divider. In any case, a notation of the action taken and requisite reasons therefore, shall be entered in the records of the Planning Commission.

(3) Effect of Approval. Approval of the preliminary plat by the Planning Commission shall not constitute final acceptance of the subdivision by the City Council.

(c) Right of Sub-divider.

(1) After Approval. Preliminary approval shall confer upon the sub-divider the right for a one (1) year period from the date of approval that the general terms and conditions under which the preliminary approval was granted will not be changed.

(2) Improvements. Prior to any construction taking place or a Building Permit being issued for construction within any subdivision in the City of Galena, Kansas, or prior to a sub-divider offering lots for sale to the public for the purpose of building homes or structures thereon, all improvements required by section 15-509 shall have been constructed servicing the lot or lots to be sold or built upon.

(3) Final Plat. The final plat will have incorporated all changes or modifications required by the Planning Commission, otherwise it shall conform to the preliminary plat, and it may constitute only that portion of the approved preliminary plat which the sub-divider proposes to record and develop at the time, provided that such portion conforms with all the requirements of these regulations.

(4) Preparation. The final plat shall be prepared by a registered engineer or surveyor.

(d) Filing.

(1) Required Matter. After receiving notice of the action of the Planning Commission approving the preliminary plat, the sub-divider shall proceed to file with the City Commission:

(A) Three (3) copies of the final plat;

(B) A written application for final approval;

(C) A statement by the Code Enforcement Officer and Superintendent of Public Works certifying that they are in receipt of a map showing all utilities in exact location and elevation, identifying those portions already installed and those to be installed and that the sub-divider has complied with paragraph (B) above.

(2) Time Limits. The final plat shall be filed not later than one hundred twenty (120) days after the date of approval of the preliminary plat, otherwise it will be considered void unless an extension is requested in writing by the sub-divider and for good cause granted by the City Council. The final plat shall be filed at least five (5) working days prior to the meeting at which it is to be considered. The final plat shall be considered officially filed after it is reviewed by said Commission, found to be in full compliance with the formal provisions of these regulations, accepted by said Commission, and such approval certified thereon.

(3) Recording. The sub-divider shall record an original and nine (9) copies of the final plat in the office of the County Recorder of Cherokee County, Kansas within thirty (30) days after the date of approval, otherwise the small plat shall be considered void.

(Code 2015)

16-508. SUBDIVISION DESIGN STANDARDS.

(a) Streets.

(1) Conformity. The arrangement, character, extent, width, grade, and location of all streets shall be considered in their relationship to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. The arrangement and other design standards of streets shall conform to the provisions found herein.

(2) Relationship to Adjoining Street System. The arrangement of streets in new subdivisions shall make provision for the continuation of the existing streets in adjoining areas.

(3) Projection of Streets. Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets.

(4) Streets to be Carried to Property Lines. When a new subdivision adjoins un-subdivided land susceptible of being subdivided, then the new streets shall be carried to the boundaries of the tract to be subdivided.

(5) Street Jogs Prohibited. Street jogs with centerline offsets of less than one hundred fifty (150) feet shall be avoided.

(6) Dead-end Street or Cul-de-Sac. Dead-end streets or cul-de-sacs, designed to be so permanently, shall not be longer than seven hundred (700) feet and shall be provided at the closed end with a turn-around having an outside street property line diameter of at least one hundred (100) feet. If a dead-end street is of a temporary nature, a similar turn-around shall be provided and provision made for future extension of the street into adjoining properties.

(7) Street Widths. Street widths shall not be less than fifty (50) feet. Surfaced portion shall be not less than twenty-six (26) feet exclusive of curb and gutter.

(8) Intersections. The intersection of more than two (2) streets at one point shall be avoided except where it is impracticable. Street intersections shall be rounded with a radius of twenty (20) feet measured at the back of curbs when the intersection occurs at right angles. If an intersection occurs at an angle other than a right angle, it shall be rounded with a curve radius acceptable to the Planning Commission.

(9) Subdivision into Tracts Larger than Ordinary Building Lots. Where a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the opening of future streets and logical further re-subdivision.

(10) Half Streets Prohibited. Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations and where the Planning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

(11) Street Names and Numbers. Names of new streets shall not duplicate existing or planned street names unless a new street is a continuation of, or in alignment with the existing or platted streets.

(12) Access to Streets Across Ditches. The sub-divider shall provide access to all proposed streets, across ditches, in a manner approved by the City.

(13) Vacation of Streets. The City Council shall not vacate any street or part of a street dedicated for public use, if such vacation interferes with the uniformity of the existing street pattern or any future street plans prepared for the area.

(14) Private Streets. Private streets shall not be approved nor shall public improvements be approved for any private street.

(15) Hardship to Owners of Adjoining Property Avoided. The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

(b) Easements.

(1) Provided for Utilities. Easements with a minimum right-of-way width of ten (10) feet shall be provided on each side of all rear lot lines and along certain side lot lines where necessary for utilities.

(2) Provided for Drainage. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose.

(3) Blocks-Factors Governing Dimensions. Block length and width or acreage within bounding roads shall be such as to accommodate the size of lot required in the area by the code's zoning provisions and to provide for convenient access, circulation control, and safety of street traffic.

(c) Lots.

(1) Dimensions. Lot dimensions and area shall not be less than the requirements of the code's zoning provisions.

(2) Location. All lots shall abut by their full frontage on a publicly dedicated street or a street that has received public status as such.

(3) Lines. Side lot lines shall be at substantially right angles to straight street lines or radial to curved street lines.

(4) Corner Lots. Corner lots for residential use shall have extra width to permit appropriate building setback from and orientation to both streets.

(5) Uninhabitable Lots. Lots subject to flooding and lots deemed by the Planning Commission to be uninhabitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by inundation nor produce unsatisfactory living conditions.

(6) Lot Remnants. All remnants of lots below minimum size left over after subdividing or a larger tract shall be added to adjacent lots, rather than allowed to remain as unusable parcels.

(Code 2015)

16-509. REQUIRED IMPROVEMENTS.

(a) Bond Required. Prior to granting of formal approval, the sub-divider shall have installed or shall have furnished adequate bond for the ultimate installation of the following:

(b) Monuments. Monuments shall be placed at all block corners, angle points, points of curve in streets, and at intermediate points as shall be required by the Code Enforcement Officer and Superintendent of Public Works. The monuments shall be of such size, material, and length as may be approved by the Code Enforcement Officer and Superintendent of Public Works.

(c) Time for Improvements. Prior to any lots being offered for sale in a subdivision or prior to the construction of any residence or other structure in a subdivision, the sub-divider shall have installed the following to and servicing the lot to be built upon or sold.

(d) Streets.

(1) Surfacing. All streets shall be surfaced in accordance with applicable specifications of the City. Such construction shall be subject to

inspection and approval by the Code Enforcement Officer and Superintendent of Public Works.

(2) Curbs, Gutters, and Drainage. Curbs, gutters, drainage, and drainage structures shall be provided in accordance with and construction inspected and approved by the Superintendent of Public Works and Code Enforcement Officer.

(e) Water Supply.

(1) Accessible Public Water Supply. Where a public water supply approved by the City is reasonably accessible, each lot within the subdivision shall be provided with a connection thereto; the sub-divider shall furnish and install the water main(s) required for the service and shall pay the entire cost of such connection and installation. The sub-divider shall provide the necessary and required fire hydrants, valves, and other appurtenances. All connections shall be subject to approval of the City.

(2) Non-accessible Public Water Supply. In a proposed subdivision, pending accessibility of a public water supply, the sub-divider may be required to construct wells or a private water supply in such a manner that an adequate supply of potable water will be available to every lot in the subdivision at the time improvements are erected thereon. The adequacy, healthfulness, and potableness of the water supply shall be subject to the approval of the Kansas Department of Health and Environment.

(f) Sanitary Sewer System.

(1) Public Sanitary Sewer System. Where a public sanitary sewer is reasonably accessible, each lot within the subdivided area shall be provided with a connection thereto. All connections shall be subject to the approval of the Code Enforcement Officer and Superintendent of Public Works. Public sanitary sewer shall be considered reasonably accessible when the total cost of extending and installing the public sewer main(s) to the closest three (3) lots in the land being subdivided does not exceed the cost of a private sanitary sewer system for said three lots by more than twenty-five percent (25%) as determined by the Superintendent of Public Works, who shall determine such costs taking into consideration the following:

(A) The cost of extending and installing the public sanitary sewer to the center of the street abutting upon the three lots to be served plus the cost of installing and connecting four-inch sewer service lines to the sewer main and running the same to a point four (4) feet outside the buildings to be served on said three (3) lots.

(B) The cost of a private sanitary sewer system for said three lots shall be determined considering the use of a concrete septic tank of one thousand one hundred (1,100) gallon minimum capacity, one concrete distribution box, and a minimum of two hundred (200) feet of field tile, all installed in accordance with acceptable standards.

(Code 2015)

16-510. PRELIMINARY PLAT.

(a) Form. The Preliminary Plat shall be clearly and legibly drawn. The size of the map shall not be less than eleven (11) inches by seventeen inches (11" x 17"). The map of a subdivision containing five (5) acres or less shall be drawn at a scale of one inch equals one hundred feet (1" = 100'), unless otherwise required by the Planning Commission.

(b) Map Contents. The Preliminary Plat shall contain the following information:

- (1) Description.
 - (2) Name of the proposed subdivision. The name shall not duplicate, be the same in spelling, or alike in pronunciation with any other recorded subdivision.
 - (3) Name of adjacent subdivisions and owners of adjoining parcels of un-subdivided land.
 - (4) Names and addresses of the sub-divider, owner, and engineer.
 - (5) Location by section, range, township, city, county, and state.
 - (6) Names of streets within adjoining plates.
 - (7) Existing Conditions.
 - (8) Boundaries of the subdivision indicated by a heavy line and the approximate acreage involved.
 - (9) Location, widths, and names of existing or platted streets, railroad rights-of-way, easements, parks, permanent buildings, section lines, and corporate limits.
 - (10) Zoning districts, if any.
 - (11) Drainage channels, wooded areas, power transmission poles and lines, and any other significant items should be shown.
 - (12) Drafting of Plan.
 - (13) Date of preparation, scale of drawing, and north point.
 - (14) Proposals.
 - (15) Location and principal dimensions for all proposed streets, alleys, easements, lot lines, and areas reserved for public use.
 - (16) Other Information.
 - (17) Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units and type of business or industry, so as to reveal the effect of the development on traffic, fire hazards, or congestion.
 - (18) Proposed covenants and restrictions.
 - (19) Source of water supply.
 - (20) Provision for sewage disposal, drainage, and flood control.
 - (21) If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions.
- (Code 2015)

16-511. FINAL PLAT.

(a) Form. The final plat shall be clearly and legibly drawn in India ink on vellum or Mylar media. The size of the map shall not be less than eleven inches by seventeen inches (11" x 17"). The map of a subdivision containing five (5) acres or less shall be drawn at a scale of one inch equals fifty feet (1" = 50'). All other subdivisions shall be drawn at a scale of one inch equals one hundred feet (1" = 100'), unless otherwise required by the Planning Commission.

- (b) Map Contents.
- (1) Description.
 - (2) Name of the subdivision.
 - (3) Names of adjacent subdivisions and owners of adjoining un-subdivided parcels.
 - (4) Names and Addresses of the sub-divider, owner, and engineer.

- (5) Location by section, block, range, township, city, county, and state.
- (6) (Names of streets within adjoining plates).
- (7) Existing Conditions.
- (8) All plat boundaries.
- (9) Bearings and distances to the nearest established street lines, section corners, or other recognized permanent monuments which shall be accurately described on the plat.
- (10) Municipal, township, County, or section lines accurately tied to the lines of the subdivision by distance and bearings.
- (11) Accurate location of all monuments.
- (12) Survey Data.
- (13) Length of all arcs, radii, internal angles, points of curvature, points of intersection, and tangent bearings. When lots are located on a curve or when side lot lines are at angles other than ninety degrees (90°), the width at the building line shall be shown.
- (14) Drafting of Plat.
- (15) Date of preparation, scale of drawing, north point.
- (16) Proposals.
- (17) All easements for right-of-way provided for public services or utilities, and any limitations of such easements.
- (18) All lot numbers and lines, with accurate dimensions in feet and hundredths and with bearings or angles to street and alley or crosswalk-way lines.
- (19) Accurate outlines of any areas to be dedicated or temporarily reserved for public use with the purpose indicated thereon.
- (20) Building setback lines, with dimensions.
- (21) Other Information.
- (22) Protective or restrictive covenants shall be shown on the plat.
- (23) Code Enforcement Officer's certificate.
- (c) Certifications Required.
 - (1) Certification shall be furnished from the County Treasurer that all taxes and assessments have been paid on the land within the proposed subdivision.
 - (2) If a zoning change is involved, certification from the Planning Commission shall be furnished indicating that the change requested has been approved and is in effect.
 - (3) Certification by a registered civil engineer or surveyor to the effect that the plat represents a survey made by him/her and that all monuments shown thereon actually exist, and that their location is correctly shown.
 - (4) An acknowledgment by the owner or owners, of his, her or their adoption of the plat, and of the dedication of streets and other public areas.

16-512. **PENALTIES.** Any person violating the provisions of these regulations shall be deemed guilty of a misdemeanor and punished by a fine of not more than \$100.00 or confinement in jail for not more than 30 days, or by both such fine and imprisonment. Each and every day that such violation exists shall be deemed to be a separate offense.
(Code 2015)

APPENDIX A - CHARTER ORDINANCES

NOTE: The charter ordinances included herein are for information only. Each of them contains the substance as adopted by the governing body but enacting clauses, publication clauses and signatures have been omitted to conserve space. Complete copies of each charter ordinance as adopted are on file in the office of the city clerk and with the Kansas secretary of state. Date of passage by the governing body of each charter ordinance is shown in parentheses at the end of the text.

CHARTER ORDINANCE NO.1

A CHARTER ORDINANCE EXEMPTING THE CITY OF GALENA, KANSAS, FROM THE PROVISIONS OF THE LAST PARAGRAPH OF K.S.A. 1971 SUPP. 14-103 AND ALL OF K.S.A. 1971 SUPP. 14-201; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE ELECTION AND APPOINTMENT OF CITY OFFICERS AND TO THE TERMS OF SAID OFFICES.

(Repealed by C.O. NO.7)

CHARTER ORDINANCE NO.2

A CHARTER ORDINANCE EXEMPTING THE CITY OF GALENA, KANSAS, FROM THE PROVISIONS OF CERTAIN REQUIREMENTS OF K.S.A. 1973 SUPP. 14-1502; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE RESIDENCE REQUIREMENT OF APPOINTIVE OFFICES.

(Repealed by C.O. NO.5)

CHARTER ORDINANCE NO.3

A CHARTER ORDINANCE EXEMPTING THE CITY OF GALENA, KANSAS, FROM THE PROVISIONS OF THE REQUIREMENTS OF K.S.A. 1974 SUPP. 12-4112; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE ASSESSMENT OF COURT COSTS.

(Repealed by C.O. No. 2000-14)

CHARTER ORDINANCE NO.4

A CHARTER ORDINANCE EXEMPTING THE CITY OF GALENA, KANSAS FROM THE PROVISIONS OF K.S.A. 1979 SUPP. 75-1120a RELATING TO FIXED ASSET MUNICIPAL ACCOUNTING.

Section 1. The City of Galena, Kansas, a city of the second class, by the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it K.S.A.

1979 Supp. 75-1120a, which applies to the City of Galena, but the provisions of which do not apply uniformly to all cities and to provide additional provisions on the same subject.

Section 2. K.S.A. 1979 Supp. 75-11 20a is hereby made inapplicable to the City of Galena and the following substitute and additional provisions are adopted on the same subject:

Except as hereinafter provided, the City of Galena, Kansas shall utilize accounting procedures and fiscal procedures in the preparation of financial statements and financial reports that conform to generally accepted accounting principles as promulgated by the national committee on governmental accounting and the American institute of certified public accountants and adopted by rules and regulations of the municipal accounting board. Provided, nothing herein shall require or be interpreted to require, the city to adopt any sort of fixed asset accounting procedure.

(09-01-81)

CHARTER ORDINANCE NO.5

A CHARTER ORDINANCE EXEMPTING THE CITY OF GALENA, KANSAS FROM THE PROVISIONS OF K.S.A. 25-2108, RELATING TO THE HOLDING OF PRIMARY ELECTIONS WITHIN SAID CITY AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS THERETO.

(Repealed by C.O. No.7)

CHARTER ORDINANCE NO.6

A CHARTER ORDINANCE AMENDING CHARTER ORDINANCE NO. 5 WITH THE REPEALING OF SECTIONS 3 AND 4 OF CHARTER ORDINANCE NO. 5, AS PROVIDED UNDER K.S.A. 14-201 AND 14-1502.

(Repealed by C.O. No.7)

CHARTER ORDINANCE NO.7

A CHARTER ORDINANCE EXEMPTING THE CITY OF GALENA, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-1005c RELATING TO THE TERM OF COMMISSIONERS IN CITIES OF 8,000 OR LESS, K.S.A. 14-101 TO 14-310 RELATING TO THE MAYOR AND COUNCIL FORM OF GOVERNMENT, K.S.A. 14-204; RELATING TO ELIGIBILITY OF APPOINTED OFFICERS AND EMPLOYEES, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECTS; ADOPTING PROVISIONS RELATING TO THE COMMISSION- MANAGER FORM OF GOVERNMENT; REPEALING CHARTER ORDINANCE NUMBERS 1, 5, AND 6.

Section 1. The City of Galena by virtue of the powers 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 K.S.A. 14-101 to 14-310, K.S.A. 12-

1005c, K.S.A. 14-1204, and K.S.A. 14-1502, which apply to the City, but are part of enactments which do not apply uniformly to all cities.

Section 2. The City of Galena hereby adopts the Commission-Manager form of government.

Section 3. The Governing Body shall consist of three city commissioners who shall be elected as follows. Upon the first Tuesday in April of the year 1999, and upon the first Tuesday in April of every odd-numbered year thereafter, there shall be held a city election for the election of new commissioners or expiring commission seats as herein set forth. Two commissioners shall be elected to hold office until the regular city election in 2003, one commissioner shall be elected to hold office until the regular city election in 2001, all of which commissioners shall be elected at the next regular city election in 1999. The two persons receiving the largest number of votes as said election shall be designated as the commissioners to fill the initial four year terms, and the person receiving the third highest vote total as said election shall fill the two year term. Thereafter all commissioners will be elected to four year terms. All commissioners shall be elected at large.

Section 4. Charter Ordinance Number 1, Charter Ordinance Number 5, which was passed on June 21, 1988, and Charter Ordinance Number 6 of the City of Galena are hereby repealed and of no further force and effect.

Section 5. No person shall be eligible to any appointive office unless he or she shall be a bona fide resident of the city or of the territory within a ten (10) mile radius of such city prior to his or her appointment, except that the city may hire nonresident expert employees or appoint nonresidents as municipal judge, city attorney, or as law enforcement officers when deemed necessary by the board of commissioners, including the appointment of nonresidents of another municipality or public agency. Nonresidents of the State of Kansas may be appointed as expert employees. Expert employees shall be defined to include the appointed offices of the Municipal Judge, the City Attorney, and the City Engineer or such other positions requiring specialized expertise as shall be defined by and deemed necessary by the board of commissioners.
(05-08-98)

CHARTER ORDINANCE NO.8

A CHARTER ORDINANCE EXEMPTING THE CITY OF GALENA, KANSAS, FROM THE PROVISIONS OF K.S.A. 14-1302 PERTAINING TO THE MAYOR OR COMMISSIONER HOLDING OTHER OFFICE.

Section 1. The City of Galena, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas hereby specifically elects to and does exempt itself and make inapplicable to it K.S.A. 14-1302 which applies to this city, but is part of an enactment which does not apply uniformly to all cities. The subject matter of this Article relates to the mayor or commissioners holding another office the compensation of which was fixed by the commission while he or she was a member of the commission.

Section 2. This exemption shall remain in effect for three calendar years commencing from the time that said charter ordinance becomes effective under applicable Kansas Statutory requirements. Upon the expiration of the aforesaid three calendar year period this charter ordinance shall be no longer of any effect. (07-08-98)

CHARTER ORDINANCE NO. 9

A CHARTER ORDINANCE EXEMPTING THE CITY OF GALENA, KANSAS, FROM THE PROVISIONS OF K.S.A. 14-1302 PERTAINING TO THE MAYOR OR CITY COMMISSION MEMBER HOLDING OTHER OFFICE.

Section 1. Whereas the City of Galena, Kansas by virtue of the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas hereby specifically elects to and does exempt itself from and make inapplicable to it the provisions of K.S.A. 14-1302 which applies to this city, but is part of an enactment which does not apply uniformly to all Kansas cities. The subject matter of this Article relates to the mayor or commissioners holding another office the compensation for which was fixed by the commission while he or she was a member of the Commission.

Section 2. The City of Galena, Kansas does hereby provide the following substitute provision on the subject as set forth in Section 1 herein, to wit:

(A) A mayor or commissioner may be elected to or appointed to any office created by the commission while he or she was a member, if the member resigns from their commission seat or office prior to accepting the elected or appointed office, or is no longer serving on the commission or as mayor.

(B) A mayor or commissioner may be elected or appointed to any office where the commission established the compensation for the office, while he or she was a member of said commission or mayoral office, if the member resigns from their commission seat or office prior to accepting the new elected or appointed office or is no longer serving on the commission.

(C) Should any member of the city commission or mayor resign or leave the service as either a commission member or mayoral office, and should they accept any other elected or appointed office, they may be compensated for same in a manner and amount as set forth by the governing board so electing or appointing said person.

(09-23-99)

CHARTER ORDINANCE NO. 10

A CHARTER ORDINANCE VACATING THE PROVISIONS AND THE LANGUAGE OF CHARTER ORDINANCE #7, SECTION 3 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS RELATING TO THE NUMBER OF COMMISSIONERS THAT SHALL COMPRISE THE CITY COMMISSION OF THE CITY OF GALENA, KANSAS: THE CURRENT COMMISSION CONSISTING OF THREE COMMISSIONERS ELECTED AT LARGE SHALL BE ENLARGED TO A FIVE COMMISSIONER GOVERNING BODY ELECTED IN THE SAME

MANNER; FURTHER, PROVISIONS BEING MADE CONCERNING THE ELECTION OF SAID TWO NEW COMMISSIONERS AND THE TERM OF THEIR OFFICE.

Section 1. The City of Galena, by virtue of the powers vested in it by Article 12, Section 5 of the Constitution of the State of Kansas hereby exercises its Home Rule Powers.

Section 2. The City of Galena, has, by previous Charter Ordinance Number 7, adopted the Commission-Manager form of government and all such sections and provisions thereof are hereby preserved except as provided for herein.

Section 3. The City of Galena, hereby vacates the language of the previous Charter Ordinance number 7, Section 3 and provides substitute and additional language replacing said Section 3; such replacement language and provisions being contained in this Charter Ordinance Number 10 Section 4; as follows.

Section 4. (a) The Governing Body of the City of Galena, Kansas, a commission / manager city of the Second Class, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, shall be enlarged from three commissioners to five commissioners, effective and for the purposes of a special election to fill the newly created offices of two additional commissioners, which shall be held in the year 1999. The special election to fill the two newly created commission offices shall be held as soon as is practicable and shall be called by County Clerk of Cherokee County, Kansas within his discretion as provided for by Kansas Statute. Those three commissioners elected during the regular election held upon the first Tuesday in April of 1999 shall hold four year terms and those two elected during the special election shall hold terms of less than two years during the first term of the two newly created commission seats. Those newly created and duly elected two commission seats shall be open and subject to a vote of the electorate during the next general election to be held upon the first Tuesday of April, 2001 and those two commissioners elected thereupon shall hold office for a period of four years commencing with the first regularly scheduled commission meeting following the first Tuesday in April of that year. Thereafter, and upon the first Tuesday in April commencing in 2001 and upon the first Tuesday in April of every odd-numbered year thereafter, there shall be held a city election for the election of new commissioners or expiring commission seats as herein set forth. Thereafter all commission office terms shall be for a period of four years commencing with the first regular meeting of the commission in April following the first Tuesday in April following their said election in odd numbered years. In case of a vacancy in the offices of commissioner occurring by reason of resignation, death or removal from office, or from the city, the mayor, by and with the consent of the majority of the remaining commissioners shall appoint a suitable elector of the city to fill the vacancy until the next election for that office.

(b) There shall be a primary of city commissioners on the Tuesday preceding by four (4) weeks the first Tuesday in April of every year the City of Galena, Cherokee County, Kansas has city election, except as otherwise provided for in subsection (C) of this section.

(c) primary one (1) or more persons will be eliminated as candidates for office. In the event there are not more than (2) candidates for anyone office, the

names of the candidates for such office shall not appear on the primary election ballots, and there shall be no primary election for such office, but the names of such candidates shall be placed on the general city election ballot.

(d) Alter qualification of the new commissioners at the first regular meeting in April following the first Tuesday of April of said election year of a city election where members of said commission are elected, a mayor shall be selected on the first regular meeting following the first Tuesday in April every year on, from and after the first so scheduled meeting in April, 1999. The mayor so selected shall serve as such for two (2) years. The mayor shall, prior to the termination of the meeting of his selection shall designate and appoint the other members of the commission to the following offices: (i) the Commissioner of Finance; (ii) the Commissioner of Roads and Streets; (iii) the Commissioner of the Police and Fire Departments and the Parks. The Commissioners so appointed shall serve until their successors are qualified and elected as shall the mayor.

(03-15-99)

CHARTER ORDINANCE NO. 11

A CHARTER ORDINANCE EXEMPTING THE CITY OF GALENA, KANSAS FROM THE PROVISIONS OF K.S.A. 25-2108a, RELATING TO THE HOLDING OF PRIMARY ELECTIONS WITHIN SAID CITY AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS THERETO.

Section 1. The City of Galena, Kansas under the authority of Article 12, Section 5, of the Constitution of the State of Kansas, hereby exempts itself from, and makes inapplicable to it, the provisions of K.S.A. 25-2108a, which applies to said City, but the provisions of which do not apply uniformly to all cities, and providing substitute and additional provisions on the same subject, as hereinafter provided, as herein provided. This charter ordinance shall supersede any and all prior charter ordinances relating to the subject herein.

Section 2. Regardless of the number of candidates who have filed for election for any city office, there shall be no necessity of a primary election, and every person who has filed for any city office shall be listed on the ballot and shall be voted on by the voters at the general or special election of city officers, commissioners or other city office, to be held on the first Tuesday in April of that year or upon the date set by the Cherokee County Clerk for any special election. The person from among the candidates who receives the largest number of votes at such general or special election shall be declared the winner of said election. If there is more than one officer or commissioner to be elected, the persons from among the candidates receiving the largest number of votes at such general or special election shall be declared the winners of said election and in descending order, each seat or office shall be filled by those persons receiving the largest number of votes.

(07-26-99)

CHARTER ORDINANCE NO. 2000-14

A CHARTER ORDINANCE EXEMPTING THE CITY OF GALENA, KANSAS FROM THE PROVISIONS OF K.S.A. 12-4112 RELATING TO THE ASSESSMENT OF COSTS FOR ADMINISTRATION OF JUSTICE IN ANY MUNICIPAL COURT CASE AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS THERETO.

Section 1. The City of Galena, Kansas under the authority of Article 12, Section 5(c), of the Constitution of the State of Kansas, hereby exempts itself from and makes inapplicable to it, the provisions of K.S.A. 12-4112, pertaining to costs for the administration of justice, which applies to said City, but the provisions of which do not apply uniformly to all cities, and providing substitute and additional provisions on the same subject, as hereinafter provided by City Ordinance.

Section 2. That the Court costs shall be assessed against the accused person in any City of Galena, Kansas Municipal Court Case, where the accused person pleads guilty, no contest, or nolo contendere, is found guilty or is offered and enters into a diversion agreement with the Galena City Attorney, as prosecutorial representative of the City of Galena, Kansas.

Section 3. That the costs assessed by the Galena, Kansas Municipal Court shall be assessed pursuant to the Kansas Statutes Annotated, and amendments thereto and by City Ordinances made and provided by the Governing Body of the City of Galena, Kansas, and amendments thereto.

Section 4. This ordinance is a charter ordinance and hereby repeals and supersedes all or all such portions of any prior charter ordinances as shall address the subjects contained herein. Charter Ordinance Number 99-12 of the City of Galena, Kansas is hereby specifically repealed.
(02-07-00)

CHARTER ORDINANCE NO. 15

A CHARTER ORDINANCE AMENDING THE PROVISIONS AND THE LANGUAGE OF CHARTER ORDINANCE NUMBER 10, SECTION 4(d) AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS RELATING TO THE TERM OF MAYOR OF THE CITY OF GALENA, KANSAS. SAID TERM TO BE REDUCED FROM THE CURRENT TWO (2) YEAR TERM AND TO BE REDUCED TO A ONE (1) YEAR TERM.

Section 1. The City of Galena has by previous Charter Ordinances 7 and 10 adopted the Commission-Manager form of government and all sections and provisions thereof are hereby preserved except as provided herein.

Section 2. The City of Galena, Kansas hereby vacates the language of the previous Charter Ordinance Number 10, Section 4 (d) and provides substitute and additional language replacing said Section 4 (d); such replacement language and

provisions being contained in this Charter Ordinance Number 12 Section Number 3 as follows:

Section 3. "(d) After qualification of the new commissioners at the first regular meeting in April following the first Tuesday of April of said election year of a city election where members of said commission are elected, a mayor shall be selected on the first regular meeting following the first Tuesday in April of an election year. The mayor so selected shall serve as such for a one (1) year term. When the term of the mayor expires on a non-election year, the Commissioners shall choose one of their member as mayor on the first regularly scheduled meeting in the month of April. The Mayor shall, prior to the adjournment of the meeting of his/her selection, designate and appoint the other members of the commission to the following offices: (i) Commissioner of Finance; (ii) Commissioner of Roads and Streets; and (iii) Commissioner of the Police, Fire Departments and Parks. The Commissioners so appointed shall serve until their successors are qualified and elected, as shall the mayor."
(10-20-03)

CHARTER ORDINANCE NO. 16

A CHARTER ORDINANCE RAISING THE QUORUM OF THE GALENA, KANSAS CITY COMMISSION TO FOUR (4) MEMBERS FROM THE CURRENT THREE (3).

Section 1. The City of Galena, Kansas, by virtue of the powers vested in it by Article 12, Section 5 of the Constitution of the State of Kansas hereby exercises its Home Rule Powers in opting out of those provisions of K.S.A. 14-1308 regarding the requirement of a majority of the Board of Commissioners as a Quorum for the transaction of business.

Section 2. The City of Galena has by previous Charter Ordinances, 7 and 10 adopted the Commission-Manager form of government and all sections and provisions thereof are hereby preserved except as provided herein.

Section 3. That the City shall raise the requirement for quorum to four (4) members of the Board of Commissioners for purposes of transacting City business.
(11-97-03)

CHARTER ORDINANCE NUMBER 17

A CHARTER ORDINANCE EXEMPTING THE CITY OF GALENA, KANSAS, FROM ALL OF THE FOLLOWING PROVISIONS OF THE KANSAS STATUTES ANNOTATED, AS FOLLOWS, 12-1615, 12-16,128, 14-601c, 14-602, 14-604, 14-605, 14-606, 14-607, 14-608, 14-609, 14-610, 14-611, 14-612, 14-613, 14-614, 14-618, 14-633, 14-634, 14-635, 14-640d, 14-641, 14-644, 14-645, 14-646, 14-647, 14-648, 14-649, 14-650, 14-651, 14-652, 14-652a, 14-654, 14-654a, 14-655, 14-656, 14-658, 14-659, 14-660, 14-661, 14-662, 14-663, 14-663a, 14-663b, 14-

665, 14-666, 14-667, 14-668, 14-669, 14-670, 14-671, 14-672, 14-673, 14-674, 14-675, 14-676, 14-677, 14-677a, 14-678, 14-679, 14-680, 14-682, 14-683, 14-684, 14-685, 14-686, 14-687, 14-688, 14-690, 14-691, 14-692, 14-693, 14-694, 14-695, 14-696, 14-697, 14-698, 14-699, 14-6,100, 14-6,101, 14-6,102, 14-6,103, 14-6,104, 14-6,105, 14-6,107, 14-6,108, 14-6,109, 14-6,110, 14-6,111, 14-6,112, 14-6,113, and 14-6,114, RELATING TO THE ESTABLISHMENT, FUNDING AND OPERATIONS OF A HOSPITAL BY A CITY, THE FORMATION AND COMPOSITION OF THE BOARD OF TRUSTEES OF A HOSPITAL, THE TERMS OF THE BOARD OF TRUSTEES, AND RELATED MATTERS.

Section 1. Statutes Rendered Inapplicable. The City of Galena, Kansas, by virtue of the powers 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 all of the following provisions of the Kansas Statutes Annotated, as follows, 12-1615, 12-16,128, 14-601c, 14-602, 14-604, 14-605, 14-606, 14-607, 14-608, 14-609, 14-610, 14-611, 14-612, 14-613, 14-614, 14-618, 14-633, 14-634, 14-635, 14-640d, 14-641, 14-644, 14-645, 14-646, 14-647, 14-648, 14-649, 14-650, 14-651, 14-652, 14-652a, 14-654, 14-654a, 14-655, 14-656, 14-658, 14-659, 14-660, 14-661, 14-662, 14-663, 14-663a, 14-663b, 14-665, 14-666, 14-667, 14-668, 14-669, 14-670, 14-671, 14-672, 14-673, 14-674, 14-675, 14-676, 14-677, 14-677a, 14-678, 14-679, 14-680, 14-682, 14-683, 14-684, 14-685, 14-686, 14-687, 14-688, 14-690, 14-691, 14-692, 14-693, 14-694, 14-695, 14-696, 14-697, 14-698, 14-699, 14-6,100, 14-6,101, 14-6,102, 14-6,103, 14-6,104, 14-6,105, 14-6,107, 14-6,108, 14-6,109, 14-6,110, 14-6,111, 14-6,112, 14-6,113, and 14-6,114, and provides substitute and additional provisions as hereinafter set forth in this Charter Ordinance. These statutes apply to the City of Galena, Kansas, but are part of enactments which do not apply uniformly to all cities.

Section 2. Authority to Establish Hospital. The City of Galena, Kansas and its Governing Body shall have the authority to establish, develop, own, lease, manage and/or operate a hospital, as defined under K.S.A. 65-425 and any amendments thereto, and shall have the authority to establish or designate one or more separate entities or other bodies to establish, develop, own, lease, manage and/or operate such hospital. Without limiting the generality of the foregoing, the City of Galena, Kansas, its Governing Body, and any separate entity or other body so established or designated shall have the authority to enter into and/or accept assignment of any and all agreements, leases and other contracts with third parties relating to the establishment, development, ownership, leasing, management and/or operation of such hospital. If the City of Galena, Kansas and/or its Governing Body establishes or designates a separate entity or other body to establish, develop, own, lease, manage and/or operate such hospital, such entity or other body shall have the authority to act and contract independently in its own name, and shall be excepted from Kansas' cash basis statutes to the greatest extent not prohibited by law. The following provisions of this Charter Ordinance shall govern the business, operations and affairs of such hospital.

(9-4-12)

CHARTER ORDINANCE NUMBER 18

A CHARTER ORDINANCE AMENDING SECTION 9 OF CHARTER ORDINANCE 17 RELATING TO SPENDING AND FISCAL AUTHORITY OF THE CITY-OPERATED HOSPITAL.

Section 1. Section 9 of Charter Ordinance 17 of the City of Galena, Kansas, shall be amended to state as follows:

“Section 9. Limitations on Authority. Unless approved by the Board of Trustees, no officer nor the Chief Executive Officer shall do any of the following on behalf of the Board or the Hospital in any single transaction or in one or more related transactions:

- (a) Enter into any agreement involving the expenditure of, or incur any indebtedness, in excess of \$75,000.
 - (b) Make any capital or noncapital expenditures in excess of \$75,000.
 - (c) Sell or otherwise dispose of any of its assets having a value in excess of \$75,000.
 - (d) Enter into any agreement resulting in the change of control of the Hospital, its assets or operations.
 - (e) Perform any other act or thing which this Charter Ordinance requires to be approved, consented to or authorized by the Board of Trustees.”
- (12-17-12)

APPENDIX B - FRANCHISES

FRANCHISES

NOTE: The franchise ordinances included herein are for information only. Each of them contains the substance as adopted by the governing body but enacting clauses, repealers and signatures have been omitted. Complete copies of each ordinance as adopted are on file in the office of the city clerk. Date of adoption of each franchise ordinance is shown in parentheses at the end of the text.

ORDINANCE NO. 01-10

AN ORDINANCE GRANTING UNITED TELEPHONE COMPANY OF SOUTHEASTERN KANSAS D/B/A SPRINT A FRANCHISE TO USE THE STREETS, AVENUES, BOULEVARDS, ALLEYS, AND OTHER PUBLIC PLACES IN THE CITY OF GALENA, COUNTY OF CHEROKEE, 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.

United Telephone Company of Southeastern Kansas d/b/a Sprint, Grantee, a corporation organized under the laws of the State of Missouri, with a license to do business in the State of Kansas, and its successors and assigns, are hereby 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 Galena, 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 (5) 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 then 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 inhabitants, rendering good telephone service at reasonable rates as authorized by the Kansas Corporation Commission or any other state or local governmental agency charged by law with the power to regulate telephone public utilities.

Section 3. All poles 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, sewers, 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 unreasonably 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 forty-eight (48) hours' notice by a properly authorized city official, for the purpose of permitting the moving of houses or other structures along the streets of the City. The person or persons for whose benefit such telephone plant is removed, 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, an advance 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 Grantees 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 to the City, in arrears, four percent (4%) of the annual gross receipts from billings for local exchange service rendered wholly within the corporate limits of the City. Said gross receipts are for the regular basic local exchange service rates to customers or subscribers for telephone services in the City, but does not include charges for special services, custom calling features, long distance calls, access charges, or any other charges not considered basic local exchange service. Such payment shall be made on or before the 1st day of March of 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 for 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 ordinances and agreements 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 a 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 a 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.
(12-17-01)

ORDINANCE NO. 03-08

AN ORDINANCE AMENDING ORDINANCE NO. 01-10 RELATING TO A FRANCHISE AGREEMENT WITH SPRINT PURSUANT TO K.S.A. 12-2001.

Section 1. As used in this ordinance, the term "gross receipts" shall mean:
Gross receipts - means only those receipts collected from within the corporate boundaries of the city enacting the franchise and which are derived from the following: (A) Recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features and measured local calls; (B) recurring local exchange access line services for pay phone lines provided by a telecommunications local exchange service provider to all pay phone service providers; (C) local directory assistance revenue; (D) line status verification/ busy interrupt revenue; (E) local operator assistance revenue; and (F) nonrecurring local exchange service revenue which shall include customer service for installation of lines, re-connection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, the sale or lease of unbundled network elements, non-regulated services, carrier and end user access, long distance, wireless telecommunications services, lines providing only data service without voice services processed by a telecommunications local exchange service provider, private line service arrangements, internet, broadband and all other services not wholly local in nature are excluded from gross receipts. Gross receipts shall be reduced by bad debt expenses. Uncollectible and late charges shall not be included within gross receipts. If a telecommunications local exchange service provider offers additional services of a wholly local nature which if in existence on or before July 1, 2002, would have been included with the definition of gross receipts, such services shall be included from the date of the offering of such services in the city.
(10-20-03)

ORDINANCE NO. 05-08

An Ordinance granting THE EMPIRE DISTRICT ELECTRIC COMPANY, a corporation, its successors and assigns, the right to use the streets, alleys and public grounds for the purpose of erecting and maintaining an electric distribution system, with the necessary poles, wires and other apparatus, equipment and appliances therefor, and to string wires

above ground or carry same thereunder; and the right to do all things necessary and proper for the purpose of generating or otherwise procuring electric energy, or any part thereof, and distributing same throughout the City of Galena, Kansas, and of supplying and selling electric energy for light, power, heat and any other purposes to the said City and the inhabitants thereof, and fixing the terms and conditions upon which such rights may be granted and exercised.

SECTION 1. That THE EMPIRE DISTRICT ELECTRIC COMPANY, hereinafter called the COMPANY, its successors and assigns, are hereby authorized and empowered to use the streets, avenues, lanes, alleys and other public grounds and ways in the City of Galena, Kansas, as its limits now exist or may be altered, for the purpose of erecting and maintaining an electric distribution system, with the poles, wires (above ground or thereunder) and other apparatus, equipment and appliances necessary therefor; and for the purpose of conducting, supplying and selling electric energy to the City and the inhabitants thereof for light, power, heat and any other purposes; and for the purpose of erecting and maintaining a plant or plants in said City for the generating of such electric energy, or any part thereof, with the right in said COMPANY also to generate or procure said electric energy, or any part thereof, at other points and carry same into and through said City and there distribute and sell same.

SECTION 2. Said COMPANY shall use every reasonable precaution to avoid damage or injury to person or property, and agrees to indemnify and save harmless the said City from damage, injury, suits, actions, loss or expense arising from any negligent construction, reconstruction, repair, maintenance or operation of its said electrical system.

SECTION 3. The COMPANY agrees that it will furnish continuous and uninterrupted electric service from the beginning of such service to the end of the franchise period, except for interruptions caused by strikes, riots, Governmental interference or regulation, acts of Providence, or accidents beyond the control of the COMPANY.

SECTION 4. All rates established and charges made by the COMPANY for electric energy distributed and sold hereunder shall be subject to the present and future valid and lawful orders of the Corporation Commission of the State of Kansas, or other competent authority having jurisdiction. All terms, provisions and conditions of this ordinance, the distribution and sale of electric energy are subject to and shall be governed by any present and future valid and lawful supervision, review, change, amendment and modification by a competent authority having jurisdiction, and all present and future valid and lawful orders of said authority.

SECTION 5. All the terms and provisions of this Ordinance shall be binding upon the parties hereto, and upon their respective successors and assigns.

SECTION 6. The franchise granted herein shall continue and remain in full force and effect for a period of twenty (20) years from and after the effective date of this Ordinance, providing written acceptance is made in writing by the COMPANY, signed by its proper officers and filed with the City clerk within a period of thirty (30) days from and after said effective date.

SECTION 7. This Ordinance shall take effect and be in force, and the franchise herein granted shall be and become effective on February 7, 2005 and the City Clerk of said City is hereby directed and empowered to cause this Ordinance to be published in full in the official newspaper of said City for one (1) publication after its final adoption and passage, and in accordance with the provisions of K.S.A., Section 12-824.
(12-20-04)

ORDINANCE NO. 05-09

AN ORDINANCE authorizing and providing a contract between the City of Galena, Kansas (hereinafter sometimes called the CITY) and The Empire District Electric Company (hereinafter sometimes called the COMPANY), its successors or assigns, for electric service and equipment to light the CITY's streets, alleys and public ways, electric service for light and power for the CITY's parks, other properties and public places, for a term of years, and specifying the prices to be paid for such lighting and power service, and the terms and conditions of such contract, and providing for discounts from rates. and for a payment by the COMPANY, and acceptance by the CITY of such discounts and such payment as full payment by the COMPANY of any Occupation Tax, Franchise Tax, License Tax or any similar tax or charge by the CITY for the establishment, operation and maintenance of the COMPANY's facilities within the CITY; and providing further that said discounts and said payment shall not be taken in lieu of the CITY's light to collect motor vehicle license fees and any ad valorem tax on the COMPANY's real estate and personal property.

ARTICLE 1: That said City of Galena, Kansas is hereby authorized and does contract with The Empire District Electric Company, a corporation, its successors or assigns for electric service and equipment to light the CITY's streets, alleys and public ways; and electric service for light and power for the CITY's parks, other properties and public places.

ARTICLE 2: The CITY and the COMPANY mutually agree that this ordinance will constitute a contract and that all of its terms, conditions and provisions for payment shall be in effect for a period of one (1) year from February 8, 2005, provided that same has been executed as provided in Article 15, and shall be automatically extended for a further period of one (1) year from each successive expiration date unless one party shall notify the other in writing not less than sixty (60) days prior to any such expiration date of its desire to terminate this agreement; and further providing that this contract shall not be effective for a total period exceeding ten (10) years; and further provided that the terms of Article 5 are not limited by the terms of Article 2.

ARTICLE 3: The COMPANY agrees to furnish and the CITY agrees to use and pay for the street lighting service described in SPL Street Lighting Data sheet, designated Exhibit A, attached hereto and made a part hereof, and for any and all additional street lighting service subsequently agreed upon under the terms of this contract or any amendment hereto, according to the rates and conditions set out in the Municipal Street Lighting Service Schedule SPL, attached hereto and made a part hereof.

ARTICLE 4: When, by agreement with the CITY, the COMPANY shall install, own, operate and maintain street lights charged for under Schedule SPL, or is required

to provide special or excessive electric facilities to serve CITY owned street lighting systems served under Schedule SPL, there shall be charge. In addition to the rates hereinbefore set out, a Facilities Usage Charge, payable as herein provided, as mutually agreed upon by the parties.

ARTICLE 5: It is agreed that the Facilities Usage Charge shall be computed at the rate set forth in Municipal Street Lighting Service Schedule SPL as now or in the future approved by competent authority having jurisdiction. Said rate shall be applied to the investment in COMPANY owned street lights and special or excessive electric facilities to serve CITY owned street lights utilized by the CITY under Schedule SPL. The total of such investment by the COMPANY is \$48,042.72 and the total of the Facilities Usage Charge shall be \$8,647.69 until additional street lights are requested by the CITY and Installed by the COMPANY and this contract amended by written agreement Such Facilities Usage Charge shall be due and payable by the CITY of Galena, Kansas to the COMPANY so long as the street lights and/or special electric facilities herein referred to in Article 4 and its references shall be utilized by said CITY, but for a term of not less than ten (10) years from date hereof, and shall be payable as provided in said Schedule SPL.

ARTICLE 6: The COMPANY agrees to change the location of any street lamp in use upon written request of the CITY, provided the CITY shall pay the COMPANY the actual cost thereof.

ARTICLE 7: The COMPANY shall furnish and the CITY shall take and pay for all electric service for municipal use, other than street lighting service, as may be required from time to time by the CITY in its park, buildings, properties and public places, according to the rates and provisions of the filed standard rate schedules of the COMPANY, subject to the provisions of Municipal-General Power and Lighting Service (Rider M), attached hereto and made a part hereof.

ARTICLE 8: The COMPANY agrees to pay to the CITY during the term of this contract and at such times as may be mutually agreed upon a sum equal to five (5) percent of the gross receipts collected by the COMPANY from the sale of all electric energy sold to all of COMPANY's customers within the present or future boundaries of the CITY of Galena, Kansas under rate schedules as now or in the future approved by the State Corporation Commission of Kansas for residential and commercial service to a maximum of twenty-five (25.00) per month of the charges for service to all customers, with schools and churches being exempt.

ARTICLE 9: The discounts provided in the attached Schedule and Rider, and in all applicable rates, rules and regulations of the COMPANY filed with competent authority having jurisdiction as now or hereafter promulgated, shall be allowed provided the CITY utilizes the COMPANY's service for its entire requirements for electric or power service and the COMPANY serves the CITY under the provisions of an electric franchise having an original term of not less than ten (10) years; and the amounts resulting from the above discounts and the payments made by the COMPANY to the CITY shall be accepted by the CITY as full payment of any Occupation Tax, Franchise Tax, License Tax or any similar tax or charge imposed upon the COMPANY by the CITY for the establishment, operation and maintenance of the COMPANY's facilities within the CITY; provided, however, that said discounts and said payment shall not be taken in lieu of the

CITY's right to collect motor vehicle license fees or any ad valorem tax on the COMPANY's real estate and personal property.

ARTICLE 10: The COMPANY agrees to protect the CITY and save it harmless from any and all loss, damage or expense to persons or property which is caused by the negligence of the COMPANY in its use or maintenance of any and all equipment owned by it, and used to supply service under this contract. The CITY agrees to protect the COMPANY and save it harmless from any and all loss, damage or expense to persons or property, which may arise due to the use or maintenance of any street lighting equipment owned by the CITY, unless such loss, damage or expense be the sole and proximate result of the COMPANY's negligence.

ARTICLE. 11: The COMPANY agrees to exercise reasonable care in maintaining the facilities to be maintained by it and in rendering the service to be rendered by it in the performance of this contract, so that the said service and said facilities may be furnished and maintained in a satisfactory manner.

ARTICLE 12: The CITY agrees for the term of this contract to utilize the COMPANY's service for the purpose herein set forth, and that the electric service rendered the City hereunder shall be for its use alone, and shall not be resold, and that it will utilize no electric or power service from a source other than the COMPANY.

ARTICLE 13: The rates and charges to be paid by the CITY herein are subject to change and amendment by application of the COMPANY to the State Corporation Commission of Kansas or other regulatory authority having jurisdiction. All terms, provisions and conditions of this Agreement. The distribution and sale of electric energy provided by the COMPANY hereunder, and the operating rules, regulations and practices of the COMPANY relating to such sale and distribution, are subject to and shall be governed by any valid and lawful present and future supervision, review, change, amendment, approval and modification by a competent regulatory authority having jurisdiction and all present and future valid and lawful orders or said authority. Should said authority make any order binding on the CITY with respect to any payments being made by the COMPANY to the CITY under this agreement which would preclude the COMPANY from recovering from its customers such cost, the parties hereto agree to renegotiate such provisions of this agreement in accordance with said ruling.

ARTICLE 14: This contract supersedes all prior representations of agreements, either verbal or written, concerning matters herein contained, and shall inure to the benefit of and be binding upon the respective legal representatives, successors and assigns of the parties hereto.
(2-7-05)

ORDINANCE NO. 05-16

AN ORDINANCE, granting to Kansas Gas Service, a Division of ONEOK, Inc., its successors and assigns, a natural gas franchise, prescribing the terms thereof and relating thereto, and repealing all ordinances or parts of ordinances inconsistent with or in conflict with the terms hereof.

SECTION 1. That in consideration of the benefits to be derived by the City of Galena, 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 ten (10) years from the effective date of this ordinance, to occupy and use the several streets, avenues, alleys, bridges, parks, parking areas, 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 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 (i) three percent (3%) of the gross cash receipts from the sale of natural gas and (ii) one percent (1%) of the gross cash receipts for natural gas 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 other operating revenues received by the Company, which are not related to the "sale or transportation of natural gas". These include, but are 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 terms 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, or seek judicial review of, in such manner as is 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 was 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. Within twenty (20) days after the passage and approval of this Ordinance, Company shall file the same with the Kansas Corporation Commission.

SECTION 10. After the approval of this Ordinance by the City, Company shall file with the City 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, no later than the first cycle of the monthly billing cycle which begins no later than sixty (60) days after its passage and approval by the City, acceptance by the Company, and publication in the official City newspaper. In its letter of acceptance, Company shall identify the effective date as set forth above and Company shall begin charging its customers those fees set forth in Section 2 above on that date.

SECTION 11. 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 12. I. Upon written request of either the City or the Company, this franchise may be reviewed after five (5) years from the effective date of this ordinance. Said request must be served upon the other party at least one hundred twenty (120) days prior to the end of each period set forth above, and shall state specifically the amendments desired. The City and the Company shall negotiate in good faith in an effort to agree upon mutually satisfactory amendments. Amendments under this section, if any, shall be made by ordinance as prescribed by statute. Except as provided within this section the franchise shall remain in effect according to its terms pending completion of any review or renegotiation provided by this subsection.

II. Upon written request of either the City or the Company, the franchise shall be reopened and renegotiated at any time upon any of the following events:

(a) Change in federal, state, or local law, regulation, or order which materially affects any rights or obligations of either the City or Company, including, but not limited to, the scope of the grant to the Company or the compensation to be received by the City.

(b) Change in the structure or operation of the natural gas industry which materially affects any rights or obligations of either the City or Company, including, but not limited to, the scope of the grant to the Company or the compensation to be received by the City.

(c) Any other material and unintended change or shift in the economic benefit to the City or the Company relied upon and anticipated upon entering into this franchise.

III. The compensation provision of this franchise shall be reopened and renegotiated at any time if energy consumers within the City have access to alternative natural gas suppliers or other suppliers of energy through pipelines, and use the public rights of way or public property of the City without paying a franchise fee or other payment substantially equivalent to the franchise fee established herein, which results in a material and unfair disadvantage to the Company. The use of right of provision of this franchise shall be reopened and renegotiated if energy consumers within the City have access to alternative natural gas suppliers or other suppliers of energy through pipelines which use the public rights of way or public property of the City, and do not have requirements on the use of the public ways substantially equivalent to the requirements of this franchise, which results in a material and unfair disadvantage to the Company. Upon any such event, the City shall have up to ninety (90) days after written request of the Company to restore competitive neutrality. Following notice to the City, Company may suspend collection and payment of the franchise fee to the City for the affected customers until the City resolves the competitive disadvantage. After the last above referred ninety (90) day period expires without resolution of the competitive disadvantage, the Company shall have no liability to the City for any uncollected franchise fees suspended as provided in the subsection.

SECTION 13. The franchise is granted pursuant to the provisions of K.S.A. 12-2001 and amendments thereto.

SECTION 14. Any and all ordinances or parts of ordinances in conflict with the terms hereof are hereby repealed or considered as having no effect as of the first cycle of the monthly billing cycle as referenced in Section 10 of this ordinance.

SECTION 15. 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 costs or fees provided for hereunder, the parties hereto shall renegotiate this ordinance in accordance with the Commission's ruling.

ORDINANCE NO. 05-23

AN ORDINANCE, granting to Kansas Gas Service, a Division of ONEOK, Inc., its successors and assigns, a natural gas franchise, prescribing the terms thereof and relating thereto, and repealing all ordinances or parts of ordinances inconsistent with or in conflict with the terms hereof.

SECTION 1. That in consideration of the benefits to be derived by the City of Galena, 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 often (10) years from the effective date of this ordinance, to occupy and use the several streets, avenues, alleys, bridges, parks, parking areas, 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 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 other operating revenues received by the Company, which are not related to the "sale or transportation of natural gas". These include, but are 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 terms 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, or seek judicial review of, in such manner as is 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 was 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. Within twenty (20) days after the passage and approval of this Ordinance, Company shall file the same with the Kansas Corporation Commission.

SECTION 10. After the approval of this Ordinance by the City, Company shall file with the City 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, no later than the first cycle of the monthly billing cycle which begins no later than sixty (60) days after its passage and approval by the City, acceptance by the Company, and publication in the official City newspaper. In its letter of acceptance, Company shall identify the effective date as set forth above and Company shall begin charging its customers those fees set forth in Section 2 above on that date.

SECTION 11. 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 12. I. Upon written request of either the City or the Company, this franchise may be reviewed after five (5) years from the effective date of this ordinance. Said request must be served upon the other party at least one hundred twenty (120) days prior to the end of each period set forth above, and shall state specifically the amendments desired. The City and the Company shall negotiate in good faith in an effort to agree upon mutually satisfactory amendments.

Amendments under this section, if any, shall be made by ordinance as prescribed by statute. Except as provided within this section the franchise shall remain in effect according to its terms pending completion of any review or renegotiation provided by this subsection.

II. Upon written request of either the City or the Company, the franchise shall be reopened and renegotiated at any time upon any of the following events:

(a) Change in federal, state, or local law, regulation, or order which materially affects any rights or obligations of either the City or Company, including, but not limited to, the scope of the grant to the Company or the compensation to be received by the City.

(b) Change in the structure or operation of the natural gas industry which materially affects any rights or obligations of either the City or Company, including, but not limited to, the scope of the grant to the Company or the compensation to be received by the City.

(c) Any other material and unintended change or shift in the economic benefit to the City or the Company relied upon and anticipated upon entering into this franchise.

III. The compensation provision of this franchise shall be reopened and renegotiated at any time if energy consumers within the City have access to alternative natural gas suppliers or other suppliers of energy through pipelines, and use the public rights of way or public property of the City without paying a franchise fee or other payment substantially equivalent to the franchise fee established herein, which results in a material and unfair disadvantage to the Company. The use of right of provision of this franchise shall be reopened and renegotiated if energy consumers within the City have access to alternative natural gas suppliers or other suppliers of energy through pipelines which use the public rights of way or public property of the City, and do not have requirements on the use of the public ways substantially equivalent to the requirements of this franchise, which results in a material and unfair disadvantage to the Company. Upon any such event, the City shall have up to ninety (90) days after written request of the Company to restore competitive neutrality. Following notice to the City, Company

may suspend collection and payment of the franchise fee to the City for the affected customers until the City resolves the competitive disadvantage. After the last above referred ninety (90) day period expires without resolution of the competitive disadvantage, the Company shall have no liability to the City for any uncollected franchise fees suspended as provided in the subsection.

SECTION 13. The franchise is granted pursuant to the provisions of K.S.A. 12-2001 and amendments thereto.

SECTION 14. Any and all ordinances or parts of ordinances in conflict with the terms hereof are hereby repealed or considered as having no effect as of the first cycle of the monthly billing cycle as referenced in Section 10 of this ordinance.

SECTION 15. 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 costs or fees provided for hereunder, the parties hereto shall renegotiate this ordinance in accordance with the Commission's ruling.

(12-5-05)