

# **CODE**

**of the**

## **CITY OF MORAN**

**Published under the Authority and by the Direction of the Governing Body of the City of Moran, Kansas**

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**A Codification of the General Ordinances of the  
City of Moran, Kansas**

*Approved by Moran City Council, September 8, 1993  
Revised by Moran City Council, April 7, 2008*

## **GOVERNING BODY**

### **Mayor**

Phillip Merkel

### **Councilmembers**

Mike Holman

Warren Johnson

Jerry Jackman

Chryll Ginn

James Mueller

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### **Administrative Officials**

Lori S. Evans  
City Clerk

Bret Heim  
City Attorney

Debra Merkel  
City Treasurer

Patricia Miklos  
Municipal Judge

Phillip Merkel  
Fire Chief

Michael Stodgell  
City Superintendent

This volume contains the Code of the City of Moran, Kansas, 2008. As expressed in the adopting ordinance, the code supersedes all ordinances passed prior to April 7, 2008, which are not included herein or recognized as continuing in force by reference thereto. The code was prepared by the office of Immel, Works, and Heim and Moran city officials under the authority of Sections 12-3014:3015 of the Kansas Statutes Annotated.

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

Any section of this code may be amended or repealed by ordinary ordinance by reference to the code section number as follows:

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

All sections or articles or chapters to be repealed shall be repealed by specific reference as follows:

"Section 1-105 (or article or chapter) of the Code of the City of Moran is hereby repealed."

The user's attention is directed to the League of Kansas Municipalities publication, "HANDBOOK for the City Governing body," with the supplement for cities of the third class, both as a source of general information and as an index to the pertinent sections of the Kansas Statutes Annotated.

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

Immel, Works, and Heim

**ORDINANCE NO. 1039**

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

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

Section 1. That a codification of the general ordinances of the City of Moran, 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 Robert V. Talkington, of Talkington and Chase, Attorney at Law, Iola, Kansas, 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 Moran, 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 8th day of September, 1993.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(SEAL)

## ORDINANCE NO.1097

AN ORDINANCE ADOPTING THE CODIFICATION OF ORDINANCES OF THE CITY OF MORAN, KANSAS, AUTHORIZED BY ORDINANCE NO. 1039 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 Moran, Kansas:

Section 1. The codification of ordinances of the City of Moran, Kansas, authorized by Ordinance No. 1039 and K.S.A. 12-3014 and 12-3015, as set out in the following chapters, Chapters I to XIV and Appendice A, all inclusive, and entitled the "Code of the City of Moran, Kansas, 2008" is hereby adopted and ordained as the "Code of the City of Moran, Kansas, 2008" and said codification shall become effective upon publication of no fewer than 10 copies of said code in book form.

Section 2. All ordinances and parts of ordinances of a general nature passed prior to April 1, 2008, in force and effect at the date of the publication of no fewer than 10 copies of the "Code of the City of Moran, Kansas, 2008" 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 of 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 Moran, Kansas, 2008" 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 Moran, Kansas, 2008" as provided in K.S.A. 12-3015.

Passed by the Governing Body of the City of Moran, Kansas, this 7<sup>th</sup> day of April, 2008.

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Phillip Merkel, Mayor

ATTEST:

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Lori Evans, City Clerk

CERTIFICATE OF THE CITY CLERK

Office of the City Clerk  
City of Moran, Kansas

STATE OF KANSAS

)

)

ALLEN COUNTY

)

I, Lori Evans, City Clerk of the City of Moran, Allen County, Kansas, do hereby certify that said city is a city of the second class of the mayor-council form of government under the statutes of Kansas; that this codification of the general ordinances of said city and the publication thereof in book form were ordered and authorized by the governing body by Ordinance No. 1039 and in accordance therewith is entitled the "Code of the City of Moran, Kansas", that said codification was adopted as the "Code of the City of Moran, Kansas" by the governing body by Ordinance No. 1097 passed on the 7<sup>th</sup> day of April, 2008 authorized by Section 12-3015 of the Kansas Statutes Annotated; that said Ordinance No. 1097 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. 1097 constitute due passage of this code and all general ordinances contained therein; that the codification and adoptive Ordinance No. 1097 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 Moran, Kansas, 2008" and the matter therein contained will take effect upon publication and be in force from and after April 11, 2008.

Witness my hand and the seal of the City of Moran, Kansas, at my office in Moran, Kansas, this 7<sup>th</sup> day of April, 2008.

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Lori Evans, City Clerk  
City of Moran, Kansas

(SEAL)

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## **ARTICLE I. GENERAL PROVISIONS**

**1-101. CODE DESIGNATED.** The chapters, articles and sections herein shall constitute and be designated as "The Code of the City of Moran, Kansas," and may be so cited. The Code may also be cited as the "Moran City Code." (Code 2008)

**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 Moran, Kansas.

(b) **Code** shall mean "The Code of the City of Moran, 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 Allen 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 perform the required duty unless the terms of the provision designate otherwise.

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

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

(h) **In the city** shall mean and include all territory over which the city now has, or shall hereafter acquire jurisdiction for the exercise of its 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 of the mark of any person is required by law.
- (z) **Year** means a calendar year, except where otherwise provided.
- (Code 2008)

- 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 a new enactment. (Code 2008)
- 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 2008)
- 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 catch line, is amended or reenacted. (Code 2008)
- 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 2008)

- 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 Moran 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 Moran 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 Moran is hereby repealed". (Code 2008)
- 1-108. ORDINANCES.** The governing body shall have the care, management, and control of the city and its finances, and shall pass all ordinances needed for the welfare of the city. All ordinances shall be valid when a majority of all the members-elect of the city council vote in favor. Where a number of favorable votes is one less than required, the mayor shall have power to cast the deciding vote in favor of the ordinance. (K.S.A. 12-3002; Code 2008)
- 1-109. SAME; SUBJECT AND TITLE; AMENDMENT.** No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3004; Code 2008)
- 1-110. SAME; PUBLICATION.** No ordinance, except those appropriating money, shall be in force until published in the official city newspaper by the city clerk. One publication of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication. (K.S.A. 12-3007; Code 2008)
- 1-111. SAME; ORDINANCE BOOK.** Following final passage and approval of each ordinance, the city clerk shall enter the same in the ordinance book of the city as provided by law. Each ordinance shall have appended thereto the manner in which the ordinance was passed, the date of passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which published and the date of publication. (K.S.A. 12-3008; Code 2008)
- 1-112. RESOLUTIONS, MOTIONS.** Except where a state statute or city ordinance specifically requires otherwise, all resolutions, and motions shall be passed if voted upon favorably by a majority of a quorum of the city council. (Code 2008)
- 1-113. CITY RECORDS.** The City clerk or any other officer or employee having custody of city records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 to 12-121 inclusive, which is incorporated by reference herein as if set out in full. (K.S.A. 12-120:121; Code 2008)
- 1-114. ALTERING CODE.** It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of this code, or to insert or delete pages, or portions thereof, or to alter or tamper with such code in any manner whatsoever

which will cause the law of the City of Moran 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 2008)

**1-115. SCOPE OF APPLICATION.** Any person convicted of doing any of the acts or things prohibited, made unlawful, or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed in violation of this code, and punished in accordance with section 1-116. Each day any violation of this code continues shall constitute a separate offense. (Code 2008)

**1-116. GENERAL PENALTY.** Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with this section.

(a) A fine of not more than \$499; 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 2008)

**1-117. SEVERABILITY.** If for any reason any chapter, article, section, subsection, sentence, clause, or phrase of this code or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this code. (Code 2008)

## **ARTICLE 2. GOVERNING BODY**

**1-201. GOVERNING BODY.** The governing body shall consist of a mayor and city council to be elected as set out in Chapter 6 of this code. (Code 2008)

**1-202. POWERS GENERALLY.** All powers exercised by cities of the third class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law. All executive and administrative authority granted or limited by law shall be vested in the mayor and council as governing body of the city. (K.S.A. 12-103; Code 2008)

**1-203. SAME; MEETINGS.** (a) Regular meetings of the governing body shall be held on the first Monday of each month at 7:00 p.m. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the city offices, the governing body shall fix the succeeding day not observed as a holiday as a meeting day.  
(b) Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the 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. 15-106, O. 926; Code 2008)

**1-204. SAME; QUORUM.** In all cases, it shall require a majority of the council members-elect to constitute a quorum to do business. (K.S.A. 15-106; Code 2008)

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

- (a) Have the superintending control of all officers and affairs of the city;
- (b) Take care that the ordinances of the city are complied with;
- (c) Sign the commissions and appointments of all officers elected or appointed;
- (d) Endorse the approval of the governing body on all official bonds;
- (e) From time to time communicate to the city council such information and recommend such measures as he or she may deem advisable;
- (f) Have the power to approve or veto any ordinance as the laws of the state shall prescribe;
- (g) Sign all orders and drafts drawn upon the city treasury for money. (K.S.A. 15-301:302; 305:306; Code 2008)

**1-206. PRESIDENT OF THE COUNCIL.** The city council shall elect one of its own body as president of the council. The president of the council shall preside at all meetings of the council in the absence of the mayor. In the absence of both the mayor and the president of the council, the council shall elect one of its members as "acting president of the council." The president and acting president, when occupying the place of mayor, shall have the same privileges as other Councilmembers but shall exercise no veto. (K.S.A. 15-310:311; Code 2008)

**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 2008)

**1-208. VACANCIES IN GOVERNING BODY; HOW FILLED.** (a) If a vacancy occurs in the office of the mayor by death, resignation, removal from the city, removal from office, refusal to qualify, or otherwise, the president of the council shall become mayor until the next regular city election and the vacancy created in the office of the Councilmember becoming mayor shall be filled by the governing body of the city. Thereupon the council shall elect from its membership a new president of the council.

(b) In case of a vacancy in the council occurring by reason of resignation, death, or removal from office or from the city, the mayor, by and with the advice and consent of the remaining council members, shall appoint an elector to fill the vacancy until the next election for that office. In case any person elected as a council member neglects or refuses to qualify within 30 days after election, the council member shall be deemed to have refused to accept the office and a vacancy shall exist. The mayor may, with the consent of the remaining council members, appoint a suitable elector to fill the vacancy.

(c) In case of a vacancy in the office of mayor, the president of the council shall become mayor until the next regular election for that office and a vacancy shall occur in the office of the council member becoming mayor. (K.S.A. 15-201 and 15-311; Code 2008)

**1-209. COMPENSATION.** Members of the governing body shall receive as compensation such amounts as may be fixed by ordinance. (O. 1042; O. 1069; Code 2008)

**1-210. EXPENSES.** Each member of the governing body shall receive for his or her services and as reimbursement for his or her expenses, compensation to be established on a yearly basis by the governing body.

(a) The mileage rate shall be established yearly by the governing body in the annual budget 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 2008)

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

Rule 1. **Adjourned Meetings.** Adjourned meetings of the governing body may be held at such time and place as the governing body may determine in the motion to adjourn.

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

The call of a special meeting shall be in substantially the following form:

**CALL FOR SPECIAL GOVERNING BODY MEETING**

Moran, Kansas

\_\_\_\_\_, \_\_\_\_\_

To the Members of the Governing Body

A special meeting of the governing body is hereby called to be held at the city hall,  
\_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ O'clock \_\_\_\_M.,  
the object of said meeting being to

\_\_\_\_\_.

Signed

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A notice of such special meeting, stating the time, place, and object of the meeting, directed to the \_\_\_\_\_ shall be issued by the city clerk to the marshal-chief of police, his or her deputy, or a law enforcement officer or other city employee, who shall be required to make service of said notice at once personally upon each

\_\_\_\_\_ or to leave it at his or her usual place of residence, and such notice must be served or left at the usual place of residence at least two hours before the time of meeting. The person serving the notice shall make a return in writing of the service, showing the manner of such service. Attendance at a special meeting by any member of the governing body shall constitute a waiver of the right to notice under this rule for that member. The notice and the return shall be in substantially the following form:

**NOTICE OF SPECIAL GOVERNING BODY MEETING**

Office of the City Clerk  
Moran, Kansas

To \_\_\_\_\_

You are hereby notified that there will be a special meeting of the Governing Body at \_\_\_\_\_ o'clock \_\_\_\_\_.m. \_\_\_\_\_, \_\_\_\_\_, at the city hall for the object of (state the same object as shown in the call).

Witness my hand and the seal of said city this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

State of \_\_\_\_\_

City Clerk

County \_\_\_\_\_ ss.

City of \_\_\_\_\_

To marshal-chief of police, his or her deputy, or a law enforcement officer or other city employee.)

Greeting:

You are hereby directed to serve the above notice at once personally upon \_\_\_\_\_ or to leave it at his or her usual place of residence before \_\_\_\_\_ o'clock \_\_\_\_\_.m., \_\_\_\_\_, \_\_\_\_\_, and to make a return in writing of said service, showing the manner of such service.

(SEAL) \_\_\_\_\_

City Clerk

#### RETURN

Received the original notice of special governing body meeting, of which the foregoing is a copy, at \_\_\_\_ o'clock \_\_\_\_\_.m., on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and (served the same personally on \_\_\_\_\_ or left said original notice at the usual place of residence of \_\_\_\_\_) at \_\_\_\_\_ o'clock \_\_\_\_\_.m., on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signed:

\_\_\_\_\_  
Person serving notice

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

- (1) Reading of the minutes of the last regular meeting and intervening special meetings, which if no corrections are offered, shall stand approved;
- (2) Presentation of petitions, memorials, and remonstrance's;
- (3) Presentations of claims and appropriation ordinance;
- (4) Unfinished business;
- (5) New business;
- (6) Reports of other city officers.

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

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

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

Rule 7. **Certain Motions in Writing.** Every motion except to adjourn, postpone, reconsider, commit, lay on the table, or for the previous question, shall be reduced to writing if the chair or any member requires it; when made and seconded, it shall be stated by the chairperson or being written shall be read by the clerk, and may be withdrawn before decision or amendment, or any disposition thereof has been made, or a vote thereon had.

Rule 8. **Resolutions.** All resolutions must be in writing.

Rule 9. **Motions During Debate.** When a question is under debate no motion shall be entertained except:

- (1) To adjourn;
- (2) To lay on the table;
- (3) To take the previous question;
- (4) To postpone;
- (5) To amend;

which several motions shall have precedence in the order in which they are named, and the first three shall be decided without debate.

Rule 10. **Division.** Any member may call for a division of a question when the same will admit thereof.

Rule 11. **Voting; Abstaining From Voting.** When a question is put by the chair, every member present shall vote unless for special reasons the chair shall excuse him or her. For those questions for which an abstention is permitted, such a vote shall be counted as a vote cast in favor of the position taken by the majority of those persons present and voting. In doubtful cases the chair may direct, or any member may call for, a decision. The yeas and nays shall be called upon a requisition of the chair or any member, and upon the final passage of all ordinances in which case the names of the members voting and their votes shall be recorded in the minutes.

Rule 12. **Precedence of Questions.** All questions shall be put in the order in which they are moved, except in case of privilege questions, and in filling blanks the longest time and largest sum shall be first.

Rule 13. **Previous Question.** The previous question shall be put in these words: "Shall the main question now be put?" It shall be admitted on demand of any member and until decided shall preclude all amendments and debate of the main question.

Rule 14. **Passing of Ordinances.** All ordinances shall be read by sections, at which time amendments, if any, may be offered, but the reading of any section shall not preclude the



offering of an amendment to any preceding one. If amendments are made the chair shall so report, and each section shall be read as amended before the vote on the passage of the ordinance is taken. After reading and amendment (if any) of the ordinance, the question shall be: "Shall the ordinance pass?" The vote on the final passage of an ordinance shall be taken by yeas and nays, which shall be entered on the journal by the clerk; and no ordinance shall be valid unless a majority of (or otherwise as required by law) the members of the council vote in favor thereof: Provided, That no ordinance shall contain more than one subject, which shall be clearly expressed in its title, and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3002; 3004)

Rule 15. **Signing and Engrossing Ordinances.** After an ordinance shall have passed it shall be correctly entered in the original ordinance book and the original and the book copy shall be signed by the mayor, or in the absence of the mayor by the acting mayor, and attested by the clerk, who shall secure publication of the ordinance as required by law.

Rule 16. **Clerk Reads Communications.** Petitions and other papers addressed to the governing body shall be read by the clerk under proper order of business upon presentation of the same to the board.

Rule 17. **Robert's Rules of Order.** In all points not covered by these rules the governing body shall be governed in its procedure by Robert's Rules of Order. (Code 2008)

- 1-212. **CODE OF ETHICS.** (a) **Declaration of Policy** - The proper operation of our government requires that public officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made in the proper channels and that the public have confidence in the integrity of its government. In recognition of those goals, there is hereby established a Code of Ethics for all officials and employees, whether elected or appointed, paid or unpaid. The purpose of this code is to establish ethical standards by setting forth those acts or actions that are incompatible with the best interests of the city.
- (b) **Responsibilities of Public Office.** - Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and to carry out impartially the laws of the nation, state, and city and thus to foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the long term public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach.
- (c) **Dedicated Service** - All officials and employees of the city should be responsive to the political objectives expressed by the electorate and the programs developed to attain those objectives. Appointive officials and employees should adhere to the rule of work and performance established as the standard for their positions by the appropriate authority. Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.
- (d) **Fair and Equal Treatment.** - (1) Interest in Appointments. Canvassing of members of the city council, directly or indirectly, in order to obtain preferential consideration in con-

nection 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 interest 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, service, 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 2008)

### **ARTICLE 3. OFFICERS AND EMPLOYEES**

**1-301. APPOINTMENT.** (a) That the mayor shall appoint, by and with the consent of the council, a city treasurer; a municipal judge of the municipal court; marshal-chief of police; city clerk;

city attorney; and may appoint policemen and such other officers as such governing body may deem necessary. Officers so appointed and confirmed shall hold their offices for a term of one year and until their successors are appointed and qualified. The council shall by ordinance specify their duties and compensation, and by ordinance may abolish any office created by them whenever they may deem it expedient. The council may retain a licensed professional engineer to act in the capacity of city engineer for specifically defined duties, and provide for reasonable compensation for services rendered.

(b) The officers elected or appointed shall be qualified electors of said city, except the city may appoint nonresidents as city attorney, municipal judge, city clerk, city superintendent of utilities and as law enforcement officers when deemed necessary, including the appointment of nonresidents who also serve as city attorney, municipal judge, city clerk, city superintendent of utilities or law enforcement officers of another municipality or public agency: provided, that nothing herein shall authorize the appointment of nonresidents of this state. The governing body may, by resolution passed by two-thirds of said governing body, exempt other employees from being qualified electors of said city. The city attorney shall be a qualified elector of the county in which said city is located or of an adjoining county. The removal from such city of any officer elected or appointed hereunder, who is required to be a qualified elector thereof, shall occasion a vacancy in such office. All vacancies in office, except in the offices of mayor and councilmen, may be filled until the next regular time for appointment by appointment by the governing body. Every appointment to office and the date thereof, shall be entered on its journal of proceedings of the council (K.S.A. 15-204; Chtr. O. No. 2; Code 2008)

**1-302. EMPLOYEES.** The personnel committee with the consent of the council shall have authority to hire all other employees, or such authority may be delegated to the respective department heads. (Code 2008)

**1-303. REMOVAL.** (a) A majority of all members elect of the governing body may remove any appointed officer.  
(b) For good cause, the mayor may suspend at any time any appointed officer.  
(c) Employees, other than appointed officers, may be removed by the mayor upon recommendation of the respective department heads.  
(d) No officer or employee shall be removed for any reason until he or she has been given notice and afforded the opportunity for a hearing. (K.S.A. 15-204; Code 2008)

**1-304. VACANCY IN OFFICE.** Whenever a vacancy occurs in any appointive office for whatever reason, the vacancy shall be filled by the governing body. Any person appointed to fill such vacancy shall serve only until the next regular time for appointment. (K.S.A. 15-209; Code 2008)

**1-305. CITY CLERK.** The city clerk shall: (a) Be custodian of all city records, books, files, papers, documents and other personal effects belonging to the city and not properly pertaining to any other office;  
(b) Carry on all official correspondence of the city;  
(c) Attend and keep a record of the proceedings of all regular and special meetings of the governing body;  
(d) Enter every appointment of office and the date thereof in the journal;  
(e) Enter or place each ordinance of the city in the ordinance books after its passage;  
(f) Publish all ordinances, except those appropriating money, and such resolutions, notices and proclamations as may be required by law or ordinance. (Code 2008)

- 1-306. SAME; FISCAL RECORDS.** The city clerk shall: (a) Prepare and keep suitable fiscal records according to generally accepted accounting principles;  
(b) Assist in preparing the annual budget;  
(c) Audit all claims against the city for goods or services rendered for the consideration of the governing body. His or her accounts shall properly show the amounts paid from any fund of the city and the cash balance existing in each fund;  
(d) Keep an accurate account of all bonds issued by the city;  
(e) Keep a record of all special assessments. (Code 2008)
- 1-307. SAME; SEAL; OATHS.** The city clerk shall: (a) Have custody of the corporate seal of the city and shall affix the same to the official copy of all ordinances, contracts, and other documents required to be authenticated;  
(b) Have power to administer oaths for all purposes pertaining to the business and affairs of the city;  
(c) Keep suitable files of all such oaths required to be deposited in his or her office. (Code 2008)
- 1-308. SAME; WITHHOLDING AGENTS.** The city clerk is designated as the withholding agent of the city for the purposes of the Federal Revenue (Income) Act, and shall perform the duties required of withholding agents by said act or any other act requiring withholding from the compensation of any city officer or employee. The clerk shall perform such other duties as may be prescribed by the governing body or the Kansas statutes. (Code 2008)
- 1-309. ASSISTANT CITY CLERK.** (a) The office of assistant city clerk is hereby established. The mayor shall appoint, by and with the consent of the city council, the assistant city clerk. The person so appointed and confirmed shall hold the office for a term of one year and until a successor is appointed and confirmed.  
(b) The assistant city clerk shall perform those duties assigned to that office by the city clerk.  
(c) Whenever a vacancy occurs in the position of city clerk and the city is without a person appointed, confirmed, or qualified to hold that office, the assistant city clerk shall become the acting city clerk and fulfill the duties of that office.  
(d) Compensation of the assistant city clerk shall be set by ordinance passed by the governing body. (Code 2008)
- 1-310. CITY TREASURER.** The city treasurer shall:  
(a) Keep a full and accurate record of all money received and paid out in a ledger book provided by the governing body;  
(b) Publish a quarterly financial statement;  
(c) Deposit all public moneys and sign all checks of the city  
(d) Pay out city funds only upon orders or warrants properly signed by the mayor and city clerk;  
(e) Perform such other duties as may be prescribed by the governing body or the Kansas statutes. (K.S.A. 10-803; K.S.A. 12-1608; Code 2008)
- 1-311. 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 2008)

**1-312. 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 2008)

**1-313. CONFLICT OF INTEREST.** (a) No city officer or employee shall be signatory upon, discuss in an official capacity, vote on any issue concerning or otherwise participate in his or her capacity as a public official or employee in the making of any contract with any person or business:

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

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

- (1) Contracts let after competitive bidding has been solicited by published notice; and
  - (2) Contracts for property or services for which the price or rate is fixed by law.
- (K.S.A. 75-4301; Code 2008)

#### **ARTICLE 4. PERSONNEL POLICY AND EMPLOYEE BENEFITS**

**1-401. PERSONNEL RULES AND REGULATIONS.** There is hereby incorporated by reference for the purpose of establishing employee personnel rules and regulations the document entitled "Moran Personnel Policy and Procedures Manual." No fewer than three copies of said document shall be marked or stamped "Official Copy as adopted by the Code of the City of Moran: and which there shall be attached a copy of this section. Said official cop-

ies shall be filed with the city clerk and shall be open to inspection and available to the public at all reasonable hours. All departments of the city shall be supplied with copies of such rules and regulations as may be deemed necessary. (Code 2008)

## **ARTICLE 5. OATHS AND BONDS**

- 1-501. OATH.** All officers and employees of the city, whether elected or appointed, either under the laws of the State of Kansas or ordinances of the city, shall before entering upon the duties of their respective offices, take and subscribe an oath or affirmation as follows: "I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Kansas and faithfully discharge the duties of \_\_\_\_\_ (here enter name of office or position). So help me God". (K.S.A. 75-4308; Code 2008)
- 1-502. OATHS FILED.** All officers and employees required to take and subscribe or sign an oath or affirmation shall be supplied the forms for the purpose at the expense of the city and upon taking and subscribing or signing any such oath or affirmation, the same shall be filed by the city clerk. (Code 2008)
- 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) Judge of municipal court - \$1,000.00
- (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 2008)
- 1-504. SAME; PREMIUMS.** All premiums on surety bonds shall be paid by the city. (K.S.A. 78-111; Code 2008)
- 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 2008)
- 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 2008)

## **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 2008)

**1-602. RECORDS CUSTODIANS.** The record custodian(s) appointed and designated pursuant to this article shall preserve and protect all public records from damage, disorganization and theft and shall assist, in a timely and efficient manner, any person making request for access to any open public record. (Code 2008)

**1-603. 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 2008)

**1-604. 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 2008)

**1-605. PROCEDURES FOR INSPECTION.** Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy hereof, 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 2008)

**1-606. 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: 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. (Code 2008)

**1-607. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS.** (a) Each of the official custodians appointed in section 1-606 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.  
(b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations. (Code 2008)

**1-608. DUTIES OF CUSTODIANS.** 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. (Code 2008)

- 1-609. 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 shall be addressed to, if such is known by the custodian receiving the request. (Code 2008)
- 1-610. 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 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 2008)
- 1-611. 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 \$10 per hour per employee engaged in the record search. A minimum charge of \$5.00 shall be charged for each such request. (Code 2008)
- 1-612. COPYING FEE.** (a) A fee of \$.50 per page shall be charged for photocopying public records and for each page of a requested computer printout, 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 2008)
- 1-613. PREPAYMENT OF FEES.** (a) A record custodian may demand prepayment of the fees established by this article whenever he or she believes this to be in the best interest of the city. The prepayment amount shall be an estimate of the inspection and/or copying charges accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to inspection of the requested record or delivery of the requested copies.  
(b) Prepayment of inspection and/or copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed \$20.  
(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 2008)
- 1-614. PAYMENT.** All fees charged under this article shall be paid to the custodian of the records inspected and/or copied unless the requester has established an account, for pur-



poses of billing and payment, with the city. All fees received shall be deposited by the city clerk in the general fund of the city not less than monthly. (Code 2008)

## **ARTICLE 7. INVESTMENT OF IDLE FUNDS**

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

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

(b) Consistent with the requirement of safety, the objective of the investment program shall be to aggressively manage and invest all public moneys to maximize net earnings, consistent with the public responsibility to secure maximum, safe investment return possible from moneys assigned to its stewardship, to relieve demands on the property tax and to otherwise reduce the cost of public services. (Code 2008)

**1-702. INVESTMENT OF IDLE FUNDS.** Temporarily idle moneys of the city not currently needed, may in accordance with the procedure hereafter described be invested in:

(a) Temporary notes or no-fund warrants of the city;

(b) Time deposits, open accounts or certificates of deposit in commercial banks or trust companies which have offices located in the city. If no commercial bank or trust company is located in the city, then in commercial banks or trust companies which have offices located in Allen County, or in the counties of the State of Kansas adjacent to Allen County, as provided for, and subject to the restrictions of K.S.A. 12-1675;

(c) Time certificates of deposit with state or federally chartered savings and loan associations which have offices located in the city;

(d) Repurchase agreements with commercial banks, trust companies, or state or federally chartered savings and loan associations with offices located in the city, for direct obligations of, or obligations that are insured by, the United States government or any agency thereof. If no commercial bank, trust company, or state or federally chartered savings and loan association has an office in the city, then in any commercial bank, trust company, or state or federally chartered savings and loan association with offices located in Allen County. If no such commercial bank, trust company, or state or federally chartered savings and loan association will enter into such an agreement at or above the interest rate set out by K.S.A. 12-1675(b)(4), then such repurchase agreements may be entered into with commercial banks, trust companies, or state or federally chartered savings and loan associations which have offices located in the State of Kansas;

(e) United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding six months. Investments may be made in U.S. treasury bills or notes only if no eligible bank, trust company, or state or federally chartered savings and loan association can or will make the investments authorized in subsections (b) and (c) at interest rates equal to or greater than the average yield before taxes received on 91-day U.S. treasury bills or the maximum rates such banks, trust companies or savings and loan associations may pay on investments authorized under subsections (b) and (c), whichever is lower. (K.S.A. 12-1675; Code 2008)

**1-703. 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 2008)

**1-704. CUSTODY AND SAFEKEEPING.** Securities purchased pursuant to this article shall be under the care of the city clerk and mayor and shall be held in the custody of a state or national bank or trust company, or shall be kept by such officers in a safety deposit box of the city in a bank or trust company. Securities in the original or receipt form held in the custody of a bank or trust company shall be held in the name of the city, and their redemption, transfer, or withdrawal shall be permitted only upon the written instruction of the city officers. Securities not held in the custody of a bank or trust company shall be personally deposited by such officer in a safety deposit box in the name of the city in a bank or trust company, access to which shall be permitted only in the personal presence and under the signature of the city clerk and the mayor. (Code 2008)

**1-705. SALE OR TRANSFER.** If, in order to maintain sufficient moneys on demand deposit in any fund as provided in section 1-703, it becomes necessary to transfer or sell any securities of such funds, the officers specified in section 1-704 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 2008)

**1-706. INTEREST ON TIME DEPOSITS.** The city clerk shall deposit the interest earned on invested idle funds to the fund from which the deposit was made, unless otherwise required or authorized by law. (Code 2008) Ref. See K.S.A. 12-1677, and amendments thereto.

## **ARTICLE 8. PETTY CASH FUND**

**1-801. ESTABLISHED.** There is established a petty cash fund for the use of any public utilities owned and operated by the city for the purpose of paying postage, freight, temporary labor and other emergency expenses including refund of deposits made to secure payment of accounts. (Code 2008)

**1-802. AMOUNT; DEPOSITS; DISBURSEMENTS.** The petty cash fund shall not exceed the sum of \$2,000 and shall be deposited in the designated city depository bank and paid out on the order of the cashier of the utility by checks which clearly state the purpose for which issued.

**1-803. CHECKS; PAYEE CERTIFICATION.** The payees of the checks shall certify thereon over their signatures that services were rendered, supplies furnished or refunds received, as the case may be, in payment of which the checks were delivered. (Code 2008)

**1-804. DEPLETION; RESTORATION.** Whenever the petty cash fund becomes low or depleted the cashier shall prepare vouchers covering such expenses as have been paid from the petty cash fund and shall submit the vouchers, together with the paid checks, to the governing body for audit and allowance of the amount from the regular funds of the utility. Warrants issued therefore shall be payable to the petty cash fund and shall be deposited

therein to restore the petty case fund to its original amount for use as provided. (Code 2008)

## **ARTICLE 9. FIREMEN'S RELIEF ASSOCIATION**

- 1-901. ORGANIZATION; RELIEF FUND.** (a) The firemen's relief association of the city shall be composed of the members of the fire department of the city. The officers of the association shall consist of a president, vice president, secretary, and treasurer.  
(b) The treasurer of the firemen's relief fund shall receive from the commissioner of insurance all moneys belonging to the firemen's relief fund. The fund shall be held in trust and used as a fund for the relief of members of the fire department as provided by law. No part of the fund shall be paid out except upon orders of the Moran firemen's relief association. (Code 2008)
- 1-902. FUNDS; DISBURSAL.** The firemen's relief association as defined in section 1-901 shall have supervision of the disbursement of the firemen's relief fund and shall also have supervision of the investment of the fund. The treasurer of the firemen's relief fund shall pay out funds only on warrants issued by the association, which warrants shall be signed by the president, countersigned by the secretary and shall bear the seal of the association. The treasurer shall keep an accurate and detailed account of all warrants drawn on the fund and the purposes for which they are drawn and shall make a quarterly report to the relief association and to the governing body as to the condition of the fund. In all cases involving expenditures or payments in an amount of \$500 or more, prior certification shall be obtained from the city attorney that such expenditure or payment complies with the requirements of law. (Code 2008)
- 1-903. TREASURER; DUTIES.** The treasurer of the firemen's relief association shall give bond for the safekeeping of the firemen's relief fund and for the faithful performance of his or her duty in such sum with such sureties as may be approved by the governing body. The treasurer shall on behalf of the relief association, on or before the first day of March of each year submit to the commissioner of insurance a verified account showing in full the receipts and disbursements and general condition of its funds for the year ending on the preceding December 31st. (Code 2008)
- 1-904. FUNDS; USE.** The firemen's relief association is authorized to disburse the firemen's relief fund for the following purposes and no other:  
(a) For the relief of any member of the fire department when injured or physically disabled in or by reason of the discharge of his or her duties.  
(b) For the relief of or the payment of gratuities to the spouse or those dependent upon any member of the fire department who may be killed in the discharge of his or her duties as firefighters or who may die from the effect of injuries so received or disease contracted by reason of his or her duties.  
(c) For the payment of the necessary funeral expenses of any member of the fire department when killed in the discharge of his or her duties as firefighters or in case of death resulting from the injuries so received or disease contracted by reason of his or her duties.  
(d) For the purchase of insurance which would provide for any or all of the foregoing purposes for which the fund is authorized to be expended. (Code 2008)
- 1-905. SAME; INVESTMENT.** The firemen's relief association, through its officers, may invest any amount not to exceed 90% of all such relief fund in purchasing bonds of the city.

When such bonds are not obtainable, United States government bonds or any municipal bonds of this state may be purchased. The relief fund shall not be invested in any bonds where the bonded indebtedness of any municipality exceeds 15% of its total assessed valuation as shown by the last assessment preceding the investment. The investment must be approved by the governing body. It shall be the duty of the city attorney to examine all bonds as to their validity and report in writing to the governing body and the firemen's relief association. No bonds shall be purchased by the firemen's relief association until they have been approved and found valid by the city attorney. (Code 2008)

- 1-906. SAME; LOAN TO CITY.** The firemen's relief association is authorized to loan part or all of such funds to the city to be used by such city in the improvement of its fire department and equipment. The city is hereby authorized to borrow the same and issue to the treasurer of the firemen's relief association its warrant therefore bearing interest payable semiannually at a rate not to exceed 6% per year. (Code 2008)

## **ARTICLE 10. DEBIT CARDS**

- 1-1001. GENERAL USAGE.** (a) Debit Card can be issued to an employee by their supervisor, with the approval of the City Council. The card will be issued in the name of the employee. The employee is responsible and accountable for all purchases made with that particular card. Every receipt shall be signed by the City of Moran employee whose name is shown on the card from which the purchase was made.
- (b) The Debit Card is intended to be utilized for purchases for the City of Moran when a vendor charge account is not available. Nothing herein shall be construed to supersede the current purchasing policies of the City of Moran with regard to what is an authorized and what is an unauthorized purchase. It is the responsibility of the cardholder to insure that the City of Moran is not charged sales tax. The Federal Tax I.D. number for the City will be placed on the back of the Debit Card. This number can be given to the vendor for their records.
- (c) Debit Cards will NOT to be used for personal business; only authorized and legitimate City of Moran expenditures are permitted. Violations will result in strong disciplinary action, up to and including termination.
- (d) In the event that a City of Moran staff member is traveling on business for the City, with a spouse or other individual, where there may be both reimbursable and non-reimbursable expenses, use of the Debit Card will be allowed in those circumstances. On condition that within three business days of returning to the City office the employee will make an accounting of both reimbursable and non-reimbursable expenses. **The City must be reimbursed for the balance of all non-reimbursable expenses within said three business days.**
- (e) An expenditure for which there is no receipt may be charged to the employee in whose name the Debit Card purchase was made, and that employee will be disciplined up to and including termination. (Code 2008)
- 1-1002. ACCOUNTING PROCESS.** (a) Each employee cardholder will be responsible to account for every transaction charged to his/her debit card and shall submit a signed and detailed receipt to the City Clerk for every purchase charged to his/her Debit Card during the month.
- (b) Detailed receipts must include an allocation of all Debit Card charges to the appropriate budgetary line item(s) prior to submission of said charges to the City Clerk for auditing.

(c) The City Clerk will prepare a monthly accounting of all debit card purchases for the City Council's review. (Code 2008)

**1-1003. STOLEN/LOST CARDS.** (a) The cardholder of a stolen or lost Debit Card shall IMMEDIATELY notify his/her City Clerk or in her absence, the Mayor. The City Clerk will notify *Emprise Bank* as soon as notified by the employee of a stolen/lost Debit Card.  
(b) In the event of the absence of the City Clerk and the Mayor, the cardholder shall contact the President of the Council so that the bank notification can be made as soon as possible. (Code 2008)

**1-1004. CARDHOLDER ACKNOWLEDGMENT.** (a) Each employee issued a Debit Card must sign a copy of these regulations before a card can be issued.  
(b) Cards shall be assigned on an as-needed basis by the Mayor for the purpose of implementing a specific and approved transaction.  
(c) Violations of the terms of these regulations may result in strong disciplinary action, up to and including termination, depending upon the severity of the situation and the discretion of the City Council and Mayor. The Mayor has the authority to withdraw an employee's Debit Card at any time.  
(d) The Debit Card MUST be returned to the City of Moran immediately following completion of the transaction for which it was assigned. (Code 2008)

## CHAPTER II. ANIMAL CONTROL AND REGULATION

Article 1. General Provisions

Article 2. Dogs and Cats

Article 3. Other Animals

### ARTICLE 1. GENERAL PROVISIONS

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

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

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

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

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

(e) **Bite** means any actual or suspected abrasion, scratch, 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 any animal is unable to run or get loose at will.

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

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

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

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

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

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

(t) **Veterinarian** means a doctor of veterinary medicine licensed by the State of Kansas. (Code 2008)

**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. The animal control officer 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 animal control officer of the city.

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

(c) As an alternative to the provisions of subsection (b) of this section, any law enforcement officer or the animal control officer may issue a citation to the owner, harbinger or keeper of an animal in violation of this chapter, and the person receiving the citation shall, within 10 days, appear in the municipal court of the city to answer the charged violation of this chapter. (Code 2008)

**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 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 2008)

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

(b) It shall be unlawful for any person to interfere with the animal control officer in the exercise of his or her duties. (Code 2008)

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

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

(b) Group holding facilities for stray, ownerless, and unvaccinated animals impounded for violation of the provisions of this chapter. (Code 2008)

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

(b) It shall be unlawful for any person or persons, other than those duly authorized, to care for, feed, attempt to feed, or interfere in any way with the care of impounded animals. (Code 2008)

**2-107. CRUELTY TO ANIMALS.** It shall be unlawful for any person to: (a) Willfully or maliciously kill, maim, disfigure, torture; beat with a stick, chain, club or other object; mutilate, poison, burn or scald with any substance; or otherwise cruelly set upon any animals, except that reasonable force may be employed to drive off vicious animals;

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

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

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

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

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

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

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

In addition to the penalties provided in section 1-116 of this code, the municipal court judge may order a person convicted of violation under this section to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be placed with another or more suitable person or destroyed humanely as soon thereafter as is conveniently possible. (Code 2008)



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

- (a) Normal or accepted veterinary or veterinary hospital practices or treatment of animals under active veterinary care;
- (b) Bona fide experiments carried on by commonly recognized research facilities;
- (c) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;
- (d) Rodeo practices accepted by the rodeo cowboys' association;
- (e) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or by an authorized agent such as a licensed veterinarian, at the request of the owner;
- (f) The humane killing of an unclaimed animal after three full business days following the receipt of such animal at a municipal pound or an incorporated humane society shelter by the owner, operator or authorized agents of such establishments. (Code 2008)

**2-109. KEEPING ANIMALS.** It shall be unlawful for the owner, lessee, occupant or person in charge of any premises in the city to possess and maintain any animal within the city or permit to be maintained thereon any feedlot, 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 keeping of horses or cattle for domestic purposes. No owner or owners of horses and/or cattle shall keep more than four horses and/or cattle on or within a lot or lots containing less than 40,000 square feet within the city.
- (b) 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;
- (c) The maintaining of dogs which are regulated by Article 2 of this chapter;
- (d) 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;
- (e) The transporting of animals through the city by ordinary and customary means. (O. 923, Code 2008)

**2-110. ANIMAL TRAPS.** It shall be unlawful for any person to use, place, set out, or deploy any animal trap aboveground, which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap; except that nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals. (Code 2008)

**2-111. NUISANCE; ANIMAL ACTIVITIES PROHIBITED.** (a) 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:

- (1) Molests or interferes with persons in the public right-of-way;
- (2) Attacks or injures persons, or other domestic animals;
- (3) Damages public or private property other than that of its owner or harborer by its activities or with its excrement;
- (4) Scatters refuse that is bagged or otherwise contained;

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

(b) That any person maintaining a nuisance as set out in (1) of this section, shall, upon conviction thereof, be punished by a fine not exceeding One Hundred Dollars (\$100.00). Each and every day that said nuisance continues may constitute a separate offense. If a summons is issued charging violation of this provision, a subpoena shall also be issued to the complainant to testify to the nuisance under oath. (O. 923; Code 2008)

**2-112. NOISY ANIMALS.** The keeping, or harboring of any animal which by loud, frequent and habitual barking, howling, yelping, mewing, roaring or screeching shall disturb the peace of any neighborhood is hereby prohibited. It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the condition, and if he or she fails to do so, the city may abate it by taking up, impounding, and/or disposing of the animal at the expense of the owner. (Code 2008)

**2-113. ANIMAL CONFINES; SHELTERS.** (a) It shall be unlawful for any person to keep or maintain any animal in any yard, structure, or area that is not clean, dry and sanitary, free from debris and offensive odors that annoy any neighbor, and devoid of rodents and vermin.

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

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

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

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

(f) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized law enforcement officer, or public health official. If the officer or official determines from such inspection that the premises are not being maintained in a clean and sanitary manner, he or she shall notify the owner of the animals in writing to correct the sanitation deficiencies within 24 hours after notice is served on the owner. Any animal kept under any condition which could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause or impoundment has been corrected. (Code 2008)

**2-113A. SAME; STOCKYARDS; COMMERCIAL HOLDING PENS.** Animal shelters owned or operated as a stockyard or commercial holding pen shall be adequately maintained and cleaned as often as is necessary, as determined by the health officer, to control fly breeding or to control other conditions adversely affecting the public health including the following:

- (a) Collected fecal material and other solid organic waste shall be disposed of at a sanitary landfill, fertilizer processing plant, or by proper dispersal on land used for agricultural purposes.
- (b) Grain or protein feed shall be stored in tightly covered rodent-proof metal containers or rodent-proof bins.
- (c) Premises subject to the terms of this section shall be maintained free of rodent harborage and in accordance with sections 8-601:608 of this code.
- (d) Wherever reasonable, use shall be made of anti-coagulant rodenticides for the control of rodents and organophosphorus 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 lids, and all such stored or accumulated wastes shall be disposed of at least once each week.
- (h) Holding lots, pens and floors of sheds and buildings where animals are held and which are maintained by persons subject to a commercial, industrial or agricultural classification permit according to the terms of this chapter shall be surfaced with concrete or asphalt materials and that the drainage system of such surfaced areas shall include proper retaining walls and traps to control the waste from draining into 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 2008)

**2-114. DEATH OF ANIMALS.** All dead animals shall be disposed of by the owner or keepers within 24 hours of the animal's death, by burial, incineration in a facility approved by the animal control officer, by rendering or by other lawful means approved by the animal control officer. No dead animal shall be dumped on any public or private property. (Code 2008)

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

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

- (1) Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or
- (2) Any animal which attacks a human being or domestic animal without provocation;
- (3) Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting;
- (4) Any animal which is urged by its owner or harborer to attack, or whose owner or harborer threatens to provoke such animal to attack, any law enforcement officer while such officer is engaged in the performance of official duty.

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

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

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

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

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

(f) **Release of:** If a complaint has been filed in the municipal court against the owner of an impounded animal for a charge under this section, the animal shall not be released except on the order of the municipal judge, who may also direct the owner to pay all impounding fees in addition to any penalties for violation of this chapter. The municipal judge may, upon making a finding that an animal is vicious or that it represents a clear and present danger to the citizens or to other animals in the community, order the animal to be destroyed in a humane manner by the animal shelter. Surrender of an animal by the owner thereof to the animal control officer does not relieve or render the owner immune from

the decision of the court, nor to the fees and fines which may result from a violation of this section. (Code 2008)

- 2-116. RUNNING AT LARGE.** (a) It shall be unlawful for any person to willfully allow any animal under his or her control to be or to run at large within the city. Any animal or fowl found at large shall be impounded as provided in section 2-117 or 2-207 (dogs).  
(b) A legally blind person using a "seeing eye dog" or a deaf person using a "hearing dog" in the customary manner shall be deemed to be in compliance with subsection (a).  
(c) Official use of dogs by any governmental unit shall be deemed in compliance with subsection (a). (Code 2008)

- 2-117. IMPOUNDMENT; FEE; NOTICE; RECORD.** (a) The animal control officer or law enforcement officer shall impound any animal 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 \$20 plus the actual cost of feeding and maintaining the animal while impounded. Where animal is trapped or tranquilized as defined in section 2-103(b) prior to the impoundment, the city will be entitled to receive an impoundment fee of \$25 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 administrator showing the number of animals impounded and disposed of, and the fees collected pursuant to this article and shall pay those fees to the city clerk for credit to the general operating fund. (Code 2008)

- 2-118. REDEMPTION OF IMPOUNDED ANIMALS.** At any time before the sale or destruction of any animal impounded under the provisions of this article, except for animals impounded under sections 2-115 (vicious) and 2-119 (rabid), the owner thereof may redeem the animal by paying the animal control officer or any person in charge, the impounding fee and all costs incurred as a result of such impoundment. (Code 2008)

- 2-119. IMPOUNDMENT OF RABIES SUSPECTS.** (a) Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in the city pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the

owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. If in the opinion of the local health officer symptoms develop justifying a microscopic examination, then the animal shall be killed and examination made by the state board of health.

(b) In lieu of the provisions of subsection (a), the owner of any such animal may, at his or her own expense, take such animal to any duly qualified and licensed veterinarian 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 2008)

**2-119A. IMPOUNDMENT OF RABIES SUSPECTS.** Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. (Code 2008)

**2-120. ANIMALS BITTEN BY RABID ANIMALS.** Whenever a dog, cat or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten, to report that fact to the local health officer and/or the police department. It shall also be the duty of the owner of the bitten animal to either destroy or have his or her bitten animal destroyed unless:

- (a) The animal which was bitten had been vaccinated against rabies at least three weeks before being bitten and has a current vaccination; and
- (b) If the bitten animal has a current vaccination, it shall be confined for 90 days; and
- (c) The bitten animal shall be released from confinement only upon written order from the local health officer, who declares the animal to be free of rabies; and
- (d) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of. (Code 2008)

**2-121. VEHICULAR ACCIDENTS INVOLVING ANIMALS.** Any person who as the operator of a motor vehicle strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained, and located, the operator shall at once report the accident to the animal control officer or any law enforcement officer. (Code 2008)

**2-122. EMERGENCY; PROCLAMATION.** The mayor is hereby authorized whenever in his or her opinion the danger to the public safety from rabid animals is made imminent to issue a proclamation ordering all persons owning an 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 2008)

**2-123. KENNEL LICENSES.** (a) No person or household shall own or harbor more than two dogs of six months of age or older or more than one litter of pups, or engage in the commercial business of breeding, buying, selling, trading, training, or boarding dogs without having obtained a kennel license from the city clerk.

(b) Kennel licenses must be renewed annually. No kennel license shall be issued until an inspection certificate has been issued by the animal control officer certifying approval of the kennel and compliance with the applicable laws of the city and the State of Kansas, and a certificate by the zoning code enforcement officer has been issued certifying that the applicant for the kennel license is not violating zoning laws of the city. If the 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 \$10. Payment of such license fee is in addition to, and not in lieu of, the dog license fees otherwise required under this article. If such fee is not paid within three months from the due date, then a penalty of \$30 per month will be assessed.

(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. (O. 1024; Code 2008)

## **ARTICLE 2. DOGS**

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

city. It shall be unlawful for the owner of any previously registered dog to fail to maintain current registration of such dog.

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

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

(d) The city clerk shall collect an annual registration fee of \$2 for each spayed female dog or neutered male dog, and \$4 for each unspayed female dog or unneutered male dog.

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

Registration fees as enumerated above may be prorated for newly acquired dogs owned by a person or persons moving to and establishing a home in the city during a calendar year. Every owner or harbinger of dogs who shall fail to register the same prior to the 1st day of March of each year shall pay in addition to the registration fee herein provided a penalty fee for late registration of \$5. (O. 1024; Code 2008)

**2-202. TAGS.** It shall be the duty of the city clerk or designated agent, upon a showing of current rabies immunization and receipt of the registration fee hereinbefore required, to keep in a book suitable for the registration of dogs, the time of the registration, the name of the owner or keeper, the number of the registration and the amount paid therefore, and shall deliver to the owner or keeper of the dog a certificate in writing, stating that the person has registered the dog and the number by which the dog is registered, and shall also deliver to the owner or keeper of the dog a tag with the registration number and the registration year thereon, which shall be, by the owner or keeper, attached to the collar to be used on the dog so registered. When any tag has become lost during a registration period, the owner of the dog may request a duplicate tag for the remainder of the registration period. When so requested, the city clerk shall, upon presentation of the registration certificate, issue a duplicate of such tag upon the payment of \$1.00 fee. It shall be unlawful for any person to take off or remove the city registration tag from any dog belonging to another, or remove the strap or collar on which the same is fastened. (Code 2008)

**2-203. SAME; COUNTERFEIT TAG.** It shall be unlawful for any person to place on any dog a tag issued for any other dog or to make or use any false, forged or counterfeited tag or imitation thereof. (Code 2008)

**2-204. EVIDENCE OF VACCINATION.** It shall be unlawful for any owner of any dog kept within the city to fail to display a current certificate of immunization against rabies issued by an accredited veterinarian evidencing the vaccination of such dog within two years, when requested by the animal control officer or any law enforcement officer. (Code 2008)

**2-205. VISITING DOGS.** The provisions of this article with respect to registration shall not apply to any dog owned by any person visiting or temporarily remaining within the city for less than 30 days. However, such dogs shall be kept under restraint by the owner thereof at all times. (Code 2008)

**2-206. RUNNING AT LARGE; FINE.** (a) It shall be unlawful for the owner or harbinger of any dog to permit such dog to run at large within the city at any time.



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

(c) The owner of any dog impounded for running at large without the tag required by section 2-202 shall, for the first offense, pay a fine of \$25 plus the board bill; for the second offense within a year a fine of \$50 plus the board bill; for a third and subsequent offenses within a year a fine of not less than \$100 nor more than \$200 plus the board bill. Provided further that if the same identical animal is picked up for the fourth time, that in addition to such fine as provided herein, the court shall order said animal destroyed in a humane manner. (O. 1024; Code 2008)

**2-207. IMPOUNDMENT; RECORD; NOTICE; REDEMPTION; MINIMUM FEE.** (a) Any dog found in violation of the provisions of this article shall be subject to impoundment by the city.

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

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

(d) If the dog impounded has no current registration tag and the identity of the animal's owner is unknown to the animal control officer or the impounding law enforcement officer, then such impounding officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding, and shall thereupon immediately post a public notice stating that the animal, describing the same with the date and place of taking, has been taken up, and that unless the charges of impounding the same, together with any license fees due and unpaid, are paid within three business days from the date of the notice, that the animal will be disposed of as provided in this code. If within three full business days the owner does not appear to claim the dog, then the dog may be sold, euthanized or otherwise disposed of.

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

(f) The minimum impoundment fee shall be a pickup fee of \$20 and a boarding fee of \$10 per day the animal is impounded.

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

(h) Impoundment hereunder shall not preclude any court from imposing and executing any fine which might otherwise be levied under this article for violation of any of the provisions thereof; not shall impoundment be a defense in any prosecution commenced hereunder.

(i) The redemption of any dog impounded for a violation of any provision of this chapter shall be prima facie evidence of the violation of such provision by the person redeeming the dog. (O. 1024, Code 2008)

**2-208. DISPOSITION OF UNCLAIMED DOGS.** If any dog is not redeemed by its owner or harborer within the time allowed for redemption as specified in section 2-207 hereof, the animal control officer, any authorized law enforcement officer, any authorized veterinarian or any duly authorized pound personnel may destroy such dog or sell the same for the costs of impoundment and keeping, plus any registration fee due for the current year. (Code 2008)

**2-209. CONFINEMENT OF DOGS IN HEAT.** Any unspayed female dog in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dogs may gain voluntary access to the confined animal except for purposes of planned breeding. Any animal that is in the state of estrus (heat) and that is not properly confined, or any such animal that is creating a neighborhood nuisance, 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 2008)

**2-210. MUZZLING.** Whenever the mayor shall deem it necessary for the protection and welfare of the inhabitants of the city, he or she shall issue an order requiring all dogs kept within the city to be effectively muzzled for such length of time as may be specified in the order, to prevent them from biting or injuring persons or animals. Such order shall be published in the official newspaper of the city for such period of time as the mayor may deem necessary. (Code 2008)

**2-211. PIT BULL DOGS.** A Pit Bull dog for the purpose of the article is defined as follows:

- (a) The Bull Terrier breed of dog;
- (b) Staffordshire Bull Terrier breed of dog;
- (c) The American Pit Bull Terrier breed of dog;
- (d) The American Staffordshire Terrier breed of dog;

Dogs of mixed breed or other breeds than above listed, which breed or mixed breed, is known as Pit Bulls, Pit Bull dogs or Pit Bull Terriers, or any dog which has the appearance and characteristics of being predominantly of any of the breeds listed under (a), (b), (c) or (d) above.

**ROTTWEILER DOGS.** A Rottweiler dog for the purpose of this article is defined as follows: (a) Any dog identifiable as a whole or in part of a breed commonly known as a Rottweiler. (O. 1023; O. 1071; Code 2008)

**2-212. SAME, FINDINGS.** The governing body of the city finds and determines:

- (a) That instance of attacks by the Pit Bull and Rottweiler breed of dogs has occurred upon members of other communities.
- (b) That, as breeds of dog, Pit Bulls and Rottweilers are an inherently dangerous dog.
- (c) That the possession of a Pit Bull or Rottweiler dog(s) within the city poses a significant threat to the public's health, safety and welfare.
- (d) That protective measures by Pit Bull dog and Rottweiler owners are inadequate to protect the public from attacks by these animals. (O.1023; O.1071; Code 2008)

**2-213. SAME; LICENSE.** An owner of a Pit Bull or Rottweiler dog shall procure and obtain a license with the city as provided by section 2-201. (O. 1023; O.1071; Code 2008)

**2-214. SAME; REQUIREMENTS.** Pit Bull and Rottweiler dogs shall only be kept and allowed within the city limits, upon the following standards and requirements.

(a) Leash and Muzzle. No person shall permit a Pit Bull or Rottweiler dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit a Pit Bull or Rottweiler 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. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all Pit Bull or Rottweiler dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(b) Confinement. All Pit Bull or Rottweiler dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel, or structure must have secure sides and a secure top attached to the sides. All structures used to confine Pit Bull and Rottweiler dogs must be locked with a key or combination lock when the animals are within the structure. Such 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 no less than two feet. All structures erected to house Pit Bull and Rottweiler dogs must comply with all zoning and building regulations of the city. All structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(c) Confinement Indoors. No Pit Bull or Rottweiler 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. (O. 1023; Code 2008)

**2-215. SAME; PENALTIES.** Any person violating or permitting the violation of any provision of sections 2-211 through 2-214 shall, upon conviction in municipal court, be fined a sum no less than \$200 and not more than \$1,000. In addition to the fine imposed, the court may sentence the defendant to imprisonment in the county jail for a period of time not to exceed 60 days. In addition, the court shall order the license of the subject Pit Bull or Rottweiler revoked and the dog removed from the city. Should the defendant refuse to remove the dog from the city, the municipal court judge may find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of sections 2-211 through 2-214 continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates these sections shall pay all expenses, including shelter, food, handling, veterinary care, witness fees, and court costs necessitated by the enforcement of sections 2-211 through 2-215. (O. 1023; Code 2008)

### ARTICLE 3. OTHER ANIMALS

**2-301. EXOTIC ANIMALS.** (a) It shall be unlawful for any person, firm or corporation to keep, maintain or have in his or her possession or under his or her control within the city any poisonous reptile or any other dangerous wild animal or reptile, any vicious or dangerous animal or any other animal or reptile of wild, vicious or dangerous propensities.

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

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

(c) The prohibitions of this section shall not apply to bonafide pet shops, zoos, circuses, carnivals and 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 2008)

## CHAPTER III. BEVERAGES

- Article 1. General Provisions
- Article 2. Cereal Malt Beverages
- Article 3. Alcoholic Liquor
- Article 4. Private Clubs

### 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) **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.
- (d) **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.
- (e) **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.
- (f) **Club** means a Class A or Class B club.
- (g) **General Retailer** means a person who has a license to sell cereal malt beverages at retail.
- (h) **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.
- (i) **Place of Business.** Any place at which cereal malt beverages or alcoholic beverages or both are sold.
- (j) **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, copartnerships, corporations and associations authorized by this chapter to sell cereal malt beverages at retail. (Code 2008)

**3-102. 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 2008, O. 1017)

**3-103. OPEN CONTAINER.** (a) It shall be unlawful for any person to transport in any vehicle upon a highway or street any cereal malt beverage or alcoholic beverage unless such beverage is:

- (1) In the original, unopened package or container, the seal of which has not been broken and from which the original cap or cork or other means of closure has not been removed;
- (2) In the locked, rear trunk or rear compartment or any locked outside compartment which is not accessible to any person in the vehicle while it is in motion or;
- (3) In the exclusive possession of a passenger in a vehicle which is a recreational vehicle as defined by K.S.A. 75-1212 or a bus as defined by K.S.A. 8-1406, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.

(b) As used in this section "highway" and "street" have meanings provided by K.S.A. 8-1424 and K.S.A. 8-1473 and amendments thereto. (K.S.A. 41-804, 41-2719; Ord 1017; Code 2008)

**3-104. CONSUMPTION WHILE DRIVING.** It shall be unlawful for any person to consume any cereal malt beverage or alcoholic beverage while operating any vehicle upon any street or highway. (K.S.A. 41-719; 41-2720; O. 1017; Code 2008)

**3-105. IDENTIFICATION CARD.** (a) It shall be unlawful for any person to:

- (1) Display, cause or permit to be displayed, or have in possession, any fictitious, fraudulently altered, or fraudulently obtained identification card for purposes relating to the sale, purchase, or consumption of either cereal malt beverage or alcoholic liquor.
- (2) Display or represent any identification card not issued to such person as being his or her card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.
- (3) Permit any unlawful use of an identification card issued to a person for purposes relating to the sale, purchase, or consumption of either cereal malt beverage or alcoholic liquor.
- (4) Photograph, Photostat, duplicate or in any way reproduce any identification card or facsimile thereof in such a manner that it could be mistaken for a valid identification card or display or have in possession any such photograph, photostat, duplicate, reproduction or facsimile for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

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

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

for use in the sale, purchase or consumption of any cereal malt beverage. (Code 2008)

- 3-106. UNDERAGE PURCHASER.** (a) It shall be unlawful for any person under the legal age for consumption of cereal malt beverage to purchase or attempt to purchase any cereal malt beverage.
- (b) It shall be unlawful for any person under 21 years of age to purchase or attempt to purchase any alcoholic liquor. K.S.A. 41-715; 41-2721; Code 2008)

## **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; O. 973; Code 2008)

- 3-202. APPLICATION.** Any person desiring a license shall make an application to the governing body of the city and accompany the application by the required license fee for each place of business for which the person desires the license. The application shall be verified, and upon a form prepared by the attorney general of the State of Kansas, and shall contain:
- (a) The name and residence of the applicant and how long he or she has resided within the State of Kansas;
  - (b) The particular place for which a license is desired;
  - (c) The name of the owner of the premises upon which the place of business is located;
  - (d) The names and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired.
  - (e) A statement that the applicant is a citizen of the United States and not less than 21 years of age and that he or she has not within two years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States;
- The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the chief of police of the city for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The chief shall report to the city council 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 2008)

- 3-203. LICENSE APPLICATION PROCEDURES.** (a) All completed 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 when they are received. The police department will run a record check on all applicants and will inspect the premises in accord with chapters 7 and 8 of this code. The police department will then recommend approval, or disapproval, of applications within five working days of the department's receipt of the application.

(d) The governing body 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 2008)

**3-204. 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 2008)

**3-205. 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 2008)

**3-206. 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 and a resident of Allen county for at least six months prior to filing of such application.

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

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

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

(e) A partnership, unless one of the partners is a resident of the city or county in which the premises covered by the license is located and unless all the members of such 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% 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 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.

(h) A person who has not submitted his or her fingerprints to the police department immediately after making the license application and within a sufficient length of time before the examination thereof by the governing body to permit the use of fingerprints in the determination of any requirements made by this article of applicants for licenses, if so requested by the chief of police. (Code 2008)



**3-207. 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 500 foot radius of any church, school, or library building.

(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. 41-2702; O. 1089; Code 2008)

**3-208. LICENSE FEE.** The rules and regulations regarding license fees shall be as follows:

(a) General Retailer--for each place of business selling cereal malt beverages at retail, \$50 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 2008)

**3-209. 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. (K.S.A. 41-2708; Code 2008)

**3-210. LICENSE SUSPENSION/REVOCAION BY GOVERNING BODY.** The governing body of the city, upon five days' written notice, to a person holding a license to sell cereal malt beverages 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:

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

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

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

(d) The sale of cereal malt beverages to any person under the legal age for consumption;

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

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

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

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

- (i) For the sale or possession of, or for permitting the use or consumption of alcoholic liquor within or upon any premise licensed under this article;
- (j) The nonpayment of any license fees;
- (k) If the licensee has become ineligible to obtain a license under this chapter;
- (l) The provisions of subsections (f) and (i) shall not apply if such place of business is also currently licensed as a private club. (K.S.A. 41-2708; Code 2008)

**3-211. SAME; APPEAL.** The licensee, within 20 days after the order of the governing body revoking any license, may appeal to the district court of Allen county and the district court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken under this section shall not suspend the order of revocation of the license of any licensee, nor shall any new license be issued to such person or any person acting for or on his or her behalf, for a period of six months thereafter. (K.S.A. 41-2708; Code 2008)

**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 \$10. 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 2008)

**3-213. WHOLESALERS AND/OR DISTRIBUTORS.** It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver cereal malt beverages within the city, to persons authorized under this article to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the State of Kansas authorizing such sales. (K.S.A. 41-2713; Code 2008)

**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 and shall allow for visual inspection of the premises through the windows at the front of the business.
- (c) Except as provided by subsection (d), no cereal malt beverages may be sold or dispensed between the hours of 11:30 p.m. and 6:00 a.m., or consumed between the hours of 12:00 midnight and 6:00 a.m., and all patrons shall vacate the premises no later than 12:00 midnight 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 from 12:00 p.m. to 10:00 p.m., closing hours for clubs shall conform to K.S.A. 41-2614 and any amendments thereto.
- (d) Cereal malt beverages may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. 41-2701 et seq., and licensed as a club by the State Director of Alcoholic Beverage Control.

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

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

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

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

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

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

(k) No licensee shall employ any person who has been judged guilty of a felony. (O. 1026; Code 2008)

**3-215. SAME; PENALTY.** Anyone convicted of a violation of 3-213 (c) shall be guilty of a misdemeanor and subject to a fine not to exceed \$500.00 or a jail sentence not exceeding thirty (30) days, or both such fine and jail sentence. (O. 1026; Code 2008)

**3-216. 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 exposed 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 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 2008)

**3-217. 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 2008)

**3-218. MINORS ON PREMISES.** (a) It shall be unlawful for any person under 18 years of age to remain on any premises where the sale of cereal malt beverages is licensed for on-premises consumption.

(b) This section does not apply if the person under the legal age of consumption is an employee of the licensed establishment, or is accompanied by his or her parent or guardian, or if the licensed establishment derives not more than 50 percent of its gross receipts in each calendar year from the sale of cereal malt beverages for on-premises consumption. (O. 1005; Code 2008)

**3-219. SUNDAY SALES.** (a) The sale at retail of cereal malt beverage in the original package is allowed within the city on any Sunday, except Easter or Christmas when it falls on a Sunday, between the hours of 12:00 noon and 8:00 p.m.

(b) The sale at retail of alcoholic liquor in the original package is allowed within the city on any Sunday, except Easter or Christmas when it falls on a Sunday, between the hours of 12:00 noon and 8:00 p.m., and on Memorial Day, Independence Day, and Labor Day. (O. 1088; Code 2008)

### **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. (O. 1018; Code 2008)

**3-302. OCCUPATIONAL TAX.** There is hereby levied an annual occupation tax of \$100 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 ten days after any renewal of a state license. (O.1018; Code 2008)

**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. (O. 1018; Code 2008)

**3-304. HOURS OF SALE.** No person shall sell at retail any alcoholic liquor:

- (a) On any Sunday;
- (b) On Decoration Day or Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day;
- (c) Before 9:00 a.m. or after 9:00 p.m. on any day when the sale thereof is permitted, except that the closing time shall be 10:00 p.m. on Saturdays and the night before the holidays in (c) above. (K.S.A. 41-712; O. 1018; Code 2008)

**3-305. BUSINESS REGULATIONS.** It shall be unlawful for a retailer of alcoholic liquor to:

- (a) Permit any person to mix drinks in or on the licensed premises;
- (b) Employ any person under the age of 21 years in connection with the operation of the retail establishment;
- (c) Employ any person in connection with the operation of the retail establishment who has been adjudged guilty of a felony;
- (d) Furnish any entertainment in his or her premises or permit any pinball machine or game of skill or chance to be located in or on the premises with the exception of the state lottery; 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, and dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person under 21 years of age. (Code 2008)

**3-306. RESTRICTIONS ON LOCATION.** No person shall knowingly or unknowingly sell, give 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 500 feet from the nearest property line of any existing hospital, school, church or library building. (K.S.A. 41-710; O. 1089; Code 2008)

## **ARTICLE 4. PRIVATE CLUBS**

- 3-401. LICENSE REQUIRED.** It shall be unlawful for any person granted a private club license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a local license from the city clerk. (Code 2008)
- 3-402. LICENSE FEE.** (a) There is hereby levied an annual license fee on each private club located in the city which has a private club license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license. The city license fee for a Class A club shall be \$100 and the city license fee for a Class B club shall be \$100.
- (b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.
- (c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.
- (d) Every licensee shall cause the city club license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises. (Code 2008)
- 3-403. BUSINESS REGULATIONS.** (a) No club licensed hereunder shall allow the serving, mixing, or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.
- (b) Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverages for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.
- (c) No club membership shall be sold to any person under 21 years of age, nor shall alcoholic beverages or cereal malt beverages be given, sold, or traded to any person under 21 years of age. (Code 2008)

## **CHAPTER IV. BUILDINGS AND CONSTRUCTION**

- Article 1. Building Code
- Article 2. Electrical Code
- Article 3. Plumbing and Gas-Fitting Code
- Article 4. Moving Buildings
- Article 5. Housing Code
- Article 6. Mobile Homes

### **ARTICLE 1. BUILDING CODE**

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

- (a) Whenever the word "municipality" is used in the building code, it shall be held to mean the City of Moran, 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 Moran;
- (c) Whenever the term "building inspector" is used in the building code, it shall be held to mean the building inspector of his or her authorized designee. (Code 2008)

**4-102. INTERNATIONAL BUILDING CODE INCORPORATED.** There is hereby adopted and incorporated by reference, for the purpose of establishing rules and regulations for the construction, alteration, removal demolition, equipment, use and occupancy, location and maintenance of buildings and structures, the International Building Code, 2003 Edition as recommended by the International Conference of Building 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. No fewer than three copies of the International Building Code shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Moran," 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 2008)

**4-103. ADDITIONAL PROVISIONS.** The following sections of this article are in addition to the provisions of the standard code incorporated by reference in section 4-102. (Code 2008)

**4-104. BUILDING INSPECTOR; POWERS; DUTIES.** (a) This and other articles of the city relating generally to building and structures shall be administered and enforced by the building inspector. The building inspector shall act as chief building inspector and may assume the responsibilities of or with the consent and approval of the governing body appoint a building inspector and such other assistants as may be advisable for the issuance of building permits and the inspection of building work.

(b) The building inspector shall prepare such application, permit, inspection and record forms as may be required for the purposes of the article. The building inspector may make and promulgate the necessary rules and regulations to obtain conformity with this article pertaining to the making of applications for building permits, issuing of building permits and inspecting of buildings and building works. (Code 2008)

**4-105. BUILDING INSPECTOR; APPOINTMENT.** The mayor may assume the responsibilities of or appoint some qualified officer or employee of the city to be and perform the duties of

building inspector as may be required, subject to the consent and approval of the governing body. (Code 2008)

**4-106. SAME; DUTIES.** The building inspector shall have the following duties:

- (a) To enforce all regulations relating to construction, alteration, repair, removal and demolition of building and structures;
- (b) May permit, with the approval of the governing body, on the basis of duly authenticated reports from recognized sources, the use of new materials or modes of construction, not provided for in this article, and may, for the purpose of carrying out the intent of this article, adopt an accepted standard of material or workmanlike practices of federal or state bureaus, national, technical organizations or fire underwriters;
- (c) To examine all buildings in the process of erection, construction, alteration or relocation in the city for the purpose of determining whether the work is in compliance with the permit given and in compliance with the regulations of the city pertaining to such work, including zoning regulations; and
- (d) To keep comprehensive records of applications, of permits or certificates issued, of inspections made, of reports rendered, and of notices or orders issued. All such records shall be open to public inspection during stated office hours, but shall not be removed from the office of the building inspector without his or her written consent. (Code 2008)

**4-107. SAME; POWERS.** The building inspector shall have the following powers:

- (a) To enter any building or structure or premises at any reasonable hour, whether complete or in the process of erection, to perform the duties contained in this chapter;
- (b) To adopt and enforce all such prudent emergency measures as he or she may deem necessary and expedient for the public safety under the laws of the city;
- (c) May cause any work done in violation of this chapter to be discontinued until he or she shall have satisfactory evidence that the work will be done in accordance with the building regulations of the city, subject to the right of any builder or owner to appeal to the governing body. (Code 2008)

**4-108. SAME; RIGHT OF ENTRY.** The building inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure, or premises at any reasonable hour to perform his or her duties as set out in this chapter. (Code 2008)

**4-109. CLARIFICATION; MODIFICATION.** (a) The governing body shall be the final determiner of the scope and meaning of all provisions of the building code which may be unclear, ambiguous, or requiring interpretation.

- (b) The building inspector shall have power to modify any of the provisions of the building code upon application in writing by the owner or lessee or his or her authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code. In approving modifications, the building inspector shall see that the spirit of the code is observed, public safety secured and substantial justice done. The particulars of a modification when granted or allowed and the decision of the inspector thereon shall be entered upon the records of the building inspector and a signed copy shall be furnished to the applicant. (Code 2008)

**4-110. BUILDING PERMIT REQUIRED; APPLICATION; APPROVAL.** (a) 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 therefore from the city clerk, after approval by the chief building inspector 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. (O. 955)

(b) No building permit shall be required to shingle or side a house. (Code 2008)

**4-111. 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 building inspector for work performed.

(c) Upon approval of the completed application and a determination that a permit should be issued, the chief building inspector 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, with 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 2008)

**4-112. SAME; PLANS AND SPECIFICATIONS.** Whenever an application for a building permit is made, the chief building inspector 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 inspector 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 de-

termine 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 2008)

**4-113. SAME; FEES.** (a) The fee for a building permit shall be \$1 for \$1,000 with a minimum charge of \$5; however, no fee shall be required to obtain a permit where the total estimated cost is under \$100. 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. (b) All building permit fees for projects meeting the enterprise zone eligibility requirements will be waived. (O. 955; Code 2008)

**4-114. SAME; POSTING.** A copy of the building permit shall be kept on the premises for public inspection during the performance of the work and until the completion of the same. The building inspector may require a certified copy of the approved plans to be kept on the premises at all times from the commencement of the work to the completion thereof. (Code 2008)

**4-115. SAME; PENALTIES.** Any landowner violating any provisions of this section shall upon conviction thereof be adjudged guilty of a misdemeanor and fined not less than \$10.00 nor more than \$100.00 and in the event of default of payment of such fine and costs shall be imprisoned until payment of such fine and costs but not exceeding thirty (30) days for each violation. (O. 955; Code 2008)

**4-116. CERTIFICATE OF APPROVAL.** Upon the completion of any work under a building permit, the chief building inspector, 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 order and corrections required during the course of the work. A copy of such certificate shall be given the owner. (Code 2008)

**4-117. 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 inspector or building inspector immediately upon the marking or laying out of the site and foundation for such work. The 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 inspector 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 inspector shall be notified as in the first case, and it shall be his or her duty to inspect all such work for conformity with laws respecting location of the building foundations and footings. (c) The building inspector shall during the course of all building make such other inspections as may be directed by the chief building inspector 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 2008)

- 4-118. REQUEST FOR INSPECTION.** Upon the completion of any building construction work covered by this article, it shall be the duty of the person doing such work to notify the building inspector and request that it be inspected; after which such work shall be inspected promptly as hereinafter provided. (Code 2008).
- 4-119. INSPECTION FEE.** An initial inspection fee of \$25.00 per 1,000 square feet and an inspection fee of \$15.00 per 1,000 per square feet for subsequent inspections required shall be paid before any building or construction work will be approved or a certificate of approval issued. (Code 2008)
- 4-120. 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 2008)
- 4-121. 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 2008)
- 4-122. 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 2008)
- 4-123. NUMBERING RESIDENTIAL, COMMERCIAL OR INDUSTRIAL BUILDINGS.** All houses or buildings fronting on any of the public streets and avenues of the city shall be numbered. The numbering shall be done under and in accordance with the following system:
- (a) The intersection of Front and Cedar Streets shall be used as a basis for numbering.
  - (b) All streets running east and west in the city east of Cedar Street shall be numbered, commencing at the northwest corner of the blocks abutting on the street and numbering thence east on alternate numbers, the odd numbers being placed on the south side of the streets and the even numbers on the north;
  - (c) All streets running east and west, west of Cedar Street shall be numbered commencing at the northeast corners of the blocks abutting on the streets and numbering thence west with on alternate numbers, the odd numbers being placed on the south side and the even numbers of the north side of the streets;
  - (d) All the streets running north and south, south of Front Street, shall be numbered in a similar manner, commencing at the northwest corner abutting on the street and numbering thence south, the odd numbers being placed on the east side and all the even numbers on the west side of said street;

(e) All streets running north and south, north of Front Street, shall be numbered in a similar manner commencing at the southwest corner of the blocks abutting on the west side of the streets;

However, the numbering shall be arranged so as to make each block receding from the intersection of Cedar and Front Streets one hundred (100) more than the proceeding block and allowing each twenty-five feet (25') to one number.

**4-124. REQUIREMENTS.** It shall be the duty of, the owners or agents of any house or houses within the city limits not properly numbered to put up and keep upon, and in front of their house or houses a number corresponding with the number shown upon the plat to be kept on file in the office of the city clerk. The numbers posted should be of a contrasting color, must be placed as close to the front door as possible, and visible from the middle of the street day or night. The numbers shall be at least 3" high (backing 3 1/2") and at least 1 " wide (backing 2").

**4-125. NEW CONSTRUCTION.** When any person shall build upon a vacant lot on any of the streets within the city limits he shall within ten (10) days after the occupancy of the building comply with Section 4-123 of this article.

**4-126. RECORD KEEPING.** The city clerk's office shall keep a plat of the city showing the number that each twenty-five feet of ground facing upon any street is entitled to, and shall, upon application by the owner or agent of any building, inform him of the number such building is entitled to.

**4-127. SAME; VIOLATION.** If the owner of any building shall have failed to comply with the provisions of this article in causing his house or houses to be properly numbered, the city may cause the same to be done and charge the same to the premises so numbered and collect the cost of the same as other city taxes are collected. (O. 1056, Code 2008)

## **ARTICLE 2. ELECTRICAL CODE**

**4-201. ADOPTION OF ELECTRICAL CODE BY REFERENCE.** The standard code known as the 2003 ICC Electrical Code, a publication of the International Code Council, 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. Three copies shall be marked and stamped "Official Copy as Incorporated by the Code of the City of Moran," 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 2008)

### **ARTICLE 3. PLUMBING AND GAS-FITTING CODE**

**4-301. INTERNATIONAL 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 International Plumbing Code, 2003 Edition, as published by the International Code Council, 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. No fewer than three copies of the International code shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Moran," 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. (O. 936; Code 2008)

### **ARTICLE 4. MOVING BUILDINGS**

**4-401. BUILDING INSPECTOR; AUTHORITY.** The building inspector 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 section 4-204 and 4-205:219 of this chapter, which apply in a like manner to this article. (Code 2008)

**4-402. PERMIT REQUIRED.** No person, firm or corporation shall move, haul, or transport any house, building, derrick, or other structure of the height when loaded for movement of 16 feet or more from the surface of the highway, road, street or alley, or a width of sixteen 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. (Code 2008, O. 1053)

**4-403. 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. The application shall be made no fewer than three full business days before the moving is to commence. (Code 2008)

**4-404. SAME; BOND, INSURANCE REQUIRED.** (a) It shall be the duty of any person at the time of making application for a permit as provided in this article to give a good and sufficient surety bond to the city, to be approved by the governing body, indemnifying the city against any loss or damage resulting from the failure of any such person to comply with the provisions of this article or for any damage or injury caused in moving any such house or structure. The bond herein shall be in the sum of \$10,000, or cash may be deposited in lieu of such surety bond.

(b) Proof of 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 shall be furnished to the City by the person seeking said permit. (Code 2008, O. 1053)

- 4-405. SAME; FEE.** Before any permit to move any house or structure is given under the provisions of this article, the applicant shall pay a fee of \$20 the first day and \$10 for each additional day to the city clerk; plus the additional cost for the time for any city crews involved in such moving. (Code 2008)
- 4-406. CONTRACTOR; LICENSE REQUIRED; FEE.** The provisions of sections 4-111(b) of this chapter shall apply in a like manner to this article. (Code 2008)
- 4-407. ROUTE; DUTIES OF SUPERINTENDENT OF UTILITIES AND PUBLIC SERVICES.** The city clerk shall, upon filing of the above application, refer the same to the superintendent of utilities and public services 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, and then he or she may designate such other route as the one to be used and shall notify the applicant of the same. The superintendent of utilities and public services 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 superintendent of utilities and public services 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 this article. (Code 2008)
- 4-408. NOTICE TO OWNERS.** (a) Upon issuance of a moving permit the applicant shall give not less than 15 days written notice to any person owning or operating any wires, cables or other aerial equipment along the proposed route of the intent to move the structure, giving the time and location that the applicants moving operation shall necessitate the cutting, moving, raising or interfering of any wires, cables or other aerial equipment.  
(b) The notice provision of subsection (a) shall not apply where the person owning or operating any wires, cables or other aerial equipment has waived their right to advance notice.  
(c) Should the moving operation be delayed, the applicant shall give the owner or his or her agent not less than 24 hours advance notice of the actual operation. (Code 2008)
- 4-409. DUTY OF OWNERS.** 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 line-man 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. (Code 2008)
- 4-410. INTERFERING WITH POLES; WIRES.** No person engaged in moving any house or other structure shall raise, cut or in any way interfere with any such poles or wires unless the persons or authorities owning or having control of the same shall refuse to do so after having been notified as provided in section 4-408, and then only competent and experienced workmen shall be employed in such work, and in such case the necessary and reasonable expense shall be done in a careful and workmanlike manner, and the poles and wires shall be promptly replaced and the damages thereto properly repaired. (Code 2008).

**4-411. DISPLAY OF LANTERNS.** It shall be the duty of any person moving any of the structures mentioned in this article upon or across any street, alley or sidewalk or other public place, in this city, to display lighting thereon in such a manner as to show the extreme height and width thereof from 30 minutes after sunset to 30 minutes before sunrise. (Code 2008)

## **ARTICLE 5. HOUSING CODE**

**4-501. PURPOSE.** To establish minimum standards of dwelling space, facility requirements and structural adequacy for dwellings within the city, to provide for administration and enforcement and to specify authority and procedure to be followed in executing the powers established herein. (O. 928; Code 2008)

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

- (a) Public Officer - is the person designated by the governing body to exercise the powers prescribed herein.
- (b) Residential Structure or Dwelling - shall mean any building or structure, or part thereof, used and occupied for human habitation or intended to be used, and includes any appurtenances belonging thereto or usually enjoyed therewith.
- (c) Nonresidential Structure - shall mean 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) Dilapidation - means a state of disrepair, decay, or conspicuous lack of maintenance of exterior painting of a dwelling as to constitute a blighting influence on properties in the neighborhood.
- (e) Owner - is the holder of the record legal title to any dwelling with or without accompanying actual possession thereof.
- (f) Parties in Interest - shall mean all individuals, associations or corporations who have interests of record in a dwelling, and any who are in, or known to the public officer to be entitled to possession thereof.
- (g) Habitable Room - means a room or enclosed floor space arranged for living, eating or sleeping purposes, not including bath or toilet rooms, laundries, pantries, foyers or communicating corridors,
- (h) Rooming House - is a hotel structure containing rooms rented either by the day, week, or month, and similar structure with similar rooms designed for individual or non-family use and not containing cooking facilities. (O. 928; Code 2008)

**4-503. FINDING THAT HAZARDS EXIST.** It is found that there exist dwellings which are unfit for human use or habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions including the following without limitation:

- (a) Defects therein increasing hazards of fire, accident or other calamities;
- (b) Lack of adequate ventilation;
- (c) Air pollution;
- (d) Inadequate light or sanitary facilities;
- (e) Dilapidation;
- (f) Disrepair;
- (g) Structural defects;
- (h) Uncleanliness;

- (i) Overcrowding;
- (j) Inadequate ingress and egress;
- (k) Dead and dying trees, limbs or other unsightly natural growth;
- (l) Unsightly appearances that constitute a blight to adjoining property, the neighborhood, or the city;
- (m) Walls, sidings or exteriors of a quality and appearance not commensurate with the character of the properties in the neighborhood;
- (n) Unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof;
- (o) Vermin infestation;
- (p) Inadequate drainage, or any violation of health, fire, building, or zoning regulations, or any other laws or regulations relating to the use of land and the use and occupancy of buildings and improvements; rendering such structures unsafe or unsanitary or dangerous or detrimental to the health, safety, or morals or otherwise inimical to the welfare of the residents. (O. 928; Code 2008)

**4-504. DESIGNATION OF PUBLIC OFFICER.** A public officer shall be designated or appointed by the governing body to exercise the powers herein prescribed. (O. 928; Code 2008)

**4-505. PROCEDURE; PETITION.** Whenever a petition is filed with the public officer by at least five residents charging that any structure is dangerous, unsafe or unfit for human habitation, or whenever it appears to the public officer on his or her own motion and particularly on vacancy or change of occupancy of a dwelling, 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, issue and cause to be served upon the owner, every mortgagee of record and all parties in interest in such structure (including persons in possession) a complaint stating the charges in that respect. (Code 2008)

**4-506. SAME; NOTICE.** The complaint as set out in 4-505 above shall contain a notice that a hearing will be held before the public officer or his designated agent at a place therein fixed not less than ten days nor more than 30 days after the serving of said complaint. The owner, the owner's agent, any lienholder of record and any occupant of the structure may appear at such hearing and show cause why the structure should not be condemned and ordered repaired or demolished. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (O. 928; Code 2008)

**4-507. SAME; HEARING, ORDER.** (a) If, after notice and hearing, the public officer determines that the structure under consideration is dangerous, unsafe or unfit for human use or habitation, or if the public officer determines that a structure is unfit for human use or habitation if he finds 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 residences of the city or have a blighting influence on properties in the area, he shall state in writing his findings of fact in support of such determination and shall cause to be served upon the owner or agent an order as follows:

- (1) If the repair, alteration, or improvement of the structure can be made at a reasonable cost in relation to the value of the structure which shall not exceed 50 percent of the fair market value of the structure, the owner of the property shall, within the time specified in the order, repair, alter or improve the structure to render it safe and fit for human use or habitation, or shall vacate and close the structure until such time as he has complied with the order.



(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 of 50 percent or less of its fair market value, the owner shall, within the time specified in the order, remove or demolish the structure.

(3) 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.

(4) 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. (O. 928; Code 2008)

**4-508. SAME; COST OF REPAIRS OR DEMOLITION;** The amount of the cost of repairs, alterations, improvements, or vacating and 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 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 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 said 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, including the public officer's necessary attorney's fees incurred therein as determined by the court. (O. 928; Code 2008)

**4-509. SAME; SERVICE.** Complaints or orders issued by the public officer pursuant to this section shall be served upon person either personally or by registered or certified mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the public officer after the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such person may be made by publishing the same once each week for two consecutive weeks in the official city newspaper. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by such complaint or order. A copy of such complaint or order shall also be filed with the Clerk of the District Court of Allen County, Kansas, and such filing shall have the same force and effect as other lis pendens notices as provided by law. (O. 928; Code 2008)

**4-510. SAME; APPEAL AND REVIEW.** Any person affected by an order issued by the public officer may petition the District Court of Allen County, Kansas, for an injunction restraining the public officer from carrying out the provisions of the order, and the Court may, upon such petition, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within thirty (30) days after the posting and service of the order by the public officer, such person shall file such petition. Hearing shall be had upon said petition as soon thereafter as possible, and shall be given preference over other matters on the Court's calendar. The Court shall hear and determine the issues raised and shall enter a final order or decree. In all such proceedings, the findings of the public officer as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the Court. The remedies herein provided shall be exclusive reme-

dies and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer or because of compliance by such person with any order of the public officer. (O. 928; Code 2008)

**4-511. POWERS OF PUBLIC OFFICER.** The public officer is authorized to exercise such power 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) Investigate the structure conditions in the municipality in order to determine which structures and dwellings are unfit for human use and habitation;
- (b) Administer oaths, affirmations, examine witnesses, and receive evidence;
- (c) 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;
- (d) 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
- (e) Delegate any of his or her functions and powers under this article to such officers, agents, and employees as the public officer may designate. (O. 928; Code 2008)

**4-512. MINIMUM STANDARDS.** All dwellings used or occupied for human habitation shall have utility hook-ups for electricity and water from the City of Moran. Further, all dwellings shall have the following minimum facilities in satisfactory operating condition, to-wit:

- (a) Inside running water and an installed kitchen sink;
- (b) Inside bathing facilities which shall consist of an installed tub or shower;
- (c) An installed water closet; if such is built on a porch, it shall be enclosed for privacy and from the weather. All water closets shall have running water and be connected to sewage disposal in accordance with other codes of city;
- (d) Installed electric lighting facilities;
- (e) Installed heating facilities including arrangements by chimneys or flues in accordance with safety codes and practices;
- (f) Screens or other devices to effectively cover openings to the outside of the living and eating portions of such dwellings with mesh of such fineness as to prevent the entrance of flies, mosquitoes, and similar pests;
- (g) Such other facilities and standards as are required by ordinances and codes of the city. Rooming houses shall have the same minimum facilities in satisfactory operating condition as dwellings except as follows:
  - (1) Kitchen sink shall only be required in connection with cooking facilities;
  - (2) Bathing facilities shall be provided in form of a tub or shower for each eight occupants;
  - (3) A water closet shall be provided for each six occupants and shall be separated from bathing facilities if more than four occupants are served by each. (O. 928; O. 1060; Code 2008)

**4-513. NUISANCES; VIOLATIONS AND PENALTIES.** If any order issued and served under this article is not complied with within the time specified, the dwelling with respect to which the order has been issued is hereby declared to be a public nuisance, and it shall be unlawful for any person, firm or corporation, that has knowledge of the issuance of such order to occupy it as a human habitation, or use said dwelling or any part thereof, or to suffer or permit same, or any part thereof, to be occupied as a human habitation or used therefore, and any person, firm or corporation violating this article or failing to comply therewith shall, upon conviction, be deemed guilty of a misdemeanor, and shall be punished by a fine of

not to exceed \$50 for each and every offense, and each day that any such violation or failure to comply continues or is allowed to continue, shall constitute and be a separate and distinct offense. (O. 928; Code 2008)

**4-514. DUTIES OF CITY ATTORNEY.** The public officer shall promptly report to the city attorney the names and addresses of all persons, firms or corporation known to the public officer who have violated or failed to comply with this article, and it shall be the duty of the city attorney to proceed against such persons, firms or corporation by civil or criminal action as shall be appropriate. (O. 928; Code 2008)

**4-515. REPORTS OF PUBLIC OFFICER.** The public officer shall promptly report dwellings which are suspected of being unfit for human habitation to the building inspector, fire chief, marshal, health officer, electric and plumbing inspectors as may be appropriate. (O. 928; Code 2008)

**4-516. MISCELLANEOUS.** The powers conferred upon the public officer by the provisions of this article shall be in addition and supplemental to the powers conferred upon the public officer by any other ordinances, articles, or sections herein. Nothing herein 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. The measure and procedures herein provided for do not supersede, and this article does not repeal any measures or procedures which are provided by ordinance or state law for the elimination, repair or correction of the conditions herein defined, and referred to as objectionable, but the measures and procedures herein provided for shall be in addition thereto. (O. 928; Code 2008)

**4-517. INVALIDITY.** If the provisions of this article or the application thereof, to any person, firm or corporation, or circumstance is held invalid, the remainder of the article and the application of such provisions to persons, firms or corporations, or circumstances other than those to which it is held invalid shall not be affected thereby. (O. 928; Code 2008)

## **ARTICLE 6. MOBILE HOMES**

**4-601. DEFINITIONS.** For the purpose of this section, the following terms are defined as follows:

(a) **Manufactured House.** A dwelling unit substantially assembled in an off-site manufacturing facility for installation or assembly at the dwelling site, bearing a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards (24 CFR 3280 et seq.) promulgated by the US Department of Housing and Urban Development.

(b) **Manufactured House, Class A.** A manufactured house constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria:

- (1) The manufactured house has a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis;
- (2) The manufactured has a minimum dimension of 24 feet in width and 40 feet in length;

- (3) The pitch of the roof of the manufactured house has a minimum vertical rise of 2.2 feet for each twelve feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction in the city;
- (4) All roof structures shall provide an eave projection of no less than six inches which may include a gutter;
- (5) The exterior siding consists predominately of vinyl or metal horizontal lap siding (whose reflectivity does not exceeding the reflectivity of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction in the city;
- (6) The manufactured house is set up in accordance with the recommended installation procedures of the manufacturer and the standard set by the National Conference of States on Building Codes and Standards and published in "Manufactured Home Installations, 1987" (NCS BCS A225.1), and a continuous permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home;
- (7) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with standards set by the city building code and attached firmly to the primary structure and anchored securely to the ground; and
- (8) The moving hitch, wheels and axles, and transporting lights have been removed. It is the purpose of these criteria to ensure that a Class A Manufactured house, when installed, shall have substantially the appearance of an on-site, conventionally built, single-family dwelling in this city.

(c) **Manufactured House, Class B.** A manufactured house constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction and that meet or exceed criteria (6), (7) and (8) for Class A Manufactured Houses above.

(d) **Manufactured House, Class c.** Any manufactured house as defined herein in this ordinance that does not meet the definitional criteria of a Class A or Class B Manufactured House.

(e) **Dwelling Unit.** An enclosure containing sleeping, kitchen and bathroom facilities designed for and used or held ready for use as permanent residence by one family.

(f) **Mobile Home.** A structure capable of being transported in one or more sections by towing or by independent transporting power which has a body width of 8 feet or more and a body length of 36 feet or more, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein, and which has been built or constructed in compliance with the National Manufactured Home Construction and Safety Standards Act of 1974, as amended, which became effective for all mobile home construction on June 15, 1976

(g) **Travel Trailer** - is a vehicular, portable structure built on a chassis designed to be used as a temporary dwelling, self-propelled or to be towed behind a motor vehicle, without special permit being needed, of a gross weight of not more than 4,500 pounds, and having an over-all length of not more than 28 feet.

(h) **Mobile Home Park** - is an area in the city limits where four or more mobile homes are or may be located. (O. 956; O. 1064; Code 2008)

**4-602. MOBILE HOME STANDS AND ANCHORS.** Each mobile home shall have the wheels removed and be placed on piers which will be located under each support with anchors sloped at an angle on the two outside piers and one in the middle of each outside pier with a screw type anchor or another approved anchor of equal strength, fabricated of 1/2 inch diameter rod embedded in the piers able to withstand a tension force of at least 4,800 pounds. The piers shall be a minimum of 8 inches in thickness with two (2) reinforcing rods and a width of not less than 2 feet and shall have a footing that would be carried below grade to a depth of 18 inches or more at each corner. (O. 956; Code 2008)

**4-603. SKIRTING AND LOCATION.** The mobile home shall be equipped with skirts that match the color of the mobile home on all sides, such skirts to be of material harmonious to the mobile home structure. Because the mobile homes now produced vary in size and shape, the stand should be individually designed to fit the dimensions of the mobile homes that will be accommodated with the approval of the building inspector. Each mobile home shall be located in a well drained area and the premises shall be properly graded so as to prevent accumulation of storm or other water. (O. 956; Code 2008)

**4-604. BUILDING PERMIT; MANUFACTURED HOMES; SINGLE AND DOUBLE WIDE MOBILE HOMES.** Within the corporate limits of the City of Moran, manufactured homes, single and double wide mobile homes may be permitted for residential use in an approved mobile home park or on a lot outside an approved mobile home park following compliance with the regulations hereinafter set forth:

(a) Placement of manufactured homes and single or doublewide mobile homes for residential use outside an approved mobile home park shall be authorized in conformity with the following general procedure:

(1) An applicant for placement of a manufactured home or mobile home outside an approved mobile home park shall obtain from the city building inspector an application for building permit and shall obtain from the building inspector an area map that outlines all property within two hundred (200) feet of each corner of the property upon which placement of the manufactured or mobile home is proposed. At the same time, the applicant shall pay to the City Clerk a fee of \$100.00 plus fees prescribed by other provision of the codified ordinance of the City of Moran. Said fee shall be used to provide funds to pay the cost of preparation, publication and mailing of notices of the hearings hereinafter provided.

(2) Upon receipt of the application and area map, the applicant shall obtain from the abstract company, at the applicant's expense, a list of the name and addressed of owners of property within said two hundred (200) foot area and deliver the same to the building inspector together with the completed application for building permit. The application shall set forth the proposed method of compliance by the applicant with Article 6 of Chapter IV of the codified ordinances of the City of Moran including, but not limited to, sites, set backs, skirting, frontages, and utility hookups.

(3) Upon receipt of the completed application and list of names and addresses of property owners, the building inspector shall set the application for hearing. Said hearing shall be held not less than ten (10) days nor more than thirty (30) days after the receipt of written application and shall be open to the public. The building inspector shall give at least seven (7) days notice of said hearing, which shall include a concise statement of the subject matter of the hearing and shall be published in the official city newspaper once a week for two (2) consecutive weeks. In addition, the building inspector shall mail or cause to be mailed a copy of the notice to each property owner on the area list provided by the applicant not less than seven (7) days after the date of first publication of the notice in the official city newspaper.

(4) Following completion of the hearing the building inspector shall render a written opinion within twenty (20) days of the hearing date granting or denying the building permit, a copy of which shall be provided to the applicant and to any other interested party upon request. Appeals from the action of the building inspector may be taken as provided as in section 4-908 of the codified ordinances of the City of Moran.

(5) Should the owner or owners of 40 percent or more of the area surrounding the property oppose the placement of the manufactured home or mobile home, the building inspector must deny the authorization for a permit.

(6) The mobile home must be tied down in conformance with state law and the foundation of the mobile home must be skirted and appropriately enclosed within 30 days of arrival at its intended site, where such unit is to be occupied as a dwelling;

The manufactured home or mobile home may not be occupied unless inspected by the inspection office to verify compliance with all requirements.

(b) In addition to the procedures set forth hereinabove, a mobile home may also be permitted upon application to the City Commission for the purpose of temporary relief from a local disaster, such as fire, wind, or flood damage. Such temporary placement shall be granted only subsequent to public hearing upon published notice, and shall be limited to a period not to exceed six (6) months.

(c) Any person aggrieved by the granting or refusal by the building inspector to grant a building permit herein may request and shall be granted a hearing on the matter before the Governing Body; provided, however, that such person shall within twenty (20) days of the date of entry of the written decision of the building inspector on the application for building permit, file in the office of the building inspector a written appeal requesting such hearing and setting forth a brief statement of the grounds therefore. Upon receipt of such written appeal, the building inspector shall set a time and place of said hearing and shall give written notice thereof to the appellant and any other interested party. At such hearing the appellant and appellee or appellees, if any, shall be given an opportunity to be heard and show cause why the relief requested in such appeal should or should not be granted. Appeals from a grant or refusal to grant a building permit for a mobile home shall be heard within thirty (30) days of the date of filing of the written appeal with the building inspector. (O. 1064; O. 1083; Code 2008)

**4-605. BUILDING PERMITS REQUIRED.** (a) No mobile home shall hereinafter be moved or re-located upon a lot within the city limits without first complying with the above regulations and securing an approved building permit from the city clerk, building inspector or his duly authorized representative.

(b) The cost for said building permits shall be \$1 for \$1,000 with a minimum charge of \$5. The fee herein shall be paid to the city clerk upon obtaining a building permit and the same shall be credited to the general operating fund of the city. (Code 2008)

**4-606. ELECTRIC, GAS, AND WATER SERVICE TO MOBILE HOMES WITHIN THE CITY LIMITS OF MORAN, KANSAS.** Each mobile home located in the city limits of the City of Moran, Kansas, shall have individual and separate electric, gas and water taps and meters, and shall be subject to the sewer charges provided by Section 15-334. These regulations shall apply on any mobile home located within the city limits for more than thirty (30) days. Any mobile home located in a mobile home park shall have individual and separate electric and gas connections, but the operator of said mobile home park may provide water service through a master meter to the operator of said mobile home park. Each mobile home located in any mobile home park shall also be subject to the sewer charge as provided in Section 15-334. Gas connections or hook-ups may not be made with rubber hose either in the main connection or in any connections within or without said mobile home. (O. 956; Code 2008)

**4-607. TIME FOR COMPLIANCE.** The above regulations must be complied with within thirty (30) days after the building permit has been issued. (O. 956; Code 2008)

**4-608. PENALTIES.** Any owner of a mobile home or mobile home park violating any provisions of this section shall, upon conviction thereof, be adjudged guilty of a misdemeanor and be fined not less than \$10.00 nor more than \$100.00 and in default of payment of such fine and costs shall be imprisoned until payment of such fine and costs but not exceeding thirty (30) days for each violation. Each day of violation shall constitute a separate offense. (O. 956; Code 2008)

## CHAPTER V. BUSINESS REGULATIONS

Article 1. Solicitors Canvassers, Peddlers

Article 2. Prohibition of the Drilling of Oil and Gas Wells

Article 3. Intangibles Tax

### ARTICLE 1. SOLICITORS, CANVASSERS, PEDDLERS

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

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

(1) Seeking to obtain orders for the purchase of goods, wares, merchandise, food-stuffs, 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 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. (Code 2008)

**5-102. LICENSE REQUIRED.** It shall be unlawful for any person to engage in the business of a peddler, solicitor, canvasser, or transient merchant, as defined in the preceding sections of this article, within the corporate limits of the city without then having an unrevoked and unexpired license therefore in his or her possession and issued by the city clerk. (Code 2008)

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

- (a) Name and description of applicant;
- (b) Permanent home address and full local address of applicant;
- (c) Identification of applicant including driver's license number, date of birth, expiration date of license and description of applicant;
- (d) Identification of vehicle used by applicant including license therefore 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 therefore, if any, and the city and state where conviction occurred.
- (k) The applicant's Kansas Sales Tax number. (Code 2008)

**5-104. ISSUANCE; COUNTY RESIDENTS.** (a) Except as provided in section 5-109, if the applicant is a current resident of Allen 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 ad-

dress 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 peddler, solicitor or canvasser shall carry the license certificate at all times.

(b) If the applicant is not a current resident of Allen County, Kansas, a license will not be issued until after investigation and payment of the investigation fee as provided in sections 5-105:106.

(c) A license shall not be required of legitimate charitable organizations. (Code 2008)

**5-105. SAME; INVESTIGATION AND ISSUANCE; NON-COUNTY RESIDENT.** (a) Upon receipt of the above application from an applicant who is not a current resident of Allen County, Kansas, the city clerk shall refer the same to the chief of police who shall cause an investigation of the fact 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 solicitor shall carry the license certificate at all times. (Code 2008)

**5-106. SAME; INVESTIGATION FEE.** At the time of filing the application, a fee of \$20 shall be paid to the city clerk to cover the cost of investigation of the facts stated in the foregoing application. (Code 2008)

**5-107. LICENSE FEE; TIME LIMITS; EXEMPTIONS.** (a) Except as provided in subsection (c), the fee for the license required pursuant to section 5-102 shall be in the amount of \$25 per each day, or portion thereof, that the licensee shall solicit within the city limits. In no event, however, shall fees in excess of \$100 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 and only between the hours of 8:00 a.m. and 8:00 p.m. No solicitation or sales shall be conducted by any person during any other hours on said date.

(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 5-102 upon the payment of \$50 for any year, and may make solicitations or sales only between the hours of 8:00 a.m. and 8:00 p.m., or upon invitation at any hour.

(d) No license fee shall be required of: (1) any person selling products of the farm or orchard actually produced by the seller; (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 charitable organization. (Code 2008)

**5-108. RENEWAL.** All licenses issued shall be subject to renewal upon a showing of compliance with sections 5-102:103 of this article within a six month period prior to the renewal date. The city clerk need not require an additional application under section 5-103 or an additional investigation and investigation fee under sections 5-105:106 unless complaints have been received of violations of the conditions under which any license has heretofore been issued. The city clerk shall not renew or extend any license where there is satisfactory evidence of any grounds for the suspension or revocation of any prior license, and the applicant shall be required to apply for a license as in the case of an original license. (Code 2008)

**5-109. 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:

- (a) Fraud, misrepresentation or false statement contained in the application for license.
- (b) Fraud, misrepresentation or false statement made in the course of carrying on the business.
- (c) Any violation of this article.
- (d) Conducting a business as defined in section 5-101 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.
- (e) Conviction of the crime of theft, larceny, fraud, embezzlement or any felony within two years prior to the application date. (Code 2008)

**5-110. 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. (Code 2008)

**5-111. REGULATIONS.** (a) It shall be unlawful for any peddler, solicitor or canvasser to make false or fraudulent statements concerning the quality or nature of his or her goods, wares and merchandise for the purpose of inducing another to purchase the same.

- (b) Peddlers, solicitors, or canvassers are required to exhibit their license at the request of any person to whom they attempt to sell their goods, wares and merchandise or take orders for future delivery of the same. (Code 2008)

**5-112. 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. (Code 2008)

**5-113. DISTURBING THE PEACE.** Except when authorized in writing by the city clerk, no peddler, canvasser or solicitor, 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 to 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. (Code 2008)

## **ARTICLE 2. PROHIBITION OF THE DRILLING OF OIL AND GAS WELLS**

**5-201. PROHIBITION OF DRILLING.** It shall be unlawful for any person, firm, or corporation to drill or commence operations for the drilling of a well for oil and gas purposes within the corporate limits of the City of Moran, Kansas. (O. 995; Code 2008)

**5-202. PENALTY.** Any person, firm, or corporation drilling or commencing operations for the drilling of any oil and gas well shall, upon conviction thereof, be punished by a fine of not less than \$100.00 nor more than \$500.00, or by incarceration for not more than 30 days, or by both fine and incarceration. Each day's violation of this ordinance shall be deemed a separate offense. (O. 995; Code 2008)

**5-203. SEVERABILITY.** If any section, sub-section, clause or other phrase or part of this article is declared to be unconstitutional or invalid, such invalidity shall not affect the validity of any remaining section, sub-section, clause or phrase of this ordinance. (Rod. 995; Code 2008)

## **ARTICLE 3. INTANGIBLES TAX**

**5-301. GENERALLY.** That under the authority of K.S.A. 79-3109, the body of the City of Moran, Kansas, does hereby elect that no tax shall be levied for the benefit of such City upon money, notes or other evidence of debt, having a tax situs in such City for the year 1981 and all succeeding years. (O. 986, Code 2008)

## **CHAPTER VI. ELECTIONS**

### **ARTICLE 1. CITY ELECTIONS**

- 6-101. ELECTIONS; EXEMPTION.** The City of Moran, Kansas, by the power vested in it by Article 12, Section 5, of the Constitution of Kansas, hereby elects to exempt itself from and make inapplicable to it K.S.A. 15-201, and to provide substitute and additional provisions as hereinafter set forth in this ordinance. Such statutory section is applicable to this city but is not applicable uniformly to all cities. (Charter Ord 3, Code 2008)
- 6-102. ELECTIONS; TERMS.** A regular city election shall be held on the first Tuesday in April of each year. At the regular city election in 1985 there shall be elected a mayor and five councilmembers. At said election the candidates for councilmember receiving the two (2) highest number of votes shall be declared elected for a term of two (2) years. The candidates for councilmember receiving the next three (3) highest number of votes shall be declared elected for a term of one (1) year. The candidate elected mayor shall be declared elected for a term of two (2) years. Succeeding elections for all such offices shall be for two (2) year terms. At such succeeding elections the candidates for councilmember receiving the two (2) or three (3) (as the case may be) highest number of votes shall be declared elected. Whenever there is a tie vote for two or more candidates and it is necessary to determine which candidate receives the office, the winner shall be determined by lot by the board of canvassers. The City Clerk shall, within five (5) days after the canvass of the returns and determination by the board of canvassers of the persons elected, deliver to each such person a certificate of election, signed by such clerk and sealed with the seal of the city, and such certificate shall constitute notice of election. The terms of the officers shall begin at the first regular meeting of the council in May following their election in April. (Charter Ord 3, Code 2008)
- 6-103. VACANCY.** (a) In case of a vacancy in the council occurring by reason of resignation, death, removal from office, failure or refusal to qualify, or removal from the city, the mayor, by and with the advice and consent of the remaining councilmembers, shall appoint an elector to fill the vacancy for the unexpired term of that council position. In case any person elected as a councilmember neglects or refuses to qualify within thirty (30) days after the election, the councilmember shall be deemed to have refused to accept the office and a vacancy shall exist. The mayor shall, with the consent of the remaining councilmembers, appoint a suitable elector to fill the vacancy for the unexpired term of that council position.
- (b) In case of a vacancy in the office of mayor occurring by resignation, death, removal from office, removal from the city, or refusal or failure to qualify, the president of the council, or in the case of the mayor-elect's refusal or failure to qualify, the new president of the council, shall become mayor until the expiration of the term, and a vacancy shall occur in the office of the councilman becoming mayor. (Charter Ord 3, Code 2008)

## **CHAPTER VII. FIRE**

Article 1. Fire Department

Article 2. Fire Prevention

Article 3. Fireworks

Article 4. Fire Insurance Proceeds Fund

### **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. Members of the fire department shall be appointed by the mayor and confirmed by the council. (O. 911, Sec.1; Code 2008)
- 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 six consecutive meetings shall automatically become expelled from membership. (O. 911, Sec. 2; Code 2008)
- 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 report as to the condition of all fire apparatus and equipment to the governing body at their first meeting in October of each year. (O. 911, Sec. 3; Code 2008)
- 7-104. FIRE CHIEF; POWERS.** (a) The fire chief shall be responsible for the discipline of the members and is hereby given authority to suspend or expel any member for refusal to obey orders or for misconduct or failure to do his or her duty at a fire.  
(b) The chief shall also have the right to summon any and all persons present to aid in extinguishing a fire or to aid in removing personal property from any building on fire or in danger thereof and in guarding the same.  
(c) At fires the chief shall have full power, control, and command of all persons present and shall direct the use of the fire apparatus and equipment, and command the fire fighters in the discharge of their duties. He or she shall take such measures as he or she shall deem proper and necessary in the preservation and protection of property and extinguishing of fires. (O. 911, Sec. 4, 5; Code 2008)
- 7-105. SAME; RECORDS.** The chief of the fire department shall keep in convenient form a complete record of all fires. Such information shall include the time and location, construction of building owner, occupancy, how extinguished, value of building and contents, loss on building and contents, insurance on building and contents, members responding to the alarm, and any other information deemed advisable. (O. 911, Sec. 6; Code 2008)

- 7-106. ASSISTANT CHIEF** In the absence of the chief, the assistant fire chief shall perform all the duties and have all the authority and responsibility of the chief as conferred by this chapter. (O. 911, Sec. 8; Code 2008)
- 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. (O. 911; Code 2008)
- 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. (O. 911; Code 2008)
- 7-109. SAME; FIRE HOSE.** It shall be unlawful for any person or persons to drive any vehicle over any fire hose laid on any street, alley or lot. This section shall not apply to any apparatus or vehicle being driven by members of the fire department. (O. 911; Code 2008)
- 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. (O. 911; Code 2008)
- 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. (O. 911; Code 2008)
- 7-112. PENALTY.** Any person or persons violating any of the provisions of this Article or refusing to comply with any of the requirements thereof, shall, upon conviction, be deemed guilty of a misdemeanor and fined not less than five (\$5.00) Dollars nor more than fifty (\$50.00) Dollars. (O. 911, Sec. 14; Code 2008)

## **ARTICLE 2. FIRE PREVENTION**

- 7-201. FIRE PREVENTION CODE; INCORPORATED.** The Fire Prevention Code, 1976 Edition, supplemented by the 1982 amendments, as recommended by the American Insurance Association is hereby adopted by reference for the purpose of regulation of conditions hazardous to life and property from fire and explosion including the Appendix thereof, as stated in the "City of Moran Official Copy." No fewer than three copies of the Fire Prevention Code shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Moran," and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business. (O. 935; Code 2008)
- 7-202. SAME; ENFORCEMENT.** The code hereby adopted shall be enforced by the chief of the fire department. (O. 935; Code 2008)

- 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 Moran.  
(b) Article 13, Fireworks, of the Fire Prevention Code is hereby deleted in its entirety.  
(Code 2008)
- 7-204. SAME; LIMITS FOR STORAGE OF EXPLOSIVES.** The limits referred to in Section 53b of the code hereby adopted in which storage of explosives and blasting agents is prohibited, the limits referred to in Section 74a of the code adopted by section 7-201 in which storage of Class 1 liquids is prohibited, and the limits referred to in Section 114 of the code adopted in section 7-201 in which bulk storage of liquefied petroleum gas, are hereby established to be one block on each side of downtown business district. (O. 935; Code 2008)
- 7-205. SAME; MODIFICATIONS.** The chief of the fire department shall have power to modify any of the provisions of the code adopted by section 7-201 upon application, in writing, by the owner or lessee or his or her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of such modification when granted or allowed and the decision of the chief of the fire department shall be entered upon the records of the department and a signed copy shall be furnished the applicant. (O. 935; Code 2008)
- 7-206. SAME; APPEALS.** Whenever the chief of the fire department disapproves an application or refuses to grant a permit, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief. of the fire department to the local governing body within 30 days from the date of the decision to be appealed. (O. 935; Code 2008)
- 7-207. BURNING; UNLAWFUL.** (a) It is unlawful for any person or persons to burn or permit or cause to be burned any garbage deposited in a garbage container or any refuse burner in the city. It is further unlawful to burn any garbage in any trash or refuse container in connection with any combustible trash or materials or tin cans.  
(b) All combustible trash and discarded materials must be accumulated on private premises in accordance with provisions relating to the prevention of fires and the prevention of nuisances. It is unlawful to deposit combustible materials in any garbage container for the purpose of destroying the same by burning or to burn any such combustibles in connection with any garbage or putrescible wastes.  
(c) Burning shall be allowed on a case by case basis by first obtaining a burning permit on a form provided by and if approved by the fire chief or his or her designee. (Code 2008)
- 7-208. 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 2008)
- 7-209. 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 2008)



**7-210. KEEPING OF PACKING MATERIALS.** It shall be unlawful to keep excelsior or other packing material in any other than metal or wood metal line boxes or binds have self closing or automatic covers. All refuse and trash from rooms where packing or unpacking is done shall be removed daily. (Code 2008)

**7-211. STORAGE OF ASHES.** It shall be unlawful to store ashes inside 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 2008)

**7-212. 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 2008)

**7-213. 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 2008)

**7-214. 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 2008)

**7-215. 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 2008)

**7-216. 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 2008)

**7-217. BUILDING FIRES IN PARKS; RESTRICTIONS.** No person shall make a fire for any purpose on the grounds of any park, except park employees when directed by the governing body, except in fireplaces or grills constructed for the purpose. (Code 2008)

### **ARTICLE 3. FIREWORKS**

**7-301. FIREWORKS DEFINED.** For the 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 2008)

**7-302. FIREWORKS PROHIBITED.** (a) Except as provided in sections 7-303:306; it shall be unlawful for any person, firm, or corporation 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 2008)

**7-303. SAME; EXCEPTIONS; DISCHARGES.** (a) Section 7-302 of this article shall not apply to the fire or discharge of fireworks within the City between the hours of 8:00 AM. and 11:00 P.M. on June 27th through July 5th.

(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. (O. 1080; Code 2008)

**7-304. SAME; EXCEPTION; SALE OF FIREWORKS.** Any person, firm, or corporation who or which has first obtained a valid permit to sell fireworks within the City may do so between the hours of 8:00 AM. and 11:00 P.M. commencing June 27th and through July 4th of each year. (O. 1080; Code 2008)

**7-305. APPROVED FIREWORKS; BOTTLE ROCKETS PROHIBITED.** (a) All fire works 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 2008)

**7-306. 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 2008)

**7-307. THROWING PROHIBITED.** It shall be unlawful for any person to throw, cast or propel fireworks of any kind in the direction of or into the path of any animal, person or group of persons, or from, in the direction of or into any vehicle of any kind. (Code 2008)

**7-308. SALE OF FIREWORKS; WHERE PROHIBITED.** (a) It shall be unlawful for fireworks to be stored, sold, or displayed for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other 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 2008)

**7-309. RETAIL DISPLAY OF FIREWORKS** (a) All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where such fireworks are in the original package.

(b) All fireworks displayed for sale must remain in 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 2008)

**7-310. FIRE EXTINGUISHERS REQUIRED.** (a) Two functioning and approved fire extinguishers must be provided and kept in close proximity to the stock of fireworks in all permanent buildings where fireworks are stored, sold, or displayed for sale.

(b) Small stands, temporarily erected to be used as a place for storing and selling fireworks only, shall have one such fire extinguisher, or in lieu of the fire extinguishers, a pressurized water hose with nozzle end within five feet of the fireworks stand. (Code 2008)

**7-311. RESTRICTIONS AS TO GASOLINE INSTALLATIONS.** It shall be unlawful to store, keep, sell, display for sale or discharge any fireworks within 50 feet of any gasoline pump, gasoline filling station, gasoline bulk station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon, except in stores where cleaners, paints and oils are handled in sealed containers only. (Code 2008)

**7-312. AUTHORITY OF FIRE CHIEF.** The chief of the fire department is authorized to seize and confiscate all fireworks which may be kept, stored or used in violation of any section of this article, and all of the rules of the state fire marshal. He or she shall dispose of all such fireworks as may be directed by the governing body. (Code 2008)

#### **ARTICLE 4. FIRE INSURANCE PROCEEDS FUND**

**7-401. SCOPE AND APPLICATION.** The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this ordinance. (Code 2008)

**7-402. LIEN CREATED.** The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss. (Code 2008)

**7-403. SAME; ENCUMBRANCES.** Prior to final settlement on any claim covered by Section 2, the insurer or insurers shall contact the county treasurer, Allen 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, Allen County, Kansas. (Code 2008)

**7-404. SAME; PRO RATA BASIS.** Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure. (Code 2008)

**7-405. PROCEDURE.** (a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75 percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall ex-

ecute 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 ordinance, 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 ordinance. (Code 2008)

**7-406. FUND CREATED; DEPOSIT OF MONEYS.** The city treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this ordinance shall be placed in said fund and deposited in an interest-bearing account. (Code 2008)

**7-407. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.**

(a) Upon receipt of moneys as provided for by this ordinance, 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 ordinance, 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 2008)

**7-408. 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 2008)

**7-409. 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 5(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 5(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 2008)

**7-410. EFFECT UPON INSURANCE POLICIES.** This ordinance 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 2008)

**7-411. INSURERS; LIABILITY.** Insurers complying with this ordinance or attempting in good faith to comply with this ordinance 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 ordinance, or releasing or disclosing any information pursuant to this ordinance. (Code 2008)

## **CHAPTER VIII. HEALTH AND WELFARE**

- Article 1. Health Nuisances
- Article 2. Environmental Code
- Article 3. Junked, Abandoned Vehicles
- Article 4. Weeds
- Article 5. Minimum Housing Code
- Article 6. Rodent Control
- Article 7. Fair Housing Code
- Article 8. Civil Defense

### **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,
- (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 for ornamental purposes and which exceeds 12 inches in height;
  - (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; O. 1043; Code 2008)
- 8-102. COMPLAINTS; INQUIRY AND INSPECTION.** The public officer, who shall be designated by the governing body, 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 marshal-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 2008)
- 8-103. RIGHT OF ENTRY.** It shall be a violation of this code to deny the public officer 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 2008)
- 8-104. NOTICE.** Any person, corporation, partnership or association found by the public officer to be in violation of section 8-101 shall be served a notice of such violation. The notice shall be served by certified mail, postage prepaid, return receipt requested; provided, that if the owner, occupant, agent or other person in charge or possession of the real property

is a resident of Allen County, Kansas, the notice shall be personally served by the public officer or a law enforcement officer. (K.S.A. 12-1617e; Code 2008)

**8-105. SAME; CONTENTS.** The notice shall state the condition(s) which is(are) in violation of section 8-101. The notice shall also inform the person, corporation, partnership or association that

(a) He, she or they shall have 15 days from the date of serving the notice to abate the condition(s) in violation of section 8-101; or

(b) He, she or they have 15 days from the date of serving the notice to request a hearing before the governing body of the matter as provided by section 8-108;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-106 and/or abatement of the condition(s) by the city as provided by section 8-107. (Code 2008)

**8-106. FAILURE TO COMPLY; PENALTY.** Should the person, corporation, partnership or association fail to comply with the notice to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of section 8-101, be fined in an amount not to exceed \$100 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Code 2008)

**8-107. ABATEMENT.** In addition to, or as an alternative to prosecution as provided in section 8-106, the public officer may seek to remedy violations of this section in the following manner. If a person to whom a notice has been sent pursuant to section 8-104 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-105, 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 15 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 8-109. 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, postage prepaid, return receipt requested; or

(c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists. (Code 2008)

**8-108. HEARING.** If a hearing is requested within the 15 day period as provided in section 8-105, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person



and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the matter provided in section 8-107. (Code 2008)

**8-109. COSTS ASSESSED.** If the city abates the nuisance pursuant to section 8-107, the cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (Code 2008)

## **ARTICLE 2. ENVIRONMENTAL CODE**

**8-201. TITLE.** This article shall be known as the "Environmental Code." (Code 2008)

**8-202. 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 2008)

**8-203. PURPOSE.** The purpose of this article is to protect, preserve, upgrade, and regulate the environmental quality of industrial, commercial and residential neighborhoods in this city, by outlawing conditions which are injurious to the health, safety, welfare or esthetic characteristics of the neighborhoods and to provide for the administration and enforcement thereof. (Code 2008)

**8-204. 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 2008)

**8-205. 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 code; 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: Siding, 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 2008)

**8-206. PUBLIC OFFICER.** The governing body shall designate a public officer to be charged with the administration and enforcement of this article. (Code 2008)

**8-207. 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 8-208 but shall not include conditions which are not readily visible from any public place or from any surrounding private property. (Code 2008)

**8-208. UNLAWFUL ACTS.** It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or

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

(a) **Exterior conditions** (yard) shall include, but not 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 2008)

**8-209. NOTICE.** Any person found by the public officer to be in violation of section 8-208 shall be sent a notice of such violation by the public officer. The notice shall be sent by certified mail, postage prepaid, return receipt requested. The notice shall state:

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

(b) That the person in violation shall have:

- (1) 15 days from the date of the mailing of the notice to alleviate the exterior conditions (yard) violation; and/or;
  - (2) 45 days from the date of the mailing of the notice to alleviate the exterior conditions (structure) violation;
- or in the alternative to subsection (1) and (2) above,
- (3) 15 days from the date of the mailing of the notice to request, as provided in section 8-212 a hearing before the governing body on the matter; and

(c) That failure to alleviate the condition or to request a hearing may result in prosecution under section 8-210 and/or abatement of the condition by the city according to section 8-211 with the costs assessed against the property under section 8-214. (Code 2008)

**8-210. PENALTY.** The public officer may file a complaint in the municipal court against any person found to be in violation of section 8-208, provided however, that such person shall first have been sent a notice as provided in section 8-209 and that the person has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-209. Upon such complaint in the municipal court, any person found to be in violation of section 8-208 shall upon conviction be punished by a fine of not less than \$50 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 2008)

**8-211. ABATEMENT.** In addition to, or as an alternative to, prosecution as provided in section 8-210, the public officer may seek to remedy violations of this article in the following manner. If a person to whom a notice has been sent pursuant to section 8-209 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-209, the public officer may present a

resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 20 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be assessed against the property as provided in section 8-215. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- (a) Personal service upon the person in violation;
- (b) Service by certified mail, postage prepaid, return receipt requested; or
- (c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such conditions exist. (Code 2008)

**8-212. HEARING BEFORE GOVERNING BODY.** If a hearing is requested within the 15 day period as provided in section 8-209, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the manner provided by section 8-211. (Code 2008)

**8-213. APPEALS.** Any person affected by a determination of the governing body under section 8-211 or 8-212 may appeal such determination in the manner provided by K.S.A. 60-2101(d). (Code 2008)

**8-214. COSTS ASSESSED.** If the city abates the conditions in violation of this article pursuant to section 8-211, the cost of abatement shall be charged against the lot or parcel of ground on which the conditions were located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (Code 2008)

**8-215. CONSTRUCTION.** Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any 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 2008)

### **ARTICLE 3. JUNKED, ABANDONED VEHICLES**

**8-301. FINDING OF GOVERNING BODY.** The governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens of the city because they:

- (a) Serve as a breeding ground for flies, mosquitoes, rats and other insects and rodents;
- (b) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;
- (c) Are a ready source of fire and explosion;
- (d) Encourage pilfering and theft;
- (e) Constitute a blighting influence upon the area in which they are located;
- (f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures. (Code 2008)

**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 2008)

**8-303. PRESUMPTIONS.** Any one of the following conditions shall raise the presumption that a vehicle is inoperable:

- (a) Absence of a current registration plate upon the vehicle;
- (b) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;
- (c) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway. (Code 2008)

**8-304. UNLAWFUL STORAGE.** Except as provided in sections 8-305:306, it shall be unlawful for any person or agent, either as owner, lessee, tenant or occupant of any land within the city to park, store or deposit, or permit to be parked, stored, or deposited thereon, an inoperable vehicle unless the vehicle is enclosed in a garage or other building. (Code 2008)

**8-305. TEMPORARILY DISABLED VEHICLE.** The provisions of section 8-304 shall not apply to the parking or storage of a vehicle inoperable for a period of 30 consecutive days or less. (Code 2008)

**8-306. SALVAGE DEALERS; SCREENING.** The provisions of section 8-304 shall not apply 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 section shall be construed as to authorize the maintenance of a public nuisance. (Code 2008)

**8-307. ADMINISTRATIVE PROCEDURE.** Whenever an informal complaint is made to the city clerk or notice is given to such officer of the existence of an apparent violation of this article, he or she shall within seven days thereafter cause to be served upon the person in possession or the owner of the real property upon which such inoperable vehicle is located a written notice. Such notice shall inform such person of the violation and direct that he or she take action within seven days after receipt of such notice to comply with the provisions of this article or prosecution will be commenced for violation thereof. In the event such person fails to comply with the provisions of this article within such time the city clerk shall notify the city attorney who shall commence prosecution under this article. (Code 2008)

**8-308. ABANDONED VEHICLES; AUTHORITY TO REMOVE.** (a) Whenever any person shall abandon and leave a motor vehicle on a highway or other property open to use by the public for a period of time in excess of 48 hours, the city may remove the motor vehicle from such highway or other property and place or store the same in a safe and convenient place. If such motor vehicle has displayed thereon a registration plate issued by the Division of Vehicles and has been registered with said division, the city or its designated agent shall mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the lienholder, if any, of record in the county in which the title shows the owner resides, if registered in this state, stating that if the owner or lienholder does not claim such motor vehicle and pay the removal and storage charges incurred by the city on the same within 15 days from the date of the mailing of the notice, that the same will be sold at public auction to the highest bidder for cash. (b) The city shall use reasonable diligence in determining the title owner, or if from a non-title state, the registered owner of the vehicle, and shall inquire by mail of the office of Register of Deeds of the county in which the title shows the owner resides, if registered in the state, as to whether there are any lienholders of record. (Code 2008)

**8-309. SAME; NOTICE.** (a) After 15 days from the date of mailing notice, if the abandoned motor vehicle is more than four model years of age, or after 30 days from the date of mailing notice, if the abandoned motor vehicle is four model years of age or less, the city or its designated agent shall publish a notice for two consecutive weeks in the official city newspaper where such motor vehicle was abandoned and left. The notice shall describe the motor vehicle by name of maker, model, serial number and owner, if known, and state that the same has been impounded by the city and will be sold at public auction to the highest bidder for cash, if the owner thereof does not claim the same within 10 days from the date of the second publication of the notice and pay the removal and storage charges, and the publication costs incurred by the city. (b) If such motor vehicle does not display a registration plate issued by the Division of Vehicles and is not registered with said division, the city or its designated agent, after 15 days from the date of abandonment, may publish a notice in the official city newspaper, which notice shall describe the motor vehicle by name of maker, model, color and serial number and shall state the same has been impounded by the city and will be sold at public auction to the highest bidder for cash, if the owner thereof does not claim the same within 10 days from the date of the second publication of the notice and pay the removal and storage charges incurred by the city. (Code 2008)

**8-310. SAME; SOLD AT AUCTION.** (a) Whenever the city or its designated agency has complied with the foregoing provisions of this article with respect to any such abandoned motor vehicle and the owner thereof does not claim the same within the time stated in the notice and pay the removal and storage charges and publication costs incurred by the city on such motor vehicle, the city or its designated agent may sell the motor vehicle at public auction to the highest bidder for cash. The sale of any motor vehicle pursuant to this section shall be deemed a sale at retail within the state as prescribed by K.S.A. 8-1754, but the responsibility for obtaining a certificate of approval for such vehicle prior to its registration in this state shall be upon the purchaser. (b) After any sale pursuant to this section, the city or its designated agent may file proof thereof with the Division of Vehicles. Thereupon, said division shall issue a certificate of title to the purchaser of such motor vehicle. All moneys derived from the sale of motor vehicles pursuant to this article, after payment of the expenses of the sale, shall be paid into

the fund of the city which is used by it for the construction or maintenance of highways.  
(Code 2008)

**8-311. SAME; ON PRIVATE PROPERTY.** (a) Any person who shall abandon and leave any vehicle on any real property, other than public property or property open to use by the public, within the city, which is not owned or leased by such person or by the owner or lessee of such vehicle, shall be guilty of criminal trespass. Upon request of the owner or occupant of such real property the city or its designated agent may remove and dispose of such vehicle in the manner provided in this article except that the provisions that a motor vehicle be abandoned for a period of time in excess of 48 hours prior to its removal shall not be applicable to abandoned vehicles which are subject to the provisions of this section.  
(b) Any person removing such vehicle from the real property at the request of the city shall have a possessory lien on such vehicle for the costs incurred in removing, towing and storing such vehicle. (Code 2008)

**8-312. ENFORCING OFFICER.** The marshal-chief of police or his or her duly authorized agent is hereby designated as the enforcing officer of the city and charged with the administration of the provisions of this article. (Code 2008)

#### **ARTICLE 4. WEEDS**

**8-401. WEEDS TO BE REMOVED** It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds as defined herein by 8-402 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. (O. 1030; O. 1043; Code 2008)

**8-402. DEFINITIONS.** Weeds as used herein, means any of the following:

- (a) Brush and woody vines shall be classified as weeds;
- (b) Weeds and indigenous 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 indigenous grasses on property within the city limits of the City of Moran which, because of its height, has a blighting influence on the neighborhood. Any such weeds, grasses, and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height.
- (f) Indigenous grasses as defined herein shall not include grain crops, such as wheat, oats, milo, grain sorghums, soybeans, corn or other farm commodities produced for grain. (O. 1030; O. 1043; O. 1047; Code 2008)

**8-403. PUBLIC OFFICER; NOTICE TO REMOVE.** The governing body shall designate a public officer to be charged with the administration and enforcement of this article. The public officer or an authorized assistant shall notify the owner, occupant, and/or person in charge

of any premises in the city upon which weeds exist in violation of this article, by certified mail or by personal service, such notice being given once each growing season. Such notice shall include the following:

(a) That the owner, occupant, and/or the person in charge of the property is in violation of the city weed control law.

(b) That the owner, occupant and/or the person in charge of the property is ordered to cut the weeds within 7 days of the receipt of notice, or at any time thereafter that said weeds exceed 12 inches in height.

(c) That the owner, occupant, and/or the person in charge of the property may request a hearing before the governing body or its designated representative within five days of the receipt of notice.

(d) That if the owner, occupant, and/or the person in charge of the property does not cut the weeds, the city or its authorized agent will cut the weeds and assess the cost of the cutting including a reasonable administrative cost against the owner, occupant, and/or the person in charge of the property.

(e) That the owner, occupant, and/or the person in charge of the property will be given an opportunity to pay the assessment, and, if it is not paid, it will be added to the property tax as a special assessment.

(f) That the public officer should be contacted if there are any questions regarding the order.

If the owner, occupant, and/or the person in charge of the property cannot be served in the above manner, service may be made by publishing one notice per growing season in the official city newspaper. If notice is made by publication, the owner, occupant, and/or the person in charge of the property will be ordered to cut the weeds within 7 days from the date of publication, and at any time thereafter that said weeds exceed 12 inches in height. (O. 1030; Code 2008)

**8-404. ABATEMENT; ASSESSMENT OF COSTS.** (a) Upon the expiration of 7 days after receipt or publication or other service of the notice required by section 8-403, and in the event that the owner, occupant or person in charge of the premises shall neglect or fail to comply with the requirements of section 8-401, the public officer or an authorized assistant shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby.

(b) The public officer or an assistant shall give notice to the owner, occupant and/or person in charge of such property by certified mail of the costs of abatement of the nuisance. The notice shall state that payment of the cost is due and payable within 30 days following receipt of the notice.

(c) If the costs remain unpaid after 30 days following receipt of notice, a record of the costs of cutting and destruction and/or removal shall be certified to the city clerk who shall cause such costs to be assessed against the particular lot or piece of land on which such weeds were so removed, and against such lots or pieces of land in front of or abutting on such street or alley on which such weeds were so removed. The city clerk shall certify the assessment to the county clerk at the time other special assessments are certified for spreading on the tax rolls of the county. (O. 1030; Code 2008)

**8-405. RIGHT OF ENTRY.** The public officer, and the public officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this article. (Code 2008)



**8-406. UNLAWFUL INTERFERENCE.** It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute a code violation. (Code 2008)

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

(b) For the purpose of this section, the term noxious weed shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Ruphorbia esula*), bussagweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L.), and Johnson grass (*Sorghum halepense*). (Code 2008)

**8-408. PENALTIES.** Any person violating any of the provisions of this section shall, on conviction, be adjudged guilty of a misdemeanor and fined not less than \$15.00 nor more than \$100.00. (O. 1030; Code 2008)

## **ARTICLE 5. MINIMUM HOUSING CODE**

**8-501. TITLE.** This article shall be known as the "Minimum Standard for Housing and Premises Code," and will be referred to herein as "this code." (Code 2008)

**8-502. 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 2008)

**8-503. DECLARATION OF POLICY.** The governing body declares the purpose of this code is to protect, preserve, and promote 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 2008)

**8-504. 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 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 person appointed by the governing body.
- (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 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 ordinance, they shall be construed as though they were followed by the words "or any part thereof." (Code 2008)

**8-505. DUTY OF OCCUPANT OR OWNER OF OCCUPIED OR UNOCCUPIED BUILDING AND ITS PREMISES OR VACANT PREMISES.**

- (a) It shall be the duty of the owner of every occupied or unoccupied dwelling, building and premises or vacant premise, including all yards, lawns, and courts to keep such property clean and free from any accumulation of filth, rubbish, garbage, or any similar matter as covered by sections 8-508:509.
- (b) It shall be the duty of each occupant of a dwelling unit to keep in clean condition the portion of the property which he or she occupies and of which he or she has exclusive control, to comply with the rules and regulations, to place all garbage and refuse in proper containers. Where care of the premise is not the responsibility of the occupant then the owner is responsible for violations of this code applicable to the premise.
- (c) If receptacles are not provided by the owner, then the occupant shall provide receptacles as may be necessary to contain all garbage and trash.
- (d) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling 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 2008)

**8-506. REGULATIONS FOR THE USE AND OCCUPANCY OF DWELLINGS.** No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit,

for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements. The following requirements are hereby declared essential to the health and safety of the occupants of such dwelling or dwelling unit:

(a) **Attached Garages or Non-dwelling Areas.** All non-dwelling occupancies shall be separated from the dwelling unit by a fire 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 8-506(r) governing ventilation, provided however, if occupied at the time of the passage of this code and if it complies with all other provisions of this code, the public 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 sub-section.

(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 and 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 2008)

**8-507. MAINTENANCE AND REPAIR; DWELLINGS.** Every dwelling and every part thereof shall be maintained in good repair by the owner or agent and be fit for human habitation. The roof shall be maintained so as not to leak and all rainwater shall be drained 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 2008)

**8-508. DESIGNATION OF UNFIT DWELLINGS.** The designation of dwellings or dwelling units as unfit for human habitation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following requirements:

(a) **The Public 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 8-512 are applicable hereto.
- (e) **Compliance Required before Reoccupancy.** 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 2008)

#### **8-509. DESIGNATION OF BLIGHTED PREMISES (RESIDENTIAL AND NON-RESIDENTIAL).**

The designation of unsightly and blighted premises and elimination thereof shall be carried out in compliance with the following requirements.

- (a) **The Public 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 8-512 are applicable hereto. (Code 2008)

**8-510. DESIGNATION OF BLIGHTED BUILDINGS AND PREMISES (NON-RESIDENTIAL).** (a) **Certain Blight 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 8-512. (Code 2008)

**8-511. 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 2008)

**8-512. 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 personal service or by registered or certified mail, return receipt requested, delivered to addressee only. If service is made by registered or 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 2008)

**8-513. PUBLIC OFFICER; AUTHORITY.** For the purpose of protecting the city against unsightly or blighted premises, also the health, welfare, and safety of the inhabitants of dwelling 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 2008)

**8-514. GOVERNING BODY; AUTHORITY.** The governing body is hereby authorized:

(a) **To Informally Review** all alleged violations as provided in section 8-512(a) prior to notification prescribed in section 8-512(b).

(b) **To Take Action** as prescribed in section 8-512(b).

(c) **To Hear Appeals** where there is opposition to any order, requirement, decision or determination by the public officer in enforcement of this code as outlined in section 8-518.

(d) **Discretionary Authority** may be exercised in specific cases where variance from the terms of the code as:

(1) Will not adversely affect the public health, safety or welfare of inhabitants of the city.

(2) Is in harmony with the spirit of this code.

(3) Where literal enforcement of the code will result in unnecessary hardship.

(Code 2008)

**8-515. ORDER TO CORRECT AND/OR REPAIR, REMOVE OR DEMOLISH.** At the time of the placarding and order to vacate specified by section 8-508(c) hereof, the public officer shall also issue and cause to be served upon the owner a notice advising of the option of removal or demolition in lieu of correction and/or repair following the procedures as outlined in section 8-512. (Code 2008)

**8-516. DEMOLITION BY PUBLIC OFFICER; PROCEDURE AND COSTS.** (a) **Failure to Comply** with the order under section 8-515 hereof for the alteration or improvement of such structure, the public officer, with the consent and prior knowledge of the governing body, may cause such condemned structure to be removed or demolished and the premises improved to eliminate the conditions outlined in section 8-509 of the code.

(b) **The Cost of Demolition by a Public 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 of judicial proceedings, if any, including the necessary attorney's fees incurred therein, as determined by the court, if involved. (Code 2008)

**8-517. CONFLICT OF LAWS; EFFECT OR PARTIAL INVALIDITY.** (a) Conflicts between the provisions of this code and with a provision of any zoning, building, fire, safety, or health



ordinance or code of the city, existing on the effective date of this article, the provision shall prevail which 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 2008)

**8-518. 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 8-512(b). Such protest and request for a hearing shall be filed with the office of the city clerk.

(b) Upon receipt of a protest and request for a hearing, the city clerk shall notify in writing the governing body of such appeal.

(c) The governing body shall, within 30 days of receipt of protest and request for a hearing, determine a date for the hearing.

(d) Notice of the date for the hearing shall be sent to the appellant at least 10 days before the hearing.

(e) Except where an immediate hazard exists as described in section 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 2008)

**8-519. RIGHT OF PETITION.** After exhausting the remedy provided in section 8-518, 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 2008)

## **ARTICLE 6. RODENT CONTROL**

**8-601. 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 2008)

**8-602. BUILDING MAINTENANCE.** All buildings and structures located within the present or future boundaries of the city shall be rat-stopped, freed of rats and maintained in a rat-stopped and rat-free condition. (Code 2008)

**8-603. NOTICE TO RAT-STOP; WHEN CITY TO DO WORK.** Upon receipt of written notice from the governing body, the owner of any building or structure specified therein shall take immediate measures for the rat-stoppage of such building or structure. The work shall be completed in the time specified in the written notice, which shall be within 15 days, or within the time of any written extension thereof that may have been granted by the governing body. (Code 2008)

**8-604. FAILURE TO COMPLY.** If the owner fails to comply with such written notice of 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 therefore. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for rat-stoppage. (Code 2008)

**8-605. REPLACE RAT-STOPPAGE.** It shall be unlawful for any occupant, owner, contractor, public utility company, plumber or any other person to remove the rat-stoppage from any building or structure for any purpose and fail to restore the same in a satisfactory condition or to make any new openings that are not closed or sealed against the entrance of rats. (Code 2008)

**8-606. NOTICE TO ERADICATE RATS.** Whenever the governing body notifies in writing the owner of any building or structure theretofore rat-stopped as hereinabove defined, that there is evidence of rat infestation of the building or structure, the owner shall immediately institute appropriate measures for freeing the premises so occupied of all rats. Unless suitable measures for freeing the building or structure of rats are instituted within five 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 therefore. The expense thereof shall include the cost of labor, materials, equipment, and any other actual expense necessary for the eradication measures. (Code 2008)

**8-607. CONDITIONS CONDUCTIVE 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 2008)

**8-608. INSPECTIONS.** The individual appointed by the governing body 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 2008)

## **ARTICLE 7. FAIR HOUSING CODE**

**8-701. POLICY.** It is the policy of the City of Moran to provide, within constitutional limitations and the laws of the State of Kansas, fair housing opportunity throughout the City of Moran. (O. 1031; Code 2008)

**8-702. DEFINITIONS.** (a) **Fair Housing Opportunity** in this context means the absence of discriminatory housing activity and unlawful practice as delineated in Sections 8-703:704:705:706 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 such building, structure, or portion thereof.

(c) **Rent** includes any lease, sublease, the "letting of property," and any other such activity which grants for a consideration the right to occupy premises owned by another.

(d) **Affirmative Action Program** is a positive program designed to insure that a good faith, diligent effort will be made to employ applicants and to treat employees during employment equally without regard to their race, color, creed, religion, physical handicap, national origin or sex. Such program shall include, where applicable, but not be limited to the following: recruitment and recruitment advertising, employment, upgrading promotion, demotion or transfer, layoff or termination, rates of pay or other forms of compensation, other terms or conditions of employment and selection for training including apprenticeship; and shall include goals, methodology and time table for implementation of the program. The affirmative action program shall require a showing of demonstrable evidence of progress toward the goal of the program. The words "applicants" and "employees" as used in this chapter includes subcontractors as well as individuals.

(e) **Aggregate Annual Business** means the amount of business done by the supplier or other contractor with the city during the current calendar year and, if this amount does not exceed \$10,000, then by the amount of business done by such supplier or contractor during the next preceding calendar year.

(f) **Class I Contract** means any contract which the city enters into or renews with a supplier or contractor after the effective date of the ordinance codified in this chapter in an amount equal to or more than \$10,000 or to any contract with a supplier or contractor who does an aggregate annual business with the city equal to or in excess of \$10,000.

(g) **Class II Contract** means any contract which the city enters into or renews with a supplier or contractor after the effective date of the ordinance codified in this article in an amount less than \$10,000, or to any contract with a supplier or contractor who does an aggregate annual business with the city of less than \$10,000.

(h) **Committee** means the ad hoc equal opportunity committee as established by this chapter.

(i) **Discrimination** means any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial, or any other differentiation or preference in the treatment of a person or persons on account of race, religion, color, sex, national origin, ancestry or physical handicap and/or any denial of any right, privilege or immunity secured or protected by the Constitution or laws of Kansas or the United States. Discrimination shall include, but not be limited to any practice which produces the demonstrable racial or ethnic effect without a valid business motive.

(j) **Employee** does not include any individual employed by his or her parent, spouse or child.

(k) **Employer** includes any person doing business in this city employing four or more persons in a full-time capacity who are not members of the same immediate family. **Employer** also includes any person acting directly or indirectly for any employer, as defined in this subsection, labor organizations, non-sectarian organizations and all political subdivisions of the city, state, and federal governments, but does not include a non-profit, fraternal or social organization or corporation.

(l) **Labor Organization** includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment or of other mutual aid or protection in relation to employment.

(m) **Persons** includes one or more individuals, partnerships, associations, organizations, corporations, municipal corporations, quasi-municipal corporation, governmental agencies, public bodies, legal representatives, trustees, trustees in bankruptcy, receivers, fiduciaries, mutual companies or unincorporated organizations.

(n) **Person Aggrieved** means any person injured by an unlawful act or who believes he or she will be injured in any such unlawful act or practice that is about to occur.

(o) **Physical Handicap** means the physical condition of a person whether congenital or acquired by accident, injury or disease which constitutes a substantial disability, but is unrelated to such person's ability to engage in a particular job or occupation.

(p) **Real Property** means and includes:

(1) All vacant or unimproved land;

(2) Any building or structure which is occupies or designed or intended for occupancy, or any building or structure having a portion thereof which is occupied or designed or intended for occupancy.

(q) **Unlawful Act or Practice** means an unlawful employment practice, any unlawful accommodations practice, or any unlawful housing practice as defined in this section.

(r) **Unlawful Employment Practices** includes only those unlawful practices and acts specified in section 8-710 of this article.

(s) **Unlawful Housing Practice** means any act that is unlawful under sections 8-703 and 704 of this article.

(t) **Unlawful Public Accommodations Practice** means any discrimination against per-

sons in a hotel, motel, cabin, camp, restaurant or trailer court and the segregation of persons in a place of public accommodations covered by this article by reason of their race, sex, religion, physical, handicap, color, national origin or ancestry. **Unlawful Public Accommodations Practice** also means any discrimination against any person in a bar, tavern, barber shop, beauty shop, amusement park, recreation area, bowling alley, billiard parlor, theater, skating rink, swimming pool, lake, gymnasium, mortuary, cemetery or education institution which is open to the public and any public transportation facility.

(1) **Exceptions:** There shall be excepted from the operation and requirements of section 8-701 of this article the following matters:

(i) Contracts for services of a specialized professional or technical character;

(ii) Emergency requisition for goods, supplies, or services.

(O. 1031; Code 2008)

**8-703. 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, said 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. (O. 1031; Code 2008)

**8-704. 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 said person in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance because of the race, color, religion, or national origin of said person, or persons associated with him or her. (O. 1031; Code 2008)

**8-705. 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 such access, membership, or participation on account of race, color, religion, or national origin. (O. 1031; Code 2008)

**8-706. 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 having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by other sections of this Ordinance. (O. 1031; Code 2008)

**8-707. EXEMPTIONS.** (a) Nothing in this Ordinance 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 such persons, unless membership in such religion is restricted on the basis of race, color, or national origin. Nor shall anything in this Ordinance 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 such lodgings to its members, or from giving preference to its members, provided membership in such 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 Ordinance, provided that the owner does not own more than three such single-family houses at any one time, and provided that said 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 such house by an owner not residing in the house, or who was not the most recent resident of said house, the exemption shall apply only to one such sale within any twenty-four (24) month period. Provided further, that said sale or rental is made without the use in 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 (O. 1031; Code 2008)

**8-708. ADMINISTRATION.** The authority and responsibility for administration of this Fair Housing Policy shall be the City Council of the City of Moran, or their officially appointed delegate who may be an employee of the City or a board of such employees. The Council shall by rule prescribe such rights of appeal from decisions of the delegated employees to other employees or to the elected officials of the City, as shall be appropriate and in accordance with the law. The City Council shall provide such educational and conciliatory activities as will further the purposes of this Fair Housing Policy, including conferences of persons in the housing industry, with the intent of working out programs of voluntary compliance and of enforcement. (O. 1031; Code 2008)

**8-709. ENFORCEMENT.** (a) Any person who claims to have been injured by a discriminatory housing practice, or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereinafter "person aggrieved"), may file a complaint with the City Clerk. Complaints shall be in writing and shall contain such information and be in such form as the City Council requires. Upon receipt of such a complaint, the City Clerk 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 thirty (30) days after receiving a complaint, or within thirty (30) days after the expiration of any period of reference under subsection (c), the City Council shall investigate the complaint and give

notice in writing to the person aggrieved whether they intend to resolve it. If the City Council 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 such informal endeavor may be made public without the written consent of the persons concerned. Any employee of the City Council who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned not more than one year. Complaints may also be filed with State of Kansas Civil Rights Commission and the United States of America Civil Rights Commission.

(b) A complaint under subsection (a) shall be filed within one hundred eighty (180) days after the alleged discriminatory housing practice occurred. The complaint shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonable and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the Council, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(c) If, within thirty (30) days after a complaint is filed with the City Clerk, the State of Kansas Civil Rights Commission or United States of America Civil Rights Commission, the City Council has been unable to obtain voluntary compliance with this Fair Housing Policy, the person aggrieved may, within thirty (30) days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The City Council will assist in this filing.

(d) If the City Council has been unable to obtain voluntary compliance within thirty (30) days of the complaint, the person aggrieved may, within thirty (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 fair housing policy, insofar as such 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 such practice or order such 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 City Council 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 rights under Section 8-706, shall be subject to a fine of not more than One Thousand Dollars (\$1,000.00), or imprisoned not more than one year, or both. (O. 1031, Code 2008)

**8-710. UNLAWFUL EMPLOYMENT PRACTICES..** It is unlawful employment practice for:

(a) An employer, because of the race, sex, religion, physical handicap, color, national origin, or ancestry of any individual, to refuse to hire or employ or to bar or discharge from employment such individual or to otherwise discriminate against such individual in compensation or in terms, conditions, or privileges of employment, or to limit, segregate, separate, classify, or to make any distinction in regard to employees or to follow any employment procedure or practice which, in fact, results in discrimination, segregation, or separation;

(b) A labor organization, because of the race, sex, religion, physical handicap, color, national origin, or ancestry of any individual, to exclude or to expel from its membership such individual or to discriminate in any way against any of its members or against any employer or any individual employed by the employer;

- (c) Any employer, employment agency, or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment or membership or to make any inquiry in connection with prospective employment or membership which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, sex, religion, physical handicap, color, national origin, or ancestry or any intent to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification;
- (d) Any employer, employment agency, or labor organization to discharge, expel, or otherwise discriminate against any person because he or she has promoted the provisions and practices of this article which have the underlying purpose to eliminate discrimination or because he or she has filed a complaint, testified or assisted in any proceeding under this article;
- (e) Any employer, labor organization, employment agency, or school which provides, coordinates, or controls an apprenticeship, on the job, or other training or retraining program to maintain a practice of discrimination, segregation, or separation because of race, sex, religion, physical handicap, color, national origin, or ancestry in admission, hiring, assignment, upgrading, transfer, promotion, layoff, dismissal, apprenticeship, or other training or retraining program, or in any other terms, conditions or privileges of employment, membership, apprenticeship, or training or to follow any policy or procedure which, without a demonstrably valid occupational qualification, results in such unlawful practices;
- (f) Any person, whether an employer or an employee, or other, to aid, abet, incite, compel, or coerce the doing of any acts forbidden under this article or to attempt to do so. (Code 2008)

**8-711. UNLAWFUL PUBLIC ACCOMMODATIONS PRACTICES..** (a) It is an unlawful public accommodations practice for any person as defined in section 8-702, being the owner, operator, lessee, manager, administrator, employee, public servant, agent or employee of any place of public accommodation:

- (1) To refuse, deny, or make a distinction directly or indirectly in offering its goods, services, facilities, and accommodations to any person as covered by this article because of race, sex, religion, physical handicap, color, national origin, or ancestry;
  - (2) Whether or not specifically prohibited from discriminating under any provisions of this article, to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this article or to attempt to do so.
- (b) Nothing in this section shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting its offerings of goods, services, facilities and accommodations to persons of the same religion, or from giving preference to persons; provided that the above-mentioned offerings are not, in fact, offered for commercial purposes. Nor shall anything in this article prohibit a nonprofit private club, in fact not open to the public, which, incidentally to its primary purpose, provides certain public accommodations, as defined in section 8-702, for other than commercial purposes, from limiting the accommodations to its members, or giving preference to its members and the guests of its members. (Code 2008)

**8-712. AFFIRMATIVE ACTION PROGRAM FOR CITY PERSONNEL.** The affirmative action program for personnel in the city shall be as follows:

- (a) It is the policy of the city to take affirmative action to achieve equal employment for all minorities and women in all personnel actions and procedures including, but not limited to, recruitment, hiring, training, transfer, promotion, compensation, and other benefits.



- (b) **General Objectives.** General objectives shall be as follows:
- (1) To establish procedures to recruit minority and women applicants for every level of responsibility;
  - (2) The city will maintain liaison and cooperate with programs (such as CETA) providing training for minorities and women and seek out opportunities to participate in and/or operate training programs;
  - (3) To establish and maintain liaison between the city and minority communities.
- (c) The mayor or his or her designated representative shall be the equal opportunity officer to coordinate the city's efforts in the implementation of its affirmative action program and to advise and assist staff in the implementation.
- (d) **Duties of the Equal Opportunity Officer.** The duties of the equal opportunity officer shall be to:
- (1) Conduct reviews as necessary or indicated by reports, to determine compliance with the city's affirmative action program;
  - (2) Report to the ad hoc equal opportunity committee results obtained with the affirmative action program, problems encountered, and resistance or failure to implement the policy of the city, and recommend remedies;
  - (3) Serve as a consultant and resource person in the development of recruitment programs, selection procedures, training programs, or other personnel functions to implement the city's affirmative action program;
  - (4) Establish and maintain liaison between the city and minority communities.
- (e) **Dissemination of Policy.** (1) The city policy of affirmative action shall be communicated to all personnel in city government.
- (2) The affirmative action policy shall be posted on all bulletin boards in areas where employed personnel will be aware of the policy.
  - (3) The policy shall be sent to all appropriate recruitment sources. The intent of the policy shall be communicated with all letters or invitations for persons to submit resumes for consideration for employment.
  - (4) During orientation of new personnel, the city's affirmative action program shall be emphasized. A printed brochure explaining all aspects of the policy will be provided to all new employees.
  - (5) The policy of the city shall be forwarded to minority and women group leaders and organizations and churches; and particularly those composed of minority populations, schools, contractors, subcontractors, suppliers, and other agencies.
- (f) **Recruitment and Selection** The city shall:
- (1) Recruit personnel in a manner that clearly demonstrates the city's interest in the employment of minorities and women.
  - (2) Establish communications with educational institutions, organizations, leaders, or spokesmen which encourage referral of qualified minorities and women applicants for positions which may become available in the city government.
  - (3) Identify minority referral sources within the scope of the recruitment area.
  - (4) Consider applicants on the basis of those able to be qualified to perform the job. If minority and women applicants have qualifications to perform the job, they shall be given equal consideration for employment with any other applicant. (Code 2008)

**8-713. AFFIRMATIVE ACTION PROGRAM FOR PUBLIC CONTRACTS..** An affirmative action program for public contracts shall be submitted as follows:

- (1) **Class I Contracts:**

(A) **Submission of Program:** Prior to entering any contract, as defined in section 8-702, with the city, all persons seeking a contract shall submit in writing to the equal opportunity officer an affirmative action program, as defined in section 8-702. The affirmative action program shall be submitted concurrently with or prior to any contract bid or proposal. The affirmative action program shall be submitted in the form of answers to a specific written questionnaire. If any person fails or refuses to abide by this section, the person shall be ineligible to enter into any Class I contract or to receive any contract from the city until he or she has so complied.

(B) **Review by Equal Opportunity Officer:**

(i) **Affirmative Action Programs:** The equal opportunity officer shall receive and review affirmative action programs submitted to him or her and shall specify in writing any modification of the program needed to make it conform to the requirements of this section. Prior to rejection of any program, the officer shall advise and consult with the person submitting a program for the purpose of assisting him or her to develop an acceptable affirmative action program. In any event, the equal opportunity officer will make his or her determination within five working days of receipt of the program.

(ii) **Option Annual Submission:** Any person who so desires may file annually an affirmative action program which shall apply to all bids or proposals which the person makes during the calendar year next succeeding the day of such filing. This annual submission shall be subject to review by the equal opportunity officer and shall be amended at such time and in a manner as may be required.

(C) **Acceptance of Program:** The final determination of acceptance or rejection of the affirmative action program shall be made by the governing body.

(D) **Class I Contract Conditions:**

(i) Any person who has been awarded a Class I contract shall not discriminate against any person in the performance of work under the contract because of race, sex, religion, physical handicap, color, national origin, or ancestry, except by reason of demonstrably valid occupational disqualification.

(ii) In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer," or a similar phrase to be approved by the equal opportunity officer.

(iii) If the contractor fails to comply with the provisions of this section, the contractor shall be deemed to have breached the contract and it may be rescinded, terminated, or suspended in whole, or in part, by the governing body.

(iv) The contractor shall include the provisions of this section in every subcontract so that the provisions will be binding upon a subcontractor.

(E) **Duties and Authority of the Equal Opportunity Officer:** The equal opportunity officer is charged with administration and enforcement of this section and is authorized and empowered:

(i) **Affirmative Action Program, Review, Eligibility Certification:** To receive, review and recommend approval or rejection of affirmative action programs submitted by persons seeking any city contract and to certify eligible persons to the city;

(ii) **Compliance Investigation:** To initiate investigations into, to survey and review any and all affirmative action programs and contracts subject to

this section, to take action with respect thereto as shall insure compliance with the terms of this section, subject to approval of the city manager;

(iii) **Initiate Complaints:** To initiate and file with the ad hoc equal opportunity committee complaints alleging violation of this section;

(iv) **Complaint Investigation:** To receive, investigate, and rule upon, or a pass on to the ad hoc equal opportunity committee complaints of violations of this section.

(2) **Class II Contracts:** Prior to entering into any contract, as defined in section 8-702 with the city, all persons seeking a contract shall execute and agree to comply with the terms and conditions in every purchase order, which shall require compliance with Executive Order 11375, Section 202, pertaining to equal employment opportunity requirements. If any person fails or refuses to execute the purchase order containing the terms and conditions as required by this section, the person shall be ineligible to enter any Class II contract or to receive any contract from the city until he or she has so complied. (Code 2008)

## **ARTICLE 8. CIVIL DEFENSE**

**8-801. ORGANIZATION.** A Civil Defense Organization is created under the Kansas Civil Defense Act of 1951, Chapter 48, as amended, to work with the Federal, State, Allen County and other County/Municipal Civil Defense Agencies in the event of major man-made disasters or in the event of natural disasters including, but not limited to, hurricanes, tornadoes, windstorms or floods. The civil defense organization of the City of Moran, Kansas hereby subscribes to and will abide by all the provisions and conditions of the Allen County Resolution passed and adopted establishing an Allen County/Municipal Civil Defense organization. (Res. 24; Code 2008)

## **CHAPTER IX. MUNICIPAL COURT**

### **Article 1. General Provisions**

- 9-101. MUNICIPAL COURT ESTABLISHED.** There is hereby established a municipal court for the City of Moran, Kansas. The municipal court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city. (Code 2008)
- 9-102. SAME; PRACTICE AND PROCEDURE.** The Kansas Code of procedure for municipal courts, as set forth in K.S.A. 12-4104 et seq. and all acts amendatory or supplemental thereto shall govern the practice and procedure in all cases in the municipal court. (Code 2008)
- 9-103. TIME AND PLACE OF SESSIONS.** Municipal court shall be held in the municipal courtroom in the city hall building on such days and at such hours as the municipal judge designates. (Code 2008)
- 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 2008)
- 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. (Code 2008)
- 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. 12-4104, et seq.) and all acts amendatory or supplemental thereto. (Code 2008)
- 9-107. SAME; SALARY.** The municipal judge shall receive a salary as shall be fixed by resolution. (Code 2008)
- 9-108. PAYMENT OF FINE.** Where a municipal court judgment against any person results in a fine and/or court costs only, the same shall be satisfied by paying the amount of such fine and/or court costs to the municipal court immediately on the rendition of judgment, or at such time as the municipal judge shall determine. (Code 2008)
- 9-109. SAME; FAILURE TO PAY SEPARATE VIOLATION.** It shall be unlawful for any person to willfully fail to pay any lawfully imposed fine for a violation of any law of the city within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the fine is due. Such conduct constitutes a violation of this article, regardless of the full payment of the fine after such time. (Code 2008)

**9-110. FAILURE TO APPEAR.** (a) It shall be unlawful for any person charged with violation of any law of the city to fail to appear before the municipal court when so scheduled to appear, unless lawful excuse for absence is presented to the court on or before the time and date scheduled for appearance.

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

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

(d) Failure to appear, upon conviction thereof, shall be punishable by incarceration for up to 30 days and/or a fine of up to \$500. (Code 2008)

**9-111. COURT COSTS.** The municipal court judge is hereby authorized to assess court costs against the defendant or a complainant in all matters brought before the municipal court and such costs shall be determined by ordinance; provided, however, no court costs shall be assessed against a defendant found "not guilty." (CO 7; Code 2008)

**9-112. NOTICE TO APPOINTED ATTORNEY; PAYMENT SCHEDULE; PAYMENT FOR EACH DEFENDANT.** (a) The municipal judge for the municipal court, shall, upon notice to an attorney in this county of his or her appointment to represent an indigent defendant, also notify the attorney of the compensation schedule and procedures authorized by this section.

(b) The payment for attorneys appointed by the municipal judge shall be as follows: \$50 per hour for out-of-court time and \$50 per hour for court time, including trial, appearance at sentencing, or other disposition.

(c) Notwithstanding the provisions of subsection (b), the maximum fee to be paid an appointed attorney for any one indigent representation shall be \$200.

(d) Upon completion of representation of an indigent defendant in Moran municipal court, the appointed attorney shall present his or her claim for payment to the city clerk. No claim shall be made until the completion of the 10-day appeal time. (Code 2008)

## **CHAPTER X. POLICE**

Article 1. Police Department

Article 2. Property in Police Custody

### **ARTICLE 1. POLICE DEPARTMENT**

**10-101. POLICE DEPARTMENT.** The law enforcement department shall consist of a marshal-chief and such number of regular law enforcement officers as shall be appointed as provided by K.S.A. 15-204. Other law enforcement officers and personnel may be appointed pursuant to K.S.A. 15-209. (Code 2008)

**10-102. LAW ENFORCEMENT PERSONNEL; GENERAL DUTIES.** It shall be the general duty of the marshal-chief 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 marshal-chief and all sworn law enforcement personnel shall at all times have power to make arrests 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, a 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 2008)

**10-103. RULES AND REGULATIONS.** The marshal-chief 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 2008)

### **ARTICLE 2. PROPERTY IN POLICE CUSTODY**

**10-201. REGULATIONS.** The police department is required to establish regulations detailing the collection, storage, and inventory of property which may come under its control by any manner. (Code 2008)

**10-202. DISPOSITION.** Any property which has been acquired or turned over to the police department and has been classified in accordance with procedures existing in the police department as unclaimed or for which the proper owner cannot be ascertained shall be kept for a minimum of 90 days. After a period of 90 days, such property, except as provided in section 10-203, shall be sold at public auction to the highest bidder and the proceeds after expenses shall be paid to the city general fund. (Code 2008)

**10-203. SAME; EXEMPT PROPERTY.** The following classes of property shall be considered exceptions to section 10-202 and shall be dealt with in the following manner:

(a) Cash money shall be turned over to the city general fund unless it shall be determined to have collector's value, in which case it shall be auctioned according to the provisions of section 10-202.

(b) Firearms which are available for disposition may be dealt with in the following manner:

(1) If compatible with law enforcement usage, they may be turned over to the police department inventory.

- (2) They may be sold to a firearms dealer who maintains the appropriate federal firearms license.
- (3) They may be destroyed.
- (4) In no case shall firearms be sold at public auction.
- (c) Other weapons such as knives, etc., which are deemed to have a legitimate value may be sold at auction, however, homemade weapons or weapons of a contraband nature shall be destroyed.
- (d) Any items determined to be contraband such as explosives, narcotics, etc., shall be destroyed.
- (e) Items of a pharmaceutical nature, which, while not contraband when properly dispensed, or which are of an over-the-counter-variety, shall be destroyed.
- (f) Foodstuffs, if sealed and undamaged, may be turned over to an appropriate social service agency or destroyed, but shall not be auctioned.
- (g) Alcohol products such as beer, wine, whiskey, etc., shall be destroyed.
- (h) Items with a value in excess of \$500 may be sold after advertising said item in a general circulation newspaper on at least two occasions. Such sales shall be held by closed bid. (Code 2008)

**10-204. CLAIMING PROPERTY.** The police department shall be required to make reasonable attempts to locate the owner of any property in storage. However, the responsibility for claiming and identifying any such property shall rest solely with the owner. (Code 2008)

**10-205. PROOF OF OWNERSHIP.** Claimants to any property in police storage shall be required to present reasonable proof of ownership and no property shall be released unless such reasonable proof is presented. (Code 2008)

**10-206. AUCTION.** At such time as it has been determined that an auction is necessary to dispose of unclaimed property, an inventory listing all property to be disposed of shall be prepared and kept on file in the police department. Notice of an auction shall be published at least twice in a general circulation newspaper prior to the date of the auction. The notice shall specify the date, time and place of the auction and shall also notify prospective buyers or potential claimants that a list of items to be auctioned is available at the police department and any claims on property must be made prior to the start of the auction. (Code 2008)

## **CHAPTER XI. PUBLIC OFFENSES**

Article 1. Uniform Offense Code

Article 2. Local Regulations

### **ARTICLE 1. UNIFORM OFFENSE CODE**

**11-101. UNIFORM CODE INCORPORATED.** There is incorporated by reference the "Uniform Public Offense Code for Kansas Cities," 2004 Edition, revised, prepared and published by the League of Kansas Municipalities. No fewer than three copies of said uniform code shall be marked or stamped "Official Copy as adopted by the Code of the City of Moran," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change, shall be filed in the city clerk's office and open for public inspection at all reasonable office hours. (O. 1085; Code 2008)

### **ARTICLE 2. LOCAL REGULATIONS**

**11-201. CURFEW.** (a) It shall be unlawful for any child under the age of eighteen (18) years to wander, lounge, loaf, loiter or play in, about or upon any public street, alley, sidewalk, vacant lot, public place or other place normally accessible to the general public for public use, whether on foot or in a vehicle or by any other means after the hour of eleven (11:00) o'clock p.m. and before the hour of six (6:00) a.m. unless accompanied by a parent, legal guardian, or other person exercising legal custody of such child; provided, however, that such a prohibition shall not apply to those children under the age of eighteen (18) who are en route by the most direct and accessible route between their homes and authorized places of employment, nor to those who are en route by the most direct and accessible route from a place of employment, authorized entertainment, or authorized place of attendance to their residences; provided further, that the term "authorized" as used in this section shall denote prior authorization by a parent, legal guardian, or other person exercising legal custody.

(b) It shall be unlawful for any parent, legal guardian, or other person lawfully entitled to the care, custody and control of any child under the age of eighteen (18) years to suffer, permit, or allow any such child to wander, lounge, loaf, loiter or play in, about or upon any public street, alley, sidewalk, vacant lot, public place or other place normally accessible to the general public for general public use after the hour of eleven (11:00) o'clock p.m. and before the hour of six (6:00) o'clock a.m. unless accompanied by a parent, legal guardian, or other person lawfully entitled to the care, custody, and control of such child.

(c) The Governing Body of said City, on specific occasions and in response to written requests submitted not less than three (3) calendar days prior to the occasion, shall have the authority to suspend by official proclamation published in the official city newspaper, the hour of guideline as stated herein.

(d) Any person violating any of the provisions of this section shall upon conviction thereof, be punished by a fine of not less than Ten Dollars (\$10) nor more than one Hundred Dollars (\$100), or by imprisonment not exceeding three (3) months, or both such fine and imprisonment.

(e) Any persons meaning a parent, legal guardian, or other person exercising legal custody of such child. (O. 1002; Code 2008)

**11-202. REMAINING ON A CLOSED LOT.** It is unlawful, and a violation of this code, for any person to enter and remain upon any privately owned parking lot or area adjacent to a com-



mercial building when the commercial entity is not open for the conduct of business, unless:

(a) The person is employed by the business providing the parking lot or area and is in the actual performance of his or her employment, or

(b) The person had the express permission of the owner of the property to enter and remain thereon. (Code 2008)

**11-203. SAME; VIOLATION.** It is unlawful and a violation of this code to willfully fail to depart from a closed lot, as defined in section 11-202 after being directed to leave by a law enforcement officer. (Code 2008)

**11-204. LITTERING; DISTRIBUTING ADVERTISEMENTS.** It is unlawful for any person or persons to distribute any circulars, advertisements, dodgers or notices of any kind in the city by throwing them in the streets, alleys or other public places or by leaving or throwing them in or upon the yards, lawns, porches or other private places of the city. They may be distributed by delivering them to any person or within any entranceway of any house, store, or other private place. (Code 2008)

**11-205. UNNECESSARY AND HARMFUL NOISE.**

(a) **Definition of "Person"** The word "person" as used herein shall include the singular and the plural and shall also mean and include any person, firm, corporation, association, club, co-partnership, society, or any other organization.

(b) **Unnecessary Sound from Radio, etc, Prohibited**, No person owning or having the care, custody or possession of any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or the reproducing of sound shall play, use, operate, or permit to be played, used or operated such set, instrument, phonograph, machine or device in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons or person who are in the room or chamber in which such machine or device is operated-And who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of ten o'clock P.M. and seven o'clock A.M., in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be Prima facie evidence of a violation of this ordinance.

(c) **Loud Speakers, Amplifiers for Advertising, etc. Prohibited. Exception Stated.** No person owning or operating any building, structure or vehicle shall play, use, operate or permit to be played, used, or operated any radio receiving set, musical instrument, phonograph, loud-speaker, sound amplifier, or other machine or device for the producing or reproducing of sound for the purpose of advertising or attracting the attention of the public to such building structure or vehicle. This section and Section 2 hereof shall not be construed as prohibiting the use of sound amplifiers, loud speakers or other devices emitting loud noises during unusual and non-commercial, national, state or municipal events of general public interest.

(d) **Any Loud or Harmful Noise.** It shall be unlawful for any person to make, continue or cause to be made or continue any loud, improper, unnecessary or unusual noise, or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city of Moran, Kansas.

**11-206. SAME; VIOLATION.** Any person who violates any provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a

fine of not exceeding \$500.00 or imprisonment for not more than six months. Each person shall be deemed guilty of a separate offense for each day during any portion of which any violation of the provisions of this ordinance is committed, continued or permitted. (O. 1044; Code 2008)

## **CHAPTER XII. PUBLIC PROPERTY**

Article 1. City Parks

Article 2. Library

### **ARTICLE 1. CITY PARKS**

**12-101. CITY LAWS EXTENDED TO PARK.** The laws of the city shall extend to and cover all city parks. (Code 2008)

**12-102. POLICE JURISDICTION OVER PARKS.** The city shall have police regulations governing any public parks belonging to the city and the marshal/chief and law enforcement officers of the city shall have full power to enforce city laws governing city parks and shall maintain order therein. (Code 2008)

**12-103. DAMAGING PARK PROPERTY.** It shall be unlawful for any person, except duly authorized city employees, to willfully or wantonly remove, injure, tarnish, deface or destroy any building, walk, bench, tree or improvement or property of any kind belonging to any park owned by the city. (Code 2008)

**12-104. DANGEROUS WEAPONS NOT ALLOWED.** (a) Except as provided in subsection (b), it shall be unlawful for any person to carry or have in his or her possession any firearm or dangerous weapon or to shoot or discharge the same within the limits of any city parks. (b) The provisions of subsection (a) above shall not apply to duly authorized law enforcement officers in the performance of official duty. (Code 2008)

**12-105. VEHICLE REGULATIONS.** (a) Motor vehicles, including any vehicle licensed to operate on public streets, roads and highways and motorbikes, go-carts, snowmobiles and other motorized off-the-road vehicles shall be operated in a safe and prudent manner at all times in park areas.  
(b) Except as provided in subsection (d), it shall be unlawful for any person to park any motor vehicle in any area not designated for such purpose.  
(c) Except as provided in subsection (d), it shall be unlawful for any person to operate any motor vehicle within any city park except upon roads, drives and parking areas established by the city.  
(d) Subsections (b) and (c) above shall not apply to authorized city employees while engaged in the maintenance and care of the park.  
(e) It shall be unlawful to operate any such vehicle in any park area at a speed in excess of 20 m.p.h. (Code 2008)

**12-106. HUNTING.** It shall be unlawful for any person to pursue catch, trap, maim, kill, shoot or take any wildlife, either bird or animal, in any manner at any time while in any city park. (Code 2008)

**12-107. FIRES.** It shall be unlawful for any person to build or kindle any fire in any city park except in the ovens, stoves, or grills provided for that purpose by the city, and such fire must be extinguished by the person, persons or parties starting such fire, immediately after use thereof. (Code 2008)

- 12-108. CAMPING PROHIBITED.** Overnight camping is hereby prohibited in the city parks except by resolution of the city council. (Code 2008)
- 12-109. SANITATION.** All waste material, paper, trash, rubbish, tin cans, bottles, containers, garbage, and refuse of any kind whatsoever shall be deposited in disposal containers provided for such purposes. No such waste or contaminating material shall be discarded otherwise. No sticks, stones, trash or other objects shall be thrown or discarded in or on any park lands, fountains, pools, drinking fountains, sanitary facilities, or other improvements. (Code 2008)
- 12-110. PROHIBITION AGAINST ALCOHOLIC BEVERAGES AND CEREAL MALT BEVERAGES.** It shall be unlawful for any person or persons to use, consume or have on the premises of any park or other city property within the city any alcoholic liquor or cereal malt beverage. (Code 2008)
- 12-111. PRESERVATION OF NATURAL STATE.** It shall be unlawful for any person, except duly authorized city employees, to take, injure, or disturb any live or dead tree, plant, shrub, or flower, or otherwise interfere with the natural state of city parks. (Code 2008)
- 12-112. GENERAL REGULATIONS.** The city may post such rules and regulations, as are approved by the governing body, pertaining to the use of the city parks in a conspicuous place in each city park. Violations of these posted rules shall constitute a violation of this code. (Code 2008)
- 12-113. PARKS; OPEN TO PUBLIC.** The public parks of the city shall be open to the free use of all persons for rest and recreation from sunrise each day until 12:00 midnight. Any person who shall enter or remain in the park, park roadway or park parking lot between 12:00 midnight and sunrise shall be guilty of illegal entry into a park, and upon conviction thereof shall be punished as provided in section 1-116. (Code 2008)

## **ARTICLE 2. LIBRARY**

- 12-201. BOARD MEMBERSHIP; APPOINTMENT.** The mayor shall appoint with the approval of the city council, a library board for the library of the city. The membership of the City of Moran Library Board shall consist of five (5) members who are residents of Moran and not more than two (2) members who live outside the city limits. For the two (2) members who live outside the city limits, their terms shall expire two (2) years after the date of their appointment. (Charter O. 5; Code 2008)
- 12-202. BOARD; OFFICERS AND MEETINGS.** The library board shall meet and organize by the election of a chairperson, a secretary and a treasurer and other officers as they may deem necessary. The board shall fix the date and place of its regular meetings. Special meetings may be called by the chairperson or upon written request of a majority of the members in the manner provided by law. (Code 2008)
- 12-203. BOARD; POWERS AND DUTIES.** The library board shall be responsible for the general operation and maintenance of the city library and shall make and adopt rules and regulations for the administration thereof. (Code 2008)

**12-204. DAMAGE TO LIBRARY PROPERTY.** It is unlawful for any person to willfully injure or damage any building occupied by the city library 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 city library. (Code 2008)

**12-205. REMOVAL OF PROPERTY.** It is unlawful for any person to take from the city library or any premises thereof any book, map, plat, chart, picture or other personal property belonging to or under the control of the city library except with the permission of the librarian or person in charge and in compliance with the rules of the city library or, after having lawfully obtained possession of the same, to retain the property in his or her possession or keep the same out of the city library for a longer period of time than that designated on each book or date card after having been notified by the librarian to return the same. (Code 2008)

## **CHAPTER XIII. STREETS AND SIDEWALKS**

Article 1. Sidewalks

Article 2. Streets

Article 3. Trees and Shrubs

Article 4. Overhanging Signs and Scaffolding

### **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 2008)
- 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. 12-801, 12-1807; Code 2008)
- 13-103. SAME; SPECIFICATIONS.** Hereafter all sidewalks shall be 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 2008)
- 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 2008)
- 13-105. SAME; CONDEMNATION, RECONSTRUCTION.** When any sidewalk, in the opinion of the governing body, becomes inadequate or unsafe for travel thereon, the governing body may adopt a resolution condemning such walk and providing for the construction of a new walk in the place of the walk condemned. (K.S.A. 12-1804; Code 2008)
- 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 2008)
- 13-107. RIGHT OF ABUTTING OWNER.** Nothing in this article shall be constructed 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 with-

out 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 a sidewalk requested in the same manner as in other cases where citizens or taxpayers petition the governing body. (K.S.A. 12-1806; Code 2008)

**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 maybe provided by law. (K.S.A. 12-1808; Code 2008)

**13-109. PERFORMANCE, STATUTORY BOND.** In any case where the reconstruction or construction of a sidewalk is required to be done by contract as provided in section 13-106 hereof, the governing body may require the contractor to give a bond for the faithful performance of the contract and for the construction of the sidewalk in accordance with the plans and specifications, ordinances of the city or laws of Kansas, and for all contracts exceeding \$1,000 entered into by the city for any such purpose, a statutory lien bond required by K.S.A. 60-111 shall be furnished. (Code 2008)

**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 2008)

**13-111. SAME; EXCEPTION.** The governing body may authorize the granting of temporary permits in connection with a building or moving permit for limited times only to the owner of property abutting on any sidewalk to use or encumber such sidewalk or public way of the city during the construction of any building or improvement thereon. No permit shall be issued for such purpose until plans for warning and safeguarding the public during such use of sidewalks shall have been submitted by the owner or his or her contractor and approved by the governing body. (Code 2008)

## **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 2008)

**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 \$500 for street repairs. 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 2008)

**13-203. SAME; FILED.** If the application is approved by the city, the city clerk shall issue a permit upon payment of a fee of \$5. Each permit issued under the provisions of this section shall cover only one specified excavation. (Code 2008)

**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 2008)

**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 2008)

**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 2008)

**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 2008)

**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 2008)

**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 2008)



- 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 2008)
- 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 2008)
- 13-212. DISCHARGING WATER ON STREETS AND SIDEWALKS.** It shall be unlawful for any person, firm, or corporation to throw or discharge water into any street, sidewalk, 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 2008)
- 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 2008)
- 13-214. HAULING LOOSE MATERIAL.** It shall be unlawful to haul over the streets or alleys of this city any loose material of any kind except in a vehicle so constructed or maintained as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alleys. (Code 2008)
- 13-215. BUILDING IN STREETS.** It is unlawful for any person to erect or cause to be erected upon any street, alley, or public grounds in the city any building or buildings or any other structure or obstruction whatever. This shall not be construed to prevent the erection of the necessary scaffolding and fixtures used in the construction of buildings or improvements. Each day's violation shall be considered a separate offense. (Code 2008)
- 13-216. WASHING CARS IN STREETS.** It is unlawful for any person to wash automobiles, trucks or other vehicles of any kind upon any street or avenue or upon any sidewalks or driveway entrance within the city. (Code 2008)

### **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 2008)

- 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 2008)
- 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 2008)
- 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 2008)
- 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 immediately be 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 2008)
- 13-306. DANGEROUS, DEAD, OR DISEASED TREES.** (a) Every owner of any tree overhanging any street or right-of-way within the city or the owner of any property which abuts upon the parking where any tree overhangs 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. 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 2008)
- 13-307. COST 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 therefore are received or when such assessments are collected and received by the city. (Code 2008)

**13-308. 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 2008)

**13-309. 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 2008)

**13-310. TREE PLANTING; CERTAIN TYPES PROHIBITED.** It is unlawful for any person to set out any cottonwood or other trees producing seeds that are readily blown about by the winds or male Ailanthus or other tree emitting a disagreeable odor within the limits of the city or to plant any mulberry tree in the parking. It is lawful for any property owner to remove from the street parking in front of his or her property any cottonwood or mulberry trees now growing which bear or shed cotton or mulberries. (Code 2008)

**13-311. HEDGE FENCES.** It is unlawful for any person owning or controlling any hedge fence bordering on any street, alley or sidewalk in the city to permit it to grow to a height of more than four feet or so as to overhang and obstruct any sidewalk. (Code 2008)

## **ARTICLE 5. OVERHANGING SIGNS AND SCAFFOLDING**

**13-401. SCAFFOLDING AND BUILDING MATERIALS.** (a) It is unlawful for any person engaged in painting, repairing or doing any work on business buildings or other buildings on or so near the sidewalk that the work is done over the sidewalk, to fail to floor or otherwise protect the scaffolding in such a manner so as to protect the travel on the sidewalk from paint or other things falling from the scaffolding and endangering the traveling public.

(b) No person shall erect upon any street in the city any scaffolding or other structure or place any building material in any street except in front of the lot or lots where buildings are being erected nor shall such material for scaffolding occupy more than one-half the width of the street or half of the sidewalk. Should all work cease on the building for a period of two weeks, then the obstruction shall be considered unlawful and each day's violation shall be considered a separate offense. (Code 2008)

**13-402. SIGNS OVER STREETS AND SIDEWALKS.** It is unlawful for any person to erect any sign or other structure for advertising or other purposes across or upon any street or sidewalk unless it is eight feet or more above the sidewalk or street or does not extend more than nine feet out from the building or property line. Signs upon parkings are prohibited. (Code 2008)

## **CHAPTER XIV. TRAFFIC**

- Article 1. Standard Traffic Ordinance
- Article 2. Local Traffic Regulations
- Article 3. Impoundment of Motor Vehicles
- Article 4. Hazardous Materials

### **ARTICLE 1. STANDARD TRAFFIC ORDINANCE**

- 14-101. INCORPORATING STANDARD TRAFFIC ORDINANCE.** There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Moran, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 1991, 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, such incorporation being authorized by K.S.A. 12-3009 through 12-3012, inclusive, as amended. No fewer than three copies of said standard ordinance shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Moran, 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. The police department, municipal judge and all administrative departments of the city charged with enforcement of the ordinance shall be supplied at the cost of the city, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient. (O. 1084; Code 2008)
- 14-102. SAME; TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES.** (a) an ordinance traffic infraction is a violation of any section of this article that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118, and amendments thereto.  
(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. (O. 1037; Code 2008)
- 14-103. SAME; PENALTY FOR SCHEDULED FINES.** The fine for violation of an ordinance traffic infraction or any other traffic offense for which the municipal judge establishes a fine in a fine schedule shall not be less than \$21.00 nor more than \$106.00, except for speeding which shall not be less than \$31.00 nor more than \$500.00. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed \$500.00. The municipal judge shall review the fine schedule at least once every five years. (O. 1084; Code 2008)

### **ARTICLE 2. LOCAL TRAFFIC REGULATIONS**

- 14-201. TRAFFIC CONTROL DEVICES AND MARKINGS.** The Standard Traffic Ordinance as adopted is hereby modified by adding thereto the following: The governing body may, by resolution, establish and fix the location of such traffic control devices as may be deemed necessary to guide and warn traffic under the provisions of this chapter, other traffic ordinances, and the state laws. The city shall place and maintain such traffic control signs,

signals and devices when and as may be required by the authority of the governing body to make effective the provisions of this chapter and other ordinances for the regulation of traffic. Any official traffic control device placed pursuant to this section shall be marked and labeled on a map of the City of Moran for the purpose of displaying all such traffic control devices and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business. (Code 2008)

- 14-202. SCHOOL STOP SIGNS.** During the school term, the chief of police shall place stop signs at school crosswalks and during certain times as determined by the governing body and when any stop sign is in place, the driver of any vehicle, unless directed by a police officer to proceed, shall stop before entering the crosswalk and shall yield the right-of-way to any pedestrian therein. (Code 2008)
- 14-203. DRIVING IN PARK ROADWAY.** No person shall drive a vehicle or ride a horse in any park except on the roadways or areas set aside for driving or parking. This shall not apply to employees in the line of duty in the maintenance and care of parks. (Code 2008)
- 14-204. CROSSING CURBS.** It is unlawful for any person to drive any vehicle over or across any curb or curb and gutter where there is no established or improved driveway entrance or drive across any sidewalk when it is not constructed as a part of the driveway entrance. (Code 2008)
- 14-205. RIDING ON SIDEWALKS.** It is unlawful for any person or persons to ride a bicycle on any sidewalk within the business section of the city. (Code 2008)
- 14-206. SAME; LEAVING ON SIDEWALK.** It is unlawful for any person or persons to place or leave a bicycle upon any sidewalk in the city unless the bicycle is in an upright or standing position and the bicycle shall not be left in any position on the sidewalk in any one place for more than 15 minutes at one time. (Code 2008)
- 14-207. CARELESS DRIVING.** No person shall operate or halt any vehicle in such a manner as to indicate a careless or heedless disregard for the rights or safety of others, or in such a manner as to endanger or be likely to endanger any person or property. This offense shall be considered a nonmoving violation. (O. 1087; Code 2008)
- 14-208. TRUCK PARKING; WHERE PROHIBITED.** (a) It shall be unlawful for any person to park a truck with a registered gross weight of over 12,000 pounds, or a bus, truck tractor, road tractor or semi-trailer, regardless of weight, within a residential area within the city except as follows:
- (1) For loading or unloading merchandise, furniture or other goods, a truck may be parked for as long as is reasonably necessary.
  - (2) In case a vehicle is incapacitated or unable to move, it may be parked for as long as is reasonably necessary to remove it.
- (b) Notwithstanding the provisions of subsection (a), a truck tractor or road tractor may be parked, if detached from its trailer or load on private property, with the consent of the owner of the property, if the motor is immediately turned off.
- (c) It shall be unlawful for any person, persons, firms or corporations to park a truck, bus or other vehicle of a capacity of more than three-fourths ton on Cedar Street in the City of Moran, Allen County, Kansas, at intersections or in front of Blocks 20, 21, 28 and 29 in the

City of Moran, and Block 1, Caldwell's Addition and Block 5, Moran Town, Allen County, Kansas. (O. 636; Code 2008)

- 14-209. PARKING; WHERE PROHIBITED.** (a) That the parking of all vehicles on the South half of U. S. 54 right of way beginning at a point 200 feet East of the center of the intersection of U. S. 54 and U. S. 59, thence West 400 feet to a point 200 feet West of the Center of said intersection is hereby prohibited and that the parking of all vehicles on that portion of the right of way of U. S. 59 (Cedar Street) beginning at the center of the intersection of U. S. 54 and U. S. 59 and extending thence South 200 feet is prohibited. (O. 942; Code 2008)
- (b) The parking of vehicles on certain portions of Cedar Street beginning at a point 457 feet south of the intersection of Cedar Street and Second Street to the west, thence north on Cedar Street to its intersection with U. S. Highway 54 in the City of Moran is prohibited. (O. 944; Code 2008)
- (c) That the parking of all vehicles on Cedar Street as set forth herein is hereby prohibited except parallel parking on either side of said Cedar Street from Hill Street to Franklin Street shall be permitted. (O. 944) (Code 2008)

- 14-210. FUEL DISPENSING PUMPS; WHERE PROHIBITED.** The erection of gas and fuel dispensing pumps upon the right-of-way of Cedar Street as set forth in 14-208 (a) and (b) is prohibited; that all gas and fuel dispensing pumps erected, moved, or installed along and adjacent to said right-of-way of Cedar Street as set forth in 14-208 (a) and (b) shall be erected, moved or installed no less than 12 feet back of the right-of-way line of said Cedar Street. (O. 944; Code 2008)

- 14-211. REGULATIONS LIMITING PARKING.** (a) The governing body may from time to time adopt regulations prohibiting or limiting the parking of vehicles upon the public streets and alleys of the City of Moran, and designate the type of parking, that is, angle or parallel parking, and such regulations may limit the time a vehicle may be parked at designated places during certain designated times as may be determined by the governing body.
- (b) Copy of such regulations shall be filed in the office of the City Clerk of said city and before such regulations shall become effective, appropriate signs shall be posted or lines or markers painted upon the streets where such parking is prohibited or limited and upon any streets where parallel or angle parking is designated in any manner other than that now permitted, such signs or lines or markers shall be posted or painted in prominent places upon such streets and shall clearly indicate the prohibition or limitation upon such parking or the type of parking permitted. (O. 961; Code 2008)

### **ARTICLE 3. IMPOUNDMENT OF MOTOR VEHICLES**

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

(c) Owner or Occupant. A party having fee simple title in the real property, or a party having a leasehold interest in the real property, or a party who is the beneficiary of a private easement for the purpose of egress or ingress to or from said property. (Code 2008)

**14-302. IMPOUNDING VEHICLES.** The police department may cause to be impounded:

(a) Any motor vehicle unlawfully parked on a highway in violation of any provision of a city ordinance which prohibits the parking of vehicles at the place where or time when the impounded motor vehicle is found.

(b) Any motor vehicle that has been abandoned and left on a highway or other property open to use by the public for a period in excess of 48 hours pursuant to K.S.A. 8-1102

(c) Any motor vehicle which:

(1) Is subject to removal pursuant to K.S.A. 8-1570 or 8-1102,

(2) Is subject to seizure and forfeiture under the laws of the state, or

(3) Is subject to being held for use as evidence in a criminal trial.

(d) Any motor vehicle, the continued presence of which, because of the physical location or condition of the motor vehicle, poses a danger to the public safety or to the motor vehicle.

(e) Any motor vehicle which has been abandoned or parked on any real property, other than public property or property open to use by the public, may be moved and disposed of in accordance with the terms of this article by the police department upon the request of the owner or occupant of such real property. The real property referred to herein shall not be owned or leased by the person who abandons or parks said vehicle or by the owner or lessee of such vehicle. The city or any person, partnership, corporation or their agent conducting a business enterprise for the purpose of towing vehicles which removes such vehicle from the real property at the request of the police department shall have a possessory lien on such vehicle for the cost incurred in removing, towing, and storing such vehicle. For purposes of this article, common areas shall be construed not to mean public property or property open to the public. (Code 2008)

**14-303. SAME.** The police department may authorize storage of such impounded motor vehicles at any location, public or private, which is zoned for the storage of motor vehicles (Code 2008)

**14-304. NOTICE OF IMPOUNDMENT; STORAGE OF VEHICLE.** (a) When Owner Present.

When the police department intends to impound a motor vehicle pursuant to section 14-302 and the owner of the motor vehicle is then present, the police department shall, before the motor vehicle is removed, provide the owner with a notice, in the form prescribed by the police department that the motor vehicle is being impounded, that towing and storage charges will be assessed against the impounded motor vehicle, that the owner may claim and regain possession of the impounded motor vehicle at the location to which it is being removed for storage without prepayment of towing and storage charges and that the owner may request a hearing as to the propriety of the impoundment and as to the amount of the owner's liability for the towing and storage charges. The notice shall also state the location where the impounded motor vehicle will be stored and the place where the owner may make his or her request for the hearing. The notice shall also state, in prominent language, that failure by the owner to request a hearing within five days after receipt of the notice may act as a waiver of his or her right to a hearing and that this may result in the placing of a lien against the motor vehicle for the towing and storage charges without further notice to the owner; and that the motor vehicle be sold at public auction to the highest bidder for cash after 15 days from the date of the mailing of the notice. The owner of the

impounded motor vehicle shall sign the notice as an acknowledgment that he or she has received a copy of the notice and a copy of the notice shall be provided to the owner.

(b) When Owner Not Present. (1) When the police department impounds and removes a motor vehicle pursuant to section 14-302(a) and the owner of the motor vehicle is not present at the time of the impoundment, the police department shall, if such motor vehicle has displayed thereon a registration plate issued by the division of vehicles and has been registered with said division, mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the lienholder, if any, of record in the county in which the title shows the owner resides, if registered in this state. The notice shall be in the form prescribed by the police department containing the same information as required by section 14-304(a). The police department shall use reasonable diligence in determining the title owner, or if from a non-title state, the registered owner, of the vehicle, and shall inquire by mail of the office of the register of deeds of the county in which the title shows the owner resides, if registered in this state, as to whether there are any lienholders of record. If the owner cannot be served by certified mail at the address on the motor vehicle registration and there is no other known address of the owner, the owner shall be deemed to be a resident of the state whose whereabouts are unknown and service shall be made on the Secretary of State as provided in K.S.A. 8-401. If the owner does not reside in the state, as appears from the motor vehicle registration and the owner cannot be served by certified mail at the address on the motor vehicle registration and there is no other known address of the owner, the owner shall be deemed a nonresident of the state and service shall be made on the Secretary of State as provided in K.S.A. 8-401.

(c) Failure or Refusal to Sign Notice. If any person required by this section to sign a notice of impoundment willfully fails or refuses to do so, or if such person cannot be found, the police department shall note this fact on the face of the notice, which shall constitute prima facie evidence of delivery or service of notice as required by this section. (Code 2008)

**14-305. IMPOUNDMENT AFTER REQUEST TO LEAVE MOTOR VEHICLE.** In all cases wherein the owner or operator of a motor vehicle which is on a public street has requested that the motor vehicle be left unattended at that location, in lieu of impoundment of the motor vehicle pursuant to section 14-302, the police department may honor said request for a period of time not exceeding 24 hours, after which time the motor vehicle shall either be removed from the location by the owner or operator or be impounded by the police department pursuant to section 14-304. The police department shall be immune from liability for any damage, loss or destruction of the motor vehicle occasioned by its being left unattended pursuant to the request of the owner or operator thereof, in lieu of impoundment. Nothing in this section shall be construed to limit the authority of the police department to order the removal of a motor vehicle by its owner or operator or to impound a motor vehicle pursuant to section 14-304 at any time whenever in his or her judgment the presence of the unattended motor vehicle constitutes a danger to the public safety. (Code 2008)

**14-306. RELEASE OF MOTOR VEHICLE FROM IMPOUNDMENT.** (a) Generally. Unless the vehicle is impounded pursuant to section 14-302(b) herein, the owner of an impounded motor vehicle may secure the release of the motor vehicle from impoundment upon requesting such release and presenting proof of ownership satisfactory to the custodian of the place where the motor vehicle is stored. If the custodian is satisfied that the person making the request is the owner or his or her authorized agent, he or she shall release the motor vehicle to the owner or his or her agent. Nothing in the preceding sentence shall



preclude the owner of the impounded motor vehicle or his or her agent from paying any towing and storage charges that may be assessed against the motor vehicle, but neither the police department nor the custodian of the storage space may require payment of any towing or storage charges as a condition precedent to such release. At the same time as the owner or his or her agent requests release of the impounded motor vehicle, and if such request is made within 40 days after the owner receives a copy of the notice of impoundment, the police department shall provide him or her an opportunity to make a request for a hearing on the propriety of the impoundment and on the amount and his or her liability for the towing and storage charges occasioned by the impoundment; provided, that if the owner or his or her agent requests release of the impounded motor vehicle more than 40 days after the owner receives a copy of the notice of impoundment, no hearing may be requested on the impoundment or on the towing and storage charges and the owner shall be conclusively presumed to have consented to the impoundment and to the amount of and his or her liability for the towing and storage charges.

(b) Security for Payment of Charges. If the ownership of the impounded motor vehicle is evidenced by a title certificate issued by the Kansas Department of Highway Safety and Motor Vehicles, the owner or his or her agent may secure the release of the motor vehicle from impoundment without the payment of any towing or storage charges or the deposit of any security for the payment thereof. If the ownership of the impounded motor vehicle is evidenced by a foreign title instrument, or if the jurisdiction in which title is recorded is not evidenced from the document establishing ownership, the owner or his or her agent, before the custodian of the place where the motor vehicle is stored authorizes release of the motor vehicle from impoundment, shall deposit with the custodian cash in the amount of the towing and storage charges to the date of the request. If the owner or his or her agent refuses to provide the cash deposit, the custodian shall not authorize release of the impounded motor vehicle, but if the request is timely made, a date shall be set for the hearing on the impoundment and charges. (Code 2008)

**14-307. HEARING.** If the owner of an impounded motor vehicle or his or her agent timely requests the release of the motor vehicle from impoundment and a hearing on the impoundment and charges, as provided in section 14-306, a date shall be set, not more than five days after the date of request, for the hearing. The city attorney shall provide a hearing examiner to conduct the hearings required by this section. At the hearing, the owner, his or her agent, or his or her attorney shall be afforded an opportunity to present, by oral testimony or documentary evidence, his or her objections to (a) the impoundment of the motor vehicle and (b) (1) the amount of the towing and storage charges and (2) his or her liability for the payment thereof. If the owner or his or her agent requested the hearing more than five days but not more than 40 days after the owner received a copy of the notice of impoundment, the owner, his or her agent or his or her attorney shall be required at the hearing, as a condition precedent to the presentation of any objections by the owner, to show good cause for the delay in making the request more than five days after the owner received a copy of the notice of impoundment: If good cause cannot be shown, the hearing officer shall dismiss the hearing and make the finding stated in subsection (b) below; otherwise, the hearing examiner shall proceed to hearing the owner's objections. At the conclusion of the hearing on the owner's objections, the hearing examiner shall render his or her decision if the hearing examiner:

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

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

- (2) Determine whether and to what extent the city shall bear the expense of the towing and storage charges; or
- (b) Finds that the impoundment was proper, he or she shall establish:
  - (1) The amount of the towing and storage charges to be assessed against the impounded motor vehicle; or
  - (2) The extent of the liability of the owner for payment of the towing and storage charges so established. The decision of the hearing examiner shall be final, and a copy of the decision shall be furnished to the owner of the impounded motor vehicle, to the custodian of the place where the motor vehicle is stored and to the city attorney. In the event that the impoundment was pursuant to K.S.A. 8-1102(6), the owner or occupant of the real property upon which the abandoned vehicle was located, shall not be assessed the costs of towing and storage of the vehicle. Further, nothing within this article shall be construed to modify or effect the validity of the possessory lien of the person removing such vehicle from the real property established by K.S.A. 8-1102(b). (Code 2008)

**14-308. CHARGES CONSTITUTE A LIEN.** The towing and storage charges occasioned by the impoundment of a motor vehicle pursuant to section 14-302, shall be and constitute a lien upon the impounded motor vehicle, except as provided in this section. If the hearing examiner finds pursuant to section 14-307, that the impoundment was improper and if he or she determines that the city shall bear part or all of the towing and storage charges, the lien created by this section shall be discharged. If the hearing examiner finds pursuant to section 14-306, that the impoundment was proper but that the towing and storage charges should be in an amount less than the amount of the lien, the lien created by this section shall be discharged to the extent that it exceeds the amount established by the hearing examiner. The holder of a lien created by this section may perfect such lien in any manner provided by law, but he or she may not retain possession of the motor vehicle when it has been released pursuant to section 14-306(a). In the event that the impounded motor vehicle is released from impoundment and the owner or his or her agent has provided security for payment of charges as required by section 14-306(b), the lien created by this section shall also be a lien against the security so provided, subject to being wholly or partially discharged as provided in this section. (Code 2008)

**14-309. SATISFACTION OF LIEN; NOTICE OF PUBLIC SALE.** The holder of a lien against a motor vehicle created by section 14-308, to the extent that such lien has not been discharged as provided in section 14-308, or otherwise satisfied, may enforce such lien in any manner provided by law after 60 days from the date the motor vehicle is impounded by the police department. If the owner of the motor vehicle or his or her agent has provided security for the payment of the lien as provided in section 14-306(b), the lien shall first be satisfied out of the security so provided and, if any portion of the lien remains unsatisfied and undischarged, may then be enforced in any manner provided by law. If the motor vehicle against which the lien is created pursuant to section 14-308, is still under impoundment 60 days from the date it is impounded by the police department and the owner has not requested release of the motor vehicle from impoundment nor paid the towing and storage charges that are the basis for the lien, the motor vehicle shall be sold at public sale to the highest and best bidder for cash to satisfy the lien. Publication, required by K.S.A. 8-1102, may be made before the termination of the 60 day period for a sale thereafter. (Code 2008)

**14-310. REDEMPTION.** If the city is to conduct the sale: (a) Any holder of a recorded lien or retained title on a motor vehicle to be sold by the city under the provisions of section 14-309, may claim and take possession thereof, upon payment of accrued charges and estimated costs of publication of the notice of sale to the police department and the deposit with the police department of sufficient assurance by surety bond or otherwise, approved by the city attorney, that the motor vehicle will be forthcoming for public sale thereof or upon claim of the rightful owner prior to the sale. The police department shall, within three days, make a report to the city treasurer and deliver the charges and costs so paid to the city treasurer, taking a receipt therefore and filing it, together with a duplicate copy of the report to the city treasurer, with the records in his or her office. The funds shall be held in a trust account until final disposition of the motor vehicle. Not less than five days before the date for sale of the motor vehicle, the police department shall notify the lienholder or retained titleholder of the time and place for the sale, and the lienholder or retained titleholder shall deliver such motor vehicle to the police department at or before 12:00 noon of the day before the sale. At the sale the amount paid shall be credited on the bid of the lienholder or retained titleholder. If the lienholder or retained titleholder is the successful bidder for the motor vehicle, the police department shall report this fact to the city treasurer and then the funds previously paid by the lienholder or retained titleholder shall be relieved of the trust previously impressed and become the same as other funds received by the city for storage and costs of impounded motor vehicles. If the motor vehicle is sold for a higher bid to any person other than the lienholder or retained titleholder, the police department shall report this fact to the city treasurer and the lienholder or retained titleholder shall be refunded the amount previously paid by him out of the trust account.

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

(Code 2008)

**14-311. SALE PROCEEDS.** The proceeds of a public sale held pursuant to section 14-308, whether such sale was conducted by the city or by any other person, after payment of the towing and storage charges and costs and expenses incident to the sale, shall be deposited with the city treasurer, if the owner of the motor vehicle is absent from the sale, for credit to the trust account. The funds deposited in the trust account pursuant to this section shall remain in the account subject to the order of the person legally entitled thereto, but if no claim is made for these funds within a period of one year after the sale, the funds shall become the property of the city, be released from the trust account and be paid into the general fund as miscellaneous revenues. (Code 2008)

**14-312. STATUTORY PROCEDURES.** Nothing in this article shall be construed to augment, diminish, supersede, or otherwise interfere with any statutory procedure established by the legislature for the collection of unpaid towing and storage charges. The procedures in this article are supplementary and cumulative to any statutory procedures. (Code 2008)

**14-313. IMPLEMENTATION OF ARTICLE.** The police department and city treasurer are authorized to make rules for the implementation and administration of this article. (Code 2008)

**14-314. REIMBURSEMENT FOR DISCHARGED LIENS.** If a lien created by section 14-308 and held by a private wrecker or towing firm is discharged by section 14-308, pursuant to a determination by a hearing examiner that an impoundment was improper and that the city shall bear part or all of the towing and storage charges, the city shall pay to the firm the amount determined by the hearing examiner. No payment shall be made until it is authorized by the city attorney. (Code 2008)

#### **ARTICLE 4. HAZARDOUS MATERIALS**

**14-401. HAZARDOUS MATERIAL DEFINED.** As used in this article, the term hazardous material shall mean any compressed gas, explosive, flammable liquid, flammable solid, oxidizer, poison, radioactive material or any substance that due to its nature may cause death or disability injury upon contact therewith. (Code 2008)

**14-402. SAME; EXCEPTIONS.** The provisions of this article shall not apply to any container which shall have a capacity of 150 gallons or less which shall be used for the purpose of supplying fuel for the vehicle on which it is mounted. These provisions shall also not apply to vehicles, trailers, containers or tanks containing anhydrous ammonia or other material primarily used by farmers for fertilizer purposes when such vehicles, trailers, containers or tanks are parked or housed upon property designated for the placement of such vehicle, trailer, container or tank by any farmers cooperative, elevator company or farm supply store located within the city limits.(Code 2008)

**14-403. TRANSPORTATION OF HAZARDOUS MATERIALS.** Except as provided in section 14-404, it shall be unlawful for any person, firm, corporation, or other entity to transport any hazardous material upon any street, avenue, highway, road, alley or other public right-of-way in the city. (Code 2008)

**14-404. HAZARDOUS MATERIALS ROUTES.** The provisions of section 14-403, shall apply to all streets, avenues, highways, roadways, alleys or other public right-of-ways within the city except those specified within this section where transportation of hazardous materials shall be allowed. Transportation of hazardous materials shall be allowed upon the following streets, avenues, highways, or roadways:

- (a) (Reserved)
- (b) (Reserved)
- (c) (Reserved) (Code 2008)

**14-405. REMOVAL OF ILLEGALLY PARKED TRAILERS.** If any vehicle, trailer or semi-trailer is found parked in violation of the provisions of this article, the fire chief or assistant chief or any law enforcement officer may require the owner, operator or lessee of the trailer to move it within two hours. If such removal is not accomplished on the order of any such officer, it may be accomplished by any such officer, by any reasonable means, if the continued presence of the trailer or semi-trailer at its parked location constitutes, adds to, or prevents correction of a situation threatening imminent injury or damage to persons or property. (Code 2008)

## **CHAPTER XV. UTILITIES**

Article 1. General Provisions

Article 2. Water

Article 3. Sewers

Article 4. Solid Waste

Article 5. Electrical

Article 6. Water Conservation

### **ARTICLE 1. GENERAL PROVISIONS**

**15-101. DEFINITION.** For purposes of this article "utility services" shall include water, sewer, solid waste (refuse), electricity, and other utility services provided by the city. (Code 2008)

**15-102. DELINQUENT ACCOUNTS.** Unless otherwise provided, water, sewer, electrical or other utility service shall be terminated for nonpayment of service fees or charges in accordance with sections 15-104:105. (Code 2008)

**15-103. BILLS DUE DATE; PENALTY FOR DELINQUENCY.**

(a) All water, trash, sewer and electrical bills shall be due and payable on the 1st day of each month for water and electric received to the last meter reading date to the meter reading date prior thereto, which date shall be on or about the 20th day of each and every month, and for sewer and trash charges corresponding to the water meter reading date.

(b) If payment for all such bills is not made by the closing hour of the office of the city clerk on the 20th day of the month, a 10 percent penalty shall be added to the bill. If the 20th of the month falls on a Saturday, Sunday, or any legal holiday, the applicable penalty will not be added until the close of regular business hours of the office of the city clerk on the next normal working day following the due date.

(c) Payments by mail, properly stamped and addressed, will be considered as made upon the date and hour of the postmark, and payments deposited after office hours and prior to the opening hour of the office of the city clerk on the next normal working day in the drop slot installed at the office of the city clerk, will be considered as made prior to the closing hour of the office on the next normal working day preceding that hour. (Code 2008)

**15-104. DISCONNECT, RECONNECT CHARGES.** If a utility bill has not been paid on or before the due date as provided in this chapter, a penalty for non-payment shall be assessed as stated on the utility bill. The amount due, plus penalty shall be due by the 25th of the month unless the 25th falls on a Saturday, Sunday or legal holiday, in which event the customer has until the close of the next business day in which to pay the charges. If payment is not made, water, electrical, and sewer service shall be discontinued. Service that has been discontinued in accordance herewith will not be renewed until all bills and penalties are paid, specifically including water, electrical, and sewer charges, including a further sum of \$75.00 for reconnecting water service and \$75.00 for reconnecting electric service located within or outside the city limits. (Code 2008, O. 1055; O. 1072)

**15-105. REPEALED.** (O. 1055)

**15-106. CONNECT FEES.** (a) That any person, firm or corporation adjacent to the city's lines desiring a connection with the city power system shall apply to the City Clerk of said city and

shall accompany such application with a non-refundable service connection fee of \$75.00. No connection shall be made until said service connection fee has been paid and until all bills due for past electric service rendered by said city shall be paid.

(b) That any person, firm or corporation adjacent to the city's lines desiring a connection with the city water system shall apply to the City Clerk of said city and shall accompany such application with a non-refundable service connection fee of \$75.00. No connection shall be made until said connection fee has been paid and until all bills due for past water service rendered by said city shall be paid.

(c) That the City may, upon application of any person, firm or corporation adjacent to the City's power lines or water system may elect to reduce or waive the connection fees set forth subsections (a) and (b) above if;

(1) The person, firm or corporation has, within the five years preceding the application, been prior residents, businesses or operations within the City and, during the prior term of residence, business or operation had no delinquent utility payments and left all utility accounts in good standing; or

(2) As part of any housing or economic incentive program adopted by the City. (O. 1015; O. 1072; O. 1076; Code 2008)

#### **15-107. SUPERINTENDENT OF UTILITIES AND PUBLIC SERVICES; POWERS AND DUTIES.**

(a) The superintendent of utilities and public services shall have supervision over the keeping and repair of all streets, alleys and public thoroughfares of the city.

(b) He or she shall have charge of the operation and maintenance of the electric system and the sanitary sewer collection system.

(c) He or she may be designated as the building, plumbing, and electrical inspector and shall perform such inspection duties as may be required of him or her by the code or ordinances of the city and the mayor and council.

(d) He or she shall have supervision over the maintenance and upkeep of the city park

(e) He or she shall have charge of and control over all tools, equipment, and machinery used in connection with the duties set forth in this section.

(f) He or she shall perform such other duties as may be directed by the mayor, city council or any committee of the council. (Code 2008)

### **ARTICLE 2. WATER**

**15-201. SUPERINTENDENT.** The superintendent of utilities and public services shall make such monthly and annual reports and shall have such other duties as may be required by the mayor and council regarding the furnishing of water to residents of the City of Moran. (Code 2008)

**15-202. REGULATIONS.** The furnishing of water to customers by the city shall be governed by the regulations set out in this article. (Code 2008)

**15-203. SERVICE NOT GUARANTEED.** The city does not guarantee the delivery of water through any of its mains, lines and connecting services at any time except only when its mains and lines are in good working order, and the supply of water is sufficient for the usual demand of its consumers. (Code 2008)

**15-204. SERVICE CONNECTIONS REQUIRED.** (a) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the city abutting on any street, alley, or right-of-way in which there is now located or may

in the future be located public water mains, is hereby required at his or her own expense to make connection to such public water main.

(b) Before any connection is made to the city's water system, an application must be made in writing to the city clerk by the owner of the premises, or his or her authorized representative, for a permit to make such connection. (Code 2008.)

**15-205. APPLICATION FOR WATER SERVICE.** (a) Any person, firm, or corporation desiring a connection with the municipal water system shall apply to the city clerk. In the event the individual seeking service is a tenant, an Affidavit of Landlord/Tenant Utility Agreement must be on file with the City clerk prior to initiation of service. (Code 2008)

**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 2008)

**15-207. CONNECTION FEES.** The cost of the water tap shall be a sum equal to the cost of materials and labor expended by said city in making said water tap and is to be paid by and collected from the party or parties causing such connection to be made and shall be to the property line.

**15-208. CONNECTION RESTRICTIONS.** Before any tap is made by the utilities department for an attachment larger than one inch, the application shall be examined by the superintendent of utilities and public services and he or she shall mark thereon his or her approval or objections to the larger attachment and refer the same to the council which shall approve or disapprove the same. (Code 2008)

**15-209. 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 2008)

**15-210. 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 2008)

**15-211. 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 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 2008)

**15-212. CROSS CONNECTIONS PROHIBITED.** No person shall make or permit to be made a cross connection whereby a private, auxiliary, or emergency water supply other than the regular public water supply of the city may enter the supply or distribution system of the municipality, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the water superintendent and the Kansas Department of Health and Environment. (Code 2008)

**15-213. 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 or line is in the street, and on private property within three feet of the alley when the main or line is in the alley. In the business district the meters may be installed in the basement at a location specified by the city.

(c) The city's responsibility stops at the property line. (Code 2008)

**15-214. 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 for the testing and the shipping will be made to the customer. (Code 2008)

**15-215. 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 utilities department to turn any meter on or off. (Code 2008)

**15-216. LEAKS PROHIBITED; PENALTY.** No allowances shall be made for water used or lost through leaks, carelessness, neglect, or otherwise after the same has passed through the meter. Customers may request an adjustment to their bill one per year in the event of a verified leak... However, every customer shall have the right to appeal to the city from the bill or meter reading which he or she may consider excessive. (Code 2008)

**15-217. REPEALED.** (O. 1055)

**15-218. RESERVED FOR FUTURE USE**

**15-219. 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 2008)

**15-220. 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 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 2008)

**15-221. WASTING WATER.** Water users shall prevent unnecessary waste of water and shall keep sprinklers, hydrants, faucets and all apparatus, including the service line leading from the property to the meter in good condition at their expense. (Code 2008)

**15-222. WATER RATIONING.** The city reserves the right to restrict or prohibit the use of water and to specify the purposes for which it may be used whenever the governing body determines the public exigency so requires. (Code 2008)

**15-223. SAME; PROCEDURE.** Whenever the governing body determines that water use must be restricted or prohibited, it shall forthwith issue a proclamation of emergency through the news media and use other appropriate methods of making public the proclamation. (Code 2008)



**15-224. SAME; PRIORITY USE.** In the event a proclamation of emergency is issued, water usage will be restricted or prohibited first for uses in the following priority:

- (a) Water lawns, gardens, trees, shrubs, plants, and water outside dwellings for such purposes as car, boat, or trailer washing or washing exterior of dwellings.
- (b) Industrial uses of water, including but not limited to car wash operations and packing plant operations;
- (c) Business use, other than industrial;
- (d) Home uses other than those set forth in subsection (a). (Code 2008)

**15-225. 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 2008)

**15-226. WATER RATES IN THE CITY.** Minimum shall be established by meter size as follows for inside city limits:

5/8"	10.00
3/4"	12.50
1"	15.00
1 1/4"	18.75
1 1/2"	25.00
2"	31.25
4"	37.50

Plus a \$4.75 charge per each 1000 gallons or fractional part used.  
(O. 1090; Code 2008)

**15-227. WATER RATES OUTSIDE THE CITY.** Water district users or purchases of water outside the corporate limits of the City of Moran shall be as follows: Minimum shall be established by meter size as follows for outside city limits:

5/8"	17.50
3/4"	20.00
1"	22.50
1 1/4"	25.00
1 1/2"	31.25
2"	37.50
4"	43.75

Plus a \$4.75 charge per each 1000 gallons of fractional part used.  
(O. 1090; Code 2008)

**15-228. TANK RATES.** The tank water rate shall be \$4.75 per 1000 gallons charged for water furnished to customers hauling by truck or wagon. (O. 1090; Code 2008)

**15-229. MULTIPLE TENANCY; WATER RATES.** (a) Each premises shall have its own tap or service connection and meter except as otherwise provided by the governing body; provided however, that if the governing body shall or has authorized more than one premises to be connected to one meter, the person responsible for payment for water delivered through the meter shall obtain further authority from the governing body prior to connecting any other premises to the meter, and further provided that this provision will not require the

readjustment of any service now installed on any premises, except on being reconstructed.

(b) A premises may consist of one or more buildings or mobile homes if they are located on connecting lots and are under one ownership.

(c) In premises occupied or to be occupied by more than one tenant or occupant which are under one ownership, water service may be measured either through one head meter and charged to the owner or person in control of the same or through multiple meters and charged to the tenants as the city superintendent of utilities and public services may decide.

(e) Whenever service is furnished to more than one tenant through one meter, the person responsible for payment for water delivered through the meter shall pay the sum of \$.56 per 1000 gallons of water, and each tenant shall pay an \$8.00 minimum each month. Such person shall do his or her own collecting from his or her tenants. However, no such multiple tenancy will be charged to or collected from any regularly organized rural water district having a contract with the city. (Code 2008)

**15-230. 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 2008)

### **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) **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 (5) days at 20 degrees centigrade, expressed in milligrams per liter.

(b) **Building Drain** shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.

(c) **Building Sewer** shall mean the extension from the building drain to the public sewer or other place of disposal.

(d) **Combined Sewers** shall mean sewers receiving both surface runoff and sewage.

(e) **Garbage** shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.

(f) **Industrial Wastes** shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

(g) **Natural Outlet** shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

(h) **Person** shall mean any individual, firm, company, association, society, corporation or group.

(i) **PH** shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(j) **Properly Shredded Garbage** shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be

carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

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

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

(m) **Sewage** shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, and storm waters as may be present.

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

(o) **Sewage Works** shall mean all facilities for collecting, pumping, treating and disposing of sewage.

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

(q) **Shall** is mandatory; **May** is permissive.

(r) **Sludge** shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

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

(t) **Superintendent** shall mean the superintendent of the sewage works and/or of water pollution control of the City of Moran or his or her authorized deputy, agent or representative.

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

(v) **Watercourse** shall mean a channel in which a flow of water occurs, either continuously or intermittently. (O. 1016, Code 2008)

**15-302. REGULATIONS.** (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Moran, or in any area under the jurisdiction of said city, any human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any natural outlet within the City of Moran, or in any area under the jurisdiction of said city, any sewage or any polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

(c) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(d) The owner of all houses, buildings, or properties used for human employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is hereby required at his 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 ordinance, within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet (30.5 meters) of the property line. (O. 1016, Code 2008)

- 15-303. EXCEPTION.** Where a public sanitary or combined sewer is not available under the provisions of 15-302(d), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article. (O. 1016, Code 2008)
- 15-304. PERMIT.** Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee of Ten Dollars (\$10.00) shall be paid to the city at the time the application is filed. (O. 1016, Code 2008)
- 15-305. SAME.** A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the Superintendent. (O. 1016, Code 2008)
- 15-306. SPECIFICATIONS.** The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health and Environment of the State of Kansas. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 5,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet. (O. 1016, Code 2008)
- 15-307. CONNECTION.** At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 15-306, a direct connection shall be made to the public sewer in compliance with this ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material. (O. 1016, Code 2008)
- 15-308. PRIVATE SEWAGE OPERATION.** The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. (O. 1016, Code 2008)
- 15-309. LIMITATIONS.** No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Health officer. (O. 1016, Code 2008)
- 15-310. TIME LIMITATIONS.** When a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt. (O. 1016, Code 2008)
- 15-311. CONNECTIONS.** No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent. (O. 1016, Code 2008)
- 15-312. BUILDING SEWER PERMITS.** There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing

industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of Ten Dollars (\$10.00) for a residential or commercial building sewer permit and Ten Dollars (\$10.00) for an industrial building sewer permit shall be paid to the City at the time the application is filed. (O. 1016, Code 2008)

- 15-313. COST.** All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (O. 1016, Code 2008)
- 15-314. 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 constructed to the rear building through an adjoining alley, court yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. (O. 1016, Code 2008)
- 15-315. 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. (O. 1016, Code 2008)
- 15-316. SPECIFICATIONS.** The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F Manual of Practice No. 9 shall apply. (O. 1016, Code 2008)
- 15-317. SAME.** Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer, at the owner's expense. (O. 1016, Code 2008)
- 15-318. ROOF, FOUNDATION DRAINS.** No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. (O. 1016, Code 2008)
- 15-319. SEWER CONNECTION.** The connection of a building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the A.S.T.M. and the S.P.C.F. Manual of Practice No. 9. All such connections shall be made gas tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation. (O. 1016, Code 2008)

**15-320. SEWER INSPECTION.** The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative.

**15-321. SEWER EXCAVATIONS; DAMAGES.** All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. (O. 1016, Code 2008)

**15-322. PROHIBITED DISCHARGES.** (a) No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(b) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

(c) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

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

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/1 as CN in the wastes as discharged to the public sewer.

(3) Any waters or wastes having a PH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole fx, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders. (O. 1016, Code 2008)

**15-323. SAME.** No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- (a) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (65 degrees Celsius).
- (b) Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit (0 to 65 degrees Celsius).
- (c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.
- (d) Any waters or wastes containing strong acid pickling wastes, or concentrated plating solutions whether neutralized or not.
- (e) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
- (f) Any waters or wastes containing phenols or other taste-or odor-producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
- (g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
- (h) Any waters or wastes having a PH in excess of (9.5).
- (i) Materials which exert or cause:
  - 1. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).
  - 2. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - 3. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - 4. Unusual volume of flow or concentration of wastes constituting "sludge" as defined herein.
- (j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (k) Any waters or wastes having (1) a 5-day BOD greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight of suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the city, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at his expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing. (O. 1016, Code 2008)

- 15-324. VIOLATIONS.** If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in section 15-323 of this article, and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the Superintendent may:
- (a) Reject the wastes,
  - (b) Require pretreatment to an acceptable condition for discharge to the public sewers,
  - (c) Require control over the quantities and rates of discharge, and/or
  - (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of 15-334. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, ordinances and laws. (O. 1016, Code 2008)
- 15-325. MUD, GREASE TRAPS.** Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. (O. 1016, Code 2008)
- 15-326. TREATMENT, FLOW EQUALIZING FACILITIES.** Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense. (O. 1015, Code 2008)
- 15-327. MANHOLES.** When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. (O. 1016, Code 2008)
- 15-328. MEASUREMENTS, TESTS, ANALYSES.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works. (O. 1016, Code 2008)
- 15-329. DAMAGES.** No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equip-



ment which is a part of the sewer works. Any person violating this provision shall be subject to immediate arrest under the charge of disorderly conduct. (O. 1016, Code 2008)

**15-330. AUTHORITY TO ENTER.** The Superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this article. The Superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment. (O. 1016, Code 2008)

**15-331. SAME.** The Superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (O. 1016, Code 2008)

**15-332. SAFETY.** While performing the necessary work on private properties referred to in section 15-329 above, the Superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by the city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 15-326 of this article. (O. 1016, Code 2008)

**15-333. VIOLATIONS, GENERALLY.** (a) Any person found to be violating any provision of this ordinance except Section 15-328 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.  
(b) Any person who shall continue any violation beyond the time limit provided for in Section 15-331(a) shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding \$100 for each violation. Each 24-hour period in which any such violation shall continue shall be deemed a separate offense.  
(c) Any person violating any of the provisions of this ordinance shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation. (O. 1016, Code 2008)

**15-334. SEWER CHARGES.** (a) The minimum charge per month shall be established by water meter size as follows for inside the city limits:

5/8"	9.00
3/4"	11.00
1"	13.00
1 1/4"	16.00
1 1/2"	21.00

2"	26.00
4"	31.00

(b) Residential Accounts: \$2.13 per thousand gallons of water or fractional part thereof of actual usage as determined by averaging use for the months of December, January, and February.

(c) Commercial Accounts: \$2.13 per thousand gallons of water or fractional part thereof of water used monthly. (O.1079; Code 2008).

#### ARTICLE 4. SOLID WASTE

**15-401. DEFINITIONS.** For the purpose of this article, the following words and phrases shall have the meaning given herein unless their use in the text clearly demonstrates a different meaning.

(a) **Commercial Solid Waste** - Solid Waste generated by stores, offices and other activities that do not actually turn out a product.

(b) **Nonresidential Solid Waste** - Solid Waste from agricultural, commercial, industrial or institutional activities or a building or group of buildings consisting of four (4) or more dwelling units, as stored in city-approved refuse containers placed in an approved location for services as deemed necessary by the City.

(c) **Refuse** - For the purpose of this article shall include "garbage" and "trash"; and "garbage" and "trash" are defined as follows, and shall be divided into the following classes:

1. Garbage - shall consist of wastes from the preparation, cooking and consumption of food, market refuse, wastes from handling, storage and sale of produce, and all animal and vegetable matter which has been or was intended to be used as food for man or animals;
2. Trash - is dry nonputrescible solid wastes consisting of both combustible and noncombustible wastes. Provided, that for the purpose of this article certain specific trash items shall not be an obligation of the City to collect, those items which the City shall not be obligated to collect shall include wash rack residue, earth and wastes from building operations, liquids of all types, grass from commercial power raking, sod and tree trimmings.

(d) **Residential Solid Waste** - All solid waste that normally originates in a residential environment. This definition is applicable to the solid waste from a building of three (3) or less separate units.

(e) **Solid Waste** - Useless, unwanted or discarded material with insufficient liquid content to be free flowing.

(f) **Throw-away Containers**- Plastic or water resistant paper bags, boxes, cartons, cans, crates and baskets which shall be secured in such a manner that the contents thereof shall not be blown or scattered about or become frozen to the ground or become a nuisance to the neighbors of the area. Such containers may hold combined refuse but shall not weigh more than thirty (30) pounds; if otherwise contained, the contents and container shall not weigh more than forty (40) pounds; in any case, each container shall not be more than thirty-six (36) inches in length and in no case shall any surface of said container have sharp, dangerous or noxious surfaces which may be harmful to the collectors or others.

(g) **Contractor** - A person with whom the City of Moran has a contract to collect and dispose of refuse.

(h) **Permit Trash Hauler** - Any person duly licensed by the City of Moran to collect and dispose of his own trash in accordance with Sections 15-404 and 15-405 hereinbelow. (O. 1019, Code 2008)

**15-402. COLLECTION OF REFUSE BY CITY:** All refuse accumulated within City of Moran shall be collected, conveyed and disposed of by contractors specifically authorized to collect and dispose of refuse or by persons authorized to dispose of their own trash; provided, that tree stumps, tree trimmings and limbs over six (6) feet in length, and of weight in excess of fifty (50) pounds or more than three (3) inches in diameter, whether such tree trimming was performed by professional tree trimmers or by any person, shall not be collected by the City, its employees or its contractors. (O. 1019, Code 2008)

**15-403. CONTRACTS.** The Governing Body of the City of Moran shall have the right to enter into a contract with any responsible person providing that such contractor shall collect and dispose of all refuse within the City of Moran, the terms of said contract to be arranged and determined by the Governing Body of said City and said contract to be awarded to a responsible person after proper negotiation or after receiving bids, whichever, in the judgment of the Governing Body, shall seem proper, provided that the contract for the collection and disposal of refuse as herein defined shall in no wise conflict with the terms and conditions of this article. (O. 1019, Code 2008)

**15-404. UNLAWFUL TO COLLECT OR HAUL REFUSE:** It shall be unlawful for any person to collect or haul over the city streets in the City of Moran any trash, garbage or refuse unless such person shall have a contract with the City of Moran; provided further that nothing in this section shall be construed to prevent a person from hauling or disposing of his own trash accumulated at his residence, in such a manner as not to endanger the public health or safety, not to create a nuisance to the inhabitants of said City and not to litter the streets and alleys of said city and after having obtained a permit from the City Clerk to so haul and dispose of his own trash. (O. 1019, Code 2008)

**15-405. APPLICATION FOR A PERMIT TO HAUL TRASH ONLY:** Any person, the occupant of a dwelling, desiring to collect or transport his own trash over the city streets of the City of Moran shall make application for a permit for such purpose to the City Clerk. Such application shall set forth the name of the applicant, the address of the applicant and the method and site of hauling and disposal of such trash and waste materials. The application shall set forth the method of hauling which shall be in an enclosed conveyance or container so as not to violate section 15-404 hereof. Upon the City Clerk being satisfied that said applicant will dispose of said trash in conformity with the terms and provisions of this ordinance, said City Clerk shall issue a permit to such applicant. (O. 1019, Code 2008)

**15-406. REFUSE CHARGES LEVIED:** There are hereby levied on all persons, firms, corporations, organizations, political subdivisions, and all other entities having premises within the corporate limits of the City, as presently defined or as hereinafter altered or amended: the following charges for refuse removal:

(a) There is hereby levied on each residential refuse removal customer of the City having a water connection with the water system of the City, a monthly refuse removal charge. Customers who elect to use an optional poly cart will be charged an additional monthly fee for the use of same.

(b) Residential rates shall not cover the removal of refuse generated by a business even if such business is operated from a residence unless otherwise approved by the City Council in advance.

(c) The refuse removal charge for any customer of the City not covered by the above schedule shall be determined by the City Mayor, with the approval of the City Council, based upon the anticipated volume of refuse that said customer is expected to generate.

(d) The City Council will review refuse charges annually and may by resolution, establish and may change charges. (O. 1019, Code 2008)

**15-407. BILLING:** The City shall render bills for refuse collection charges in conjunction with the regular monthly water bills to the person or legal entity designated to receive the water bill for water and water service furnished the premises. If there is no connection on the premises to the City's water utility system, then such bill for refuse collection charges shall be rendered to the person or legal entity owning or occupying the premises. All bills for refuse collection charges shall be payable on or before the date shown on the statement. The City may discontinue garbage and refuse removal at any location for which its service charges are not promptly paid; provided, that if such service is discontinued, such fact shall not be deemed a defense to prosecution brought by the City against the person, firm, corporation, political unit, or organization maintaining a nuisance or unsanitary condition by reason of an accumulation of garbage and refuse. (O. 1019, Code 2008)

**15-408. COMMERCIAL REFUSE CONTAINERS:** In commercial areas, refuse as defined herein shall be placed and stored in a container or containers which meet and receive the approval of the City. The containers shall be provided by and maintained by the business. (O. 1019, Code 2008)

**15-409. REFUSE SERVICE TO ONE, TWO AND THREE FAMILY DWELLINGS:** Refuse service to one (1), two (2) and three (3) family dwellings shall be as follows:

(a) **Refuse Collected on a Regular Basis** - Refuse collected on a regular basis shall be any and all combined refuse which can be placed in a cart. Excluded from such regular collection is unusual, heavy, bulky, or hazardous combined refuse.

(b) **Storage Point** - All carts and throw-away containers shall be stored every day at a point immediately adjacent to the alley right-of-way or at any location on private property convenient to the resident which is located behind the resident's dwelling and which is so located as not to create a nuisance to the neighbors or the area.

(c) **Collection Point** - Collection points shall be designated by the City.

(d) **Collection of Unusual, Heavy, Bulky or Hazardous Materials** - Collection of unusual, heavy, bulky, or hazardous materials as defined herein shall be processed as follows: Special Collection of Heavy or Bulky Items - Special collection of heavy or bulky items such as furniture or appliances may be collected by the City on a prearranged custom basis for a fee, when the City has the men and equipment available.

(e) **Responsibility of Residents** - Residents shall move their carts or containers from their storage point to the collection point on the designated collection day. It shall also be the duty and responsibility of the owner and/or tenant on each lot or parcel of land or ground to keep such premises free and clear of all classes of refuse, garbage and trash and other substances dangerous to the public health, sanitation and welfare of the community. In addition, it shall be the duty and responsibility of the owner and/or tenant of each lot or parcel of land or ground to remove or cause to be removed those items which the City shall not be obligated to collect.

(f) **Responsibility of Resident Cart User** - The users of carts shall comply with all City prescribed instructions imprinted on the carts, including but not limited to limiting the use of carts, setting maximum weights and prohibiting the storage of certain unusual heavy, bulky or hazardous substances. The defacing or altering of carts is prohibited. Carts shall be kept reasonably clean by the resident in the prescribed manner. The cost of repairs resulting from negligent use of a cart by a resident shall be noted by the superintendent of sanitation or his designee and given to the City Clerk who may direct recovery of such costs from the resident upon the giving of notice and affording the resident opportunity to be heard. Wind straps shall be kept hooked at all times. (O. 1019, Code 2008)

**15-410. COLLECTIONS:** Regularly scheduled City collections for garbage, trash and refuse shall be a minimum of once each week for residences, and at other such intervals for business and other establishments and institutions as deemed necessary by the City. Collections shall be made from the alley where there is adequate space to operate the City's collection equipment and from the street where no alleys exist, or where the alley is inadequate for operations of City equipment. In the event that all provisions of this article are not complied with or the occupant, whether owner, tenant or otherwise, of any residence does not use the cart as defined in section 15-409, the City shall not be obligated to pick up the refuse or garbage. (O. 1019, Code 2008)

**15-411. DISPOSAL OF LIQUID.** All liquids shall be disposed of by the customer and shall in no case be kept or stored with refuse as herein defined. (O. 1019, Code 2008)

**15-412. HAZARDOUS WASTES.** No person shall place any hazardous waste in any container for collection, transport, processing or disposal until the enforcement agency has approved the method of storage, transport, processing or disposal. (O. 1019, Code 2008)

**15-413. PROHIBITION OF GARBAGE HAULING.** It shall be unlawful for any person, firm or corporation, other than properly designated City officers and employees, to haul or move or cause to be hauled or moved from the premises upon which it was originally accumulated, any garbage, without first securing permission therefore from the City or the Governing Body of the City and providing himself or themselves with a flytight, leak proof metal container or vehicle that is flytight and leak proof; provided, that such garbage so hauled or moved shall not be opened, uncovered or again deposited within the limits of the City. (O. 1019, Code 2008)

**15-414. SCAVENGING PROHIBITED.** It shall be unlawful for any person to scavenge any solid waste within the boundaries of this locality. (O. 1019, Code 2008)

**15-415. ADDITIONAL RULES AND REGULATIONS.** The City is hereby authorized to make additional reasonable rules and regulations for the administration of the refuse collection services of all types performed in the City of Moran. Provided, that no such regulations and rules contravene the specific provisions of this article and are in no way inconsistent with the established policies of the Moran City Council. Provided, further, that all rules and regulations prescribed by the City shall be published at least once in the official City newspaper prior to being enforced. (O. 1019, Code 2008)

**15-416. PENALTY.** Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall for such of-

fense be punished by a fine of not less than \$10.00 nor more than \$100.00, or by imprisonment in the County Jail for not more than thirty (30) days or both. (O. 1019, Code 2008)

## **ARTICLE 5. ELECTRICITY**

**15-501. APPLICATION FOR ELECTRICAL SERVICE.** Any person, firm, or corporation desiring a connection with the municipal electrical system shall apply to the city clerk. In the event the individual seeking service is a tenant, an Affidavit of Landlord/Tenant Utility Agreement must be on file with the City clerk prior to initiation of service. (Code 2008)

**15-502. RATES.** Rates for electric services from the City of Moran, Kansas, shall be as follows:

- A. Residential or Commercial Rate
  - 0-400 kWH \$ .09/kwh
  - All additional kWH \$ .07/kwh
  - Minimum bill per meter per month - \$7.00
- B. All Electric Rate
  - All kWH \$ .07/kwh
  - Minimum bill per meter per month - \$8.00
- C. Nursing home rate
  - Rate charge to be same as All Electric rate.
  - Minimum bill per meter per month - \$150.00
- D. Street light rental
  - Street light rental shall be \$7.50 per month,  
per light.(O. 1020, O. 1079; Code 2008)

**15-503. BILLS DUE DATE.** The payment for electric, water, and sewer services furnished by said city shall be due and payable on or before the 25th day of the month following the month for which the charge is to be made and if not paid when due such service shall be discontinued and **such amount as shall be due shall be deducted from the meter deposit.** (O. 1020, Code 2008)

**15-504. RECONNECTION FEE.** Any person or persons whose water or electric services are discontinued for non-payment are hereby required to pay all past due accounts plus \$75.00 per meter for reconnection before service can be resumed. (O. 1020; O. 1072; Code 2008)

**15-505. 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 2008)

**15-506. METERED ELECTRICITY; DAMAGED OR DOWNED ELECTRIC LINES; AND INOPERATIVE METERS.** (a) Customers shall be charged for all electricity that passes through their meter, whether used or wasted.  
(b) It is the customer's responsibility to report damaged or downed electric lines to the City immediately. Under no circumstances should the customer tamper with any lines, meters, or other equipment that is part of the City Electrical System. In the event any component

of the system is tampered with, any damages will be repaired at the customer's expense. (Code 2008)

**15-507. 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 for the testing and the shipping will be made to the customer. (Code 2008)

**15-508. PROHIBITED ACTS.** It shall be a violation of this article for any unauthorized person to:

- (a) Perform any work upon the lines or equipment of the city's electric system beyond the electric meter unless such person is employed by the city;
- (b) Make any connections with any extension of the electric lines 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 tab, or any other appurtenances to the electric system of the city. (Code 2008)

**15-509. SAME; PENALTIES.** (a) Anyone who tampers with or damages any component of the City electrical system shall be subject to a fine of no less than \$100 and no more than \$500. Said individual shall also be responsible for the costs to repair or replace said any component and for the cost of any electricity usage or loss resulting from tampering. (Code 2008)

**15-510. ENFORCEMENT.** Enforcement of this policy shall be the responsibility of the City Superintendent. (Code 2008)

## **ARTICLE 6. WATER CONSERVATION**

**15-601. PURPOSE.** The purpose of this ordinance is to provide for the declaration of a water supply watch, warning or emergency and the implementation of voluntary and mandatory water conservation measures throughout the city in the event such a watch, warning or emergency is declared. (O. 1082; Code 2008)

**15-602. DEFINITITONS:**

(a) "Water," as the term is used in this ordinance, shall mean water available to the City of Moran 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," as the term is used in this ordinance, 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) "Waster of water," as the term is used in this ordinance, 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 areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.

**Class 2:** Water used for any commercial or industrial, including agricultural, purposes: except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their place of employment.

**Class 3:** Domestic usage, other than that which would be included in either class 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. (O. 1082; Code 2008)

**15-603. DECLARATION OF WATER WATCH.** Whenever the governing body of the City finds that conditions indicate that the probability of a drought or some other condition causing a major water supply shortage is rising, it shall be empowered to declare, by resolution, that a water watch exists and that it shall take steps to inform the public and ask for voluntary reductions in water use. Such a watch shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water watch shall be effective upon their publication in the official city newspaper. (O. 1082; Code 2008)

**15-604. DECLARATION OF WATER WARNING.** Whenever the governing body of the City finds that drought conditions or some other condition causing a major water supply shortage are present and supplies are starting to decline, it shall be empowered to declare by resolution that a water warning exists and that it will recommend restrictions on nonessential uses during the period of the warning. Such a warning shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the beginning and ending of the water warning shall be effective upon their publication in the official city newspaper. (O. 1082; Code 2008)

**15-605. DECLARATION OF WATER EMERGENCY.** Whenever the governing body of the City finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare by resolution that a water supply emergency exists and that it will impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the beginning and ending of the water warning shall be effective upon their publication in the official city newspaper. (O. 1082; Code 2008)

**15-606. VOLUNTARY CONSERVATION MEASURES.** Upon the declaration of a water watch or water warning as provided in Sections 3 and 4, the mayor (or the city manager) is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate nonessential water uses including, but not limited to, limitations on the following uses:

- (a) Sprinkling of water on lawns, shrubs or trees (including golf courses).
- (b) Washing of automobiles.
- (c) Use of water in swimming pools, fountains and evaporative air conditioning systems.
- (d) Waste of water. (O. 1082; Code 2008)

**15-607. MANDATORY CONSERVATION MEASURES.** Upon the declaration of a water supply emergency as provided in Section 5, the mayor (or the city manager) 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. (O. 1082; Code 2008)

**15-608. EMERGENCY WATER RATES.** Upon the declaration of a water supply emergency as provided in Section 5, the governing body of the City shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for, but are not limited to: (a) higher charges for increasing usage per unit of use (increasing block rates); (b) uniform charges for water usage per unit of use (uniform unit rate); or (c) extra charges in excess of a specified level of water use (excess demand surcharge). (O. 1082; Code 2008)

**15-609. REGULATIONS.** During the effective period of any water supply emergency as provided for in Section 5, the mayor (or city manager or water superintendent) is empowered to promulgate such regulations as may be necessary to carry out the provisions of this ordinance, 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. (O. 1082; Code 2008)

**15-610. VIOLATIONS, DISCONNECTIONS AND PENALTIES.** (a) If the mayor, city manager, water superintendent, or other city official or officials charged with implementation and enforcement of this ordinance or a water supply emergency resolution learn of any violation of any water use restrictions imposed pursuant to Sections 7 or 9 of this ordinance, 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. Said 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 officer 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 reconnection and \$300 for any additional reconnections.

(c) Violations of this ordinance 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 ordinance 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. (O. 1082; Code 2008)

**15-611. EMERGENCY TERMINATION.** Nothing in this ordinance shall limit the ability of any properly authorized city official from terminating the supply of water to any or all customers upon the determination of such city official that emergency termination of water service is required to protect the health and safety of the public. (O. 1082; Code 2008)

## **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 MORAN, ALLEN COUNTY, KANSAS, FROM K.S.A. 79-5001 to 79-5017, INCLUSIVE AND ANY AMENDMENTS THERETO.**

Section 1. The City of Moran, Allen County, Kansas, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it K.S.A. 79-5001 to 79-5017, inclusive, and any amendments thereto, which is an enactment of the Legislature applicable to this city but which is not applicable uniformly to all cities.

Section 2. Provisions of K.S.A. 79-5001 to 79-5017, inclusive, and any amendments thereto shall not apply to any taxes levied by the city. (7/13/88)

### **CHARTER ORDINANCE NO. 2**

#### **A CHARTER ORDINANCE EXEMPTING THE CITY OF MORAN, KANSAS, FROM K.S.A. 15-209, PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, RELATING TO QUALIFICATION OF OFFICERS; HOW VACANCIES FILLED.**

Section 1. The City of Moran, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of Kansas, hereby elects to exempt itself from and make inapplicable to it K.S.A. 15-209, and to provide substitute and additional provisions as hereinafter set forth in this ordinance. Such statutory section is applicable to this city but it is not applicable uniformly to all cities.

Section 2. The officers elected or appointed under this act shall be qualified electors of said city, except the city may appoint nonresidents as city attorney, municipal judge, city clerk, city superintendent of utilities and as law enforcement officers when deemed necessary, including the appointment of nonresidents who also serve as city attorney, municipal judge, city clerk, city superintendent of utilities or law enforcement officers of another municipality or public agency: provided, that nothing herein shall authorize the appointment of nonresidents of this state. The governing body may, by resolution passed by two-thirds of said governing body, exempt other employees from being qualified electors of said city. The city attorney shall be a qualified elector of the county in which said city is located or of an adjoining county. The removal from such city of any officer elected or appointed under this act, who is required to be a qualified elector thereof, shall occasion a vacancy in such office. All vacancies in office, except in the offices of mayor and councilmen, may be filled until the next regular time for appointment by appointment by the governing body. Every appointment to office and the date thereof, shall be entered on its journal of proceedings of the council. (5/22/89)

### **CHARTER ORDINANCE NO. 3**

#### **A CHARTER ORDINANCE EXEMPTING THE CITY OF MORAN, KANSAS, FROM K.S.A. 15-201, PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, RELATING TO THE ELECTION OF THE MAYOR AND COUNCILMEMBERS, THEIR TERMS OF OFFICE AND THE FILLING OF VACANCIES.**

SECTION 1. The City of Moran, Kansas, by the power vested in it by Article 12, Section 5, of the Constitution of Kansas, hereby elects to exempt itself from and make inapplicable to it K.S.A. 15-201, and to provide substitute and additional provisions as hereinafter set forth in this ordinance. Such statutory section is applicable to this city but is not applicable uniformly to all cities.

SECTION 2. A regular city election shall be held on the first Tuesday in April of each year. At the regular city election in 1985 there shall be elected a mayor and five councilmembers. At said election the candidates for councilmember receiving the two (2) highest number of votes shall be declared elected for a term of two (2) years. The candidates for councilmember receiving the next three (3) highest number of votes shall be declared elected for a term of one (1) year. The candidate elected mayor shall be declared elected for a term of two (2) years. Succeeding elections for all such offices shall be for two (2) year terms. At such succeeding elections the candidates for councilmember receiving the two (2) or three (3) (as the case may be) highest number of votes shall be declared elected. Whenever there is a tie vote for two or more candidates and it is necessary to determine which candidate receives the office, the winner shall be determined by lot by the board of canvassers. The City Clerk shall, within five (5) days after the canvass of the returns and determination by the board of canvassers of the persons elected, deliver to each such person a certificate of election, signed by such clerk and sealed with the seal of the city, and such certificate shall constitute notice of election. The terms of the officers shall begin at the first regular meeting of the council in May following their election in April.

SECTION 3. In case of a vacancy in the council occurring by reason of resignation, death, removal from office, failure or refusal to qualify, or removal from the city, the mayor, by and with the advice and consent of the remaining councilmembers, shall appoint an elector to fill the vacancy for the unexpired term of that council position. In case any person elected as a councilmember neglects or refuses to qualify within thirty (30) days after the election, the councilmember shall be deemed to have refused to accept the office and a vacancy shall exist. The mayor shall, with the consent of the remaining councilmembers, appoint a suitable elector to fill the vacancy for the unexpired term of that council position.

SECTION 4. In case of a vacancy in the office of mayor occurring by resignation, death, removal from office, removal from the city, or refusal or failure to qualify, the president of the council, or in the case of the mayor-elect's refusal or failure to qualify, the new president of the council, shall become mayor until the expiration of the term, and a vacancy shall occur in the office of the councilman becoming mayor. (12/3/84)

## CHARTER ORDINANCE NO. 4

### **A CHARTER ORDINANCE EXEMPTING THE CITY OF MORAN, KANSAS, FROM K.S.A. 12-4112, AND AMENDMENTS THERETO, AND SUBSTITUTING IN LIEU THEREOF ADDITIONAL PROVISIONS AUTHORIZING THE ASSESSMENT OF COURT COSTS IN CASES HEARD IN THE MUNICIPAL COURT OF THE CITY OF MORAN, KANSAS.**

SECTION 1. Exemption Election. The City of Moran, Kansas, a city of the third class, by virtue of the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to and does exempt itself from and make inapplicable to it the provisions of Kansas Statutes Annotated 12-4112, which is not uniformly applicable to all cities, the legislature in its enactment thereof having made special provisions applying to certain classes of cities.

Section 2. Court Cost. In lieu of the provisions of Kansas Statutes Annotated 12-4112, the governing body of the City of Moran, Kansas adopts the following:

"In all municipal court cases where the accused pleads guilty or nolo contendere, or is adjudged guilty, such person shall be assessed costs for the administration of justice in the municipal court of Moran, Kansas, in the following amounts:

- a. All convictions for traffic infractions in violation of provisions of the Standard Traffic Ordinance for Kansas Cities adopted by Ordinance No. 1037 and amendments thereto  
\$ 10.00
- b. All misdemeanor convictions, excepting as set forth in 3 below     \$ 30.00
- c. All convictions for crimes resulting from charges filed pursuant to the City's Domestic Violence Policy  
\$100.00

Section 3. This Charter Ordinance shall become effective 60 days after its publication once each week for two consecutive weeks in the office city newspaper and provided no petition objecting to the Charter Ordinance has been filed within such time pursuant to Article 12, Section 5, of the Kansas Constitution. (1/4/93)

## **CHARTER ORDINANCE NO. 5**

**A CHARTER ORDINANCE EXEMPTING THE CITY OF MORAN, KANSAS FROM THE PROVISIONS OF K.S.A. 12-1222 AS THE SAME RELATES TO THE NUMBER OF MEMBERS ON THE CITY LIBRARY BOARD; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT; AND REPEALING ALL OTHER ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MORAN, KANSAS:**

Section 1. The City of Moran, Kansas, by the power vested in it by Article 12, Section 6, of the Constitution of the State of Kansas, hereby elects to and does exempt itself from and makes inapplicable to it, the provisions of K.S.A. 12-2222 requiring that in the case of a city library board, seven (7) members shall be appointed. Such statutory section is applicable to this City but is not uniformly applicable to all cities.

Section 2. The Mayor of Moran shall appoint, with the approval of the governing body, a library board of five (5) members.

Section 3. The membership of the City of Moran Library Board shall consist of three (3) members who are residents of Moran and not more than two (2) members who live outside the city limits. For the two (2) members who live outside the city limits, their terms shall expire two (2) years after the date of their appointment.

Section 4. This charter ordinance shall be published once each week for two (2) consecutive weeks in the official city newspaper.

Section 5. This charter ordinance shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and referendum held on the ordinance as provided in Article 12, Section 6, Subsection (c) (3) of the Constitution of the State of Kansas, in which case the ordinance shall become effective upon approval by a majority of the electors voting thereon. (11/5/01)

## CHARTER ORDINANCE NO. 6

### **A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 4 EXEMPTING THE CITY OF MORAN, KANSAS, FROM K.S.A. 12-4112 AND AMENDMENTS THERETO, AND SUBSTITUTING IN LIEU THEREOF ADDITIONAL PROVISIONS OF THE PROVISIONS AUTHORIZING THE ASSESSMENT OF COURT COSTS IN CASES HEARD IN THE MUNICIPAL COURT OF THE CITY OF MORAN, KANSAS.**

SECTION 1. Exemption Election. The City of Moran, Kansas, a City of the third class, by virtue of the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to and does exempt itself from and make inapplicable to it the provisions of Kansas Statutes Annotated 12-4112, which is not uniformly applicable to all cities, the legislature in its enactment thereof having made special provisions applying to certain classes of cities.

SECTION 2. Court Costs. In lieu of the provisions of the Kansas Statutes Annotated 12-4112, the governing body of the City of Moran, Kansas adopts the following:

In all municipal court cases where the accused pleads guilty or nolo contendere, or is adjudged guilty, such person shall be assessed costs for the administration of justice in the municipal court of Moran, Kansas in the following amounts:

- a. All convictions for traffic infractions in violation of provisions of the Standard Traffic Ordinance for Kansas Cities adopted by Ordinance No. 1066 and amendments thereto: \$20.00
- b. All misdemeanor convictions, excepting as set forth in c. below: \$35.00
- c. All convictions for crimes resulting from charges filed pursuant to the city's Domestic Violence Policy: \$100.00

SECTION 3. This charter ordinance shall be published once each week for two (2) consecutive weeks in the official city newspaper.

SECTION 4. This charter ordinance shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and referendum held on the ordinance as provided in Article 12, Section 6, Subsection (c) (3) of the Constitution of the State of Kansas, in which case the ordinance shall become effective upon approval by a majority of the electors voting thereon. (9/3/02)

## **CHARTER ORDINANCE NO. 7**

**A CHARTER ORDINANCE EXEMPTING THE CITY OF MORAN, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-4112; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS FOR MUNICIPAL COURT PROCEDURE; NAMELY THE IMPOSITION OF COURT COSTS. BE IT ORDAINED by the governing body of the City of Moran, Kansas:**

### **Sec. 1. Exemption from statute.**

The City of Moran, Kansas, under authority of article 12, section 5 of the constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it the provisions of K.S.A. 12-4112 which provision applies to said city, but which does not apply uniformly to all cities and to provide substitute and additional provisions on the same subject.

### **Sec. 2. Municipal court costs.**

The municipal court judge is hereby authorized to assess court costs against the defendant or a complainant in all matters brought before the municipal court and such costs shall be determined by ordinance; provided, however, no court costs shall be assessed against a defendant found "not guilty."

### **Sec. 3. Publication.**

This ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

### **Sec. 4. Effective date.**

This charter ordinance shall take effect 61 days after final publication unless a sufficient petition for referendum is filed requiring a referendum be held on the ordinance as provided in article 12, section 5, subdivision (c)(3) of the constitution of the State of Kansas, in which case the ordinance shall be effective if approved by a majority of the electors voting thereon. (7/5/06)



## **APPENDIX B - FRANCHISE AGREEMENTS**

### **ORDINANCE NO. 958**

AN ORDINANCE GRANTING TO KANSAS GAS AND ELECTRIC COMPANY, A CORPORATION, IT'S SUCCESSORS AND ASSIGNS, AN ELECTRIC TRANSMISSION LINE FRANCHISE, PRESCRIBING THE TERMS AND CONDITIONS THEREOF AND RELATING THERETO.

Section 1. That there be and is hereby granted to Kansas Gas and Electric Company, a corporation, herein called the Grantee, its successors and assigns, the right, privilege and franchise until September 5, 1994, to construct, maintain and operate on private right-of-way, or in its present and future streets, alleys and public places, in the City of Moran, Kansas, an electric transmission line, including underground and over head conduits, poles, towers, wires, and other appurtenances, for the purpose of transmitting electric power and current to Farmers Co-op Association within the City of Moran, Kansas, but not for any purpose prohibited by this Ordinance, said Grantee being a corporation operating a system for the transmission of electric current and power between more than two incorporated cities in the State of Kansas.

Section 2. That no part of said electric power and current transmitted over any of said transmission line within the City, shall be sold or delivered to any person, firm or corporation within the city limits of the City of Moran, Kansas, except to said Farmers Co-op Association.

Section 3. Poles and towers shall be so erected as to interfere as little as practicable with traffic over said streets and alleys. The location of all poles, towers and conduits shall be fixed under the supervision of the governing body of the City or its authorized representative, but not so as unreasonably to interfere with the proper operation of said lines.

Section 4. The Grantee shall have the right to trim and keep trimmed all trees, shrubs and vegetation deemed by it necessary for public safety and in order to provide adequate clearance for its transmission lines and equipment.

Section 5. The City shall not, in any way, be liable or responsible for any accident or damage that may occur in the construction, operation or maintenance by the Grantee of its lines and appurtenances hereunder, and the acceptance of this franchise shall be deemed an agreement on the part of said Grantee, its successors and assigns, to indemnify the City and hold it harmless against any and all liability, loss, cost, damages or expense which may accrue to said City by reason of negligence, default or misconduct of the Grantee in the construction, operation or maintenance of the Grantee's transmission lines and appurtenances hereunder.

Section 6. All other ordinances and parts of ordinances in conflict with the terms hereof shall be and the same are hereby repealed.

Section 7. This Ordinance shall take effect and be in force from and after its passage and approval and subsequent publication in The Moran Mirror, the official newspaper of said City, and when accepted by the Grantee all in accordance with Section 12-824, Kansas Statutes Annotated. (9-9-74)

## **ORDINANCE NO. 994**

### **AN ORDINANCE GRANTING TO THE GAS SERVICE COMPANY, A CORPORATION OPERATING A GAS DISTRIBUTION SYSTEM IN THE CITY OF MORAN, STATE OF KANSAS, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO OPERATE A NATURAL GAS DISTRIBUTION PLANT AND SYSTEM IN SAID CITY AND VICINITY, AND REPEALING ORDINANCE NOS. 967 AND 968.**

Section 1. That there is hereby granted to The Gas Service Company, a corporation operating a gas distribution system in the City of Moran, herein called the Grantee, its successors and assigns, the right, privilege and franchise for a period of twenty (20) years from the effective date hereof, to construct, maintain and operate in the present and future streets, alleys, bridges and public places in said City, its gas distribution system as now located, together with the right, privilege and franchise to acquire, construct, maintain and operate therein and thereon such additions and extensions thereto as may be necessary or desirable, all for the purpose of supplying natural gas for all purposes to the inhabitants of said City and consumers in the vicinity thereof.

Section 2. All rates established and charges made by Grantee for gas distributed and sold hereunder shall be subject to valid and lawful orders of the State Corporation Commission of the State of Kansas or other competent authority having jurisdiction in the premises and the sale of gas to consumers shall be governed by the present operating rules, regulations and customs of Grantee and such rules and regulations as may hereafter be prescribed and approved.

Section 3. That in consideration of and as compensation for the right, privilege and franchise hereby granted, the Grantee, its successors and assigns, shall furnish gas at such pressure and of such quality as shall be designated by lawful orders of the State Corporation Commission of said State, if such gas is reasonably procurable; shall furnish free of cost to each consumer a recognized standard meter or other instrument for measurement of gas sold or computation of consumer's bills and keep same in repair at its cost, which meter shall at all times be the property of the Grantee but subject to inspection by said City; shall at all times save the City harmless from any and all damages which said City may be liable to pay that may arise from the construction, maintenance and operation of its plant system or any part thereof; shall limit all excavations of streets, alleys or public places to the necessities of efficient operation and shall not at any one time open or encumber more of any highway or public place than shall be reasonably necessary to enable Grantee to proceed with advantage in laying or repairing mains or pipes and shall not permit such highway or public place to remain open longer than necessary for the purpose for which it was opened; shall refill all excavations and replace all pavement with like material and leave same in as good condition as when altered or removed; shall perform all work on streets, alleys and public places under supervision of a representative of said City if so desired; and shall repay said City all expense to which it has been put in the repair or replacement of streets, highways or pavements in the event such work is done by said City, after the neglect or refusal of Grantee to perform same in reasonable time.

Section 4. As a further consideration for the rights, privilege and franchise hereby granted ad in lieu of all occupation and license taxes, the Grantee shall not later than the first day of July next following the effective date hereof and on each July 1st thereafter during the term hereof, pay into the City Treasury the sum of One Hundred Dollars (\$100.00).

Section 5. That none of the privileges granted by this Ordinance shall take effect or be in force until after the expiration of sixty days from the date of its final passage and until Grantee, its

successors and assigns, shall file within said sixty days with the City Clerk of said City, a written Acceptance of the provisions hereof; and after the expiration of sixty days if no Acceptance as hereinbefore provided has been filed, then this Ordinance shall ipso facto cease and become null and void.

Section 6. That Ordinance Nos. 967 and 968 are hereby repealed.

Section 7. That this Ordinance is made under and in conformity with the laws of the State of Kansas and shall take effect and be in force as therein provided.(1-4-82)

## **ORDINANCE NO. 1063**

**AN ORDINANCE GRANTING UNITED TELEPHONE COMPANY OF KANSAS D/B/A SPRINT A FRANCHISE TO USE THE STREETS, AVENUES, BOULEVARDS, ALLEYS, AND OTHER PUBLIC PLACES IN THE CITY OF MORAN, COUNTY OF ALLEN, STATE OF KANSAS, TO CONTINUE TO CONDUCT THE BUSINESS OF CONSTRUCTING, INSTALLING, MAINTAINING, MANAGING, AND OPERATING A TELEPHONE SYSTEM WITH ALL NECESSARY POLES, WIRES, CABLES, FIXTURES, CONDUIT AND APPARATUS.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MORAN, COUNTY OF ALLEN, KANSAS, AS FOLLOWS:**

United Telephone Company of Kansas d/b/a Sprint, Grantee, a corporation organized under the laws of the State of Kansas, 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 Moran, 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:

1. This grant shall be effective in accordance with Section 12, below and shall continue for a term of five years from its effective date, and for successive terms of like duration unless written notice is given by either the Grantor or the Grantee to the other 120 days or more prior to the expiration of the initial term or any successive term of its intention to terminate the same at the expiration of the then current term.
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.
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.
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.
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.

6. Permission is hereby granted to Grantee to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming into contact with Grantee's wires and cables. All such trimming will be done under the supervision and direction of any City official to whom such duties have been or may be delegated.

7. In consideration for rights and privileges herein granted, Grantee shall pay to the City, \$100.00. 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.

8. Nothing herein shall affect any prior or existing rights of Grantee to maintain a telephone company within the City.

9. The franchise and all rights hereunder may be assigned by the Grantee, as well as all succeeding Grantees, at their option, and the successors and/or assigns shall succeed to all the rights, duties, and liabilities of the Grantee hereunder.

10. All ordinances and agreements or parts of ordinances and agreements in conflict with this ordinance are hereby repealed.

11. This ordinance shall be effective at the expiration of 65 days from the date of its final passage.

12. 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.

13. 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. (8/4/97)

## **ORDINANCE NO. 1077**

**AN ORDINANCE, granting to Kansas Gas Service, 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.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF Moran, Kansas**

SECTION 1. That in consideration of the benefits to be derived by the City of Moran, Kansas ("City"), and its inhabitants, there is hereby granted to Kansas Gas Service, ("Company"), said Company being a corporation operating a system for the transmission and distribution of natural gas in the State of Kansas, the right, privilege, and authority for a period of Twenty (20) years from the effective date of this ordinance, to occupy and use the several streets, avenues, alleys, bridges, parks, parkings, 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 in the City.

SECTION 2. As further consideration for the rights, privilege and franchise hereby granted and in lieu of all occupation and license taxes, the Grantee shall not later than the first day of July next following the effective date hereof and on each July 1st thereafter during term hereof, pay into the City Treasury the sum of One Hundred Dollars (\$100.00).

SECTION 3. That 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 obtain at no additional cost to Company, such permits prior to commencing work in the streets, avenues, bridges, parks, parkings, and public places as the City may from time to time require for purposes of record keeping. Except that in the event of an emergency Company shall have the right to commence work without having first obtained such permit(s).

SECTION 4. Company shall, in doing of 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, shall at its own expense 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 5. 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 6 That 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 7. Upon written request of either the City or the Company, the franchise may be reviewed after five (5) years from the effective date of this ordinance and either the City or the Company may propose amendments to any provision of this franchise by giving thirty days written notice to the other of the amendment(s) desired. The City and the Company shall negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s).

SECTION 8. After the approval of this Ordinance by the State Corporation Commission, Company shall file with the City Clerk of the City its unconditional written acceptance of this Ordinance. Said Ordinance shall become effective and be in force and shall be and become binding contract between the parties hereto, their successors and assigns, from and the expiration of sixty (60) days from its final passage, approval, and publication as required by law, and acceptance by said Company.

SECTION 9. 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 supersede and cancel any prior understandings, agreements, or representations regarding the subject matter hereof, or involved in negotiations pertaining thereto, whether oral or written.

SECTION 10. This franchise is granted pursuant to the provisions of K.S.A. 12-2001,

SECTION 11. That any and all ordinances or parts of ordinances in conflict with the terms hereof are hereby repealed.

SECTION 12. Should the State Corporation Commission take any action with respect to this franchise ordinance, which or may preclude Kansas Gas Service, Inc. from recovering from its customers any cost provided for hereunder, the parties hereto shall renegotiate this ordinance in accordance with the State Corporation commission's ruling. 9/4/01)

**FLOODPLAIN MANAGEMENT ORDINANCE  
60.3(a)**

**ORDINANCE #1093**

**ARTICLE 1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSES**

**SECTION A. STATUTORY AUTHORIZATION**

1. *Approval of Draft Ordinance by Kansas Chief Engineer Prior to Adoption*

The following floodplain management regulations, as written, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on \_\_\_\_\_20\_\_\_\_.

2. *Kansas Statutory Authorization*

The Legislature of the State of Kansas has in K.S.A. 12-741 *et seq*, and specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the City Council of Moran, Kansas, ordains as follows:

**SECTION B. FINDINGS OF FACT**

1. *Flood Losses Resulting from Periodic Inundation*

The flood-prone areas Moran, Kansas are subject to inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

2. *General Causes of the Flood Losses*

These flood losses are caused by (1) the cumulative effect of development in any flood-prone area causing increases in flood heights and velocities; and (2) the occupancy of flood-prone areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

**SECTION C. STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety, and general welfare; to minimize those losses described in Article 1, Section B (1); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(a) by applying the provisions of this ordinance to:

1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
2. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
3. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.



## **ARTICLE 2 GENERAL PROVISIONS**

### **SECTION A. LANDS TO WHICH ORDINANCE APPLIES**

This ordinance shall apply to all lands within the jurisdiction of the City of Moran that have been identified by the community as having the presence of flood-prone areas. In all areas covered by this ordinance, no development shall be permitted except through the issuance of a floodplain development permit, granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Article 4.

### **SECTION B. FLOODPLAIN ADMINISTRATOR**

The City Clerk is hereby designated as the Floodplain Administrator under this ordinance.

### **SECTION C. COMPLIANCE**

No development located within the flood-prone areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

### **SECTION D. ABROGATION AND GREATER RESTRICTIONS**

It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

### **SECTION E. INTERPRETATION**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

### **SECTION F. WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on the community's knowledge of past flooding. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the floodplain or land uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create a liability on the part of the City of Moran, any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made there under.

### **SECTION G. SEVERABILITY**

If any section; clause; provision; or portion of this ordinance is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this ordinance shall not be affected thereby.

## **ARTICLE 3 ADMINISTRATION**

### **SECTION A. FLOODPLAIN DEVELOPMENT PERMIT (REQUIRED)**

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, so that it may be determined whether such construction or other development is proposed within flood-prone areas. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

### **SECTION B. DESIGNATION OF FLOODPLAIN ADMINISTRATOR**

The City Clerk is hereby appointed to administer and implement the provisions of this ordinance.

### **SECTION C. DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR**

Duties of the designated Floodplain Administrator shall include, but not be limited to:

1. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;
2. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
3. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
4. Issue floodplain development permits for all approved applications;
5. Notify adjacent communities and the Kansas Department of Agriculture, Division of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA); and
6. Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse; and

### **SECTION D. APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT**

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed building or work;
2. Identify and describe the work to be covered by the floodplain development permit;
3. Indicate the use or occupancy for which the proposed work is intended;
4. Indicate the assessed value of the structure and the fair market value of the improvement;
5. Give such other information as reasonably may be required by the Floodplain Administrator;
6. Be accompanied by plans and specifications for proposed construction; and

7. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

## **ARTICLE 4 PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **SECTION A. GENERAL STANDARDS**

1. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any flood-prone area unless the conditions of this section are satisfied.
2. All new construction, subdivision proposals, substantial-improvements, prefabricated buildings, placement of manufactured homes, and other developments within flood-prone areas shall:
  - a. Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - b. Be constructed with materials resistant to flood damage;
  - c. Be constructed by methods and practices that minimize flood damages;
  - d. Be constructed with all electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - e. New or replacement (1) water supply systems, (2) sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and (3) on-site waste disposal systems be located to avoid impairment to them and contamination from them; and
  - f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within flood-prone areas are required to be reasonably safe from flooding and to assure that:
    - (1) All such proposals are consistent with the need to minimize flood damage;
    - (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
    - (3) Adequate drainage is provided so as to reduce exposure to flood hazards.
3. *Storage, material, and equipment*
  - a. The storage or processing of materials within flood-prone areas that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
  - b. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

### **SECTION B. MANUFACTURED HOMES**

1. All manufactured homes to be placed within flood-prone areas shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this

requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

#### SECTION C. RECREATIONAL VEHICLES

Require that recreational vehicles placed on sites within flood-prone areas:

1. Be on the site for fewer than 180 consecutive days, or
2. Be fully licensed and ready for highway use\*; or
3. Meet the permitting, elevation, and anchoring requirements for manufactured homes of this ordinance.

\*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

### ARTICLE 5 FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES

#### SECTION A. ESTABLISHMENT OF APPEAL BOARD

The City of Moran, Appeal Board, as established by the Moran City Council shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.

#### SECTION B. RESPONSIBILITY OF APPEAL BOARD

Where an application for a floodplain development permit is denied by the Floodplain Administrator, the applicant may apply for such floodplain development permit directly to the Appeal Board, as defined in Article 5, Section A.

The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

#### SECTION C. FURTHER APPEALS

Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court as provided in K.S.A. 12-759 & 12-760.

#### SECTION D. FLOODPLAIN MANAGEMENT VARIANCE CRITERIA

In passing upon such applications for variances, the Appeal Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:

1. Danger to life and property due to flood damage;
2. Danger that materials may be swept onto other lands to the injury of others;

3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. Importance of the services provided by the proposed facility to the community;
5. Necessity to the facility of a waterfront location, where applicable;
6. Availability of alternative locations, not subject to flood damage, for the proposed use;
7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. Safety of access to the property in times of flood for ordinary and emergency vehicles;
10. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
11. Costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

#### SECTION E. CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES

1. Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below highest adjacent grade, providing items two (2) through five (5) below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination provided the proposed activity will not preclude the structure's continued historic designation.
3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Variances shall only be issued upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
5. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below highest adjacent grade will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below highest adjacent grade increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

#### ARTICLE 6 PENALTIES FOR VIOLATION

Any person, firm or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be subject to the penalty provided in Chapter 1, Section 116 of the Municipal Code of the City of Moran, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Moran or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

## ARTICLE 7 AMENDMENTS

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Moran. At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII office of the Federal Emergency Management Agency (FEMA). The regulations of this ordinance are in compliance with the National Flood Insurance Program (NFIP) regulations.

## ARTICLE 8 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning they have in common usage and to give this ordinance its most reasonable application.

**"100-year Flood"** *see "base flood."*

**"Accessory Structure"** means the same as *"appurtenant structure."*

**"Actuarial Rates"** *see "risk premium rates."*

**"Administrator"** means the Federal Insurance Administrator.

**"Agency"** means the Federal Emergency Management Agency (FEMA).

**"Appeal"** means a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

**"Appurtenant Structure"** means a structure that is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

**"Base Flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.

**"Basement"** means any area of the building having its floor subgrade (below ground level) on all sides.

**"Building"** *see "structure."*

**"Chief Engineer"** means the chief engineer of the division of water resources, Kansas Department Of Agriculture.

**"Chief Executive Officer" or "Chief Elected Official"** means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

**"Community"** means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

**"Development"** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**"Eligible Community" or "Participating Community"** means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

**"Existing Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of

streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**"Expansion to an Existing Manufactured Home Park or Subdivision"** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

**"Flood Hazard Map"** means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

**"Floodplain" or "Flood-prone Area"** means any land area susceptible to being inundated by water from any source (*see "flooding"*).

**"Floodplain Management"** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**"Floodplain Management Regulations"** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**"Floodproofing"** means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

**"Functionally Dependent Use"** means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

**"Historic Structure"** means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

**"Lowest Floor"** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this ordinance.

**"Manufactured Home"** means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *"manufactured home"* **does not include** a *"recreational vehicle."*

**"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"Market Value" or "Fair Market Value"** means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

**"New Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

**"(NFIP)"** means the National Flood Insurance Program (NFIP).

**"Participating Community"** also known as an *"eligible community,"* means a community in which the Administrator has authorized the sale of flood insurance.

**"Permit"** means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

**"Person"** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

**"Principally Above Ground"** means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

**"Recreational Vehicle"** means a vehicle that is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Remedy A Violation"** means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

**"Risk Premium Rates"** means those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. *"Risk premium rates"* include provisions for operating costs and allowances.

**"Start of Construction"** includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The ***actual start*** means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the ***actual start of construction*** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**"State Coordinating Agency"** means that agency of the state government, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

**"Structure"** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

*"Structure"* for insurance purposes, means a walled and roofed building, other than a gas or liquid



storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

**"Substantial-Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**"Substantial-Improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "*start of construction*" of the improvement. This term includes structures that have incurred "*substantial-damage*," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "*historic structure*," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**"Variance"** means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

**"Violation"** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

(11/5/2007)

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