

Chapter 100

GENERAL PROVISIONS

Note — The city has adopted by resolution no. 2009-5 an identity theft prevention program which is on file in the city offices.

ARTICLE I Code Provisions

Section 100.010. Code Designated. [CC 1985 §1-101]

The Chapters, Articles and Sections herein shall constitute and may be designated as the Code of Mulvane, Kansas, and may be so cited.

Section 100.020. Definitions. [CC 1985 §1-102]

The following definitions and rules of construction shall be observed in the construction of this Code and of all ordinances unless they are inconsistent with the manifest intent of the Governing Body if the context clearly requires otherwise:

CITY — The City of Mulvane, Sedgwick-Sumner County, Kansas.

COMPUTATION OF TIME — The time within which an act is to be done shall be computed by excluding the first (1st) and including the last day. If the last day is a Sunday or legal holiday, that day shall be excluded.

COUNTY — Shall be designated as either Sedgwick or Sumner County, Kansas.

DELEGATION OF AUTHORITY — Whenever a provision appears requiring or authorizing the head of a department or other officer of the City to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.

GENDER — Words importing the masculine gender include the feminine and neuter.

GOVERNING BODY — The City Council of Mulvane, Kansas.

IN THE CITY — Includes any territory within the corporate limits of the City of Mulvane, Kansas, and the Police jurisdiction thereof and any other territory over which regulatory power has been conferred on the City by law, except as otherwise specified.

JOINT AUTHORITY — All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers, unless it is otherwise expressed in the act giving the authority.

NUMBER — Words used in the singular include the plural and words used in the plural include the singular.

OATH — Includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases, the words "*swear*" and "*sworn*" are equivalent to the words "*affirm*" and "*affirmed*".

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.

PERSON — Includes a firm, partnership, association of persons, corporation, organization or any other group acting as a unit, as well as an individual.

PROPERTY — Includes real, personal and mixed property.

REAL PROPERTY — Includes land, tenements and hereditaments and all rights to them and interest in them, equitable as well as legal.

SHALL AND WILL — "*Shall*" and "*will*" are mandatory.

SIDEWALK — Any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

STREET — Includes public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the City.

TENANT, OCCUPANT (APPLIED TO A BUILDING OR LAND) — Any person who occupies the whole or part of such building or land, whether alone or with others.

Section 100.030. Parenthetical and Reference Matter. [CC 1985 §1-103]

The matter in parenthesis at the ends of Sections is for information only and is not a part of the Code. Citations to ordinances include 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.

Section 100.040. Catchlines of Sections. [CC 1985 §1-104]

The catchlines or headings of the Sections of this Code are intended as mere words to indicate the contents of the Sections and shall not be deemed or taken to be titles of such Sections nor as any part of any Section nor, unless expressly so provided, shall they be so deemed when any Section, including its catchline.

Section 100.050. Amendments — Repeal. [Code 1985 §1-105]

Any portion of this Code may be amended by specific reference to the Section number as follows: "That Section _____ of the Code of the City of Mulvane 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: "That the Code of the City of Mulvane 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, 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 Mulvane is hereby repealed."

Section 100.060. Powers Generally. [CC 1985 §1-106; Ord. No. 1111 §7, 4-1-2002]

All powers exercised by Cities of the Second Class, or which shall hereafter be conferred upon them, shall be exercised by the Governing Body, subject to such limitations as are prescribed by law.

Section 100.070. Ordinances. [CC 1985 §1-107; Ord. No. 1111 §8, 4-1-2002]

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. No ordinance shall be valid unless a majority of all the members elected to the Council vote in favor: provided, that where the number of favorable votes is one (1) less than required, the Mayor shall have the power to cast the deciding vote in favor of the ordinance.

Section 100.080. Altering Code. [CC 1985 §1-108]

It shall be unlawful for any person 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 Mulvane to be misrepresented thereby. This restriction shall not apply to amendments or revisions of this Code authorized by ordinance adopted by the Governing Body.

Section 100.090. Scope of Application. [CC 1985 §1-109]

Any person convicted of doing any of the acts or things prohibited or made unlawful or failing to do any of the things commanded to be done, as specified and set forth in this Code, shall be deemed guilty of a misdemeanor and punished in accordance with Section 100.100. Each day any violation of this Code continues shall constitute a separate offense.

Section 100.100. General Penalty. [CC 1985 §1-110]

- A. 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:
1. A fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00);
 2. Imprisonment for not more than one hundred eighty (180) days; or
 3. Both such fine and imprisonment not to exceed Subsections (1) and (2) above.
 4. Every day any violation of this Code or any other ordinance or any such rule, regulation, notice or order shall continue shall constitute a separate offense.

Section 100.110. Severability. [CC 1985 §1-111]

If for any reason any Chapter, Article, Section, Subsection, sentence, clause or phrase of this Code or the application thereof to any person or circumstances is declared to be unconstitutional or invalid or unenforceable such decision shall not affect the validity of the remaining portions of this Code.

ARTICLE II Claims Against City

Section 100.120. Uniform Procedure for Payment of Claims and Other Indebtedness by Municipalities — Definitions.

As used in this Article the following terms shall have these prescribed meanings:

AUDIT — To examine and render an opinion as to allowance or rejection in whole or in part.

CHECK — An ordinary check drawn on a depository bank of the City by the Treasurer of such City and payable to the holder of a warrant or warrants issued by the City.

CLAIM — The document relating to and stating an amount owing to the claimant by the City for material or service furnished to the City, or some action taken by or for the City and for which the City may or may not be responsible in a liquidated or an unliquidated amount. A claim is liquidated when the amount due or to become due is made certain by agreement of the parties or is fixed by law.

GOVERNING BODY — The City Council of the City, which has the power to create indebtedness and is charged with the duty of paying the same, and the board, bureau, commission, committee or other body of an independent agency of a parent unit.

MUNICIPALITY — The City of Mulvane, Kansas.

WARRANT — An instrument ordering the Treasurer of the City to pay out of a designated fund a specified sum to a named person or party who or which has filed a claim against the City.

WARRANT CHECK — A combination of warrant and check. It is a negotiable instrument which orders a depository bank to pay to the order of the payee therein named. A warrant check authorizes the bank upon which drawn to charge the City's account with the amount stated therein.

Section 100.130. Uniform Procedure for Payment of Claims — Presentment of Claims — Claims Which Could Give Rise to Action Under Kansas Tort Claims Act — Notice, Contents, Limitation on Commencement of Action — Payments in Advance of Approval — Auditing — Approval.

- A. All claims against the City must be presented in writing with a full account of the items, and no claim shall be allowed except in accordance with the provisions of this Section. A claim may be the usual statement of account of the vendor or party rendering a service or other written statement showing the required information.
- B. Claims for salaries or wages of officers or employees need not be signed by the officer or employee if a payroll claim is certified to by the administrative head of a department or group of officers or employees or an authorized representative that the salaries or wages stated therein were contracted or incurred for the municipality under authority of law, that

the amounts claimed are correct, due and unpaid and that the amounts are due as salaries and wages for services performed by the person named.

- C. No costs shall be recovered against the City in any action brought against it for any claims allowed in part unless the recovery shall be for a greater sum than the amount allowed, with the interest due. Subject to the terms of applicable insurance contracts, judgments and settlements obtained for claims recoverable pursuant to the Kansas tort claims act shall be presented for payment in accordance with this Section or in such manner as the City Council may designate.
- D. Any person having a claim against the City which could give rise to an action brought under the Kansas tort claims act shall file a written notice as provided in this Subsection before commencing such action. The notice shall be filed with the Clerk or City Council and shall contain the following:
 - 1. The name and address of the claimant and the name and address of the claimant's attorney, if any;
 - 2. A concise statement of the factual basis of the claim, including the date, time, place and circumstances of the act, omission or event complained of;
 - 3. The name and address of any public officer or employee involved, if known;
 - 4. A concise statement of the nature and the extent of the injury claimed to have been suffered; and
 - 5. A statement of the amount of monetary damages that is being requested.

In the filing of a notice of claim, substantial compliance with the provisions and requirements of this Subsection shall constitute valid filing of a claim. The contents of such notice shall not be admissible in any subsequent action arising out of the claim. Once notice of the claim is filed, no action shall be commenced until after the claimant has received notice from the City that it has denied the claim or until after one hundred twenty (120) days has passed following the filing of the notice of claim, whichever occurs first. A claim is deemed denied if the City fails to approve the claim in its entirety within one hundred twenty (120) days unless the interested parties have reached a settlement before the expiration of that period. No person may initiate an action against a municipality unless the claim has been denied in whole or part. Any action brought pursuant to the Kansas tort claims act shall be commenced within the time period provided for in the code of civil procedure or it shall be forever barred, except that, if compliance with the provisions of this Subsection would otherwise result in the barring of an action, such time period shall be extended by the time period required for compliance with the provisions of this Subsection.

- E. Claims against the City which provide for a discount for early payment or for the assessment of a penalty for late payment may be authorized to be paid in advance of approval thereof by the City Council in accordance with the provisions of this Subsection. The City Council may designate and authorize one (1) or more of its officers or employees to pay any such claim made against the City in advance of its presentation to and approval by the City Council if payment of the amount of such claim is required before the next scheduled regular meeting of the City Council in order for the City to benefit from the

discount provided for early payment or to avoid assessment of the penalty for late payment. Any officer or employee authorized to pay claims under this Subsection shall keep an accurate record of all moneys paid and the purpose for which expended, and shall submit the record to the City Council at the next meeting thereof. Payments of claims by an officer or employee of the City under authority of this Subsection are valid to the same extent as if the claims had been approved and ordered to be paid by the City Council.

- F. Claims submitted by members of the City's self-insured health plan may be authorized to be paid in advance of approval thereof by the City Council. Such claims shall be submitted to the administrative officer of such insurance plan.
- G. Except as otherwise provided, before any claim is presented to the City Council or before any claim is paid by any officer or employee of the City under Subsection (E), it shall be audited by the Clerk, Secretary, Manager, Superintendent, Finance Committee or Finance Department or other officer or officers charged by law to approve claims affecting the area of government concerned in the claim, and thereby approved in whole or in part as correct, due and unpaid.

ARTICLE III Miscellaneous Provisions

Section 100.140. Official City Newspaper. [CC 1985 §1-301; Ord. No. 239, 6-3-1959; Ord. No. 1273 §1, 3-24-2008]

The Governing Body of the City shall designate by resolution a newspaper to be the official City newspaper. Once designated the newspaper shall be the official City newspaper until such time as the Governing Body designates a different newspaper.

Section 100.150. Alteration, Concealment or Impairment of Identity of City Property Prohibited. [CC 1985 §1-302; Ord. No. 858, 1-16-1989]

- A. Whoever knowingly alters, conceals, or impairs the identity of property of the City shall be guilty of a misdemeanor, and shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than six (6) months, or both such fine and imprisonment.
- B. The term "*property of the City*" shall include any and all City identification tags, markings, inventory control labels or other written or printed media intended to identify property as belonging to the City of Mulvane.

Section 100.160. Standardized Return Check Charge. [CC 1985 §14-206; Ord. No. 852, 10-6-1988; Ord. No. 1149 §1, 8-19-2002; Ord. No. 1410 §1, 2-18-2013]

- A. *Return Check Charges.* For any payment in any form (e.g., check, electronic check, automated debit, or any other form of payment) made to the City and returned to the City as not payable for any reason, there shall be imposed a return payment service charge in an amount as set forth in Section 100.240 (i.e., Insufficient Check Charge Fee).
- B. *Other Remedies Preserved.* All other civil, criminal, administrative or other remedies provided for by law, regulation or order are herewith preserved in addition to the return payment service charge provided for in this Section.

- C. *Waiver Of Charge.* For good cause shown upon satisfactory proof, the City Clerk may waive or reduce the charge provided for hereunder whenever exceptional circumstances are shown. In the event this waiver is granted by the City Clerk, the City Clerk shall enter in the official records of the City an explanation of the circumstances under which the waiver was granted.

ARTICLE IV

Right to Procedural Due Process Assured

Section 100.170. Right to Procedural Due Process Assured. [CC 1985 §1-401; Ord. No. 788, 4-21-1986]

- A. Whenever any person claims a right to procedural due process consisting of notice and a right to be heard upon any action taken or to be taken by any officer of the City of Mulvane, Kansas, acting within the official scope of duty for and on behalf of the City and no other procedure to afford procedural due process is provided for by the City Code or regulations, the following steps are available to seek direct redress for any such claim of deprivation of rights by the City, its officers and agents:
1. Within five (5) calendar days of the occurrence complained of, the person claiming a due process right shall so state in writing by service of a written notice of the deprivation claimed, setting forth with reasonable specificity the nature of the violation claimed, the basis-legal and factual for such claim, and the relief sought upon the City Clerk. The City Clerk shall thereupon forward same to the City Administrator for review.
 2. Within not more than ten (10) days of service of the writing described above upon the City Clerk, the City Administrator shall confer with the City Attorney and the City Officials involved for a determination of whether the writing sets forth a basis for entitlement to any right of procedural due process. The decision of the City Attorney as to whether any right to due process is presented by the written request therefore shall be final.
 3. In the event it is determined in Subsection (2) that the written application for notice and a right to be heard at a meaningful time is warranted by the facts and circumstances presented, the City Administrator or his/her designee shall serve as a hearing officer and an administrative hearing shall be convened at such time as to afford the applicant a reasonable opportunity to be heard upon the claim presented in writing according to the nature of the right asserted, the administrative burden presented, the likelihood of erroneous deprivation of rights in the absence of a hearing and the interests of the City, whether or to what extent other remedies are available to the applicant for redress of the claim asserted and the nature of the governmental interest involved in the action for which hearing for redress is sought.
 4. The hearing officer shall conduct such hearing without regard to or restriction by technical rules of evidence or procedure. At the election of the hearing officer, evidence may be received either by testimony in person, by affidavit, by interview and investigation or by any combination of such methods of taking evidence as will best serve the purpose of this Article in providing procedural due process when

warranted by the circumstances presented under a given case.

ARTICLE V
Capital Improvement Fund

Section 100.180. Municipal Equipment Fund Established for City Departments. [CC 1985 §1-501; Amended Ord. No. 910, 3-4-1991]

In accordance with the provisions of K.S.A. 12-1,117, acts amendatory thereof, and in the event of repeal of K.S.A. 12-1,117 or acts amendatory thereof, in any event, there is hereby established a Municipal Equipment Reserve Fund, which shall be used by the City to finance the acquisition of equipment necessary for the performance and setting aside funds for operation of the departments of the City. For the purposes of this Article, equipment shall include machinery, vehicles and any other equipment or personal property including, but not limited to, computer hardware and software, which the City is authorized to purchase for municipal purposes.

Section 100.190. Policy Objective. [CC 1985 §1-502; Ord. No. 848, 8-1-1988]

It is the policy objective of the City Council that such fund shall be used primarily to provide a financing mechanism for the repair, restoration and rehabilitation of existing public facilities. Further, it is the intent of the City Council to utilize current revenues to be credited to the fund, to the maximum extent possible to meet the City's present and future public infrastructure needs and to avoid the costs of unnecessary indebtedness.

Section 100.200. Use for Studies. [CC 1985 §1-503; Ord. No. 848, 8-1-1988]

Monies in such fund may be used to pay the cost of engineering and other advanced public improvement plans and studies, with the fund periodically reimbursed from bond proceeds, special assessments or State or Federal aid that may be available for the completed project. No expenditures for such purposes shall be made except on a finding of the City Council of its probable intent to proceed with the improvement following such engineering or advanced study.

ARTICLE VI
Equipment Reserve Fund — Police, Fire, Ambulance and Street Departments

Section 100.210. Fund Established. [CC 1985 §1-506; Ord. No. 847, 9-7-1988]

In accordance with the provisions of K.S.A. Supp. 12-1,117, there is hereby established a Municipal Equipment Reserve Fund, which shall be used by the City to finance the acquisition of equipment necessary for the performance of setting forth funds for the Police, Fire, Ambulance and Street Departments. For the purposes of this Article, equipment shall include machinery, vehicles and any other equipment or personal property including, but not limited to, computer hardware and software, which the City is authorized to purchase for municipal purposes.

Section 100.220. Policy Objective. [CC 1985 §1-507; Ord. No. 847, 9-7-1988]

A. It is the policy objective of the City Council that such Equipment Reserve Fund shall be used as a financing mechanism to secure the planned and orderly acquisition and replacement of equipment necessary for the efficient and effective operation of the City. It

is the further intent of the City Council to annually approve in the future the budgeting of current revenues sufficient:

1. To finance the acquisition of new equipment needed in the following year, and
2. To finance needed future replacements and acquisitions by setting aside a reserve amount.

Section 100.230. Investing. [CC 1985 §1-509; Ord. No. 847, 9-7-1988]

Monies in the Equipment Reserve Fund shall be invested in accordance with the provisions of K.S.A. Supp. 12-1,117 and amendments thereto, with interest earnings credited to such fund.

**ARTICLE VII
Miscellaneous Fees and Charges**

Section 100.240. Certain Fees and Charges. [Ord. No. 1149 §34, 8-19-2002; Ord. No. 1168 §1, 3-3-2003; Ord. No. 1213 §1, 3-7-2005; Ord. No. 1233 §1, 6-19-2006; Ord. No. 1315 §§1 — 2, 10-6-2008; Ord. No. 1318 §1, 12-15-2008; Ord. No. 1337 §1, 10-5-2009; Ord. No. 1341 §2, 2-15-2010; Ord. No. 1347 §3, 6-7-2010; Ord. No. 1348 §2, 8-2-2010; Ord. No. 1353 §4, 8-16-2010; Ord. No. 1388 §2, 1-16-2012; Ord. No. 1391 §2, 2-6-2012; Ord. No. 1406 §3, 12-17-2012; Ord. No. 1411 §2, 2-18-2013; Ord. No. 1415 §1, 6-3-2013]

The following are various license fees and charges for certain City services and publications. For further explanation, including certain exceptions to these fees and charges, see the respective Code reference when applicable.

Service	Fee	Code Reference
A. Animal Impound/Redemption Fee	\$10.00 1st day	205.250A
	\$5.00 Each day after	
Animal Licenses — Dog or Cat	\$5.00 \$1.00 penalty for every 30 days late	205.210
B. Arborist License	\$50.00 Annually	605.380
C. Auction Permit	\$50.00	605.390
D. Bandshell Rental Fee w/o Electricity	\$10.00	250.060
Bandshell Rental Fee w/Electricity	\$20.00	250.060
Bandshell Rental Fee w/Air Cond.	\$20.00	250.060
Bandshell Rental Fee w/Electricity and Air Conditioning	\$40.00	250.060
Bandshell Key Deposit	\$10.00 Refundable	250.060
Canvas Tent Rental Fee	\$750.00	*
Concert Use	\$100.00 Recognized for non-profit by IRS	*

E. Golf Carts and Bicycle License Fees	\$50.00	Golf cart (annual)	315.012G
	\$20.00	Golf cart (duplicate)	315.012G
	\$1.00	Bicycle (permanent)	350.090
	\$1.00	Bicycle (duplicate)	350.100
	\$1.00	Bicycle (transfer)	350.140
F. Building Permits — Residential (<i>including Garages and Basements</i>)	\$0.16	Per square foot	505.070
Building Permits — Commercial/ Industrial/Residential Remodel			505.070

Total Valuation	Fee
\$1.00 to \$500.00	\$33.00
\$501.00 to \$2,000.00	\$33.00 for the first \$500.00 plus \$2.50 for each \$100.00 or fraction thereof
\$2,001.00 to \$25,000.00	\$70.50 for the first \$2,000.00 plus \$9.50 for each additional \$1,000.00 thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$289.00 for the first \$25,000.00 plus \$7.00 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00
\$50,000.00 to \$100,000.00	\$464.00 for the first \$50,000.00 plus \$5.00 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00
\$100,000.00 to \$500,000.00	\$714.00 for the first \$100,000.00 plus \$4.00 for each additional \$1,000.00 or fraction thereof, to and including \$500,000.00
\$500,000.00 to \$1,000,000.00	\$2,714.00 for the first \$500,000.00 plus \$3.50 for each additional \$1,000.00 or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$4,464.00 for the first \$1,000,000.00 plus \$2.50 for each additional \$1,000.00 or fraction thereof

Service	Fee	Code Reference
Building Permit — Commercial Plan Review Fee	65% of Building Permit Fee	*
G. Burn Permit C	\$10.00	210.545
H. Cereal Malt Beverage License Tax	\$50.00	Limited Retailer/ Carryout 600.030A
	\$200.00	General Retailer/ Premises 600.030A
	\$100.00	Temporary 600.030A
I. City Lock	\$10.30	Plus tax 700.210B
J. City Maps	\$6.00	Plus tax *

(Large)

K. Comprehensive Plan Books	\$15.00	Plus tax	*
L. Contractor Licenses Fees (A Certificate of Insurance in the amount of \$1,000,000.00 is required)	\$100.00	Building Class A (per year)	525.100
	\$100.00	Building Class B (per year)	525.100
	\$75.00	Building Class C (per year)	525.100
	\$75.00	Building Class D (per year)	525.100
	\$75.00	Drain Layer (per year)	525.100
	\$75.00	Electrical (per year)	525.100
	\$75.00	Irrigation Contractor (per year)	525.100
	\$75.00	Mechanical (per year)	525.100
	\$75.00	Plumbing (per year)	525.100
	\$75.00	Water Well Drillers (per year)	525.100
	\$20.00	Master/Journeyman (per year)	525.100
M. Court Costs	\$32.50	Docket/ Administration Fees	130.100
IRS standard mileage rate		Per mile for warrant or subpoena service	130.100
	\$3.00	Police department training	130.100
Fee amount mandated by K.S.A. 20-1a11 and amendments thereto.	\$0.50*	Judicial Branch Education Fund	
Fee amount mandated by K.S.A. 11-4117 and amendments thereto.	\$19.00*	Law Enforcement Training Center Fund	
	\$10.00	Appearance fee unless found not guilty	130.100
	\$10.00	Continuance fee (for any pre-trial appearance, trial, sentencing, disposition or pre-sentence investigation granted at the request of accused person)	130.100
	\$50.00 + costs	Administrative fee for post conviction remedy	
	\$35.00	Warrant or subpoena service fee	130.100
	\$10.00	Witness fee (per person)	130.100

IRS standard mileage rate		Per mile for witness under subpoena Excepting first ten (10) miles	130.100
	\$10.00	Extension of time to pay any fine, penalty, fees or costs granted at the request of an accused or convicted person.	130.100
	\$20.00	Administrative fee for failure to comply with a traffic citation.	130.100
	\$25.00	Monthly probation fee	130.100
	\$100.00	Diversion fee	130.100
	\$150.00	Drug/alcohol/mental evaluation fee	130.100
	\$15.00	Fingerprinting fee, if convicted	130.100
	\$5.00	Drug testing fee if administered by the City	130.100
	\$35.00	Daily incarceration fee	130.100
* Represents the current fee amount levied as of the publication date of this Code. Fee amounts are subject to change without notice based upon amendments to the referenced Kansas Statute.			
N. Demolition Permit Fee	\$30.00		520.010
O. Electrical and Wiring Permits	\$25.00	Per permit, plus the fees set out in the Table below	515.020
			Each
		1 through 5 per circuit	\$1.75
		6 through 20 per circuit	\$0.60
Circuits		All over 20 per circuit	\$0.30
		Hearing appliances less than 4500W	\$1.75
		Range or heat or heat device 4500W or over	1 thorough 4 per circuit \$3.00
			All over 4 per circuit \$1.75
		Clothes dryer	1 thorough 4 per circuit \$3.00
Special Circuits and Additions			All over 4 per circuit \$1.75
		Special power outlet or feeder circuit	\$3.00
		Sign per circuit	\$0.25
		Outlets added to existing circuits or other miscellaneous wiring	\$0.25
Fixtures		Light fixtures or lamp holding devices	\$0.25
		1 Hp or less	\$1.25

	Over 1 HP up to 10 HP inclusive			\$3.50
Motors	Over 10 HP to to 25 HP inclusive			\$3.50
Air-Conditioning	Over 25 HP up to 50 HP inclusive			\$5.76
	Over 50 HP			\$12.00
	480 volts or less	Residential	Per meter 100 amps	\$2.25
			Each additional amp	\$0.02
Service New and Change		Commercial	Per meter 100 amps	\$2.25
			Each additional amp	\$0.02
	Over 480 volts each service entrance			\$30.00
	Fee for item which is not listed above			\$6.00
	Reinspection fee (\$30.00 minimum)			\$30.00/hour

	Service	Fee		Code Reference
P.	Entertainer permit	\$200.00		605.230
Q.	Fireworks Sale Permit	\$6,000.00	Per location	225.050(E)
	Sales Cleanup Deposit	\$2,500.00	Refundable	225.070(F)
	Commercial Display Permit			
	Indoors	150.00	Per location	225.075(D)
	Outdoors	1,000.00	Per location	225.075(D)
R.	Food Vending Licenses	\$25.00	Daily	605.390
		\$250.00	Annual	
S.	Gaming License (Billiards and Coin-op)	\$15.00	Per year/per game or machine	605.060/14
T.	Garage Sale Permit	\$5.00		605.390
U.	Insufficient Check Charge Fee	\$30.00		100.160
V.	Liquor License Tax	\$600.00	Retail "package" liquor (per location biennially)	600.170A
		\$500.00	Club/Drinking Establishment (per location biennially)	600.170A
		\$100.00	Temporary Permit	600.170A

	\$600.00	Farm Winery Microbrewery Microdistillery/Other Manufacturer/ Distributor (biennially)	600.170A
W. Mechanical Permits — Issuance	\$25.00	Per permit, plus the fees set out in the following Table	525.010

For Installation, Replacement or Relocation of Any Mechanical Equipment

			Each
		Up to and including 1,000 BTU input	\$9.00
		Over 100,000 BTU input	\$11.00
		Any floor furnace	\$9.00
Heating Equipment		Suspended wall heater	\$9.00
		Any vent not included in appliance permit	\$4.50
		Repair, alter or addition to any appliance	\$9.00
		Boiler-compressor	Absorption system BTU
		3 HP or less	100M or less \$9.00
		Over 3 HP to and incl. 15 HP	Over 100M incl. 500M \$15.00
Boilers, Compressors, Absorption Systems		Over 15 HP incl. 30 HP	Over 500M incl 1,000M \$22.00
		Over 30 HP incl. 50 HP	Over 1,000M incl. 1,750M \$33.50
		Over 50 HP	Over 1,750M \$56.00
		Each air handling unit to 10,000 CFM including ducts	\$6.50
		Each air handling unit over 10,000 CFM including ducts	\$11.00
		Each evaporator cooler	\$6.50
		Each ventilation system	\$4.50
Air Handling Vent Systems		Each hood served by mechanical exhaust	\$6.50
		Domestic type incinerator	\$6.50
		Commercial type incinerator	\$6.50
		Any appliance or piece of equipment regulated by this Code where no other fee is listed	\$6.50

			Code Reference
X. Mobile Home/Trailer Parks	\$30.00	1 — 2 spaces	505.070
	\$40.00	3 — 10 spaces	505.070
	\$50.00	11 — 25 spaces	505.070

	\$70.00	26 — 50 spaces	505.070
	\$100.00	51 — 75 spaces	505.070
	\$200.00	76 — 150 spaces	505.070
	\$200.00	Plus \$10.00 for each 10 spaces over 150	505.070
Y. Park Impact Fee	\$300.00		255.060
Z. Park Shelter Fee	\$10.00		*
AA. Pawnbroker's License	\$50.00	Per year	605.390
BB. Solicitor's License	\$100.00	Per day	605.030
	\$500.00	Per year	
CC. Photocopies/Fax	\$0.25	Per page plus tax (photocopy)	110.030B1
	\$1.00	Per page (fax)	*
DD. Pitching Machine Key Deposit	\$20.00	Refundable Deposit	*
EE. Plumbing Permit	\$25.00	Per permit, plus the fees set out in the following Table	510.030
Gas Meter Loop		\$10.00	
Gas Outlets (1 to 4)		\$10.00	
Gas Outlets (Over 4)		\$1.00	
Water Heater or Vents		\$10.00	
Water Service and Piping		\$10.00	
Building Sewer and Mobile and Manufactured Homes		\$10.00	
Lawn Sprinkler System		\$10.00	
	Bathtub	\$3.50	
	Dishwasher	\$3.50	
	Drinking Fountain	\$3.50	
	Floor Drain	\$3.50	
	Garbage Disposer	\$3.50	
	Lavatories	\$3.50	
	Mud or Oil Traps	\$3.50	
Waste Openings	Sump Pump	\$3.50	
	Sinks, Kitchen	\$3.50	
	Sinks, Service	\$3.50	
	Urinals	\$3.50	

Washing Machine	\$3.50
Water Closet	\$3.50
Miscellaneous	\$3.50

	Service	Fee		Code Reference
FF.	Pole Rental	\$7.50	Per unit	700.005
GG.	Property Maintenance Inspection Fee	\$30.00	Per inspection, plus \$30.00 per hour staff time	520.010
HH.	Record Requested Fee	\$0.25	Per page, plus \$20.00 per hour staff time	110.030B1
II.	Recycle Truck License Fee	\$50.00	Per vehicle (annually)	605.390
JJ.	Roofing Permits	\$25.00	Residential	505.040D
		\$35.00	Commercial	505.040D
KK.	Sewer Tap Fee	\$900.00		700.060
		\$100.00	On existing homes	*
LL.	Sidewalk/Driveway/Curb Cut	\$25.00		530.025
MM.	Sign Permit Fees	\$15.00	Sign only	*
		\$10.00	Portable sign/30 days	*
		\$50.00	Portable sign/annual	*
NN.	Sports Complex Permit Fees/day (With no gate admission charge)	\$15.00	Field maintenance	250.070
		\$20.00	Lights per field	250.070
		\$50.00	Usage per field	250.070
		\$50.00	Deposit	250.070
		\$50.00	Refundable Key Deposit	250.070
OO.	Sports Complex Permit Fees/day (With gate admission charge)	\$20.00	Field maintenance	250.070
		\$20.00	Lights per field	250.070
		\$75.00	Usage per field	250.070
		\$50.00	Deposit	250.070
		\$50.00	Refundable Key Deposit	250.070
PP.	Subdivision Regulations Book	\$10.00	Plus tax	*
QQ.	Taxi License Fee	\$50.00	Per vehicle (first taxi)	605.390
		\$25.00	Per vehicle (two or more)	605.390

		taxis)	
RR.	Transient Guest Tax	5% Of gross receipts	605.400
SS.	Transportation Impact Fee	\$700.00	535.030
TT.	Trash Hauler's License	\$500.00 Plus \$50.00 per vehicle	605.290
UU.	Utility Construction Meter Fees	\$35.00 Electric	700.350
		\$10.00 Water	700.280
VV.	Utility administrative fee	\$30.00 Electric/water	700.220D
	After hours reconnection fee	\$75.00 Electric/water	700.220D
WW.	Utility Meter Deposits	\$100.00 Commercial Electric (minimum)	700.090
	<i>(Commercial deposits are based on the previous 12 month history of a similar business)</i>	\$25.00 Commercial Water (minimum)	700.090
		\$35.00 Duplex Water	700.090
		\$75.00 Residential/Owner Electric	700.090
		\$25.00 Residential/Owner Water	700.090
		\$100.00 Residential/Renter Electric	700.090
		\$50.00 Residential/Renter Water	700.090
XX.	Utility Same Date Service**	\$25.00 8 A.M. — 3:45 P.M.	700.080B
YY.	Utility Connection Fee**	\$7.50 Electric	700.080A
		\$7.50 Water	700.080A
		\$25.00 per meter for temporary utility connection	700.110B
ZZ.	Vacation of Streets, Alleys, Easements	\$150.00	*
AAA.	Water Meter Service Fees	\$600.00 1 inch Service Pipe	700.070
	<i>(Service Connection Fee)</i>	\$900.00 1½ inch Service Pipe	700.070
	<i>(Sales Tax as Applicable)</i>	\$1,200.00 2 inch Service Pipe	700.070
		\$1,800.00 3 inch Service Pipe	700.070
		\$2,400.00 4 inch Service Pipe	700.070
BBB.	Water Well Permits	\$25.00	700.230B

CCC. Zoning — Platting Application Fees	\$200.00	Agriculture/ Residential	*
	\$225.00	Manufactured Home Park	*
	\$225.00	Business	*
	\$300.00	Industrial	*
	\$225.00	Special Use	*
	\$100.00	Lot Split	*
	\$150.00	Appeal	*
	\$150.00	Variance	*
	\$150.00	Conditional Use	*
	\$300.00	Plus \$10.00 per lot, platting fee	*
	\$500.00	Plus \$20.00 per acre, Planned Unit Development	*
Zoning Maps	\$6.00	Plus tax	*
Zoning Regulations	\$15.00	Plus tax	*

* *No other Code Section reference.*

** *Plus Sales Tax as Applicable*

Chapter 105

GOVERNING BODY

Section 105.010. Composition. [CC 1985 §2-101; Revised, 1961]

The Governing Body of the City of Mulvane, Kansas, shall consist of a Mayor and five (5) Councilmembers, duly elected as provided by law.

Section 105.020. Meetings. [CC 1985 §2-102; Ord. No. 114, 10-7-1949; Ord. No. 1037 §1, 2-18-1998]

Regular meetings of the Council shall be held in the City Building on the first (1st) and third (3rd) Mondays of each and every month at 7:30 P.M. When Monday falls on a legal holiday, the meeting shall be held the next Wednesday at the same hour. Special meetings may be called by the Mayor or Acting Mayor on written request of any three (3) members of the Council, said request specifying the object and purpose of such meeting. Said request shall be read at the meeting and entered at length on the journal.

Section 105.030. Rules and Order of Business. [CC 1985 §2-103; Amended Ord. No. 928, 9-4-1991]

A. The following rules are hereby established for the Governing Body of this City:

1. *Rule 1.* The Mayor shall preside at all meetings of the Council and shall have a deciding vote when the Council is equally divided and none other. In the absence of the Mayor, the President of the Council shall preside. In the absence of both, the Councilmembers shall elect one (1) of their number as temporary Chairperson who shall be styled "Acting President of the Council". The President and the Acting President when occupying the place of the Mayor shall have the same privileges as other members of the Council, including the right to vote on all issues. The President or Acting President shall not have a tie-breaking vote in addition to their regular vote while acting in the capacity of President or Acting President.
2. *Rule 2.* At all meetings of the Council, a majority of the Councilmembers elected shall constitute a quorum to do business but a minority may adjourn from day to day and may compel the attendance of absentees.
3. *Rule 3.* At the hour appointed for meeting, the members shall be called to order by the Mayor or in his/her absence, by the President of the Council or in the absence of both, by the Clerk. The Clerk shall call the roll, note the absentees and quorum, the Council shall proceed to business.
4. *Rule 4.* The Mayor shall preserve order and decorum and shall decide questions of order subject to an appeal to the Council.
5. *Rule 5.* Every person, previous to speaking, shall address the Chair and not proceed

until having been recognized by the Chair. Remarks shall be confined to the matter under debate. No member shall speak more than five (5) minutes each time without permission.

6. *Rule 6.* A member called to order shall immediately suspend until the point of order raised is decided by the Chair.
7. *Rule 7.* All motions shall be read by the Chair or City Clerk prior to a vote being taken. If a motion shall be amended, permission from the member introducing the motion, and if seconded, permission from the second is required prior to the amendment.
8. *Rule 8.* All resolutions must be in writing.
9. *Rule 9.* When a subject is under debate, no motion on any other subject will be entertained by the Chair, except motions to adjourn, to table, to call a point of order, or a motion to act upon the item under discussion, which motions shall have precedence in the order which they are named, and all motions will be decided after seconding without further debate.
10. *Rule 10.* When a question is put by the Chair, every member present shall vote either "yea", "nay", or "abstain". All votes will be recorded by the City Clerk and reflected, by name, in the meeting minutes. Votes to "abstain" are neither "yea" nor "nay" votes and are not counted in the final tally.
11. *Rule 11.* After an ordinance shall be passed, an enrolled copy thereof shall be made by the Clerk and shall be signed by the Mayor or, in his/her absence, by the President of the Council and deposited with the Clerk who shall file and record the same and secure its publication as required by law.
12. *Rule 12.* Petitions and other papers addressed to the Council shall be read by the Clerk under the proper order of business upon presentation of the same to the Council.
13. *Rule 13.* These rules or any one of them except such as may be statutory provisions may be temporarily suspended by consent of two-thirds ($\frac{2}{3}$) of the Councilmembers elect.
14. *Rule 14.* In all points not covered by these rules, Council shall be governed in its procedure by previous tradition, and, as applicable, by Robert's Rules of Order.
15. *Rule 15.* At any regular meeting of the City Council, the agenda may be opened for the addition of items not appearing on the published agenda only with the unanimous consent of the Council and in that event only in the case of a bona fide emergency.

Section 105.040. Board and Commission Members — Attendance Required at All Meetings. [CC 1985 §2-105; Ord. No. 904, 10-2-1990]

- A. All persons serving on the appointive boards and commissions of the City of Mulvane who hold office by virtue of appointment by the Mayor and confirmation by a majority of the Governing Body of the City who hold office for a term of years are subject to this Section.

Commissions and boards of the City affected hereby include but are not limited to the: Planning Commission; Variance Board; Tree Board; Board of Construction, Trades and Appeals; Library Board; and other adjudicative boards and/or commissions as well as bodies administering City funds.

- B. All members of the boards and commissions identified herein are hereby required to attend all meetings thereof; including special and regular meetings except when excused for the following reasons:
 - 1. When a member of the immediate family of a member is sick and unable to attend;
 - 2. When a member of the board or commission is sick and unable to attend;
 - 3. When a death has occurred in the immediate family of the member of the board or commission; or
 - 4. When there exists good cause which is approved by the Governing Body of the City upon the recommendation of the board or commission involved.
- C. It shall be the duty of the Chair of the board or commission to cause all absences of members to be noted of record in the minutes kept and the City Clerk shall inquire and report to the City Council all such absences and the reasons therefore of the commissions bodies and boards covered by this Section.
- D. Except for the excused absences set out above all such members of boards, commissions and bodies covered by this Section shall attend all such meetings and in the event any member is absent for three (3) regular consecutive meetings such Board member or Commissioner shall be deemed to have vacated office and the vacancy shall be filled by the Governing Body.

Chapter 110

PUBLIC RECORDS

Section 110.010. Records Custodians. [CC 1985 §2-702; Ord. No. 743, 4-2-1984]

- A. *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 the responsibility for compliance with that act with respect to the hereinafter listed public records:
1. *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.
 2. *Chief of Police.* All public records not on file in the office of the City Clerk and kept and maintained in the City Police Department.
 3. *Attorney for the City.* All public records not on file in the office of the City Clerk and kept and maintained in the Attorney for the City's office.
 4. *Utility Superintendent.* All public records not on file in the office of the City Clerk and kept and maintained in the office of the Utility Superintendent.
 5. *Streets and Parks Superintendent.* All public records not on file in the office of the City Clerk and kept and maintained in the Street and Park Superintendent's office.
 6. *Clerk of Municipal Court.* All public records not on file in the office of the City Clerk and kept and maintained in the Municipal Court.
 7. *Emergency Medical Services Director.* All public records not on file in the office of the City Clerk and kept and maintained with the Emergency Medical Services Director.
 8. *City Administrator.* All public records not on file in the office of the City Clerk and kept and maintained in the City Administrator's office.
- B. *Designation Of Additional Record Custodians.*
1. Each of the official custodians appointed in Subsection (A) 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 Sections 45-215, K.S.A. et seq.
 2. Whenever an official custodian shall appoint another person as a record custodian, he/she shall notify the City Clerk of such designations and the City Clerk shall maintain a register of all such designations.

- C. *Duties Of Custodians.* All City employees appointed or designated under this Section 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 and established by the State of Kansas for the inspection and copying of open public records. All inspections and copying of open public records shall be performed by or under the supervision of the record custodian responsible for such records.
- D. *Requests To Be Directed To Custodians.*
1. 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.
 2. Whenever any City employee appointed or designated as a custodian under this Section is presented with a request for access to or copy of a public record which record the custodian does not have in his/her possession and for which he/she has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. Further, the person making the request shall be informed as to which custodian the request should be addressed to if such is known by the custodian receiving the request.

Section 110.020. Inspection of Records — Request — Response — Refusal, When.

- A. All public records shall be open for inspection by any person, except as otherwise provided by this Section, and suitable facilities shall be made available by each public agency for this purpose. No person shall remove original copies of public records from the office of any public agency without the written permission of the custodian of the record.
- B. Upon request in accordance with procedures adopted under K.S.A. 45-220, any person may inspect public records during the regular office hours of the public agency and during any additional hours established by the public agency pursuant to K.S.A. 45-220.
- C. If the person to whom the request is directed is not the custodian of the public record requested, such person shall so notify the requester and shall furnish the name and location of the custodian of the public record, if known to or readily ascertainable by such person.
- D. Each request for access to a public record shall be acted upon as soon as possible, but not later than the end of the third (3rd) business day following the date that the request is received. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. If the request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester not later than the end of the third (3rd) business day following the date that the request for the statement is received.
- E. The custodian may refuse to provide access to a public record, or to permit inspection, if a

request places an unreasonable burden in producing public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency. However, refusal under this Subsection must be sustained by preponderance of the evidence.

- F. A public agency may charge and require advance payment of a fee for providing access to or furnishing copies of public records, subject to K.S.A. 45-219.

Section 110.030. Fees. [CC 1985 §2-703; Ord. No. 743, 4-2-1984; Ord. No. 1085, 8-21-2000; Ord. No. 1149 §2, 8-19-2002]

- A. *Inspection Fee.* Where request has been made for inspection of any open public record, there shall be no inspection fee charged to the requester.

- B. *Copying Fee.*

1. A per-page fee and fee for staff time in amounts as set forth in Section 100.240 shall be charged for photocopying standard or legal-sized public records and for staff time.
2. For copying any public records which cannot be reproduced by the City's photocopying equipment or which are non-standard in size, the requester shall be charged the actual cost to the City, including staff time, in reproducing such records.

- C. *When Due.* Any fees for record copies are due at the time record copies are provided to the requester unless the record custodian has demanded that prepayment of all or part of such fees be made. Fees are to be paid to the record custodian.

- D. *Prepayment Of Fees.*

1. A record custodian may demand prepayment of the fees established by this Section whenever he/she believes this to be in the best interest of the City. The prepayment amount shall be an estimate of the copying charges and search time estimated in fulfilling the request. Any overage or underage in the prepayment shall be settled prior to delivery of the requested copies.
2. Prepayment of copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed fifty dollars (\$50.00).
3. Where prepayment has been demanded by the record custodian, no record shall be made available to the requester until such prepayment has been made.

- E. *Mailing And Handling Costs.* The record custodian shall determine and implement a charge covering mailing and handling costs accrued in responding to request through the mail service.

- F. *Fee Discretion.* The official custodian for each City department may exercise his/her discretion in reducing or waiving copying fees when such will benefit the economic growth of the City or is otherwise in the public interest. Preprinted materials shall be sold at prices as determined by the official custodian. He/she shall set up fee guidelines to be followed by record custodians within his/her department. No copy fee shall be assessed when multiple copies of the record requested have been prepared for free public distribution.

G. *Fee Administration.* Each record custodian shall transmit all record fee monies collected to the City Treasurer not less than weekly. Each custodian shall maintain receipts, completed as to the amount of fee charged and collected, which amounts shall be periodically audited by the office of the City Clerk.

Chapter 115

OFFICERS AND EMPLOYEES

ARTICLE I

Generally

Section 115.010. Officers Appointed. [CC 1985 §2-201; Amended Ord. No. 896, 6-18-1990; Ord. No. 1214 §1, 3-21-2005; Ord. No. 1274 §1, 3-24-2008]

The Mayor shall, at the first (1st) meeting of the City Council in May of each year, by and with the consent of the Council, appoint the following officers: City Clerk, City Treasurer, Chief of Police/Director of Public Safety, Municipal Court Judge and City Attorney. From time to time and during such times as may be deemed appropriate, the Mayor may, by and with the consent of the Council, also appoint one (1) or more Deputy City Clerks.

Section 115.015. Deputy City Clerk Office Created. [Ord. No. 1274 §2, 3-24-2008]

There is hereby created within the City the office and position of Deputy City Clerk, to be appointed at the option of the Mayor, but only by and with the consent of a majority of the City Council. He/she shall serve from the time appointed until the first (1st) meeting of the City Council in May of each year, or such shorter period as may be otherwise indicted in the Mayor's appointment, as approved by a majority of the City Council. A Deputy City Clerk shall serve without payment or additional remuneration. The same person may hold the offices of the Deputy City Clerk and City Administrator.

Section 115.020. Qualification — Oath of Office. [R.O. 1924 §17; CC 1985 §2-202]

Except those permitted to be non-residents by State law, the officers appointed under this Article shall be qualified electors of this City under the Constitution and laws of this State. They shall qualify for office by taking and subscribing to the following oath before an officer authorized to administer the same: "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 perform the duties of (here enter name of office), so help me God."

Section 115.030. Bonds of City Officers. [CC 1985 §2-203; Ord. No. 98, 5-2-1947; Ord. No. 204, 10-15-1956]

Before entering upon the duties of their respective offices, the following officers shall execute and deliver to the City Council for its approval good and sufficient surety bonds in the amounts as hereinafter provided, conditioned upon the faithful and efficient performance of duty in their respective offices: Chief of Police, one thousand dollars (\$1,000.00); City Treasurer, one thousand dollars (\$1,000.00); City Clerk, one thousand dollars (\$1,000.00); Superintendent of Water and Light Plant, five thousand dollars (\$5,000.00). Any annual premium on such surety

bonds shall be paid by the City in the same manner as other bills against the City.

Section 115.040. Office Hours. [CC 1985 §2-204]

The City Clerk shall maintain an office in the City Building and said office shall be open to the public from the hour of 8:00 A.M. to the hour of 5:00 P.M. except on Saturdays, Sundays and legal holidays.

Section 115.050. Duties of Other Officers. [CC 1985 §2-206; Revised, 1961; Ord. No. 1274 §3, 3-24-2008]

A Deputy City Clerk shall serve the City and perform the rights and duties and shall have the full responsibility of the City Clerk upon vacancy of the City Clerk from office, whether because of absence from the City or any other reason. The other officers provided for in this Article or elsewhere in this Code shall perform such duties as may be imposed by ordinance or by law and such further duties as may be provided by the City Council.

Section 115.060. Removal of Officers. [CC 1985 §2-207; Revised, 1961; G.S. Supp. 15-204]

A majority of all the members of the Council may remove any officer appointed under this Article or, the Mayor may suspend any such officer with the consent of the Council.

Section 115.070. Vacancies in Office. [R.O. 1924 §26; CC 1985 §2-208; Ord. No. 1274 §4, 3-24-2008]

All vacancies in the offices provided for in this Article shall be filled until the next City election by appointment by the Mayor, by and with the consent of the City Council; provided that a Deputy City Clerk shall perform the rights and duties of the City Clerk during any vacancy from office until such time a new City Clerk is appointed.

ARTICLE II
City Administrator/City Clerk

Section 115.080. City Administrator Office Created. [CC 1985 §2-301; Ord. No. 931, 11-4-1991; Ord. No. 1274 §5, 3-24-2008]

There is hereby created the position of Director of Administration, known as City Administrator, to be appointed by the Mayor and confirmed by a majority of the City Council. He/she shall be appointed on the basis of administrative skill and ability on a contract basis. The same person may hold the offices of City Administrator and City Clerk or Deputy City Clerk.

Section 115.090. Intent. [CC 1985 §2-302; Ord. No. 931, 11-4-1991]

It is the intent of the Governing Body, expressed by this legislation, to provide for the improved coordination of City services and activities.

Section 115.100. Duties and Responsibilities. [CC 1985 §2-303; Ord. No. 931, 11-4-1991]

A. The following is an exemplary and not exhaustive recital of the duties of City Administrator; in addition to the duties imposed by Statute and/or other ordinances:

1. Review, evaluate, and report to the Mayor and Council with respect to all City services;
2. Prepare and submit the annual budget to the Governing Body and keep all City Officials fully advised as to the financial condition of the City;
3. Periodically recommend to the Governing Body such actions as will assure improved functioning of City business except where such responsibilities are committed by law to other City Officials;
4. Exercise general control over all City purchases and expenditures in accordance with the budget and policies of the City;
5. Attend all meetings of the Governing Body and report on a regular basis on the status of all matters of concern to the City;
6. Serve as coordinator and/or mediator in all matters involving multiple department heads or supervisors and subordinates when necessary to achieve consensus and/or resolve conflicts;
7. Promote and improve the public perception of the City and cause to be taken such actions that improve the welfare and well-being of the citizens;
8. Promote and improve economic development of the City; and
9. Perform such other duties as the Governing Body may direct.

Chapter 120

PERSONNEL REGULATIONS

All regulations concerning Personnel and the Employee Handbook are on file in the City Clerk's office.

Chapter 125

EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION POLICIES

Section 125.010. Equal Employment Opportunity — General Policy. [CC 1985 §2-601; Passed 12-20-1976, Resolution]

- A. The Governing Body of the City of Mulvane, Kansas, hereby declares it to be the policy of its City to provide equal opportunity in employment and advancement and to administer its employment practices without regard to race, color, religion, sex, age or national origin. This policy of no discrimination will prevail throughout every aspect of employment practices, including but not limited to the following:
1. Recruit, hire and promote in all job classifications without regard to race, color, religion, sex, age or national origin, except where age is a bona fide occupational qualification.
 2. All decisions for hiring or promotions shall be based solely upon each individual's qualifications for the position to be filled.
 3. All other personnel actions such as compensation, benefits, transfers, layoffs, return from layoffs, City sponsored training, education, tuition assistance, social and recreation programs will be administered without regard to race, color, religion, sex, age or national origin.
 4. The City will undertake a program of affirmative action to make widely known that equal employment opportunities are available on the basis of individual merit and to actively encourage all persons to seek employment and to strive for advancement on this basis.
 5. It is the intent of the City that this policy shall be enforced the same as any other policy of the City. Any deliberate attempt to thwart or to circumvent this policy shall be grounds for disciplinary action, including demotion or discharge.

Section 125.020. Affirmative Action Policy — Scope and Purpose. [CC 1985 §2-602; Passed 12-20-1976, Resolution]

These guidelines are designed to provide direction in the development of an affirmative action plan to provide equal employment opportunities for all regardless of race, color, religion, sex, age, physical handicaps or national origin. With that goal in mind, the City embraces the Kansas Act Against Discrimination.

Section 125.030. The Equal Employment Opportunity Officer. [CC 1985 §2-603; Passed 12-20-1976, Resolution]

- A. Responsibilities and duties of the Equal Employment Opportunity Officer are to coordinate efforts to advise and assist staff in implementing the aforementioned Kansas Act Against Discrimination and to serve as ombudsman for any complaints. Specifically, this official is charged with monitoring the following:
1. Reviewing all policies relating to equal opportunity in order to guarantee effective implementation of the program.
 2. Designing and implementing record systems of minority employment information.
 3. Serving as liaison between contractors and employment agencies, including the Kansas Human Rights Commission and Federal Equal Employment Opportunity for qualified minority organizations.
 4. Cooperation with unions in the development of programs to assure equal opportunity for qualified minority persons in the contract grades.
 5. To encourage minority employees to increase their skills and job potential through participating in training and educational programs.

Section 125.040. Advertising. [CC 1985 §2-604; Passed 12-20-1976, Resolution]

The City shall advertise in newspapers that the City is an "equal opportunity employer" and advertise vacancies of City employee positions in such newspapers. All applicants will be screened on a competitive basis extending to all applicants consideration for employment without regard to race, creed, color, sex, age or national origin. The City of Mulvane will post in conspicuous places notices and other information identifying that the City is an equal opportunity employer.

Section 125.050. Government Contracts — Mandatory Provisions.

- A. Except as provided by Subsection (C), every contract for or on behalf of the City of Mulvane, or any agency of or authority created by the City, for the construction, alteration or repair of any public building or public work or for the acquisition of materials, equipment, supplies or services shall contain provisions by which the contractor agrees that:
1. The contractor shall observe the provisions of the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin or ancestry;
 2. 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 commission;
 3. If the contractor fails to comply with the manner in which the contractor reports to the commission in accordance with the provisions of Section 44-1031, K.S.A. and amendments thereto, the contractor shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, the contractor shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency; and
 5. The contractor shall include the provisions of Subsections (A)(1) through (4) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.
- B. The Kansas Human Rights Commission shall not be prevented hereby from requiring reports of contractors found to be not in compliance with the Kansas Act Against Discrimination.
- C. The provisions of this Section shall not apply to a contract entered into by a contractor:
1. Who employs fewer than four (4) employees during the term of such contract; or
 2. Whose contracts with the City letting such contract cumulatively total five thousand dollars (\$5,000.00) or less during the fiscal year of the City.

Chapter 130

MUNICIPAL COURT

ARTICLE I In General

Section 130.001. Municipal Court Established. [Code 1995]

There is hereby established a Municipal Court for the City of Mulvane, Kansas. The Municipal Court shall have jurisdiction to hear and determine cases involving violation of the ordinances of the City.

Section 130.005. Municipal Court — Practice and Procedure. [Code 1995]

The Kansas Code of Procedure for municipal courts, as set forth in K.S.A. 12-4101 et seq., and all acts amendatory or supplemental thereto shall govern the practice and procedure in all cases in the Municipal Court.

Section 130.010. Place and Date of the Municipal Court. [Ord. No. 962 §9-100, 12-6-1993; Ord. No. 990 §9-100, 6-19-1995; Ord. No. 1061 §130.010, 6-7-1999; Ord. No. 1083, 7-5-2000]

Court shall be held at the Mulvane City Building, in the Council Chambers, 211 N. Second, on the first (1st), third (3rd) and fourth (4th) Tuesdays of each month effective September 5, 2000. The time of each Court session will be set by Administrative Order of the Court upon the advice and consent of the Governing Body.

Section 130.020. Jurisdiction and Power of the Municipal Judge. [CC 1985 §9-101; Ord. No. 548, 8-1-1977]

The Municipal Judge shall have exclusive original jurisdiction to hear and determine all offenses against the ordinances of the City. He/she shall have power to enforce due obedience to all orders, writs, rules and judgments made by him/her and may fine or imprison or both for contempt committed in Court or for failure to obey process issued by such Municipal Judge, in the same manner and to the same extent as the District Court and, for all such purposes, the jurisdiction of the Municipal Judge shall be co-extensive with the Counties in which the City is located. The powers of the Municipal Judge shall be those as set out in Article 41, Code of Procedure for Municipal Courts, General Provisions, pursuant to K.S.A. 12-4101, et seq., known as the Code of Procedure for Municipal Court, together with Article 42, 43, 44, 45 and 46 and amendments thereto.

Section 130.025. Municipal Judge — Appointment — Qualifications — Compensation.

A. The Municipal Court shall be presided over by a Municipal Judge. The Judge shall be

selected in the manner provided by Statute. The person who is selected shall be:

1. A citizen of the United States;
2. A graduate of a high school or secondary school or the equivalent thereof; and
3. An attorney regularly admitted to practice law in the State of Kansas or certified by the Supreme Court in the manner prescribed by K.S.A. 12-4114, as qualified to serve as a Municipal Judge.

The Municipal Judge shall receive a monthly or annual salary set by ordinance of the City in which such Municipal Judge presides, except where otherwise provided by law.

Section 130.030. Municipal Judge — Powers and Duties.

- A. The Municipal Judge shall have the power to administer the oaths and enforce all orders, rules and judgments made by such Municipal Judge, and may fine or imprison for contempt committed in court or for failure to obey process issued by such Municipal Judge, in the same manner and to the same extent as a Judge of the District Court.
- B. The Municipal Judge shall have the power to hear and determine all cases properly brought before such Municipal Judge; to grant continuances; sentence those found guilty to a fine or confinement in jail, or both; commit accused persons to jail in default of bond; determine applications for parole; release on probation; grant time in which a fine may be paid; correct a sentence; suspend imposition of a sentence; set aside a judgment; permit time for post trial motions; and discharge accused persons.
- C. The Municipal Judge shall maintain a docket in which every cause commenced before such Municipal Judge shall be entered. Such docket shall contain the names of the accused persons and complainant, the nature or character of the offense, the date of trial, the names of all witnesses sworn and examined, the finding of the Court, the judgment and sentence, the date of payment, the date of issuing commitment, if any, and every other fact necessary to show the full proceedings in each case.
- D. The Municipal Judge shall promptly make such reports and furnish the information requested by any departmental justice or the judicial administrator, in the manner and form prescribed by the Supreme Court.
- E. The Municipal Judge shall ensure that information concerning dispositions of City ordinance violations that result in convictions comparable to convictions for Class A and B misdemeanors under Kansas Criminal Statutes is forwarded to the Kansas Bureau of Investigation Central Repository. This information shall be transmitted, on a form or in a format approved by the Attorney General, within thirty (30) days of final disposition.

Section 130.035. Municipal Judge — Absence — Vacancy — Pro Tem.

- A. 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.

- B. 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.

Section 130.040. Court Clerk.

- A. There is hereby established the office of the Clerk of the Municipal Court of the City of Mulvane, Kansas. The Clerk shall issue all processes of the Court, administer oaths, file and preserve all papers, docket cases and set same for trial and shall perform such further acts as may be necessary to carry out the duties and responsibilities of the Court. The Clerk shall receive, account for and pay to the City Treasurer all fines and forfeited bonds paid into the Court.
- B. The Clerk of the Municipal Court, or the Municipal Judge if no Clerk is appointed, within ten (10) days after selection, and before entering upon the duties of office, shall execute to the City such bond as the City Council may require, which shall be approved by the City Council, and filed in the office of the City Clerk, conditioned for the faithful performance of the duties required of such Clerk by law, and for the faithful application and payment of all moneys that may come into such Clerk's hands in the execution of the duties of the office. The City shall pay the cost of such bond.

Section 130.045. Failure to Appear in Municipal Court. [CC 1985 §9-103; Ord. No. 636, 9-15-1980]

Any person released from custody to appear at a later time before the Municipal Court and who fails to make such appearance at the designated time is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment.

Section 130.050. Failure to Answer a Written Summons, Complaint or Notice to Appear. [CC 1985 §9-104; Ord. No. 636, 9-15-1980]

Any person who fails to appear and answer a written summons, complaint or notice to appear issued or delivered to him/her by a Police Officer, Fire Department Official, Help Officer or Park Officer for any violation of any provision of this Code or any ordinance, rule or regulation formulated by any such officer or official of such agency of the City, under authority vested in him/her, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than six (6) months or by both such fine and imprisonment.

Section 130.060. Collection and Disposition of Fines and Costs.

When a fine is levied as punishment, the Municipal Judge or Clerk of the Municipal Court shall issue a statement setting forth the amount of the fine and the manner of payment. Failure to pay in the manner specified may constitute contempt of Court.

Section 130.070. Municipal Prosecutor.

- A. The position of Municipal Prosecutor is hereby created as a job title within the City of Mulvane, Sedgwick and Sumner Counties, Kansas, to be appointed by the Mayor upon the advice and consent of a majority of the City Council. The term of office to commence the first (1st) Council meeting of May of each year.
- B. The Municipal Prosecutor is responsible for exercising all prosecutorial functions under Article 44 of Chapter 12, K.S.A.

Section 130.080. Function. [CC 1985 §9-107; Ord. No. 717, 5-16-1983]

It shall be the function of the Municipal Prosecutor, or the Municipal Prosecutor's designee, to administer, prosecute or otherwise handle each and every claim to be presented in the Municipal Court of the City of Mulvane, Kansas.

Section 130.090. Compensation. [CC 1985 §9-108; Ord. No. 818, 4-6-1987; Ord. No. 964, 2-21-1994; Ord. No. 1008, 6-17-1996]

In light of the foregoing duties, the compensation of the Municipal Prosecutor is a matter for agreement between the City and the Municipal Prosecutor.

Section 130.100. Municipal Court Charges. [CC 1985 §9-109; Ord. No. 947, 7-6-1992; Ord. No. 970, 7-18-1994; Ord. No. 1009, 7-15-1996; Ord. No. 1085, 8-21-2000; Ord. No. 1149 §3, 8-19-2002; Ord. No. 1410 §3, 2-18-2013]

- A. There shall be charged as costs in each case, motion or order pending before the Municipal Court Judge of the City of Mulvane, Sedgwick and Sumner Counties, Kansas, sums in an amount as set forth in Section 100.240.
- B. Additional charges may be levied by the State of Kansas and collected by the City of Mulvane.
- C. *Payment Of Fees And Charges.* All payments of fees and charges due to the City under this Chapter shall be made by cash, check, money order, wire transfer, automated clearing house transfer, electronic check, credit card, debit card, or any other form of payment acceptable to the City; provided however, that no payment in cash may include more than two dollars (\$2.00) in coins for each invoice or monthly bill.
- D. *Returned Payment.* In the event any payment by a person for fees and charges due under this Chapter is returned to the City as not payable (e.g., a "worthless check", insufficient funds, stop-payment, refused automatic debit), the City shall impose a returned payment service charge as set forth in Section 100.160 upon such person and shall accept only verified immediately available funds (e.g., cash, money order) from such person for payments of fees and charges due to the City under this Chapter for the twelve (12) months following such return.
- E. *Waiver Of Available Funds Requirement.* For good cause shown upon satisfactory proof, the Court Clerk may waive the requirement of payment in verified, immediately available funds whenever exceptional circumstances are shown. In the event this waiver is granted

by the Court Clerk, the Court Clerk shall enter in the official records of the City an explanation of the circumstances under which the waiver was granted.

Section 130.110. Various Costs and Charges. [CC 1985 §9-110; Ord. No. 729, 10-17-1983]

The Municipal Judge shall have authority to set various costs and charges either for the reproduction of reports or records, the appointment of counsel to assist indigent defendants or the cost of obtaining expert testimony. Each and all of the items as determined by the Judge shall become effective upon posting and notice to the public. The Judge shall maintain discretion to tax any and all of the posted items against either the petitioner, the City of Mulvane or the defendant as cost in the litigation.

Section 130.120. Alcohol and Drug Safety Action Program. [CC 1985 §9-111; Ord. No. 772, 11-4-1985; Ord. No. 971, 7-18-1994]

The Municipal Judge shall be authorized to assess as cost, in addition to any other costs assessable by this Code or other applicable laws, a fee not to exceed one hundred twenty-five dollars (\$125.00), the same being reimbursement for the costs and expenses of the City of Mulvane, Kansas, in providing and supervising an alcohol and drug safety action program as provided by K.S.A. 8-1008.

Section 130.130. Assessing Costs. [CC 1985 §9-112; Ord. No. 738, 2-6-1984]

The Municipal Judge shall have authority to assess as costs against a defendant the expenses and monies charged by or paid to an attorney appointed on behalf of an indigent defendant.

Section 130.140. Municipal Court, Authorized Dispositions and Sentencing — Intent. [CC 1985 §9-113; Amended Ord. No. 772, 11-4-1985]

This Code is intended to provide for the just determination of all cases coming before the Municipal Court for violation of City ordinances. Its provisions shall be construed to provide a simplified procedure, fair administration of justice, and the elimination of unjustifiable delay and expense. If no procedure is provided by this Code, the Court shall proceed in any lawful manner consistent with the Kansas Code of Criminal Procedure and those Statutes providing for authorized dispositions of persons convicted of violations of City ordinances as the State shall provide and not inconsistent with other laws.

ARTICLE II

Powers to Write and Issue Complaints

Section 130.150. Definitions. [CC 1985 §9-1a101]

As used in this Article the following terms shall have these prescribed meanings:

APPEARANCE BOND — An undertaking, with or without security, entered into by a person in custody by which the person is bound to comply with the conditions of the undertaking.

ACCUSED PERSON — Any person, corporation or other legal entity accused by a complaint of the violation of a City ordinance.

ARRAIGNMENT — The formal act of calling the person accused of violating an ordinance before the Municipal Court to inform the person of the offense with which the person is charged, to ask the person whether the person is guilty or not guilty, and if guilty, to impose sentence.

ARREST — The taking of a person into custody in order that the person will appear to answer for the violation of an ordinance. The giving of a notice to appear is not an arrest.

BAIL — The security given for the purpose of insuring compliance with the terms of an appearance bond.

COMPLAINT — A sworn written statement, or a written statements by a Law Enforcement Officer, of the essential facts constituting a violation of an ordinance.

CUSTODY — The restraint of a person pursuant to arrest.

DETENTION — The temporary restraint of a person by a Law Enforcement Officer.

LAW ENFORCEMENT OFFICER — Any person who by virtue of office or public employment is vested by law with a duty to maintain public order and to make arrests for violation of the laws of the State of Kansas or ordinances of the City.

MUNICIPAL PROSECUTOR — Any attorney who represents the City in the prosecution of an accused person for the violation of a City ordinance.

NOTICE TO APPEAR — A written notice to a person accused by a complaint of having violated an ordinance of the City to appear at a stated time and place to answer to the charge of the complaint.

ORDINANCE CIGARETTE OR TOBACCO INFRACTION — A violation of an ordinance that proscribes the same behavior as proscribed by the definitions of *Ordinance Traffic Infraction* and *Warrant* of K.S.A. 79-3321 and amendments thereto.

ORDINANCE TRAFFIC INFRACTION — A violation of an ordinance that proscribes or requires the same behavior as that proscribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. (1984 Supp.) 8-2118 and amendments thereto.

SUBPOENA — A process issued by the Court to cause a witness to appear and give testimony at a time and place therein specified.

WARRANT — A written order made by a Judge directed to any Law Enforcement Officer commanding the officer to arrest the person named or described in it.

Section 130.160. Commencement of Prosecution. [CC 1985 §9-1a102]

The prosecution for the violation of the Municipal Code of the City of Mulvane, Kansas, or any ordinance of the City of Mulvane, Kansas, shall be commenced by the filing of a complaint with the Municipal Court.

Section 130.170. Complaint, Requirements, Form.

A complaint shall be in writing and shall be signed by the complainant. More than one violation may be charged in the same complaint. A complaint shall be deemed sufficient if in substantially

the form of the complaint set forth in Section 130.200 and amendments thereto or in substantially the following form:

IN THE MUNICIPAL COURT OF MULVANE, KANSAS

_____ (Accused Person)_____

The undersigned, complains that on or about the ____ day of _____, A.D., 19____, in the City of Mulvane, Counties of Sedgwick and Sumner, and State of Kansas, did then and there unlawfully _____ in violation of Section _____ of Ordinance No. _____ of the City of Mulvane, Kansas. Complainant

*Sworn to positively before me, this ____ day of _____, A.D., 19____
_____ Officer authorized to administer oaths

(*This complaint is not required to be sworn if it is signed by a Law Enforcement Officer.)

Section 130.180. Complaints — How Used — Issuance of Warrant — Refusal to Issue — Effect.

- A. A copy of the complaint shall be served, together with a notice to appear or a warrant, by a Law Enforcement Officer upon the accused person, and forthwith, the complaint shall be filed with the Municipal Court, except that a complaint may be filed initially with the Municipal Court, and if so filed, a copy of the complaint shall forthwith be delivered to the Municipal Prosecutor. The Municipal Prosecutor shall cause a notice to appear to be issued, unless he/she has good reason to believe that the accused person will not appear in response to a notice to appear, in which case the Municipal Prosecutor may request that a warrant be issued. Such warrant will be issued if the complaint is positively sworn to and the Municipal Judge has probable cause to believe that:
1. There has been the commission of a violation of a municipal ordinance;
 2. The accused person committed such violation; and
 3. The accused person will not appear in response to a notice to appear.
- B. If a Municipal Prosecutor fails either to cause a notice to appear or to request a warrant to be issued, on a complaint initially filed with the Municipal Court, the Municipal Judge may, upon affidavits filed with him/her alleging the violation of an ordinance, order the Municipal Prosecutor to institute proceedings against any person. Any such Municipal Judge shall be disqualified from sitting in any case wherein such order was entered and is further prohibited from communicating about such case with the Municipal Judge pro tem appointed by the Municipal Judge to preside therein.

Section 130.190. Notice to Appear — Contents — Form. [CC 1985 §9-1a105]

- A. A notice to appear shall describe the offense charged, shall summon the accused person to appear, shall contain a space in which the accused person may agree, in writing, to appear at a time not less than five (5) days after such notice to appear is given, unless the accused

person shall demand an earlier hearing. A notice to appear may be signed by a Municipal Judge, the Clerk of the Municipal Court, the Municipal Prosecutor, or any Law Enforcement Officer of the City.

- B. A notice to appear shall be deemed sufficient if in substantially the form of the notice to appear set out in Section 130.200 or if in substantially the following form, to wit:

IN THE MUNICIPAL COURT OF THE CITY OF MULVANE, KANSAS

THE CITY OF MULVANE, KANSAS,)
Plaintiff,)
vs.) No. _____
(Name of Accused Person))
Defendant.)
(Address of Accused Person))

NOTICE TO APPEAR

THE CITY OF MULVANE, KANSAS, TO:

(To The Above Named Accused Person)

You are hereby summoned to appear before the Municipal Court of the City of Mulvane, Kansas, on the ____ day of _____, 19____, at _____M., to answer a complaint charging you with (specific violation) _____.

If you fail to appear a warrant will be issued for your arrest.

Dated: _____, 19____.

Signature of Official

Title of Official

I agree to appear in said Court at said time and place.

Signature of Accused Person

RETURN

The undersigned hereby certifies that on the ____ day of _____, 19____, the notice to appear was served, mailed or delivered.

Law Enforcement Officer

Section 130.200. Uniform Complaint and Notice to Appear .¹ [CC 1985 §9-1a106]

In all cases a complaint and notice to appear in Municipal Court may be made in the form of the complaint and notice to appear which shall be deemed sufficient if it contains the information required by Subsection (b) of K.S.A. 8-2106, and amendments thereto.

Section 130.210. Notice to Appear — When Used. [CC 1985 §9-1a107]

A notice to appear shall be used in all cases involving the violation of a municipal ordinance, except when a warrant is issued.

Section 130.220. Notice to Appear — Service — Return. [CC 1985 §9-1a108]

The notice to appear shall be served upon the accused person by delivering a copy to him/her personally, or by leaving it at the dwelling house of the accused person or usual place of abode with some person of suitable age and discretion then residing therein, or by mailing it to the last known address of said person. A notice to appear may be served by any Law Enforcement Officer within the state and, if mailed, shall be mailed by a Law Enforcement Officer of the City of its issuance or the Clerk of the Municipal Court. Upon service by mail, the Law Enforcement Officer shall execute a verification to be filed with a copy of the notice to appear. Said verification shall be deemed sufficient if in substantially the following form:

The undersigned hereby certifies that on the ____ day of _____, 19____, a copy of the notice to appear was mailed to _____ at _____.

Signature of Law Enforcement Officer
or Clerk of the Municipal Court

Section 130.230. Warrant — Contents — Form. [CC 1985 §9-1a109]

A warrant shall contain the name of the accused person, or if unknown, any name or description by which the accused person may be identified with reasonable certainty, shall describe the nature of the violation of the ordinance of the City, shall command that the accused person be arrested, shall be signed by the Judge of the Municipal Court, and shall state the amount of the appearance bond to be required. A warrant shall be deemed sufficient if substantially in the following form:

1. Cross Reference — As to form of the "Uniform Complaint and Notice to Appear", see ord. no. 860 which is on file in the city offices.

IN THE MUNICIPAL COURT OF THE CITY OF MULVANE, KANSAS

THE CITY OF MULVANE, KANSAS,)

Plaintiff,)

vs.) No. _____

(Name of Accused Person))

Defendant.)

(Address of Accused Person))

WARRANT

THE CITY OF MULVANE, KANSAS, TO the Chief of Police of Mulvane, Kansas, or any duly authorized Law Enforcement Officer of the State of Kansas:

WHEREAS, a sworn complaint in writing has been made to me and it appearing that there is probable cause to believe that on or about the ____ day of _____, 19__ within the corporate limits of the City of Mulvane, Kansas, the above-named accused person did unlawfully:

in violating of Section _____ of Ordinance (or Municipal Code) No. _____ of the said City of Mulvane, Kansas;

Therefore, you are commanded to forthwith arrest the above-named accused person and bring said accused person before this Court to be dealt with according to law.

Given under my hand this ____ day of _____, 19__.

Municipal Judge
City of Mulvane, Kansas

The amount of the appearance bond is hereby set to be \$_____ for the appearance of the accused person before the Municipal Court of the City of Mulvane, Kansas, on the ____ day of _____, 19__, at _____M.

Municipal Judge
City of Mulvane, Kansas

RETURN

I hereby certify that I have executed the within warrant by arresting the named accused person (and taking a bond in the sum of _____ (\$_____) as security for appearance before the Municipal Court of the City of Mulvane, Kansas.)

This is to certify that I have made a diligent search for the within-named accused person but

have been unable to find same.

City: _____

Date: _____

Signature

Title

Section 130.240. Warrants — When Issued — Limitations. [CC 1985 §9-1a110]

- A. A warrant may be issued:
1. When an accused person fails to appear as required in a notice to appear after its service.
 2. In all other cases where a complaint has been filed and the Municipal Judge determines that a warrant should be issued.
- B. No warrant shall issue unless the complaint giving rise to its issuance is supported by oath or affirmation.
- C. No warrant shall issue for an ordinance traffic infraction or an ordinance cigarette or tobacco infraction unless the person charged has received service of a notice to appear and has failed to appear for the infraction.

Section 130.250. Warrants — Service. [CC 1985 §9-1a111]

A warrant may be directed to any Law Enforcement Officer within the State and may be executed any place within the State, by the arrest of the accused person. The officer need not have the warrant in his/her possession at the time of the arrest, but upon request, the officer shall show the warrant to the accused person as soon as possible. If the officer does not have the warrant in his/her possession at the time of the arrest, the officer shall then inform the accused person of the offense charged, of the fact that a warrant has been issued, and the amount of the bond required.

Section 130.260. Detention — Service of Complaint and Summons. [CC 1985 §9-1a112]

- A. A Law Enforcement Officer may detain a person when:
1. He/she has a warrant commanding that such person be arrested;
 2. He/she has reason to believe that a warrant for the person's arrest has been issued by any Municipal Court;
 3. He/she has probable cause to believe that the person is committing or has committed a violation of an ordinance, and the Law Enforcement Officer has probable cause to believe that such person will not be apprehended or evidence of the violation of the

ordinance will be irretrievably lost unless such person is immediately detained, or such person may cause injury to himself/herself or others or damage to property unless immediately detained; or

4. Any violation of an ordinance has been or is being committed by such person in his/her view.
- B. A Law Enforcement Officer having detained a person pursuant to the preceding Subsection, except Subparagraphs (1) or (2) thereof, may release the person or may prepare and serve upon such person a complaint and notice to appear, as provided by Section 130.190 or Section 130.200 and shall then release such accused person from such detention, except in such instances where the Law Enforcement Officer has power and authority to arrest such accused person as hereinafter set forth.

Section 130.270. Arrest by Law Enforcement Officer — When Authorized. [CC 1985 §9-1a113]

- A. Except as provided in Subsection (B), a Law Enforcement Officer may arrest a person under any of the following circumstances:
1. The officer has a warrant commanding that the person be arrested.
 2. A warrant for the person's arrest has been issued by a Municipal Court in this State.
 3. The officer has probable cause to believe that the person is committing or has committed a violation of an ordinance and that the person has intentionally inflicted bodily harm to another person.
 4. The Law Enforcement Officer detained the person pursuant to Subsection (A)(3) or (4) of Section 130.260 and amendments thereto and:
 - a. The person refuses to give a written promise to appear in court when served with a notice to appear;
 - b. The person is unable to provide identification of self by presenting a valid driver's license or other identification giving equivalent information to the Law Enforcement Officer;
 - c. The person is not a resident of the State of Kansas; or
 - d. The Law Enforcement Officer has probable cause to believe that the person may cause injury to self or others or may damage property unless immediately arrested.
- B. A Law Enforcement Officer may not arrest a person who is charged only with committing an ordinance traffic infraction or an ordinance cigarette or tobacco infraction unless the person charged has received service of a notice to appear and has failed to appear for the infraction.

Section 130.280. Persons Under Arrest — Procedures — Right to Post Bond — Release on Personal Recognizance. [CC 1985 §9-1a114]

Any person arrested by a Law Enforcement Officer shall be taken immediately by the Law

Enforcement Officer to the police station of the City or the office in the City designated by the Municipal Judge. At that time, the person shall have the right to post bond for the person's appearance, in accordance with K.S.A. 12-4301 and 12-4302, and amendments thereto. However, if the Law Enforcement Officer has probable cause to believe that such person may cause injury to oneself or others, or damage to property, and there is no responsible person or institution to which the person might be released, the person shall remain in the protective custody of the Law Enforcement Officer, in a City or County Jail for a period not to exceed six (6) hours, at which time such person shall be given an opportunity to post bond for the persons' appearance. While so held in protective custody, the person shall be permitted to consult with counsel or other persons on the person's behalf. Any person who does not make bond for the person's appearance shall be placed in the City or County Jail, to remain there until the person makes bond for the person's appearance, or appears before the Municipal Court at the earliest practical time, except that the person shall be released on the person's personal recognizance to appear at a later date if the person has not made bond, has not appeared before the Municipal Court within eighteen (18) hours after arrest and if no warrant has been issued for the person's arrest.

Section 130.290. Notice — Explanation of Rights. [CC 1985 §9-1a115; Ord. No. 860, 3-6-1989]

A. When a person is charged with an ordinance traffic infraction or an ordinance cigarette or tobacco infraction, the notice to appear shall provide a place where the person may make a written entry of appearance, waive the right to a trial and plead guilty or no contest. The notice to appear shall provide a space in which the Law Enforcement Officer, except as provided in Subsection (B), shall enter the appropriate fine specified in the fine schedule established by the Municipal Judge in accordance with K.S.A. 12-4305 and amendments thereto, in the case of a traffic infraction, or a fine of twenty-five dollars (\$25.00), in the case of an ordinance cigarette or tobacco infraction. Either the notice to appear or a separate form provided to the person by the Law Enforcement Officer shall provide an explanation:

1. Of the person's right to appear and right to trial and the person's right to pay the appropriate fine prior to the appearance date;
2. That failure to either pay such fine or appear at the specified time may result in issuance of a warrant for the person's arrest; and
3. In the case of a traffic infraction, that failure to either pay such fine or appear at the specified time may result in the suspension of the person's driver's license.

The Law Enforcement Officer shall provide the person with the telephone number and address of the Municipal Court to which the written entry of appearance, waiver of trial, plea of guilty or no contest and payment of fine shall be mailed.

B. In lieu of the Law Enforcement Officer entering the appropriate fine for an ordinance traffic infraction, the officer may direct the person charged with an ordinance traffic infraction to contact the Clerk of the Municipal Court to determine the applicable fine or provide the person with a copy of the fine schedule established by the Municipal Judge in accordance with K.S.A. 12-4305 and amendments thereto.

ARTICLE III
Traffic Citations

Section 130.300. Failure to Obey Citation. [CC 1985 §13-2107; Amended Ord. No. 765]

- A. It shall be unlawful to fail to comply with a traffic citation. Failure to comply with a traffic citation means a failure either to:
1. Appear before the Municipal Court in response to a traffic citation and pay in full any fine and Court costs imposed; or
 2. Otherwise comply with a traffic citation issued for an ordinance traffic infraction. Failure to comply with a traffic citation shall be unlawful regardless of the disposition of the charge for which such citation was originally issued.
- B. In addition to penalties of law applicable under Subsection (A), when a person fails to comply with a traffic citation, except for illegal parking, standing or stopping, the Municipal Court shall mail notice to the person that if the person does not appear in Municipal Court or pay all fines, Court costs and any penalties within thirty (30) days from the date of mailing, the Division of Vehicles will be notified to suspend the person's driving privileges. Upon the person's failure to comply within such thirty (30) days the Municipal Court shall notify the Division of Vehicles and assess a reinstatement fee of fifty dollars (\$50.00) for each charge in which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued. Such reinstatement fee shall be in addition to any fine or Court costs and other penalties.

Chapter 135

DEPARTMENTS, COMMISSIONS AND COMMITTEES

ARTICLE I

Public Building Commission

Section 135.010. Creation. [Ord. No. 1032 §1, 12-1-1997]

There is hereby created by the Council, under the authority of the Act, a municipal corporation to be known as the City of Mulvane, Kansas Public Building Commission (the "PBC").

Section 135.020. Composition. [Ord. No. 1032 §2, 12-1-1997; Ord. No. 1321 §1, 3-2-2009]

The PBC shall be composed of six (6) members (the "members") who shall be the same persons as are then serving as Mayor and Council members on the Governing Body of the City. The members of the PBC shall serve terms simultaneous with their terms as members of the City's Governing Body. The members shall serve without compensation but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties. The members may from time to time appoint a Chairperson, Vice Chairperson and Secretary of the PBC. Initially, and unless otherwise selected, the Chairperson shall be the City's Mayor, the Vice Chairperson shall be the President of the Council and the Secretary and Assistant Secretary shall be the City Clerk and any Deputy City Clerk, respectively. In the event that the PBC should provide for buildings or structures that are to be leased to governmental entities other than the City, the composition of the PBC shall be modified, as necessary, to conform to the requirements of the PBC Act.

Section 135.030. Purpose, Powers and Functions. [Ord. No. 1032 §3, 12-1-1997]

The PBC is created for the purpose of, and shall have the powers and shall perform the functions set forth in, the Act, as may be amended from time to time by Statute or charter ordinance. The Council, by subsequent ordinance, shall have the authority to limit the purposes, powers and/or functions of the PBC.

Section 135.040. Support Services. [Ord. No. 1032 §4, 12-1-1997]

Unless otherwise approved by the Council, the City Administrator and other City staff will provide administrative services to the PBC, the City's bond counsel and the City Attorney shall provide legal services to the PBC and the City's financial advisor shall provide financial advisory services to the PBC.

Section 135.050. Further Action. [Ord. No. 1032 §5, 12-1-1997]

The PBC shall have the authority to adopt by-laws and resolutions or take other official actions

not inconsistent with the provisions of this Article and the Act.

Section 135.060. Severability. [Ord. No. 1032 §6, 12-1-1997]

If any provision of this Article is deemed or ruled unconstitutional or otherwise illegal or invalid by any court of competent jurisdiction, such illegality or invalidation shall not affect any other provision of this Article. This Article shall be enforced and construed as if such illegal or invalid provision had not been contained herein.