

Chapter 200

POLICE AND FIRE DEPARTMENTS

Editor's Note — Ord. no. 1214 §§2 — 8, adopted March 21, 2005, repealed §§200.010 — 200.060 and enacted new provisions set out herein. Former §§200.010 — 200.060 derived from CC 1985 §§9.201 — 9.204 revised 1961 and revised 1984; CC 1985 §§6-101 — 6-102; amended ord. no. 875, 7-17-1989; amended ord. no. 1017, 10-21-1996; ord. no. 1075, 12-20-1999.

ARTICLE I

Department of Public Safety ¹

Section 200.010. Department of Public Safety. [Ord. No. 1214 §2, 3-21-2005]

The Department of Public Safety shall perform all of the duties and responsibilities for police, fire and emergency services in the City of Mulvane, and shall have all of the powers, duties and responsibilities conferred upon police, fire and emergency services by virtue of the Code of the City of Mulvane, Kansas, ordinances of the City of Mulvane, and shall have such other and additional powers, duties and responsibilities as may be lawfully imposed upon it by any administrative directives, resolution, rule, ordinance, Charter provision or Statute. Anywhere in this Code referencing the Police, Fire or Emergency Services Department shall now be the responsibility of the Department of Public Safety.

Section 200.020. Chief of Police/Director of Public Safety. [Ord. No. 1214 §3, 3-21-2005]

The Chief of Police/Director of Public Safety shall be the administrator and head of the Department of Public Safety. Said Chief of Police/Director of Public Safety shall have all of the duties, responsibilities and functions conferred upon a Chief of Police, Fire Chief and Emergency Services Director, as such terms are commonly used, including the authority to execute all processes issued by the Municipal Judge and delivered to him/her for that purpose. He/she shall, in addition thereto, have such other powers, duties and responsibilities as shall from time to time be lawfully conferred upon him/her by the Governing Body of said City and by law, and whenever any Statute, ordinance, municipal regulation or law shall require a duty or responsibility of the Chief of Police, Fire Chief or Emergency Services Director, such duties and responsibilities may be assumed and performed by such Chief of Police/Director of Public Safety. Anywhere in this Code referencing the Chief of Police, Fire Chief or Emergency Services Director shall now be the responsibility of the Chief of Police/Director of Public Safety.

Section 200.030. Police Duties. [Ord. No. 1214 §4, 3-21-2005]

Police Officers, while on duty, shall devote their time and attention to their respective duties

1. Cross Reference — Interference with police dogs/horses prohibited, see §210.230.

according to the ordinances of the City and the laws of Kansas. It shall be their general duty at all times and to the best of their ability to preserve good order, peace, quiet and to enforce the City ordinances and the laws of Kansas throughout the City. It shall be their further duty to arrest all persons found at any time, day or night, in the act of violating any such ordinance or law or aiding or abetting any such violation. They shall make complaint against any and every person so arrested and shall cause such person to be brought to trial.

Section 200.040. Power to Arrest. [Ord. No. 1214 §5, 3-21-2005]

The Chief of Police/Director of Public Safety shall at all times have power to make or order an arrest with proper process for any offense against the ordinances of the City or the laws of Kansas and to arrest without process in all cases where any such offense shall be committed in his/her presence. All Policemen of the City shall have power to arrest all offenders against said ordinances or laws, by day or by night, in the same manner as the Chief of Police/Director of Public Safety and keep them in the County Jail or other safe places to prevent their escape until a trial can be held before the Municipal Court or other court having jurisdiction of the offense alleged.

Section 200.050. Rewards to Be Paid to Court Clerk. [Ord. No. 1214 §6, 3-21-2005]

All money due to or received by the Chief of Police/Director of Public Safety or any Police Officer on account of any reward accruing to him/her in consequence of any action in the line of duty shall be paid to the Court Clerk and deposited to the credit of the General Fund of the City.

Section 200.060. Volunteer Fire Department Created. [Ord. No. 1214 §7, 3-21-2005; Ord. No. 1221, 9-19-2005]

There is hereby created in this City a Volunteer Fire Department composed of not less than fifteen (15) nor more than fifty (50) firefighters.

Section 200.070. Supervisory Responsibility. [Ord. No. 1214 §8, 3-21-2005]

The Chief of Police/Director of Public Safety shall be the administrator and head of the Volunteer Fire Department. Anywhere in this Code referencing the Fire Chief or Assistant Fire Chief shall now be the responsibility of the Chief of Police/Director of Public Safety.

Section 200.080. through Section 200.100. (Reserved) ²

Section 200.110. Firemen's Relief Association. [R.O. 1924 §68; CC 1985 §6-110]

The members of the Fire Department shall organize themselves into a Firemen's Relief Association and become incorporated under the laws of the State of Kansas in order that the members thereof may have the benefits provided for in Sections 40-1701 to 40-1707 of the Supplement to the General Statutes of Kansas.

2. Editor's Note — Ord. no. 1075, adopted December 20, 1999, repealed Sections 200.070 through 200.010. Former Sections 200.070 through 200.100 derived from R.O. 1924 §§62, 65, 66; CC 1985 §§6-103, 6-104, 6-107, 6-108; amd. ord. no. 875, 7-17-1989; ord. no. 1017, 10-21-1996.

Section 200.120. Emergency. [CC 1985 §6-111; Amended Ord. No. 875, 7-17-1989; Ord. No. 1075, 12-20-1999]

- A. In the event of an emergency as defined by K.S.A. 12-111, the following individuals shall be deemed to be the person in charge for declaring an emergency, and in the event the individual first (1st) named is not available or is absent, then the succeeding individual, as numbered, shall be authorized to declare said emergency:
1. The Mayor of the City of Mulvane, Kansas;
 2. Council President;
 3. City Administrator;
 4. City Clerk.

ARTICLE II
(Reserved)³

ARTICLE III
Fire District No. 12 Agreement⁴

Section 200.130. Fire District No. 12 Agreement. [CC 1985 §17-501; Amended Ord. No. 767, 8-19-1985]

- A. *Intent.* The City of Mulvane intends and agrees to provide firefighting services and protection to Fire District No. 12, Sumner County, Kansas, usually hereafter Fire District.
- B. *Release Of Liability.* The City shall not be liable for any failure to act, or any action, for any damages or claims, arising out of the services extended to the Fire District.
- C. *Hold Harmless.* The Fire District agrees to indemnify and hold harmless the City from any and all claims, damages, or other liability, whether real or illusory regarding the extension of services or the failure to provide services.
- D. *Terms Of Contract.* The City and the Fire District will reach a mutually agreed upon term for this contractual relationship, and also reach agreement regarding the funds to be paid by the patrons of the Fire District to the City.

ARTICLE IV
"911" Emergency

Section 200.135. "911" Emergency. [Ord. No. 1185 §§1 — 4, 9-2-2003; Ord. No. 1229, 6-5-2006; Ord. No. 1327, 6-1-2009]

- A. The Governing Body of the City of Mulvane, Kansas (the "City") deems it to be in the public interest and for the protection of the public safety, health and welfare to provide for

3. Editor's Note — This article, previously titled "fire department" has been left reserved per ord. no. 1214 §9, adopted March 21, 2005.

4. Cross Reference — Fire prevention provisions, see ch. 225.

the operation of an emergency telephone system utilizing a single three digit "911" for reporting police, fire, medical and other emergency situations and to impose an emergency telephone tax for payment of such service as provided by K.S.A. 12-5301 et seq.

- B. An emergency telephone tax shall be imposed in the amount of seventy-five cents (\$.75) per month per telephone exchange access line or its equivalent within the corporate limits of the City. Said tax, together with any surplus revenues carried forward, will produce sufficient revenues to fund the expenditures necessary to support the emergency telephone system. Said tax shall become effective on the sixty-first (61st) day following the publication of this Section, unless a protest petition signed by not less than five percent (5%) of the registered voters of the City is filed with the Sumner or Sedgwick County election officer within sixty (60) days following publication of this Section.
- C. It is the intent of the City that the emergency telephone tax rate established under this Section be renewed annually taking effect each January first (1st). Immediately upon setting the annual rate, the rate shall be published in the minutes of the Governing Body of the City and, at least ninety (90) days before such new rate becomes effective, a copy of the ordinance or resolution shall be sent by registered mail to every service supplier.

Chapter 205

ANIMAL CONTROL

ARTICLE I

Animal Control Officer

Section 205.010. Office Established. [CC 1985 3-201; Amended Ord. No. 887, 11-6-1989]

- A. The position of Animal Control Officer is established.
- B. The Animal Control Officer shall have the power of a Law Enforcement Officer for the purpose of signing complaints, serving notice to appear, and effecting arrests upon such person(s) when the Animal Control Officer has probable cause to believe such persons has violated or is violating this Chapter when such violation has occurred or is occurring in the presence of the Animal Control Officer and where the Animal Control Officer has the responsibility of enforcing such Chapter.

Section 205.020. Appointments — Duties. [CC 1985 §3-202; Amended Ord. No. 887, 11-6-1989]

- A. The Chief of Police shall appoint a person as Animal Control Officer who shall be responsible for enforcing all laws and ordinances within the City of Mulvane relating to dogs, cats and other animals within this City. The Animal Control Officer shall be authorized to make investigations and to mail notices, orders or directions as necessary for enforcement of provisions of this Chapter and to pick up any animals on public and private property, and impounding animals caught in violation of City ordinances, keeping City impoundment facilities, and issuing or causing to be issued citations to animal owners whose animals are caught in violation of City ordinances.
- B. The Animal Control Officer, the Chief of Police and the Health Officer are hereby authorized to take up and impound any animals in violation of any provision of this Chapter or any regulation issued by the Health Officer. If the person owning such animal cannot be issued a summons because such person is not known or not present, such animal shall be confined at the animal shelter in a humane manner and shall be released upon satisfactory proof that the party claiming the animal is entitled to possession thereof and upon payment to the City all recovery fees established in conformity with the provisions of this Chapter.
- C. Any animal that has bitten a person may be removed from the property of its owner by the Animal Control Officer, the Health Officer, or the Chief of Police if such animal is in violation of examination or observation requirements prescribed by regulations of the Health Center.
- D. In the interest of animal welfare, any person owning any animal in the City by so doing does thereby authorize the Animal Control Officer, the Health Officer, or the Chief of

Police to enter upon private property, where such animal is kept, if the officer has probable cause to believe the animal is being kept in a cruel or inhumane manner, for the purpose of examining such animal and impounding such animal at the animal shelter when, in the examiner's opinion, it is being kept in an unlawfully cruel or inhumane manner to the extent permissible under the plain view and/or open fields doctrines.

- E. It shall be unlawful for any person to refuse to produce for inspection proper identification by correct name and address when asked to do so by the Animal Control Officer when the Animal Control Officer has probable cause to believe that such person has violated a Section of this Chapter or to interfere with, molest, injure or prevent the Animal Control Officer in the lawful discharge of his/her duties as herein prescribed.

ARTICLE II General Regulations

Section 205.030. Certain Animals Prohibited in the City. [CC 1985 §3-401; Amended Ord. No. 887, 11-6-1989]

It shall be unlawful for any person, firm or corporation to rear or keep swine, cattle, sheep, goats or equine in this City.

Section 205.040. Premises Open for Inspection. [CC 1985 §3-401(A); Amended Ord. No. 887, 11-6-1989]

All places and premises outside a place of human habitation on which any domestic animal as described by this Chapter are kept or maintained shall be open at all times for inspection by the Animal Control Officer.

Section 205.050. Kennel or Cattery — Consent of Neighbors and Confinement of Cats. [CC 1985 §3-401(B); Amended Ord. No. 887, 11-6-1989]

Subject to the provisions of this Chapter no person shall own, maintain, or operate a kennel or cattery for the purpose of holding, breeding or raising dogs or cats within the corporate limits of the City without submitting to the Animal Control Officer with the initial application the written consent of the majority of households of all properties immediately adjacent to such kennel or cattery, including properties directly across the street or alley, providing, that renewal of a permit for a kennel or cattery shall be made providing that a written protest signed by a majority of householders of all properties immediately adjacent to such kennel or cattery, including properties directly across a street or alley is not received by the Animal Control Officer, and providing that such animal maintenance complies with the provisions of this Chapter. All cats maintained at a cattery shall be confined inside a structure.

Section 205.060. Health Standard — Minimum Listed. [CC 1985 §3-401(C); Amended Ord. No. 887, 11-6-1989]

- A. The following minimum environmental health standards shall be observed and followed by persons subject to the terms of this Chapter.
 - 1. All domestic animal shelters shall be cleaned at least once a week or more often if necessary to prevent or control odors, fly breeding and rodent infestation, provided

however, that this shall not apply to grazing areas coming within the agricultural classification.

2. Collected fecal material and other solid organic waste shall be disposed of at a sanitary land fill, fertilizer processing plant, or by proper dispersal on land used for agricultural purposes.
3. Grain or protein feed shall be stored in tightly covered rodent proof bins. Premises subject to the terms of this Chapter shall be maintained free of rodent harborage, such as improperly stored materials, enclosed partition walls, and wooden floors closer than six (6) inches from ground level.
4. Use shall be made of anti-coagulant rodenticide for the control of rodents and organic-phosphorus insecticides for the control of flies or any other effective chemical means for the control of rodents and flies.
5. Use shall be made of soil sterilants and herbicides or other effective means for the control of weeds and grass around structures and buildings.
6. All domestic animal shelters and board fences shall be maintained in good repair and shall be protected from deterioration by painting.
7. Garbage shall not be fed to fowl.
8. Refuse shall be stored in proper containers or in a manner approved by the Animal Control Officer and disposed of at least once a week or as frequently as may be required by the Animal Control Officer.
9. Provided further, that barbed wire fences and electrically charged fences shall not be permitted for animal shelters except on properties for which an agricultural classification permit is held or except on other properties where the barbed wire or electrically charged fence is protecting an exterior fence.
10. Provided further, that solid waste accumulated from the cleaning of domestic animal shelters maintained by persons subject to a commercial, or agricultural permit according to the terms of this ordinance shall be stored on concrete slabs or other facilities, such as dirt lots on which is stock piled manure with an exposed perimeter as approved by the Animal Control Officer.

Section 205.070. (Reserved) ¹

Section 205.080. Diseased Animals. [CC 1985 §3-402; Amended Ord. No. 887, 11-6-1989]

It shall be unlawful for any person to turn out any domestic animal having a contagious or infectious disease, knowing the same to be diseased, or to allow such animal to run at large upon any unenclosed land or highway or to let the same approach within one hundred (100) feet of any highway or to sell or dispose of such animal without fully disclosing the defect to the purchaser.

¹. Editor's Note — Ord. no. 1243 §1, adopted October 2, 2006, repealed section 205.070 "cruelty or neglect of animals" in its entirety. Former section 205.070 derived from CC 1985 §3-401(D); amended ord. no. 887, 11-6-1989. At the editor's discretion, this section has been reserved for the city's future use.

Section 205.090. Animals Upon Streets. [CC 1985 §3-403; Amended Ord. No. 887, 11-6-1989]

It shall be unlawful for any person, firm or corporation having custody of any horses, mules, asses, cattle, hogs, sheep, goats or kids to permit the same to run at large without supervision in this City or be herded or picketed on any street or public place within this City.

Section 205.100. Fowl Running at Large. [CC 1985 §3-404; Amended Ord. No. 887, 11-6-1989]

It shall be unlawful for any person, firm or corporation owning or having the custody of any chickens or other domestic fowl to allow the same to run at large in this City.

Section 205.110. Confinement of Dogs in Heat. [CC 1985 §3-405; Amended Ord. No. 887, 11-6-1989]

Any unsprayed female dog in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other male dog or dogs may gain voluntary access to the confined animal except for the purposes of planned breeding. Any animal that is in the state of estrus (heat) and that is not properly confined, or any such animal that is creating a neighborhood nuisance shall be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner. The owner of animals removed to the animal shelter shall be charged at the rate established from time to time by the animal shelter for routine confinement. Failure to comply with the order of the Animal Control Officer shall be in violation of this Article and the animal will then be impounded as provided for in this Chapter.

Section 205.120. Trapping of Animals. [CC 1985 §3-406; Ord. No. 887, 11-6-1989]

- A. When deemed necessary by Law Enforcement Officers or the Animal Control Officer for the health, safety, and welfare of the residents of the City, such officers and/or their agents may place a humane trap on the property if the resident requests such a trap for the purpose of capturing any wild or pet animal creating a nuisance in the City.
- B. Animal Control Officers are authorized to use any tranquilizer guns, firearms, humane traps, or other suitable devices to subdue or destroy any animal that is deemed by the Animal Control Officer, in his/her discretion, to be of a danger to itself or to the public health and safety. At no time shall the Animal Control Officer use greater force than is necessary to protect.
- C. It shall be unlawful for any person to set or cause to be set within the City, any steel jaws, leg hold trap, snare, or any trap other than a humane trap, as defined for the purpose of capturing any animal, whether wild or domestic.
- D. No person shall own, possess, or have custody of on his/her premises any wild or dangerous animal for display, training, or exhibition purposes, whether gratuitously or for a fee.
- E. No person shall keep or permit to be kept any wild animal as a pet.

Section 205.130. Horses. [CC 1985 §3-407; Ord. No. 887, 11-6-1989]

Except for a mounted police officer performing in the course of his/her duty, horses are hereby

prohibited on public sidewalks or in a public park whether ridden or walked.

Section 205.140. Keeping Bees. [CC 1985 §3-408; Ord. No. 887, 11-6-1989]

It shall be unlawful for any person, either as owner or as agent, representative, employee or bailee of any owner, to keep or harbor any bees within the City limits without having first obtained a special permit therefore from the City Council. Any person desiring to obtain a permit to keep bees within the City limits shall file an application with the City Clerk who shall refer the same to the Animal Control Officer who shall investigate the proposed premises and file his/her written report and recommendations with the City Council. After reviewing the report from the Health Officer, the City Council may grant the applicant permission to keep bees upon his/her premises within the City limits upon such terms and conditions as it may specify. Any permit granted hereunder shall be subject to revocation in the event said applicant shall fail to comply with the terms and conditions of issuance.

Section 205.150. Location of Yard Housing for Animals. [CC 1985 §3-409; Ord. No. 887, 11-6-1989]

It shall be unlawful for any person to maintain any chicken coop, pigeon cote, or rabbit hutch closer than fifty (50) feet to the nearest portion of any building occupied by or in anywise used by any person, other than the dwelling occupied by the owner of the animals. Any yard housing for animals shall be subject to the maintenance requirements prescribed in Section 205.160, and any yard enclosure shall be so constructed and maintained that any animal kept therein is securely confined and prevented from escaping.

Section 205.160. Proper Maintenance of Animal Yard Structures and Pens Required. [CC 1985 §3-410; Ord. No. 887, 11-6-1989]

- A. It shall be unlawful for any person to keep or maintain any animal in any yard structure or area that is not clean, dry, and sanitary, free from debris and offensive odors that annoy any neighbor, and devoid of rodents and vermin.
- B. Excrement shall be removed daily from any pen or yard area where animals are kept and if stored on the premises of any animal owner, shall be stored in adequate containers with fly tight lids.
- C. All animal pens and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.
- D. All earthen yards or runways wherein chickens are kept shall be spaded, then limed once every three (3) months from the month of April through the month of December. All structures or pens wherein chickens are kept shall be sprayed to control flies and other insects.
- E. All premises on which animals are kept shall be subject to inspection by the Health Officer, the Chief of Police, and the Animal Control Officer. If it is determined from such inspection that the premises are not being maintained in a clean and sanitary manner, the inspector shall notify the owner of the animals in writing to correct the deficiencies within twenty-four (24) hours after notice is served. Any animal kept under any condition which endangers the public or animal health or creates a health nuisance may be impounded.

Animals shall be released after fees are paid and cause for impoundment has been corrected.

Section 205.170. Vehicular Accidents Involving Animals. [CC 1985 §3-411; Ord. No. 887, 11-6-1989]

- A. Any person who as the operator of a motor vehicle strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained, and located, the operator shall at once report the accident to the Animal Control Officer.
- B. All animals which die shall be disposed of by the owner or keepers within twenty-four (24) hours, by burial, incineration in a facility approved by the Animal Control Officer, by rendering or by other lawful means approved by the Animal Control Officer. No dead animal shall be dumped on any public or private property.

**ARTICLE III
Animal Regulations**

Section 205.180. Definitions. [CC 1985 §3-101; Amended Ord. No. 887, 11-6-1989; Ord. No. 1302 §1, 4-21-2008; Ord. No. 1302 §1(B), 4-21-2008]

As used in this Chapter, the following words shall have the meanings ascribed to them in this Section, unless the context otherwise indicates:

ABANDON — Includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care, including leaving said animal after impoundment and upon notice, actual or constructive, without reclaiming said animal.

AGGRESSIVE ANIMAL AT LARGE — Any animal at large that, without provocation, exhibits aggression or combativeness toward a person or another animal, whether or not said person or animal is attacked, bitten or scratched by the aggressive animal at large.

ANIMAL CONTROL OFFICER — Any person empowered by the City to enforce the provisions of this Chapter; and in the absence of any such designation shall mean the Chief of Police/Director of Public Safety.

ANIMAL SHELTER — The animal care facility designated by the City for the impoundment of animals by the Animal Control Officer pursuant to the enforcement of provisions of this Chapter.

ATTACK — Violent or aggressive physical contact with a person or domestic animal or violent or aggressive behavior that confines the movement of a person, including, but not limited to, cornering, chasing or circling a person.

BITE — Any actual or suspected abrasion, scratch, puncture, tear, bruise or piercing of the skin by the teeth of any animal which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

CAT — Any member of the species *Felis catus*, male or female, regardless of age.

DANGEROUS ANIMAL

1. Any animal which has exhibited or is known to have a vicious propensity toward persons or domestic animals and is capable of inflicting serious physical harm or death or damage to property; or
2. Any animal which, without provocation, attacks or bites or has attacked or bitten a human being or other animal on the streets, sidewalks or any public grounds or places or on private property. This shall not apply if the victim was committing a willful trespass on the property where the animal was harbored at the time of the attack or bite; or
3. Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting; or
4. Any dog which chases or menaces any person in an aggressive manner, except that a dog shall not be deemed dangerous if the complainant was committing a willful trespass at the time;
5. Any animal that poses a threat to public safety or constitutes a danger to human life or property;
6. Any animal which has been declared by the court, pursuant to Section 205.370, to be a dangerous animal.

DISTURBANCE, NUISANCE ANIMALS — The owner of any animal shall take all reasonable measures to keep such animal from becoming a nuisance. For the purpose of this provision, "*nuisance*" is defined as any animal which:

1. Runs uncontrolled;
2. Damages property other than that of the owner or harborer;
3. Excessively makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the animal is kept or harbored;
4. Creates noxious or offensive odors;
5. Is in heat and not properly confined;
6. Defecates upon any public place or upon premises not owned or controlled by the owner unless promptly removed by the animal owner;
7. Creates an insect breeding and/or attraction site due to an accumulation of excreta;
8. Is ridden or driven on public property and obstructs or interferes with vehicular or pedestrian traffic;
9. Threatens or causes a condition which endangers public health; or
10. Impedes refuse collection by ripping any bag or tipping any container of such.

DOG — Any member of the species *Canis familiaris*, male or female, regardless of age.

DOMESTIC ANIMAL — A dog and/or cat as defined in this Section.

HARBORING — Allowing any animal to habitually remain or lodge or to be fed within one's home, store, yard, enclosure or place of business or any other premises where one works, resides or has control. The parent, guardian or custodian of any child under the age of eighteen (18) years, who owns, harbors or has custody of an animal, shall be deemed to be the owner of such animal.

HEALTH OFFICER — The person as defined in Section 220.010 of the Code.

INHUMANE TREATMENT — Any treatment to any animal which deprives the animal of necessary sustenance, including food, water and protection from the weather; any treatment such as overloading, overworking, tormenting, beating, mutilating, teasing or other abnormal treatment; or causing or allowing the animal to fight with any other animal.

OWNER — Any person who harbors, has an interest in, has control over or custody of an animal and/or has a license to keep the animal.

PERSON — Any individual, firm, association, joint stock company, syndicate, partnership, corporation, other State franchised business entity such as a professional association, limited liability company, limited liability partnership or other organization of any kind.

PICKET — Attaching a leash, rope, chain, lead, tether or other similar apparatus or device to the body of an animal and another inanimate or immovable object for the purpose of confining or limiting the movement of the animal.

RUNNING AT LARGE — Any animal that is not confined by picket, within a secure enclosure or within a shelter capable of preventing the animal from exiting at will, unless under the control of a person, either by leash, cord, rope, chain, lead, tether or other similar apparatus or device. Intent shall not be considered in determining whether the harbinger or owner of an animal has allowed said animal to run at large. — For the purpose of this Chapter, an animal shall not be considered running at large when on the owner's property and confined by an operating electronic fencing system when the premises are clearly and prominently marked to show the existence of the electronic fencing system and the animal is equipped with the necessary and operating components of the system required to confine the animal to the owner's property.

SECURE ENCLOSURE — A locked pen or structure at least six (6) feet in width, twelve (12) feet in length and six (6) feet in height, capped with a cap being secured to all sides, which provides proper protection from the elements for the animal, is suitable to prevent the entry of young children and is designed to prevent the animal from escaping while on the owner's property. The enclosure must be secured to the ground and have a floor which is secured to all sides. The secure enclosure must be inspected and approved by the Animal Control Officer or the Animal Control Officer's duly appointed agent.

VETERINARIAN — A doctor of veterinary medicine licensed by the State of Kansas.

VICIOUS PROPENSITY — A known tendency or disposition to approach any personal or domestic animal in an attitude of attack or to otherwise threaten the safety of any personal or domestic animal when there is no provocation.

Section 205.190. Enforcement Responsibilities. [CC 1985 §3-102; Amended Ord. No. 887,

11-6-1989; Ord. No. 1302 §1(C), 4-21-2008]

A. Enforcement responsibilities are as follows:

1. The City Police Department investigates reported cases of animal bites and furnishes the Animal Control Officer and Health Department information regarding animal bite cases.
2. The City Police Department represents and acts for the City as animal licensor and impound fee collector.
3. The City Police Department and Animal Control Officer are responsible for the enforcement of the City ordinances regarding animal control.

Section 205.200. Registration Required — Exception. [CC 1985 §3-103; Amended Ord. No. 887, 11-6-1989; Ord. No. 1302 §1(D), 4-21-2008]

The owner of any domestic animal in the City must be currently registered with the City and licensed in accordance with this Chapter, except domestic animals owned by non-residents of the City who are temporarily in the City, provided such non-resident domestic animal owner or harborer has fully complied with all applicable licensing requirements of the place of residence of the owner or harborer. Non-residents temporarily within the City are those who are in Mulvane less than thirty (30) days per year.

Section 205.210. Annual License Fee. [CC 1985 §3-104; Amended Ord. No. 887, 11-6-1989; Ord. No. 1066, 9-20-1999; Ord. No. 1149 §4, 8-19-2002; Ord. No. 1302 §1(E), 4-21-2008]

An annual license fee for each domestic animal is levied in an amount as set forth in Section 100.240 upon each owner or harborer of each domestic animal within the City limits. The fee shall not apply to any specially trained service dog when such dog is actually being used for the purpose of aiding a disabled person and under his/her direct control, nor shall it apply to domestic animals being kept for sale in kennels or pet shops when said kennels or pet shops are registered as a business by the City and located in the proper zoning classification. The fee shall be levied each year and shall be due upon the same date as application is made for the license herein referred to. In the event the annual fee is not paid within thirty (30) days after the due date of the license, an additional late fee shall apply in an amount as set forth in Section 100.240.

Section 205.220. Owner Responsibilities. [CC 1985 §3-105; Amended Ord. No. 887, 11-6-1989; Ord. No. 1067, 9-20-1999; Ord. No. 1302 §1(F), 4-21-2008]

- A. It shall be the duty of the person attempting to obtain a license for a domestic animal to pay the fee imposed in Section 205.210 directly to the City Police Department; however, it shall be the owner or harborer's responsibility to pay the fee when due and the failure to do so shall constitute a violation of this Chapter. Each and every owner or harborer of any domestic animal six (6) months of age or older and residing or located within the City shall pay said fee immediately upon establishing residence within the City. Each domestic animal license shall be renewed by January first (1st) for the proceeding calendar year. The annual fee shall not be deemed to be late until February first (1st) of that year. In lieu of a tag being issued by the City for dogs, the owner may provide proof that the dog has been injected with an under the skin microchip identification that has been activated and provide

the number of the chip to the Police Department.

B. *False Statement.*

1. Any false statement in a rabies certificate or application for a license to keep a dog or cat shall render null and void the license issued to the owner for keeping such dog or cat.
2. Any person who makes a false statement in any application, affidavit or other document required by this Chapter or any regulation prescribed hereby is guilty of a misdemeanor.

C. The premises of animal owners shall be available for inspection by the Animal Control Officer, Health Officer, Law Enforcement Officer or their respective designated agent to insure a fenced yard or fenced run is available that can adequately confine the animal and to insure the health and welfare of such animal.

Section 205.230. Applicant Age Requirement. [CC 1985 §3-106; Amended Ord. No. 887, 11-6-1989]

No application for an animal license shall be accepted or issued under this Chapter unless the applicant is at least eighteen (18) years of age, or a married individual, or a firm or corporation.

Section 205.240. Registration and Licensing. [CC 1985 §3-107; Amended Ord. No. 887, 11-6-1989; Ord. No. 1302 §1(G), 4-21-2008]

The owner or harbinger of a domestic animal shall, at the time of payment of the fee, register and license the animal by giving the City Police Department the name and address of the owner or harbinger if different from the owner and the name, breed, color and sex of the animal and such other reasonably pertinent information as the City Police Department may request. When the fee is paid and the City Police Department has been furnished a certificate of inoculation, then the City Police Department shall execute a receipt to the owner or harbinger.

Section 205.250. Redemption — When. [CC 1985 §3-108; Amended Ord. No. 887, 11-6-1989; Ord. No. 1149 §5, 8-19-2002; Ord. No. 1302 §1(H), 4-21-2008]

The Animal Control Officer, Health Officer, Chief of Police/Director of Public Safety or any City employee designated by the Chief of Police/Director of Public Safety shall be authorized to take up and impound any animal running at large in the City provided that if an animal running at large appears to be uncontrolled, diseased, vicious or otherwise dangerous and such animal cannot be captured with safety, such animal may be killed. In order to redeem any animal impounded, it is necessary that the owner or harbinger pay any required annual fee provided in Section 205.210 plus a first (1st) day impounding fee in an amount as set forth in Section 100.240 and a fee for each day thereafter in an amount as set forth in Section 100.240 and, if applicable, other penalty charges for which such animal was impounded. Any person wishing to redeem any dog that has not been vaccinated for rabies shall, in addition to the requirements of this Section, have such dog inoculated for rabies by a veterinarian and secure a certificate of inoculation within seventy-two (72) hours of release from impoundment. The certificate of inoculation must be presented to the Police Department in the time set forth.

Section 205.260. Notification. [CC 1985 §3-109; Amended Ord. No. 887, 11-6-1989; Ord. No. 1302 §1(I), 4-21-2008]

The Animal Control Officer shall make due effort to notify the owner of an impounded animal if such animal is wearing a rabies tag, owner identification tag, identification tattoo, City tag or traceable microchip.

Section 205.270. Time Limit for Redemption. [CC 1985 §3-110; Amended Ord. No. 887, 11-6-1989; Ord. No. 1014, 9-16-1996; Ord. No. 1302 §1(J), 4-21-2008]

- A. Any animal impounded for any violation of this Chapter or City ordinances and law of the State of Kansas will be held at the City shelter for seventy-two (72) hours.
- B. An animal, which is not redeemed by the owner within seventy-two (72) hours, shall be made available for adoption or destroyed by a licensed veterinarian in a humane manner, provided that any person who desires to adopt such animal may do so subject to provisions provided for in Sections 205.240 and 205.280 and the reimbursable payment for spay/neuter. Purchasers must also comply with any County and/or State requirements. Such money shall be placed in the General Fund of the City.
- C. Failure of the owner of any impounded animal to claim such animal within seventy-two (72) hours does not relieve the owner from liability for payment of impoundment, veterinary fees, euthanasia and/or disposal fees established by impoundment. The court is empowered to assess the fees for such services as costs upon any conviction for any violation of this Chapter.

Section 205.280. Rabies Inoculation. [CC 1985 §3-111; Amended Ord. No. 887, 11-6-1989; Ord. No. 1302 §1(K), 4-21-2008]

The owner or harbinger of any domestic animal over six (6) months of age maintained or harbored at any time in the City limits shall have such animal vaccinated against rabies by a veterinarian and maintain current rabies vaccinations as prescribed by their veterinarian. Before the City Police Department shall license any domestic animal, the owner or harbinger must present a valid current certificate of inoculation. Any domestic animal which is not so inoculated shall be impounded as provided in this Chapter and the owner and/or harbinger thereof shall be guilty of violation of this Chapter.

Section 205.290. Running at Large. [CC 1985 §3-112; Amended Ord. No. 887, 11-6-1989]

No dog shall be allowed to run at large within the City as defined in Section 205.180.

Section 205.300. Animal Disturbance — Nuisance. [CC 1985 3-113; Amended Ord. No. 887, 11-6-1989; Ord. No. 1302 §1(L), 4-21-2008]

No owner or harbinger of any animal shall allow any animal to become a nuisance animal as defined in Section 205.180 of this Chapter.

Section 205.310. Animal Bite Procedure. [CC 1985 §3-114; Amended Ord. No. 887, 11-6-1989; Ord. No. 1171, 5-19-2003; Ord. No. 1243 §4, 10-2-2006; Ord. No. 1302 §1(M), 4-21-2008]

- A. An animal which bites a person shall immediately be taken to a veterinarian of the owner's or harborer's choosing, whenever practical, and at the owner's expense for a health examination. The animal shall be quarantined with a veterinarian for a period of ten (10) days. The animal will then undergo a second (2nd) examination at the expense of the owner or harborer on the tenth (10th) day following the bite. Following the second (2nd) examination, the veterinarian shall mail a written statement of the condition of the dog's health to the Police Department.
1. Any person having an animal bite shall report or have reported by another person, physician, hospital or law enforcement agency to the Animal Control Officer information concerning the animal bite including the victim's name, address, phone number, a description of the animal and, if known, the name and address of the animal's owner or harborer.
 2. The owner of any animal that has been reported as having inflicted a bite on any person shall, on demand of the Animal Control Officer, Health Officer or Law Enforcement Officer, produce the animal for examination and confinement as prescribed.

Section 205.320. Destructive Animals — Nuisance. [CC 1985 §3-115; Amended Ord. No. 887, 11-6-1989; Ord. No. 1302 §1(N), 4-21-2008]

It shall be unlawful for the owner, harborer or any other person to permit an animal with or without the direct knowledge of that owner, harborer or other person to destroy, damage or injure any shrubbery, plants, flowers, grass, lawn, fence, fence gate or posts, structure, part of any structure or motor vehicle, other than those owned by said owner or harborer. Upon a finding of a violation of this Section, the Municipal Court may order, in addition to the penalties provided for in this Chapter, restitution to be made by the owner or harborer of the animal causing such injury or destruction.

Section 205.330. Number Limitation. [CC 1985 §3-116; Amended Ord. No. 887, 11-6-1989]

It is unlawful for any person within the City to keep, own or harbor in excess of three (3) domestic animals on any one (1) premise, excluding commercial or agricultural classifications; subject to the provisions of this Chapter, provided that this Section shall apply only to mature animals that are fully weaned and shall not apply to common carriers transporting domestic animals to or through the City.

Section 205.340. Unauthorized Release of Impounded Animals. [CC 1985 §3-117; Amended Ord. No. 887, 11-6-1989]

Any person who without authorization breaks open, damages, destroys, permits or causes egress of animals impounded or attempts to do so from the City impoundment facility or other enclosure used by City Officials for the impounding or transportation of such animals is guilty of violation of this Chapter and upon conviction shall be fined in an amount not to exceed three hundred dollars (\$300.00).

Section 205.350. Interference With Animal Control Officer, Health Officer or Law Enforcement Officer. [CC 1985 §3-117A; Ord. No. 1302 §1(O), 4-21-2008]

Any person who takes or attempts to take from an officer of the City any animal taken by such officer in performance of official duties pursuant to this Chapter, or who in any manner interferes with or hinders any officer of the City in the performance of official duties is guilty of violation of this Chapter and upon conviction shall be fined not less than one hundred dollars (\$100.00) or more than three hundred dollars (\$300.00).

ARTICLE IV
Dangerous, Vicious and Aggressive Animals

Section 205.360. Prohibited — Exception. [CC 1985 §3-301; Amended Ord. No. 887, 11-6-1989; Ord. No. 1302 §1(Art. IV(B)), 4-21-2008]

- A. It shall be unlawful for any person to keep, possess or harbor dangerous or aggressive animals and/or any animal with vicious propensity as set forth in Section 205.180 within the City. Impoundment of animals whose owners have been cited for violation of this Section shall be at the discretion of the Animal Control Officer, Health Officer or Chief of Police/Director of Public Safety. If the animal presents a clear and present danger to the public health and safety, it shall be the duty of the Animal Control Officer, Health Officer, Chief of Police/Director of Public Safety or designated agent to impound such animal, if such animal cannot be confined by the owner in a secure enclosure as defined in Section 205.180.
- B. Nothing in this Article shall be construed to prevent the Animal Control Officer or any Law Enforcement Officer from taking whatever action is reasonably necessary to protect himself/herself or members of the public from injury or danger, including immediate destruction of any dangerous and/or vicious animal without notice to the owner.

Section 205.365. Dangerous Dog — Procedure for the Determination of a Dangerous Dog. [Ord. No. 1302 §2, 4-21-2008]

- A. In the event that the Animal Control Officer, Health Officer, Law Enforcement Officer or citizen files a complaint against an owner or harborer of a dog alleging that the dog is a dangerous animal as defined by Section 205.180, the court shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared dangerous as defined by Section 205.180.
- B. If the Animal Control Officer, Health Officer, Chief of Police/Director of Public Safety or their respective designated agent has determined that it is in the best interest of public health, safety and welfare that he/she confines an animal prior to a hearing, he/she may take and confine the animal or animals in the animal shelter. If the Animal Control Officer deems the animal to be a threat to the safety of persons responsible for the shelter, he/she may direct the owner to confine the animal at a veterinary hospital of their choice. The owner of the animal will be responsible for all expenses incurred. The animal shall not be released except on the order of the court.
- C. The Animal Control Officer shall notify the owner or harborer of the dog of the date and time that a hearing will be held, at which time evidence will be presented that the dog is dangerous and at which time the owner or harborer of the dog may present evidence to rebut evidence presented by the City and present such other evidence as may be relevant.

The failure of the owner or harbinger to attend or participate in the hearing shall not keep the court from making the appropriate determination concerning the dog. The hearing shall be held promptly within no less than five (5) nor more than twenty (20) days after service of notice upon the owner or harbinger of the dog.

- D. After the hearing, the owner or harbinger of the dog shall be notified in writing of the determination. If the owner or harbinger of the dog contests the determination, he or she may appeal within ten (10) days to the District Court pursuant to law.

Section 205.370. Determination of Court — Consideration. [CC 1985 §3-302; Amended Ord. No. 887, 11-6-1989; Ord. No. 1302 §1(Art. IV(C)), 4-21-2008]

The court shall make a determination at the time of trial as to whether or not said animal is a dangerous animal. In making such a determination, the judge may consider the severity of the attack and such other information as the court deems relevant.

Section 205.380. Destruction or Confinement. [CC 1985 §3-303; Amended Ord. No. 887, 11-6-1989; Ord. No. 1302 §1(Art. IV(D)), 4-21-2008]

- A. If the court determines that an animal is dangerous, within the meaning set forth in Section 205.180, and that the animal poses an immediate threat to public health and safety, the court may cause the animal to be destroyed. In lieu of such destruction, the court may require the confinement of the animal by the owner or harbinger in a secure enclosure as set forth in Section 205.180.
- B. In the event the court releases the animal to the owner or harbinger and the owner or harbinger fails to claim the animal within seventy-two (72) hours after its release has been authorized by the court, the court may, upon making a finding that such animal is dangerous, vicious or exhibits aggressive behavior and that it represents a clear and present danger to the persons, property or to other animals in the community, order the animal to be destroyed in a humane manner by the animal shelter. Surrender of an animal by the owner or harbinger shall not relieve such owner from responding to pay fees and fines which may result from a violation of this Article.

Section 205.390. Dangerous Dog — Failure to Confine — Destruction and Defenses. [Ord. No. 1302 §2, 4-21-2008]

- A. It is unlawful for an owner or harbinger of a dangerous dog to permit the dog to be outside a secure enclosure unless the dog is restrained by a substantial chain or leash and under physical restraint by a responsible person who is eighteen (18) years of age or older and possesses sufficient strength for physical control of the animal for the purpose of transportation to and from a veterinarian for medical treatment. In such event, the dangerous dog shall be securely muzzled and restrained with a chain or leash not exceeding four (4) feet in length and shall be under the direct control and supervision of the owner or harbinger of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.
- B. The owner or harbinger shall allow the Animal Control Officer access to the property where

the dangerous animal is being harbored to facilitate inspections and insure compliance for the duration of the life of the animal.

- C. The owner or harbored of any dog that has been determined to be dangerous shall within five (5) days, be required to have a microchip, traceable to the dangerous dog and the current owner, inserted into the dog and copies of documentation of said procedure shall be provided to the Police Department. The owner or harbored shall pay all costs associated with the insertion of the microchip. Agreement to remove the animal from the City does not allow the owner to circumvent this Subsection. Any owner of a dangerous dog who fails to comply with this provision shall be deemed guilty of a misdemeanor.

Section 205.400. Signs Required. [Ord. No. 1302 §2, 4-21-2008]

The owner or harbored of a dangerous dog shall display in a prominent place at the entrance to his or her premises a clearly visible warning sign indicting there is a dangerous dog on the premises. A similar sign is required to be posted on the secure enclosure in which the animal is harbored.

Section 205.410. Registration and Insurance. [Ord. No. 1302 §2, 4-21-2008]

- A. The owner or harbored of a dangerous dog shall annually register the dangerous dog with the Police Department and shall provide the Police Department with confirmation of the insertion of a microchip and the traceable number associated with such microchip. The owner or harbored shall pay a one hundred dollar (\$100.00) annual registration fee (in addition to all applicable license fees) to the City of Mulvane and shall pay all costs associated with the microchip procedure. The owner or harbored of a dangerous dog shall notify the Police Department in writing a minimum of seven (7) days prior to any change in the address of the owner or harbored or the location of the dangerous dog.
- B. The owner or harbored of a dangerous dog required to be registered under this Section shall maintain liability insurance in the amount of one hundred thousand dollars (\$100,000.00) for each such dog against the potential injury or damage liabilities and hazards associated with the ownership or possession of such dog. The owner or harbored of a dangerous dog shall file with the City Police Department, at the time of annual registration, a certificate of insurance reflecting the required minimum insurance and naming the City of Mulvane as an additional insured.

Section 205.415. Violation of Requirements for Dangerous Dog. [Ord. No. 1302 §2, 4-21-2008]

- A. It shall be unlawful for any person to violate the provisions of this Article. Any person found guilty of violating the provisions of this Article shall be guilty of a misdemeanor and the animal impounded. The owner and/or harbored of the animal shall be responsible for all costs of impoundment along with any fines or fees assessed.
- B. For a second (2nd) offense within twenty-four (24) months, the owner and/or harbored shall be guilty of a second (2nd) misdemeanor and the animal impounded and destroyed after a five (5) day waiting period, exclusive of Sundays and holidays. The owner and/or harbored shall be responsible for all costs of impoundment and destruction of the animal along with any fines or fees assessed.

Section 205.420. Animals/Reptiles Prohibited During Old Settler's Weekend. [Ord. No. 1170, 5-19-2003; Ord. No. 1302 §1(E), 4-21-2008]

- A. Any type of animal and/or reptile is hereby prohibited from the Main Street Park, carnival area and downtown core area during the Old Settler's Celebration.
- B. *Exceptions.* Any animals/reptiles that are entered in the official pet show segment of Old Settlers.
- C. Any certified service animal is exempt.
- D. Violation of this Section is a Class C misdemeanor.

Chapter 210

CRIMINAL CODE

Cross Reference — Traffic offenses, see ch. 340.

Editor's Note — Ord. no. 1243 §§1 — 5, adopted October 2, 2006, reorganized this ch. 210, repealing and adopting new sections, including the public offense code adopted in §210.013 herein.

ARTICLE I

General Provisions

Section 210.010. Unlawful Acts. [CC 1985 §10-101; Ord. No. 549, 8-1-1977; Ord. No. 1243 §5, 10-2-2006]

The doing of any of the acts or things prohibited or the failing to do any of the things or acts commanded to be done as set forth or incorporated in this Criminal Code is hereby declared to be an offense against the good order, public peace, morals, health, proper government and welfare of this City and unlawful, and any person convicted of violating any of the provisions of this Criminal Code, by reference to the Uniform Public Offense Code or otherwise, where a penalty is not otherwise specifically provided for, shall be deemed guilty of a misdemeanor and fined and/or imprisoned in an amount not to exceed one thousand dollars (\$1,000.00) and/or one (1) year in County Jail or by both such fine and imprisonment, together with the costs in the case.

Section 210.011. Adoption of Preliminary and Principles of Criminal Liability of the Kansas Criminal Code as Applicable Thereto. [CC 1985 §10-102; Ord. No. 549, 8-1-1977; Ord. No. 1243 §5, 10-2-2006]

Chapter 21, K.S.A., Article 31 entitled "Preliminary" under Part 1, General Provisions, and Article 32 entitled "Principles of Criminal Liability" are hereby incorporated, by reference, insofar as applicable as being a portion of this Criminal Code of the City of Mulvane, Kansas.

Section 210.012. Chapter 22 K.S.A. Applicable. [Ord. No. 1243 §5, 10-2-2006]

All provisions of Chapter 22, K.S.A., are applicable to actions in the Municipal Court to the extent consistent with the jurisdiction of the Court.

Section 210.013. Uniform Public Offense Code for Kansas Cities. [Ord. No. 1242 §§1 — 3, 10-2-2006; Ord. No. 1265 §§1 — 3, 8-20-2007; Ord. No. 1312 §§1 — 3, 8-18-2008; Ord. No. 1331 §§1 — 3, 8-17-2009; Ord. No. 1350 §§1 — 3, 8-16-2010; Ord. No. 1382 §§1 — 4, 9-7-2011; Ord. No. 1402 §§1 — 4, 8-20-2012; Ord. No. 1423 §§1 — 4, 10-7-2013; Ord. No. 1437 §§1 — 4, 9-3-2014]

A. There is hereby incorporated by reference the "Uniform Public Offense Code for Kansas Cities," 2014 Edition, revised, prepared and published by the League of Kansas

Municipalities, save and except such articles, section, parts or portions as are hereinafter omitted, deleted, modified, or changed. No fewer than three (3) copies of said uniform code shall be marked or stamped "Official Copy as adopted by the Code of the City of Mulvane, Ordinance No. 1437," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change shall be filed in the City Clerk's office and open for public inspection at all reasonable office hours.

B. The following Sections of the 2014 UPOC are omitted and/or amended as follows:

1. *Section 10.*

a. *Section 10.6.* Section 10.6 of the UPOC is hereby amended to read as follows:

a. **Air gun, air rifle, bow and arrow, compound bow, crossbow, blowgun, slingshot, BB gun, or paint ball gun.** The unlawful operation of an air gun, air rifle, bow and arrow, compound bow, crossbow, blowgun, slingshot, BB gun, or paint ball gun is the shooting, discharging or operating of any air gun, air rifle, bow and arrow, compound bow, crossbow, blowgun, slingshot, BB gun, or paint ball gun, within the City, except within the confines of a building or other structure from which the projectiles cannot escape.

a. Unlawful operation of an air gun, air rifle, bow and arrow, compound bow, crossbow, blowgun, slingshot, BB gun, or paint ball gun is a Class C violation.

b. *Section 10.7.* Section 10.7 of the UPOC is hereby amended to read as follows:

b. **Seizure of weapon.** The Director of Public Safety of the City or his or her duly authorized representative is hereby empowered to seize and hold any air gun, air rifle, bow and arrow, compound bow, crossbow, blowgun, slingshot, BB gun, or paint ball gun used in violation of Section 10.6 of this Article, and is further empowered to seize and hold as evidence pending a hearing before a court of competent jurisdiction any air gun, air rifle, bow and arrow, compound bow, crossbow, blowgun, slingshot, BB gun, or paint ball gun used in violation of Section 10.6.

c. *Section 10.13.* Section 10.13 of the UPOC is hereby amended to read as follows:

c. **Barbed wire.** It shall be unlawful for any person to construct, set up or maintain any barbed wire or barbed wire fence or enclosure within the City of Mulvane, unless such barbed wire is (1) located upon a security fence and placed at an elevation of not less than six (6) feet measured from the ground surface and/or on the inside perimeter at ground surface; and (2) approved by the City Council for specific security purposes. Violation of this Section is a Class C violation.

ARTICLE II Crimes Against Persons

Section 210.020. Battery Against a School Employee. [Ord. No. 1133, 8-19-2002; Ord. No. 1243 §5, 10-2-2006]

- A. *"Battery against a school employee"* is a battery, as defined in the Uniform Public Offense Code, as incorporated under Article I, Section 210.013, committed against a school employee in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited non-public school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one (1) through twelve (12) or at any regularly scheduled school-sponsored activity or event while such employee is engaged in the performance of such employee's duty.
- B. Battery against a school employee is a Class A person misdemeanor.
- C. As used in this Section, *"school employee"* means any employee of a unified school district or an accredited non-public school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one (1) through twelve (12).

Section 210.021. Interference With an Emergency Medical Services Attendant. [Ord. No. 1135, 8-19-2002; Ord. No. 1243 §5, 10-2-2006]

- A. *"Unlawful interference with an emergency medical services attendant"* is knowingly and intentionally interfering with, molesting or assaulting, as defined in the Uniform Public Offense Code, as incorporated under Article I, Section 210.013, any attendant while engaged in the performance of such attendant's duties or knowingly and intentionally obstructing, interfering with or impeding the efforts of any attendant to reach the location of an emergency.
- B. As used in this Section, *"attendant"* shall have the meaning ascribed to such term under K.S.A. 65-6112 and amendments thereto.
- C. Unlawful interference with an emergency medical services attendant is a Class B person misdemeanor.

Section 210.022. Permitting Dangerous Animal to Be at Large. [CC 1985 §10-305; Ord. No. 1243 §5, 10-2-2006]

Permitting a dangerous animal to be at large is the act or omission of the owner or custodian of an animal of dangerous or vicious propensities who, knowing of such propensities, permits or suffers such animal to go at large or keeps such animal without taking ordinary care to restrain it. Permitting a dangerous animal to be at large is a Class B misdemeanor.

Section 210.023. Interference With Parental Custody.¹ [CC 1985 §10-306; Ord. No. 549, 8-1-1977; Ord. No. 1243 §5, 10-2-2006]

- A. Interference with parental custody is leading, taking, carrying away, decoying or enticing away any child under the age of sixteen (16) years with the intent to detain or conceal such child from its parent, guardian, or other person having the lawful charge of such child.
- B. It is not a defense to a prosecution under this Section that the defendant is a parent entitled

1. Note — Under certain circumstances this offense can be a felony.

to joint custody of the child either on the basis of a court order or by virtue of the absence of a court order.

- C. *Violations.* Interference with parental custody is a Class A person misdemeanor if the perpetrator is a parent entitled to joint custody of the child either on the basis of a court order or by virtue of the absence of a court order.

Section 210.024. Mistreatment of a Dependent Adult. [Ord. No. 1131, 8-19-2002; Ord. No. 1243 §5, 10-2-2006; Ord. No. 1352 §§1 — 2, 8-16-2010]

- A. *"Mistreatment of a dependent adult"* is knowingly and intentionally committing one (1) or more of the following acts:
1. Infliction of physical injury, unreasonable confinement or cruel punishment upon a dependent adult;
 2. Taking unfair advantage of a dependent adult's physical or financial resources for another individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense; or
 3. Omission or deprivation of treatment, goods or services that are necessary to maintain physical or mental health of a dependent adult.
- B. No dependent adult is considered to be mistreated for the sole reason that such dependent adult relies upon or is being furnished treatment by spiritual means through prayer in lieu of medical treatment in accordance with the tenets and practices of a recognized church or religious denomination of which such dependent adult is a member or adherent.
- C. For the purposes of this Section, *"dependent adult"* means an individual eighteen (18) years of age or older who is unable to protect their own interest. Such term shall include:
1. Any resident of an adult care home including, but not limited to, those facilities defined by K.S.A. 39-923 and amendments thereto;
 2. Any adult cared for in a private residence;
 3. Any individual kept, cared for, treated, boarded or otherwise accommodated in a medical care facility;
 4. Any individual with mental retardation or a developmental disability receiving services through a community mental retardation facility or residential facility licensed under K.S.A. 75-3307b and amendments thereto;
 5. Any individual with a developmental disability receiving services provided by a community service provider as provided in the Developmental Disability Reform Act; or
 6. Any individual kept, cared for, treated, boarded or otherwise accommodated in a State institution for the mentally retarded.
- D. Mistreatment of a dependent adult as defined in Subsection (A)(2) is a Class A person misdemeanor if the aggregate amount of the value of the resources is less than one

thousand dollars (\$1,000.00). All other violations of this Section are person felonies as set forth at K.S.A. Section 21.3437.

Section 210.025. (Reserved)²

ARTICLE III
Crimes Affecting Family Relationships and Children

Section 210.030. Loitering of Minors Prohibited. [CC 1985 §10-504; Ord. No. 549, 8-1-1977; Ord. No. 1243 §5, 10-2-2006]

It shall be unlawful for any minor under the age of eighteen (18) years to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 11:00 P.M. and 6:00 A.M. of the following day, except on Fridays and Saturdays when the hours shall be 12:00 Midnight to 6:00 A.M.; provided that the provisions of this Section shall not apply to a minor accompanied by his/her parent, guardian or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by his/her parent, guardian or other adult person having the care and custody of the minor, and where the minor is returning from a public function or organized activity such as, but not limited to, baseball games, football or basketball games. Loitering of minors is a Class B misdemeanor.

Section 210.031. Responsibility of Parents. [CC 1985 §10-505; Ord. No. 549, 8-1-1977; Ord. No. 1243 §5, 10-2-2006]

It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of eighteen (18) years to permit such minor to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 11:00 P.M. and 6:00 A.M. of the following day, except on Fridays and Saturdays when the hours shall be 12:00 Midnight to 6:00 A.M.; provided that the provisions of this Section shall not apply when the minor is accompanied by his/her parent, guardian, or other adult person having the care and custody of the minor or where the minor is upon an emergency errand or legitimate business directed by his/her parent, guardian or other adult person having the care and custody of the minor. Violation of this Section is a Class B misdemeanor.

ARTICLE IV
Crimes Against Property

Section 210.040. Criminal Dumping. [CC 1985 §10-611; Ord. No. 549, 8-1-1977; Ord. No. 1243 §5, 10-2-2006]

A. *"Criminal dumping"* is intentionally or recklessly depositing or dumping any household trash, appliance, brush or other refuse into, upon or about:

2. Editor's Note — Ord. no. 1382 §4, adopted September 7, 2011, repealed section 210.025 "stalking" in its entirety. Former section 210.025 derived from ord. no. 1325 §1, 4-6-2009.

1. Any public street, highway, alley, road, right-of-way, park or other public place or any lake, stream, watercourse or other body of water except by direction of some public officer or employee authorized by law to direct or permit such acts; or
 2. Any private property without the consent of the owner or occupant of such property.
- B. Criminal dumping is a Class C misdemeanor.

Section 210.041. Impairing a Security Interest. ³ [CC 1985 §10-618; Ord. No. 549, 8-1-1977; Ord. No. 1243 §5, 10-2-2006]

- A. Impairing a security interest is:
1. Damaging, destroying or concealing any personal property subject to a security interest with intent to defraud the secured party;
 2. Selling, exchanging or otherwise disposing of any personal property subject to a security interest without the written consent of the secured party, where such sale, exchange or other disposition is not authorized by the secured party under the terms of the security agreement; or
 3. Failure to account to the secured party for the proceeds of the sale, exchange or other disposition of any personal property subject to a security interest, where such sale, exchange or other disposition is authorized and such accounting for proceeds is required by the secured party under the terms of the security agreement or otherwise.
- B. *Violations.* Impairing a security interest is a Class A non-person misdemeanor when the personal property subject to the security interest is of the value of less than one thousand dollars (\$1,000.00) or of the value of one thousand dollars (\$1,000.00) or more but subject to a security interest of less than one thousand dollars (\$1,000.00).

Section 210.042. Injury to Pipes, Hydrants, Fountains, Utility Poles, Electric Lines or Public Utilities. [CC 1985 §10-625; Ord. No. 612, 11-4-1979; Ord. No. 1243 §5, 10-2-2006]

No person shall willfully destroy, injure or take water from any pipe, fountain, fire hydrant, or open any fire hydrant without prior approval, placed in the City for its use or the use of the public or located on property not his/her own except for use on the premises or shall damage or molest, carve or cut any electric light pole or wire, or telephone pole or wire, or any cable television wire or any of the appurtenances to the municipal utility systems without authority of the Mayor or Council. Any person doing so shall be guilty of a Class C misdemeanor.

ARTICLE V Crimes Affecting Governmental Functions

Section 210.050. Intimidation of a Witness or Victim. [Ord. No. 1142, 8-19-2002; Ord. No. 1243 §5, 10-2-2006]

- A. Intimidation of a witness or victim is knowingly and maliciously preventing or dissuading or attempting to prevent or dissuade:

3. Note — Under certain circumstances this offense can be a felony.

1. Any witness or victim from attending or giving testimony at any civil or criminal trial, proceeding or inquiry authorized by law; or
2. Any witness, victim or person acting on behalf of a victim from:
 - a. Making any report of the victimization of a victim to any Law Enforcement Officer, prosecutor, probation officer, parole officer, correctional officer, community correctional services officer or judicial officer;
 - b. Causing a complaint, indictment or information to be sought and prosecuted, or causing a violation of probation, parole or assignment to a community correctional services program to be reported and prosecuted, and assisting in its prosecution;
 - c. Causing a civil action to be filed and prosecuted and assisting in its prosecution; or
 - d. Arresting or causing or seeking the arrest of any person in connection with the victimization of a victim.

B. Intimidation of a witness or victim is a Class B person misdemeanor.

Section 210.051. Aiding a Person Convicted of or Charged With Committing a Misdemeanor. [CC 1985 §10-704; Ord. No. 549, 8-1-1977; Ord. No. 1243 §5, 10-2-2006]

Aiding a person who has been convicted of or who has been charged with committing a misdemeanor under the laws of Kansas or another State is knowingly concealing or aiding such person with intent that such person shall avoid or escape from arrest, trial, conviction or punishment for such misdemeanor. Aiding a person convicted of or charged with committing a misdemeanor is a Class C misdemeanor.

Section 210.052. Criminal Disclosure of a Warrant. [CC 1985 §10-713; Ord. No. 549, 8-1-1977; Ord. No. 1243 §5, 10-2-2006]

- A. Criminal disclosure of a warrant is making public in any way, except at the request of a law enforcement officer for the purpose of assisting in the execution of such warrant, the fact that a search warrant or warrant for arrest has been applied for or issued or the contents of the affidavit or testimony on which such warrant is based, prior to the execution thereof but the above shall not apply to personnel of a law enforcement agency disclosing a warrant:
 1. For the purpose of encouraging the person named in the warrant to voluntarily surrender; or
 2. Issued in a case involving the abduction of a child unless such disclosure is specifically prohibited by the court issuing such warrant.
- B. Criminal disclosure of a warrant is a Class B non-person misdemeanor.

ARTICLE VI
Crimes Against the Public Safety — Weapons Control

Section 210.060. Bottle Rockets — Sale or Use Prohibited — Exceptions. [Ord. No. 1243 §5,

10-2-2006]

- A. Except as provided in Subsection (C):
1. It shall be unlawful to sell, offer to sell, or to possess with intent to sell or offer for sale a bottle rocket; and
 2. It shall be unlawful to ignite, fire, set-off or otherwise use a bottle rocket.
- B. Any person violating the provisions of Subsection (A) shall be guilty of an unclassified misdemeanor punishable by a fine of not more than one hundred dollars (\$100.00).
- C. The provisions of this Section shall not prohibit the possession or transportation of bottle rockets by a manufacturer or wholesaler thereof for sale outside this State if such manufacturer or wholesaler is currently registered with the State Fire Marshal pursuant to K.S.A. 31-156.
- D. As used in this Section, "*bottle rocket*" means any pyrotechnic device which:
1. Is classified as a Division 1.4 explosive by the United States Department of Transportation under 49 C.F.R. Section 173.50 (2006);
 2. Is mounted on a stick or wire; and
 3. Projects into the air when ignited, with or without reports, and includes any device with the same configuration, with or without reports, which may be classified as a pipe or trough rocket. "*Bottle rocket*" does not include helicopter-type rockets.

ARTICLE VII
Crimes Against the Public Morals

Section 210.070. False Membership Claim. [CC 1985 §10-1103; Ord. No. 549, 8-1-1977; Ord. No. 1243 §5, 10-2-2006]

A false membership claim is falsely representing oneself to be a member of a fraternal or veteran's organization. False membership claim is a Class C misdemeanor.

ARTICLE VIII
Classification of Crimes and Penalties

Section 210.080. Classification of Misdemeanors and Terms of Confinement. [CC 1985 §10-1201; Ord. No. 549, 8-1-1977; Ord. No. 1243 §5, 10-2-2006]

For the purpose of sentencing, the Uniform Public Offense Code, as incorporated under Article I, Section 210.013, is applicable.

Section 210.081. Fines. [CC 1985 §10-1202; Ord. No. 549, 8-1-1977; Ord. No. 1243 §5, 10-2-2006]

A person who has been convicted of a misdemeanor, in addition to or instead of the imprisonment authorized by law, may be sentenced to pay a fine which shall be fixed by the court pursuant to the provisions of the Uniform Public Offense Code, as incorporated under Article I, Section 210.013.

ARTICLE IX
Controlled Substances. ⁴

Section 210.090. Definitions. [Ord. No. 1412 §1, 3-4-2013]

As used in this Article, the words and phrases used herein shall have the meanings set forth under State law, particularly K.S.A. 65-4101 et seq., as amended, and K.S.A. 21-5701 et seq., as the same exist from time to time, unless the context otherwise requires. When referenced herein, all statutes shall include amendments thereto in effect from time to time.

Section 210.095. Manufacture, Cultivation, Distribution or Possession of Controlled Substances; Penalties. [Ord. No. 1412 §1, 3-4-2013]

- A. Except as authorized by State law, it shall be unlawful within the City for any person to:
1. Manufacture any controlled substance or controlled substance analog in violation of K.S.A. 21-5703;
 2. Cultivate, distribute, or possess any controlled substance or controlled substance analog in violation of K.S.A. 21-5705;
 3. Possess any controlled substance or controlled substance analog in violation of K.S.A. 21-5706;
 4. Obtain a prescription-only drug in violation of K.S.A. 21-5708;
 5. Abuse toxic vapors in violation of K.S.A. 21-5712;
 6. Distribute, possess, or manufacture any simulated controlled substance in violation of K.S.A. 21-5713;
 7. Distribute or possess any substance that is not a controlled substance in violation of K.S.A. 21-5714; or
 8. Receive or acquire proceeds or engage in transactions involving proceeds known to be derived from prohibited activities hereunder in violation of K.S.A. 21-5716.
- B. Any person who violates this Section shall be guilty of a Class A misdemeanor.

Section 210.100. Drug Precursors and Paraphernalia; Penalties. [Ord. No. 1412 §1, 3-4-2013]

- A. Except as authorized by State law, it shall be unlawful within the City for any person to:
1. Use or possess those substances set forth in K.S.A. 21-5709(a), (c), and (d) in violation thereof;
 2. Use or possess any drug paraphernalia in violation of K.S.A. 21-5709(b).
- B. In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, those factors set forth in K.S.A.

⁴ Editor's Note: Former Art. IX, Uniform Controlled Substances, which comprised Section 210.090, as adopted and amended by CC 1985 § 10-1301; Ord. No. 549, 8-1-1977; Ord. No. 708, 12-6-1982, Ord. No. 1243 § 5, 10-2-2006, was repealed 3-4-2013 by Ord. No. 1412 § 1.

21-5711.

- C. Any person who violates this Section shall be guilty of a Class A non-person misdemeanor. [Ord. No. 1427 §1, 11-4-2013]

ARTICLE X
(Reserved) ⁵

Section 210.105. (Reserved)

ARTICLE XI
Miscellaneous Offenses

Section 210.110. Obstructing Sidewalks. [R.O. 1924 §201; CC 1985 §12-102; Ord. No. 1243 §5, 10-2-2006]

It shall be unlawful for any person to leave or allow to be left any implements, tools, boxes, merchandise, goods, cans or crates on any street, alley or sidewalk for a longer period of time than is necessary for loading or unloading them. Any person convicted of violating any of the provisions of this Section shall be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00).

Section 210.111. Earth Washing on Sidewalks. [R.O. 1924 §209; CC 1985 §12-104; Ord. No. 1243 §5, 10-2-2006]

Whenever any lot or piece of land abutting on any sidewalk in this City shall become or remain in such a condition that earth or other substances therefrom shall accumulate on such sidewalk and the owner of such lot or piece of land shall refuse or neglect to place the same in such condition as to prevent such washing or accumulation on such sidewalk, such owner shall upon conviction thereof be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00) and each day that such owner shall refuse or neglect to abate said condition after notice from the City Clerk shall constitute a separate offense.

Section 210.112. Removing Curbing or Sidewalks. [R.O. 1924 §210; CC 1985 §12-105; Ord. No. 1243 §5, 10-2-2006]

Any person who shall loosen or remove any plank, brick, block, or support from any sidewalk, or cross walk, or any curbing or gutter, shall upon conviction thereof be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00), provided this Section shall not apply to persons making repairs on any such sidewalk, gutter, curb or cross walk, or any person temporarily removing the same on account of building operations.

Section 210.113. Sidewalk Signs. [R.O. 1924 §211; CC 1985 §12-106; Ord. No. 1243 §5, 10-2-2006]

It shall be unlawful for any person to erect any sign or other structure for advertising or other purposes across or upon any street or sidewalk unless the same is seven and one-half (7½) feet or

⁵ Editor's Note: Former Art. X, Drugs — Drug Paraphernalia, which comprised Sections 210.100 through 210.102, as adopted and amended by CC 1985 §§10-1401 through 10-1403; Ord. No. 700, 10-4-1982; Ord. No. 1243 §5, 10-2-2006, was repealed 3-4-2013 by Ord. No. 1412 §1.

more above the sidewalk or street. No large sign shall be constructed without the permission of the Mayor and Council first having been secured, and all persons or firms desiring to construct signs or other structures weighing more than fifty (50) pounds over the sidewalks in this City shall execute to the City a good and sufficient surety bond to hold the City free and harmless from any damage done to person or property should such sign or structure fall, be blown down, or otherwise be dislocated. Any person convicted of violating any of the provisions of this Section shall be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00).

Section 210.114. Awnings. [R.O. 1924 §212; CC 1985 §12-107; Ord. No. 1243 §5, 10-2-2006]

It shall be unlawful to construct, install or maintain or cause to be constructed, installed or maintained any awning which is supported in whole or in part by posts or other supports set into the sidewalk, street or parking lot.

Section 210.115. Hedge Fences. [R.O. 1924 §197; CC 1985 §12-109; Ord. No. 1243 §5, 10-2-2006]

It shall be unlawful for any person owning or controlling any hedge fence bordering on any street or sidewalk in this City to permit the same to grow to a height of more than three and one-half (3½) feet.

Section 210.116. Driving Horses. [R.O. 1924 §194; CC 1985 §12-112; Ord. No. 1243 §5, 10-2-2006]

Any person who shall be convicted of driving any horse or other animal at a fast gait through or on any street or alley of this City, so as to be likely to endanger the safety of any person, or any person who shall allow such animal to travel at a gait faster than an ordinary moderate trot in any street or alley, or who shall allow any animal to be ridden or driven upon any sidewalks in this City.

Section 210.117. Hauling Loose Material. [R.O. 1924 §196; CC 1985 §12-113; Ord. No. 1243 §5, 10-2-2006]

It shall be unlawful for any person to haul over the streets or alleys of this City any loose material of any kind except in a vehicle having a tight box so constructed as to prevent the splashing or spilling of any of the substances therein contained upon said streets or alleys.

Section 210.118. Glass or Nails in Street. [R.O. 1924 §195; CC 1985 §12-114; Ord. No. 1243 §5, 10-2-2006]

It shall be unlawful for any person to place, throw, or cause to be placed or thrown on any street, alley, sidewalk or other public property of this City any glass, tacks, nails, bottles or any other substance or things that might wound any person or animal, or cut or puncture any pneumatic tire when passing over the same.

Section 210.119. Railroads Blocking Crossings. [CC 1985 §12-115; Ord. No. 658, 3-2-1981; Ord. No. 1243 §5, 10-2-2006]

No person or corporation operating or who may hereafter operate a railroad into or through this City shall permit any train to remain across any street crossing or sidewalk of this City or to stop on any approach which will cause any railroad gates to remain down so as to interfere with the

passage of vehicles or pedestrians for a longer period of time than ten (10) minutes. In case it is necessary for such train to remain standing for a longer period, it should be uncoupled at such crossing and the cars separated so that the vehicles and the pedestrians may pass. Any person or corporation violating any of the provisions of this Section shall, upon conviction thereof, be deemed guilty of a Class C misdemeanor.

Section 210.120. Contractors to Clean Streets and Sidewalks. [CC 1985 §12-116; Revised, 1961; Ord. No. 1243 §5, 10-2-2006]

Any person, firm or corporation constructing any improvements, or repairing the same, under a permit or franchise from the City of Mulvane, shall upon completion of the work, remove from the streets and sidewalks of the City any dirt, mud, gravel or other foreign substances resulting from their work; and in case of failure to do so, shall be deemed guilty of a misdemeanor.

Section 210.121. Sign Posts Placed Upon or Set Into the Public Walks. [CC 1985 §12-117; Ord. No. 454, 2-19-1974; Ord. No. 1243 §5, 10-2-2006]

It shall be unlawful for any person, association, partnership or corporation to cause any sign posts or methods of supporting signs to be placed on or in the public sidewalks within the City limits of the City of Mulvane, Kansas. Any person, association, partnership or corporation violating the provisions of this Section by placing or permitting to be placed posts, sign posts or methods of supporting signs on or in the public sidewalks within the City limits of the City of Mulvane, Kansas, shall be guilty of violating this City ordinance.

Section 210.122. Unlawful Trash Burning. [R.O. 1924 §81; CC 1985 §6-202; Ord. No. 1168 §2, 3-3-2003; Ord. No. 1243 §5, 10-2-2006]

- A. It shall be unlawful to burn any refuse, trash, paper, rubbish, garbage, rubber tires, plastics, roofing, tar paper, old furniture, cloth, any petroleum based product, or any other combustible material out of doors anywhere in the City, provided, this Section shall not prohibit the use of an outdoor fire for cooking or the burning of yard wastes.
- B. Burning of yard wastes is allowed when the applicant is in legal control of the lot or parcel of land, burning is attended continuously by a competent person of legal age, from the time of ignition to the time of extinguishment, wind speeds must be above five (5) miles per hour not to exceed fifteen (15) miles per hour, adequate clearance shall be provided from readily combustible materials with material to be burned located a minimum of fifty (50) feet from any structure and ten (10) feet from any property line, burning shall not create a smoke nuisance or hazard to neighboring properties or persons, a garden hose or other fire extinguishing equipment shall be available at the burn location, burning shall be conducted one (1) hour after sunrise to one (1) hour before sunset, and a permit will be in the possession of the person doing the burning for immediate inspection. For permit fees refer to fee schedule in Section 100.240 of this Code.
- C. The Chief of Emergency Services or his/her designee may issue a special permit for anything other than yard waste at specified times and locations (examples: burning brush and tree trimmings or burning that is considered to be necessary and in the public's interest as determined on a case-by-case basis) if the fire is continuously attended by a responsible person and the Chief of Emergency Services or his/her designee determines there to be no

reasonable risk to persons or property for the burning contemplated; provided further that the Fire Department is notified immediately before the commencement of such burning and upon the completion of such burning.

- D. It is unlawful for any person to deposit any grass, yard clippings and leaves on any street or alley, or on any public property.

Chapter 215

NUISANCES

ARTICLE I In General

Section 215.010. Health Nuisance — Defined. [CC 1985 §7-301; Amended Ord. No. 927, 8-19-1991]

- A. It shall be unlawful for any person to maintain or permit any nuisance within the City as defined anywhere within the City Code and, without limitation, as follows:
1. Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown, placed or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure, lot; whether vacant or occupied;
 2. All dead animals not removed within twenty-four (24) hours after death;
 3. Any place, structure or substance which emits or causes any offensive, disagreeable or nauseous odors;
 4. All stagnant ponds or pools of water;
 5. Iceboxes or refrigerators and the like, including but not limited to washers and dryers kept on the premises under the control of any person, or deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed there from;
 6. Any fence, structure, thing or substance placed upon or being upon any street, way, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the City.

Section 215.020. Complaints — Inquiry and Inspection. [CC 1985 §7-302; Amended Ord. No. 927, 8-19-1991]

The Compliance Officer shall make inquiry and inspection of premises upon receiving a complaint or complaints stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the Board of Health, Chief of Police or the Fire Chief. The Compliance Officer may make such inquiry and inspection when he/she or a representative observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the Compliance Officer shall make a written report of findings.

Section 215.030. Right of Entry. [CC 1985 §7-303; Ord. No. 927, 8-19-1991]

It shall be a violation of this Article to deny the Compliance Officer or authorized representative

the right to access and entry upon private property generally accessible to the public under the Plain View and Open Fields doctrines at any reasonable time for the purpose of making inquiry and inspection pursuant to this Article.

Section 215.040. Notice. [CC 1985 §7-304; Ord. No. 927, 8-19-1991]

- A. Any person, corporation, partnership or association found by the Compliance Officer to be in violation of Section 215.010 shall be served a notice of such violation. The notice shall be served by restricted mail, postage prepaid, return receipt requested; or by personal service.
- B. The notice shall state the conditions which are in violation of the City Code. The notice shall also inform the person, corporation, partnership or association that such person or entity:
 - 1. Shall have ten (10) days from the date of serving the notice to abate the conditions in violation of Section 215.010;
 - 2. Shall have ten (10) days from the date of serving the notice to request a hearing before the Governing Body regarding the matter;
 - 3. Failure to abate the conditions or to request a hearing within the time allowed may result in prosecution as provided by Section 215.050 and/or abatement of the nuisance conditions by the City.

Section 215.050. Failure to Comply — Penalty. [CC 1985 §7-305; Ord. No. 927, 8-19-1991]

- A. Should the person, corporation, partnership, association, or other entity fail to comply with the notice to abate the nuisance or request a hearing the Compliance Officer may file a complaint in the Municipal Court of the City against such person, corporation, partnership or association and upon conviction of any violation of provisions of Section 215.010, be fined in an amount not to exceed one hundred dollars (\$100.00), or be imprisoned not to exceed thirty (30) days, or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense and shall be punishable as such hereunder. For a subsequent offense, upon conviction, he/she shall be fined an amount not to exceed five hundred dollars (\$500.00), or be imprisoned not to exceed ninety (90) days, or by both such fine and imprisonment.
- B. In all such cases, as a condition of probation, parole or suspended sentence, upon conviction, the court shall order the defendant to clean up and/or otherwise remedy the conditions found to violate this Article in addition to any fine and/or imprisonment imposed.

Section 215.060. Abatement. [CC 1985 §7-306; Ord. No. 927, 8-19-1991]

- A. In addition to, or as an alternative to prosecution as provided in Section 215.050, the Compliance Officer may seek to remedy violations of Section 215.010 in the following manner:
 - 1. If a person to whom a notice has been sent pursuant to Section 215.040 has neither

alleviated the condition causing the alleged violation nor requested a hearing before the Governing Body within the time periods specified in Section 215.040, the Compliance Officer may present a resolution to the Governing Body for adoption authorizing the Compliance Officer or other agents of the City to abate the conditions causing the violation at the end of ten (10) days after passage of the resolution. The resolution shall further provide that the costs incurred by the City shall be charged against the lot or parcel of ground on which the nuisance was located as provided in Section 215.070. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- a. Personal service upon the person in violation;
- b. Service by restricted mail, postage paid, return receipt requested; or
- c. In the event the whereabouts of such persons are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the Compliance Officer and filed with the City Clerk, and the serving of the resolution shall be made by publishing the same once each week for three (3) consecutive weeks in the official City newspaper and by posting a copy of the resolution on the premises where such conditions exists.

B. Refusal to accept service of any notice under this Article shall constitute sufficient service of such notice.

Section 215.070. Hearing. [CC 1985 §7-307; Ord. No. 927, 8-19-1991]

If a hearing is requested within the ten (10) day period as provided in Section 215.040, such request shall be made in writing to the Governing Body and delivered to the City Clerk. Failure to make a timely request for a hearing shall constitute a waiver of the right to contest the findings of the Compliance Officer before the Governing Body. The hearing shall be held by the Governing Body as soon as possible after the filing of the request therefore, and the person shall be advised by the City of the time and place of the hearing at least five (5) days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the City may offer such witnesses and evidence as is deemed necessary and proper by the Governing Body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the Governing Body shall record its determination of the matter by means of adopting a resolution and serving the resolution in the manner provided in Section 215.060.

Section 215.080. Costs Assessed. [CC 1985 §7-308; Ord. No. 927, 8-19-1991]

If the City abates the nuisance pursuant to Section 215.060, the cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located. The City Clerk shall at the time of certifying other taxes to the County Clerk, certify the costs as provided in this Section. The County Clerk shall enter the same on the tax roll and it shall be collected by the County Treasurer and paid to the City as other City taxes are collected and paid.

Section 215.090. Severability. [CC 1985 §7-309; Ord. No. 927, 8-19-1991]

The provisions of this Article shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this ordinance is declared to be contrary to the Constitution of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this Article and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any part of this Article shall be held contrary to the Constitution of the State of Kansas, the ordinance shall remain in full force and effect as to all severable matters.

ARTICLE II
Wrecked, Junked, Dismantled and Abandoned Motor Vehicles

Section 215.100. Unlawful Acts. [CC 1985 §§7-301, 7-401; Amended Ord. No. 882, 10-2-1989; Amended Ord. No. 927, 8-19-1991; Ord. No. 1439 §1, 9-3-2014]

- A. It shall be unlawful to park, store, leave or permit the parking, storing or leaving of any motor vehicle of any kind which is in a wrecked, junked, dismantled, disabled, inoperative or abandoned condition, regardless of whether attended, for a period of time in excess of seventy-two (72) hours upon any private property without prior authorization of the City.
- B. A vehicle shall be presumed to be wrecked, junked, disabled, inoperable, or abandoned if any one of the following conditions apply:
 - 1. The vehicle does not have a current registration or tag as required by K.S.A. 8-126 to 8-149, inclusive, as amended;
 - 2. The vehicle is unable to move under its own power;
 - 3. The vehicle or any part thereof is placed upon jacks, blocks or other supports; or
 - 4. The vehicle is missing any one (1) or more parts necessary for the lawful operation of the vehicle upon a public way.
- C. The provisions of this Subsection shall not apply to:
 - 1. Any motor vehicle which is enclosed in a garage or other building; or
 - 2. Any person conducting a business enterprise in compliance with existing regulations or who places such vehicles behind screening of sufficient size, strength, and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this Subsection shall be construed to authorize the maintenance of a public nuisance or an attractive nuisance.

Section 215.110. Nuisances. [CC 1985 §7-402; Amended Ord. No. 882, 10-2-1989]

Any motor vehicle parked, stored, left or permitted to be left, stored or parked in violation of the provisions of Section 215.100 hereof shall constitute rubbish, pollution, noxious debris and a nuisance detrimental to the public health, safety and general welfare. It shall be the duty of the registered or other owner of such a motor vehicle and the private property, if any, upon which the motor vehicle is located to either remove the same from the City limits or to have the same stored in such a manner that it will not be visible from the street, alley, highway or other private property.

Section 215.120. Notification. [CC 1985 §7-403; Amended Ord. No. 882, 10-2-1989]

- A. It shall be the duty of the Police Department to give written notice to the registered or other owner of any motor vehicle or the occupant of the property upon which such motor vehicle is located that the subject vehicle, property of location and owners of the said vehicle and property of location is/are in violation of this Article and requiring that the said vehicle be removed from the premises within seventy-two (72) hours of the date of the said notice. The notice required hereinabove shall further state that the registered or other owner of the subject vehicle or property of location or occupant of such property may within seventy-two (72) hours of service of the above described notice remove and store said vehicle in such a manner that the said vehicle is not visible from any public way or adjoining private property.
- B. A notice required hereunder shall be by certified mail, return receipt requested or by hand delivery to the occupant or owner of the subject property and/or to the registered or other owner of the said vehicle. Any refusal to accept such notice shall constitute perfection of service of the notice required hereinabove.

Section 215.130. Failure to Comply. [CC 1985 §7-404; Amended Ord. No. 882, 10-2-1989]

When notice required in Section 215.120 is given and the person so notified shall fail or refuse to meet the requirements of said notice, the person notified shall be in violation of this Article.

Section 215.140. Impoundment and Disposition. [CC 1985 §7-405; Amended Ord. No. 882, 10-2-1989]

Notwithstanding the other provisions of this Article and without regard to whether any prosecution for violation of this Article has been instituted, the Chief of Police, after giving the notice required by Section 215.120 hereof, is authorized, upon the expiration of the aforesaid seventy-two (72) hour period, to cause the said vehicle(s) to be removed to a suitable place for storage and/or impoundment; the location of which is to be designated by the Chief of Police.

Section 215.150. Release From Impoundment. [CC 1985 §7-407; Ord. No. 399, 4-20-1970]

After any vehicle is impounded and stored, as aforesaid, the same shall not be released until all charges connected with the removal, towing and storage of such vehicle have been paid.

Section 215.160. Penalties. [CC 1985 §7-408; Ord. No. 679, 11-2-1981; Ord. No. 882, 10-2-1989]

Any person violating the provisions of this Article shall, upon conviction thereof, be punished by a fine of not less than twenty dollars (\$20.00) nor more than one hundred dollars (\$100.00), or by imprisonment in the County Jail for a term of not less than five (5) nor more than fifteen (15) days, or by both such fine and imprisonment. Upon a second (2nd) conviction, the maximum penalties shall be five hundred dollars (\$500.00) and one hundred eighty (180) days in Jail, or both.

Section 215.170. Request for Variance. [CC 1985 §7-409; Ord. No. 882, 10-2-1989]

Upon notification of non-compliance as outlined above, the registered owner of such motor

vehicle may request suspension of enforcement from the City Council of this Article. The City Council may grant suspension of enforcement of this Article for a specified duration of time and for good cause shown. Whenever any order of the City Council is granted as stated herein and the violation exists upon expiration of the period of suspension of enforcement, said violation shall be prosecuted forthwith. Successive suspensions of enforcement shall not be granted.

Section 215.180. Definitions. [CC 1985 §7-410; Ord. No. 882, 10-2-1989]

In construing this Article, the terms defined in the Mulvane City Code shall apply in addition to the definitions enumerated below:

NUISANCE — Any motor vehicle: not currently registered; parked in violation of City ordinance(s); incapable of moving under its own power; or, in a junked, wrecked, disabled, inoperable condition; or, an abandoned condition. — Absence of current registration plate displayed, placement of a vehicle or part(s) thereof on blocks for greater than seventy-two (72) hours except as otherwise permitted under this Article; or the absence of one or more parts of the vehicle necessary for the lawful operation of the said vehicle upon any public way shall be deemed prima facie evidence of violation of the prohibitions of this Article.

COMPLAINTS, INQUIRY AND INSPECTION — The Police Chief, Compliance Officer or other designated representative of the Police Department shall make inquiry and inspection of premises as such matters shall come to the attention of the City. The officers designated for enforcement of this Article may make such inquiry and inspection whenever apparent violations of this Article may come to the attention of such enforcement officials. Upon completion of any such inquiry and inspection the Compliance Officer shall make a written report of findings.

RIGHT OF ENTRY — The officials responsible for enforcement of this Article shall have the right of access to any apparent violation of this Article which may be detected from a public place under the Plain View doctrine and/or the Open Fields doctrine. It shall be a violation of this Article to prevent, oppose or interfere with City Officers investigating and/or enforcing this Article.

ARTICLE III
Weeds

Section 215.190. Weeds to Be Removed. [CC 1985 §7-501; Ord. No. 888, 11-6-1989]

It shall be unlawful for any owner, agent, lessee, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights of ways, and all other areas, public or private. All weeds defined herein are hereby declared a nuisance and are subject to abatement as herein provided.

Section 215.200. Definitions. [CC 1985 §7-501; Amended Ord. No. 888, 11-6-1989]

WEEDS — As used herein, means the following:

1. Brush and woody vines shall be classified as weeds;
2. Wild vegetation indigenous grasses which may attain growth over such area as to become

when dry a fire menace to adjacent improved property;

3. Plants which bear or may bear seeds of a downy or wingy nature;
4. Plants which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which may constitute a menace to public health, safety or welfare;
5. Weeds and indigenous grasses on or about residential property which, because of height have a blighting influence on the neighborhood; and
6. For purposes of this Article, the term "*weeds*" shall include Kudzu (*pueraria loabata*), Field Bindweed (*condvolnulus arnensis*), Russian Knapweed (*centaurea picnis*), Hoary Cress (*lepidium draba*), Canada Thistle (*cirsium arnednse*), Quackgrass (*agropyron repens*), Leafy Spurge (*euphorbiaesula*), Burrageed (*franseria tomentosa* and *discolor*), Pignut (*hoffmannseggia densiflors*), Musk (nodding), Thistle (*carduus nutans L.*), and Johnson Grass (*sarghum halepense*) and any other vegetation designated by Sedgwick and Sumner Counties as noxious weeds.
7. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed twelve (12) inches in height. The term "*weeds*" shall include but not be limited to noxious weeds.

Section 215.210. Compliance Officer. [CC 1985 §7-502; Ord. No. 888, 11-6-1989; Ord. No. 1313 §§1 — 2, 8-18-2008]

- A. The Chief of Police shall designate a Compliance Officer to be charged with the administration and enforcement of this Article. The Compliance Officer or an authorized assistant shall notify the owner or agent in charge of any premises in the City upon which weeds exist in violation of this Article, by restricted mail or by personal service. Such notice shall include the following:
 1. That the owner or his/her agent in charge of the property is in violation of the City weed control law;
 2. That the owner or agent (the person in charge of the property) is ordered to cut the weeds within five (5) days of the receipt of notice;
 3. That the owner or agent in charge of the property may request a hearing before the Compliance Officer or designated representative within five (5) days of the receipt of notice;
 4. That if the owner or his/her agent in charge of the property does not cut the weeds the City will cut the weeds and assess the cost of the cutting including a reasonable administrative cost against the owner or his/her agent in charge of the party;
 5. That the owner or his/her agent in charge of the property will be given an opportunity to pass the assessment, and if it is not paid, it will be added to the property tax as a special assessment.
 5. The owner shall have the right to appeal the special assessment to the City Council within twenty (20) days of receipt thereof; and

6. That the Compliance Officer should be contacted if there are any questions regarding the order.
- B. If the owner is unknown or is a non-resident and there is no resident agent, service may be made by publishing notice one (1) time in the official City newspaper. If notice is made by publication, the owner will be ordered to cut the weeds within ten (10) days from the date of publication.
- C. In lieu of giving notice as provided in Subsections (A) or (B) above, the Compliance Officer or an authorized agent may, for initial notice or any subsequent notice, send a one-time yearly written notification by mail or personal service to the owner, his/her agent or occupant. Such notice shall include the same information required in Subsection (A) above. In addition, such notice shall include a statement that no further notice shall be given prior to removal of weeds. If such a one-time notice is sent pursuant to this Subsection, no additional notices are required to be sent prior to removal of weeds for one (1) calendar year from the date of that notice. In the event there is a change of ownership in the premises during that calendar year, the City may not recover any costs or levy an assessment for the costs incurred by cutting, destroying and/or removing the weeds on such premises unless and until the new owner is provided notice as required by this Section.

Section 215.220. Abatement — Assessment of Costs. [CC 1985 §7-503; Ord. No. 888, 11-6-1989; Ord. No. 1313 §1, 8-18-2008]

- A. In the event that the owner or his/her agent in charge of the premises shall neglect or fail to comply with the requirements of Section 215.190, and upon the expiration of five (5) days after receipt of notice pursuant to Subsection (A) of Section 215.210, or ten (10) days after publication of notice pursuant to Subsection (B) of Section 215.210, or immediately if notice has been made pursuant to Subsection (C) of Section 215.210, the Compliance Officer or an authorized agent shall cause to be cut, destroyed and/or removed all such weeds, thus abating the nuisance created thereby.
- B. The Compliance Officer or an assistant shall give notice, to the owner or his/her agent in charge of such property by restricted mail of the costs of abatement of the nuisance. The notice shall state that payment of the cost is due and payable within thirty (30) days following receipt of the notice.
- C. If the costs remain unpaid after thirty (30) days following receipt of notice, a record of the costs of cutting and destruction and/or removal shall be certified to the City Clerk who shall cause such costs to be assessed and taxed as a special assessment against the particular real property on which such weeds were cut or removed, and against such other real property in front of or abutting on such street or alley on which such weeds were so removed. The City Clerk shall certify the assessment to the County Clerk at the time other special assessments are certified for spreading on the tax rolls of the County.
- D. The charge for such cutting shall be one hundred ten dollars (\$110.00) per hour with a minimum charge of one hundred ten dollars (\$110.00) per lot.

Section 215.230. Right of Entry. [CC 1985 §7-504; Ord. No. 888, 11-6-1989]

The Compliance Officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting and destroying and/or removing such weeds in a manner consistent with this Article.

Section 215.240. Unlawful Interference. [CC 1985 §7-505; Ord. No. 888, 11-6-1989]

It shall be unlawful for any person to interfere with or to attempt to prevent the Compliance Officer or his/her authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute an ordinance violation.

Section 215.250. Noxious Weeds. [CC 1985 §7-506; Ord. No. 888, 11-6-1989]

Nothing in this Article shall affect or impair the rights of the City under the provisions of Chapter 2, Article 13 of the Kansas Statutes annotated, relating to the control and eradication of certain noxious weeds.

Section 215.260. Penalties. [CC 1985 §7-507; Ord. No. 888, 11-6-1989]

Violation of this Article is a misdemeanor. Upon conviction, the Court shall impose a fine of not less than twenty-five dollars (\$25.00) or more than two hundred fifty dollars (\$250.00). For enforcement purposes, each day any real property continues in non-compliance with the provisions of this Article from and after service of notice as required herein shall constitute a separate violation. In addition to the above, the Court may make such further orders as deemed necessary to abate the nuisance condition leading to prosecution.

Chapter 220

HEALTH AND SANITATION

Cross Reference — Health nuisances, see ch. 215.

ARTICLE I

Public Health Standards

Section 220.010. Definitions. [CC 1985 §7-201; Ord. No. 691, 5-3-1982]

Unless the context specifically indicates otherwise, the following terms used in this Article shall mean as follows:

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

CONTROL MEASURES — Any chemical, structure, physical procedures or processes designed to eradicate, minimize, prevent or otherwise limit the reproduction and/or infestation of insects, rodents or other animal populations detrimental to public health.

DEAD ANIMALS — Those that die in the normal course of community activity, excluding condemned animals at slaughter houses or any other animals normally used as industrial refuse.

DIRECTOR OF PUBLIC HEALTH — The Director of the Sedgwick County Department of Public Health.

FOOD STUFFS — All food used for human consumption.

GARBAGE — The putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

HEALTH OFFICER — The Director of the Sedgwick County Department of Public Health or his/her authorized representative.

HUMAN EXCRETA — The body discharges (both feces and urine) of humans.

INDUSTRIAL REFUSE — The solid wastes resulting from industrial processes.

INSECTS — The following classes of Arthropoda:

1. Insecta, and
2. Arachnida, including flies, mosquitoes, fleas, lice, cockroaches, bedbugs, plant bugs and mites, ticks, spiders and scorpions.

MANURE — The body discharges of all animals except humans.

PREMISES — A lot, plot or parcel of land, including the dwellings and structures, if any, located thereon.

REFUSE — All putrescible and non-putrescible waste materials (except body waste) such as trash, garbage, tree trimmings, grass cuttings, dead animals and industrial wastes but shall not include human or animal excrements, salvage or inert materials produced in connection with the erection or demolition of buildings.

RODENTS — The so called domestic rats, *Rattus Norliegicus*, *Rattus Alexandrinus* and *Rattus*, domestic mice, *Mus Musculus* and other wild native rodents associated with the transmission of diseases affecting man or other animals.

SALVAGE MATERIALS — Materials of some value that are obtained from the disassembly of various kinds of machinery and mechanical appliances and/or the demolition of buildings or similar structures.

SALVAGE YARD — Any premises used for:

1. The sale and resale of used merchandise;
2. The disassembling of wrecked or used automobiles and sale of auto parts; and
3. The collection, sorting, storage and/or resale of various kinds of metal and/or used building materials.

SANITARY SEWER — A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

SEWAGE — A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments together with such ground, surface and storm waters as may be present.

TRASH or RUBBISH — All non-putrescible wastes including, but not limited to, paper, cardboard, tin cans, glass, wood, yard clippings, crockery, metals and ashes.

WASTE or WASTES — Useless, unused, unwanted or discarded materials resulting from normal community activities. "*Waste*" includes solids, liquids or gases.

Section 220.020. Responsibility of Health Officer. [CC 1985 §7-202; Ord. No. 691, 5-3-1982]

The Health Officer shall be responsible for the enforcement of this Article and is hereby authorized to make such investigations, to issue notices, orders and directions as are necessary for, the enforcement of the provisions of this Article.

Section 220.030. Responsibility of Municipal Prosecutor. [CC 1985 §7-203; Ord. No. 691, 5-3-1982]

The Municipal Prosecutor shall be responsible for the prosecution of all violators of the provisions of this Article in the Municipal Court of the City.

Section 220.040. Notices. [CC 1985 §7-204; Ord. No. 691, 5-3-1982]

- A. Whenever the Health Officer determines that there has been a violation of any provision of this Article, he/she shall give notice of such alleged violation to the person or persons responsible therefor as hereinafter provided. Such notices shall:

1. Be in writing;
2. Particularize the violations alleged to exist or been committed;
3. Provide a reasonable time for the correction of the violations particularized;
4. Be addressed to and served upon the owner and/or occupant of the premises, provided that such notice shall be deemed to be properly served upon such owner, operator or occupancy if a copy thereof is served upon him/her personally or if a copy thereof is sent by certified or registered mail to his/her last known address. If the notice cannot be conveniently served by the aforesaid, service of the notice may be made upon such person or persons by posting the notice in a conspicuous place in or about the premises affected by the notice. In which event, the Health Officer shall make a statement for inclusion in the record as to why such posting was necessary. Such notice may contain an outline of remedial action which, if taken, will affect correction of the particularized alleged violations.

Section 220.050. Hearings. [CC 1985 §7-205; Ord. No. 691, 5-3-1982]

- A. Any person affected by any notice which has been issued in connection with the enforcement of any provisions of this Article, who is aggrieved thereby and who believes the same to be contrary to the policies or regulations of the City may request and shall be granted a hearing on the matter before the Director of Public Health or his/her designated representative, provided that such person shall file in the office of the City Clerk of the City a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the notice is served. Upon receipt of such petition, the Health Officer shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than ten (10) days after the day on which the petition was filed, provided that upon application of the petitioner, the Health Officer may postpone the date of the hearing for a reasonable time beyond such a ten (10) day period if, in his/her judgment, the petitioner has submitted a good and sufficient reason for such postponement.
- B. The proceedings at such hearing, including the findings and decision of the Director of Public Health or his/her designated representative, shall be summarized, reduced to writing and entered as a matter of public record in the office of the Health Officer. Such record shall also include a copy of every notice or order issued in connection with the matter. Appeals from the decision of the Director of Public Health or his/her designated representative may be made to the Governing Body of the City within five (5) days after such decision has been declared. Whenever the Director of Public Health or his/her designated representative finds that an emergency exists which requires immediate action to protect the public health, he/she may request that the Mayor of said City issue an order reciting the existence of such an emergency and requiring that such action be taken as they (the Director of Public Health or his/her designated representative and the Mayor of said City) deem necessary to meet the emergency. The Mayor of said City shall determine whether the aforesaid order shall issue. In the event that the Mayor of said City determines

that an emergency exists as aforesaid, he/she may, without notice or hearing, issue such order as aforesaid. Notwithstanding the other provisions of this Article, such order shall be immediately effective. Any person to whom such an order is directed shall comply therewith immediately but, upon petition to the Health Officer, shall be afforded a hearing as herein provided as soon as possible. After such hearing, upon the recommendations of the Health Officer, the Mayor of said City shall determine whether the order as aforesaid shall be continued in effect, be modified or revoked.

Section 220.060. Orders. [CC 1985 §7-206; Ord. No. 691, 5-3-1982]

After such hearing, the Health Officer or his/her designated representative may sustain, modify or withdraw the notice, depending upon his/her findings as to whether the provisions of this Article and of the rules and regulations adopted pursuant thereto have been complied with. If the Health Officer or his/her designated representative sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this Article shall become an order if a written petition for a hearing is not filed in the office of the Health Officer within ten (10) days after such notice is served.

Section 220.070. Sanitation for Refuse. [CC 1985 §7-207; Ord. No. 691, 5-3-1982; Ord. No. 1148, 8-19-2002]

A. *Storage.*

1. The owners or occupants of all residential premises shall store all refuse produced on such premises in metal or plastic liquid-tight containers covered with fly-tight, watertight lids or covers. All garbage that is produced on such residential premises shall be drained and wrapped in newspaper or similar material prior to being placed in the container, provided that garbage that is disposed of by garbage grinders shall otherwise be excluded from the provisions of this Section, provided further, that combustible trash that is burned in an approved type of trash burner or incinerator shall otherwise be excluded from the provisions of this Section, and provided further, that no garbage or non-combustible trash may be deposited in such trash burners or incinerators.
2. All garbage that is not otherwise disposed of by garbage grinders from commercial or other establishments that process, sell or serve food or food products shall be stored in separate metal liquid-tight containers covered with fly-tight and watertight lids or covers.
3. Owners or occupants of premises other than residential shall store all trash produced on such premises in suitable, metal liquid-tight containers covered with fly-tight and watertight lids or covers, provided that combustible trash that is burned in an approved type of trash burner or incinerator shall otherwise be excluded from the provisions of this Section; provided further, that in the event trash is of such quantity as to make it impractical to place the same in containers, the owner or occupant of such premises shall provide storage facilities for the trash as may be required by the Health Officer.
4. Bulky non-putrescible material may be stored on the ground near the refuse

containers of all premises provided such material is tied securely in bundles less than four (4) feet in length and less than fifty (50) pounds in weight.

B. *Collection, Removal And Disposal.*

1. The refuse from all premises shall be collected and removed at least once each week in covered vehicles of watertight construction inspected and approved for collection of refuse by the Health Officer.
2. All vehicles used for the collection of refuse shall be kept in a clean and sanitary condition and shall be washed free of all prutrescible materials at the close of each day and shall be kept in a safe mechanical condition.
3. All persons, other than those collecting and removing refuse from premises occupied by them, who collect or offer to collect refuse in the City of Mulvane, Sedgwick-Summer Counties, Kansas, shall be licensed as required by City ordinance.
4. All refuse collected from premises within the corporate limits of the City shall be disposed of at such locations and in such manner as approved by the Health Officer.

Section 220.080. Sanitation Standards for Animals. [CC 1985 §7-208; Ord. No. 691, 5-3-1982]

A. *Running At Large.* Chickens, ducks, geese and all domestic animals except dogs and cats are prohibited from running at large within the City. They shall be confined to the premises of their owners.

B. *Diseased Animals Or Fowl.* Any domestic animal or fowl suffering from a disease that is hazardous to other animals or humans shall be destroyed or placed in custody of a veterinarian in an animal hospital.

C. *Animal Pen.*

1. *Location.* No animal pen, rabbit hutch, pigeon loft or similar structure of enclosure housing animals or fowl shall be located less than fifty (50) feet from a dwelling or street and less than ten (10) feet from any property line.
2. *Cleaning.* Structures or enclosures used to confine fowl or animals shall be kept in a sanitary condition that will not produce offensive odors or breed flies. All accumulations of manure, straw or litter shall be removed from such structures or enclosures each day and placed in containers approved by the Health Officer for such purpose.
3. *Feeding of garbage to animals.* Domestic garbage or food scraps shall not be fed to animals or fowl harbored or kept in pens located within the corporate limits of the City.

D. *Rabies Control.*

1. *Vaccination.* All dogs kept or harbored within the City shall be vaccinated against rabies using vaccine approved by the U. S. Department of Agriculture.
2. *Tags.* The owners of all dogs vaccinated in accordance with this Article shall

securely fasten a metallic or plastic tag, which the veterinarian rendering the vaccination service shall supply, to the collar of the dog. The tag shall be numbered and the date of the vaccination shall be impressed upon the face of the tag.

3. *Number of dogs permitted.* Any person having in his/her possession more than two (2) dogs on any one (1) premises shall confine such dogs to the premises as provided for other fowl and animals in Subsection (A) herein and shall also comply with Subsection (C) herein. "Dogs", for the purpose of this Section, shall mean mature dogs when such dogs are fully weaned.

Section 220.090. Sewage and Human Excreta. [CC 1985 §7-209; Ord. No. 691, 5-3-1982]

- A. *Facilities.* All human excrements shall be discharged into a plumbing system connected to a sanitary sewer system or septic tank system as approved by the Health Officer and as otherwise required in the City's sewer ordinance.
- B. *Disposal.* No owner or occupant of any premises within the corporate limits of the City shall discharge or permit to be discharged on the surface of the ground of any premises owned or occupied by him/her any sewage, industrial waste, septic tank effluent or any other liquid or solid wastes that are hazardous or dangerous to health.
- C. *Privies.* Privies shall not be used for the disposal of human excreta except for construction projects located in unsewered areas, in which case privies approved by the Health Officer will be permitted until such time as adequate plumbing facilities can be provided.

Section 220.100. Salvage Materials. [CC 1985 §7-210; Ord. No. 691, 5-3-1982]

- A. *Storage In Residential Areas.* No waste materials for use in improving the premises may be stored on premises in residential areas. Salvage materials for use in improving the premises may be stored providing the materials are used in six (6) months and providing such materials are stored on racks at least eighteen (18) inches off the ground and not closer than forty-eight (48) inches to a wall or fence.
- B. *Salvage Yards.*
 1. All salvage yards shall be located on premises as provided for in the City's Zoning Ordinance.
 2. All salvage materials shall be stored on racks or in bins with at least eighteen (18) inches of clearance between the bottom of the rack or bin and the ground and a width of forty-eight (48) inches or less.
 3. No rack or bin shall be closer than forty-eight (48) inches to a wall, fence or adjacent bin or rack.
 4. Non-rackable materials shall be stored in a manner specified by the Health Officer to prevent rodent harborage and breeding. No non-rackable materials shall be kept in any salvage yard until written permission is obtained from the Health Officer and acceptable methods of storage have been determined.
 5. All ground surfaces, except lawns, shall be kept free of all grasses and weeds by

using soil sterilants and/or other effective methods.

6. An effective, continuous rodent poisoning program approved by the Health Officer shall be maintained at all salvage yards.
7. Salvage yards handling wrecked or discarded automobile bodies shall promptly remove all valuable materials and cut and compress the remains so that they can be stored satisfactorily or transport the uncut remains to other salvage yards for cutting, compressing and storing or transport them to a disposal site approved by the Health Officer.

Section 220.110. Rodent Control. [CC 1985 §7-211; Ord. No. 691, 5-3-1982]

- A. *Rodent Proofing.* Buildings or premises located in industrial and commercial zones and all premises with multi-family dwellings shall be maintained in rodent proof condition by proper application of structural materials or alterations approved by the Health Officer for rodent proofing and applied in the manner specified by the Health Officer.
- B. *Storage Of Food Stuffs.* All food stuffs stored within buildings or premises described in Subsection (A) hereof shall be stored in an orderly fashion in order to prevent contamination and minimize food or harborage for rodents.
- C. *Storage Of Non-Food Stuffs.* All non-food stuffs stored within buildings or premises described in Subsection (A) hereof shall be stored off the floor in a manner that will facilitate proper cleaning and minimize rodent harborage. All organic non-food stuffs shall be treated in a manner that will limit the access of such materials to rodents. All storage areas within the building shall be kept free of trash and rubbish.
- D. *Storage Of Materials Outside Buildings.* Materials stored outside buildings or premises described in Subsection (A) hereof shall be kept on racks that provide a clearance of eighteen (18) inches or more between the bottom of the rack and the ground surface and at least forty-eight (48) inches away from a building, wall or fence. Refuse containers may be stored on a concrete slab as specified by the Health Officer.
- E. *Rodent Eradication.* When directed to do so by the Health Officer, the owners or occupants of any premises shall institute effective rodent eradication measures as recommended by the Health Officer.

Section 220.120. Insect Control. [CC 1985 §7-212; Ord. No. 691, 5-3-1982]

- A. *Insect Breeding.* All premises in the City shall be maintained free of conditions that encourage or permit any unnecessary breeding of insects that are annoying or dangerous to residents of the City.
- B. *Screening.* Exterior windows and doors of all buildings used for human habitation or for the storage, preparation or serving of food shall be screened in a manner prescribed by the Health Officer.
- C. Whenever the Health Officer shall find that it is impossible or impractical for owners or occupants to individually control populations of dangerous or annoying insects, he/she shall notify the City, and it shall be the duty of the City to develop, in cooperation with the

Health Officer, a practical program for community-wide control.

Section 220.130. Penalty. [CC 1985 §7-213; Ord. No. 691, 5-3-1982]

Any person who shall violate any provision of this Article, or any provision of any rule or regulation adopted by the Health Officer pursuant to authority granted by this Article, shall be punished by a fine of not more than one hundred dollars (\$100.00) or by imprisonment in the County Jail for a period of not exceeding three (3) months or by both such fine and imprisonment. Each day that any violation of this Article continues shall constitute a separate offense and be punishable hereunder as a separate violation.

Chapter 225

FIRE PREVENTION

Cross Reference — Fire department provisions, see §§200.050 et seq.

ARTICLE I International Fire Code

Section 225.010. International Fire Code. [CC 1985 §5-601; Ord. No. 938, 1-20-1992; Ord. No. 1048 §§1 — 3, 10-5-1998; Ord. No. 1158 §§1 — 3, 10-21-2002; Ord. No. 1256 §§1 — 3, 3-5-2007]

- A. A certain document, three (3) copies of which are on file in the office of the City Clerk of the City of Mulvane, being marked and designated as the International Fire Code, 2006 Edition, as published by the International Code Council, be and is hereby adopted as the Fire Code of the City of Mulvane in the State of Kansas regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of the City Clerk are hereby referred to, adopted and made a part hereof, as if fully set out in this Article, with the additions, insertions, deletions and changes, if any, prescribed in Section (B) of this Section.
- B. The following Sections are hereby revised:
 - 1. Section 101.1 Insert: City of Mulvane, Kansas.
 - 2. Section 109.3 Insert: Misdemeanor, \$500.00 and 30 days.
 - 3. Section 111.4 Insert: \$50.00 and \$500.00.
- C. The geographic limits referred to in certain Sections of the 2006 International Fire Code are hereby established as follows:
 - 1. Section 3204.3.1.1 No cryogenic fluids in stationary containers are allowed on properties used for residential purposes or within one hundred (100) feet of any residential dwelling.
 - 2. Section 3404.2.9.5.1 The storage of Class I and Class II liquids in above ground tanks, inside and outside of buildings is prohibited within the City limits of Mulvane on residential use property and within one hundred (100) feet of any residential structure if located on other than property used for residential purposes.
 - 3. Section 3406.2.4.4 The storage of Class I and Class II liquids in above ground tanks,

inside and outside of buildings is prohibited within the City limits of Mulvane on residential use properties and within one hundred (100) feet of any residential structure if located on other than property used for residential purposes.

4. Section 3804.2 The storage of Class I and Class II liquids in above ground tanks, inside and outside of buildings is prohibited within the City limits of Mulvane on residential use properties and within one hundred (100) feet of any residential structure if located on other than property used for residential purposes.

Section 225.020. Penalties. [CC 1985 §5-602; Ord. No. 714, 4-4-1983]

Any person, firm or corporation violating any of the provisions of this Article shall, upon conviction thereof, be fined a sum not to exceed five hundred dollars (\$500.00) or imprisonment for not to exceed sixty (60) days, or be both fined and imprisoned.

ARTICLE II
Fireworks¹

Section 225.030. Definitions. [Ord. No. 1341 §1, 2-15-2010]

As used in this Article, the following words and phrases shall have the meanings as set out herein:

FIREWORKS — Includes both permitted fireworks and prohibited fireworks.

PERMITTED FIREWORKS — Includes any combustible or deflagrating composition, article or device suitable for the use of the public for the purpose of producing a visible or audible effect by combustion, deflagration or by detonation and previously approved by the State of Kansas Fire Marshall's office and by the Mulvane Director of Public Safety.

PROHIBITED FIREWORKS — Includes any combustible or deflagration device not approved for sale to the general public within the State of Kansas by the State of Kansas Fire Marshal's office or by the Mulvane Director of Public Safety.

Section 225.040. Designated Areas for Discharge of Fireworks. [Ord. No. 1341 §1, 2-15-2010]

- A. Except as otherwise set forth in this Article, it shall be unlawful for any person, at any time, to discharge fireworks within the City of Mulvane, Kansas.
- B. The Mulvane Director of Public Safety may designate, upon his/her determination of such area to be safe and controllable for such purposes, the City-owned sports complex or other appropriate area as a "designated area" upon which permitted fireworks may be discharged during the authorized discharge times. The Director of Public Safety may authorize firefighters to supervise the detonation of fireworks and/or other explosive devices in such designated areas as deemed necessary.

1. Cross Reference — Bottlerockets, see §210.415. Editor's Note — Ord. no. 1341 §1, adopted February 15, 2010, repealed sections 225.030 — 225.110 and enacted new provision set out herein. Former sections 225.030 — 225.110 derived from CC 1985 §§6-401 — 6-403, 6-405 — 6-406, 6-408, 6-410 — 6-412; ord. no. 862, 5-15-1989; ord. no. 1011, 8-19-1996; ord. no. 1059 §§225.040(C), 225.085, 5-3-1999; ord. no. 1076 §225.090, 12-20-1999; ord. no. 1127, 8-5-2002; ord. no. 1149 §6, 8-19-2002; ord. no. 1221, 9-19-2005.

C. Individuals may discharge permitted fireworks during the authorized discharge times at any private residence, with the permission of an adult living at that residence, or within a designated area.

D. *Authorized Discharge Times.* The following are the authorized discharge times:

Designated areas: July 3 and 4 — 8:00 A.M. to Midnight

Private residential land: June 27 through July 2 — 8:00 A.M. to 10:00 P.M., except on Friday or Saturday during such period, on which days discharge shall be allowed until Midnight.

8:00 A.M. to Midnight on July 3 and 4.

8:00 A.M. to 10:00 P.M. on July 5, when July 4 falls on Sunday.

Section 225.050. Permits to Sell Permitted Fireworks — Location — Fees. [Ord. No. 1341 §1, 2-15-2010]

A. Except as otherwise set forth in this Article, it shall be unlawful for any person to sell, display for sale, offer to sell or give away any type of fireworks within the City of Mulvane, Kansas.

B. Any person may sell, display for sale or offer for sale permitted fireworks upon receipt of a "fireworks permit" approved by the Zoning Administrator and the Mulvane Director of Public Safety (together with such other fire official as may from time to time be designated by the Director of Public Safety). Applications for fireworks permits must be submitted each year by June seventeenth (17th).

C. A fireworks permit shall authorize only one (1) location for the sale of permitted fireworks (an "authorized location") which authorized location may only be property which is zoned to permit retail sales. Each authorized location shall have a minimum setback of fifty (50) feet from existing structures and access cannot be solely limited to a residential street. Each authorized location shall provide at least three (3) off-street parking spaces and one (1) additional off-street parking space for each three hundred (300) square feet of sales floor area in excess of nine hundred (900) square feet.

D. Each applicant must include with his or her application for a fireworks permit a site plan for the proposed location including a diagram showing the location dimensions, size of the property, size of any structures (including tents), distance from existing structures, number of parking spaces available, parking area and access to streets. Prior to the approval of a fireworks permit, the Zoning Administrator, the Mulvane Director of Public Safety and/or such other official of the City of Mulvane, Kansas, as the Director of Public Safety shall designate, shall inspect the proposed location for compliance with City Zoning Codes, the International Fire Code, this Article and other pertinent laws and no fireworks permit shall be issued for any premises not in compliance with such laws.

E. Each applicant must submit with his or her application for a fireworks permit, the fireworks

permit fee and the cleanup deposit set forth in Section 100.240.

- F. Each applicant must submit with his or her application for a fireworks permit certificates of insurance evidencing all insurance required under this Article.

Section 225.060. Times for Sales. [Ord. No. 1341 §1, 2-15-2010]

A holder of a fireworks permit may sell, display for sale and offer to sell permitted fireworks at an authorized location from June twenty-seventh (27th) until July fourth (4th) during the hours of 8:00 A.M. until Midnight. If July fourth (4th) falls on a Sunday, such sales activity may continue on July fifth (5th) during the hours of 8:00 A.M. until 10:00 P.M. After such time, all fireworks permits shall automatically expire.

Section 225.070. Location Safety — Insurance Required. [Ord. No. 1341 §1, 2-15-2010]

- A. Each authorized location shall have on its premises fire extinguishers and such other safety equipment as required by the Mulvane Director of Public Safety and any applicable State and City laws and regulations.
- B. Fireworks may not be stored or sold within fifty (50) feet of any source of flame, sparks or flammable or volatile liquids in excess of one (1) gallon.
- C. If a tent is located on the authorized location, such tent shall be constructed of a flame retardant material. Any electrical cords shall be appropriately protected from damage by weather, the public and automobiles.
- D. No authorized location may sell any non-fireworks related items.
- E. Each authorized location must display its fireworks permit at all times when it is open to the public and/or engaged in the selling or displaying of permitted fireworks.
- F. Each authorized location shall be kept clear of litter, waste, debris and other such refuse. Within thirty (30) business days of the earlier of termination of selling activities or termination/expiration of the fireworks permit pursuant to this Article, each authorized location must be properly cleared of all fireworks, litter, waste, debris and all temporary structures (including tents) and an inspection requested of the Zoning Administrator. After such thirty (30) day period the cleanup deposit shall be deemed forfeited and the City may use all means for cleaning and clearing of the authorized location. The cleanup deposit will be returned to the holder of the fireworks permit upon suitable inspection of the authorized location, if properly cleared within the thirty (30) day period.
- G. All holders of a fireworks permit shall maintain a policy of general comprehensive liability insurance or otherwise post a bond for a minimum coverage of not less than the then current maximum liability for the City pursuant to the Kansas Tort Claims Act (currently five hundred thousand dollars (\$500,000.00) per occurrence), with the City of Mulvane, Kansas named as an insured. The general comprehensive liability shall not be cancelable upon less than thirty (30) days' notice.

Section 225.075. Permits for Commercial Fireworks Displays — Fees. [Ord. No. 1406 §2, 12-17-2012]

- A. An application for the discharge and display of commercial fireworks for entertainment or viewing by the public shall be considered for approval by the City Council upon timely request made throughout the calendar year on a case-by-case basis. Except as set forth in this Article, it shall be unlawful for any person or entity to discharge commercial fireworks for the entertainment and viewing of others within the City of Mulvane, Kansas.
- B. The application for the discharge and display of commercial fireworks for entertainment or viewing by the public must include a site plan for the proposed discharge location and fallout areas, including a diagram showing the location dimensions, size of the property, size of any structures and distance from existing structures. The application shall be made to the Director of Public Safety upon such forms and shall be subject to such further restrictions and other requirements (including insurance certificates) as from time to time established by the Director of Public Safety with the consent and approval of the City Council. The application shall be placed on the City Council agenda for consideration only if approved by the Director of Public Safety.
- C. A fireworks permit for the discharge and display of commercial fireworks for entertainment or viewing by the public shall authorize only one (1) location. The location and intended display must comply in all respects with the State Fire Code, this Article and all other pertinent laws. No fireworks permit shall be issued for any premises or intended display not in compliance with such laws.
- D. Each application for a fireworks permit for the discharge and display of commercial fireworks for entertainment or viewing by the public must be accompanied by the appropriate fireworks permit fee set forth in Section 100.240.

Section 225.080. Fireworks Permit Revocation. [Ord. No. 1341 §1, 2-15-2010; Ord. No. 1406 §1, 12-17-2012]

- A. Upon any violation of this Article, the Mulvane Police Department may revoke any and all fireworks permits held by such holder and immediately terminate the sale of permitted fireworks or the commercial display of fireworks under any fireworks permit.
- B. Any holder of a fireworks permit whose fireworks permit is revoked hereunder may appeal to the City Administrator of the City by notice served upon the City Clerk of the City and a hearing shall be called and held not less than one (1) business day from the date of the filing of such notice of appeal. The determination of the City Administrator shall be final.
- C. No fireworks permit shall be issued to a holder who has had a fireworks permit revoked hereunder in a prior year.

Section 225.090. Exception to Article. [Ord. No. 1341 §1, 2-15-2010]

Nothing in this Article shall be construed to prohibit the use of fireworks by railroads or other public transportation companies or agencies for signal or illumination purposes. The sale or use of blank gun cartridges for a bona fide show or theater, road flares for signal purposes or blank gun cartridges for ceremonial purposes in athletic or sports contests or for use by military or law enforcement agencies shall not be considered a violation of this Article.

Section 225.100. Emergency Circumstances. [Ord. No. 1341 §1, 2-15-2010]

- A. Under special circumstances including, but not limited to, a Statewide ban on burning and/or fireworks detonation, the time, place and manner of sale and discharge of fireworks may be changed in response to conditions which may impair the public health or safety.
- B. Whenever it appears to the Director of Public Safety that it is reasonably necessary to limit or alter the provisions of this Article due to the likelihood of a fire hazard beyond that normally contemplated by this Article, he or she shall so declare in writing and shall duly notify the Mayor and City Council of such declaration of emergency and shall recommend the manner in which this Article shall be modified. Upon approval of the Governing Body, the recommended modifications shall be enforced to the extent permitted by law.

Section 225.110. Violations. [Ord. No. 1341 §1, 2-15-2010]

- A. Any person, whether acting on his or her own behalf or that of any group or organization, who violates any Section of this Article shall be deemed to be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment of not more than thirty (30) days, or by both such fine and imprisonment.
- B. The Mulvane Police Department shall seize, take, remove or cause to be removed at the expense of the holder of the fireworks permit or the violator any prohibited fireworks or permitted fireworks which are sold, offered for sale, used, discharged, possessed or transported in violation of this Article.

Section 225.115. Severability. [Ord. No. 1341 §1, 2-15-2010]

In the event any part of this Article is invalidated by any court of competent jurisdiction, the remainder shall be considered as severed and shall survive in full force and effect as though that part of this Article found invalid was never a part hereof.

ARTICLE III

Recovery of Expenses — Hazardous Materials

Section 225.120. Definitions. [CC 1985 §6-701; Ord. No. 907, 12-3-1990]

- A. *Definitions.* As used in this Article, the following words and phrases shall have the meanings as set out herein:

EMERGENCY ACTION — Emergency action shall mean all exigent activities conducted in order to prevent or mitigate harm to the public health and safety and the environment from a release or threatened release of any material into or upon land, water or air.

PERSON — Includes any individual, corporation, association, partnership, firm, trustee, legal representative, or any combination thereof.

RECOVERABLE EXPENSES — Recoverable expenses shall include those expenses of the City and/or any rural Fire Districts with which the City has an agreement for the rendition of emergency services that are reasonable, necessary and allocable to an emergency action. Recoverable expenses shall not include normal budgeted expenditures that are incurred in the

course of providing what are traditionally City services and responsibilities, such as routine firefighting protection. Expenses allowable for recovery may include, but are not limited to:

1. Disposable materials and supplies consumed and expended specifically for the purpose of the emergency action.
2. Compensation of employees for the time and efforts devoted specifically to the emergency action.
3. Rental or leasing of equipment used specifically for the emergency action (e.g. protective equipment or clothing, scientific and technical equipment).
4. Replacement costs for equipment owned by the City that is contaminated beyond reuse or repair, if the equipment was a total loss and the loss occurred during the emergency action (e.g., self-contained breathing apparatus irretrievably contaminated during the response).
5. Decontamination of equipment contaminated during the response.
6. Special technical services specifically required for the response (e.g., costs associated with the time and efforts of technical experts or specialists not otherwise provided for by the City).
7. Other special services specifically required for the emergency action.
8. Laboratory costs of analyzing samples taken during the emergency action.
9. Any costs of cleanup, storage, or disposal of the released material.
10. Costs associated with the services, supplies and equipment procured for a specific evacuation of persons or property.
11. Medical expenses incurred as a result of response activities.
12. Legal expenses that may be incurred as a result of the emergency action, including efforts to recover expenses pursuant to this Article.

RELEASE — Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into or upon land, water or air, of any material which the City determines may be harmful to the public health and welfare or to the environment.

RESPONSE — Any activity by the City subsequent to a release, threatened release or other activity of the City intended in whole or in part as a direct or indirect countermeasure to a release or threatened release.

THREATENED RELEASE — Any imminent or impending event potentially causing but not resulting in a release, but causing the City to undertake an emergency action.

- B. For purposes of liability hereunder it is not necessary that the City prove the release or threatened release was the cause of a specific activity of a person subject to this Article. The City need only show the response was the result of a release or threatened release as defined herein.

Section 225.130. Strict Liability. [CC 1985 §6-702; Ord. No. 907, 12-3-1990]

Any person causing or responsible for a release or threatened release resulting in an emergency action shall be strictly liable to the City for the recoverable expenses resulting from the emergency action. There shall be a rebuttable presumption that any person owning or controlling property causing a release or threatened release is responsible for such release or threatened release.

Section 225.140. Recovery of Expenses. [CC 1985 §6-703; Ord. No. 907, 12-3-1990]

- A. *Itemization Of Recoverable Expenses.* City personnel and departments involved in an emergency action shall keep an itemized record of recoverable expenses resulting from an emergency action. Promptly after completion of an emergency action, the appropriate City department shall certify those expenses to the City Clerk.
- B. *Submission Of Claim.* The City shall submit a written itemized claim for the total expenses incurred by the City for the emergency action to the responsible person and a written notice that unless the amounts are paid in full within thirty (30) days after the date of the mailing of the claim and notice, the City may file a civil action seeking recovery for the stated amount.
- C. *Lien On Property — Certification — Recoverable Expenses On Tax Rolls.* The City may cause a lien in the amount of the recoverable expenses to be placed on any real or personal property found within the City owned by the person causing or responsible for the emergency action. The City Clerk shall certify to the County Clerk that portion of the recoverable expenses remaining unpaid after the expiration of thirty (30) days from the date on which the claim therefore was submitted to the responsible person, and the County Clerk shall extend such unpaid recoverable expenses on the tax rolls of the County against any real or personal property found within the City owned by the person causing or responsible for the emergency action.
- D. *Civil Suit.* The City may bring a civil action for recovery of the recoverable expenses against any and all persons responsible for the emergency action under this Article and/or under any applicable State or Federal Laws.
- E. Nothing in this Article shall be construed to conflict with State or Federal laws requiring persons responsible for releases or threatened releases from engaging in remedial activities and/or paying the costs thereof.

Chapter 230

EMERGENCY MEDICAL AND AMBULANCE SERVICE

ARTICLE I

Volunteer Emergency Medical Service

Section 230.010. Creation. [CC 1985 §6-501; Ord. No. 511, 2-2-1976]

There is hereby created the Mulvane Volunteer Emergency Medical Service.

Section 230.020. Transportation Rates. [CC 1985 §6-508; Ord. No. 955 §6-508, 3-1-1993; Ord. No. 1005, 4-15-1996; Ord. No. 1047, 7-6-1998; Ord. No. 1119 §§1 — 6, 6-17-2002; Ord. No. 1237, 9-18-2006; Ord. No. 1354 §1, 8-16-2010]

- A. Rates and charges for the use of the City's ambulance service and the application thereof shall be established and determined by the Director of Public Safety. Such rates and charges, as in effect from time to time, shall be posted and made publicly available. Such rate schedules may include a discount for Mulvane Emergency Services Volunteers, their spouses, children and stepchildren for any amount not covered by such individual's medical insurance.
- B. All revenue collected from any mileage-based charges may be placed in a special revenue fund designated for vehicle and equipment replacement. All other revenue shall be placed in a revenue fund to offset the cost of operating the City's ambulance service.

ARTICLE II

Ambulance Service Regulations

Section 230.030. Definitions. [CC 1985 §6-601; Ord. No. 935, 12-23-1991]

As used in this Chapter, the following words and phrases shall have the meanings set out herein:

AMBULANCE — Vehicle(s) equipped or used for the transportation of wounded, injured, sick, or deceased persons for hire within the corporate limits of the City except those operated by the City. The term "*ambulance*" shall not include vehicles used for the purposes of picking up, upon the request of relatives or municipal or other authorities in the case of deceased persons whose families cannot be located, dead bodies, either at a home, a hospital, or other place for the purpose of transporting such deceased persons, nor shall it include vehicle(s) used for the purpose of transporting such deceased persons.

CITY — The City of Mulvane, Kansas.

DESIGNATED SUPERVISORY AGENCY — The Mulvane Emergency Services Department of Mulvane, Kansas.

GOVERNING BODY — The City Council of the City.

PERSON — Any person, firm, partnership, association, corporation, company, organization or enterprise of any kind.

SUPERVISORY OFFICIAL — The authorized representatives of the Mulvane Emergency Services Department charged with the responsibility of insuring compliance with all the provisions of this Chapter.

Section 230.040. Ambulance Drivers to File Reports With Police. [CC 1985 §6-629; Ord. No. 935, 12-23-1991]

Unless prevented by an emergency, it shall be the duty of each ambulance driver to, within one-half (½) hour after conveying any injured, sick, or dead persons to any public or private hospital, or removing him/her or them therefrom, or after conveying or removing any such person(s) within the City to another place within the City, or beyond its limits, notify the Police Department of such operation. Such notice shall give the name and address of such injured, sick or dead person when such information is available and the place to and from which such person was removed. Within twenty-four (24) hours after the removal of such injured, sick, or dead person, such person owning or operating an ambulance hereunder, an agent or employee, shall file a written report with the Chief of Police, giving the information required above and any other relevant information which the Police Department might require. The Police Department shall provide written forms upon which the information required in this Section shall be written.

Section 230.050. Ambulance Operators to Notify Police Department of Emergency Calls. [CC 1985 §6-630; Ord. No. 935, 12-23-1991]

Every person operating an ambulance within the City, which answers calls in emergency cases, shall upon receipt of the call to convey a patient in an emergency case immediately notify the Police Department of such call, giving the location of the patient, the time the call is received, and the hospital or other location to which the patient is to be removed.

Section 230.060. Ambulance Drivers — Duty as to Discharge of Injured and Ill Persons — Speed Limits to Be Observed. [CC 1985 §6-631; Ord. No. 935, 12-23-1991]

- A. It shall be the duty of the operator of an ambulance in an emergency case to discharge any injured, ill or deceased person at the hospital nearest the place where the injured, ill or deceased person is picked up unless otherwise directed by the injured or ill person, spouse, or legal guardian except for major burn or critically injured patient(s). The discharge of major burn patient(s) shall be made directly to the local burn treatment center in accordance with protocols established by the Sedgwick County Medical Society. The discharge of critically injured patient(s) will be to the trauma facility within the City possessing the highest level of trauma care capabilities as verified by the American College of Surgeons, nearest the place where the injured person is picked up and in accordance with protocols established by the Sedgwick County Medical Society. It is unlawful for a driver of an ambulance to operate said ambulance in excess of forty-five miles per hour (45 mph) unless the posted speed is in excess of forty-five miles per hour (45 mph). It is unlawful for the driver of an ambulance to enter an intersection controlled by stop and go lights or by a stop sign at a speed in excess of ten miles per hour (10 mph), unless the signal is green.

- B. A facility shall be treated as if the facility has a trauma care capability at a level verified by the American College of Surgeons, as to the discharge of critically injured patient(s) hereunder if the following conditions have been met:
1. Application for site visit has been submitted to the American College of Surgeons for one of the levels of trauma care capability that is recognized as being verifiable by the American College of Surgeons.
 2. The Board of Directors or other appropriate officials of such facility certifies to the Board of Health that the facility is currently capable of and has in place and will continue to have in place at all material times a program that meets the clinical requirements of the American College of Surgeons for the requested level of verification contained in its application. Documentation that substantiates the certification shall be submitted to the Board of Health.
 3. The facility agrees to and has entered into an appropriate agreement that indemnifies and holds the City, the Board of County Commissioners of the applicable County Board of Health harmless from any and all claims, demands, liabilities and costs that arise or allegedly arise from the treatment of critically injured trauma patient(s) that are discharged to the facility pursuant to provisions contained herein.
 4. The Mulvane Emergency Services Department finds that the conditions herein have been met by the facility.
- C. If the Mulvane Emergency Services Department finds that a facility has met the conditions then such facility shall be treated as if it has received a verification of the American College of Surgeons at the level sought in such application subject to Subsection (D); provided however, that such level shall not be deemed to exceed the highest level previously granted by the American College of Surgeons to any other facility within the City.
- D. A facility shall be entitled to receive critically injured trauma patient(s) pursuant to Mulvane Emergency Services Department findings under Subsection (B) of this Section for a period of time not to exceed five (5) months or the date that the American College of Surgeons make a final decision on the application, whichever time comes first.

Section 230.070. Additional Duties of Director of Emergency Services. [CC 1985 §6-615; Ord. No. 935, 12-23-1991]

The Director of Emergency Services shall inspect or cause to be inspected the vehicles and premises designated in the application hereunder and shall certify his/her approval in writing when he/she finds that such vehicles and premises are suitable from the standpoint of health and sanitation for the conduct of an ambulance business and that all State laws and local ordinances have been complied with. Upon the issuance of a license and a certificate of convenience and necessity as herein provided, the Director of Emergency Services shall, at least once each three (3) months, cause an inspection to be made of the ambulances operated by the licensee and the premises used by the licensee in its operation of an ambulance business to determine that the vehicles and premises are suitable for the conduct of an ambulance business.

Section 230.080. Duties of Mulvane Emergency Services Department. [CC 1985 §6-616; Ord. No. 935, 12-23-1991]

The Mulvane Emergency Services Department shall cause to be inspected the vehicles designated in the application hereunder and shall certify its approval when it finds that such vehicles are suitable from the standpoint of safety for the conduct of an ambulance business and that all State laws and local ordinances relating to safety have been complied with. The Mulvane Emergency Services Department after the issuance of a license and certificate of public convenience and necessity hereunder shall cause the vehicles operated by the licensee to be inspected once each three (3) months to determine that the vehicles are suitable from the standpoint of safety for the conduct of an ambulance business and that all State laws and local ordinances relating to safety are being complied with.

Section 230.090. Rates to Be Charged Public — Application for Increase. [CC 1985 §6-617; Ord. No. 935, 12-23-1991]

Any person issued a license and certificate of convenience and necessity under the provisions of this Chapter shall charge the public the rates set forth in their application for a license, and should the licensee desire to raise the rates, they shall file an application with the Mulvane Emergency Services Department for permission to raise their rates. The Mulvane Emergency Services Department shall fix a time and place for hearing thereon, which shall not be more than thirty (30) days after such application. At such hearing, the Mulvane Emergency Services Department may in their discretion recommend to the Governing Body that the applicant be allowed to increase the rates charged to the public by the licensee. It is unlawful for any licensee to charge the public higher rates than those listed in the licensee's application for a license or higher rates than those authorized by the Governing Body, as herein provided. It is grounds for the revocation of a license and of the certificate of convenience and necessity issued hereunder for a licensee to violate the provisions of this Section.

Section 230.100. Exemptions. [CC 1985 §6-618; Ord. No. 935, 12-23-1991]

The terms and limitations of the Sections herein of this Code shall not apply in any instances to any ambulance service that has been established and exists pursuant to a contract between the City and the Board of County Commissioners of Sedgwick and Sumner Counties, Kansas, and any ambulance service being operated pursuant to a contract between the City and the Board of County Commissioners shall be exempt from the application of the above cited Sections of the Code. Any City operated ambulance service shall also be exempt hereunder but shall adhere to the operational standards of this Chapter.

ARTICLE III

Ambulance Company Operation — Licensing

Section 230.110. Contents of Application for License. [CC 1985 §6-602; Ord. No. 935, 12-23-1991]

- A. Any person, in order to secure a license as herein required for the operation of an ambulance company, and before any such license shall be granted or issued, shall file with the Mulvane Emergency Services Department an application for such license on such form and containing such information as may be required, to assist with enforcement of the laws, including but without limitation the following:

1. The name of the applicant, or if a firm, partnership, association, corporation, company or organization of any kind, the names and addresses of persons owning a financial interest therein, the number and type of ambulances proposed to be operated by the applicant, the name of the liability insurance company to whom application has been made for liability coverage;
2. A complete description of each vehicle to be operated by the applicant, including the model, motor number, and State license number;
3. A copy of the proposed liability insurance policy as specified herein;
4. A list of the charges proposed to be made by the applicant for services rendered to the public in the event a license is issued hereunder.

Section 230.120. License Fee. [CC 1985 §6-603; Ord. No. 935, 12-23-1991]

Applications hereunder shall be accompanied by a license fee of fifteen thousand dollars (\$15,000.00). In the event said license is denied by the Governing Body, the license fee is to be refunded to the applicant.

Section 230.130. License Fee Routing. [CC 1985 §6-604; Ord. No. 935, 12-23-1991]

All license fees paid by the applicant to the Mulvane Emergency Services Department at time of application for a license under the provisions of this Chapter shall be forwarded by the Mulvane Emergency Services Department to the License Collector upon approval of application.

Section 230.140. Liability Insurance. [CC 1985 §6-605; Ord. No. 935, 12-23-1991]

Before any license shall be issued hereunder applicant shall file with the City Clerk, approved as to form and endorsement by the City Attorney, an insurance policy providing public liability coverage for the licensee in the operation of an ambulance company in the amount of one million dollars (\$1,000,000.00).

Section 230.150. Hearing on Approval of Application. [CC 1985 6-606; Ord. No. 935, 12-23-1991]

Upon the filing of the application as specified herein, the Mulvane Emergency Services Department shall set the time at which public hearing will be held by Mulvane Emergency Services Department upon such application with such notice thereof as the Mulvane Emergency Services Department may deem advisable and consistent with due process. Upon hearing, the Mulvane Emergency Services Department may recommend approval of such application and insuring agreement upon such conditions, terms and limitations as in their discretion may be deemed necessary and proper under the police power of the City, and shall specifically approve the rates to be charged by the licensee during the term of the license. At such hearing, which may be adjourned from time to time, the Mulvane Emergency Services Department shall hear testimony for and against both the question as to whether or not public convenience shall be promoted and public necessity would require such ambulance service and whether or not persons in lawful operation of ambulances operating under a certificate of convenience and necessity and a license issued under the provision of this Chapter, if any, are incapable of rendering services required to meet the needs of the public. If the Mulvane Emergency Services Department should

find the public convenience will be promoted by the ambulance service and that persons in lawful operation of ambulances presently operating under a certificate of convenience and necessity and a license issued hereunder, if any, are incapable of rendering service required to meet the needs of the public a certificate of convenience and necessity shall be issued and the Mulvane Emergency Services Department shall recommend to the Governing Body that a license be issued. If the Mulvane Emergency Services Department finds that public convenience and necessity does not require the operation of additional ambulances in the City, a certificate of convenience and necessity and the license shall be denied and the applicant shall be entitled to apply for a refund of all or part of the license fees deposited with the License Collector and the insurance policies deposited with the City Clerk. Such denial may be appealed to the Governing Body. The licenses issued under the provisions of this Chapter shall become due on January first (1st) of each year and shall expire on December thirty-first (31st) of the year of their issue.

Section 230.160. Certificates of Public Convenience and Necessity Required. [CC 1985 §6-607; Ord. No. 935, 12-23-1991]

No person shall engage in the operation of any ambulance service nor shall any license be granted or issued to operate an ambulance company within the limits of the City until the Mulvane Emergency Services Department shall first find that public convenience will be promoted and public necessity requires such ambulance service under the terms and provisions of this Chapter.

Section 230.170. License Required. [CC 1985 §6-608; Ord. No. 935, 12-23-1991]

It is unlawful for any person to engage in the operation of an ambulance service without having first obtained a license as herein provided. Violation of this Chapter shall be a Class B misdemeanor. For purposes of enforcement each day of violation shall constitute a separate offense.

Section 230.180. Issuance of License — Temporary Licensee Fees. [CC 1985 §6-609; Ord. No. 935, 12-23-1991]

- A. Upon approval by the Governing Body of the recommendation of issuance of a license, by the Mulvane Emergency Services Department, a license shall be issued to a successful applicant by the Mulvane Emergency Service Department in the same manner and upon the terms of this Chapter, provided nothing herein contained shall prevent the Governing Body, upon due cause shown, from granting temporary permits on licenses to operate ambulances in the City for a limited and specified period of time, provided, such temporary or special permit or license may be revoked at any time by the Governing Body in its sole discretion.
- B. Before the issuance of the license provided for in this Chapter, the applicant therefore shall pay to the Mulvane Emergency Services Department an annual license fee in the sum of one hundred dollars (\$100.00) for each ambulance owned, operated or leased by the licensee.

Section 230.190. License and Certificate of Convenience and Necessity Non-Transferable. [CC 1985 §6-610; Ord. No. 935, 12-23-1991]

A license or a certificate of convenience and necessity issued under the provisions of this

Chapter is not assignable or transferable and shall run to the exclusive use and benefit of the licensee.

Section 230.200. Ambulance Facility Required. [CC 1985 §6-611; Ord. No. 935, 12-23-1991]

All licenses under this Chapter are required to maintain an adequate staffed ambulance facility within the City limits.

Section 230.210. Certificates of Public Convenience and Necessity — Factors to Be Determined. [CC 1985 §6-612; Ord. No. 935, 12-23-1991]

To determine whether a certificate of public convenience and necessity shall be issued, the Mulvane Emergency Services Department shall take into consideration that the systems of transportation are rendering the service required to meet the needs of the public and whether persons in lawful operation of ambulances operating under a certificate and a license issued under the provisions of this Chapter are capable of rendering service required to meet the needs of the public, the financial responsibility of the applicant, and all other facts which are necessary to determine whether public convenience and necessity requires the operation of additional ambulance service within the corporate limits of the City.

Section 230.220. Revocation or Suspension of License or Certificate for Failure to Comply With Chapter. [CC 1985 §6-613; Ord. No. 935, 12-23-1991]

- A. The Mulvane Emergency Services Department upon five days notice of hearing may suspend or revoke any license or certificate of convenience and necessity issued under the provisions of this Chapter if the licensee has failed or neglected to comply with any of the terms of this Chapter. The Mulvane Emergency Services Department may continue said hearing as in their discretion may be advisable to allow the licensee to comply with applicable City Code provisions. Notice shall be served upon an agent, officer or representative of licensee personally or by certified mail return, receipt requested.
- B. The failure of any licensee to pay any judgment against it within ten (10) days after such judgment becomes final, and which is not superseded by a proper bond on appeal, shall be grounds for the cancellation of license(s) issued to any such licensee hereunder.
- C. The cancellation, withdrawal, or other termination of any insurance policy or other type of assuring agreement, or failure to maintain the same in accordance with the provisions of this Chapter shall automatically terminate the use of any ambulance covered by such insurance policy. Such termination shall constitute notice to licensee.
- D. Any licensee who knowingly operates its business in such a manner as to favor or give advantage to any person within the City shall be subject to having its license and certificate of convenience and necessity suspended or revoked.
- E. Any licensee who fails to render good service to the public after ten days' notice from the Mulvane Emergency Services Department of the failure to render good service to the public shall be subject to having its license and certificate of convenience and necessity suspended or revoked as herein provided.
- F. Any decision by the Mulvane Emergency Services Department to suspend or revoke a

license or certificate for failure to comply with this Chapter may be appealed by the licensee, in writing, within five (5) days, to the Governing Body.

Section 230.230. Licensee's Operational Responsibilities. [CC 1985 §6-614; Ord. No. 935, 12-23-1991]

- A. Each ambulance operator or company licensed under this Chapter shall maintain written records of its activities, including any and all complaints relating to service and charges, and such records shall reflect the action taken on such complaints; further such records shall be subject to inspection by the Governing Body of the City or its duly designated supervisory agency. The Mulvane Emergency Services Director shall be entitled to review and receive copies of any such complaints during regular business hours upon verbal request.
- B. The licensee shall use due diligence in supervising the activities of the dispatchers, drivers, emergency medical technicians, and other company personnel to insure full compliance with the City Code and to maintain reasonable standards of service to the public.
- C. Licensees, supervisors, drivers, dispatchers, emergency medical technicians and other ambulance company personnel shall fully cooperate at all times with the supervisory official charged with the responsibility of insuring the maintenance of a high level of ambulance service for the public.

**ARTICLE IV
Ambulance Personnel Licenses**

Section 230.240. License Required of Ambulance Personnel. [CC 1985 §6-619; Ord. No. 935, 12-23-1991]

- A. There shall be three (3) classifications of licenses for ambulance personnel, which shall be as follows:
 - 1. Ambulance driver;
 - 2. Emergency medical technician basic (EMT basic);
 - 3. Mobile Intensive Care Technician (MICT);
- B. It is unlawful for any person to act as ambulance personnel in the City without having first secured one of the above named licenses. It is also unlawful for any person who is licensed as an ambulance driver only to act as either an EMT basic or as an MICT. Furthermore, it is unlawful for a person licensed as an EMT basic to act as an MICT. Whenever an ambulance responds to an emergency call, the ambulance must be staffed with a minimum of two (2) persons, both of whom must be at a minimum certification level of EMT.

Section 230.250. Ambulance Driver — EMT Basic and MICT License Applicant and Fees. [CC 1985 §6-620; Ord. No. 935, 12-23-1991]

- A. The licenses required herein shall be applied for in writing on such forms as the Mulvane Emergency Services Department shall provide and shall contain such information as may be required. In addition, the application for the ambulance driver's license shall contain the

following:

1. Whether the applicant has heretofore been licensed as an ambulance driver, and, if so, when, in what municipality, and/or state; whether such license has been revoked or suspended, and the date(s) thereof;
2. The number of times or places the applicant has been arrested or convicted of traffic violations;
3. Whether the applicant has ever been convicted of a felony or misdemeanor, giving particulars of each conviction;
4. Applicant shall furnish four (4) recent photographs of himself/herself not less than two and one-half (2½) inches by three and one-fourth (3¼) inches, or submit to photographs by the designated supervisory agency in which case the applicant shall be charged a reasonable fee to defray the cost of the four (4) photographs. One (1) of the photographs shall be attached to a copy of the application filed with the Police Department, one (1) photograph shall be attached to the copy of the application filed with the designated supervisory agency, one (1) photograph kept in the individual's record filed, and the fourth (4th) photograph is affixed to the driver's license identification card;
5. The applicant shall furnish the names of three (3) reputable persons residing in Sedgwick and/or Sumner Counties as character references;
6. The applicant shall furnish a certificate by a physician licensed to practice medicine and surgery in the State of Kansas, that the applicant is of sound physique with good eyesight and not subject to epilepsy, vertigo, or heart trouble, or any other infirmity of body or mind which may render the applicant unfit for the safe operation of an ambulance.

Section 230.260. Qualifications. [CC 1985 §6-621; Ord. No. 935, 12-23-1991]

Every applicant for a license issued herein shall not be less than eighteen (18) years of age and shall be able to read, speak and write the English language, and shall be clean of dress and person and not addicted to the use of intoxicating liquors or other controlled substances.

Section 230.270. Examination of Applicant — Issuance of License. [CC 1985 §6-622; Ord. No. 935, 12-23-1991]

- A. Upon the filing of an application for a license as an ambulance driver or EMT, the Mulvane Emergency Services Department shall cause the applicant to be examined as to his/her knowledge of the provisions of this Chapter and of City and State laws relating to the operation of ambulances and traffic as well as geography of the City, and if the applicant fails to show a reasonable knowledge of such matters, the application shall be denied. If the applicant is found by the Mulvane Emergency Services Department to be a fit person to operate an ambulance within the City according to the above standards, it shall issue the applicant a driver's license identification card under the provisions of this law.
- B. *EMT Basic License.*

1. A person making application for an emergency medical technician basic's license shall have successfully completed a basic training program for emergency medical technicians, which shall be equivalent to the emergency medical technicians course under the standards and auspices of the Board of Emergency Medical Services, before such license will be issued.
2. A person applying for an emergency medical technician basic's license need not be certified by examination by the National Register of EMTs to have his/her application approved if less than one (1) year has passed between the time his/her application is approved and the time he/she completed a basic training program for emergency medical technicians. In all other cases he/she must be certified by examination by the Kansas Certified Emergency Medical Technicians. A person whose license was issued before he/she was certified by the Kansas Certified Emergency Medical Technicians shall have that license revoked one (1) year from the date he/she completed the basic training program for emergency medical technicians unless he/she has before that time been certified by examination by the Kansas Certified Emergency Medical Technicians.
3. Renewal of the EMT basic license shall be year-to-year and shall be dependent upon satisfactory evidence of current certification with the Kansas Certified Emergency Medical Technicians.

C. *Mobile Intensive Care Technician (MICT).*

1. A person making application for a mobile intensive care technician advanced license shall, before being issued such license, be in possession of and/or meet the qualifications to be eligible to be issued an emergency medical technician basic license, and shall have been certified by examination by the Board of EMS, and further, shall have sufficient clinical instruction and experience to demonstrate proficiency to administer drugs as authorized by State regulations, to telemeter physiological data, to perform cardiac defibrillation, and properly transport patients under the direction of a physician. The course to be taken to meet the requirements of clinical instruction necessary to be approved for an MICT license must be approved by the Medical Society of Sedgwick County. Certification of this qualification must be given by a physician responsible for the training courses.
2. Renewal of the EMT advanced license shall be year-to-year, and shall be dependent upon satisfactory completion of refresher or continuing education courses of thirty-two (32) hours yearly. This course shall be approved by the Medical Society of Sedgwick County.

Section 230.280. Transferability. [CC 1985 §6-623; Ord. No. 935, 12-23-1991]

A license issued under the provisions of this Chapter shall not be transferable.

Section 230.290. Conviction of Certain Crimes to Bar Issuance. [CC 1985 §6-624; Ord. No. 935, 12-23-1991]

A. Except as otherwise provided herein, no license shall be issued to any person who has been

convicted under the laws of this State or another State or the ordinances of the City or the United States of any of the following violations:

1. Felony;
2. Any offense involving moral turpitude;
3. Hit-and-run driving;
4. Any offense involving narcotics, barbiturates, or amphetamines.

If more than three (3) years have lapsed since the conviction and the supervisory official believes the applicant to now be a fit person for such occupation, and if he/she so determines the applicant to be qualified, he/she may grant such license. If the Mulvane Emergency Services Department approves such application, a license shall be issued, provided however, that the Mulvane Emergency Services Department may issue a non-renewable temporary license for a period not to exceed thirty (30) days during the time investigation of the applicant may be conducted, such temporary license to expire automatically at the end of thirty (30) days from the date of issuance.

Section 230.300. License Renewal and Identification Card Fees. [CC 1985 §6-625; Ord. No. 935, 12-23-1991]

All licenses issued hereunder shall expire on the thirty-first (31st) day of December each year except as otherwise provided herein. For the original application and issuance of an ambulance driver's license identification card, a fee of fifteen dollars (\$15.00) shall be charged the applicant and paid to the Mulvane Emergency Services Department. For the original application and issuance of an EMT basic license or an MICT license, a fee of one hundred dollars (\$100.00) shall be charged the applicant and paid to the Mulvane Emergency Services Department. Upon the expiration of the license, the person holding the license shall be required to obtain a new license upon the payment of the renewal fee of one hundred dollars (\$100.00) dollars per license, provided that in case the person shall apply for a renewal license on or before December twentieth (20th) of each year, no new license application shall be required, provided further, however, that before any renewal license is issued, the applicant must secure the approval of the Mulvane Emergency Services Department upon the requirements provided for in this Chapter and new photographs shall be required for proper identification. No refund shall be made for any reason whatsoever, and no license shall be prorated. All fees collected hereunder shall be credited to the Mulvane Emergency Services Department to defray license enforcement costs.

Section 230.310. Grounds for Suspension or Revocation. [CC 1985 §6-626; Ord. No. 935, 12-23-1991]

- A. Any license provided for hereunder may be suspended or revoked by the designated supervisory agency for any reason for which the original license could be denied, and, in addition, for any of the following reasons:
1. Upon conviction for violation of any State or Federal law;
 2. For conviction of any alcohol related offense while the licensee is on duty as an ambulance driver, or EMT basic or MICT. An appeal of such conviction to the

district court shall not operate as a stay of said suspension as provided herein;

3. For failure to make full report of an accident as required by law to the Police Department;
4. For permitting any other person to use his/her license;
5. For obliterating or erasing any official entry on his/her license identification card;
6. In the event the driver of an ambulance is convicted for driving an ambulance while under the influence of intoxicating liquor or controlled substances or is convicted of having liquor and/or controlled substances in his/her possession while operating an ambulance, the driver's license shall be revoked permanently by the Mulvane Emergency Services Department.
7. In the event a person holding an ambulance driver's license or EMT basic license or MICT license recommends to any person, other than members of the ambulance driver's or EMT basic or MICT own immediate family, that any deceased person be taken to any particular mortuary in the City or recommends the service of any particular person to any one with whom the driver or attendant may come into contact in connection with his/her duties as an ambulance driver or attendant, that person's ambulance driver or attendant license shall be revoked permanently by the Mulvane Emergency Services Department.

Section 230.320. License to Be Surrendered Upon Suspension or Revocation. [CC 1985 §6-627; Ord. No. 935, 12-23-1991]

Whenever any person holding a license hereunder has that license suspended or revoked, the supervisory official shall take up that license and driver license identification card and record the reason for such revocation or suspension and the term thereof.

Section 230.330. Appeal From Revocation and Suspension. [CC 1985 §6-628; Ord. No. 935, 12-23-1991]

Revocation or suspension of any license issued under this Chapter shall be subject to appeal to the Mulvane Emergency Services Department and to the Governing Body.

Section 230.340. Severability. [CC 1985 §6-632; Ord. No. 935, 12-23-1991]

The invalidity of any part or portion of this Chapter shall not affect the remainder hereof.

Chapter 235

DISCRIMINATION

Cross Reference — As to equal opportunity employment policy, see ch. 125.

ARTICLE I Handicapped Status

Section 235.010. Public Facilities Grievance Procedure. [CC 1985 §2-608]

- A. It is declared to be the policy of the City of Mulvane that all public facilities shall be accessible to the handicapped with provisions for use by the handicapped. In the case of making existing facilities come into compliance with the provisions of Public Law 90-480, Architectural Barriers Act of 1968, it shall be undertaken as soon as funds are available for such purpose.
- B. It is the right of each and every individual who feels himself/herself aggrieved through discrimination on the basis of race, color, religion, sex, age, disability or national origin to file a grievance complaint with the City of Mulvane, Kansas.
- B. Within five (5) days after receipt of said complaint, the City Administrator shall file a copy of the complaint with the Equal Opportunity Office, Department of the Interior, Washington, D.C., and with the State Liaison Officer, P.O. Box 977, Topeka, Kansas 66601.
- B. If the complaint is not resolved to the satisfaction of the complainant, he/she may file an additional grievance complaint with the Kansas Human Rights Commission, 535 Kansas Avenue, Topeka, Kansas 66603. The complainant may, at any time within six (6) months from the date of the alleged act of discrimination, file a grievance complaint with the Equal Opportunity Office, Department of the Interior, Washington, D.C. Further, the complainant shall have full recourse to all remedies of law in seeking satisfactory disposition of any alleged act of discrimination. The complainant may, at any time during the course of settlement of the grievance, withdraw his/her complaint by notification of all parties involved. Such withdrawal shall not jeopardize the rights of any person complained against from seeking legal relief for slander, libel or false accusation, if such action is believed warranted.
- C. Any act of discrimination by an employee or agent of the City of Mulvane, established and proven, shall be grounds for disciplinary action, including dismissal. Such disciplinary action shall be in addition to any penalties imposed through due process of law.

ARTICLE II Mulvane Fair Housing Policy and Anti-Discrimination and Equal Rights Board

Section 235.020. Declaration of Policy. [CC 1985 §2-801; Ord. No. 650, 12-15-1980]

The practice or policy of discrimination against individuals by reason of race, sex, religion, color, disability, age, national origin or ancestry is a matter of concern to the City of Mulvane since such discrimination threatens not only the rights and privileges of the inhabitants of the City but menaces the institutions and the foundations of a free democratic state. It is hereby declared to be the policy of the City of Mulvane in exercise of its police power for the protection of the public safety, public health and general welfare, for the maintenance of business and good government and for the promotion of the City's trade and commerce to eliminate and prevent discrimination, segregation and separation because of race, sex, religion, disability, age, color, national origin or ancestry. It is further declared to be the policy of the City of Mulvane to assure equal opportunities and encouragement to every person regardless of race, sex, religion, color, disability, age, national origin or ancestry and to assure equal opportunities to all persons within this City to full and equal public accommodations and to assure equal opportunities in housing without distinction on account of race, sex, color, disability, age, religion, national origin or ancestry.

Section 235.030. Mulvane Fair Housing, Anti-Discrimination and Equal Rights Board, Created, Appointed, Terms, Etc. [CC 1985 §2-802; Ord. No. 650, 12-15-1980]

There is hereby created a board to be known as the Mulvane Fair Housing, Anti-Discrimination and Equal Rights Board to serve the citizens of Mulvane in the administration and furtherance of the policy established herein. Said Board shall consist of one (1) member of the City staff, one (1) member of the City Council and one (1) citizen at large of the City of Mulvane, all to be appointed by the Mayor and approved by the City Council. The Board shall elect one (1) of its members as Chairperson who shall preside at all meetings of the Board and perform all the duties and functions of the Chairperson thereof. The Mayor shall convene the first (1st) meeting of the Board and conduct the election of the Chairperson. The Board shall elect one (1) of its members as Vice-Chairperson who shall act as the Chairperson during the absence or incapacity of the Chairperson, and when so acting, the member so designated shall have and perform all the duties and functions of the Chairperson of the Board. Appointments of new members to fill vacancies shall be made on an annual basis. The term of office of the Chairperson and Vice-Chairperson shall be for one (1) year. The Chairperson or Vice-Chairperson may resign from his/her office at any time during his/her term and may do so without resigning from the Board. In such event, the Board shall elect another member to replace him/her, and such person shall serve the unexpired term of the person he/she replaces. A majority of the presently serving members of the Board shall constitute a quorum for the purpose of conducting the business thereof. The members of the Board shall serve without compensation.

Section 235.040. Powers and Duties of the Mulvane Fair Housing, Anti-Discrimination and Equal Rights Board. [CC 1985 §2-803; Ord. No. 650, 12-15-1980]

- A. The Board shall have the following functions, powers, duties and responsibilities:
 1. Propose by-laws for adoption by the City Council for the purpose of organization and performing its duties and further, may adopt such rules of procedure and regulations as are necessary and suitable for carrying out the purposes of the Board; provided such by-laws, rules and regulations, before they are effective, shall be approved by

the Governing Body of the City of Mulvane.

2. Endeavor to aid the City and its people in benefiting from the fullest realization of its human resources by development program proposals which can open the way for each individual, regardless of race, sex, disability, religion, color, national origin or ancestry and age to develop according to his/her abilities without limitation.
3. Make such studies and perform such acts as, in the Council's judgment, will aid in making effective the purposes of this Article including, but not limited to:
 - a. Fostering good will, cooperation and conciliation among groups and segments of the population of this City;
 - b. Studying the problems of discrimination or instances of discrimination because of race, sex, disability, religion, color, national origin or ancestry and age;
 - c. Establishing policies, procedures and programs of education for proposal to the Governing Body of the City.
4. Utilize volunteer citizen committees which, in its judgment, will aid in making effective the purpose of the ordinance to:
 - a. Foster through community effort or otherwise good will, cooperation and conciliation among the groups and elements of the population of this City;
 - b. Study problems of discrimination in all or specific fields or instances of discrimination because of sex, race, religion, disability, color, national origin or ancestry and age;
 - c. Recommend to the Council human relations policies and procedures and programs of formal and informal education which the Council may then recommend to the appropriate City agency to assure equal opportunity with affirmative action toward nondiscrimination recruiting and hiring of City employees, contract employees, employees of the contractors or administration used by the City. Such committees shall be composed of representative citizens serving without pay.
5. After obtaining the approval of the Governing Body as to the terms, covenants and conditions therein contained, the Board shall be authorized to enter into contracts, agreements or memorandums of agreement with the Kansas Human Rights Commission, the Federal Equal Opportunity Commission and the Department of Housing and Urban Development in order to carry out any and all assignments made through these agencies to the Mulvane Fair Housing, Anti-Discrimination and Equal Rights Board.
5. To assure the non-discrimination placement and promotion of all City employees under the guidelines and pertinent statutes of the State of Kansas pertaining to employment procedures, the Board, with the approval of the Governing Body, may make application to any person, organization, City, County, State or Federal governmental unit or agency for funds to make effective the purposes of this Article. All funds shall be received and disbursed in the name of the City of Mulvane, Kansas.

6. To assure the non-discrimination pay raises or layoffs as defined by the policies and guidelines of the Statutes of the State of Kansas and this Article.
7. To assure equal opportunities to all persons within the City to full and equal accommodations, both public and private.
8. To assure all of said activities as outlined in said Paragraphs (1) through (7) hereof without discrimination on account of race, sex, color, disability, age, religion, national origin or ancestry.
9. Regularly inform the members of the Governing Body through distribution of its agendas, minutes, memoranda, reports and other pertinent documents the items of business before the Board, the ongoing status of such items and the disposition of such items.
10. Render each year to the Governing Body of the City a full written report of all of its activities and of its recommendations.

Section 235.050. Administrator. [CC 1985 §2-804; Ord. No. 650, 12-15-1980]

A City staff member, appointed by and responsible to the City Administrator, shall act as Director and as an ex-officio member of said Board without voting powers and shall assist said Board in the performance of its assigned duties. The appointment shall be based on the qualifications, fitness and merit of the applicant for the position. The employment of such additional personnel, full or part-time, may be authorized by and their compensation fixed by the Governing Body.

Section 235.060. Complaint Procedure. [CC 1985 §2-805; Ord. No. 650, 12-15-1980]

- A. The following procedures will apply in complaints alleging discriminatory practices filed with the Mulvane Fair Housing, Anti-Discrimination and Equal Rights Board.
 1. Any person claiming to be aggrieved by an alleged unlawful act or practice as defined by K.S.A 44-1001, et seq., the Kansas Act Against Discrimination, Title VI, et. seq., the Civil Rights Act of 1964, as amended, or any other Federal act, law, rule, regulation or executive order pertaining to non-discrimination may file with the Board a verified complaint, in writing, which shall contain such information as may be required by the Board. All complaints shall be received by the Director. The Board, upon its own initiative may, in like manner, make, sign and file such complaint.
 2. Upon the filing of a complaint, the Director shall, within seven (7) days after the filing of the complaint, serve a copy on each of the parties alleged to have violated this Article and initiate a prompt investigation of the alleged act of discrimination. During the investigation of a complaint, the Director shall have the same power of discovery in the name of the Board as provided in Section 235.040 (3) and (8) of this Article.
 3. If the Director shall determine, after such investigation, that no probable cause exists for crediting the allegations of the complaint, he/she shall, within ten (10) business

- days from such determination, cause to be issued and served, upon the complainant and respondent written notice of such determination. This shall close the case except that a complainant who has filed a complaint may appeal within, ten (10) business days from the date of the service of such decision a written request for hearing before the Board or referral of the case to the appropriate Federal or State agency. The request shall be granted by the Board within ten (10) business days from the date the same shall be filed. Upon hearing, the matter shall be determined by the Board within thirty (30) business days after the same shall be submitted.
4. If the Director shall determine after such investigation that probable cause exists for crediting the allegations of the complaint, he/she shall, within ten (10) business days from such determination, cause to be issued and served upon the complainant and respondent written notice of such determination. Such written notice shall propose conciliation and establish a schedule therefore. The Director shall endeavor to eliminate the unlawful employment practice or the unlawful discriminatory practice complained thereof by conference and conciliation. The complainant, respondent and Director shall have forty-five (45) days from the date the respondent is notified, in writing, of a finding of probable cause to enter into a Conciliation Agreement signed by all parties in interest. The terms of such Conciliation Agreement may include any provisions and remedies for retroactive, present or future effect to eliminate the unlawful practice or act as set forth in Federal and State guidelines. The parties may amend a Conciliation Agreement at any time prior to the date of entering into such agreement. Upon agreement by the parties, the time for entering into such agreement may be extended. The members of the Board, Director and staff shall not disclose what has transpired in the course of such endeavors except as provided in Subsection (6) of this Section.
 5. If the complainant, respondent and Director are successful in endeavors under conference and conciliation, this shall close the case; except that a respondent who has had a probable cause determination by the Director may appeal the Director's determination by filing, within ten (10) business days from the date of service of such decision, a written request for hearing before the Board. The request shall be granted by the Board within ten (10) business days from the date the same shall be filed. Upon hearing, the matter shall be determined by the Board within thirty (30) business days after the same shall be submitted.
 6. In case of failure to eliminate alleged unlawful acts or practices through conference and conciliation, the Director shall notify the complainant and respondent, in writing, together with a copy of the complaint as the same may have been amended, that such efforts have been unsuccessful. Such notice shall also inform the parties thereto of the complainant's right to file with the appropriate State and/or Federal agency and that the Director will assist complainant in filing the same. The Director may provide the State or Federal agency with copies of the complaint and such other materials pertinent to the complaint.
 7. The Director shall report to the Board all complaints received, disposition of complaints and the on-going status of such complaints. Such report shall be presented by the Director to the Board at its regular monthly meeting or, at any other such times

as needed or required. The Director shall keep the City Attorney informed of the same.

Section 235.070. Construction. [CC 1985 §2-806; Ord. No. 650, 12-15-1980]

The provisions of this Article shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this Article shall be deemed to repeal any of the provisions of any other law of this City relating to discrimination because of race, sex, religion, disability, color, national origin or ancestry and age unless the same is specifically repealed by this Act. Nothing in this Act shall be construed to mean that an employer shall be forced to hire unqualified or incompetent personnel or discharge qualified or competent personnel.

Section 235.080. Definitions. [CC 1985 §2-807; Ord. No. 650, 12-15-1980]

Definitions of terms used in this Article and not defined herein shall be deemed to be the same as defined in K.S.A. 44-1002 as applicable or K.S.A. 44-1015 as applicable.

Chapter 240

SOLID WASTE AND GARBAGE REGULATIONS

Cross References — Licenses for trash hauling, see §§605.270 et seq.; health standards, see ch. 220; burning trash, see §§210.545 — 210.550.

ARTICLE I

General Provisions

Section 240.010. Definition. [CC 1985 §7-701; Ord. No. 521, 6-21-1976]

For the purpose of this Article, the term "*solid waste*" shall mean garbage, refuse and other discarded materials including, but not limited to, solid, semi-solid, sludges, liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural and domestic activities. Solid waste does not include hazardous wastes as defined by subsection (f) of K.S.A. 65-3430, and amendments thereto, recyclables or the waste of domestic animals as described by subsection (a)(1) of K.S.A. 65-3409, and amendments thereto.

Section 240.020. Storage. [CC 1985 §7-702; Ord. No. 526, 7-6-1976]

- A. Every person, firm or corporation owning, managing, operating, leasing, renting or occupying any premises in the City where solid waste accumulates shall at all times provide and maintain in good condition on said premises a portable container or containers for the storage of solid waste. Said containers shall be constructed either of heavy plastic or of galvanized metal and shall be rodent-proof, fly-proof and watertight with tight fitting lids which shall not be removed except when depositing or removing the contents. The containers to be provided shall be of sufficient size and number to accommodate the solid waste accumulated on the premises for a period of one (1) week. Each of said containers shall have a capacity of not less than twenty (20) nor more than fifty-five (55) gallons, and the total weight of a filled container shall not exceed sixty (60) pounds; provided however, any new customer of any duly authorized solid waste collector or in the event the City elects to collect said waste and in the event that any existing trash collecting barrel is replaced, said trash barrels of said new customers or replacement barrels shall have a capacity of not less than twenty (20) nor more than thirty-five (35) gallons and the total weight of a filled container shall not exceed sixty (60) pounds.
- B. Persons, firms or corporations owning or occupying commercial or industrial premises where large amounts of solid waste accumulate shall provide bulk storage containers compatible with the collection vehicles.
- C. All solid waste shall be placed in containers of the type above described; provided however, that books, magazines and newspapers, if securely tied or completely contained in disposable boxes not larger than 24 x 24 x 36 inches, and tree limbs and brush securely

tied in bundles not larger than forty-eight (48) inches long and eighteen (18) inches in diameter and grass trimmings and leaves in disposable plastic trash bags need not be placed in said containers.

- D. All solid waste consisting of animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods, including cans, bottles and cartons in which it was received, shall be drained of all excess liquid, wrapped in paper or disposable containers and placed or stored, until collected, in containers of the type above described.

Section 240.030. Methods of Collection. [CC 1985 §7-703; Ord. No. 521, 6-21-1976]

- A. The citizens of the City of Mulvane, Kansas, may contract with any City authorized and licensed waste hauler and collector for disposal of solid waste in accordance with the conditions of this Article. It shall be the joint duty of the citizen and the waste hauler and collector to furnish the City of Mulvane with a certificate of waste disposal, prepared by the City Clerk and signed by the hauler or the citizen, verifying the contract for services between the parties.
- B. Any citizen may dispose of solid waste accumulated on premises occupied by him/her provided such solid waste shall be transported in enclosed containers or in vehicles equipped with closed compartments or covers so as to eliminate spillage, leakage or littering from said vehicle. Said solid waste shall be disposed of weekly and only in the Sumner County Landfill or any other authorized and approved sanitary landfill approved by the State of Kansas.
- C. The Governing Body of the City of Mulvane shall, at its option, have the right to enter into a contract with any responsible person for the collection and disposal of solid wastes in said City, the terms of which contract shall not be in conflict with any of the provisions of this Article or any other ordinance of the said City pertaining to the collection and disposal of solid waste.

Section 240.040. Collection. [CC 1985 §7-704; Ord. No. 521, 6-21-1976]

- A. The City of Mulvane, the private citizen hauling his/her own solid waste or the duly authorized solid waste collector or hauler shall collect solid waste from all premises in the City not less than once each week, and from commercial and industrial premises more frequently, if necessary, to adequately dispose of the solid waste accumulated by such business or industry and to keep such premises in a clean and sanitary condition.
- B. Storage containers for said solid waste shall be kept in a convenient location for said collection, as designated by the City, in order that collection may be made without the collectors entering buildings, garages, locked gates or fenced yards with dogs.
- C. In the event the City elects to enter into an exclusive or non-exclusive contract for the collection of solid waste operating a collection service as a public utility, then the employees of the City or its authorized contractor are hereby authorized to enter in and upon private property for the purpose of collecting solid waste pursuant to the provisions of this Article or any other Article of said City having to do with the collection of solid waste.
- D. All solid waste placed in containers by the owner or occupant of premises upon which the

solid waste accumulates shall be owned by the City and shall be subject to the exclusive control of the City or its authorized contractor, and no person shall meddle with storage containers or in any way pilfer or scatter the contents thereof.

- E. Irrespective of the method of the collection of solid waste, every resident of the City is hereby required to keep his/her premises occupied by him/her in a clean and sanitary condition so as not to endanger the public health or safety and not to create a nuisance to the inhabitants of the City.

Section 240.050. Additional Prohibited Acts. [CC 1985 §7-705; Ord. No. 521, 6-21-1976]

In addition to Subsection (E) of Section 240.040, the following acts shall be deemed to be unlawful, to-wit:

Throwing, placing, depositing or leaving or causing to be thrown, placed, deposited or left in any public street, highway, alley, parks or public ways of the City any solid waste.

Section 240.060. Disposal. [CC 1985 §7-706; Ord. No. 521, 6-21-1976]

All solid waste collected by the City or its authorized contractor shall be disposed of at such sanitary landfills as the Governing Body of the City may from time to time designate by resolution.

Section 240.070. Collection by City. [CC 1985 §7-707; Ord. No. 521, 6-21-1976]

In the event the Governing Body of the City of Mulvane, Kansas, deems it advisable to commence solid waste collection or to contract for said waste collection, said Governing Body shall prepare a schedule for payment of the reasonable charges for collection and disposal of solid waste.

Section 240.080. Solid Waste Containers — Placement at Curb.

Solid waste containers as required by this Chapter for the storage of residential solid waste shall be placed at the curbside for collection but shall not be so placed until after 6:00 P.M. on the day next preceding the regularly scheduled collection day. Containers shall be removed from the curb no later than 8:00 P.M. on the day of collection. No alley service shall be allowed under the terms of this Chapter, except as approved by the City Council.

Section 240.090. Exemptions and Hearings. [CC 1985 §7-709; Ord. No. 526, 7-6-1976]

Any owner required by this Article to receive and pay for solid waste collection services and disposal fee may, when they or their tenant or occupant are not, in fact, producing solid waste requiring the collection and disposal of solid waste as herein required, petition the Solid Waste Committee in writing to provide relief from such fees and/or services. The said owner shall supply the Committee with such information and complete such forms as said Committee may require. The Solid Waste Committee shall, after hearing such grievance, make its recommendation to the City Council for final determination. If the Solid Waste Committee determines that the collection of solid waste from the subject's premises is not necessary or not required as frequently as provided for herein, it may recommend to the Council cessation of such

collection, or it may recommend such partial relief as may be determined from the circumstances involved. If any aggrieved person is not satisfied with the Solid Waste Committee's recommendation, he/she may, within thirty (30) days after said determination appeal in writing to the City Council. No collection services may be ceased or limited until thirty (30) days after the City Council makes its determination as herein above provided.

ARTICLE II Removal of Garbage

Section 240.100. Clean Premises. [CC 1985 §7-801; Ord. No. 475, 11-18-1974]

It shall be the duty of the owner of each premises in the City of Mulvane, or of the occupant of the same if held by another than the owner to keep all buildings, barns, stables, sheds, outbuildings, cellars, caves, sinks and the grounds upon which located in a clean and sanitary manner and free from all offensive odors, things, conditions or substances as provided hereinafter.

Section 240.110. Garbage Accumulation and Disposal. [CC 1985 §7-802; Ord. No. 475, 11-18-1974]

All garbage accumulated in any household or business establishment in the City shall be placed in suitable metal containers on the premises of the owner or occupant of each premises. Said container, when outside a building, shall be tightly closed and covered at all such times except when removing or depositing garbage. It shall be the duty of the owner or occupant of such premises to remove all such garbage and filth so accumulated from the City at reasonable intervals; provided, that nothing herein shall prevent the disposal of properly shredded garbage by means of the sanitary sewer in accordance with the regulations therefor nor other disposal of garbage on private grounds by burying under conditions not amounting to a nuisance.

Section 240.120. Unlawful Garbage Burning. [CC 1985 §7-803; Ord. No. 475, 11-18-1974]

It shall be unlawful for any person or persons to burn or permit or cause to be burned any garbage deposited in a garbage container or any refuse burner in the City. It shall be further unlawful to burn any garbage in any trash or refuse container in connection with any combustible trash, materials or tin cans.

Section 240.130. Trash Accumulation — Unlawful Acts. [CC 1985 §7-804; Ord. No. 475, 11-18-1974]

All combustible trash and discarded materials may be accumulated on private premises in accordance with ordinances relating to the prevention of fires and the prevention of nuisances. It shall be unlawful to deposit combustible materials in any garbage container for the purpose of destroying the same by burning or to burn any such combustibles in connection with any garbage or putrescible wastes.

Section 240.140. Hauling Over Streets — Unlawful Acts. [CC 1985 §7-805; Ord. No. 475, 11-18-1974]

It shall be unlawful for any person or persons to haul any garbage, trash or loose waste materials of any kind over the streets or public ways of the City except when such substances are in a tight

vehicle so closed and covered as to prevent the escape of the same from such conveyance or except in enclosed and covered containers loaded on such vehicle.

Section 240.150. City System of Refuse Collection. [CC 1985 §7-806; Ord. No. 475, 11-18-1974]

This Article may be supplemented by other ordinances and rules and regulations for the collection and removal of garbage, trash or refuse in the event a municipal refuse system shall be established as provided by law.

Chapter 245

TREES AND TREE BOARD

Cross Reference — As to arborists license, see §605.380.

ARTICLE I Tree Board

Section 245.010. Creation and Establishment of City Tree Board. [CC 1985 §12-110.3; Amended Ord. No. 899, 7-2-1990]

There is hereby created and established a City Tree Board which shall consist of not fewer than five (5) nor more than seven (7) members, citizens and residents of the City who shall be appointed by the Mayor upon the advice and consent of the majority of the City Council. Not less than three (3) members shall be appointed for terms of three (3) years and not less than two (2) members shall be appointed for terms of two (2) years. The City Park's Director shall be an ex officio member of the Board and shall serve as Secretary of the Tree Board. The City Park's Director shall be responsible for making recommendations to the City Tree Board and is not entitled to vote on any matters coming before the Board.

Section 245.020. Operation and Compensation. [CC 1985 §12-110.4; Amended Ord. No. 899, 7-2-1990]

The Board shall elect from among its members a Chairman and Vice Chairman, establish rules and regulations of procedure, and keep records and a journal of all its proceedings. A majority of the membership of the Board shall constitute a quorum for the transaction of business. The members of the City Tree Board shall serve without compensation.

Section 245.030. Duties and Responsibilities. [CC 1985 §12-110.5; Amended Ord. No. 899, 7-2-1990]

- A. It shall be the responsibility of the City Tree Board to study, investigate, counsel, develop and/or update annually a written plan for the care, preservation, trimming, planting, replanting, removal, disposition and management of trees and shrubs in public ways, parks and other public areas. Such plans shall be presented annually to the Governing Body and upon its acceptance and approval shall constitute the official comprehensive City tree plan for the City. In addition, the City Tree Board shall be responsible for long range forestry management for the City subject to the approval of the Governing Body.
- B. The City Tree Board shall be responsible for and shall make recommendations to the Governing Body regarding policy, rules and regulations for the management of trees within the City. It shall make recommendations regarding the species of trees to be located within the street rights-of-way, easements, alleys, parks and public areas of the City. Such recommendations will be presented to the Governing Body and upon acceptance and

approval thereby, the recommendations shall constitute the official policy, rules and/or regulations for the City.

- C. The Board, when requested by the Governing Body, shall consider, investigate, make findings, report and recommend upon any matter or question coming within the scope of its work; including but not limited to such matters as shall be referred to the City Tree Board by the Governing Body from time to time.

ARTICLE II Regulations

Section 245.040. Definitions. [CC 1985 §12-110.1; Amended Ord. No. 899, 7-2-1990]

Words and terms used in this Article shall have the following meanings unless the context otherwise requires:

PARK TREES — Trees, shrubs, bushes and all other woody vegetation in public parks having individual names and all areas owned by the City or to which the public has free access as a park.

STREET TREES — Trees, shrubs, bushes and all other woody vegetation on land, lying between property lines on either side of all streets, avenues or public ways within the City.

TREE SIZE — "*Large trees*" are herein defined as those trees attaining a height of forty-five (45) feet or more. "*Medium trees*" are herein defined as those attaining a height of between thirty-six (36) feet and forty-five (45) feet. "*Small trees*" are herein defined as those attaining a normal maximum height of thirty (30) feet. — For illustrative purposes only, the following common trees are defined according to size:

1. *Small trees.* Flowering crabapple, Redbud, Hawthorne, Bradford pear, Common apricot, Paper mulberry, Amur maple, Purple leaf plum, Flowering peach, Serviceberry and Mimosa.
2. *Medium trees.* Red mulberry, Honeylocust, Western soapberry, Kentucky coffeetree, Goldenraintree, Japanese pagodatree, Hard maple, Pistachio, Ohio Buckeye, Ginkgo, Black cherry, Pin oak, Osageorange, Sweetgum and Little leaf linden.
3. *Large trees.* Bur oak, Red oak, Hackberry, London planetree, American sycamore, Black walnut, Cottonwood, Basswood, Green ash, Silver maple and American linden.

Section 245.050. Tree Spacing. [CC 1985 §12-110.6; Amended Ord. No. 899, 7-2-1990]

The spacing of trees shall be in accordance with the three (3) tree size classifications listed in this Article. The Tree Board is empowered to promulgate written regulations to be kept on file in the office of the City Clerk for minimum and maximum distances within which trees are to be planted in proximity to other trees and structures; said regulations to be subject to the review of the Governing Body.

Section 245.060. Distance From Curbs and Sidewalks. [CC 1985 §12-110.7; Amended Ord. No. 899, 7-2-1990]

- A. The distance trees may be planted from curbs and curblines and sidewalks will be in

accordance with the three (3) tree size classifications listed in this Article. Distances trees may be planted from curbs and sidewalks shall be designated by the Tree Board in consultation with the City Superintendent of Street and shall be published as regulations by filing with the Office of the City Clerk. All such regulations published and filed with the office of the City Clerk shall be subject to the review of the Governing Body.

- B. The City Tree Board may waive the provisions of the regulations provided for above for good cause shown.

Section 245.070. Planting Near Utility Lines. [CC 1985 §12-110.8; Amended Ord. No. 899, 7-2-1990]

No street trees other than those species defined as small trees in this Article may be planted under or within fifteen feet (15) of any overhead utility lines. No trees shall be planted within three (3) linear feet of any underground water line, sewer line or other utility main or service lines.

Section 245.080. Distance From Street Corners and Fire Hydrants. [CC 1985 §12-110.9; Amended Ord. No. 899, 7-2-1990]

No street tree shall be planted within twenty (20) feet of any street corner, measured from the point of nearest intersecting curblines. No street tree shall be planted within ten (10) feet of any fire hydrant.

Section 245.090. Public Tree Care. [CC 1985 §12-110.10; Amended Ord. No. 899, 7-2-1990]

- A. Provisions relating to public tree care for trees in the City shall be as follows:
1. The City shall have the right to plant, trim, spray, preserve, remove and otherwise manage trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares, parks and other public areas as may be necessary to insure safety or to preserve the symmetry and aesthetic condition of such public ways and areas.
 2. The owner of any adjacent property shall be responsible at the owner's expense to prune, maintain and remove trees or woody plants, including shrubs, lying within the right-of-way of any public way, including but not limited to streets and alleys.
 3. The City or City Tree Board may remove or cause or order to be removed any tree, shrub or other woody plant or any part thereof situated within the right-of-way of any public ways, including but not limited to streets and/or alleys which is in an unsafe condition or which by reason of its nature interferes with public utilities, or other public improvements or is infected with any injurious fungus, insect or other pest; including any such trees, shrubs or woody vegetation which constitutes a traffic hazard.
 4. The City, the City Tree Board and/or their agents will notify in writing the owners of property abutting such trees or woody plants affected by this Article. Removal shall be done by said abutting owners at their own expense within thirty (30) days of the date of service of notification which shall be served by personal delivery or by certified mail, return receipt requested, to the owner or person under whose charge the property has been placed by the owner. In the event of failure of the abutting

owner to comply with or cause compliance with these provisions, the City shall have the authority to remove such trees or parts thereof and the cost of such work shall be assessed and charged against the abutting property as a special assessment to be certified by the City Clerk at the time of certification of other City taxes to the County Clerk to be extended on the tax roles of the County against the abutting property.

Section 245.100. Removal of Dead or Diseased Trees From Private Property. [CC 1985 §12-110.11; Amended Ord. No. 899, 7-2-1990]

The City shall have the right to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to life or property, including but not limited to trees which harbor insects or disease which constitutes a potential threat to the health and safety of other trees within the City. The City Tree Board or its agent will notify in writing the owners of such trees or the person being placed in charge of such trees by the owners. Removal shall be done by the owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees, shrubs, other woody vegetation or parts thereof and assess the costs of such work against the abutting property as a special assessment to be certified by the City Clerk at the time of certification of other City taxes to the County Clerk and extended upon the tax rolls of the County against the abutting property. Any land owner or person placed in charge of such land and/or the trees thereupon by the owner shall have the right to request a hearing before the Tree Board within ten (10) days of receipt of such notice as provided for in this Article to challenge the reasonableness or necessity of the action directed to be taken.

Section 245.110. Pruning and Corner Clearance. [CC 1985 §12-110.12; Amended Ord. No. 899, 7-2-1990]

Every owner of any tree, shrub or woody plant overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of nine (9) feet above the surface of any sidewalk, street or public way, including but not limited to alleys, and there shall be a clear space of fifteen (15) feet above the ground of any street, alley or other public way. The owners shall remove all dead, diseased, or dangerous trees or broken or decayed limbs which constitute a hazard to the public safety. The City shall have the right to trim any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, interferes with visibility of any traffic control device or intersection or otherwise constitutes a traffic hazard.

Section 245.120. Damaging Trees While Moving Buildings. [CC 1985 §12-110.13; Amended Ord. No. 899, 7-2-1990]

Any person or firm while moving any building shall use the highest degree of care to prevent injury to trees and shall be liable for any unnecessary damage or injury done to trees, shrubs or other woody vegetation while moving any building or structure including but not limited to freight containers. Such damage or injury shall be reported at the next regular meeting of the City Tree Board and it shall be the duty of the Board to examine, estimate and determine such damage and file a claim therefore against the bond or insurance required by any such mover or freight hauler.

Section 245.130. Cutting, Trimming, Persons Maintaining Poles, Wires. [CC 1985 §12-110.14; Amended Ord. No. 899, 7-2-1990]

To prevent the destruction of shade and ornamental street trees as defined in this Article and or the regulations issued under this Article, all persons maintaining wires or poles in the City, their agents, servants and employees, are hereby prohibited from cutting or trimming trees except under the direction of the City Tree Board or its authorized agent.

Section 245.140. Tree Topping. [CC 1985 §12-110.15; Amended Ord. No. 899, 7-2-1990]

It shall be unlawful as a normal practice for any person, firm, their agents, servants or employees, including but not limited to the City, its agents or employees, to top any street tree, park tree or other tree on public property. "*Topping*" is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the trees crown to such a degree so as to remove the normal canopy of the tree and/or to disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Article upon the determination to that effect of the City Tree Board.

Section 245.150. Interference With City Tree Board. [CC 1985 §12-110.16; Amended Ord. No. 899, 7-2-1990]

It shall be unlawful for any person or firm or the servants, agents or employees thereof to prevent, delay or interfere with the City Tree Board or its agents or servants while engaged in the planting, cultivating, mulching, pruning, spraying, removal or other management of any street trees, park trees or trees on private grounds authorized in this Article or the regulations issued herein.

ARTICLE III Administration

Section 245.160. Review by City Council. [CC 1985 §12-110.17; Amended Ord. No. 899, 7-2-1990]

The City Council as the Governing Body shall have the right to review any and all conduct, acts and decisions of the City Tree Board. Any person may appeal any ruling or order of the City Tree Board to the City Council who shall hear the matter and make a final decision thereupon.

Section 245.170. Administration of Ordinance, Rules and Regulations, Fund Created. [CC 1985 §12-110.19; Ord. No. 906, 12-3-1990]

There is hereby created a fund for the Tree Board to defray the costs of administration thereof. Any fee, fine, costs, or assessments collected in connection with the administration of the Tree Board, the Tree Board Ordinance and/or the rules and regulation's promulgated thereunder shall be credited, maintained and utilized in a fund for the exclusive use of the Tree Board. Said fund shall be expended only by the Tree Board upon a majority vote of its members and shall not be expended by any other agency. The Council member serving as Commissioner of Parks shall be authorized to approve and direct such expenditures voted on by the Tree Board upon his/her signature.

Section 245.180. Penalty for Violation. [CC 1985 §12-110.18; Amended Ord. No. 899, 7-2-1990]

Any person or firm or the agents, servants or employees thereof violating any provision of this Article shall, upon conviction thereof, be fined in a sum not to exceed two hundred fifty dollars (\$250.00) and/or be imprisoned not to exceed thirty (30) days, or by both such fine and imprisonment.

Chapter 250

PARKS AND RECREATION FACILITIES

Section 250.010. City Parks — Hours of Operation. [CC 1985 §10-506; Ord. No. 917, 5-20-1991]

- A. All public parks of the City of Mulvane shall be closed between the hours of 12:01 A.M. and 5:00 A.M. to all automobile traffic and public use; provided, however, that this Section shall not be applicable when written permission is received for specific longer hours of operation from the City Director of Parks.
- B. All organized sporting events taking place in the City Parks shall be scheduled for completion by regular closing time except when the City Director of Parks has determined in advance of the event(s) that extension of the regular hours of operation is necessary or appropriate.

Section 250.020. Vehicle Regulations. [CC 1985 §13-105]

- A. Motor vehicles, including any vehicle licensed to operate on public streets, roads and highways and motorbikes, go-carts, snowmobiles and other motorized off-the-road vehicles shall be operated in a safe and prudent manner at all times in park areas.
- B. Except as provided in Subsection (D), it shall be unlawful for any person to park any motor vehicle in any area not designated for such purpose.
- C. Except as provided in Subsection (D), it shall be unlawful for any person to operate any motor vehicle within any City park except upon roads, drives and parking areas established by the City.
- D. Subsections (B) and (C) shall not apply to authorized City employees while engaged in the maintenance and care of the park.
- E. It shall be unlawful to operate any such vehicle in any park area at a speed in excess of ten (10) miles per hour.

Section 250.030. Hunting. [CC 1985 §13-106]

It shall be unlawful for any person to pursue, catch, trap, maim, kill, shoot or take any wildlife, either bird or animal, in any manner at any time while in any City park.

Section 250.040. Camping Prohibited. [Code 1985 §13-108]

Overnight camping is hereby prohibited in City parks except where posted.

Section 250.050. Prohibition Against Alcoholic Beverages and Cereal Malt Beverages. [CC 1985

§13-110]

Except when a special permit has been issued by the City Council, it shall be unlawful for any person or persons to use, consume or have on the premises of any park or other City property within the City any alcoholic liquor or cereal malt beverage.

Section 250.060. Bandshell/Shelter House/Park Shelter Fees and Deposits. [Ord. No. 1149 §7, 8-19-2002]

The fees shall be paid for use of the bandshell, shelter house or park shelter as set forth in Section 100.240.

Section 250.070. Usage of the Mulvane Sports Complex — User Fees. [Res. No. 99-7, 8-16-1999; Ord. No. 1149 §8, 8-19-2002]

- A. All groups, organizations, clubs or individuals desiring to use any of the fields and/or facilities at the Mulvane Sports Complex must complete a "Permit to Reserve" form at City Hall, prior to using the facility.
- B. Priority of use, reservation and applicable fees, if any, required to be paid for use of the facility are set forth as follows:
 - 1. USA No. 263 interscholastic athletic events no charge.
 - 2. Mulvane Recreation Commission activities no charge.
 - 3. Mulvane not-for-profit organizations no charge.
 - 4. All others not within (1) through (3) above are charged user fees in an amount as set forth in Section 100.240.

Priorities for usage of the sports complex and its various facilities will be commensurate with the above categories.

- C. All applicant/users shall furnish the City a policy of liability insurance naming the City of Mulvane as the insured thereunder, having policy limits of not less than five hundred thousand dollars (\$500,000.00) bodily injury coverage and fifty thousand dollars (\$50,000.00) property damage or five hundred thousand dollars (\$500,000.00) limit coverage when the applicant/user has such insurance coverage.
- D. All applicant/users shall sign a "Hold Harmless Agreement" with the City.
- E. On timely application, the City Council, through its agents, may waive or suspend enforcement of the provisions and requirements of this Section.

Chapter 255

PARK IMPACT FEE

Section 255.010. Legislative Findings. [Ord. No. 1193 §1, 2-2-2004]

- A. The Governing Body of Mulvane, Kansas, finds, determines and declares that:
1. Mulvane must expand its park system in order to maintain current level of service and park standards if development is to be accommodated without decreasing current standards. This must be done in order to promote and protect the public health, safety and welfare.
 2. The Kansas legislature through the enactment of K.S.A. 12-749 (b) provides the authority for Mulvane to enact impact fees.
 3. The imposition of impact fees is one (1) of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to development and maintain current levels of service. This must be done in order to promote and protect the public health, safety and welfare.
 4. That land development will continue to create the demand for the acquisition or expansion of parks and the construction of park improvements.
 5. The fees established are derived from, based upon and do not exceed the costs of providing additional park and park improvements necessitated by the new land developments for which the fees are levied.
 6. Other revenue sources, such as, but not limited to, stated revenue sharing, permit fees, grants, donations and City general funds, will be used in conjunction with impact fees, to finance park improvements.

Section 255.020. Short Title, Authority and Application. [Ord. No. 1193 §2, 2-2-2004]

- A. This Chapter will be known and may be cited as the Mulvane Park Impact Fee Ordinance.
- B. The City of Mulvane has the authority to adopt this Chapter pursuant to Article K.S.A. 12-749 (b) of the Kansas Statutes.
- C. This Chapter shall apply to the incorporated areas of Mulvane to the extent permitted by Article 12, Section 5 of the Constitution of the State of Kansas.

Section 255.030. Intents and Purposes. [Ord. No. 1193 §3, 2-2-2004]

- A. This Chapter is intended to assist in the implementation of the Comprehensive Development Plan for the Mulvane area, Kansas and the Mulvane Park System and Open

Space Plan, an element of the Comprehensive Plan.

- B. The purpose of this Chapter is to regulate the use and development of land to assure that development bears a proportionate share of the cost of capital expenditures necessary to provide parks and park improvements in Mulvane.

Section 255.040. Definitions. [Ord. No. 1193 §4, 2-2-2004]

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

CAPITAL IMPROVEMENT — Includes parks planning, land acquisition, site improvements, buildings, and equipment but excludes maintenance and operation.

FEE PAYER — A person applying for issuance of a building permit or permit for manufactured/mobile home installation.

PERSON — Includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

PRIVATE RECREATIONAL FACILITY — Any recreational facility which is not owned by or dedicated to any governmental entity.

Section 255.050. Imposition of Park Impact Fee. [Ord. No. 1193 §5, 2-2-2004]

Except as otherwise permitted herein, the impact fee approved for herein shall be assessed and collect at the time of the issuance of a residential building permit and no residential building permit for construction shall be issued to the owner of property assessed unless the owner of such assessed property has paid in full the assessment applicable to the property to be developed.

Section 255.060. Computation of the Amount of Park Impact Fee. [Ord. No. 1193 §6, 2-2-2004]

Upon receipt of an application for a residential building permit for development subject to this Chapter, the City's Zoning Administrator shall determine the amount of the applicable impact fee. For residential development, the fee shall be based upon the number of dwelling units. The actual amount of the fee per dwelling unit shall be set by official resolution of the City adopted by the City Council initially upon the adoption of the ordinance, which shall be reviewed not less than annually thereafter. Revisions to the amount of the impact fee shall be made by subsequent resolution.

Section 255.070. Payment of Fee. [Ord. No. 1193 §7, 2-2-2004]

- A. The fee payer shall pay the park impact fee required by this Chapter to the City Zoning Administrator prior to the issuance of a residential building permit or a permit for residential manufactured/mobile home installation.
- B. Upon receipt of park impact fees, the Zoning Administrator shall transfer such funds to the City Treasurer who shall be responsible for the placement of such funds in a segregated interest-bearing fund designated as the Parks Impact Fee Fund. All monies placed in said fund and all interest earned thereafter shall be used solely and exclusively for the purpose as stated in Section 255.090 of this Chapter.

Section 255.080. Park Impact Fee Fund Established. [Ord. No. 1193 §8, 2-2-2004]

- A. There is hereby established a Park Impact Fee Fund.
- B. Funds withdrawn from this account must be used in accordance with the provisions of this Chapter.

Section 255.090. Use of Funds. [Ord. No. 1193 §9, 2-2-2004]

- A. Funds collected from park impact fees shall be used solely for the purpose of acquiring and/or making capital improvements to parks under jurisdiction of the City of Mulvane and shall not be used for maintenance or operations.
- B. In the event bonds or similar debt instruments are issued for advance provisions of capital facilities for which park impact fees may be expended, impact fees may be used to pay debt service in such bonds or similar debt instrument.

Section 255.100. Exemptions. [Ord. No. 1193 §10, 2-2-2004]

- A. The following shall be exempted from payment of the impact fee:
 - 1. Alterations or expansions of an existing building where no additional residential units are created and where the use is not changed.
 - 2. The construction of accessory buildings or structures.
 - 3. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use.
 - 4. The installation of a replacement manufactured/mobile home on a lot or other such site when a park impact fee for such manufactured/mobile home site has previously been paid pursuant to this Chapter or where a manufactured/mobile home legally existed on such site on or prior to the effective date of this Chapter.
 - 5. The construction of any non-residential building or structure or the installation of a non-residential manufactured/mobile home.

Any claim of exemption must be made no later than the time of application for a building permit or permit for manufactured/mobile home installation. Any claim not so made shall be deemed waived.

B. Credits.

- 1. The fee payer's total or partial payment of the required impact fee may offer park land and/or park capital improvements. The offer must specifically request or provide for park impact fee credit. The Planning Commission shall review such offer and advise the Governing Body as to the offer's compliance with the goals of the Comprehensive Plan and the park and open space plan. If the Governing Body accepts such offer, whether the acceptance is before or after the effective date of this Chapter, the credit shall be determined and provided in the following manner:
 - a. Credit for the dedication of land shall be valued at one hundred fifteen percent

(115%) of the most recent assessed value by the County Appraisers, by such other appropriate method as the Governing Body may have accepted prior to the effective date of this ordinance for particular park improvements, or by fair market value established by private appraisers acceptable to the City. Credit for dedication of park land shall be provided when the property has been conveyed at no charge to, and accepted by, the City in the manner satisfactory to the Governing Body.

- b. Applicants for credit for park improvements shall submit acceptable architectural, landscape architectural and/or engineering drawings, specifications and construction cost estimates to the City Administrator. The City Administrator shall determine credit for construction based upon either these cost estimates or upon alternative criteria and construction cost estimates. If the City Administrator determines that such estimates submitted by the applicant are either irregular or inaccurate, the City Administrator shall provide the applicant a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his agreement to the terms of the letter or certificate and return such signed document to the City Clerk before credit will be given. The failure of the applicant to sign, date and return such document within sixty (60) days shall nullify the credit.
 - c. Except as provided in subparagraph (d) below credit against impact fees otherwise due will not be provided until:
 - (1) The construction is complete and accepted by the City.
 - (2) A suitable maintenance and warranty bond is received and approved by the City Clerk when applicable.
 - d. Credit may be provided before completion of specified park improvements if adequate assurances are given by the applicant that the standards set out in the subparagraph (c) above will be met and if the fee payer posts security as provided below for costs of such construction. Security in the form of a performance bond, irrevocable letter of credit or escrow agreement, accompanied by an executed developer's agreement, shall be posted with and approved by the City Clerk in an amount determined by the City Administrator. If the park construction project will not be constructed within one (1) year of the acceptance of the offer by the City Governing Body, the amount of the security shall increase by ten percent (10%) compounded for each year of the life of the security. The security shall be reviewed and approved by the City Clerk before acceptance of the security by the City. If the park construction project is not completed within five (5) years of the date of the fee payer's offer, the Governing Body must approve the park construction project and its scheduled completion date prior to the acceptance of the offer by the Governing Body.
2. Any claim for credit must be made no later than the time of application for a building

- permit or permit for manufactured/mobile home installation. Any claim not so made shall be deemed waived.
3. Credits shall not be transferable from one project or development to another without the approval of Governing Body.

Section 255.110. Variances, Exceptions, Appeals. [Ord. No. 1193 §11, 2-2-2004]

Petitions for variances and exceptions of this Chapter shall be made to the City Clerk or his/her agent. Any person aggrieved by such determination may appeal the same within thirty (30) days, provided however, that the imposition and collection of such fee shall not be stayed unless a bond or other sufficient surety in an amount equal to the fee has been filed simultaneously with the filing of an appeal. The appeal shall be to the Governing Body which will consider the appeal within thirty (30) days thereafter and the Governing Body may take into account any inequities to the property owner or any benefits to the City associated with the proposed development.