

outline is defined and used in this document

## **TITLE I. GOVERNMENT CODE**

### **CHAPTER 100: GENERAL PROVISIONS**

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

#### **ARTICLE I. CODE PROVISIONS**

##### **SECTION 100.010: CODE DESIGNATED**

The Chapters, Articles and Sections herein shall constitute and may be designated as the Code of Mulvane, Kansas, and may be so cited. (CC 1985 §1-101)

##### **SECTION 100.020: DEFINITIONS**

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

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

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

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

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

*GENDER:* Words importing the masculine gender include the feminine and neuter.

*GOVERNING BODY:* The City Council of Mulvane, Kansas.

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

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

*NUMBER:* Words used in the singular include the plural and words used in the plural include the singular.

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

*OWNER (APPLIED TO A BUILDING OR LAND):* Shall include not only the owner of the whole but any part owner, joint owner, tenant in common or joint tenant of the whole or a part of such building or land.

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

*PROPERTY:* Includes real, personal and mixed property.

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

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

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

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

*TENANT, OCCUPANT (APPLIED TO A BUILDING OR LAND):* Any person who occupies the whole or part of such building or land, whether alone or with others. (CC 1985 §1-102)

**SECTION 100.030:****PARENTHEICAL AND REFERENCE MATTER**

The matter in parenthesis at the ends of Sections is for information only and is not a part of the Code. Citations to ordinances include only the source and the text may or may not be changed by this Code. This Code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015. Reference matter not in parenthesis is for information only and is not a part of this Code.

(CC 1985 §1-103)

**SECTION 100.040:****CATCHLINES OF SECTIONS**

The catchlines or headings of the Sections of this Code are intended as mere words to indicate the contents of the Sections and shall not be deemed or taken to be titles of such Sections nor as any part of any Section nor, unless expressly so provided, shall they be so deemed when any Section, including its catchline. (CC 1985 §1-104)

**SECTION 100.050:****AMENDMENTS—REPEAL**

Any portion of this Code may be amended by specific reference to the Section number as follows: "That Section \_\_\_\_\_ of the Code of the City of Mulvane is hereby amended to read as follows:..... (the new provisions shall then be set out in full)." A new Section not heretofore existing in the Code may be added as follows: "That the Code of the City of Mulvane is hereby amended by adding a Section (or Article or Chapter) which reads as follows: . . . (the new provision shall be set out in-full)." All Sections, Articles or Chapters to be repealed shall be repealed by specific reference as follows: "Section (or Article or Chapter) \_\_\_\_\_ of the Code of the City of

Mulvane is hereby repealed." (Code 1985 §1-105)

**SECTION 100.060:****POWERS GENERALLY**

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

(CC 1985 §1-106; Ord. No. 1111 §7, 4-1-02)

**SECTION 100.070:****ORDINANCES**

The Governing Body shall have the care, management and control of the City and its finances and shall pass all ordinances needed for the welfare of the City. No ordinance shall be valid unless a majority of all the members elected to the Council vote in favor: provided, that where the number of favorable votes is one (1) less than required, the Mayor shall have the power to cast the deciding vote in favor of the ordinance. (CC 1985 §1-107; Ord. No. 1111 §8, 4-1-02)

**SECTION 100.080:****ALTERING CODE**

It shall be unlawful for any person to change or amend by additions or deletions any part or portion of this Code or to insert or delete pages or portions thereof or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Mulvane to be misrepresented thereby. This restriction shall not apply to amendments or revisions of this Code authorized by ordinance adopted by the Governing Body. (CC 1985 §1-108)

**SECTION 100.090:****SCOPE OF APPLICATION**

Any person convicted of doing any of the acts or things prohibited or made unlawful or failing to do any of the things commanded to be done, as specified and set forth in this Code, shall be deemed guilty of a misdemeanor and punished in accordance with Section 100.100. Each day any violation of this Code continues shall constitute a separate offense. (CC 1985 §1-109)

**SECTION 100.100:****GENERAL PENALTY**

Whenever any offense is declared by any provision of this Code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with this Section:

1. A fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00);
2. Imprisonment for not more than one hundred eighty (180) days; or
3. Both such fine and imprisonment not to exceed Subsections (1) and (2) above.
4. Every day any violation of this Code or any other ordinance or any such rule, regulation, notice or order shall continue shall constitute a separate offense. (CC 1985 §1-110)

**SECTION 100.110:****SEVERABILITY**

If for any reason any Chapter, Article, Section, Subsection, sentence, clause or phrase of this Code or the application thereof to any person or circumstances is declared to be unconstitutional or invalid

or unenforceable such decision shall not affect the validity of the remaining portions of this Code. (CC 1985 §1-111)

## **ARTICLE II. CLAIMS AGAINST CITY**

### **SECTION 100.120:**

### **UNIFORM PROCEDURE FOR PAYMENT OF CLAIMS AND OTHER INDEBTEDNESS BY MUNICIPALITIES—DEFINITIONS**

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

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

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

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

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

*MUNICIPALITY:* The City of Mulvane, Kansas.

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

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

### **SECTION 100.130:**

### **UNIFORM PROCEDURE FOR PAYMENT OF CLAIMS—PRESENTMENT OF CLAIMS—CLAIMS WHICH COULD GIVE RISE TO ACTION UNDER KANSAS TORT CLAIMS ACT—NOTICE, CONTENTS, LIMITATION ON COMMENCEMENT OF ACTION—PAYMENTS IN ADVANCE OF APPROVAL—AUDITING—APPROVAL**

- A. All claims against the City must be presented in writing with a full account of the items, and no claim shall be allowed except in accordance with the provisions of this Section. A claim may be the usual statement of account of the vendor or party rendering a service or other written statement showing the required information.
- B. Claims for salaries or wages of officers or employees need not be signed by the officer or employee

if a payroll claim is certified to by the administrative head of a department or group of officers or employees or an authorized representative that the salaries or wages stated therein were contracted or incurred for the municipality under authority of law, that the amounts claimed are correct, due and unpaid and that the amounts are due as salaries and wages for services performed by the person named.

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

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

- E. Claims against the City which provide for a discount for early payment or for the assessment of a penalty for late payment may be authorized to be paid in advance of approval thereof by the City Council in accordance with the provisions of this Subsection. The City Council may designate and authorize one (1) or more of its officers or employees to pay any such claim made against the City in advance of its presentation to and approval by the City Council if payment of the amount of such claim is required before the next scheduled regular meeting of the City Council in order for the City to benefit from the discount provided for early payment or to avoid assessment of the penalty for late payment. Any officer or employee authorized to pay claims under this Subsection shall keep an accurate record of all moneys paid and the purpose for which expended, and shall submit the record to the City Council at the next meeting thereof. Payments of claims by an officer or employee of the City under authority of this Subsection are valid to the same extent as if the claims had been approved and ordered to be paid by the City Council.

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

### **ARTICLE III. MISCELLANEOUS PROVISIONS**

#### **SECTION 100.140:**

#### **OFFICIAL CITY NEWSPAPER**

The Governing Body of the City shall designate by resolution a newspaper to be the official City newspaper. Once designated the newspaper shall be the official City newspaper until such time as the Governing Body designates a different newspaper. (CC 1985 §1-301; Ord. No. 239, 6-3-59; Ord. No. 1273 §1, 3-24-08)

#### **SECTION 100.150:**

#### **ALTERATION, CONCEALMENT OR IMPAIRMENT OF IDENTITY OF CITY PROPERTY PROHIBITED**

- A. Whoever knowingly alters, conceals, or impairs the identity of property of the City shall be guilty of a misdemeanor, and shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than six (6) months, or both such fine and imprisonment.
- B. The term "*property of the City*" shall include any and all City identification tags, markings, inventory control labels or other written or printed media intended to identify property as belonging to the City of Mulvane. (CC 1985 §1-302; Ord. No. 858, 1-16-89)

#### **SECTION 100.160:**

#### **STANDARDIZED RETURN CHECK CHARGE**

- A. *Return Check Charges.* For any payment in any form (e.g., check, electronic check, automated debit, or any other form of payment) made to the City and returned to the City as not payable for any reason, there shall be imposed a return payment service charge in an amount as set forth in Section 100.240 (i.e., Insufficient Check Charge Fee).
- B. *Other Remedies Preserved.* All other civil, criminal, administrative or other remedies provided for by law, regulation or order are herewith preserved in addition to the return payment service charge provided for in this Section.
- C. *Waiver Of Charge.* For good cause shown upon satisfactory proof, the City Clerk may waive or reduce the charge provided for hereunder whenever exceptional circumstances are shown. In the event this waiver is granted by the City Clerk, the City Clerk shall enter in the official records of the City an explanation of the circumstances under which the waiver was granted. (CC 1985 §14-206;

Ord. No. 852, 10-6-88; Ord. No. 1149 §1, 8-19-02; Ord. No. 1410 §1, 2-18-13)

**ARTICLE IV. RIGHT TO PROCEDURAL DUE  
PROCESS ASSURED**

**SECTION 100.170: RIGHT TO PROCEDURAL DUE PROCESS ASSURED**

Whenever any person claims a right to procedural due process consisting of notice and a right to be heard upon any action taken or to be taken by any officer of the City of Mulvane, Kansas, acting within the official scope of duty for and on behalf of the City and no other procedure to afford procedural due process is provided for by the City Code or regulations, the following steps are available to seek direct redress for any such claim of deprivation of rights by the City, its officers and agents:

1. Within five (5) calendar days of the occurrence complained of, the person claiming a due process right shall so state in writing by service of a written notice of the deprivation claimed, setting forth with reasonable specificity the nature of the violation claimed, the basis-legal and factual for such claim, and the relief sought upon the City Clerk. The City Clerk shall thereupon forward same to the City Administrator for review.
2. Within not more than ten (10) days of service of the writing described above upon the City Clerk, the City Administrator shall confer with the City Attorney and the City Officials involved for a determination of whether the writing sets forth a basis for entitlement to any right of procedural due process. The decision of the City Attorney as to whether any right to due process is presented by the written request therefore shall be final.
3. In the event it is determined in Subsection (2) that the written application for notice and a right to be heard at a meaningful time is warranted by the facts and circumstances presented, the City Administrator or his/her designee shall serve as a hearing officer and an administrative hearing shall be convened at such time as to afford the applicant a reasonable opportunity to be heard upon the claim presented in writing according to the nature of the right asserted, the administrative burden presented, the likelihood of erroneous deprivation of rights in the absence of a hearing and the interests of the City, whether or to what extent other remedies are available to the applicant for redress of the claim asserted and the nature of the governmental interest involved in the action for which hearing for redress is sought.
4. The hearing officer shall conduct such hearing without regard to or restriction by technical rules of evidence or procedure. At the election of the hearing officer, evidence may be received either by testimony in person, by affidavit, by interview and investigation or by any combination of such methods of taking evidence as will best serve the purpose of this Article in providing procedural due process when warranted by the circumstances presented under a given case. (CC 1985 §1-401; Ord. No. 788, 4-21-86)

**ARTICLE V. CAPITAL IMPROVEMENT FUND**

**SECTION 100.180:**

**MUNICIPAL EQUIPMENT FUND ESTABLISHED**

**FOR CITY  
DEPARTMENTS**

In accordance with the provisions of K.S.A. 12-1,117, acts amendatory thereof, and in the event of repeal of K.S.A. 12-1,117 or acts amendatory thereof, in any event, there is hereby established a Municipal Equipment Reserve Fund, which shall be used by the City to finance the acquisition of

equipment necessary for the performance and setting aside funds for operation of the departments of the City. For the purposes of this Article, equipment shall include machinery, vehicles and any other equipment or personal property including, but not limited to, computer hardware and software, which the City is authorized to purchase for municipal purposes. (CC 1985 §1-501; Amended Ord. No. 910, 3-4-91)

**SECTION 100.190:****POLICY OBJECTIVE**

It is the policy objective of the City Council that such fund shall be used primarily to provide a financing mechanism for the repair, restoration and rehabilitation of existing public facilities. Further, it is the intent of the City Council to utilize current revenues to be credited to the fund, to the maximum extent possible to meet the City's present and future public infrastructure needs and to avoid the costs of unnecessary indebtedness. (CC 1985 §1-502; Ord. No. 848, 8-1-88)

**SECTION 100.200:****USE FOR STUDIES**

Monies in such fund may be used to pay the cost of engineering and other advanced public improvement plans and studies, with the fund periodically reimbursed from bond proceeds, special assessments or State or Federal aid that may be available for the completed project. No expenditures for such purposes shall be made except on a finding of the City Council of its probable intent to proceed with the improvement following such engineering or advanced study. (CC 1985 §1-503; Ord. No. 848, 8-1-88)

**FUND—POLICE, FIRE,****ARTICLE VI. EQUIPMENT RESERVE  
AMBULANCE AND STREET DEPARTMENTS****SECTION 100.210:****FUND ESTABLISHED**

In accordance with the provisions of K.S.A. Supp. 12-1,117, there is hereby established a Municipal Equipment Reserve Fund, which shall be used by the City to finance the acquisition of equipment necessary for the performance of setting forth funds for the Police, Fire, Ambulance and Street Departments. For the purposes of this Article, equipment shall include machinery, vehicles and any other equipment or personal property including, but not limited to, computer hardware and software, which the City is authorized to purchase for municipal purposes. (CC 1985 §1-506; Ord. No. 847, 9-7-88)

**SECTION 100.220:****POLICY OBJECTIVE**

It is the policy objective of the City Council that such Equipment Reserve Fund shall be used as a financing mechanism to secure the planned and orderly acquisition and replacement of equipment necessary for the efficient and effective operation of the City. It is the further intent of the City Council to annually approve in the future the budgeting of current revenues sufficient:

1. To finance the acquisition of new equipment needed in the following year, and

2. To finance needed future replacements and acquisitions by setting aside a reserve amount.  
(CC 1985 §1-507; Ord. No. 847, 9-7-88)

**SECTION 100.230: INVESTING**

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

(CC 1985 §1-509; Ord. No. 847, 9-7-88)

**ARTICLE VII. MISCELLANEOUS FEES AND CHARGES**

**SECTION 100.240: CERTAIN FEES AND CHARGES**

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

	<i>Code</i>	<i>Service</i>	<i>Fee</i>	<i>Reference</i>
A. Animal Impound/Redemption Fee			\$10.00 5.00 Each day after	1st day 205.250A
				Animal Licenses—Dog or Cat 5.00 \$1.00 penalty for every 30 days late 205.210
B. Arborist License		50.00		Annually 605.380
C. Auction Permit		50.00		605.390
D. Bandshell Rental Fee w/o Electricity			10.00	250.060
			Bandshell Rental Fee w/Electricity	20.00 250.060
			Bandshell Rental Fee w/Air Cond.	20.00 250.060
			Bandshell Rental Fee w/Electricity and Air Conditioning	40.00 250.060
				Bandshell Key Deposit 10.00 Refundable 250.060
				Canvas Tent Rental Fee 750.00 *
				Concert Use 100.00 Recognized for non-profit by IRS *
E. Golf Carts and Bicycle License Fees			50.00	Golf cart (annual) 315.012G
			20.00	Golf cart (duplicate) 315.012G
			1.00	Bicycle (permanent) 350.090
			1.00	Bicycle (duplicate) 350.100
			1.00	Bicycle (transfer) 350.140
F. Building Permits—Residential			0.16 Per square foot	505.070
				<i>(including Garages and Basements)</i>
				Building Permits—Commercial/ 505.070
				Industrial/Residential Remodel

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

<i>Service</i>	<i>Fee</i>	<i>Code</i>	<i>Referen</i>
Building Permit—Commercial Plan Review Fee	65%	of Building Permit Fee	*
G. Burn Permit C	\$ 10.00	210.545	
H. Cereal Malt Beverage License Tax	50.00	Limited Retailer/Carryout	600.030A
	200.00	General Retailer/Premises	600.030A
	100.00	Temporary	600.030A
I. City Lock	10.30	Plus tax	700.210B
J. City Maps (Large)	6.00	Plus tax	*
K. Comprehensive Plan Books	15.00	Plus tax	*
L. Contractor Licenses Fees	100.00	Building Class A (per year)	525.100
<i>(A Certificate of Insurance in the amount of \$1,000,000.00 is required)</i>	100.00	Building Class B (per year)	525.100
	75.00	Building Class C (per year)	525.100
	75.00	Building Class D (per year)	525.100
	75.00	Drain Layer (per year)	525.100
	75.00	Electrical (per year)	525.100
	75.00	Irrigation Contractor (per year)	525.100
	75.00	Mechanical (per year)	525.100
	75.00	Plumbing (per year)	525.100
	75.00	Water Well Drillers (per year)	525.100
	20.00	Master/Journeyman (per year)	525.100

<i>Service</i>	<i>Fee</i>	<i>Code Reference</i>	
M. Court Costs			
	32.50	Docket/Administration Fees	130.100
	IRS standard mileage ratePer mile for warrant or subpoena service		130.100
	3.00	Police department training	130.100
Fee amount mandated by K.S.A. 20-1a11 and amendments thereto.	0.50*	Judicial Branch Education Fund	
Fee amount mandated by K.S.A. 11-4117 and amendments thereto.	19.00*	Law Enforcement Training Center Fund	
	10.00	Appearance fee unless found not guilty	130.100
	10.00	Continuance fee (for any pre-trial appearance, trial, sentencing, disposition or pre-sentence investigation granted at the request of accused person)	
	50.00	Administrative fee for post + costs	
	35.00	Warrant or subpoena service fee	130.100
	10.00	Witness fee (per person)	130.100
	IRS standard mileage ratePer mile for witness under subpoena		
		Excepting first ten (10) miles	130.100
	10.00	Extension of time to pay any fine, penalty, fees or costs granted at the request of an accused or convicted person.	130.100
	20.00	Administrative fee for failure to comply with a traffic citation.	130.100
	25.00	Monthly probation fee	130.100
	100.00	Diversion fee	130.100
	150.00	Drug/alcohol/mental evaluation fee	130.100
	15.00	Fingerprinting fee, if convicted	130.100
	5.00	Drug testing fee if administered by the City	130.100
	35.00	Daily incarceration fee	130.100
*	Represents the current fee amount levied as of the publication date of this Code. Fee amounts are subject to change without notice based upon amendments to the referenced Kansas Statute.		
N. Demolition Permit Fee	30.00	520.010	
O. Electrical and Wiring Permits	25.00	Per permit, plus the fees set out in the Table below	515.020

		<b>EACH</b>
CIRCUITS	1 through 5 per circuit	
	6 through 20 per circuit	
	All over 20 per circuit	

SPECIAL CIRCUITS AND ADDITIONS		Hearing appliances less than 4500W Range or heat or heat device 4500W or over		
		1 through 4 per circuit		
		All over 4 per circuit		
Clothes dryer		1 through 4 per circuit		
		All over 4 per circuit		
Special power outlet or feeder circuit				
Sign per circuit				
Outlets added to existing circuits or other miscellaneous wiring				
FIXTURES	Light fixtures or lamp holding devices			
MOTORS AIR-CONDITIONING		1 HP or less		
		Over 1 HP up to 10 HP inclusive		
		Over 10 HP up to 25 HP inclusive		
		Over 25 HP up to 50 HP inclusive		
		Over 50 HP		
SERVICE NEW AND CHANGE		480 volts or less	Residential	Per meter 100 amps
				Each additional amp
			Commercial	Per meter 100 amps
				Each additional amp
Over 480 volts each service entrance				
Fee for item which is not listed above				
Reinspection fee (\$30.00) minimum)				

			Code	
	Service	Fee		Reference
P.	Entertainer permit	200.00		605.230
Q.	Fireworks Sale Permit	6,000.00	Per location	225.050(E)
	Sales Cleanup Deposit	2,500.00	Refundable	225.070(F)
	Commercial Display Permit	1,000.00	Per location	225.075(D)
R.	Food Vending Licenses	25.00	Daily	605.390
		250.00	Annual	

<i>Service</i>	<i>Fee</i>	<i>Code Reference</i>
S. Gaming License (Billiards and Coin-op)	15.00	Per year/per game or machine
T. Garage Sale Permit	5.00	605.390
U. Insufficient Check Charge Fee	30.00	100.160
V. Liquor License Tax	600.00 500.00 100.00 600.00	Retail "package" liquor (per location biennially) Club/Drinking Establishment (per location biennially) Temporary Permit Farm Winery/Microbrewery Microdistillery/Other Manufacturer/Distributor (biennially)
W. Mechanical Permits—Issuance	25.00	Per permit, plus the fees set out in the following Table

FOR INSTALLATION, REPLACEMENT OR RELOCATION OF ANY MECHANICAL EQUIPMENT		
		EACH
HEATING EQUIPMENT	Up to and including 1,000 BTU input	
	Over 100,000 BTU input	
	Any floor furnace	
	Suspended wall heater	
	Any vent not included in appliance permit	
	Repair, alter or addition to any appliance	
BOILERS, COMPRESSORS, ABSORPTION SYSTEMS	Boiler-compressor	Absorption system BTU
	3 HP or less	100M or less
	Over 3 HP to and incl. 15 HP	Over 100M incl. 500M
	Over 15 HP incl. 30 HP	Over 500M incl. 1,000M
	Over 30 HP incl. 50 HP	Over 1,000M incl. 1,750M
	Over 50 HP	Over 1,750M
AIR HANDLING VENT SYSTEMS	Each air handling unit to 10,000 CFM including ducts	
	Each air handling unit over 10,000 CFM including ducts	
	Each evaporator cooler	
	Each ventilation system	
	Each hood served by mechanical exhaust	
	Domestic type incinerator	
	Commercial type incinerator	
	Any appliance or piece of equipment regulated by this Code where no other fee is listed	

<i>Service</i>	<i>Fee</i>	<i>Code</i>	<i>Referen</i>
X. Mobile Home/Trailer Parks	30.00 40.00 50.00 70.00 100.00 200.00 200.00	1–2 spaces 3–10 spaces 11–25 spaces 26–50 spaces 51–75 spaces 76–150 spaces Plus \$10.00 for each 10 spaces over 150	505.070 505.070 505.070 505.070 505.070 505.070 505.070
Y. Park Impact Fee	300.00		255.060
Z. Park Shelter Fee	10.00		*
27. Pawnbroker's License	50.00	Per year	605.390
BB. Solicitor's License	100.00 500.00	Per day Per year	605.030
CC. Photocopies/Fax	.25 1.00	Per page plus tax (photocopy) Per page (fax)	110.030B1 *
DD. Pitching Machine Key Deposit	20.00	Refundable Deposit	*
EE. Plumbing Permit	25.00	Per permit, plus the fees set out in the following Table	510.030

Gas Meter Loop		10.00
Gas Outlets (1 to 4)		10.00
Gas Outlets (Over 4)		1.00
Water Heater or Vents		10.00
Water Service and Piping		10.00
Building Sewer and Mobile and Manufactured Homes		10.00
Lawn Sprinkler System		10.00
Waste Openings	Bathtub	3.50
	Dishwasher	3.50
	Drinking Fountain	3.50
	Floor Drain	3.50
	Garbage Disposer	3.50
	Lavatories	3.50
	Mud or Oil Traps	3.50
	Sump Pump	3.50
	Sinks, Kitchen	3.50
	Sinks, Service	3.50
Waste openings (cont)	Urinals	3.50
	Washing Machine	3.50
	Water Closet	3.50
	Miscellaneous	3.50

FF. Pole Rental	7.50	Per unit	700.005
GG. Property Maintenance Inspection Fee	30.00	Per inspection, plus \$30.00 per hour staff time	520.010
HH. Record Requested Fee	.25	Per page, plus \$20.00 per hour staff time	110.030B1
II. Recycle Truck License Fee	50.00	Per vehicle (annually)	605.390
JJ. Roofing Permits	25.00	Residential	505.040D
	35.00	Commercial	505.040D
KK. Sewer Tap Fee	900.00		700.060
	100.00	On existing homes	*
LL. Sidewalk/Driveway/Curb Cut	25.00		530.025
MM. Sign Permit Fees	15.00	Sign only	*
	10.00	Portable sign/30 days	*
	50.00	Portable sign/annual	*
NN. Sports Complex Permit Fees/day <i>(With no gate admission charge)</i>	15.00	Field Maintenance	250.070
	20.00	Lights per field	250.070
	50.00	Usage per field	250.070
	50.00	Deposit	250.070
	50.00	Refundable Key Deposit	250.070
OO. Sports Complex Permit Fees/day <i>(With gate admission charge)</i>	20.00	Field Maintenance	250.070
	20.00	Lights per field	250.070
	75.00	Usage per field	250.070
	50.00	Deposit	250.070
	50.00	Refundable Key Deposit	250.070
PP. Subdivision Regulations Book	10.00	Plus tax	*
QQ. Taxi License Fee	50.00	Per vehicle (first taxi)	605.390
	25.00	Per vehicle (two or more taxis)	605.390
RR. Transient Guest Tax	5%	Of gross receipts	605.400
SS. Transportation Impact Fee	700.00		535.030
TT. Trash Hauler's License	500.00	Plus \$50.00 per vehicle	605.290
UU. Utility Construction Meter Fees	35.00	Electric	700.350
	10.00	Water	700.280

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<i>Service</i>	<i>Fee</i>	<i>Code</i>	<i>Reference</i>
VV. Utility administrative fee	30.00	Electric/water	700.220D
After hours reconnection fee	75.00	Electric/water	700.220D
WW. Utility Meter Deposits <i>(Commercial deposits are based on the previous 12 month history of a similar business)</i>	100.00 25.00 35.00 75.00 25.00 100.00 50.00	Commercial Electric (minimum) Commercial Water (minimum) Duplex Water Residential/Owner Electric Residential/Owner Water Residential/Renter Electric Residential/Renter Water	700.090 700.090 700.090 700.090 700.090 700.090 700.090
XX. Utility Same Date Service†	25.00	8 A.M.–3:45 P.M. † Plus Sales Tax as Applicable	700.080B
YY. Utility Connection Fee†	7.50 7.50 25.00	Electric Water per meter for temporary utility connection † Plus Sales Tax as Applicable	700.080A 700.080A
ZZ. Vacation of Streets, Alleys, Easements	150.00		*
AAA. Water Meter Service Fees <i>(Service Connection Fee)</i> <i>(Sales Tax as Applicable)</i>	600.00 900.00 1,200.00 1,800.00 2,400.00	1 inch Service Pipe 1½ inch Service Pipe 2 inch Service Pipe 3 inch Service Pipe 4 inch Service Pipe	700.070 700.070 700.070 700.070 700.070
BBB. Water Well Permits	25.00		700.230B
CCC. Zoning—Platting Application Fees	200.00 225.00 225.00 300.00 225.00 100.00 150.00 150.00 150.00 300.00 500.00	Agriculture/Residential Manufactured Home Park Business Industrial Special Use Lot Split Appeal Variance Conditional Use Plus \$10.00 per lot, platting fee Plus \$20.00 per acre, Planned Unit Development	*
Zoning Maps	6.00	Plus tax	*
Zoning Regulations	15.00	Plus tax	*

\* *No other Code Section reference.*

(Ord. No. 1149 §34, 8-19-02; Ord. No. 1168 §1, 3-3-03; Ord. No. 1213 §1, 3-7-05; Ord. No. 1233 §1, 6-19-06; Ord. No. 1315 §§1—2, 10-6-08; Ord. No. 1318 §1, 12-15-08; Ord. No. 1337 §1, 10-5-09; Ord. No. 1341 §2, 2-15-10; Ord. No. 1347 §3, 6-7-10; Ord. No. 1348 §2, 8-2-10; Ord. No. 1353 §4, 8-16-10; Ord. No. 1388 §2, 1-16-12; Ord. No. 1391 §2, 2-6-12; Ord. No. 1406 §3, 12-17-12; Ord. No. 1411 §2, 2-18-13)

outline is defined and used in this document

## **CHAPTER 105: GOVERNING BODY**

### **SECTION 105.010: COMPOSITION**

The Governing Body of the City of Mulvane, Kansas, shall consist of a Mayor and five (5) Councilmembers, duly elected as provided by law. (CC 1985 §2-101; Revised, 1961)

### **SECTION 105.020: MEETINGS**

Regular meetings of the Council shall be held in the City Building on the first (1st) and third (3rd) Mondays of each and every month at 7:30 P.M. When Monday falls on a legal holiday, the meeting shall be held the next Wednesday at the same hour. Special meetings may be called by the Mayor or Acting Mayor on written request of any three (3) members of the Council, said request specifying the object and purpose of such meeting. Said request shall be read at the meeting and entered at length on the journal. (CC 1985 §2-102; Ord. No. 114, 10-7-49; Ord. No. 1037 §1, 2-18-98)

### **SECTION 105.030: RULES AND ORDER OF BUSINESS**

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

1. *Rule 1.* The Mayor shall preside at all meetings of the Council and shall have a deciding vote when the Council is equally divided and none other. In the absence of the Mayor, the President of the Council shall preside. In the absence of both, the Councilmembers shall elect one (1) of their number as temporary Chairperson who shall be styled "Acting President of the Council". The President and the Acting President when occupying the place of the Mayor shall have the same privileges as other members of the Council, including the right to vote on all issues. The President or Acting President shall not have a tie-breaking vote in addition to their regular vote while acting in the capacity of President or Acting President.
2. *Rule 2.* At all meetings of the Council, a majority of the Councilmembers elected shall constitute a quorum to do business but a minority may adjourn from day to day and may compel the attendance of absentees.
3. *Rule 3.* At the hour appointed for meeting, the members shall be called to order by the Mayor or in his/her absence, by the President of the Council or in the absence of both, by the Clerk. The Clerk shall call the roll, note the absentees and quorum, the Council shall proceed to business.
4. *Rule 4.* The Mayor shall preserve order and decorum and shall decide questions of order subject to an appeal to the Council.
5. *Rule 5.* Every person, previous to speaking, shall address the Chair and not proceed until having been recognized by the Chair. Remarks shall be confined to the matter under debate. No member shall speak more than five (5) minutes each time without permission.
6. *Rule 6.* A member called to order shall immediately suspend until the point of order raised is decided by the Chair.



7. *Rule 7.* All motions shall be read by the Chair or City Clerk prior to a vote being taken. If a motion shall be amended, permission from the member introducing the motion, and if seconded, permission from the second is required prior to the amendment.
8. *Rule 8.* All resolutions must be in writing.
9. *Rule 9.* When a subject is under debate, no motion on any other subject will be entertained by the Chair, except motions to adjourn, to table, to call a point of order, or a motion to act upon the item under discussion, which motions shall have precedence in the order which they are named, and all motions will be decided after seconding without further debate.
10. *Rule 10.* When a question is put by the Chair, every member present shall vote either "yea", "nay", or "abstain". All votes will be recorded by the City Clerk and reflected, by name, in the meeting minutes. Votes to "abstain" are neither "yea" nor "nay" votes and are not counted in the final tally.
11. *Rule 11.* After an ordinance shall be passed, an enrolled copy thereof shall be made by the Clerk and shall be signed by the Mayor or, in his/her absence, by the President of the Council and deposited with the Clerk who shall file and record the same and secure its publication as required by law.
12. *Rule 12.* Petitions and other papers addressed to the Council shall be read by the Clerk under the proper order of business upon presentation of the same to the Council.
13. *Rule 13.* These rules or any one of them except such as may be statutory provisions may be temporarily suspended by consent of two-thirds ( $\frac{2}{3}$ ) of the Councilmembers elect.
14. *Rule 14.* In all points not covered by these rules, Council shall be governed in its procedure by previous tradition, and, as applicable, by Robert's Rules of Order.
15. *Rule 15.* At any regular meeting of the City Council, the agenda may be opened for the addition of items not appearing on the published agenda only with the unanimous consent of the Council and in that event only in the case of a bona fide emergency. (CC 1985 §2-103; Amended Ord. No. 928, 9-4-91)

**SECTION 105.040: BOARD AND COMMISSION  
MEMBERS—ATTENDANCE REQUIRED AT ALL MEETINGS**

- A. All persons serving on the appointive boards and commissions of the City of Mulvane who hold office by virtue of appointment by the Mayor and confirmation by a majority of the Governing Body of the City who hold office for a term of years are subject to this Section. Commissions and boards of the City affected hereby include but are not limited to the: Planning Commission; Variance Board; Tree Board; Board of Construction, Trades and Appeals; Library Board; and other adjudicative boards and/or commissions as well as bodies administering City funds.
- B. All members of the boards and commissions identified herein are hereby required to attend all meetings thereof; including special and regular meetings except when excused for the following reasons:

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1. When a member of the immediate family of a member is sick and unable to attend;
2. When a member of the board or commission is sick and unable to attend;
3. When a death has occurred in the immediate family of the member of the board or commission; or
4. When there exists good cause which is approved by the Governing Body of the City upon the recommendation of the board or commission involved.

C. It shall be the duty of the Chair of the board or commission to cause all absences of members to be noted of record in the minutes kept and the City Clerk shall inquire and report to the City Council all such absences and the reasons therefore of the commissions bodies and boards covered by this Section.

D. Except for the excused absences set out above all such members of boards, commissions and bodies covered by this Section shall attend all such meetings and in the event any member is absent for three (3) regular consecutive meetings such Board member or Commissioner shall be deemed to have vacated office and the vacancy shall be filled by the Governing Body. (CC 1985 §2-105; Ord. No. 904, 10-2-90)



## CHAPTER 110: PUBLIC RECORDS

### SECTION 110.010:

### RECORDS CUSTODIANS

E. *Appointment Of Official Custodians.* The following City Officers are hereby appointed as official custodians for purposes of the Kansas Open Records Act and are hereby charged with the responsibility for compliance with that act with respect to the hereinafter listed public records:

1. *City Clerk.* All public records kept and maintained in the City Clerk's office and all other public records not provided for elsewhere in this Section.
2. *Chief of Police.* All public records not on file in the office of the City Clerk and kept and maintained in the City Police Department.
3. *Attorney for the City.* All public records not on file in the office of the City Clerk and kept and maintained in the Attorney for the City's office.
4. *Utility Superintendent.* All public records not on file in the office of the City Clerk and kept and maintained in the office of the Utility Superintendent.
5. *Streets and Parks Superintendent.* All public records not on file in the office of the City Clerk and kept and maintained in the Street and Park Superintendent's office.
6. *Clerk of Municipal Court.* All public records not on file in the office of the City Clerk and kept and maintained in the Municipal Court.
7. *Emergency Medical Services Director.* All public records not on file in the office of the City Clerk and kept and maintained with the Emergency Medical Services Director.
8. *City Administrator.* All public records not on file in the office of the City Clerk and kept and maintained in the City Administrator's office.

F. *Designation Of Additional Record Custodians.*

1. Each of the official custodians appointed in Subsection (A) is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in Sections 45-215, K.S.A. et seq.
2. Whenever an official custodian shall appoint another person as a record custodian, he/she shall notify the City Clerk of such designations and the City Clerk shall maintain a register of all such designations.

G. *Duties Of Custodians.* All City employees appointed or designated under this Section shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the City; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this City and established by the State of Kansas for the inspection and copying of open public records. All inspections and copying of open public records shall be performed by or under the supervision of the record custodian responsible for such records.



H. *Requests To Be Directed To Custodians.*

1. All members of the public in seeking access to or copies of a public record in accordance with the provisions of the Kansas Open Records Act shall address their requests to the custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.
2. Whenever any City employee appointed or designated as a custodian under this Section is presented with a request for access to or copy of a public record which record the custodian does not have in his/her possession and for which he/she has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. Further, the person making the request shall be informed as to which custodian the request should be addressed to if such is known by the custodian receiving the request. (CC 1985 §2-702; Ord. No. 743, 4-2-84)

**SECTION 110.020: INSPECTION OF RECORDS—REQUEST—RESPONSE—REFUSAL, WHEN**

- A. All public records shall be open for inspection by any person, except as otherwise provided by this Section, and suitable facilities shall be made available by each public agency for this purpose. No person shall remove original copies of public records from the office of any public agency without the written permission of the custodian of the record.
- B. Upon request in accordance with procedures adopted under K.S.A. 45-220, any person may inspect public records during the regular office hours of the public agency and during any additional hours established by the public agency pursuant to K.S.A. 45-220.
- C. If the person to whom the request is directed is not the custodian of the public record requested, such person shall so notify the requester and shall furnish the name and location of the custodian of the public record, if known to or readily ascertainable by such person.
- D. Each request for access to a public record shall be acted upon as soon as possible, but not later than the end of the third (3rd) business day following the date that the request is received. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. If the request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester not later than the end of the third (3rd) business day following the date that the request for the statement is received.
- E. The custodian may refuse to provide access to a public record, or to permit inspection, if a request places an unreasonable burden in producing public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency. However, refusal under this Subsection must be sustained by preponderance of the evidence.
- F. A public agency may charge and require advance payment of a fee for providing access to or furnishing copies of public records, subject to K.S.A. 45-219.

**SECTION 110.030: FEES**

- A. *Inspection Fee.* Where request has been made for inspection of any open public record, there shall be no inspection fee charged to the requester.
- B. *Copying Fee.*
  - 1. A per-page fee and fee for staff time in amounts as set forth in Section 100.240 shall be charged for photocopying standard or legal-sized public records and for staff time.
  - 2. For copying any public records which cannot be reproduced by the City's photocopying equipment or which are non-standard in size, the requester shall be charged the actual cost to the City, including staff time, in reproducing such records.
- C. *When Due.* Any fees for record copies are due at the time record copies are provided to the requester unless the record custodian has demanded that prepayment of all or part of such fees be made. Fees are to be paid to the record custodian.
- D. *Prepayment Of Fees.*
  - 1. A record custodian may demand prepayment of the fees established by this Section whenever he/she believes this to be in the best interest of the City. The prepayment amount shall be an estimate of the copying charges and search time estimated in fulfilling the request. Any overage or underage in the prepayment shall be settled prior to delivery of the requested copies.
  - 2. Prepayment of copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed fifty dollars (\$50.00).
  - 3. Where prepayment has been demanded by the record custodian, no record shall be made available to the requester until such prepayment has been made.
- E. *Mailing And Handling Costs.* The record custodian shall determine and implement a charge covering mailing and handling costs accrued in responding to request through the mail service.
- F. *Fee Discretion.* The official custodian for each City department may exercise his/her discretion in reducing or waiving copying fees when such will benefit the economic growth of the City or is otherwise in the public interest. Preprinted materials shall be sold at prices as determined by the official custodian. He/she shall set up fee guidelines to be followed by record custodians within his/her department. No copy fee shall be assessed when multiple copies of the record requested have been prepared for free public distribution.
- G. *Fee Administration.* Each record custodian shall transmit all record fee monies collected to the City Treasurer not less than weekly. Each custodian shall maintain receipts, completed as to the amount of fee charged and collected, which amounts shall be periodically audited by the office of the City Clerk. (CC 1985 §2-703; Ord. No. 743, 4-2-84; Ord. No. 1085, 8-21-00; Ord. No. 1149 §2, 8-19-02)



## **CHAPTER 115: OFFICERS AND EMPLOYEES**

### **ARTICLE I. GENERALLY**

#### **SECTION 115.010: OFFICERS APPOINTED**

The Mayor shall, at the first (1st) meeting of the City Council in May of each year, by and with the consent of the Council, appoint the following officers: City Clerk, City Treasurer, Chief of Police/Director of Public Safety, Municipal Court Judge and City Attorney. From time to time and during such times as may be deemed appropriate, the Mayor may, by and with the consent of the Council, also appoint one (1) or more Deputy City Clerks. (CC 1985 §2-201; Amended Ord. No. 896, 6-18-90; Ord. No. 1214 §1, 3-21-05; Ord. No. 1274 §1, 3-24-08)

#### **SECTION 115.015: DEPUTY CITY CLERK OFFICE CREATED**

There is hereby created within the City the office and position of Deputy City Clerk, to be appointed at the option of the Mayor, but only by and with the consent of a majority of the City Council. He/she shall serve from the time appointed until the first (1st) meeting of the City Council in May of each year, or such shorter period as may be otherwise indicated in the Mayor's appointment, as approved by a majority of the City Council. A Deputy City Clerk shall serve without payment or additional remuneration. The same person may hold the offices of the Deputy City Clerk and City Administrator. (Ord. No. 1274 §2, 3-24-08)

#### **SECTION 115.020: QUALIFICATION–OATH OF OFFICE**

Except those permitted to be non-residents by State law, the officers appointed under this Article shall be qualified electors of this City under the Constitution and laws of this State. They shall qualify for office by taking and subscribing to the following oath before an officer authorized to administer the same: "I do solemnly swear (or affirm as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Kansas and faithfully perform the duties of (here enter name of office), so help me God." (R.O. 1924 §17; CC 1985 §2-202)

#### **SECTION 115.030: BONDS OF CITY OFFICERS**

Before entering upon the duties of their respective offices, the following officers shall execute and deliver to the City Council for its approval good and sufficient surety bonds in the amounts as hereinafter provided, conditioned upon the faithful and efficient performance of duty in their respective offices: Chief of Police, one thousand dollars (\$1,000.00); City Treasurer, one thousand dollars (\$1,000.00); City Clerk, one thousand dollars (\$1,000.00); Superintendent of Water and Light Plant, five thousand dollars (\$5,000.00). Any annual premium on such surety bonds shall be paid by the City in the same manner as other bills against the City. (CC 1985 §2-203; Ord. No. 98, 5-2-47; Ord. No. 204, 10-15-56)

#### **SECTION 115.040: OFFICE HOURS**

The City Clerk shall maintain an office in the City Building and said office shall be open to the public from the hour of 8:00 A.M. to the hour of 5:00 P.M. except on Saturdays, Sundays and legal holidays. (CC 1985 §2-204)

**SECTION 115.050:****DUTIES OF OTHER OFFICERS**

A Deputy City Clerk shall serve the City and perform the rights and duties and shall have the full responsibility of the City Clerk upon vacancy of the City Clerk from office, whether because of absence from the City or any other reason. The other officers provided for in this Article or elsewhere in this Code shall perform such duties as may be imposed by ordinance or by law and such further duties as may be provided by the City Council. (CC 1985 §2-206; Revised, 1961; Ord. No. 1274 §3, 3-24-08)

**SECTION 115.060:****REMOVAL OF OFFICERS**

A majority of all the members of the Council may remove any officer appointed under this Article or, the Mayor may suspend any such officer with the consent of the Council. (CC 1985 §2-207; Revised, 1961; G.S. Supp. 15-204)

**SECTION 115.070:****VACANCIES IN OFFICE**

All vacancies in the offices provided for in this Article shall be filled until the next City election by appointment by the Mayor, by and with the consent of the City Council; provided that a Deputy City Clerk shall perform the rights and duties of the City Clerk during any vacancy from office until such time a new City Clerk is appointed. (R.O. 1924 §26; CC 1985 §2-208; Ord. No. 1274 §4, 3-24-08)

**ARTICLE II. CITY ADMINISTRATOR/CITY CLERK****SECTION 115.080:****CITY ADMINISTRATOR OFFICE CREATED**

There is hereby created the position of Director of Administration, known as City Administrator, to be appointed by the Mayor and confirmed by a majority of the City Council. He/she shall be appointed on the basis of administrative skill and ability on a contract basis. The same person may hold the offices of City Administrator and City Clerk or Deputy City Clerk. (CC 1985 §2-301; Ord. No. 931, 11-4-91; Ord. No. 1274 §5, 3-24-08)

**SECTION 115.090:****INTENT**

It is the intent of the Governing Body, expressed by this legislation, to provide for the improved coordination of City services and activities. (CC 1985 §2-302; Ord. No. 931, 11-4-91)

**SECTION 115.100:****DUTIES AND RESPONSIBILITIES**

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

1. Review, evaluate, and report to the Mayor and Council with respect to all City services;

2. Prepare and submit the annual budget to the Governing Body and keep all City Officials fully advised as to the financial condition of the City;
3. Periodically recommend to the Governing Body such actions as will assure improved functioning of City business except where such responsibilities are committed by law to other City Officials;

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4. Exercise general control over all City purchases and expenditures in accordance with the budget and policies of the City;
5. Attend all meetings of the Governing Body and report on a regular basis on the status of all matters of concern to the City;
6. Serve as coordinator and/or mediator in all matters involving multiple department heads or supervisors and subordinates when necessary to achieve consensus and/or resolve conflicts;
7. Promote and improve the public perception of the City and cause to be taken such actions that improve the welfare and well-being of the citizens;
8. Promote and improve economic development of the City; and
9. Perform such other duties as the Governing Body may direct. (CC 1985 §2-303; Ord. No. 931, 11-4-91)



## **CHAPTER 120: PERSONNEL REGULATIONS**

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



AND

## **CHAPTER 125: EQUAL EMPLOYMENT OPPORTUNITY**

### **AFFIRMATIVE ACTION POLICIES**

#### **SECTION 125.010:**

#### **POLICY**

#### **EQUAL EMPLOYMENT OPPORTUNITY—GENERAL**

The Governing Body of the City of Mulvane, Kansas, hereby declares it to be the policy of its City to provide equal opportunity in employment and advancement and to administer its employment practices without regard to race, color, religion, sex, age or national origin. This policy of no discrimination will prevail throughout every aspect of employment practices, including but not limited to the following:

1. Recruit, hire and promote in all job classifications without regard to race, color, religion, sex, age or national origin, except where age is a bona fide occupational qualification.
2. All decisions for hiring or promotions shall be based solely upon each individual's qualifications for the position to be filled.
3. All other personnel actions such as compensation, benefits, transfers, layoffs, return from layoffs, City sponsored training, education, tuition assistance, social and recreation programs will be administered without regard to race, color, religion, sex, age or national origin.
4. The City will undertake a program of affirmative action to make widely known that equal employment opportunities are available on the basis of individual merit and to actively encourage all persons to seek employment and to strive for advancement on this basis.
5. It is the intent of the City that this policy shall be enforced the same as any other policy of the City. Any deliberate attempt to thwart or to circumvent this policy shall be grounds for disciplinary action, including demotion or discharge. (CC 1985 §2-601; Passed 12-20-76, Resolution)

#### **SECTION 125.020:**

#### **PURPOSE**

#### **AFFIRMATIVE ACTION POLICY—SCOPE AND**

These guidelines are designed to provide direction in the development of an affirmative action plan to provide equal employment opportunities for all regardless of race, color, religion, sex, age, physical handicaps or national origin. With that goal in mind, the City embraces the Kansas Act Against Discrimination. (CC 1985 §2-602; Passed 12-20-76, Resolution)

#### **SECTION 125.030:**

#### **OFFICER**

#### **THE EQUAL EMPLOYMENT OPPORTUNITY**

Responsibilities and duties of the Equal Employment Opportunity Officer are to coordinate efforts to advise and assist staff in implementing the aforementioned Kansas Act Against Discrimination and to serve as ombudsman for any complaints. Specifically, this official is charged with monitoring the following:

1. Reviewing all policies relating to equal opportunity in order to guarantee effective implementation of the program.
2. Designing and implementing record systems of minority employment information.

3. Serving as liaison between contractors and employment agencies, including the Kansas Human Rights Commission and Federal Equal Employment Opportunity for qualified minority organizations.
4. Cooperation with unions in the development of programs to assure equal opportunity for qualified minority persons in the contract grades.
5. To encourage minority employees to increase their skills and job potential through participating in training and educational programs. (CC 1985 §2-603; Passed 12-20-76, Resolution)

**SECTION 125.040:****ADVERTISING**

The City shall advertise in newspapers that the City is an "equal opportunity employer" and advertise vacancies of City employee positions in such newspapers. All applicants will be screened on a competitive basis extending to all applicants consideration for employment without regard to race, creed, color, sex, age or national origin. The City of Mulvane will post in conspicuous places notices and other information identifying that the City is an equal opportunity employer. (CC 1985 §2-604; Passed 12-20-76, Resolution)

**SECTION 125.050:****GOVERNMENT CONTRACTS—MANDATORY PROVISIONS**

- A. Except as provided by Subsection (C), every contract for or on behalf of the City of Mulvane, or any agency of or authority created by the City, for the construction, alteration or repair of any public building or public work or for the acquisition of materials, equipment, supplies or services shall contain provisions by which the contractor agrees that:
  1. The contractor shall observe the provisions of the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin or ancestry;
  2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the commission;
  3. If the contractor fails to comply with the manner in which the contractor reports to the commission in accordance with the provisions of Section 44-1031, K.S.A. and amendments thereto, the contractor shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency;
  4. If the contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, the contractor shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency; and
  5. The contractor shall include the provisions of Subsections (A)(1) through (4) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.
- B. The Kansas Human Rights Commission shall not be prevented hereby from requiring reports of

contractors found to be not in compliance with the Kansas Act Against Discrimination.

C. The provisions of this Section shall not apply to a contract entered into by a contractor:

1. Who employs fewer than four (4) employees during the term of such contract; or
2. Whose contracts with the City letting such contract cumulatively total five thousand dollars (\$5,000.00) or less during the fiscal year of the City.



## **CHAPTER 130: MUNICIPAL COURT**

### **ARTICLE I. IN GENERAL**

#### **SECTION 130.001: MUNICIPAL COURT ESTABLISHED**

There is hereby established a Municipal Court for the City of Mulvane, Kansas. The Municipal Court shall have jurisdiction to hear and determine cases involving violation of the ordinances of the City. (Code 1995)

#### **SECTION 130.005: MUNICIPAL COURT—PRACTICE AND PROCEDURE**

The Kansas Code of Procedure for municipal courts, as set forth in K.S.A. 12-4101 et seq., and all acts amendatory or supplemental thereto shall govern the practice and procedure in all cases in the Municipal Court. (Code 1995)

#### **SECTION 130.010: PLACE AND DATE OF THE MUNICIPAL COURT**

Court shall be held at the Mulvane City Building, in the Council Chambers, 211 N. Second, on the first (1st), third (3rd) and fourth (4th) Tuesdays of each month effective September 5, 2000. The time of each Court session will be set by Administrative Order of the Court upon the advice and consent of the Governing Body. (Ord. No. 962 §9-100, 12-6-93; Ord. No. 990 §9-100, 6-19-95; Ord. No. 1061 §130.010, 6-7-99; Ord. No. 1083, 7-5-00)

#### **SECTION 130.020: JURISDICTION AND POWER OF THE MUNICIPAL JUDGE**

The Municipal Judge shall have exclusive original jurisdiction to hear and determine all offenses against the ordinances of the City. He/she shall have power to enforce due obedience to all orders, writs, rules and judgments made by him/her and may fine or imprison or both for contempt committed in Court or for failure to obey process issued by such Municipal Judge, in the same manner and to the same extent as the District Court and, for all such purposes, the jurisdiction of the Municipal Judge shall be co-extensive with the Counties in which the City is located. The powers of the Municipal Judge shall be those as set out in Article 41, Code of Procedure for Municipal Courts, General Provisions, pursuant to K.S.A. 12-4101, et seq., known as the Code of Procedure for Municipal Court, together with Article 42, 43, 44, 45 and 46 and amendments thereto. (CC 1985 §9-101; Ord. No. 548, 8-1-77)

#### **SECTION 130.025: MUNICIPAL JUDGE—APPOINTMENT—QUALIFICATIONS—COMPENSATION**

The Municipal Court shall be presided over by a Municipal Judge. The Judge shall be selected in the manner provided by Statute. The person who is selected shall be:

1. A citizen of the United States;
2. A graduate of a high school or secondary school or the equivalent thereof; and

3. An attorney regularly admitted to practice law in the State of Kansas or certified by the Supreme Court in the manner prescribed by K.S.A. 12-4114, as qualified to serve as a Municipal Judge.

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

**SECTION 130.030:****MUNICIPAL JUDGE—POWERS AND DUTIES**

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

**SECTION 130.035:****MUNICIPAL JUDGE—ABSENCE—VACANCY—PRO TEM**

- A. In the event the Municipal Judge is temporarily unable to preside due to absence, illness or disqualification, the Municipal Judge shall designate an attorney or other qualified person to act as Judge Pro Tempore. In the event the Municipal Judge fails to appoint a Judge Pro Tempore, the Judge Pro Tempore shall be appointed in the same manner as the Municipal Judge is selected. The Judge Pro Tempore shall receive compensation as shall be provided by ordinance, payable in the same manner as the compensation of the regular Municipal Judge.

**§ 130.035**

**Municipal Court**

B. In the event a vacancy shall occur in the office of Municipal Judge, a successor shall be appointed to fill the unexpired term in the same manner as the Municipal Judge was appointed.

**SECTION 130.040:**

**COURT CLERK**

A. There is hereby established the office of the Clerk of the Municipal Court of the City of Mulvane, Kansas. The Clerk shall issue all processes of the Court, administer oaths, file and preserve all papers, docket cases and set same for trial and shall perform such further acts as may be necessary to carry out the duties and responsibilities of the Court. The Clerk shall receive, account for and pay to the City Treasurer all fines and forfeited bonds paid into the Court.

B. The Clerk of the Municipal Court, or the Municipal Judge if no Clerk is appointed, within ten (10) days after selection, and before entering upon the duties of office, shall execute to the City such bond as the City Council may require, which shall be approved by the City Council, and filed in the office of the City Clerk, conditioned for the faithful performance of the duties required of such Clerk by law, and for the faithful application and payment of all moneys that may come into such Clerk's hands in the execution of the duties of the office. The City shall pay the cost of such bond.

**SECTION 130.045:**

**FAILURE TO APPEAR IN MUNICIPAL COURT**

Any person released from custody to appear at a later time before the Municipal Court and who fails to make such appearance at the designated time is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment. (CC 1985 §9-103; Ord. No. 636, 9-15-80)

**SECTION 130.050:**

**FAILURE TO ANSWER A WRITTEN SUMMONS,  
COMPLAINT OR NOTICE TO APPEAR**

Any person who fails to appear and answer a written summons, complaint or notice to appear issued or delivered to him/her by a Police Officer, Fire Department Official, Help Officer or Park Officer for any violation of any provision of this Code or any ordinance, rule or regulation formulated by any such officer or official of such agency of the City, under authority vested in him/her, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than six (6) months or by both such fine and imprisonment. (CC 1985 §9-104; Ord. No. 636, 9-15-80)

**SECTION 130.060:**

**COSTS**

**COLLECTION AND DISPOSITION OF FINES AND**

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

**SECTION 130.070:**

**MUNICIPAL PROSECUTOR**

- A. The position of Municipal Prosecutor is hereby created as a job title within the City of Mulvane, Sedgwick and Sumner Counties, Kansas, to be appointed by the Mayor upon the advice and consent

of a majority of the City Council. The term of office to commence the first (1st) Council meeting of May of each year.

B. The Municipal Prosecutor is responsible for exercising all prosecutorial functions under Article 44 of Chapter 12, K.S.A.

**SECTION 130.080: FUNCTION**

It shall be the function of the Municipal Prosecutor, or the Municipal Prosecutor's designee, to administer, prosecute or otherwise handle each and every claim to be presented in the Municipal Court of the City of Mulvane, Kansas. (CC 1985 §9-107; Ord. No. 717, 5-16-83)

**SECTION 130.090: COMPENSATION**

In light of the foregoing duties, the compensation of the Municipal Prosecutor is a matter for agreement between the City and the Municipal Prosecutor. (CC 1985 §9-108; Ord. No. 818, 4-6-87; Ord. No. 964, 2-21-94; Ord. No. 1008, 6-17-96)

**SECTION 130.100: MUNICIPAL COURT CHARGES**

A. There shall be charged as costs in each case, motion or order pending before the Municipal Court Judge of the City of Mulvane, Sedgwick and Sumner Counties, Kansas, sums in an amount as set forth in Section 100.240.

B. Additional charges may be levied by the State of Kansas and collected by the City of Mulvane.

C. *Payment Of Fees And Charges.* All payments of fees and charges due to the City under this Chapter shall be made by cash, check, money order, wire transfer, automated clearing house transfer, electronic check, credit card, debit card, or any other form of payment acceptable to the City; provided however, that no payment in cash may include more than two dollars (\$2.00) in coins for each invoice or monthly bill.

D. *Returned Payment.* In the event any payment by a person for fees and charges due under this Chapter is returned to the City as not payable (e.g., a "worthless check", insufficient funds, stop-payment, refused automatic debit), the City shall impose a returned payment service charge as set forth in Section 100.160 upon such person and shall accept only verified immediately available funds (e.g., cash, money order) from such person for payments of fees and charges due to the City under this Chapter for the twelve (12) months following such return.

E. *Waiver Of Available Funds Requirement.* For good cause shown upon satisfactory proof, the Court Clerk may waive the requirement of payment in verified, immediately available funds whenever exceptional circumstances are shown. In the event this waiver is granted by the Court Clerk, the Court Clerk shall enter in the official records of the City an explanation of the circumstances under which the waiver was granted. (CC 1985 §9-109; Ord. No. 947, 7-6-92; Ord. No. 970, 7-18-94; Ord. No. 1009, 7-15-96; Ord. No. 1085, 8-21-00; Ord. No. 1149 §3, 8-19-02; Ord. No. 1410 §3, 2-18-13)

**SECTION 130.110:****VARIOUS COSTS AND CHARGES**

The Municipal Judge shall have authority to set various costs and charges either for the reproduction of reports or records, the appointment of counsel to assist indigent defendants or the cost of obtaining expert testimony. Each and all of the items as determined by the Judge shall become effective upon posting and notice to the public. The Judge shall maintain discretion to tax any and all of the posted items against either the petitioner, the City of Mulvane or the defendant as cost in the litigation. (CC 1985 §9-110; Ord. No. 729, 10-17-83)

**SECTION 130.120:**

**ALCOHOL AND DRUG SAFETY ACTION PROGRAM**

The Municipal Judge shall be authorized to assess as cost, in addition to any other costs assessable by this Code or other applicable laws, a fee not to exceed one hundred twenty-five dollars (\$125.00), the same being reimbursement for the costs and expenses of the City of Mulvane, Kansas, in providing and supervising an alcohol and drug safety action program as provided by K.S.A. 8-1008. (CC 1985 §9-111; Ord. No. 772, 11-4-85; Ord. No. 971, 7-18-94)

**SECTION 130.130:**

**ASSESSING COSTS**

The Municipal Judge shall have authority to assess as costs against a defendant the expenses and monies charged by or paid to an attorney appointed on behalf of an indigent defendant. (CC 1985 §9-112; Ord. No. 738, 2-6-84)

**SECTION 130.140:**

**MUNICIPAL COURT, AUTHORIZED DISPOSITIONS**

**AND**

**SENTENCING—INTENT**

This Code is intended to provide for the just determination of all cases coming before the Municipal Court for violation of City ordinances. Its provisions shall be construed to provide a simplified procedure, fair administration of justice, and the elimination of unjustifiable delay and expense. If no procedure is provided by this Code, the Court shall proceed in any lawful manner consistent with the Kansas Code of Criminal Procedure and those Statutes providing for authorized dispositions of persons convicted of violations of City ordinances as the State shall provide and not inconsistent with other laws. (CC 1985 §9-113; Amended Ord. No. 772, 11-4-85)

**COMPLAINTS**

**ARTICLE II. POWERS TO WRITE AND ISSUE**

**SECTION 130.150:**

**DEFINITIONS**

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

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

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

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

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

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

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

*CUSTODY:* The restraint of a person pursuant to arrest.

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

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

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

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

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

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

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

*WARRANT:* A written order made by a Judge directed to any Law Enforcement Officer commanding the officer to arrest the person named or described in it. (CC 1985 §9-1a101)

## **SECTION 130.160:**

## **COMMENCEMENT OF PROSECUTION**

The prosecution for the violation of the Municipal Code of the City of Mulvane, Kansas, or any ordinance of the City of Mulvane, Kansas, shall be commenced by the filing of a complaint with the Municipal Court. (CC 1985 §9-1a102)

## **SECTION 130.170:**

## **COMPLAINT, REQUIREMENTS, FORM**

A complaint shall be in writing and shall be signed by the complainant. More than one violation may be charged in the same complaint. A complaint shall be deemed sufficient if in substantially the form of the complaint set forth in Section 130.200 and amendments thereto or in substantially the following form:

## IN THE MUNICIPAL COURT OF MULVANE, KANSAS

(Accused Person) \_\_\_\_\_

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

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

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

**SECTION 130.180: COMPLAINTS—HOW USED—ISSUANCE OF  
 WARRANT—REFUSAL  
 TO ISSUE—EFFECT**

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

**SECTION 130.190: NOTICE TO APPEAR—CONTENTS—FORM**

- A. A notice to appear shall describe the offense charged, shall summon the accused person to appear, shall contain a space in which the accused person may agree, in writing, to appear at a time not less than five (5) days after such notice to appear is given, unless the accused person shall demand an earlier hearing. A notice to appear may be signed by a Municipal Judge, the Clerk of the Municipal Court, the Municipal Prosecutor, or any Law Enforcement Officer of the City.

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

IN THE MUNICIPAL COURT OF THE CITY OF MULVANE,  
KANSAS

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

NOTICE TO APPEAR

THE CITY OF MULVANE, KANSAS, TO:

(To The Above Named Accused Person)

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

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

Dated: \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Signature of Official

\_\_\_\_\_  
Title of Official

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

\_\_\_\_\_  
Signature of Accused Person

RETURN

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

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

Law Enforcement Officer

(CC 1985 §9-1a105)

**SECTION 130.200:**

**UNIFORM COMPLAINT AND NOTICE TO APPEAR**

In all cases a complaint and notice to appear in Municipal Court may be made in the form of the complaint and notice to appear which shall be deemed sufficient if it contains the information required by Subsection (b) of K.S.A. 8-2106, and amendments thereto. (CC 1985 §9-1a106)

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

**SECTION 130.210:**

**NOTICE TO APPEAR—WHEN USED**

A notice to appear shall be used in all cases involving the violation of a municipal ordinance, except when a warrant is issued. (CC 1985 §9-1a107)

**SECTION 130.220:**

**NOTICE TO APPEAR—SERVICE—RETURN**

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

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

\_\_\_\_\_  
Signature of Law Enforcement Officer  
or Clerk of the Municipal Court

(CC 1985 §9-1a108)

**SECTION 130.230:**

**WARRANT—CONTENTS—FORM**

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

IN THE MUNICIPAL COURT OF THE CITY OF MULVANE,  
KANSAS

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

WARRANT

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

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

---

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

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

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

---

Municipal Judge  
City of Mulvane, Kansas

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

---

Municipal Judge  
City of Mulvane, Kansas



RETURN

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

This is to certify that I have made a diligent search for the within-named accused person but have been unable to find same.

City: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

(CC 1985 §9-1a109)

**SECTION 130.240:**

**WARRANTS—WHEN ISSUED—LIMITATIONS**

A. A warrant may be issued:

1. When an accused person fails to appear as required in a notice to appear after its service.
2. In all other cases where a complaint has been filed and the Municipal Judge determines that a warrant should be issued.

B. No warrant shall issue unless the complaint giving rise to its issuance is supported by oath or affirmation.

C. No warrant shall issue for an ordinance traffic infraction or an ordinance cigarette or tobacco infraction unless the person charged has received service of a notice to appear and has failed to appear for the infraction. (CC 1985 §9-1a110)

**SECTION 130.250:**

**WARRANTS—SERVICE**

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

(CC 1985 §9-1a111)

**SECTION 130.260: DETENTION–SERVICE OF COMPLAINT AND SUMMONS**

A. A Law Enforcement Officer may detain a person when:

1. He/she has a warrant commanding that such person be arrested;
2. He/she has reason to believe that a warrant for the person's arrest has been issued by any Municipal Court;
3. He/she has probable cause to believe that the person is committing or has committed a violation of an ordinance, and the Law Enforcement Officer has probable cause to believe that such person will not be apprehended or evidence of the violation of the ordinance will be irretrievably lost unless such person is immediately detained, or such person may cause injury to himself/herself or others or damage to property unless immediately detained; or
4. Any violation of an ordinance has been or is being committed by such person in his/her view.

B. A Law Enforcement Officer having detained a person pursuant to the preceding Subsection, except Subparagraphs (1) or (2) thereof, may release the person or may prepare and serve upon such person a complaint and notice to appear, as provided by Section 130.190 or Section 130.200 and shall then release such accused person from such detention, except in such instances where the Law Enforcement Officer has power and authority to arrest such accused person as hereinafter set forth. (CC 1985 §9-1a112)

**SECTION 130.270: ARREST BY LAW ENFORCEMENT OFFICER–WHEN AUTHORIZED**

A. Except as provided in Subsection (B), a Law Enforcement Officer may arrest a person under any of the following circumstances:

1. The officer has a warrant commanding that the person be arrested.
2. A warrant for the person's arrest has been issued by a Municipal Court in this State.
3. The officer has probable cause to believe that the person is committing or has committed a violation of an ordinance and that the person has intentionally inflicted bodily harm to another person.
4. The Law Enforcement Officer detained the person pursuant to Subsection (A)(3) or (4) of Section 130.260 and amendments thereto and:
  - a. The person refuses to give a written promise to appear in court when served with a notice to appear;
  - b. The person is unable to provide identification of self by presenting a valid driver's license or other identification giving equivalent information to the Law Enforcement Officer;

- c. The person is not a resident of the State of Kansas; or
- d. The Law Enforcement Officer has probable cause to believe that the person may cause injury to self or others or may damage property unless immediately arrested.

B. A Law Enforcement Officer may not arrest a person who is charged only with committing an ordinance traffic infraction or an ordinance cigarette or tobacco infraction unless the person charged has received service of a notice to appear and has failed to appear for the infraction. (CC 1985 §9-1a113)

**SECTION 130.280:****PERSONS UNDER ARREST—PROCEDURES—RIGHT****TO POST  
BOND—RELEASE ON PERSONAL RECOGNIZANCE**

Any person arrested by a Law Enforcement Officer shall be taken immediately by the Law Enforcement Officer to the police station of the City or the office in the City designated by the Municipal Judge. At that time, the person shall have the right to post bond for the person's appearance, in accordance with K.S.A. 12-4301 and 12-4302, and amendments thereto. However, if the Law Enforcement Officer has probable cause to believe that such person may cause injury to oneself or others, or damage to property, and there is no responsible person or institution to which the person might be released, the person shall remain in the protective custody of the Law Enforcement Officer, in a City or County Jail for a period not to exceed six (6) hours, at which time such person shall be given an opportunity to post bond for the persons' appearance. While so held in protective custody, the person shall be permitted to consult with counsel or other persons on the person's behalf. Any person who does not make bond for the person's appearance shall be placed in the City or County Jail, to remain there until the person makes bond for the person's appearance, or appears before the Municipal Court at the earliest practical time, except that the person shall be released on the person's personal recognizance to appear at a later date if the person has not made bond, has not appeared before the Municipal Court within eighteen (18) hours after arrest and if no warrant has been issued for the person's arrest. (CC 1985 §9-1a114)

**SECTION 130.290:****NOTICE—EXPLANATION OF RIGHTS**

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

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

The Law Enforcement Officer shall provide the person with the telephone number and address of the

Municipal Court to which the written entry of appearance, waiver of trial, plea of guilty or no contest and payment of fine shall be mailed.

B. In lieu of the Law Enforcement Officer entering the appropriate fine for an ordinance traffic infraction, the officer may direct the person charged with an ordinance traffic infraction to contact the Clerk of the Municipal Court to determine the applicable fine or provide the person with a copy of the fine schedule established by the Municipal Judge in accordance with K.S.A. 12-4305 and amendments thereto. (CC 1985 §9-1a115; Ord. No. 860, 3-6-89)

### **ARTICLE III. TRAFFIC CITATIONS**

#### **SECTION 130.300:**

#### **FAILURE TO OBEY CITATION**

A. It shall be unlawful to fail to comply with a traffic citation. Failure to comply with a traffic citation means a failure either to:

1. Appear before the Municipal Court in response to a traffic citation and pay in full any fine and Court costs imposed; or
2. Otherwise comply with a traffic citation issued for an ordinance traffic infraction. Failure to comply with a traffic citation shall be unlawful regardless of the disposition of the charge for which such citation was originally issued.

B. In addition to penalties of law applicable under Subsection (A), when a person fails to comply with a traffic citation, except for illegal parking, standing or stopping, the Municipal Court shall mail notice to the person that if the person does not appear in Municipal Court or pay all fines, Court costs and any penalties within thirty (30) days from the date of mailing, the Division of Vehicles will be notified to suspend the person's driving privileges. Upon the person's failure to comply within such thirty (30) days the Municipal Court shall notify the Division of Vehicles and assess a reinstatement fee of fifty dollars (\$50.00) for each charge in which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued. Such reinstatement fee shall be in addition to any fine or Court costs and other penalties. (CC 1985 §13-2107; Amended Ord. No. 765)

## **CHAPTER 135: DEPARTMENTS, COMMISSIONS AND COMMITTEES**

### **ARTICLE I. PUBLIC BUILDING COMMISSION**

#### **SECTION 135.010: CREATION**

There is hereby created by the Council, under the authority of the Act, a municipal corporation to be known as the City of Mulvane, Kansas Public Building Commission (the "PBC"). (Ord. No. 1032 §1, 12-1-97)

#### **SECTION 135.020: COMPOSITION**

The PBC shall be composed of six (6) members (the "members") who shall be the same persons as are then serving as Mayor and Council members on the Governing Body of the City. The members of the PBC shall serve terms simultaneous with their terms as members of the City's Governing Body. The members shall serve without compensation but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties. The members may from time to time appoint a Chairperson, Vice Chairperson and Secretary of the PBC. Initially, and unless otherwise selected, the Chairperson shall be the City's Mayor, the Vice Chairperson shall be the President of the Council and the Secretary and Assistant Secretary shall be the City Clerk and any Deputy City Clerk, respectively. In the event that the PBC should provide for buildings or structures that are to be leased to governmental entities other than the City, the composition of the PBC shall be modified, as necessary, to conform to the requirements of the PBC Act. (Ord. No. 1032 §2, 12-1-97; Ord. No. 1321 §1, 3-2-09)

#### **SECTION 135.030: PURPOSE, POWERS AND FUNCTIONS**

The PBC is created for the purpose of, and shall have the powers and shall perform the functions set forth in, the Act, as may be amended from time to time by Statute or charter ordinance. The Council, by subsequent ordinance, shall have the authority to limit the purposes, powers and/or functions of the PBC. (Ord. No. 1032 §3, 12-1-97)

#### **SECTION 135.040: SUPPORT SERVICES**

Unless otherwise approved by the Council, the City Administrator and other City staff will provide administrative services to the PBC, the City's bond counsel and the City Attorney shall provide legal services to the PBC and the City's financial advisor shall provide financial advisory services to the PBC. (Ord. No. 1032 §4, 12-1-97)

#### **SECTION 135.050: FURTHER ACTION**

The PBC shall have the authority to adopt by-laws and resolutions or take other official actions not inconsistent with the provisions of this Article and the Act. (Ord. No. 1032 §5, 12-1-97)



**SECTION 135.060: SEVERABILITY**

If any provision of this Article is deemed or ruled unconstitutional or otherwise illegal or invalid by any court of competent jurisdiction, such illegality or invalidation shall not affect any other provision of this Article. This Article shall be enforced and construed as if such illegal or invalid provision had not been contained herein. (Ord. No. 1032 §6, 12-1-97)

outline is defined and used in this document

## **TITLE II. PUBLIC HEALTH, SAFETY AND WELFARE**

### **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, 7-17-89; amended ord. no. 1017, 10-21-96; ord. no. 1075, 12-20-99.*

### **ARTICLE I. DEPARTMENT OF PUBLIC SAFETY**

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

#### **SECTION 200.010: DEPARTMENT OF PUBLIC SAFETY**

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. (Ord. No. 1214 §2, 3-21-05)

#### **SECTION 200.020: CHIEF OF POLICE/DIRECTOR OF PUBLIC SAFETY**

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. (Ord. No. 1214 §3, 3-21-05)

**SECTION 200.030:****POLICE DUTIES**

Police Officers, while on duty, shall devote their time and attention to their respective duties 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. (Ord. No. 1214 §4, 3-21-05)

**SECTION 200.040:****POWER TO ARREST**

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. (Ord. No. 1214 §5, 3-21-05)

**SECTION 200.050:****REWARDS TO BE PAID TO COURT CLERK**

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. (Ord. No. 1214 §6, 3-21-05)

**SECTION 200.060:****VOLUNTEER FIRE DEPARTMENT CREATED**

There is hereby created in this City a Volunteer Fire Department composed of not less than fifteen (15) nor more than fifty (50) firefighters. (Ord. No. 1214 §7, 3-21-05; Ord. No. 1221, 9-19-05)

**SECTION 200.070:****SUPERVISORY RESPONSIBILITY**

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. (Ord. No. 1214 §8, 3-21-05)

**SECTION 200.080–200.100:****RESERVED**

*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, 7-17-89; ord. no. 1017, 10-21-96.*

**SECTION 200.110:****FIREMEN'S RELIEF ASSOCIATION**

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. (R.O. 1924 §68; CC 1985 §6-110)

**SECTION 200.120: EMERGENCY**

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. (CC 1985 §6-111; Amended Ord. No. 875, 7-17-89; Ord. No. 1075, 12-20-99)

**ARTICLE II. RESERVED**

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

**ARTICLE III. FIRE DISTRICT NO. 12 AGREEMENT**

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

**SECTION 200.130: FIRE DISTRICT NO. 12 AGREEMENT**

- 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. (CC 1985 §17-501; Amended Ord. No. 767, 8-19-85)

**ARTICLE IV. "911" EMERGENCY**

**SECTION 200.135: "911" EMERGENCY**

- 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 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. (Ord. No. 1185 §§1-4, 9-2-03; Ord. No. 1229, 6-5-06; Ord. No. 1327, 6-1-09)

## **CHAPTER 205: ANIMAL CONTROL**

### **ARTICLE I. ANIMAL CONTROL OFFICER**

#### **SECTION 205.010: OFFICE ESTABLISHED**

- 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.  
(CC 1985 3-201; Amended Ord. No. 887, 11-6-89)

#### **SECTION 205.020: APPOINTMENTS—DUTIES**

- 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. (CC 1985 §3-202; Amended Ord. No. 887, 11-6-89)

## **ARTICLE II. GENERAL REGULATIONS**

### **SECTION 205.030:**

### **CERTAIN ANIMALS PROHIBITED IN THE CITY**

It shall be unlawful for any person, firm or corporation to rear or keep swine, cattle, sheep, goats or equine in this City. (CC 1985 §3-401; Amended Ord. No. 887, 11-6-89)

### **SECTION 205.040:**

### **PREMISES OPEN FOR INSPECTION**

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. (CC 1985 §3-401(A); Amended Ord. No. 887, 11-6-89)

### **SECTION 205.050:**

### **KENNEL OR CATTERY—CONSENT OF NEIGHBORS**

**AND**

**CONFINEMENT OF CATS**

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. (CC 1985 §3-401(B); Amended Ord. No. 887, 11-6-89)

### **SECTION 205.060:**

### **HEALTH STANDARD—MINIMUM LISTED**

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. (CC 1985 §3-401(C); Amended Ord. No. 887, 11-6-89)

**SECTION 205.070:****RESERVED**

*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, 11-6-89. At the editor's discretion, this section has been reserved for the city's future use.*

**SECTION 205.080:****DISEASED ANIMALS**

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. (CC 1985 §3-402; Amended Ord. No. 887, 11-6-89)



**SECTION 205.090:****ANIMALS UPON STREETS**

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. (CC 1985 §3-403; Amended Ord. No. 887, 11-6-89)

**SECTION 205.100:****FOWL RUNNING AT LARGE**

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. (CC 1985 §3-404; Amended Ord. No. 887, 11-6-89)

**SECTION 205.110:****CONFINEMENT OF DOGS IN HEAT**

Any unspayed female dog in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other 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. (CC 1985 §3-405; Amended Ord. No. 887, 11-6-89)

**SECTION 205.120:****TRAPPING OF ANIMALS**

- 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. (CC 1985 §3-406; Ord. No. 887, 11-6-89)

**SECTION 205.130: HORSES**

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. (CC 1985 §3-407; Ord. No. 887, 11-6-89)

**SECTION 205.140: KEEPING BEES**

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. (CC 1985 §3-408; Ord. No. 887, 11-6-89)

**SECTION 205.150: LOCATION OF YARD HOUSING FOR ANIMALS**

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. (CC 1985 §3-409; Ord. No. 887, 11-6-89)

**SECTION 205.160: PROPER MAINTENANCE OF ANIMAL YARD  
STRUCTURES AND PENS  
REQUIRED**

- 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. (CC 1985 §3-410; Ord. No. 887, 11-6-89)

**SECTION 205.170: VEHICULAR ACCIDENTS INVOLVING ANIMALS**

- 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. (CC 1985 §3-411; Ord. No. 887, 11-6-89)

**ARTICLE III. ANIMAL REGULATIONS****SECTION 205.180: DEFINITIONS**

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 harborer 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. (CC 1985 §3-101; Amended Ord. No. 887, 11-6-89; Ord. No. 1302 §1, 4-21-08; Ord. No. 1302 §1(B), 4-21-08)

**SECTION 205.190:****ENFORCEMENT RESPONSIBILITIES**

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. (CC 1985 §3-102; Amended Ord. No. 887, 11-6-89; Ord. No. 1302 §1(C), 4-21-08)

**SECTION 205.200:****REGISTRATION REQUIRED-EXCEPTION**

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. (CC 1985 §3-103; Amended Ord. No. 887, 11-6-89; Ord. No. 1302 §1(D), 4-21-08)

**SECTION 205.210:****ANNUAL LICENSE FEE**

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. (CC 1985 §3-104; Amended Ord. No. 887, 11-6-89; Ord. No. 1066, 9-20-99; Ord. No. 1149 §4, 8-19-02; Ord. No. 1302 §1(E), 4-21-08)

**SECTION 205.220:****OWNER RESPONSIBILITIES**

- 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. (CC 1985 §3-105; Amended Ord. No. 887, 11-6-89; Ord. No. 1067, 9-20-99; Ord. No. 1302 §1(F), 4-21-08)

**SECTION 205.230:**

**APPLICANT AGE REQUIREMENT**

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. (CC 1985 §3-106; Amended Ord. No. 887, 11-6-89)

**SECTION 205.240:**

**REGISTRATION AND LICENSING**

The owner or harborer 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 harborer 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 harborer. (CC 1985 §3-107; Amended Ord. No. 887, 11-6-89; Ord. No. 1302 §1(G), 4-21-08)

**SECTION 205.250:**

**REDEMPTION—WHEN**

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 harborer 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. (CC 1985 §3-108; Amended Ord. No. 887, 11-6-89; Ord. No. 1149 §5, 8-19-02; Ord. No. 1302 §1(H), 4-21-08)

**SECTION 205.260:****NOTIFICATION**

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 tatoo, City tag or traceable microchip. (CC 1985 §3-109; Amended Ord. No. 887, 11-6-89; Ord. No. 1302 §1(I), 4-21-08)

**SECTION 205.270:****TIME LIMIT FOR REDEMPTION**

- 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. (CC 1985 §3-110; Amended Ord. No. 887, 11-6-89; Ord. No. 1014, 9-16-96; Ord. No. 1302 §1(J), 4-21-08)

**SECTION 205.280:****RABIES INOCULATION**

The owner or harborer 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 harborer 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 harborer thereof shall be guilty of violation of this Chapter. (CC 1985 §3-111; Amended Ord. No. 887, 11-6-89; Ord. No. 1302 §1(K), 4-21-08)

**SECTION 205.290:****RUNNING AT LARGE**

No dog shall be allowed to run at large within the City as defined in Section 205.180. (CC 1985 §3-112; Amended Ord. No. 887, 11-6-89)

**SECTION 205.300:****ANIMAL DISTURBANCE—NUISANCE**

No owner or harborer of any animal shall allow any animal to become a nuisance animal as defined

in Section 205.180 of this Chapter. (CC 1985 3-113; Amended Ord. No. 887, 11-6-89; Ord. No. 1302 §1(L), 4-21-08)

**SECTION 205.310:****ANIMAL BITE PROCEDURE**

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. (CC 1985 §3-114; Amended Ord. No. 887, 11-6-89; Ord. No. 1171, 5-19-03; Ord. No. 1243 §4, 10-2-06; Ord. No. 1302 §1(M), 4-21-08)

**SECTION 205.320:****DESTRUCTIVE ANIMALS—NUISANCE**

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. (CC 1985 §3-115; Amended Ord. No. 887, 11-6-89; Ord. No. 1302 §1(N), 4-21-08)

**SECTION 205.330:****NUMBER LIMITATION**

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. (CC 1985 §3-116; Amended Ord. No. 887, 11-6-89)

**SECTION 205.340:****UNAUTHORIZED RELEASE OF IMPOUNDED****ANIMALS**

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). (CC 1985 §3-117; Amended Ord. No. 887, 11-6-89)

**SECTION 205.350:****INTERFERENCE WITH ANIMAL CONTROL  
OFFICER, HEALTH  
OFFICER OR LAW ENFORCEMENT OFFICER**

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). (CC 1985 §3-117A; Ord. No. 1302 §1(O), 4-21-08)

**ARTICLE IV. DANGEROUS, VICIOUS AND  
AGGRESSIVE ANIMALS****SECTION 205.360:****PROHIBITED-EXCEPTION**

- 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. (CC 1985 §3-301; Amended Ord. No. 887, 11-6-89; Ord. No. 1302 §1(Art. IV(B)), 4-21-08)

**SECTION 205.365:****DANGEROUS DOG-PROCEDURE FOR THE  
DETERMINATION OF A DANGEROUS DOG**

- 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 harborer 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 harborer of the dog.

D. After the hearing, the owner or harborer of the dog shall be notified in writing of the determination. If the owner or harborer of the dog contests the determination, he or she may appeal within ten (10) days to the District Court pursuant to law. (Ord. No. 1302 §2, 4-21-08)

**SECTION 205.370:****DETERMINATION OF COURT–CONSIDERATION**

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. (CC 1985 §3-302; Amended Ord. No. 887, 11-6-89; Ord. No. 1302 §1(Art. IV(C)), 4-21-08)

**SECTION 205.380:****DESTRUCTION OR CONFINEMENT**

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 harborer in a secure enclosure as set forth in Section 205.180.

B. In the event the court releases the animal to the owner or harborer and the owner or harborer 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 harborer shall not relieve such owner from responding to pay fees and fines which may result from a violation of this Article. (CC 1985 §3-303; Amended Ord. No. 887, 11-6-89; Ord. No. 1302 §1(Art. IV(D)), 4-21-08)

**SECTION 205.390:****DANGEROUS DOG–FAILURE TO  
CONFINE–DESTRUCTION AND DEFENSES**

A. It is unlawful for an owner or harborer 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 harborer 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 harborer 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 harborer 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 harborer 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. (Ord. No. 1302 §2, 4-21-08)

**SECTION 205.400:****SIGNS REQUIRED**

The owner or harborer 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. (Ord. No. 1302 §2, 4-21-08)

**SECTION 205.410:****REGISTRATION AND INSURANCE**

A. The owner or harborer 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 harborer 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 harborer 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 harborer or the location of the dangerous dog.

B. The owner or harborer 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 harborer 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. (Ord. No. 1302 §2, 4-21-08)

**SECTION 205.415:****VIOLATION OF REQUIREMENTS FOR  
DANGEROUS DOG**

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 harborer 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 harborer 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 harborer shall be responsible for all costs of impoundment and destruction of the animal along with any fines or fees assessed. (Ord. No. 1302 §2, 4-21-08)



**SECTION 205.420:**

**ANIMALS/REPTILES PROHIBITED DURING OLD**

**SETTER'S  
WEEKEND**

- 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 Setters.
- C. Any certified service animal is exempt.
- D. Violation of this Section is a Class C misdemeanor. (Ord. No. 1170, 5-19-03; Ord. No. 1302 §1(E), 4-21-08)



## **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**

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. (CC 1985 §10-101; Ord. No. 549, 8-1-77; Ord. No. 1243 §5, 10-2-06)

#### **SECTION 210.011:**

#### **ADOPTION OF PRELIMINARY AND PRINCIPLES OF CRIMINAL LIABILITY OF THE KANSAS CRIMINAL CODE AS APPLICABLE THERETO**

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. (CC 1985 §10-102; Ord. No. 549, 8-1-77; Ord. No. 1243 §5, 10-2-06)

#### **SECTION 210.012:**

#### **CHAPTER 22 K.S.A. APPLICABLE**

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. (Ord. No. 1243 §5, 10-2-06)

#### **SECTION 210.013:**

#### **CITIES**

#### **UNIFORM PUBLIC OFFENSE CODE FOR KANSAS**

A. There is hereby incorporated by reference the "Uniform Public Offense Code for Kansas Cities", 2012 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. 1402", with all Sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and 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 UPOC are omitted and/or amended as follows:

*Section 3.13.* Section 3.13 of the UPOC is no longer omitted and deleted.

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

*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.

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.

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

*Seizure of weapon.* The Chief of Police of the City or his/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. (Ord. No. 1242 §§1-3, 10-2-06; Ord. No. 1265 §§1-3, 8-20-07; Ord. No. 1312 §§1-3, 8-18-08; Ord. No. 1331 §§1-3, 8-17-09; Ord. No. 1350 §§1-3, 8-16-10; Ord. No. 1382 §§1-4, 9-7-11; Ord. No. 1402 §§1-4, 8-20-12)

## ARTICLE II. CRIMES AGAINST PERSONS

### SECTION 210.020:

### BATTERY AGAINST A SCHOOL EMPLOYEE

- 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). (Ord. No. 1133, 8-19-02; Ord. No. 1243 §5, 10-2-06)



**SECTION 210.021:****INTERFERENCE WITH AN EMERGENCY MEDICAL****SERVICES  
ATTENDANT**

- 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. (Ord. No. 1135, 8-19-02; Ord. No. 1243 §5, 10-2-06)

**SECTION 210.022:****PERMITTING DANGEROUS ANIMAL TO BE AT****LARGE**

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. (CC 1985 §10-305; Ord. No. 1243 §5, 10-2-06)

**SECTION 210.023:****INTERFERENCE WITH PARENTAL CUSTODY**

- 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 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. (CC 1985 §10-306; Ord. No. 549, 8-1-77; Ord. No. 1243 §5, 10-2-06)

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

**SECTION 210.024:****MISTREATMENT OF A DEPENDENT ADULT**

- 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. (Ord. No. 1131, 8-19-02; Ord. No. 1243 §5, 10-2-06; Ord. No. 1352 §§1-2, 8-16-10)

**SECTION 210.025:****RESERVED**

*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, 4-6-09.*

**RELATIONSHIPS AND CHILDREN****ARTICLE III. CRIMES AFFECTING FAMILY**

**SECTION 210.030:****LOITERING OF MINORS PROHIBITED**

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. (CC 1985 §10-504; Ord. No. 549, 8-1-77; Ord. No. 1243 §5, 10-2-06)

**SECTION 210.031:****RESPONSIBILITY OF PARENTS**

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. (CC 1985 §10-505; Ord. No. 549, 8-1-77; Ord. No. 1243 §5, 10-2-06)

## ARTICLE IV. CRIMES AGAINST PROPERTY

### SECTION 210.040: CRIMINAL DUMPING

- A. "*Criminal dumping*" is intentionally or recklessly depositing or dumping any household trash, appliance, brush or other refuse into, upon or about:
  - 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. (CC 1985 §10-611; Ord. No. 549, 8-1-77; Ord. No. 1243 §5, 10-2-06)

### SECTION 210.041: IMPAIRING A SECURITY INTEREST

- 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). (CC 1985 §10-618; Ord. No. 549, 8-1-77; Ord. No. 1243 §5, 10-2-06)

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



**SECTION 210.042:****INJURY TO PIPES, HYDRANTS, FOUNTAINS,  
UTILITY POLES,  
ELECTRIC LINES OR PUBLIC UTILITIES**

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. (CC 1985 §10-625; Ord. No. 612, 11-4-79; Ord. No. 1243 §5, 10-2-06)

**ARTICLE V. CRIMES AFFECTING  
GOVERNMENTAL FUNCTIONS****SECTION 210.050: INTIMIDATION OF A WITNESS OR VICTIM**

- A. Intimidation of a witness or victim is knowingly and maliciously preventing or dissuading or attempting to prevent or dissuade:
  - 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. (Ord. No. 1142, 8-19-02; Ord. No. 1243 §5, 10-2-06)

**SECTION 210.051:****AIDING A PERSON CONVICTED OF OR CHARGED  
WITH  
COMMITTING A MISDEMEANOR**

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. (CC 1985 §10-704; Ord. No. 549, 8-1-77; Ord. No. 1243 §5, 10-2-06)

**SECTION 210.052:****CRIMINAL DISCLOSURE OF A WARRANT**

- 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. (CC 1985 §10-713; Ord. No. 549, 8-1-77; Ord. No. 1243 §5, 10-2-06)

**ARTICLE VI. CRIMES AGAINST THE PUBLIC  
SAFETY—WEAPONS CONTROL****SECTION 210.060: BOTTLE ROCKETS—SALE OR USE  
PROHIBITED—EXCEPTIONS**

- 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. (Ord. No. 1243 §5, 10-2-06)



**ARTICLE VII. CRIMES AGAINST THE PUBLIC  
MORALS**

**SECTION 210.070: FALSE MEMBERSHIP CLAIM**

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. (CC 1985 §10-1103; Ord. No. 549, 8-1-77; Ord. No. 1243 §5, 10-2-06)

**ARTICLE VIII. CLASSIFICATION OF CRIMES  
AND PENALTIES**

**SECTION 210.080: CLASSIFICATION OF MISDEMEANORS AND  
TERMS OF  
CONFINEMENT**

For the purpose of sentencing, the Uniform Public Offense Code, as incorporated under Article I, Section 210.013, is applicable. (CC 1985 §10-1201; Ord. No. 549, 8-1-77; Ord. No. 1243 §5, 10-2-06)

**SECTION 210.081: FINES**

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. (CC 1985 §10-1202; Ord. No. 549, 8-1-77; Ord. No. 1243 §5, 10-2-06)

**ARTICLE IX. UNIFORM CONTROLLED  
SUBSTANCES**

**SECTION 210.090: MANUFACTURE, POSSESSION, DISPOSITION OR  
SALE OF  
DEPRESSANT, STIMULANT OR HALLUCINOGENIC DRUGS—  
PENALTIES**

A. Except as authorized by the Uniform Controlled Substances Act of the Statutes of the State of Kansas, it shall be unlawful for any person to manufacture, possess, have under his/her control, prescribe, administer, deliver, distribute, dispense or compound:

1. Any depressant designated in Subsection (e) of K.S.A. 65-4107, Subsection (b) of K.S.A. 65-4109 or Subsection (b) of K.S.A. 65-4111 and any amendments thereto;
2. Any stimulant designated in Subsection (e) of K.S.A. 65-4107 or Subsection (d) of K.S.A.

65-4109 and any amendments thereto;

3. Any hallucinogenic drug designated in Subsection (d) of K.S.A. 65-4105 and any amendments thereto.
- B. Any person who violates this Section shall be guilty of a Class A misdemeanor. (CC 1985 §10-1301; Ord. No. 549, 8-1-77; Ord. No. 708, 12-6-82; Ord. No. 1243 §5, 10-2-06)

**ARTICLE X. DRUGS—DRUG PARAPHERNALIA****SECTION 210.100:****DEFINITIONS**

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

**ADMINISTER:** The direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

1. A practitioner or pursuant to the lawful direction of a practitioner; or
2. The patient or research subject at the direction and in the presence of the practitioner.

**AGENT:** An authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

**BOARD:** The State Board of Pharmacy.

**BUREAU:** The Bureau of Narcotics and Dangerous Drugs, United States Department of Justice, or its successor agency.

**CONTROLLED SUBSTANCE:** Any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments to these sections.

**CONTROLLED SUBSTANCE ANALOG:**

1. A substance that is intended for human consumption and:
  - a. The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107 and amendments thereto;
  - b. Which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107 and amendments thereto; or
  - c. With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107 and amendments thereto.
2. *Controlled substance analog* does not include:
  - a. A controlled substance;



- b. A substance for which there is an approved new drug application; or
- c. A substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to the substance is permitted by the exemption.

*COUNTERFEIT SUBSTANCE:* A controlled substance which, or the container or labeling of which, without authorization bears the trademark, trade name or other identifying mark, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

*CULTIVATE:* The planting or promotion of growth of five or more plants which contain or can produce controlled substances.

*DELIVER OR DELIVERY:* The actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

*DISPENSE:* To deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling or compounding necessary to prepare the substance for that delivery or pursuant to the prescription of a midlevel practitioner.

*DISPENSER:* A practitioner or pharmacist who dispenses.

*DISTRIBUTE:* To deliver other than by administering or dispensing a controlled substance.

*DISTRIBUTOR:* A person who distributes.

*DRUG:* Means:

1. Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them;
2. Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals;
3. Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
4. Substances intended for use as a component of any article specified in clause (1), (2) or (3) of this subsection. It does not include devices or their components, parts or accessories.

*DRUG PARAPHERNALIA:* All equipment and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act. "Drug paraphernalia" shall include, but is not limited to:



1. Kits used or intended for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived.
2. Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.
3. Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance.
4. Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
5. Scales and balances used or intended for use in weighing or measuring controlled substances.
6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, which are used or intended for use in cutting controlled substances.
7. Separation gins and sifters used or intended for use in removing twigs and seeds from or otherwise cleaning or refining marijuana.
8. Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances.
9. Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled substances.
10. Containers and other objects used or intended for use in storing or concealing controlled substances.
11. Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body.
12. Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
  - a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
  - b. Water pipes;
  - c. Carburetion tubes and devices;
  - d. Smoking and carburetion masks;
  - e. Roach clips (objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand);
  - f. Miniature cocaine spoons and cocaine vials;



- g. Chamber pipes;
- h. Carburetor pipes;
- i. Electric pipes;
- j. Air-driven pipes;
- k. Chillums;
- l. Bongs; and
- m. Ice pipes or chillers.

In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

- 1. Statements by an owner or person in control of the object concerning its use.
- 2. Prior convictions, if any, of an owner or person in control of the object, under any State or Federal law relating to any controlled substance.
- 3. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substances Act.
- 4. The proximity of the object to controlled substances.
- 5. The existence of any residue of controlled substances on the object.
- 6. Direct or circumstantial evidence of the intent of an owner or person in control of the object to deliver it to a person the owner or person in control of the object knows or should reasonably know, intends to use the object to facilitate a violation of the Uniform Controlled Substances Act. The innocence of an owner or person in control of the object as to a direct violation of the Uniform Controlled Substances Act shall not prevent a finding that the object is intended for use as drug paraphernalia.
- 7. Oral or written instructions provided with the object concerning its use.
- 8. Descriptive materials accompanying the object which explain or depict its use.
- 9. National and local advertising concerning the object's use.
- 10. The manner in which the object is displayed for sale.
- 11. Whether the owner or person in control of the object is a legitimate supplier of similar or related items to the community, such as a distributor or dealer of tobacco products.
- 12. Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise.



13. The existence and scope of legitimate uses for the object in the community.
14. Expert testimony concerning the object's use.
15. Any evidence that alleged paraphernalia can or has been used to store a controlled substance or to introduce a controlled substance into the human body as opposed to any legitimate use for the alleged paraphernalia.

**IMMEDIATE PRECURSOR:** A substance which the board has found to be and by rule and regulation designates as being the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

**INTENDED FOR USE OR WITH INTENT TO DELIVER:** The intent of the person possessing, manufacturing, selling, offering to sell, dispensing, giving away or displaying drug paraphernalia or any simulated controlled substances, simulated drugs or restricted drug-related printed material.

**ISOMER:** All enantiomers and diastereomers.

**MANUFACTURE:** The production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly or by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual's own lawful use or the preparation, compounding, packaging or labeling of a controlled substance:

1. By a practitioner or the practitioner's agent pursuant to a lawful order of a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or
2. By a practitioner or by the practitioner's authorized agent under such practitioner's supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or medical care facility as an incident to dispensing of a controlled substance.

**MARIJUANA:** All parts of all varieties of the plant Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.

**MEDICAL CARE FACILITY:** Shall have the meaning ascribed to that term in K.S.A. 65-425 and amendments thereto.

**NARCOTIC DRUG:** Any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

1. Opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

2. Any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1) but not including the isoquinoline alkaloids of opium;
3. Opium poppy and poppy straw;
4. Coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

*OPiate:* Any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under K.S.A. 65-4102 and amendments thereto, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

*Opium Poppy:* The plant of the species *Papaver somniferum* l. except its seeds.

*Person:* Individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

*Pharmacist:* An individual currently licensed by the board to practice the profession of pharmacy in this state.

*Poppy Straw:* All parts, except the seeds, of the opium poppy, after mowing.

*Practitioner:* A person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee, or scientific investigator or other person authorized by law to use a controlled substance in teaching or chemical analysis or to conduct research with respect to a controlled substance.

*Production:* The manufacture, planting, cultivation, growing or harvesting of a controlled substance.

*Restricted Drug-Related Printed Material:* Any book, pamphlet, magazine, periodical or other printed matter of a type hereinafter described which, when judged by the standards set forth herein is detrimental to the health, safety, welfare or morals of a citizen because the book, pamphlet, periodical or printed material encourages or could reasonably have the effect of encouraging the commission of an act involving the use or possession of a controlled substance or drug when such use or possession so encouraged is in violation of the laws of this State. Restricted drug-related printed material shall include any book, magazine, pamphlet, periodical or other printed item, however produced, which is intended to disseminate information primarily for one or more of the following purposes:

1. To advocate or recommend the use or possession of a controlled substance or drug when such use or possession is in violation of the laws of this State;



2. To advertise, describe, explain, depict or display any method by which a controlled substance or drug may be obtained, produced, grown, manufactured, compounded, developed, prepared, cured, harvested or cultivated when the method so advertised, explained, depicted or displayed would lead, or could reasonably be expected to lead, to the use or possession of such controlled substance or drug in violation of the laws of this State.

***SIMULATED DRUGS AND SIMULATED CONTROLLED SUBSTANCES:*** Any products which identify themselves by using a common name or slang term associated with a controlled substance or drug or indicates by label or accompanying promotional material that the product simulates the effect of a controlled substance or drug.

***ULTIMATE USER:*** A person who lawfully possesses a controlled substance for such person's own use or for the use of a member of such person's household or for administering to an animal owned by such person or by a member of such person's household. (CC 1985 §10-1401; Ord. No. 700, 10-4-82; Ord. No. 1243 §5, 10-2-06)

**SECTION 210.101:****SIMULATED CONTROLLED SUBSTANCES AND  
DRUG  
PARAPHERNALIA—USE OR POSSESSION PROHIBITED**

A. No person shall use or possess with intent to use:

1. Any simulated controlled substance;
2. Any drug paraphernalia to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act; or
3. Any drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, sell or distribute a controlled substance in violation of the Uniform Controlled Substances Act.

B. Violation of Subsections (A)(1) or (2) is a Class A non-person misdemeanor.

C. Violation of Subsection (A)(3) which involves the possession of drug paraphernalia for the planting, propagation, growing or harvesting of less than five (5) marijuana plants is a Class A non-person misdemeanor. (CC 1985 §10-1402; Ord. No. 700, 10-4-82; Ord. No. 1243 §5, 10-2-06)

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

**SECTION 210.102:****SIMULATED CONTROLLED SUBSTANCES AND  
DRUG  
PARAPHERNALIA—PROHIBITED ACTS—PENALTIES**

A. No person shall deliver, possess with intent to deliver, manufacture with intent to deliver or cause to be delivered within this State:

1. Any simulated controlled substance;
2. Any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce

into the human body a controlled substance in violation of K.S.A. 1997 Supp. 65-4162, and amendments thereto;

3. Any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the uniform controlled substances act, except K.S.A. 1997 Supp. 65-4162, and amendments thereto; or
4. Any drug paraphernalia, knowing or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, sell or distribute a controlled substance in violation of the uniform controlled substances act.

B. Violation of Subsection (A)(2) is a Class A non-person misdemeanor. Any person who violates Subsection (A)(2) by delivering or causing to be delivered within this state drug paraphernalia to a person under eighteen (18) years of age is guilty of a non-drug severity level 9, non-person felony. (CC 1985 § 10-1403; Ord. No. 700, 10-4-82; Ord. No. 1243 §5, 10-2-06)

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

## **ARTICLE XI. MISCELLANEOUS OFFENSES**

### **SECTION 210.110:**

### **OBSTRUCTING SIDEWALKS**

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). (R.O. 1924 §201; CC 1985 §12-102; Ord. No. 1243 §5, 10-2-06)

### **SECTION 210.111:**

### **EARTH WASHING ON SIDEWALKS**

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. (R.O. 1924 §209; CC 1985 §12-104; Ord. No. 1243 §5, 10-2-06)

### **SECTION 210.112:**

### **REMOVING CURBING OR SIDEWALKS**

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. (R.O. 1924 §210; CC 1985 §12-105; Ord. No. 1243 §5, 10-2-06)

**SECTION 210.113:****SIDEWALK SIGNS**

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 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). (R.O. 1924 §211; CC 1985 §12-106; Ord. No. 1243 §5, 10-2-06)

**SECTION 210.114:****AWNINGS**

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. (R.O. 1924 §212; CC 1985 §12-107; Ord. No. 1243 §5, 10-2-06)

**SECTION 210.115:****HEDGE FENCES**

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. (R.O. 1924 §197; CC 1985 §12-109; Ord. No. 1243 §5, 10-2-06)

**SECTION 210.116:****DRIVING HORSES**

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. (R.O. 1924 §194; CC 1985 §12-112; Ord. No. 1243 §5, 10-2-06)

**SECTION 210.117:****HAULING LOOSE MATERIAL**

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. (R.O. 1924 §196; CC 1985 §12-113; Ord. No. 1243 §5, 10-2-06)

**SECTION 210.118:****GLASS OR NAILS IN STREET**

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. (R.O. 1924 §195; CC 1985 §12-114; Ord. No. 1243 §5, 10-2-06)

**SECTION 210.119:****RAILROADS BLOCKING CROSSINGS**

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. (CC 1985 §12-115; Ord. No. 658, 3-2-81; Ord. No. 1243 §5, 10-2-06)

**SECTION 210.120:****CONTRACTORS TO CLEAN STREETS AND SIDEWALKS**

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. (CC 1985 §12-116; Revised, 1961; Ord. No. 1243 §5, 10-2-06)

**SECTION 210.121:****SIGN POSTS PLACED UPON OR SET INTO THE PUBLIC WALKS**

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. (CC 1985 §12-117; Ord. No. 454, 2-19-74; Ord. No. 1243 §5, 10-2-06)

**SECTION 210.122:****UNLAWFUL TRASH BURNING**

- 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. (R.O. 1924 §81; CC 1985 §6-202; Ord. No. 1168 §2, 3-3-03; Ord. No. 1243 §5, 10-2-06)



## **CHAPTER 215: NUISANCES**

### **ARTICLE I. IN GENERAL**

#### **SECTION 215.010: HEALTH NUISANCE—DEFINED**

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 therefrom;
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. (CC 1985 §7-301; Amended Ord. No. 927, 8-19-91)

#### **SECTION 215.020: COMPLAINTS—INQUIRY AND INSPECTION**

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. (CC 1985 §7-302; Amended Ord. No. 927, 8-19-91)

#### **SECTION 215.030: RIGHT OF ENTRY**

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. (CC 1985 §7-303; Ord. No. 927, 8-19-91)



**SECTION 215.040: NOTICE**

- 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. (CC 1985 §7-304; Ord. No. 927, 8-19-91)

**SECTION 215.050: FAILURE TO COMPLY—PENALTY**

- 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. (CC 1985 §7-305; Ord. No. 927, 8-19-91)

**SECTION 215.060: ABATEMENT**

- 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. (CC 1985 §7-306; Ord. No. 927, 8-19-91)

**SECTION 215.070: HEARING**

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. (CC 1985 §7-307; Ord. No. 927, 8-19-91)

**SECTION 215.080: COSTS ASSESSED**

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. (CC 1985 §7-308; Ord. No. 927, 8-19-91)

**SECTION 215.090: SEVERABILITY**

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. (CC 1985 §7-309; Ord. No. 927, 8-19-91)

**DISMANTLED AND**

**ARTICLE II. WRECKED, JUNKED,  
ABANDONED MOTOR VEHICLES**

**SECTION 215.100:**

**UNLAWFUL ACTS**

- A. It shall be unlawful to, without prior authorization, 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 and/or upon any public way, including but not limited to streets, highways or alleys, or to park any vehicle upon any street, alley, highway or other public way for a period of time in excess of seventy-two (72) hours.
- B. Any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended, or parked in violation of City ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable:
  1. Absence of current registration upon the vehicle;
  2. Placement of the vehicle or parts thereof upon jacks, blocks or other supports for more than seventy-two (72) hours;
  3. Absence of one (1) or more parts of the vehicle necessary for the lawful operation of the vehicle upon a public way. The provisions of this Subsection shall not apply to:
    - a. Any motor vehicle which is enclosed in a garage or other building;
    - b. The parking or storage of a vehicle inoperable for a period of thirty (30) consecutive days or less;
    - c. 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. (CC 1985 §§7-301, 7-401; Amended Ord. No. 882, 10-2-89; Amended Ord. No. 927, 8-19-91)

**SECTION 215.110:**

**NUISANCES**

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. (CC 1985 §7-402; Amended Ord. No. 882, 10-2-89)

**SECTION 215.120: NOTIFICATION**

- 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. (CC 1985 §7-403; Amended Ord. No. 882, 10-2-89)

**SECTION 215.130: FAILURE TO COMPLY**

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. (CC 1985 §7-404; Amended Ord. No. 882, 10-2-89)

**SECTION 215.140: IMPOUNDMENT AND DISPOSITION**

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. (CC 1985 §7-405; Amended Ord. No. 882, 10-2-89)

**SECTION 215.150: RELEASE FROM IMPOUNDMENT**

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. (CC 1985 §7-407; Ord. No. 399, 4-20-70)

**SECTION 215.160: PENALTIES**

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.

(CC 1985 §7-408; Ord. No. 679, 11-2-81; Ord. No. 882, 10-2-89)

**SECTION 215.170:****REQUEST FOR VARIANCE**

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. (CC 1985 §7-409; Ord. No. 882, 10-2-89)

**SECTION 215.180:****DEFINITIONS**

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.

(CC 1985 §7-410; Ord. No. 882, 10-2-89)

**ARTICLE III. WEEDS****SECTION 215.190:****WEEDS TO BE REMOVED**

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. (CC 1985 §7-501; Ord. No. 888, 11-6-89)

**SECTION 215.200: DEFINITIONS**

*"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 (*euphorbia esula*), Burragweed (*franseria tomentosa* and *discolor*), Pignut (*hoffmannseggia densiflors*), Musk (nodding), Thistle (*carduus nutans L.*), and Johnson Grass (*sorghum 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.

(CC 1985 §7-501; Amended Ord. No. 888, 11-6-89)

**SECTION 215.210: COMPLIANCE OFFICER**

- 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.

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. (CC 1985 §7-502; Ord. No. 888, 11-6-89; Ord. No. 1313 §§1-2, 8-18-08)

**SECTION 215.220:****ABATEMENT—ASSESSMENT OF COSTS**

- 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. (CC 1985 §7-503; Ord. No. 888, 11-6-89; Ord. No. 1313 §1, 8-18-08)



**SECTION 215.230:**

**RIGHT OF ENTRY**

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. (CC 1985 §7-504; Ord. No. 888, 11-6-89)

**SECTION 215.240:**

**UNLAWFUL INTERFERENCE**

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. (CC 1985 §7-505; Ord. No. 888, 11-6-89)

**SECTION 215.250:**

**NOXIOUS WEEDS**

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. (CC 1985 §7-506; Ord. No. 888, 11-6-89)

**SECTION 215.260:**

**PENALTIES**

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. (CC 1985 §7-507; Ord. No. 888, 11-6-89)



## CHAPTER 220: HEALTH AND SANITATION

*Cross Reference—Health nuisances, see ch. 215.*

### ARTICLE I. PUBLIC HEALTH STANDARDS

#### SECTION 220.010: **DEFINITIONS**

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. (CC 1985 §7-201; Ord. No. 691, 5-3-82)

## **SECTION 220.020:**

## **RESPONSIBILITY OF HEALTH OFFICER**

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. (CC 1985 §7-202; Ord. No. 691, 5-3-82)

## **SECTION 220.030:**

## **RESPONSIBILITY OF MUNICIPAL PROSECUTOR**

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. (CC 1985 §7-203; Ord. No. 691, 5-3-82)

**SECTION 220.040:****NOTICES**

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. (CC 1985 §7-204; Ord. No. 691, 5-3-82)

**SECTION 220.050:****HEARINGS**

- 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. (CC 1985 §7-205; Ord. No. 691, 5-3-82)

**SECTION 220.060: ORDERS**

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. (CC 1985 §7-206; Ord. No. 691, 5-3-82)

**SECTION 220.070: SANITATION FOR REFUSE****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. (CC 1985 §7-207; Ord. No. 691, 5-3-82; Ord. No. 1148, 8-19-02)

**SECTION 220.080:****SANITATION STANDARDS FOR ANIMALS**

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.  
(CC 1985 §7-208; Ord. No. 691, 5-3-82)

**SECTION 220.090:****SEWAGE AND HUMAN EXCRETA**

- 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. (CC 1985 §7-209; Ord. No. 691, 5-3-82)

**SECTION 220.100:****SALVAGE MATERIALS**

- 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. (CC 1985 §7-210; Ord. No. 691, 5-3-82)

**SECTION 220.110:****RODENT CONTROL**

- 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 Stuff.* 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 Stuff.* 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. (CC 1985 §7-211; Ord. No. 691, 5-3-82)

**SECTION 220.120:****INSECT CONTROL**

- 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. (CC 1985 §7-212; Ord. No. 691, 5-3-82)

**SECTION 220.130:**

**PENALTY**

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. (CC 1985 §7-213; Ord. No. 691, 5-3-82)

## 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

- 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. (CC 1985 §5-601; Ord. No. 938, 1-20-92; Ord. No. 1048 §§1-3, 10-5-98; Ord. No. 1158 §§1-3, 10-21-02; Ord. No. 1256 §§1-3, 3-5-07)

**SECTION 225.020:****PENALTIES**

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. (CC 1985 §5-602; Ord. No. 714, 4-4-83)

**ARTICLE II. FIREWORKS**

*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, 5-15-89; ord. no. 1011, 8-19-96; ord. no. 1059 §§225.040(C), 225.085, 5-3-99; ord. no. 1076 §225.090, 12-20-99; ord. no. 1127, 8-5-02; ord. no. 1149 §6, 8-19-02; ord. no. 1221, 9-19-05.*

**SECTION 225.030:****DEFINITIONS**

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. (Ord. No. 1341 §1, 2-15-10)

**SECTION 225.040:****DESIGNATED AREAS FOR DISCHARGE OF FIREWORKS**

- 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.
- 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.  
(Ord. No. 1341 §1, 2-15-10)

**SECTION 225.050: PERMITS TO SELL PERMITTED FIREWORKS–LOCATION–FEES**

- 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. (Ord. No. 1341 §1, 2-15-10)

**SECTION 225.060:**

**TIMES FOR SALES**

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. (Ord. No. 1341 §1, 2-15-10)

**SECTION 225.070: LOCATION SAFETY–INSURANCE REQUIRED**

- 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. (Ord. No. 1341 §1, 2-15-10)

**SECTION 225.075: PERMITS FOR COMMERCIAL FIREWORKS DISPLAYS–FEES**

- 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. (Ord. No. 1406 §2, 12-17-12)

**SECTION 225.080:****FIREWORKS PERMIT REVOCATION**

- 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. (Ord. No. 1341 §1, 2-15-10; Ord. No. 1406 §1, 12-17-12)

**SECTION 225.090:****EXCEPTION TO ARTICLE**

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. (Ord. No. 1341 §1, 2-15-10)

**SECTION 225.100:****EMERGENCY CIRCUMSTANCES**

- 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. (Ord. No. 1341 §1, 2-15-10)

**SECTION 225.110:****VIOLATIONS**

- 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. (Ord. No. 1341 §1, 2-15-10)

**SECTION 225.115:****SEVERABILITY**

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. (Ord. No. 1341 §1, 2-15-10)

**ARTICLE III. RECOVERY OF EXPENSES—HAZARDOUS MATERIALS****SECTION 225.120:****DEFINITIONS**

- 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. (CC 1985 §6-701; Ord. No. 907, 12-3-90)

#### **SECTION 225.130:**

#### **STRICT LIABILITY**

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.

(CC 1985 §6-702; Ord. No. 907, 12-3-90)

#### **SECTION 225.140:**

#### **RECOVERY OF EXPENSES**

- 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. (CC 1985 §6-703; Ord. No. 907, 12-3-90)

## **AMBULANCE SERVICE**

## **CHAPTER 230: EMERGENCY MEDICAL AND**

### **MEDICAL SERVICE**

### **ARTICLE I. VOLUNTEER EMERGENCY**

#### **SECTION 230.010: CREATION**

There is hereby created the Mulvane Volunteer Emergency Medical Service. (CC 1985 §6-501; Ord. No. 511, 2-2-76)

#### **SECTION 230.020:**

#### **TRANSPORTATION RATES**

- 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. (CC 1985 §6-508; Ord. No. 955 §6-508, 3-1-93; Ord. No. 1005, 4-15-96; Ord. No. 1047, 7-6-98; Ord. No. 1119 §§1-6, 6-17-02; Ord. No. 1237, 9-18-06; Ord. No. 1354 §1, 8-16-10)

### **REGULATIONS**

### **ARTICLE II. AMBULANCE SERVICE**

#### **SECTION 230.030:**

#### **DEFINITIONS**

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. (CC 1985 §6-601; Ord. No. 935, 12-23-91)

**SECTION 230.040: AMBULANCE DRIVERS TO FILE REPORTS WITH POLICE**

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. (CC 1985 §6-629; Ord. No. 935, 12-23-91)

**SECTION 230.050:****AMBULANCE OPERATORS TO NOTIFY POLICE  
DEPARTMENT OF EMERGENCY CALLS**

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. (CC 1985 §6-630; Ord. No. 935, 12-23-91)

**SECTION 230.060:****AMBULANCE DRIVERS—DUTY AS TO DISCHARGE  
OF INJURED AND  
ILL PERSONS—SPEED LIMITS TO BE OBSERVED**

- 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. (CC 1985 §6-631; Ord. No. 935, 12-23-91)

**SECTION 230.070: ADDITIONAL DUTIES OF DIRECTOR OF  
EMERGENCY SERVICES**

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. (CC 1985 §6-615; Ord. No. 935, 12-23-91)

**SECTION 230.080: DUTIES OF MULVANE EMERGENCY SERVICES DEPARTMENT**

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. (CC 1985 §6-616; Ord. No. 935, 12-23-91)

**SECTION 230.090: RATES TO BE CHARGED PUBLIC-APPLICATION  
FOR INCREASE**

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. (CC 1985 §6-617; Ord. No. 935, 12-23-91)

**SECTION 230.100:****EXEMPTIONS**

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. (CC 1985 §6-618; Ord. No. 935, 12-23-91)

**ARTICLE III. AMBULANCE COMPANY  
OPERATION-LICENSING****SECTION 230.110: CONTENTS OF APPLICATION FOR LICENSE**

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. (CC 1985 §6-602; Ord. No. 935, 12-23-91)

**SECTION 230.120:****LICENSE FEE**

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. (CC 1985 §6-603; Ord. No. 935, 12-23-91)

**SECTION 230.130:****LICENSE FEE ROUTING**

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. (CC 1985 §6-604; Ord. No. 935, 12-23-91)

**SECTION 230.140:****LIABILITY INSURANCE**

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). (CC 1985 §6-605; Ord. No. 935, 12-23-91)

**SECTION 230.150:****HEARING ON APPROVAL OF APPLICATION**

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. (CC 1985 6-606; Ord. No. 935, 12-23-91)

**SECTION 230.160:****CERTIFICATES OF PUBLIC CONVENIENCE AND****NECESSITY  
REQUIRED**

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. (CC 1985 §6-607; Ord. No. 935, 12-23-91)

**SECTION 230.170:**

**LICENSE REQUIRED**

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. (CC 1985 §6-608; Ord. No. 935, 12-23-91)

**SECTION 230.180:**

**FEES**

- 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. (CC 1985 §6-609; Ord. No. 935, 12-23-91)

**SECTION 230.190:**

**LICENSE AND CERTIFICATE OF CONVENIENCE  
AND NECESSITY  
NON-TRANSFERABLE**

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. (CC 1985 §6-610; Ord. No. 935, 12-23-91)

**SECTION 230.200:**

**AMBULANCE FACILITY REQUIRED**

All licenses under this Chapter are required to maintain an adequate staffed ambulance facility within the City limits. (CC 1985 §6-611; Ord. No. 935, 12-23-91)

**SECTION 230.210:**

**CERTIFICATES OF PUBLIC CONVENIENCE AND  
NECESSITY—  
FACTORS TO BE DETERMINED**

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. (CC 1985 §6-612; Ord. No. 935, 12-23-91)

**SECTION 230.220:****REVOCATION OR SUSPENSION OF LICENSE OR  
CERTIFICATE FOR  
FAILURE TO COMPLY WITH CHAPTER**

- 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. (CC 1985 §6-613; Ord. No. 935, 12-23-91)

**SECTION 230.230:****LICENSEE'S OPERATIONAL RESPONSIBILITIES**

- 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.  
(CC 1985 §6-614; Ord. No. 935, 12-23-91)

**ARTICLE IV. AMBULANCE PERSONNEL  
LICENSES**

**SECTION 230.240: LICENSE REQUIRED OF AMBULANCE PERSONNEL**

- 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. (CC 1985 §6-619; Ord. No. 935, 12-23-91)

**SECTION 230.250: AMBULANCE DRIVER-EMT BASIC AND MICT  
LICENSE APPLICANT  
AND FEES**

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. (CC 1985 §6-620; Ord. No. 935, 12-23-91)

**SECTION 230.260:****QUALIFICATIONS**

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. (CC 1985 §6-621; Ord. No. 935, 12-23-91)

**SECTION 230.270:****EXAMINATION OF APPLICANT–ISSUANCE OF****LICENSE**

- 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. (CC 1985 §6-622; Ord. No. 935, 12-23-91)

**SECTION 230.280:****TRANSFERABILITY**

A license issued under the provisions of this Chapter shall not be transferable. (CC 1985 §6-623; Ord. No. 935, 12-23-91)

**SECTION 230.290:****CONVICTION OF CERTAIN CRIMES TO BAR ISSUANCE**

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. (CC 1985 §6-624; Ord. No. 935, 12-23-91)

**SECTION 230.300:****LICENSE RENEWAL AND IDENTIFICATION CARD FEES**

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. (CC 1985 §6-625; Ord. No. 935, 12-23-91)

**SECTION 230.310:****GROUND FOR SUSPENSION OR REVOCATION**

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. (CC 1985 §6-626; Ord. No. 935, 12-23-91)

**SECTION 230.320:****LICENSE TO BE SURRENDERED UPON  
SUSPENSION OR  
REVOCATION**

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. (CC 1985 §6-627; Ord. No. 935, 12-23-91)



**SECTION 230.330:**

**APPEAL FROM REVOCATION AND SUSPENSION**

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. (CC 1985 §6-628; Ord. No. 935, 12-23-91)

**SECTION 230.340:**

**SEVERABILITY**

The invalidity of any part or portion of this Chapter shall not affect the remainder hereof. (CC 1985 §6-632; Ord. No. 935, 12-23-91)



## 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

- 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.

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.

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. (CC 1985 §2-608)

#### POLICY AND BOARD

### ARTICLE II. MULVANE FAIR HOUSING ANTI-DISCRIMINATION AND EQUAL RIGHTS

#### SECTION 235.020:

#### DECLARATION OF POLICY

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. (CC 1985 §2-801; Ord. No. 650, 12-15-80)

**SECTION 235.030:****MULVANE FAIR HOUSING,  
ANTI-DISCRIMINATION AND EQUAL RIGHTS BOARD, CREATED,  
APPOINTED, TERMS, ETC.**

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. (CC 1985 §2-802; Ord. No. 650, 12-15-80)

**SECTION 235.040:****POWERS AND DUTIES OF THE MULVANE FAIR  
HOUSING,  
ANTI-DISCRIMINATION AND EQUAL RIGHTS BOARD**

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.

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. (CC 1985 §2-803; Ord. No. 650, 12-15-80)

**SECTION 235.050:****ADMINISTRATOR**

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. (CC 1985 §2-804; Ord. No. 650, 12-15-80)

**SECTION 235.060:****COMPLAINT PROCEDURE**

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. (CC 1985 §2-805; Ord. No. 650, 12-15-80)

**SECTION 235.070:****CONSTRUCTION**

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. (CC 1985 §2-806; Ord. No. 650, 12-15-80)

**SECTION 235.080:****DEFINITIONS**

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. (CC 1985 §2-807; Ord. No. 650, 12-15-80)



## **REGULATIONS**

# **CHAPTER 240: SOLID WASTE AND GARBAGE**

*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**

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. (CC 1985 §7-701; Ord. No. 521, 6-21-76)

### **SECTION 240.020: STORAGE**

- 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. (CC 1985 §7-702; Ord. No. 526, 7-6-76)

**SECTION 240.030: METHODS OF COLLECTION**

- 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. (CC 1985 §7-703; Ord. No. 521, 6-21-76)

**SECTION 240.040: COLLECTION**

- 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. (CC 1985 §7-704; Ord. No. 521, 6-21-76)



**SECTION 240.050:****ADDITIONAL PROHIBITED ACTS**

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. (CC 1985 §7-705; Ord. No. 521, 6-21-76)

**SECTION 240.060:****DISPOSAL**

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. (CC 1985 §7-706; Ord. No. 521, 6-21-76)

**SECTION 240.070:****COLLECTION BY CITY**

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. (CC 1985 §7-707; Ord. No. 521, 6-21-76)

**SECTION 240.080:****CURB****SOLID WASTE CONTAINERS-PLACEMENT AT**

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**

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. (CC 1985 §7-709; Ord. No. 526, 7-6-76)

**ARTICLE II. REMOVAL OF GARBAGE****SECTION 240.100:****CLEAN PREMISES**

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. (CC 1985 §7-801; Ord. No. 475, 11-18-74)

**SECTION 240.110:****GARBAGE ACCUMULATION AND DISPOSAL**

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. (CC 1985 §7-802; Ord. No. 475, 11-18-74)

**SECTION 240.120:****UNLAWFUL GARBAGE BURNING**

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. (CC 1985 §7-803; Ord. No. 475, 11-18-74)

**SECTION 240.130:****TRASH ACCUMULATION—UNLAWFUL ACTS**

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. (CC 1985 §7-804; Ord. No. 475, 11-18-74)

**SECTION 240.140:****HAULING OVER STREETS—UNLAWFUL ACTS**

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. (CC 1985 §7-805; Ord. No. 475, 11-18-74)



**SECTION 240.150:**

**CITY SYSTEM OF REFUSE COLLECTION**

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. (CC 1985 §7-806; Ord. No. 475, 11-18-74)



## **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**

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. (CC 1985 §12-110.3; Amended Ord. No. 899, 7-2-90)

#### **SECTION 245.020: OPERATION AND COMPENSATION**

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. (CC 1985 §12-110.4; Amended Ord. No. 899, 7-2-90)

#### **SECTION 245.030: DUTIES AND RESPONSIBILITIES**

- 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. (CC 1985 §12-110.5; Amended Ord. No. 899, 7-2-90)

**ARTICLE II. REGULATIONS****SECTION 245.040: DEFINITIONS**

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. (CC 1985 §12-110.1; Amended Ord. No. 899, 7-2-90)

**SECTION 245.050: TREE SPACING**

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. (CC 1985 §12-110.6; Amended Ord. No. 899, 7-2-90)

**SECTION 245.060: DISTANCE FROM CURBS AND SIDEWALKS**

- 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. (CC 1985 §12-110.7; Amended Ord. No. 899, 7-2-90)

**SECTION 245.070:**

**PLANTING NEAR UTILITY LINES**

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. (CC 1985 §12-110.8; Amended Ord. No. 899, 7-2-90)

**SECTION 245.080:**

**DISTANCE FROM STREET CORNERS AND FIRE**

**HYDRANTS**

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. (CC 1985 §12-110.9; Amended Ord. No. 899, 7-2-90)

**SECTION 245.090:**

**PUBLIC TREE CARE**

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. (CC 1985 §12-110.10; Amended Ord. No. 899, 7-2-90)

**SECTION 245.100:****REMOVAL OF DEAD OR DISEASED TREES FROM****PRIVATE  
PROPERTY**

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. (CC 1985 §12-110.11; Amended Ord. No. 899, 7-2-90)

**SECTION 245.110:****PRUNING AND CORNER CLEARANCE**

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. (CC 1985 §12-110.12; Amended Ord. No. 899, 7-2-90)

**SECTION 245.120:****DAMAGING TREES WHILE MOVING BUILDINGS**

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.

(CC 1985 §12-110.13; Amended Ord. No. 899, 7-2-90)

**SECTION 245.130:****CUTTING, TRIMMING, PERSONS MAINTAINING  
POLES, WIRES**

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. (CC 1985 §12-110.14; Amended Ord. No. 899, 7-2-90)

**SECTION 245.140:**

**TREE TOPPING**

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. (CC 1985 §12-110.15; Amended Ord. No. 899, 7-2-90)

**SECTION 245.150:**

**INTERFERENCE WITH CITY TREE BOARD**

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.

(CC 1985 §12-110.16; Amended Ord. No. 899, 7-2-90)

**ARTICLE III. ADMINISTRATION**

**SECTION 245.160:**

**REVIEW BY CITY COUNCIL**

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. (CC 1985 §12-110.17; Amended Ord. No. 899, 7-2-90)

**SECTION 245.170:**

**ADMINISTRATION OF ORDINANCE, RULES AND**

**REGULATIONS,  
FUND CREATED**

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.

(CC 1985 §12-110.19; Ord. No. 906, 12-3-90)

**SECTION 245.180:**

**PENALTY FOR VIOLATION**

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. (CC 1985 §12-110.18; Amended Ord. No. 899, 7-2-90)



## **FACILITIES**

## **CHAPTER 250: PARKS AND RECREATION**

### **SECTION 250.010:**

### **CITY PARKS—HOURS OF OPERATION**

- 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.  
(CC 1985 §10-506; Ord. No. 917, 5-20-91)

### **SECTION 250.020:**

### **VEHICLE REGULATIONS**

- A. Motor vehicles, including any vehicle licensed to operate on public streets, roads and highways and motorbikes, go-carts, snowmobiles and other motorized off-the-road vehicles shall be operated in a safe and prudent manner at all times in park areas.
- B. Except as provided in Subsection (D), it shall be unlawful for any person to park any motor vehicle in any area not designated for such purpose.
- C. Except as provided in Subsection (D), it shall be unlawful for any person to operate any motor vehicle within any City park except upon roads, drives and parking areas established by the City.
- D. Subsections (B) and (C) 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. (CC 1985 §13-105)

### **SECTION 250.030:**

### **HUNTING**

It shall be unlawful for any person to pursue, catch, trap, maim, kill, shoot or take any wildlife, either bird or animal, in any manner at any time while in any City park. (CC 1985 §13-106)

### **SECTION 250.040:**

### **CAMPING PROHIBITED**

Overnight camping is hereby prohibited in City parks except where posted. (Code 1985 §13-108)

### **SECTION 250.050:**

### **PROHIBITION AGAINST ALCOHOLIC BEVERAGES AND CEREAL MALT BEVERAGES**

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. (CC 1985 §13-110)

**SECTION 250.060: BANDSHELL/SHELTER HOUSE/PARK SHELTER FEES AND DEPOSITS**

The fees shall be paid for use of the bandshell, shelter house or park shelter as set forth in Section 100.240. (Ord. No. 1149 §7, 8-19-02)

**SECTION 250.070: USAGE OF THE MULVANE SPORTS COMPLEX—USER FEES**

- 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. (Res. No. 99-7, 8-16-99; Ord. No. 1149 §8, 8-19-02)

## **CHAPTER 255: PARK IMPACT FEE**

### **SECTION 255.010:**

### **LEGISLATIVE FINDINGS**

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. (Ord. No. 1193 §1, 2-2-04)

### **SECTION 255.020:**

### **SHORT TITLE, AUTHORITY AND APPLICATION**

- 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. (Ord. No. 1193 §2, 2-2-04)

### **SECTION 255.030:**

### **INTENTS AND PURPOSES**

- 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. (Ord. No. 1193 §3, 2-2-04)

**SECTION 255.040: DEFINITIONS**

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. (Ord. No. 1193 §4, 2-2-04)

**SECTION 255.050: IMPOSITION OF PARK IMPACT FEE**

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. (Ord. No. 1193 §5, 2-2-04)

**SECTION 255.060: COMPUTATION OF THE AMOUNT OF PARK IMPACT FEE**

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. (Ord. No. 1193 §6, 2-2-04)

**SECTION 255.070: PAYMENT OF FEE**

- 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. (Ord. No. 1193 §7, 2-2-04)

**SECTION 255.080:**

**PARK IMPACT FEE FUND ESTABLISHED**

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. (Ord. No. 1193 §8, 2-2-04)

**SECTION 255.090: USE OF FUNDS**

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. (Ord. No. 1193 §9, 2-2-04)

**SECTION 255.100: EXEMPTIONS**

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 proved 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. (Ord. No. 1193 §10, 2-2-04)

**SECTION 255.110:****VARIANCES, EXCEPTIONS, APPEALS**

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

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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. (Ord. No. 1193 §11, 2-2-04)



outline is defined and used in this document

## **TITLE III. TRAFFIC CODE**

*Editor's Note—Ord. no. 1103 §4, adopted August 6, 2001, repealed sections 300.020–300.050, 305.010–305.120, 310.010–310.090, 315.010–315.050, 320.010–320.120, 325.010, 325.040–325.070, 330.010–330.130, 335.010–335.110, 335.140–335.310, 335.340, 335.360–335.600, 335.620, 340.010–340.040, 345.010–345.030, 345.050–345.180, 350.010–350.070, 355.010–355.150, 360.010–360.350]. These sections derived from CC 1985 §13-201–13-203, §13-2112, §13-401–13-402, §13-404–13-406, §13-410, §13-1801–13-1803, §13-1805, §13-1808–13-1809, §13-502–13-506, §13-601–13-603, §13-605, §13-607–13-611, §13-1201, §13-1204–13-1207, §13-901–13-903, §13-905–13-910, §13-701–13-710, §13-801–13-802, §13-804–13-805, §13-1001–13-1006, §13-1101–13-1105, §13-1504, §13-1507–13-1514, §13-1516–13-1526, §13-1528–13-1530, §13-1532–13-1535, §13-1301, §13-1302A, §13-1401–13-1403, §13-1404, §13-1406–13-1417, §13-1601–13-1604, §13-1606, §13-1701–13-1705, §13-2001–13-2009, §13-1901, §13-1904–13-1908, §13-1911–13-1919, §13-1921–13-1931, §13-1934, §13-1936–13-1938; ord. no. 873, 7-17-89; ord. no. 801, 10-2-86; ord. no. 871, 7-5-89; ord. no. 792, 7-7-86; ord. no. 876, 8-7-89; ord. no. 883, 10-2-89.*

*Subsequently, ord. no. 1241 §§1–5, adopted October 2, 2006, repealed, renumbered and reorganized the entirety of Title III, Traffic Code, chapters 300 through 370, now set out as chapters 300 to 335.*

## **CHAPTER 300: GENERAL PROVISIONS**

### **ARTICLE I. GENERAL PROVISIONS**

#### **SECTION 300.010: INCORPORATING STANDARD TRAFFIC ORDINANCE**

There is hereby incorporated by reference the "Standard Traffic Ordinance for Kansas Cities", 2012 Edition, revised, prepared and published by the League of Kansas Municipalities. No fewer than three (3) copies of said Standard Traffic Ordinance shall be marked or stamped "Official Copy as adopted by the Code of the City of Mulvane, Ordinance No. 1403" shall be filed in the City Clerk's office and open for public inspection at all reasonable office hours. The Police Department, Municipal Judge and all administrative departments of the City charged with enforcement of the Standard Traffic Ordinance shall be supplied, at the cost of the City, such number of official copies of such Standard Traffic Ordinance, similarly marked, as may be deemed expedient. (Ord. No. 1103 §1, 8-6-01; Ord. No. 1128 §1, 8-19-02; Ord. No. 1178 §1, 8-4-03; Ord. No. 1202 §1, 8-16-04; Ord. No. 1219 §1, 7-18-05; Ord. No. 1240 §§1–2, 10-2-06; Ord. No. 1241 §3, 10-2-06; Ord. No. 1264 §§1–2, 8-20-07; Ord. No. 1311 §§1–2, 8-18-08; Ord. No. 1330 §§1–2, 8-17-09; Ord. No. 1351 §§1–2, 8-16-10; Ord. No. 1381 §§1–3, 9-7-11; Ord. No. 1403 §§1–3, 8-20-12)

**SECTION 300.011:****TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES**

- A. An ordinance traffic infraction is a violation of any Section of this ordinance (Ord. No. 1202) that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118.
- B. All traffic violations which are included within this ordinance (Ord. No. 1202) and which are not ordinance traffic infractions, as defined in Subsection (A) of this Section, shall be considered traffic offenses. (Ord. No. 1103 §2, 8-6-01; Ord. No. 1128 §2, 8-19-02; Ord. No. 1178 §2, 8-4-03; Ord. No. 1202 §2, 8-16-04; Ord. No. 1219 §2, 7-18-05; Ord. No. 1241 §3, 10-2-06)

**SECTION 300.012:****PENALTY FOR SCHEDULED FINES**

The fine for violation of an ordinance traffic infraction or any other traffic offense for which the Municipal Judge establishes a fine in a fine schedule shall not be more than five hundred dollars (\$500.00). A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed five hundred dollars (\$500.00). (Ord. No. 1103 §3, 8-6-01; Ord. No. 1128 §3, 8-19-02; Ord. No. 1178 §3, 8-4-03; Ord. No. 1202 §3, 8-16-04; Ord. No. 1219 §3, 7-18-05; Ord. No. 1241 §3, 10-2-06)

**ARTICLE II. DEFINITIONS****SECTION 300.020:****DEFINITIONS**

The following words and phrases, when used in this Title, shall, for the purpose of this Title and other traffic ordinances, have the meanings respectively ascribed to them in this Section except when the context otherwise requires:

**ALL-TERRAIN VEHICLE:** Any motorized non-highway vehicle forty-five (45) inches or less in width, having a dry weight of six hundred fifty (650) pounds or less, traveling on three (3) or more low-pressure tires, having a seat designed to be straddled by the operator. As used in this Section, "*low-pressure tire*" means any pneumatic tire six (6) inches or more in width, designed for use on wheels with rim diameter of twelve (12) inches or less and utilizing an operating pressure of ten (10) pounds per square inch or less as recommended by the vehicle manufacturer.

**ALLEY OR ALLEYWAY:** A street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

**ARTERIAL STREET:** Any U.S. or State-numbered route, controlled access highway or other major radial circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways.

**AUTHORIZED EMERGENCY VEHICLE:** Such Fire Department vehicles or police bicycles or police vehicles which are publicly owned; motor vehicles operated by ambulance services permitted by the Emergency Medical Services Board under the provisions of K.S.A. 65-6101 et seq., and amendments thereto; and such other publicly or privately owned vehicles which are designated as emergency vehicles pursuant to K.S.A. 8-2010, and amendments thereto.

**BICYCLE:** Every device propelled by human power upon which any person may ride, having two (2) tandem wheels either of which is more than fourteen (14) inches in diameter.

**BUS:** Every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

**BUSINESS DISTRICT:** The territory contiguous to and including a highway when within any six hundred (600) feet along such highway, there are buildings in use for business or industrial purposes including, but not limited to hotels, banks or office buildings, railroad stations and public buildings

which occupy at least three hundred (300) feet of frontage on one (1) side or three hundred (300) feet collectively on both sides of the highway.

*CHIEF OF POLICE:* The Chief of Police of the City of Mulvane or any member of the Police Department of the City designated by the Chief of Police to act in his/her place.

*CITY OR THIS CITY:* The City of Mulvane, Kansas.

*COMMISSION:* The Secretary of Transportation.

*CONTROLLED ACCESS HIGHWAY:* Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

*CROSSWALK:*

1. Part of a roadway at an intersection included within the connections of the lateral lines of sidewalks on opposite sides of the highway, measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or
2. Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

*DEPARTMENT:* Department of Transportation.

*DIRECTOR:* The Director of Vehicles.

*DIVIDED HIGHWAY:* A highway divided into two (2) or more roadways by leaving an intervening space or by a physical barrier or by a clearly indicated dividing section so constructed as to impede vehicular traffic.

*DIVISION:* The Division of Vehicles of the Department of Revenue.

*DOUBLE PARKING:* The standing or stopping of a vehicle in the line of traffic; and

1. To the rear of a vehicle angle parked or to the rear of a space where a vehicle may be parked at any angle to the curb or edge of the roadway, or
2. To the roadside of a vehicle parked parallel with the curb or edge of the roadway or the roadway side of the space in which a vehicle may be parked parallel to the curb or edge of the roadway.

*DRAWBAR:* A bar across the rear of a motor vehicle or a device securely attached to the motor vehicle which maintains a fixed position and to which a towbar may be coupled.

*DRIVEWAY-TOWAWAY OPERATIONS:* Any operation in which any motor vehicle, trailer or semi-trailer, singly or in combination, new or used, constitutes the commodity being transported and when one (1) set or more of wheels of any such vehicle are on the roadway during the course of transportation whether or not any such vehicle furnishes the motive power.

*DRIVER:* Every person who drives or is in actual physical control of a vehicle.

*DRIVER'S LICENSE:* Any license issued under the laws of this State to operate a motor vehicle.

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**ESSENTIAL PARTS:** All integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation.

**EXPLOSIVES:** Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

**FARM TRACTOR:** Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry, and such term shall include every self-propelled implement of husbandry.

**FLAMMABLE LIQUID:** Any liquid which has a flash point of seventy degrees Fahrenheit (70°F) or less as determined by a tagliabue or equivalent closed cup test device.

**GOVERNING BODY:** The Mayor and City Council of the City of Mulvane, Kansas.

**GROSS WEIGHT:** The weight of a vehicle without load plus the weight of any load thereon.

**HIGHWAY:** See "*Street or Highway*".

**HOUSE TRAILER:**

1. A trailer or semi-trailer which is designed, constructed and equipped as a dwelling place, living abode or sleeping place, either permanently or temporarily, and is equipped for use as a conveyance on streets and highways; or
2. A trailer or a semi-trailer whose chassis and exterior shell is designed and constructed for use as a house trailer, as defined in paragraph (1) but which is used instead, permanently or temporarily, for the advertising, sales, display or promotion of merchandise or services or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.
3. House trailer does not include a manufactured home or a mobile home, as such terms are defined in K.S.A. 1991 Supp. 58-4202.

**IDENTIFYING NUMBERS:** The numbers and letters, if any, on a vehicle designated by the Division for the purpose of identifying the vehicle.

**IMPLEMENT OF HUSBANDRY:** Every vehicle designed or adapted and used exclusively for agricultural operations and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to, a fertilizer spreader or nurse tank used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership. For the purpose of this Section or for the purpose of the act of which this Section is a part, "*implement of husbandry*" shall not include:

1. A truck mounted with a fertilizer spreader used or manufactured principally to spread animal  
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dung;

2. A mixer-feed truck owned and used by a feedlot, as defined by K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing feed to livestock in such feedlot; or
3. A truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership.

*INTERSECTION:*

1. The area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict; or
2. Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection. The junction of an alley with a street or highway shall not constitute an intersection.

*LANED ROADWAY:* A roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

*LICENSE OR LICENSE TO OPERATE A MOTOR VEHICLE:* Any driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this State including:

1. Any temporary license or instruction permit;
2. The privilege of any person to drive a motor vehicle whether or not such person holds a valid license; and
3. Any non-resident's operating privilege.

*LOW POWER CYCLE:* Every vehicle and every bicycle and tricycle which does not exceed one (1) brake horsepower provided by battery in addition to human power.

*MAIL:* To deposit in the United States mail, properly addressed and with postage prepaid.

*METAL TIRE:* Every tire the surface of which, in contact with the highway, is wholly or partly of metal or other hard non-resilient material.

*MOTOR-DRIVEN CYCLE:* Every motorcycle, including every motorscooter, with a motor which produces not to exceed five (5) brake horsepower and every bicycle with a motor attached except a motorized bicycle or a low power cycle.

*MOTOR VEHICLE:* Every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled and every vehicle which is propelled by electric power obtained from

overhead trolley wires, but not operated upon rails.

*MOTORCYCLE:* Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground but excluding a tractor.

*MOTORIZED SKATEBOARDS:* Every motorized skateboard that is a two- or four-wheeled device that has handlebars, is designed to be stood or sat upon by the operator, and is powered by an engine or electric motor that is capable of propelling the device with or without human propulsion. A motorized skateboard can also be referred to as a "go-ped".

*MOTORIZED WHEELCHAIR:* Any self-propelled vehicle designed specifically for use by a physically disabled person that is incapable of a speed in excess of fifteen (15) miles per hour.

*NON-RESIDENT:* Every person who is not a resident of this State.

*NON-RESIDENT'S OPERATING PRIVILEGE:* The privilege conferred upon a non-resident by the laws of this State pertaining to the operation by such person of a motor vehicle or the use of a vehicle owned by such person in this State.

*OFFICIAL TIME STANDARD:* Whenever certain hours are specified, they shall mean standard time or daylight-saving time as may be in current use in this City.

*OFFICIAL TRAFFIC CONTROL DEVICES:* All signs, signals, markings and devices not inconsistent with this Title placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic.

*OFFICIAL TRAFFIC CONTROL SIGNAL:* Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

*OWNER:* A person, other than a lienholder, having the property in or title to a vehicle. Such term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.

*PARK OR PARKING:* The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

*PASSENGER CAR:* A motor vehicle with motive power designed for carrying ten (10) passengers or fewer, including vans, but does not include a motorcycle, a trailer or a vehicle constructed either on a truck chassis registered for a gross weight of more than twelve thousand (12,000) pounds or a farm truck registered for a gross weight of more than sixteen thousand (16,000) pounds.

*PEDESTRIAN:* Any person afoot or any person in a wheelchair, either manually or mechanically propelled, or other low powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.

*PERSON:* Every natural person, firm, association, partnership or corporation.

*PNEUMATIC TIRE:* Every tire in which compressed air is designed to support the load.

*POLE TRAILER:* Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured

to the towing vehicle and ordinarily used for transporting long or irregular shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

*POLICE OFFICER:* Every Law Enforcement Officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

**PRIVATE ROAD OR DRIVEWAY:** Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons.

**RAILROAD:** A carrier of persons or property upon cars other than streetcars operated upon stationary rails.

**RAILROAD SIGN OR SIGNAL:** Any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

**RAILROAD TRAIN:** A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

**RECREATIONAL VEHICLE:** A vehicle or a unit that may be independently motorized or may be mounted on or drawn by another vehicle which is primarily designed for temporary living or occasional use. Recreational vehicles include travel trailers, camping trailers, truck campers, converted buses, motor homes, fifth-wheelers, boats, boat trailers and unattached utility trailers.

**REGISTRATION:** The registration certificate or certificates and registration plates issued under the laws of this State pertaining to the registration of vehicles.

**RESIDENCE DISTRICT:** The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred (300) feet or more is in the main improved with residences or residences and buildings in use for business.

**REVOCATION OF DRIVER'S LICENSE:** The termination by formal action of the Division of a person's license or privilege to operate a motor vehicle on the highways, which termination shall not be subject to renewal or restoration except that an application for a new license may be presented and acted upon by the Division after the expiration of the applicable period of time prescribed in K.S.A. 8-256, and any amendments thereto.

**RIGHT-OF-WAY:** The right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

**ROAD CONSTRUCTION ZONE:** The portions of a highway which are identified by posted or moving signs as being a construction or maintenance work area. The zone starts at the first sign identifying the zone and continues until a posted or moving sign indicates that the road construction zone has ended.

**ROADWAY:** Portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

**SAFETY HITCH:** A chain, cable or other material of sufficient weight which will prevent the towed vehicle from breaking loose in the event the towbar or drawbar fails or becomes disconnected.

**SAFETY ZONE:** The area or space officially set apart within a roadway for the exclusive use of  
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pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

**SCHOOL BUS:** Every motor vehicle defined and designated as a school bus in Subsection (g) (1) of K.S.A. Supp. 72-8301 as amended.

**SECRETARY:** The Secretary of Transportation.

**SEMI-TRAILER:** Every vehicle, with or without motor power other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

**SIDEWALK:** Portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

**SOLID RUBBER TIRE:** Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

**SPECIALLY CONSTRUCTED VEHICLE:** Every vehicle of a type required to be registered in this State not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

**SPECIAL MOBILE EQUIPMENT:** Every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to ditch digging apparatus, well boring apparatus and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carry-alls and scrapers, power shovels and drag lines and self-propelled cranes and earth moving equipment. The term does not include house trailers, dump trucks, truck mounted transit mixers, cranes or shovels or other vehicles designed for the transportation of persons or property to which machinery has been attached.

**STAND OR STANDING:** The halting of a vehicle, otherwise than temporarily, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

**STATE:** The State of Kansas.

**STOP:** When required, means complete cessation from movement.

**STOP OR STOPPING:** When prohibited, means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a Police Officer or traffic control sign or signal.

**STREET OR HIGHWAY:** The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. Where the word "highway" or the word "street" is used in this Title, it shall mean street, avenue, boulevard, thoroughfare, trafficway, alley and other public way for vehicular travel by whatever name unless the context clearly indicates otherwise.

**SUSPENSION OF A DRIVER'S LICENSE:** The temporary withdrawal by formal action of the Division of a person's license or privilege to operate a motor vehicle on the highways, which temporary withdrawal shall be for a period specifically designated by the Division.

*THROUGH HIGHWAY:* Every highway or portion thereof, on which vehicular traffic is given preferential right-of-way and at the entrances to which vehicular traffic from intersecting highways is required, by law, to yield the right-of-way to vehicles on such highway in obedience to either a

stop sign, yield sign or other traffic control device when such signs or devices are erected as provided in this Title.

*TOW BAR:* A rigid piece of material which is structurally adequate to hold any weight vehicle towed and which is properly and securely mounted to the towed vehicle without excessive slack but with sufficient play to allow for universal action of the connection and which is equipped with a suitable locking device to prevent accidental separation of the towing vehicle and the towed vehicle.

*TRAFFIC:* Pedestrians, ridden or herded animals, vehicles and other conveyances, either singly or together, while using any highway for purposes of travel.

*TRAFFIC CONTROL SIGNAL:* Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

*TRAILER:* Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

*TRUCK:* Every motor vehicle designed, used or maintained primarily for the transportation of property.

*TRUCK CAMPER:* Any structure designed, used or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office or commercial space.

*TRUCK TRACTOR:* Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

*URBAN DISTRICT:* The territory contiguous to and including any street which is built up with structures devoted to business, industry or dwelling house, situated at intervals of less than one hundred (100) feet for a distance of a quarter of a mile or more.

*VEHICLE:* Every device in, upon or by which any person or property is or may be transported or drawn upon a highway except devices moved by human power or used exclusively upon stationary rails or tracks. (Ref.: K.S.A. 8-1402 to 8-1485 as amended.) (CC 1985 §13-101; Ord. No. 992, 8-21-95; Ord. No. 1161, 11-18-02; Ord. No. 1241 §3, 10-2-06)

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## **CHAPTER 305: LICENSE REGULATIONS**

### **ARTICLE I. VEHICLE LICENSE AND TAG**

#### **SECTION 305.010:**

#### **DISPLAY OF LICENSE PLATES**

The license plate assigned to the vehicle shall be attached to the rear thereof and shall be so displayed during the current year registration year or years, except that the license plate issued for a truck tractor shall be attached to the front of the tractor trailer and a model year license plate may be attached to the front of an antique vehicle, in accordance with K.S.A. 8-172, and amendments thereto. Beginning in 1985 and thereafter two (2) personalized license plates may be issued for passenger vehicles and trucks licensed for a gross weight of not more than twenty thousand (20,000) pounds. One (1) such personalized license plate shall be displayed on the front of the vehicle, but no registration decal shall be issued for any plate affixed to the front of a vehicle pursuant to K.S.A. 8-134, and amendments thereto. Every license plate shall at all times be securely fastened to the vehicle to which it is assigned so as to prevent the plate from swinging, in a place and position to be clearly visible and shall be maintained free from foreign materials and in a condition as to be clearly legible. During any period in which the construction of license plates has been suspended pursuant to the provisions of K.S.A. 8-132, and amendments thereto, the plate, tag, token, marker or sign assigned to such vehicle shall be attached to and displayed on such vehicle in such place, position, manner and condition as shall be prescribed by the Director of Vehicles. (Ord. No. 1107, 8-20-01)

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## **CHAPTER 310: SPEED REGULATIONS**

### **SECTION 310.010:**

### **SPEED LAW VIOLATIONS**

- A. The speed of any vehicle upon a highway not in excess of the limits specified in Section 310.011 or established as authorized in this Code is lawful unless clearly proved to be in violation of the basic speed law.
- B. The speed of any vehicle upon a highway in excess of the maximum speed limits in Section 310.011 or posted speed limit established as authorized in this Code is *prima facie* unlawful unless the defendant establishes by competent evidence that the speed in excess of said limits on posting did not constitute a violation of the basic speed law at the time, place and under the conditions then existing. (CC 1985 §13-1202; Ord. No. 1241 §3, 10-2-06)

### **SECTION 310.011:**

### **MAXIMUM SPEED LIMITS**

Except when otherwise posted, the limits specified in this Section or established as hereinafter authorized shall be maximum lawful speeds and no person shall drive a vehicle at a speed in excess of such maximum limits:

- 1. Twenty (20) miles per hour in any business district;
- 2. Thirty (30) miles per hour in any residence district;
- 3. Twenty (20) miles per hour in any park;
- 4. Forty-five (45) miles per hour on Highway K-15; and
- 5. The maximum speed limit established by or pursuant to this Subsection shall be of force and effect regardless of whether signs are posted giving notice thereof and notwithstanding any signs giving notice of maximum speed limits in excess thereof, and any sign giving notice of a maximum speed limit in excess of the limits established by or pursuant to this Subsection shall not be of any force or effect. (CC 1985 §13-1203; Ord. No. 1241 §3, 10-2-06)

### **SECTION 310.012:**

### **SCHOOL ZONES**

- A. No driver, when passing through any school crossing provided for in this Chapter between the hours of 7:15 A.M. to 8:30 A.M. Monday, Tuesday, Thursday and Friday on any day school is in session, shall operate any vehicle at more than twenty (20) miles per hour unless otherwise posted.
- B. No driver, when passing through any school crossing provided for in this Chapter between the hours of 8:15 A.M. to 9:30 A.M. Wednesday on any day school is in session, shall operate any vehicle at more than twenty (20) miles per hour unless otherwise posted.
- C. No driver, when passing through any school crossing provided for in this Chapter between the hours of 11:00 A.M. to 12:30 P.M. and 2:45 P.M. to 3:45 P.M. on any day school is in session, shall operate any vehicle at more than twenty (20) miles per hour unless otherwise posted.

D. No driver of a vehicle shall pass another vehicle in the same lane proceeding in the same direction within any school zone or crossing while the twenty (20) miles per hour speed limit is in effect. (CC 1985 §13-1208; Ord. No. 602, 6-4-79; Ord. No. 1039 §13-1208, 4-6-98; Ord. No. 1105, 8-20-01; Ord. No. 1241 §3, 10-2-06; Ord. No. 1383 §1, 9-19-11)

**SECTION 310.013:**

**EXHIBITION OF SPEED PROHIBITED**

No person shall drive any vehicle in any manner displaying an exhibition of speed or acceleration. For the purpose of this Section, "*exhibition of speed or acceleration*" shall be defined as: those acts which cause or create unnecessary rapid acceleration, unnecessary tire squeal, skid, smoke or slide upon acceleration or stopping including the casting of tread, gravel, dirt or other road surface materials from the tires; acts that simulate a temporary race; acts that cause the vehicle to unnecessarily turn abruptly, sway or lose traction with the road surface. (Ord. No. 1241 §4, 10-2-06)

## CHAPTER 315: TRAFFIC RULES

### ARTICLE I. USE OF ROADWAY

#### SECTION 315.010:

#### REGULATION AND RESTRICTIONS ON USE OF CONTROLLED ACCESS HIGHWAYS AND FACILITIES

- A. The local authorities may regulate or prohibit the use of any controlled access highway or facility within their respective jurisdictions by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.
- B. The local authority adopting any such prohibition shall erect and maintain official traffic control devices on the controlled access highway or facility on which such prohibitions are applicable, and when in place, no person shall disobey the restrictions stated on such devices. Violation of this Subsection (B) is a misdemeanor. (CC 1985 §13-712; Ord. No. 1241 §3, 10-2-06)

#### SECTION 315.011:

#### TRUCK TRAFFIC PROHIBITED/TRUCK ROUTE DESIGNATED

- A. *Definition.* For the purpose of this Section, the word "truck" shall mean any vehicle designated or operated for the transportation of property, and whose empty body weight exceeds sixteen thousand (16,000) pounds.
- B. *Application Of Regulation.* No trucks shall be operated over and along any of the streets hereinafter designated in this Section over which truck travel is prohibited, except, however, that this Section shall not prohibit:
  - 1. The operation of trucks upon any street where necessary to the conduct of business at a point of origin or at a destination point, provided streets upon which such traffic is permitted are used until reaching the intersection nearest the destination point or the point of origin;
  - 2. The operation of emergency vehicles upon any street in the City;
  - 3. The operation of trucks owned or operated by the City public utilities or public utilities franchised by the City, or any contractor or material person, while engaged in the repair, maintenance or construction of public utilities, or in the repair, maintenance, construction, or improvement of streets;
  - 4. The operation of trucks upon any established detour in any case where such truck could lawfully be operated upon the street for which such detour is established.
- C. *Truck Route Designated.* The designated truck route within the City limits of Mulvane shall be K-15, K-53, and Rock Road.
- D. *Truck Travel Prohibited.* Truck travel is hereby prohibited within the City on the following streets, avenues, highways and public ways:

1. All streets, avenues, highways, and public ways except those streets designated as Highway K-15, K-53, and Rock Road.

E. *Truck Traffic In The City.*

1. All trucks entering the City for a destination point in the City shall proceed only over streets on which truck travel is not prohibited and shall deviate only at the intersection with a street upon which such traffic is permitted nearest to the destination point. Upon leaving the destination point, a deviating truck shall return to a street on which truck travel is permitted by the shortest possible route.
2. All trucks entering the City for multiple destination points shall proceed only over streets on which truck travel is not prohibited and shall deviate only at the intersection with a street upon which such traffic is permitted nearest to the first (1st) destination point. Upon leaving the first (1st) destination point, a deviating truck shall proceed to other destination points by the shortest possible route. Upon leaving the last destination point, a deviating truck shall return to a street on which truck travel is permitted by the shortest possible route.
3. All trucks on a trip originating in the City and traveling in the City for a destination point outside the City shall proceed by the shortest direction over streets on which such traffic is permitted to the corporate limits of the City.
4. All trucks on a trip originating in the City and traveling in the City for destination points in the City shall proceed only over streets upon which such traffic is permitted.
5. All trucks/tractors involved in the business of agriculture may use alternate routes within the City if they are unable to navigate K-53 east of the City limits regarding the railroad overpass. All farm trucks/machinery entering or exiting the City from the south or on Central Street are allowed to continue north on Central to Main Street or K-53, where they then must utilize the established truck route to continue traveling through the City of Mulvane.
6. Any truck/trailer entering the City of Mulvane from the west may, at their option, continue north on First Street from Main, east on Mulvane to Second Street, south on Second Street to Main Street, then east on Main or K-53 to avoid any congestion caused by vehicles parking on Main Street in the centerline configuration.

F. *Signs.* The Street Superintendent shall determine the location of signs indicating where truck traffic is prohibited. The designated truck routes identified as K-15, K-53, and Rock Road shall be clearly signed to indicate that this is the official truck route.

G. *Penalties.* Any person who shall violate the provisions of this Section shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars (\$100.00) plus court costs, or be imprisoned not exceeding three (3) months, or be both so fined and imprisoned. (Ord. No. 1023 §13-713, 2-17-97; Ord. No. 1241 §3, 10-2-06)

**SECTION 315.012:****OPERATION OF GOLF CARTS**

A. *Definition.* For the purpose of this Title and other traffic ordinances, "golf cart" shall have the same meaning as set forth in the Standard Traffic Ordinance as incorporated by reference at Section 300.010 of the Code, as the same shall be amended or may then be in effect.

B. *Application Of Regulation.* Golf carts may be operated upon the public highways, streets, roads and  
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alleys within the corporate limits of the City; except:

1. No golf cart may be operated upon any public highway, street, road or alley with a posted speed limit in excess of thirty (30) miles per hour.

2. No golf cart shall be operated on any public highway, street, road or alley between sunset and sunrise.
3. No golf cart shall be operated on any interstate highway, Federal highway or State highway; provided however, that the provisions of this Subsection shall not prohibit a golf cart from crossing a Federal or State highway.
4. No golf cart shall be operated on any sidewalk, pedestrian walkway or bike path; provided however, that the provisions of this Subsection shall not prohibit a golf cart from crossing a sidewalk, pedestrian walkway or bike path.
5. No golf cart shall be operated, nor shall the owner thereof knowingly permit the operation of a golf cart, upon a public highway, street, road or alley within the corporate limits of the City, unless registered with the City and having attached thereto and displayed thereon the license assigned thereto by the City for the current registration year.
6. Every person operating a golf cart on the public highways, streets, roads and alleys of the City shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.

C. *Driver's License Required—Penalty.* No person shall operate a golf cart on any public highway, street, road or alley within the corporate limits of the City unless such person has a valid driver's license. Violation of this Subsection is punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

D. *Child Passenger Limitation.*

1. No child under the age of four (4) years of age may be a passenger in a golf cart being operated under the provisions of this Section.
2. No child between the ages of four (4) and eight (8) years and who weighs less than eighty (80) pounds or is less than four (4) feet nine (9) inches in height or who would otherwise be required to use a child passenger safety restraining system pursuant to K.S.A. Section 8-1344 or similar substitute law may be a passenger in a golf cart being operated under the provisions of this Section.

E. *Seat Belt Requirement.* The operator and each passenger of any golf cart operated on any public highway, street road or alley within the corporate limits of the City shall at all times be secured by a duly fastened lap belt reasonably designed to prevent falling or ejection from such vehicle under normal operating conditions. Violation of this Subsection shall constitute a traffic infraction of the operator of any such golf cart.

F. *Insurance Requirement.* Every owner of a golf cart shall provide liability coverage in accordance with the requirements of the Standard Traffic Ordinance (including Section 200 thereof) and amendments thereto, all as incorporated by reference at Section 300.010 of the Code and the Kansas Automobile Injury Reparations Act, K.S.A. 40-3101, et seq., and amendments thereto. The penalty provisions of the Standard Traffic Ordinance for failure to maintain and produce evidence of such insurance on a vehicle shall be applicable to all violations of this Subsection.

G. *Golf Cart Registration, License And Fee.*

1. Before operating any golf cart upon a public highway, street, road or alley within the corporate limits of the City and for each registration year thereafter, the golf cart shall be registered with the City and a license shall be obtained and placed on the golf cart. The license fee shall be

as set forth in Section 100.240 of the Code for each registration year (which registration year shall commence each July first (1st) and end on June thirtieth (30th)). The license fee shall be payable in advance to the City Clerk or other person as may from time to time be designated. The full amount of the license fee shall be required regardless of the time of year that the application is made and no pro-rations shall apply. An application for a new license for the next registration year may be made anytime after June first (1st) of the previous registration year.

2. Application for registration of a golf cart shall be made by the owner or owner's agent in the office of the City Clerk or other person designated by the City. The application shall be made upon forms provided by the City and each application shall contain the name of the owner, the owner's residence address or bona fide place of business, a brief description of the vehicle to be registered (including make, model and serial number, if available). Proof of insurance, as required in Subsection (F), shall be furnished at the time of application for registration.
3. Each applicant for a golf cart license shall present such golf cart for registration. If, upon presentation and completion of the registration application, such vehicle has provision for seat belts as required by Subsection (E) and after establishing proof of insurance and payment of the registration fees herein provided, a license shall be issued to the owner who shall attach it to the rear driver's side of the golf cart. The license shall be displayed and kept clean so as to be plainly visible and legible from the rear of the vehicle.
4. A license issued hereunder is not transferable. In the event of sale or other transfer of ownership of any vehicle license under the provisions of this Section, the existing license and the right to use the numbered license shall expire and the license shall be removed by the owner.
5. In the event a license is lost, stolen or destroyed, the City Clerk or other person designated by the City, upon proper showing by the licensee of payment of fees, shall issue a new license in accordance with the provisions of this Subsection. The fee for a replacement or duplicate license shall be as set forth in Section 100.240 of the Code.
6. It shall be unlawful for any person:
  - a. To display, cause or permit to be displayed or to have in their possession, any golf cart registration receipt, license or decal knowing the same to be fictitious or to have been canceled, revoked, suspended or altered;
  - b. To carry or display any golf cart registration receipt, license or decal upon any golf cart when the same was not lawfully issued for such vehicle;
  - c. To lend or knowingly permit the use by one not entitled thereto of, any golf cart registration receipt, license or decal issued to the person so lending or permitting the use thereof;
  - d. To remove, conceal, alter, mark or deface a license number or decal or any other mark of license identification; or
  - e. Willfully or maliciously remove, destroy, mutilate or alter such license of another person during the time in which the same is in effect. A violation of this Subsection (7) shall constitute an unclassified misdemeanor punishable by a fine of not more than one thousand

dollars (\$1,000.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

H. *Penalty.* Unless otherwise specifically provided herein, a violation of this Section 315.012 shall be deemed a Standard Traffic Ordinance traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 300.012 of the Code or such other similar provision as the City may then have in effect.

I. *Law Enforcement.* Subsections (E), (F) and (G) of this Section 315.012 shall not be applicable to Law Enforcement Officers and Public Safety Officials of the City while engaged or otherwise performing duly authorized duties in their official capacity. (Ord. No. 1348 §1, 8-2-10)

## ARTICLE II. MISCELLANEOUS RULES

### SECTION 315.020:

### VEHICLES NOT TO BE DRIVEN OFF ESTABLISHED

#### ROADS OR DRIVES

It shall be unlawful for any person to drive or propel any automobile, motorcycle or other vehicle off any designated and clearly defined street, road or drive, any public park or any public grounds of the City other than upon the roads, streets, drives or boulevards as the same were provided for

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that purpose; provided however, vehicles and motorcycles may be parked in such places as are designated for that purpose by the Governing Body of the City of Mulvane and, further provided, this Section shall not apply to a vehicle driven by a person upon property owned, leased or controlled by him/her. (CC 1985 §13-1502; Ord. No. 560, 9-19-77; Ord. No. 1241 §3, 10-2-06)

**SECTION 315.021: CARELESS DRIVING**

- A. No person shall operate or halt any vehicle in such a manner as to indicate a careless or heedless disregard for the rights or the safety of others or in such a manner as to endanger or be likely to endanger any person or property. Any driver who does so shall be considered to be *prima facie* in violation of this Section; provided however, that this Section shall not apply to a vehicle driven by a person upon property owned by him/her.
- B. No driver, while driving, shall engage in any activity which interferes with the safe control of his/her vehicle.
- C. No person shall engage in any activity or commit any act which interferes with a driver's safe operation of a vehicle. (CC 1985 §13-1503; Ord. No. 498B, 9-2-75; Ord. No. 1241 §3, 10-2-06)

**SECTION 315.022: JAKE BRAKE PROHIBITED**

- A. *Definition.* The term "*Jacob Engine Brake*", commonly known as "*Jake Brake*" as used herein, means any device commonly known by that or any similar device used to slow a motor engine compression creating loud or excessive noises to be emitted through the vehicle's exhaust system.
- B. *Use Of Jacob Engine Brake Commonly Known As "Jake Brake" Prohibited.* It shall be unlawful for any person operating a motor vehicle within the City limits of the City to use a Jacob Engine Brake, commonly known as "*Jake Brake*", system installed in the motor vehicle.
- C. *Exception.* This provision shall not prevent the use of a Jacob's Engine Brake for the deceleration of any truck or truck-tractor upon failure of any other braking system such truck or truck-tractor may possess. (Ord. No. 1150, 9-3-02; Ord. No. 1241 §3, 10-2-06)

**SECTION 315.023: CONSUMPTION OF ALCOHOLIC LIQUOR OR CEREAL MALT BEVERAGES**

- A. No person shall consume any alcoholic liquor or cereal malt beverage while operating any vehicle upon any street or highway.
- B. Violation of this Section is punishable by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) or by imprisonment for six (6) months, or both. (CC 1985 §13-1505; Ord. No. 1241 §3, 10-2-06)

**SECTION 315.024: CHILD PASSENGER SAFETY, RESTRAINING**

## **SYSTEMS—PROGRAM OF PUBLIC EDUCATION**

The Chief of Police shall develop a program of public education to promote the use of child passenger safety restraining systems. As part of this program, the Kansas Department of

Transportation shall make available to Law Enforcement Officers for dissemination, information concerning child passenger safety. (CC 1985 §13-1531; Ord. No. 793, 7-7-86; Ord. No. 1241 §3, 10-2-06)

**SECTION 315.025:****SOUND AMPLIFICATION SYSTEMS IN VEHICLES**

- A. No person operating or occupying a motor vehicle on a street, highway, alley, parking lot or driveway shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of fifty (50) or more feet from the vehicle.
- B. *Definitions.* As used in this Section, the following words shall have the meanings set out herein:

**PLAINLY AUDIBLE:** Any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of fifty (50) feet or more. Measurement standards shall be by the auditory senses based upon direct line of sight. Words or phrases need not be discernable and bass reverberations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot or driveway.

**SOUND AMPLIFICATION SYSTEM:** Any radio, tape player, compact disc player, loud speaker or other electronic device used for the amplification of sound.

- C. It is an affirmative defense to a charge under this Section that the operator was not otherwise prohibited by law from operating the sound amplification system and that any of the following apply:
  1. The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;
  2. The vehicle was an emergency or public safety vehicle;
  3. The vehicle was owned and operated by the City or a gas, electric, communications or refuse company;
  4. The system was used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in compliance with this Code;
  5. The vehicle was used in authorized public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the City authorized to grant such approval. (Ord. No. 1026 §10-913, 5-19-97; Ord. No. 1174, 6-16-03; Ord. No. 1241 §3, 10-2-06)

**SECTION 315.026:****LITTERING**

No person shall throw, place or drop litter or allow litter to be thrown, placed or dropped upon 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 upon any private property without the consent of the owner or occupant of such property. For the purposes of this Section, "litter" means rubbish, refuse, waste material, garbage, trash or debris of whatever kind or description and includes

improperly discarded paper, metal, plastic or glass. (Ord. No. 1241 §5, 10-2-06)

## **PARKING REGULATIONS**

## **CHAPTER 320: STOPPING, STANDING AND**

### **ARTICLE I. GENERAL PROVISIONS**

#### **SECTION 320.010:**

#### **UNAUTHORIZED PARKING PROHIBITED**

- A. It is unlawful, except when required to avoid conflict with other traffic or in obedience to traffic regulations or the directions of traffic control devices or a Police Officer for any person to abandon, park or leave unattended a vehicle on the property of another unless authorized by the owner or person in charge of such property to do so. Provided however, that this Subsection shall apply only when such property is clearly and visibly marked by a sign or signs having lettering of at least one and one-half (1½) inches high and one-half (½) inch wide, specifically indicating that unauthorized parking is prohibited and further clearly and visibly marked by a sign or signs with lettering of at least one (1) inch high and three-eighths (3/8) inch wide indicating that unauthorized vehicles will be towed away at the owner's expense.
- B. Whenever a motor vehicle is parked, abandoned or left unattended on private property as hereinabove described, such vehicle is hereby declared to be a public nuisance and any Police Officer, may, upon request of the owner or person in charge of such property, remove or cause the same to be removed and disposed of as set forth in K.S.A. 8-1102(b) and acts amendatory thereof.
- C. Whenever a Police Officer removes or causes to be removed a vehicle parked, abandoned, or left unattended contrary to the provision of this Section, the removing shall be done by a wrecker service authorized by the City and removed, stored and sold in accordance with applicable City and State laws. Provided however, that no motor vehicle which has been parked, abandoned or left unattended in violation of this Section shall be removed until the owner or person in possession of the private property on which a vehicle is parked, abandoned or left unattended in violation of this Section shall sign a hold harmless agreement making the owner or person in possession of such property liable for any and all expenses and costs, including reasonable attorney's fees, and all costs in defending lawsuits incurred by the City because of any alleged or actual liability to any person imposed on the City and arising out of any such acts of towing, removing, storing or selling any such vehicle and indemnifying the City against such expenses and costs.

The hold harmless agreement shall be in a form approved by the City Attorney and shall contain:

1. Description of the vehicle;
2. Date of unauthorized parking or abandonment;
3. Address of the place of parking or abandonment;
4. Name of the owner or person in lawful possession of the property on which the vehicle was abandoned;
5. The name of the principal for whom agent is acting (if applicable);
6. An acknowledgment that the signing party assumes all liabilities which may accrue by the

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removal of said vehicle;

7. An acknowledgment by the signing party that he/she or the principal for whom he/she acts assumes primary liability for any action arising from the removal of said vehicle;
8. An acknowledgment that the said signing party or the principal for whom he/she acts expressly promises and agrees to indemnify and reimburse the City for all expenses, costs, reasonable attorney's fees and costs of defending lawsuits incurred by the City because of any alleged or actual liability arising from said removal.

D. Upon any motor vehicle being removed and impounded as provided herein, such motor vehicle shall be surrendered to the duly identified owner upon payment of applicable charges, fees and costs.

E. In any proceeding for the violation of this Section, the registration plate displayed upon the motor vehicle in violation shall constitute in evidence a *prima facie* presumption that the owner of such motor vehicle was the person who parked or placed such motor vehicle at the place where the violation occurred. (CC 1985 §13-1403A; Ord. No. 930, 10-11-91; Ord. No. 1241 §3, 10-2-06)

**SECTION 320.011:****TRUCK PARKING IN RESIDENTIAL AREAS**

- A. No person or operator of a truck with a manufacturer's rated capacity of over one (1) ton or a bus, truck, trailer or semi-trailer shall park the said vehicle on any highway or street in any residential district in the City of Mulvane, Kansas, longer than a two (2) hour period except when parking longer than two (2) hours is necessary for the prompt and continuous loading or unloading of merchandise; provided, that the vehicle shall be promptly moved upon the completion of the loading or unloading of said merchandise which shall not exceed a period of two (2) hours.
- B. The Governing Body of the City of Mulvane, Kansas, shall place and maintain such traffic control devices upon the streets under their jurisdiction as they deem necessary to indicate and to carry out the provisions of this Section.
- C. Every person convicted of a violation of any of the provisions of this Section shall, for the first (1st) conviction thereof, be punished by a fine of not more than one hundred dollars (\$100.00) or by imprisonment of not more than ten (10) days, or both. For a subsequent conviction within one (1) year thereafter, they shall be punished by a fine of not more than two hundred dollars (\$200.00) or by imprisonment of not more than twenty (20) days, or both. Upon a third (3rd) or subsequent conviction within a one (1) year period after the first (1st) conviction, said person shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment of not more than six (6) months, or both. (CC 1985 §13-1418; Ord. No. 677, 11-2-81; Ord. No. 1241 §3, 10-2-06)

**SECTION 320.012:****PARKING ON CITY STREETS IN EXCESS OF  
FORTY-EIGHT HOURS  
PROHIBITED**

- A. *Recreational Vehicles.* No owner of a recreational vehicle shall park, or allow to be parked, the said vehicle on any highway or street within the corporate City limits of the City of Mulvane, Kansas, longer than a forty-eight (48) hour period.
- B. *Unoccupied Vehicle.* It shall be unlawful for any unoccupied vehicle to be left continuously upon any street of the City for forty-eight (48) hours or more. (Ord. No. 993 §13-1423, 8-21-95; Ord. No.

1241 §3, 10-2-06)

## ARTICLE II. IMPOUNDING PROCEDURES

### SECTION 320.020:

### IMPOUNDING PROCEDURES

A. Vehicles which are authorized to be impounded pursuant to law and/or regulation may be impounded without notice to the owner or lawful custodian of such vehicle only in the following instances:

1. Whenever any vehicle is left unattended upon any highway, bridge or causeway or in any tunnel in such a position or under such circumstances as to obstruct the normal movement of traffic;
2. When a stolen vehicle has been recovered and the owner/agent cannot be contacted at that time;
3. Where the driver of a vehicle is arrested, except the vehicle may be released to the custody of another person present upon the authority of the arrestee/driver;
4. Accident cases where the driver is injured and is unable to designate to Police a disposition of the vehicle;
5. When a vehicle is parked on a snow emergency route or is otherwise in violation of provisions of this Code relating to "Snow Emergency".

B. *Notification Of Owner, Etc.*

1. Vehicles which are subject to being impounded under any other provision may not be towed until the owner or person entitled to lawful custody has been notified and given an opportunity to remove said vehicle within a reasonable time; provided however, that where the owner or person entitled to custody cannot be located after a bona fide effort has been made to do so then such vehicle may be towed.
2. For purposes of this Article, a bona fide effort includes, but is not limited to, a vehicle identification number search through S.P.I.D.E.R. (Special Police Information Data Entry and Retrieval), dispatcher, a registration search through S.P.I.D.E.R., and a phone directory and cross reference directory search.
3. The Chief of Police is authorized to adopt regulations approved by the City Attorney and consistent with this Article, and State laws to efficiently implement the provisions of this Article. (CC 1985 §13-1419; Ord. No. 951, 11-2-92; Ord. No. 1241 §3, 10-2-06)

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**MOTORIZED BICYCLES,****CHAPTER 325: OPERATION OF BICYCLES,****LOW POWER CYCLES AND PLAY VEHICLES****ARTICLE I. GENERAL****SECTION 325.010:****BICYCLE LICENSES**

From and after June 1, 1973, all bicycles propelled wholly or in part by muscular power upon any of the streets, alleys or public ways of the City of Mulvane, Kansas, shall be licensed by the City of Mulvane; provided however, nothing in this Chapter shall be construed as being applicable to bicycles being ridden through, to or from the City by non-residents of the City of Mulvane.

(CC 1985 §13-1608; Ord. No. 1241 §3, 10-2-06)

**SECTION 325.011:****LICENSE FEE**

Each owner of a bicycle to be used upon the streets, alleys or highways of the City of Mulvane, Kansas, shall pay to the City of Mulvane a license fee in an amount as set forth in Section 100.240. Upon receipt of said fee and examination by the Police Department of the City of Mulvane, a license shall be issued to said applicant; provided however, every bicycle shall be equipped as specified by the standard traffic ordinances of all Kansas Cities as adopted by the City of Mulvane, Kansas, and, specifically, each bicycle shall be equipped with brakes which will enable the operator to make the braked wheels skid on dry, level, clean pavement and, in addition thereto, shall be at least one (1) red reflector. (CC 1985 §13-1609; Ord. No. 1085, 8-21-00; Ord. No. 1149 §9, 8-19-02; Ord. No. 1241 §3, 10-2-06)

**SECTION 325.012:****LICENSE ISSUED**

The City of Mulvane shall provide a license as may from time to time be specified by the City Administrator, which license shall be either a metallic, decal or seal type license to be numbered in consecutive numbers commencing with the number "1" and the name of the City of Mulvane stamped thereon. Upon all the specifications being met by the applicant, the Police Department of the City of Mulvane shall attach or cause to be attached said license to said bicycle. Once said license has been attached, the same shall not be removed nor need to be removed so long as the original holder thereof owns said bicycle or any transfer of ownership has been duly noted as hereinafter provided with the Police Department of the City of Mulvane, Kansas. In the event said license is lost, destroyed or mutilated so that the same cannot be read, then the owner shall make application to the Police Department for a duplicate license. Each duplicate license shall be issued upon the payment of a fee as set forth in Section 100.240. (CC 1985 §13-1610; Ord. No. 1085, 8-21-00; Ord. No. 1149 §10, 8-19-02; Ord. No. 1241 §3, 10-2-06)

**SECTION 325.013:****REGISTRATION CERTIFICATE**

Simultaneous with the issuance of a license for any bicycle, the Mulvane Police Department shall issue a registration certificate to the applicant showing the name, address and license number and

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serial number of the bicycle, amount or fee charged and by which Police Officer said license was

attached and issued. Each registration shall carry upon its face a sufficient space for assignment by the owner of said bicycle and said assignment shall show the signature of the owner, the name and address of the new owner with all other pertinent facts thereon. (CC 1985 §13-1611; Ord. No. 1241 §3, 10-2-06)

**SECTION 325.014: REMOVING, DESTROYING, MUTILATING OR  
ALTERING NUMBER**

No person shall willfully or maliciously remove, destroy, mutilate or alter the number of any bicycle frame licensed pursuant to this Chapter or remove, destroy, mutilate or alter any license plate or registration card during the time in which said license plate or registration card is operative in compliance with the terms of this Chapter; provided however, nothing in this Chapter shall prohibit the Police Department from stamping numbers on frames of bicycles on which no serial number can be found or on which said number is illegible or insufficient for identification purposes.

(CC 1985 §13-1613; Ord. No. 1241 §3, 10-2-06)

**SECTION 325.015: TRANSFER OF LICENSE**

Transfer of any license shall only be effective after the payment of a fee to the City of Mulvane as set forth in Section 100.240. All fees collected under this Chapter shall be paid into the General Fund of the City of Mulvane. (CC 1985 §13-1614; Ord. No. 1085, 8-21-00; Ord. No. 1149 §11, 8-19-02; Ord. No. 1241 §3, 10-2-06)

**SECTION 325.016: BICYCLES CAN BE IMPOUNDED**

All bicycles operated on the streets of Mulvane, except those specifically exempted by the terms of this Chapter, may be impounded by the Police Department of the City of Mulvane after the effective date of June 1, 1973, if said bicycle is not licensed, and said Police Department shall return said bicycle only after the license provided for in this Chapter is obtained by the owner of said bicycle. (CC 1985 §13-1615; Ord. No. 1241 §3, 10-2-06)

**SECTION 325.017: DEALERSHIP**

Upon further application by any dealer within the City of Mulvane, the City Administrator may consign license tags and registration cards to said dealer for the purpose of attaching said license to new or used bicycles sold by said dealer. If the dealer so elects to provide licenses for customers, he/she shall cause the registration form to be properly executed and attach said license to the bicycles as sold. Thereafter, said dealer shall forthwith transmit the registration card, together with the prescribed fees, to the City Administrator for registration as herein provided. Any dealer who elects to sell and install licenses may, at his/her option, collect an additional sum of fifty cents (\$0.50) for his/her services. (CC 1985 §13-1616; Ord. No. 1241 §3, 10-2-06)

**ARTICLE II. ALL-TERRAIN VEHICLES AND  
MOTORIZED SKATEBOARDS**

**SECTION 325.020:****USE OF ALL-TERRAIN VEHICLES—REGULATIONS**

A. Except as provided in Subsection (B), it shall be unlawful for any person to operate an all-terrain

vehicle on any street or alley within the corporate limits of the City of Mulvane, Kansas.

B. Notwithstanding the provisions of Subsection (A), all-terrain vehicles owned and operated by a governmental agency may be allowed to operate such all-terrain vehicles upon the right-of-way of any Federal, State or local roadway for the purpose of eradicating noxious weeds and such all-terrain vehicles may be operated incidentally upon such Federal, State or local roadways. (Ord. No. 1108, 9-5-01; Ord. No. 1241 §3, 10-2-06)

**SECTION 325.021: USE OF MOTORIZED SKATEBOARDS  
(GO-PEDS)–REGULATIONS**

A. Notwithstanding any other provision of law, motorized skateboards (go-peds) shall not be operated on:

1. Any public property in the City of Mulvane. This includes, but is not limited to, streets, sidewalks, alleys, parks and the Sports Complex.
2. Any private property within the City that is clearly and visibly marked by a sign or signs indicating motorized skateboards are prohibited thereon. Any such sign shall have lettering at least one and one-half (1½) inches high and one-half (½) inch wide. Placement of any such sign on privately owned property shall constitute authorization for the Police Department to enforce the provisions of this Section upon such property.
3. No person shall cause or knowingly permit their child or ward under the age of eighteen (18) years of age to operate a motorized skateboard in violation of this Section.
  - a. Any Police Officer finding a minor under the age of eighteen (18) violating the provisions of this Section shall issue a written warning to such minor and given written notice of the violation, setting forth the nature of the violation, to such minor's parent or guardian.
  - b. Any parent, guardian or person in charge of such minor who shall permit or allow such child to commit a second (2nd) or subsequent violation of this Section after receiving the notice provided for shall be guilty of a misdemeanor and fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

B. Violation of any provision of this Section is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00). (Ord. No. 1162, 11-18-02; Ord. No. 1241 §3, 10-2-06)

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## **CHAPTER 330: PARTIES, OFFENSES**

*Cross Reference—As to general penalty, see §300.050.*

### **SECTION 330.010: APPLICATION OF TITLE TO PUBLIC OFFICERS AND EMPLOYEES**

The provisions of this Title which are applicable to drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this State or any County, City or any other political subdivision of the State, subject to such specific exceptions as are set forth in this Title. (CC 1985 §13-2103; Ord. No. 1241 §3, 10-2-06)

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## **CHAPTER 335: SNOW EMERGENCY ROUTES**

### **SECTION 335.010: TITLE**

This Chapter shall be known and may be cited as the "snow emergency ordinance" of the City of Mulvane, Kansas. (CC 1985 §12-601; Ord. No. 1241 §3, 10-2-06)

### **SECTION 335.011: DEFINITIONS**

The following definitions shall apply in the interpretation and enforcement of this Chapter.

*CITY ADMINISTRATOR:* The City Administrator of the City of Mulvane, or, in his/her absence, his/her duly designated and acting representative.

*ROADWAY:* That portion of a street or highway improved designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

*SNOW EMERGENCY ROUTES:* Those streets marked as such in accordance with the provisions of this Chapter.

*SNOW TIRES:* Tires mounted on drive wheels of motor vehicles which are especially designed to give effective traction on snow, mud, or ice covered streets by means of extra heavy duty treads with special high-traction patterns, except that no tire so defined shall be construed to be a snow tire if it is damaged or worn to the extent that its performance would be substantially impaired.

*STREET, HIGHWAY, BOULEVARD OR AVENUE:* The entire width between property lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic.

*TIRE CHAINS:* Metal chains mounted on drive wheel tires of motor vehicles which cross the tread of each such tire laterally in at least three (3) different places.

*VEHICLE:* Every device in, upon or by which any person or property may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks. (CC 1985 §12-602; Ord. No. 1241 §3, 10-2-06)

### **SECTION 335.012: PROHIBITION OF PARKING**

- A. Whenever the City Administrator finds, on the basis of falling snow, sleet, or freezing rain, or on the basis of a forecast (by the U.S. Weather Bureau or other weather service) of snow, sleet or freezing rain, that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on City streets be prohibited or restricted for snow plowing and other purposes, the City Administrator shall put into effect a parking prohibition on parts of or all snow emergency routes as necessary by declaring it in a manner prescribed in this Chapter.

B. When in effect, a prohibition under this Section shall remain in effect until terminated by announcement of the City Administrator in accordance with this Chapter, except that any street area which has become substantially clear of snow and ice from curb to curb for the length of the entire block shall be automatically excluded therefrom. While the prohibition is in effect, no person shall park or allow to remain parked any vehicle on any portion of a snow emergency route to which it applies; however, nothing in this Section shall be construed to permit parking at any time or place where it is forbidden by any other provision of law. (CC 1985 §12-603; Ord. No. 1241 §3, 10-2-06)

**SECTION 335.013:****STALLED VEHICLES—PROHIBITED**

A. No person operating a motor vehicle on a snow emergency route on which there is a covering of snow, sleet, or ice shall allow such vehicle to become stalled wholly or partly because the drive wheels thereof are not equipped with effective tire chains or snow tires.

B. No person operating a motor vehicle on a part of a snow emergency route on which there is a covering of snow, sleet, or ice or on which there is a parking prohibition in effect shall allow such vehicle to become stalled because the motor fuel supply is exhausted or the battery has become inoperative. (CC 1985 §12-604; Ord. No. 1241 §3, 10-2-06)

**SECTION 335.014:****STALLED VEHICLES—REMOVAL FROM ROUTE**

Whenever a vehicle becomes stalled for any reason, whether or not in violation of this Chapter, on any part of a snow emergency route on which there is a covering of snow, sleet, or ice on which there is a parking prohibition in effect, the person operating such vehicle shall take immediate action to have the vehicle towed or pushed off the roadway of such snow emergency route onto the first (1st) cross street which is not a snow emergency route. No person shall abandon or leave his/her vehicle in the roadway of a snow emergency route (regardless of whether he/she indicates, by raising the hood or otherwise, that the vehicle is stalled), except for the purpose of securing assistance during the actual time necessary to go to a nearby garage, gasoline station, or other place of assistance and return without delay. (CC 1985 §12-605; Ord. No. 1241 §3, 10-2-06)

**SECTION 335.015:****ANNOUNCEMENT**

The City Administrator shall cause each declaration made by him/her pursuant to this Chapter to be publicly announced by means of broadcast or telecasts from stations with a normal operating range covering the City, and he/she may cause such declaration to be further announced in newspapers of general circulation when feasible. Each announcement shall include a declaration of the traffic emergency due to the hazardous conditions of the streets, the prohibition against parking or stalling of vehicles on snow emergency routes, the duty of the vehicle operator to remove stalled vehicles, and the right of the City to remove or impound vehicles parked or stalled in violation of this Chapter. Each announcement shall describe the action taken by the City Administrator including the time it became or will become effective. A parking prohibition regulation declared by the City Administrator shall not go into effect until at least two (2) hours after it has been declared. (CC 1985 §12-606; Ord. No. 1241 §3, 10-2-06)

**SECTION 335.016:****TERMINATION OF PARKING PROHIBITION**

Whenever the City Administrator finds that some or all of the conditions which give rise to a parking prohibition in effect pursuant to this Chapter no longer exist, he/she may declare the prohibition terminated, in whole or in part, in a manner prescribed by this Chapter, effective immediately upon announcement. (CC 1985 §12-607; Ord. No. 1241 §3, 10-2-06)

**SECTION 335.017:****PRECEDENCE OF CHAPTER**

Any provision of this Chapter which becomes effective by declaration of the City Administrator shall while temporarily in effect, take precedence over other conflicting provisions of law normally in effect, except that it shall not take precedence over provisions of law relating to traffic accidents, emergency travel of authorized emergency vehicles, or emergency traffic directions by a Police Officer. (CC 1985 §12-608; Ord. No. 1241 §3, 10-2-06)

**SECTION 335.018:****SIGNS**

On each street designated by this Chapter as a snow emergency route, the City Administrator shall post special signs at intervals not exceeding one thousand (1,000) feet with the wording: "Snow Emergency Route". These signs shall be distinctive and uniform in appearance and shall be plainly readable to persons traveling on the street or highway. (CC 1985 §12-609; Ord. No. 1241 §3, 10-2-06)

**SECTION 335.019:****IMPOUNDMENT OF VEHICLES**

- A. Members of the Police Department are authorized to remove or have removed a vehicle from a street to the nearest garage or other place of safety (including another place on a street), or to a garage designated or maintained by the Police Department, or otherwise maintained by this City, when:
  1. The vehicle is parked on a part of a snow emergency route on which a parking prohibition is in effect;
  2. The vehicle is stalled on a part of a snow emergency route on which there is a covering of snow, sleet, or ice or on which there is a parking prohibition in effect and the person who was operating such vehicle does not appear to be removing it in accordance with the provisions of this Chapter;
  3. The vehicle is parked in violation of any parking ordinance or provision of law and is interfering or about to interfere with snow removal operations.
- B. Upon any vehicle being removed and impounded as provided herein, such vehicle shall be surrendered to the duly identified owner upon due compliance with Police Department regulations.
- C. In any proceeding for the violation of the provisions of this Chapter, the registration plate displayed upon the vehicle in violation shall constitute in evidence a *prima facie* presumption that the owner of such vehicle was the person who parked or placed such vehicle at the place where the violation occurred. (CC 1985 §12-610; Ord. No. 1241 §3, 10-2-06)

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**SECTION 335.020: VIOLATION—SUMMONS**

Whenever any motor vehicle without a driver is found parked or left in violation of any provision of this Chapter, and is not removed and impounded as provided for in this Chapter, a summons issued in accordance with this Title shall be attached to such motor vehicle instructing the owner or operator to answer the charges of said violation before the Municipal Court of the City.

(CC 1985 §12-611; Ord. No. 1241 §3, 10-2-06)

**SECTION 335.021: VIOLATION—MISDEMEANOR**

Violation of any provision of this Chapter is a misdemeanor. (CC 1985 §12-612; Ord. No. 1241 §3, 10-2-06)

**SECTION 335.022: SNOW EMERGENCY ROUTES DESIGNATED**

The following streets or portions of streets within the City are designated as snow emergency routes:

1. Bridge Street west City limits to Santa Fe railroad tracks.
2. Bridge Street at Santa Fe railroad tracks east to First Street.
3. First Street from Bridge to Main Street.
4. Main Street from First Street east to City limits.
5. Second Street from Main north to K-15.
6. Rock Road from K-15 north to City limits.
7. K-15 from west City limits southeast to east City limits.
8. Rockwood from Louis Drive to Rock Road. (CC 1985 §12-613; Amended Ord. No. 773, 12-16-85; Ord. No. 1163, 11-18-02; Ord. No. 1241 §3, 10-2-06)

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## **TITLE IV. LAND USE**

### **CHAPTER 400: ZONING AND PLANNING**

*Cross Reference—Zoning and subdivision regulations are on file in the city offices.*

#### **ARTICLE I. CITY PLANNING COMMISSION**

##### **SECTION 400.010: COMMISSION RE-ESTABLISHMENT**

There is hereby re-established the Mulvane City Planning Commission which is composed of nine (9) members of which five (5) members shall be residents of the City and two (2) members shall reside in the designated Planning Area outside the City in Sedgwick County and two (2) in Sumner County within the City's extraterritorial zoning jurisdiction. (CC 1985 §19-101; Amended Ord. No. 932, 12-2-91)

##### **SECTION 400.020: MEMBERSHIP, TERMS, INTEREST AND COMPENSATION**

The members of the Planning Commission shall be appointed by the Mayor with the consent of the City Council at the first (1st) regular meeting of the Council in May of each year and take office at the next regular meeting of the Commission. The members of the Commission first (1st) appointed shall serve respectively for terms of one (1) year, two (2) years and three (3) years, divided equally or as nearly equal as possible between those terms. Thereafter, all members shall be appointed for terms of three (3) years each. The appointments shall be so made that the terms of office of the members residing outside of the corporate limits of the City do not expire within the same year. By the re-establishment of the Commission, all current members continue to serve their present terms of office. In case of death, incapacity, resignation or disqualification of any member, appointment to such a vacancy on the Commission shall be made for the unexpired term of the member leaving the membership. Should any member have a conflict of interest, either directly or indirectly, in any matter coming before the Commission, he/she shall be disqualified to discuss or vote on the matter. Provided however, that any such disqualified member shall retain the same rights to comment and question the Planning Commission as would any other interested person on a given matter. The Governing Body may adopt rules and regulations providing for removal of members of the Commission. Members of the Commission shall serve without compensation, but may be reimbursed for expenses actually incurred in the performance of their duties as deemed desirable by the Governing Body. (CC 1985 §19-102; Amended Ord. No. 932, 12-2-91)

##### **SECTION 400.030: MEETINGS, OFFICERS AND RECORDS**

The members of the Planning Commission shall meet at such time and place as may be fixed in the Commission's by-laws. The Commission shall elect one (1) member as Chairperson and one (1) member as Vice-Chairperson who shall serve one (1) year and until their successors have been

elected. A Secretary shall also be elected who may or may not be a member of the Commission. Special meetings may be called at any time by the Chairperson or in the Chairperson's absence by the Vice-Chairperson. The Commission shall adopt by-laws for the transaction of business and hearing procedures. All actions by the Commission shall be taken by a majority vote of the members present and voting at the hearing. A proper record of all the proceedings of the

Commission shall be kept. The Commission, from time to time, may establish subcommittees, advisory committees or technical committees to advise or assist in the activities of the Commission. (CC 1985 §19-103; Amended Ord. No. 932, 12-2-91)

**SECTION 400.040:****POWERS AND DUTIES**

The Governing Body and Planning Commission shall have all the rights, powers and duties as authorized in Kansas Statutes Annotated 12-741, et seq., and amendments thereto, which are hereby incorporated by reference as part of this Article and shall be given full force and effect as if the same had been fully set forth herein. The Commission is hereby authorized to make or cause to be made, adopted and maintained a comprehensive plan for the City and any unincorporated territory lying outside of the City but within Sedgwick and Sumner Counties in which the City is located, which forms the total community of which the City is a part. The Commission shall also cause to be prepared, adopted and maintained zoning and subdivision regulations on all land within the jurisdiction designated by the Governing Body. The comprehensive plan and zoning and subdivision regulations are subject to final approval of the Governing Body by ordinance. Periodically, the Governing Body may request the Commission to undertake other assignments related to planning and land use regulations. (CC 1985 §19-104; Amended Ord. No. 932, 12-2-91)

**SECTION 400.050:****BOARD OF ZONING APPEALS**

The Planning Commission is hereby designated to also serve as the City's Board of Zoning Appeals with all the powers and duties as provided for by K.S.A. 12-759, et seq. The Board shall adopt rules in the form of by-laws for its operation which shall include hearing procedures. Such by-laws shall be subject to the approval of the Governing Body. Public records shall be kept of all official actions of the Board which shall be maintained separately from those of the Commission. The Board shall keep minutes of its proceedings showing evidence presented, findings of fact, decisions and the vote upon each question or appeal. A majority of the members of the Board present and voting at the hearing shall be required to decide any appeal. Subject to subsequent approval of the Governing Body, the Board shall establish a scale of reasonable fees to be paid in advance by the appealing party. The present membership of the Board of Variances, Exceptions and Appeals shall be disbanded effective December 31, 1991. (CC 1985 §19-105.1; Ord. No. 932, 12-2-91)

**SECTION 400.060:****BUDGET**

The Governing Body shall approve a budget for the Planning Commission and make such allowances to the Commission as it deems proper, including funds for the employment of such employees or consultants as the Governing Body may authorize and provide, and shall add the same to the general budget. Prior to the time that monies are available under the budget, the Governing Body may appropriate monies for such purposes. The Governing Body may enter into such contracts as it deems necessary and may receive and expend funds and monies from the State or Federal Government or from any other source for such purposes. (CC 1985 §19-106; Ord. No. 932, 12-2-91)

**SECTION 400.070:**

**INVALIDITY OF A PART**

Any provisions of this Article which shall be declared to be unconstitutional or otherwise invalid shall not affect the validity and authority of any such remaining Sections of said Article. (CC 1985 §19-107; Ord. No. 932, 12-2-91)

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## **CHAPTER 405: ZONING REGULATIONS**

### **SECTION 405.010:**

### **ADOPTION**

Zoning regulations are hereby approved and adopted by the Governing Body of the City of Mulvane, Kansas, as prepared and published as a model code in book form by the Mulvane City Planning Commission with the technical assistance of Foster & Associates, Planning Consultants of Wichita, Kansas, and the City Zoning Administrator under the date of September 10, 2009, and entitled "Zoning Regulations of the City of Mulvane, Kansas" and the same are hereby incorporated by reference as fully as if set out herein. (Ord. No. 1074 §1, 12-20-99; Ord. No. 1239 §1, 10-2-06; Ord. No. 1317 §1, 11-3-08; Ord. No. 1336 §1, 10-5-09)

### **SECTION 405.020:**

### **OFFICIAL MAPS**

There are further herein incorporated by reference and adopted Official Zoning Maps, including Flood Insurance Rate Maps (FIRM) dated November 18, 2009, delineating the boundaries of zoning districts and the classification of such districts, which maps shall be marked "Official copy of Zoning District Map incorporated into zoning regulations by adoption of Ordinance No. 1336 by the Governing Body of the City of Mulvane on the 5th day of October, 2009" and filed with the Zoning Administrator to be open for inspection and available to the public at all reasonable business hours. (Ord. No. 1074 §2, 12-20-99; Ord. No. 1239 §2, 10-2-06; Ord. No. 1317 §2, 11-3-08; Ord. No. 1336 §2, 10-5-09)

### **SECTION 405.030:**

### **PUBLIC HEARING**

The advertised public hearing required by Kansas Statutes was duly held on September 10, 2009, by the Mulvane City Planning Commission and a discussion of said zoning regulations and maps was had at the hearing; and the zoning regulations and maps in model code form herein adopted are a true and correct copy of those regulations as adopted by the Planning Commission. (Ord. No. 1074 §3, 12-20-99; Ord. No. 1239 §3, 10-2-06; Ord. No. 1317 §3, 11-3-08; Ord. No. 1336 §3, 10-5-09)

### **SECTION 405.040:**

### **JURISDICTION**

From the effective date of this Chapter, the zoning regulations and Official Zoning Maps herein incorporated by reference shall govern all use of the land and the location of buildings and other structures placed within the City of Mulvane, Kansas, and the extraterritorial jurisdiction in Sumner County described therein. (Ord. No. 1074 §4, 12-20-99; Ord. No. 1239 §4, 10-2-06; Ord. No. 1317 §4, 11-3-08; Ord. No. 1336 §4, 10-5-09)

### **SECTION 405.050:**

### **OFFICIAL COPIES**

Not less than three (3) copies of the zoning regulations in book form marked "Official Copy as incorporated by Ordinance No. 1336" and to which there shall be a published copy of this Chapter attached, shall be filed with the City Clerk to be open for inspection and available to the public at all

reasonable business hours. (Ord. No. 1074 §5, 12-20-99; Ord. No. 1239 §5, 10-2-06; Ord. No. 1317 §5, 11-3-08; Ord. No. 1336 §5, 10-5-09)

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## **CHAPTER 410: SUBDIVISION REGULATIONS**

### **SECTION 410.010:**

### **ADOPTION**

Revised subdivision regulations are hereby approved and adopted by the Governing Body of the City of Mulvane, Kansas, as prepared and published in book form as model regulations by the Mulvane City Planning Commission with the technical assistance of Foster and Associates, Planning Consultants of Wichita, Kansas, and the City Subdivision Administrator under the date of November 13, 2003, and entitled "Subdivision Regulations of the City of Mulvane, Kansas" and the same are hereby incorporated by reference as fully as if set out herein. (Ord. No. 1188 §1, 12-1-03)

### **SECTION 410.020:**

### **PUBLIC HEARING**

The public hearing required by Kansas law was duly held on November 13, 2003, by the Mulvane City Planning Commission and a discussion of said subdivision regulations was had at said meeting; and that the revised subdivision regulations in model code form herein adopted are a true and correct copy of those regulations as adopted by the Planning Commission. (Ord. No. 1188 §2, 12-1-03)

### **SECTION 410.030:**

### **JURISDICTION**

From the effective date of this Chapter, the subdivision regulations herein incorporated by reference shall govern the subdivision of land and the vacation of rights-of-way, easements and other public reservations located within the City of Mulvane, Kansas, and in the extraterritorial jurisdiction as described therein which is at least within three (3) miles of the City limits in both Sedgwick and Sumner Counties. (Ord. No. 1188 §3, 12-1-03)

### **SECTION 410.040:**

### **OFFICIAL COPIES**

Not less than three (3) copies of the subdivision regulations in book form marked "Official Copy as Incorporated by Ordinance No. 1188", and to which there shall be a published copy of this Chapter attached, shall be filed with the City Clerk to be open for inspection and available to the public at all reasonable business hours. (Ord. No. 1188 §4, 12-1-03)

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## **TITLE V. BUILDING AND CONSTRUCTION**

*Cross Reference—As to uniform fire Code, see §225.010.*

### **CHAPTER 500: GENERAL PROVISIONS**

#### **ARTICLE I. BOARD OF CONSTRUCTION, TRADES AND APPEALS**

##### **SECTION 500.010: BOARD OF CONSTRUCTION, TRADES, AND APPEALS CREATED— COMPOSITION—APPOINTMENT**

There shall be in the City of Mulvane, Kansas, a Board of Construction, Trades, and Appeals consisting of five (5) members. The Board created herein shall assume and perform the functions previously performed by the Board of Examiners of Plumbers and Gas Fitters, the Board of Electrical Examiners, and the Board of Examiners of Air-Conditioning, Warm Air Heating, Refrigeration, and Boilers. One (1) member shall be a certified master or journeyman plumber and/or gas fitter; one (1) member shall be a certified master or journeyman electrician; one (1) member shall be a certified mechanical master or journeyman; one (1) member shall be a building contractor; one (1) member shall be from the public at large. Members of said Board shall be appointed by the Mayor with the approval of the Governing Body. The Building Official shall be an ex officio member and is required to attend all meetings of the Board, but shall not have a vote on any decision made by the Board. This will commence the first (1st) Monday of May, 1995. (Ord. No. 987 §5-1001, 4-3-95)

##### **SECTION 500.020: TERMS OF MEMBERS—FILLING OF VACANCIES**

After the effective date of this Article, April 3, 1995, the Mayor shall appoint the members to said Board in the following manner. Two (2) members shall be appointed for a term ending the first (1st) Monday of May, 1997, two (2) members shall be appointed for a term ending the first (1st) Monday of May, 1998, one (1) member shall be appointed for a term ending the first (1st) Monday of May, 1999, and thereafter all members shall be appointed for three (3) year terms. (Ord. No. 987 §5-1002, 4-3-95)

##### **SECTION 500.030: ORGANIZATION AND QUALIFICATIONS OF MEMBERS**

- A. Actual residence within the corporate limits of the City of Mulvane is not a specific requirement for appointment. All members appointed to the Board created herein shall have significant ties and contacts with the Mulvane community.

B. The Board shall meet within thirty (30) days after the effective date of this Article and elect a Chairman, Vice-Chairman and Secretary, each to serve for one (1) year terms. The meetings shall be held once each quarter or more often at the call of the Chairman. Special meetings shall be at the call of the Chairman upon seventy-two (72) hours' advance notice in writing to all members, including ex officio members, and other interested parties who shall have filed requests for notice in accordance to the Kansas Open Meetings Act.

- C. No binding action may be taken with the exception of recess and adjournment, without the attendance of a quorum. Three (3) voting members of the Board shall constitute a quorum.
- D. The Board shall keep minutes of the proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The minutes shall be public record and shall be filed in the office of the Building Official. (Ord. No. 987 §5-1003, 4-3-95)

**SECTION 500.040:**

**COMPENSATION**

Members of the Board shall serve without compensation. (Ord. No. 987 §5-1004, 4-3-95)

**SECTION 500.050:**

**BOARD'S DUTIES AND RESPONSIBILITIES**

- A. The Board of Construction, Trades, and Appeals shall have no authority relative to interpretation of administrative provisions of the Codes nor shall the Board be empowered to waive requirements of the adopted Codes. The Board is given the responsibility of considering new methods and materials which are somewhat different than those specified in the adopted Codes. It is empowered to render reasonable interpretations of the adopted Codes. The Board shall hear appeals from any person who has been aggrieved for any reason relating to the administrative enforcement of any of the Codes and regulations of the City of Mulvane, Kansas, concerning electrical, plumbing, mechanical or minimum structures standards and requirements which may effect said person. The Board shall also hear appeals from the Building Official, and any person covered by such Codes and regulations. In addition the Board of Construction, Trades, and Appeals may from time to time make recommendations to the Governing Body of the City of Mulvane, concerning matters pertaining to the supervised trades, including but not limited to revising adopted Codes.
- B. The Board of Construction, Trades, and Appeals shall adopt regulations and procedures as necessary to carry out the intent of this Article. (Ord. No. 987 §5-1005, 4-3-95)

**LICENSING REQUIREMENT**

**ARTICLE II. CERTIFICATION AND**

**SECTION 500.060:**

**EXAMINATION AND CERTIFICATION**

- A. Any person desiring to do business or perform work as a contractor, electrician, mechanical installer, plumber or drain layer shall first obtain certification. All holders of certificates not renewed within sixty (60) days after their expiration may be required to submit an application for renewal and may be required to take new examinations.
- B. The Board shall review or cause to be devised separate examinations of practical and elementary character, sufficiently strict to test the qualifications of an applicant for certification as master or journeyman plumbers, electricians and mechanical persons, as well as for gas fitters and building contractors if required. The Board shall designate the times and places for such examinations. If said applicant shall satisfactorily pass the examination, the Board shall direct the Building Official to issue the appropriate certificate to the applicant. The Board may authorize the use of standardized

tests to be administered by competent, qualified authorities, including individuals, firms and other governmental entities who may from time to time contract to perform such functions on behalf of the Board, with approval of the Governing Body. Further provided however, the Board may honor

a master's license or journeyman's license of the affected trades issued by the City of Wichita or Sedgwick County or any other jurisdiction within the State of Kansas having a qualified Board of Construction, Trades and Appeals. (Ord. No. 1246 §1, 12-18-06)

**SECTION 500.065: TESTING AND LICENSING OF CONSTRUCTION TRADES AND CONSTRUCTION CONTRACTORS**

- A. *Purpose.* The purpose is to provide a third party testing agency for issuance of licenses to persons who have shown their qualifications through examination, experience and other requirements as required by City Code for the following categories.
- B. *License Types.*
  - 1. Building contractor Class A as defined in City Code, Section 500.060.
  - 2. Building contractor Class B as defined in City Code, Section 500.060.
  - 3. Building contractor Class C as defined in City Code, Section 500.060.
  - 4. Building contractor Class D as defined in City Code, Section 500.060.
  - 5. *Master electrician.* A person licensed to contract and/or install electrical systems in all structures.
  - 6. *J Journeyman electrician.* A person licensed to install electrical systems in all structures.
  - 7. *Master plumber with gas.* A person licensed to contract and/or install plumbing systems including gas systems in all structures.
  - 8. *J Journeyman plumber with gas.* A person licensed to install plumbing systems in all structures including gas systems.
  - 9. *Master mechanical.* A person licensed to contract and/or install heating, ventilation, air conditioning and related systems in all structures.
  - 10. *J Journeyman mechanical.* A person licensed to install heating, ventilation, air conditioning and related systems in all structures.
- C. *Examinations.* Examinations shall be required for all license types. The examination shall be an examination developed and validated by a nationally recognized organization for the type of license required. The City of Mulvane does hereby authorize the Mayor to enter into an agreement with the International Code Council to provide and administer required examinations for licensing for the City of Mulvane, Kansas, in the aforementioned trades.
- D. *Time And Place.* A schedule of examination dates and times shall be provided by the designated testing agency. The building permit office at City Hall shall post such information. (Ord. No. 1194, 4-19-04; Ord. No. 1246 §1, 12-18-06)



**SECTION 500.070:****SUSPENSION AND/OR REVOCATION OF LICENSE**

The Building Official may suspend the certificate of any person certified by this Board for a period not to exceed thirty (30) days for disregard or violation of plumbing, electrical, minimum structures or mechanical ordinances of the City of Mulvane, Kansas, or failure to comply with any lawful order of the Building Official. Whenever the certificate of any person is suspended twice within any twelve (12) month period, the Board shall call a hearing to determine if such certificate should be revoked or reinstated. The Board shall adopt procedures to insure the protection of the rights of all regulated parties to due process of law. (Ord. No. 987 §5-1007, 4-3-95)

**SECTION 500.080:****SUSPENSION OF CERTIFICATE**

The Board is authorized to suspend the license issued pursuant to appropriate Sections of the ordinance of the City of Mulvane, Kansas, for a period not to exceed thirty (30) days upon satisfactory showing to the Board of bad faith or unreasonable delay in compliance with the regulations governing such license. No permit shall be issued to the licensee during the period of suspension. (Ord. No. 987 §5-1008, 4-3-95)

**SECTION 500.090:****REVOCATION OF LICENSE**

- A. The Board of Construction, Trades and Appeals is authorized to cancel and recall the license of any trades licensee for any of the following reasons:
  1. Commission of any act in violation of any provisions of this Code or any other ordinance of the City or refusal or failure to comply with any lawful and reasonable order of the Building Official.
  2. Misrepresentation of a material fact by the applicant in obtaining a certificate.
  3. Carelessness or negligence in providing reasonable safety measures for the protection of workmen and the public.
  4. The abandonment of any contract without legal cause.
  5. Diversion of funds of property received for performance or completion of a specific contract or a specified purpose in the performance or completion of any contract and their application or use for any other contract, obligation or purpose or the failure, neglect or refusal to use such funds or property for the performance or completion of the contract.
  6. Failure of any contractor to fully certify all claims for labor and materials used in the performance of any work for which he/she has been engaged or for which he/she has been paid.
  7. Fraudulent use of the license to obtain a permit for another.
  8. Failure to obtain permits as required.
  9. Unreasonable delay in the performance and carrying out of any contract.

10. Failure of the licensee, if a firm, co-partnership or corporation, to have at least one (1) active member or officer who has been qualified as and has a master's license as provided for.

B. Whenever the licensee has been found by the Board to have twice violated the appropriate ordinances of the City within any twelve (12) month period, or any licensee shall refuse any specified work in accordance with the lawful order of the Building Official, the Board shall call a hearing to determine if such license shall be revoked. (Ord. No. 987 §5-1009, 4-3-95)

**SECTION 500.100:**

**ADOPTION OF REGULATIONS**

The Board shall formulate by-laws which will specify procedures as are necessary to carry out the purpose and intent of this Article. (Ord. No. 987 §5-1010, 4-3-95)

**SECTION 500.110:**

**PRIOR TRADES BOARDS ABOLISHED**

The Board of Examiners of Plumbers and Gas Fitters, and Drain Layers, as described in Ordinance Number 678, the Board of Electrical Examiners, as described in Ordinance Number 518, and the Board of Air-Conditioning, Refrigeration and Warm Air Heating and Boilers, as described in Ordinance Number 525 are hereby abolished. All references within the Mulvane Municipal Code to any of the Board of Examiners of the above mentioned trades are hereby amended to read "the Board of Construction, Trades and Appeals". (Ord. No. 987 §5-1011, 4-3-95)

**SECTION 500.120:**

**CONFLICT OF LAW**

Any conflict between the provisions of any prior ordinance, including "standard" or "uniform" codes incorporated thereby, shall be resolved in favor of this Article. (Ord. No. 987, 4-3-95)



## **CHAPTER 505: BUILDING CODE**

### **ARTICLE I. BUILDING OFFICIAL**

#### **SECTION 505.010: DUTIES OF CITY BUILDING OFFICIAL**

- A. There is hereby created the office of Building Official.
- B. It shall be the duty of the City Building Official to enforce all laws relating to the construction, alteration, removal and demolition of buildings and structures, to examine applications for building permits and to inspect all construction to determine whether such construction is in accordance with the written application for the permit. In the discharge of his/her official duties and upon proper identification, the City Building Official shall have authority to enter any building, structure or premises at any reasonable hour. (CC 1985 §5-103; Revised, 1961)

### **ARTICLE II. BUILDING CODE**

#### **SECTION 505.020: INTERNATIONAL BUILDING CODE**

- 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 Building Code, 2006 Edition, as published by the International Code Council, be and is hereby adopted as the Building Code of the City of Mulvane, in the State of Kansas for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures 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 Building 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 Subsection (B) of this Section.
- B. The following Sections are hereby revised:
  1. Section 101.1 Insert: City of Mulvane.
  2. Section 1612.3 Insert: City of Mulvane, Kansas.
  3. Section 1612.3 Insert: February 2, 2007 and September 14, 1990.
  4. Section 3410.2 Insert: March 5, 2007.

(CC 1985 §5-102; Ord. No. 937, 1-20-92; Ord. No. 1157 §§1-2, 10-21-02; Ord. No. 1250 §§1-3, 3-5-07)

**SECTION 505.030:****PENALTY**

Any person violating any of the provisions of this Article or the Code adopted in this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars (\$500.00) or be imprisoned in the City or County Jail for a period

of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

**SECTION 505.040:****INTERNATIONAL RESIDENTIAL CODE**

- 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 Residential Code, 2006 Edition, as published by the International Code Council, be and is hereby adopted as the Residential Code of the City of Mulvane in the State of Kansas for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three (3) stories in height with separate means of egress 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 Residential Code on file in the office of the City of Mulvane 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 Subsection (B) of this Section.
- B. The following Sections are hereby revised:
  1. Section R101.1 Insert: City of Mulvane.
  2. Table R301.2 (1) Insert: 20 pound Ground and Snow Load, 90 mph Wind Speed, A- Seismic Design Category, Severe Weathering Probability for Concrete Design, 24" Frost Line Depth, Moderate to Heavy for Termite Infestation protection, No for Ice Barrier Underlayment Protection, Flood Hazard Maps Dated February 2, 2007 and September 14, 1990.
  3. Section 1501 shall be deleted.
  4. Chapters 33 through 42 shall be deleted. (Ord. No. 1153 §§1–2, 10-21-02; Ord. No. 1251 §§1–3, 3-5-07)

*Editors Note—Ord. no. 1153 §3, adopted October 21, 2002, repealed ord. no. 957, 3-15-93 which made up this section "Reroofing Chapter of Building Code," previously enacting the new provisions set out herein. Former section 505.040 derived from Ord. no. 957 § 5-102A, 3-15-93, Ord. no. 1149 § 2, 8-19-02.*

**ARTICLE III. BUILDING PERMITS****SECTION 505.050:****APPLICATION FOR BUILDING PERMIT**

All permits for the erection, alteration or enlargement of any building shall be issued by the Building Official, but no such permit shall be issued unless there is first filed in the office of the Building Official by the applicant therefor a plat, in duplicate, showing the location and the dimensions and location on the lot of the buildings to be erected, altered or enlarged, together with a true statement in

writing, signed by the applicant, showing the use for which such building is arranged, intended, designed and furnished and such other information as the Building Official may require. Any failure to comply with the provisions of this Article or with the Zoning Code, shall be good cause for the revocation of such building permit. A record of such applications and plats shall be kept in the office of the Building Official and shall be subject to inspection by the public at reasonable hours. (CC 1985 §5-104; Ord. No. 151 §11, 3-10-53)

**SECTION 505.060:****PERMIT REQUIRED**

No person shall construct or erect, place, alter or move or cause to be constructed, erected, placed, altered or moved any building within the jurisdiction of the City of Mulvane, Kansas, without first having obtained a building permit from the Building Official. Said permit shall be issued only on the written application of the applicant and only after the Building Official has been satisfied that the proposed building, alteration or moving will not violate this Article or the Zoning Code. No permit shall be required for the alteration of an existing structure where the cost of such alteration does not exceed ten percent (10%) or two thousand dollars (\$2,000.00), whichever is the lesser amount, of the value of the existing structure. Any clause in conflict herewith shall be hereby repealed.

(CC 1985 §5-105; Ord. No. 638, 9-15-80)

**SECTION 505.070:****BUILDING PERMIT FEES**

Fees shall be charged for building permits, construction meter permits and mobile home/trailer park permits as set forth in Section 100.240. (Ord. No. 1149 §13, 8-19-02)

**SECTION 505.080****SPECIAL BUILDING WRECKING REQUIREMENTS**

No licensed general contractor of any class shall remove or wreck a building or any portion of a building without first having obtained an indemnity bond in an amount as specified by the Building Official, which bond shall be approved by and filed with the City Clerk and shall be payable to the City in the event the holder fails to comply with the building code, or should the holder fail to replace or repair damaged sidewalks, curbs, gutters, or streets within ten (10) days following completion of the demolition.

**ARTICLE IV. BUILDING CONTRACTORS****SECTION 505.090:****CONTRACTOR LICENSE REQUIRED**

A. *Contractor Defined.* A "contractor" is any person who undertakes, with or for another, to build, construct, alter, repair, add to or wreck any building or structure or any portion thereof within the City for which a permit is required for a fixed price, fee, percentage or other compensation other than wages; or who advertises or otherwise represents to the public to have the capacity or ability to undertake to build, construct, alter, repair, add to or wreck any building or structure or portion thereof.

1. *Class A license defined.* Contractor's license Class A shall entitle the holder thereof to contract for and to perform any act as a contractor, as defined herein, for the building, remodeling or repairing of any structure or addition thereto that is permitted by this Article.
2. *Class B license defined.* Contractor's license Class B shall entitle the holder thereof to contract for and perform any act as a contractor, as defined herein, in which the total value of all labor and materials entering into the work involved does not exceed five hundred thousand dollars (\$500,000.00).

3. *Class C license defined.* Contractor's license Class C shall entitle the holder thereof to contract for and to perform any act as a contractor, as defined herein, in which the total value of all

labor and material entering into work involved does not exceed one hundred thousand dollars (\$100,000.00).

4. *Class D license defined.* Contractor's license Class D shall entitle the holder thereof to contract for and to perform any act as a contractor, as defined herein, in which the total value of all labor and materials entering into work does not exceed twenty thousand dollars (\$20,000.00). Work is limited to room additions and remodeling of existing structures, building of private garages, driveways, roofing and siding and wrecking contracts.

B. *Licensing Prerequisites.*

1. The applicant shall qualify under at least one (1) of the following categories in order to apply for a building contractor license:
  - a. Senior high school graduate plus four (4) years practical experience;
  - b. "General educational development" test equivalency plus four (4) years practical experience;
  - c. Completion of the eleventh (11th) grade plus five (5) years practical experience;
  - d. Completion of the tenth (10th) grade plus six (6) years practical experience;
  - e. Completion of the ninth (9th) grade plus seven (7) years practical experience;
  - f. An engineering degree in the applied field from a recognized college or university; or
  - g. Completion of an accredited vocational or technical school for the applied field.
2. The practical experience required may be gained by serving under a qualified or licensed contractor in one (1) or more of the following fields:
  - a. An apprentice in a recognized program;
  - b. Equivalent work as a journeyman, supervisor or contractor under a recognized licensing authority; or
  - c. Work as an engineer or designer in the applied field. Completion of an accredited vocational or technical school may be substituted for one (1) year of practical experience.

C. *Certification Required.* Any person desiring to do business as a building contractor shall first obtain certification. Certification shall be obtained through the procedure set forth in Section 500.060. (Ord. No. 1246 §1, 12-18-06)

**DRAIN LAYERS****CHAPTER 510: PLUMBERS, GAS FITTERS AND****ARTICLE I. GENERAL****SECTION 510.010:****PLUMBING DEFINED**

For the purpose of this Chapter, the term "*plumbing*" shall mean the installing of pipes, fixtures and other apparatus or devices for either supplying water or removing liquid and waterborne wastes, or both, to or from buildings and premises in the City. The term shall also denote installed fixtures, drainage and vent systems as the case may be. (CC 1985 §5-201; Ord. No. 196 §1, 2-6-56)

**SECTION 510.020:****PLUMBING STANDARDS—PERMITS**

It shall be unlawful to do any plumbing work as defined in the foregoing Section or to install any house plumbing or place any building sewer drains or attach the same to any public sewer in the City of Mulvane unless the same be done in accordance with the minimum plumbing standards for such work and as hereafter provided. Before any plumbing work shall be done in any building or any premises in the City, a permit therefore shall be required and issued to the licensed contractor as provided by this Article. (CC 1985 §5-202; Ord. No. 196 §2, 2-6-56)

**ARTICLE II. PLUMBING CODE****SECTION 510.030:****INTERNATIONAL PLUMBING CODE ADOPTED**

- 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 Plumbing Code, 2006 Edition, as published by the International Code Council, be and is hereby adopted as the Plumbing Code of the City of Mulvane, in the State of Kansas regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems 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 Plumbing 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 Subsection (B) of this Section.
- B. The following Sections are hereby revised:
  1. Section 101.1 Insert: City of Mulvane.
  2. Section 106.6.2 Insert: Fees for plumbing work shall be established and approved by the Governing Body and charged as set forth in Section 100.240.
  3. Section 106.6.3 Insert: 80%.

4. Section 108.4 Insert: Misdemeanor, \$500.00 and 30 days.
5. Section 108.5 Insert: \$50.00 and \$500.00.

6. Section 109 Delete Section 109.
7. Section 305.6.1 Insert: 24 inches and 24 inches.
8. Section 904.1 Insert: 6 inches.

(CC 1985 §5-203; Ord. No. 939, 1-20-92; Ord. No. 1154 §§1—2, 10-21-02; Ord. No. 1252 §§1—3, 3-5-07; Ord. No. 1319 §1, 12-15-08)

**SECTION 510.040:****PENALTY**

Any person violating any of the provisions of this Article or the Code adopted in this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars (\$500.00) or be imprisoned in the City or County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

**ARTICLE III. LICENSES AND PERMITS****SECTION 510.050:****MASTER AND JOURNEYMAN CERTIFICATE  
REQUIRED FOR  
PLUMBERS, GAS FITTERS AND DRAIN LAYERS**

- A. It shall be unlawful for any person to engage in the business of plumbing, gas fitting or drain laying contracting without first having a master certificate.
- B. Anyone engaging in or desiring to engage in the business of plumbing, plumbing repair, gas fitting, gas fitting repair, drain laying or drain repair shall, before obtaining any permit or transacting any business, procure a master certificate therefore from the Building Official or any other official or employee of the City of Mulvane, Kansas, as designated by the Governing Body of the City.
- C. *Certificates, Application And Examination.*
  1. Before sitting for a standard examination approved by the City (as set forth in Chapter 500, Article II of this Code), an applicant for a journeyman certificate shall demonstrate documented proof of a minimum of two (2) years field experience. *"Field experience"* means working under the direct supervision of a person having a valid journeyman or master certificate or attending trade related schooling. No more than one (1) year of the requirement may be satisfied by trade related schooling. Schooling shall consist of a minimum of two hundred forty (240) hours of classroom training.
  2. Before sitting for a standard examination approved by the City, an applicant for a master certificate shall demonstrate documented proof of having a valid journeyman certificate for a minimum of two (2) years or having field experience for a minimum of four (4) years.

3. Any qualifying applicant must have a score of a minimum of seventy-five percent (75%) from the approved testing agencies to be issued a new journeyman or master certificate.

D. *Renewal Certificates.*

1. Any applicant for renewal of a master or journeyman certificate must provide written proof of having completed biennially not less than twelve (12) hours of continuing legal education

approved by the Building Official. Continuing education may be provided by a nationally recognized trade association, community college, technical school or technical college. All twelve (12) hours of education may consist of code update training on the code currently adopted.

2. All master and journeyman certificates, regardless of when they are issued, shall expire on the thirty-first (31st) day of December of each even-numbered year.
3. All annual fees as set forth in Section 100.240 for master and journeyman certificates shall be paid on the date of renewal. Because certificates are issued for a two (2) year period, annual fees must be paid in two (2) year increments. (Ord. No. 1246 §3, 12-18-06)

**SECTION 510.055:****LIABILITY OF PERSONS OWNING OR INSTALLING  
PLUMBING OR GAS CONNECTIONS**

This Title shall not be construed to relieve from liability or to lessen the responsibility of any person owning, controlling or installing any plumbing or gas fitting, equipment or device. The City of Mulvane shall not be held as assuming any liability of any nature by reason of the inspection authorized in this Title or certificate issued, and no officer or employee charged with the enforcement of this Title shall be held personally liable for any damage that may accrue to persons or property as a result of any act required or committed in the discharge of his/her duties. (CC 1985 §5-2A14; Ord. No. 517, 5-3-76; Ord. No. 1246 §1, 12-18-06)

**SECTION 510.060:****FIRM OR CORPORATION PLUMBING OR GAS  
FITTING**

Any person not engaged in the business of installation, within the scope of this Code, who has in his/her regular and permanent employ a person or persons who possess current and valid master certificates shall be permitted to have such person or persons install plumbing or gas fitting or otherwise perform plumbing or gas fitting work in or on buildings or premises that are owned, leased, operated or managed by him/her. This shall not be construed, however, to allow the installation of plumbing or gas fitting in new buildings or to additions to existing buildings. Permits shall be obtained for such work as required in Section 510.020 of this Code, and the same shall be issued to the person causing the work to be done. (CC 1985 §5-2A21; Ord. No. 517, 5-3-76)

**SECTION 510.070:****PERMITS NOT AUTHORITY TO VIOLATE TITLE**

The issuance or granting of a permit shall not be deemed or construed to be a permit for or an approval of any violation of any of the provisions of this Title. No permit presuming to give authority to violate or cancel the provisions of this Title shall be valid except insofar as the work or use which it authorizes is lawful. (CC 1985 §5-2A22; Ord. No. 517, 5-3-76)

**SECTION 510.080:****PERMITS—EXPIRATION—NEW PERMIT REQUIRED**

Every permit issued under the provisions of this Title shall expire by limitation and become null and

void if the work authorized by the permit is not started within six (6) months from the date of such permit and this work diligently executed, or if the work authorized by such permit is suspended or abandoned at any time after the work is started, for a period of six (6) months. Before such work can be resumed, a new permit shall first be secured for the unfinished portion of the work.

(CC 1985 §5-2A23; Ord. No. 517, 5-3-76)

**SECTION 510.090:****GAS UTILITY COMPANIES AND EMPLOYEES**

Gas utility companies or corporations which operate under a franchise from the City of Mulvane and anyone in the employ and under the supervision of such utility company or corporation shall not be required to furnish the bond and license as required for a gas fitting business.

(CC 1985 §5-211; Ord. No. 196 §11, 2-6-56)

**ARTICLE IV. FUEL GAS CODE****SECTION 510.095:****INTERNATIONAL FUEL GAS CODE**

- 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 Fuel Gas Code, 2006 Edition, as published by the International Code Council, be and is hereby adopted as the Fuel Gas Code of the City of Mulvane in the State of Kansas for regulating and governing fuel gas systems and gas-fired appliances 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 Fuel Gas Code on file in the office of the City of Mulvane 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 Subsection (B) of this Section.
- B. The following Sections are hereby revised:
  1. Section 101.1 Insert: City of Mulvane.
  2. Section 106.5.2 Insert: The fees for fuel gas work shall be determined by a separate document approved by the Governing Body.
  3. Section 106.5.3 Insert: 80%.
  4. Section 108.4 Insert: Misdemeanor, \$500.00 and 30 days.
  5. Section 108.5 Insert: \$50.00 and \$500.00.
  6. Section 109 Delete Section 109.

(Ord. No. 1160 §§1-2, 11-4-02; Ord. No. 1254 §§1-3, 3-5-07)

**ARTICLE V. VIOLATION-PENALTY****SECTION 510.100:****VIOLATION-PENALTY**

Any person or persons who shall in any way interfere with or prevent or hinder the Building Official in the discharge of his/her duties or any person who shall neglect or refuse to comply with any provisions of this Chapter or who, after inspection by the said Official, shall refuse to comply with

any lawful decision respecting any plumbing shall, upon conviction thereof, be fined in any sum not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00); provided that each day any plumbing work shall continue to remain in place contrary to the provisions hereof, after an inspection has been made, shall constitute a separate offense.

(CC 1985 §5-212; Ord. No. 196 §15, 2-6-56)

**WIRING****CHAPTER 515: ELECTRICAL CODE AND****WIRING****ARTICLE I. ADOPTION OF ELECTRICAL CODE****SECTION 515.010: NATIONAL ELECTRICAL CODE ADOPTED**

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 National Electric Code, 2005 Edition, as published by the National Fire Protection Association, be and is hereby adopted as the Electric Code of the City of Mulvane, Kansas for regulating the design, quality of materials, erection, installation, alteration, repair, locating, relocating, replacement, addition to, use or maintenance of electrical systems in the City of Mulvane, Kansas; providing for the issuance of permits therefore; and each and all of the regulations, provisions, conditions and terms of such National Electric Code, 2005 Edition, published by the National Fire Protection Association on file in the office of the City Clerk of the City of Mulvane are hereby referred to, adopted and made a part hereof as if fully set out in this Article. (CC 1985 §5-301; Ord. No. 1028 §5-301, 7-7-97; Ord. No. 1156 §1, 10-21-02; Ord. No. 1257 §§1-2, 3-5-07)

**ARTICLE II. IN GENERAL****SECTION 515.020:****APPLICATION FOR PERMIT**

No person, firm or corporation shall make any material alteration or addition in the existing wiring of any building nor shall any building be wired for electric lights, motors, heating devices or any apparatus requiring the use of electric current before making application in writing to the Building Official for a permit therefore, accompanied by the required fee. The fees for electrical work shall be established and approved by the Governing Body and charged as set forth in Section 100.240. Applications for permits shall be made on forms furnished by the City and shall set forth in detail such work to be done, class and location of the building and the name of the owner; provided that no permit shall be required for maintenance or minor repairs. (CC 1985 §5-302; Ord. No. 518, 5-3-76; Ord. No. 1319 §1, 12-15-08)

**SECTION 515.030:****PROVISIONS NOT RETROACTIVE**

Except for safety, nothing in this Title shall require any change in the installation of any wiring or the construction or erection of any appliance or device which complied with the law prior to the enactment of this Title. Any wiring, appliance or device illegally erected or installed prior to the enactment of this Title shall be removed or brought into compliance with this Title within thirty (30) days of the elective date hereof. (CC 1985 §5-303; Ord. No. 518, 5-3-76)

**SECTION 515.040:****ELECTRICAL INSPECTOR—AUTHORITY TO ISSUE**

**WRITTEN  
NOTICES**

The Electrical Inspector shall issue a written notice for any failure to correct a violation of this Code. Should any person, firm or corporation served by such notice fail or refuse to comply with the orders contained in the notice within the time specified therein, the Electrical Inspector shall have

the authority to disconnect or cause to be disconnected any electrical wiring or equipment and/or such person, firm or corporation shall be subject to the penalties provided for in Section 515.100. (CC 1985 §5-312; Ord. No. 518, 5-3-76)

**SECTION 515.050: ELECTRICAL INSPECTOR—AUTHORITY TO DISCONNECT ELECTRICAL WIRING**

The Electrical Inspector shall have the authority to disconnect or cause to be disconnected from electrical energy any electrical wiring or equipment in case of emergency or when necessary for the protection of life or property, and he/she shall order the discontinuance of electrical energy to any electrical wiring, device or equipment found to be dangerous to life or property and to hold such wiring device or equipment out of service until the same is made safe and conforms to the standards set forth in this Title. (CC 1985 §5-313; Ord. No. 518, 5-3-76)

**SECTION 515.060: ELECTRICAL INSPECTOR—RIGHT OF ENTRY**

In order to carry out the provisions of this Title, the Electrical Inspector shall have the authority during reasonable hours to enter any building or upon any premises in the discharge of his/her official duties for the purpose of making inspections and tests of any installation of electrical wiring, device, appliance or equipment contained therein. (CC 1985 §5-314; Ord. No. 518, 5-3-76)

**SECTION 515.070: LIABILITY OF PERSONS OWNING OR INSTALLING ELECTRICAL WIRING**

This Title shall not be construed to relieve from liability or to lessen the responsibility of any person owning, controlling or installing any electrical wiring, equipment or device. The City of Mulvane shall not be held as assuming any liability of any nature by reason of the inspection authorized in this Title or certificate issued, and no officer or employee charged with the enforcement of this Title shall be held personally liable for any damage that may accrue to persons or property as a result of any act required or committed in the discharge of his/her duties.

(CC 1985 §5-315; Ord. No. 518, 5-3-76)

**ARTICLE III. CERTIFICATES, PERMITS AND LICENSES**

**SECTION 515.080: MASTER AND JOURNEYMAN ELECTRICIANS' CERTIFICATES—REQUIRED**

- A. It shall be unlawful for any person to engage in the business of electrical contracting without first having a master electrician's certificate.
- B. It shall further be unlawful for any person to engage in the trade or otherwise perform the act of

installing electrical wiring for equipment, apparatus or devices for light, heat or power purposes within or on any building or premises within the City of Mulvane without first having secured a master electrician's certificate as herein provided for or a journeyman electrician's certificate as herein provided and both be in the employ of a licensed electrical contractor. The following exceptions shall be allowed:

1. Apprentices shall be permitted to work when accompanied by and under the supervision of a master or journeyman electrician;
2. *Exception.* A person who has qualified himself/herself by passing a simplified residential code examination shall be permitted to install, alter or repair any electrical work on the load side of the service panelboard in a single-family dwelling used exclusively for living purposes, including the usual accessory buildings in connection with such buildings in the event that such person is the bona fide owner of such dwelling and accessory buildings and that the same are occupied by said owner; provided that said owner shall personally purchase all material and shall personally perform all labor in connection therewith. Said person shall obtain the necessary permit, call for inspections and otherwise observe all the applicable provisions of this Title.

C. *Certificates, Application And Examination.*

1. Before sitting for a standard examination approved by the City (as set forth in Chapter 500, Article II of this Code), an applicant for a journeyman certificate shall demonstrate documented proof of a minimum of two (2) years field experience. *"Field experience"* means working under the direct supervision of a person having a valid journeyman or master certificate or attending trade related schooling. No more than one (1) year of the requirement may be satisfied by trade related schooling. Schooling shall consist of a minimum of two hundred forty (240) hours of classroom training.
2. Before sitting for a standard examination approved by the City, an applicant for a master certificate shall demonstrate documented proof of having a valid journeyman certificate for a minimum of two (2) years or having field experience for a minimum of four (4) years.
3. Any qualifying applicant must have a score of a minimum of seventy-five percent (75%) from the approved testing agencies to be issued a new journeyman or master certificate.

D. *Renewal Certificates.*

1. Any applicant for renewal of a master or journeyman certificate must provide written proof of having completed biennially not less than twelve (12) hours of continuing legal education approved by the Building Official. Continuing education may be provided by a nationally recognized trade association, community college, technical school or technical college. All twelve (12) hours of education may consist of code update training on the code currently adopted.
2. All master and journeyman certificates, regardless of when they are issued, shall expire on the thirty-first (31st) day of December of each even-numbered year.
3. All annual fees as set forth in Section 100.240 for master and journeyman certificates shall be paid on the date of renewal. Because certificates are issued for a two (2) year period, annual fees must be paid in two (2) year increments. (CC 1985 §5-3A01; Ord. No. 518, 5-3-76; Ord. No. 1246 §4, 12-18-06)

**SECTION 515.090:**

**FIRM OR CORPORATION WIRING**

Any person not engaged in the business of electrical installation, within the scope of this Code, who has in his/her regular and permanent employ a person or persons who possess current and valid

master electrician certificates shall be permitted to have such person or persons install electrical wiring or otherwise perform electrical work in or on buildings or premises that are owned, leased, operated or managed by him/her. This shall not be construed, however, to allow the installation of electrical wiring in new buildings or to additions to existing buildings. Permits shall be obtained for such work as required in Section 515.100 of this Code, and the same shall be issued to the person causing the work to be done. (CC 1985 §5-3A11; Ord. No. 518, 5-3-76)

**SECTION 515.100:****PERMITS TO INSTALL WIRING—FEES LISTED**

- A. It is unlawful for any person to do or cause or permit to be done any electrical wiring for light, heat or power within any building or on any premises in the City without first obtaining a permit from the Building Official. Applications for permits shall be made on forms furnished by the City, duly executed and signed by a person properly authorized to obtain permits for the applicant, which application may be presented in person or by mail, accompanied by the required fee.
- B. Any person who installs any electrical wiring for which a permit and inspection are required and who fails to report the same as ready for inspection when such work is completed shall pay a special permit fee of double the amount of the regular fees and double the amount of the permit issuance fee. (CC 1985 §5-3A12; Ord. No. 518, 5-3-76)

**SECTION 515.110:****PERMITS NOT AUTHORITY TO VIOLATE TITLE**

The issuance or granting of a permit shall not be deemed or construed to be a permit for or an approval of any violation of any of the provisions of this Title. No permit presuming to give authority to violate or cancel the provisions of this Title shall be valid, except insofar as the work or use which it authorizes is lawful. (CC 1985 §5-3A13; Ord. No. 518, 5-3-76)

**SECTION 515.120:****PERMITS—EXPIRATION—NEW PERMIT REQUIRED**

Every permit issued under the provisions of this Title shall expire by limitation and become null and void if the work authorized by the permit is not started within six (6) months from the date of such permit and the work diligently executed or if the work authorized by such permit is suspended or abandoned for a period of six (6) months at any time after the work is started. Before such work can be resumed, a new permit shall first be secured for the unfinished portion of the work.

(CC 1985 §5-3A14; Ord. No. 518, 5-3-76)

## **STRUCTURES**

## **CHAPTER 520: DANGEROUS AND DAMAGED**

### **ARTICLE I. PROPERTY MAINTENANCE CODE**

#### **SECTION 520.010:**

#### **PROPERTY MAINTENANCE CODE ADOPTION**

- 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 Property Maintenance Code, 2006 Edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of Mulvane in the State of Kansas for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such existing structures 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 Property Maintenance 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 Subsection (B) of this Section.
- B. The following Sections are hereby revised:
  - 1. Section 101.1 Insert: City of Mulvane.
  - 2. Section 103.5 Insert: Fees shall be established and approved by the Governing Body and charged as set forth in Section 100.240.
  - 3. Section 302.4 Delete 302.4 titled (Weeds) shall be deleted.
  - 4. Section 302.8 titled (Motor Vehicles) shall be deleted.
  - 5. Section 304.14 Insert: March 1 to October 31.
  - 6. Section 602.3 Insert: October through April.
  - 7. Section 602.4 Insert: October through April.
  - 8. Section 604.2 Delete Section 604.2 titled (Service) shall be deleted.

(Ord. No. 1152 §§1-2, 10-21-02; Ord. No. 1255 §§1-3, 3-5-07; Ord. No. 1319 §1, 12-15-08)

*Editor's Note—Ord. No. 1152 §3, adopted October 21, 2002, superseded this section 520.010 "Dangerous Structures" concerning uniform code for abatement of dangerous buildings, and enacted the new provisions set out herein. Former section 520.010 derived from CC 1985 §5-401.*



**SECTION 520.015: PLACARDING BUILDINGS, STRUCTURES AND/OR PREMISES IN VIOLATION OF CHAPTER**

- A. In addition to giving notice of alleged violations as provided for in the International Property Maintenance Code as adopted herein, the Building Official may appropriately placard such buildings, structures and/or premises that have been determined to be in violation of any provisions of this Chapter. The placard shall include, but not be limited to, a statement that the building, structure and/or premises is in violation of provisions of Chapter 520 of the Code of the City. If the building, structure or premises is vacant at the time of placarding or becomes vacant after placarding, it shall not be used for human habitation until the violations particularized in the notice have been corrected and written approval secured from and the placard removed by the Building Official. The Building Official shall remove such placard affixed under the provisions of this Section upon correction of all violations particularized in the notice.
- B. It shall be unlawful for any person other than the Building Official or his authorized representative to remove the placard from a building, structure or premises. Any person who violates this Section shall be guilty of a misdemeanor subject to the penalties as set forth in Section 520.020 of this Chapter. (Ord. No. 1262 §1, 7-16-07)

**SECTION 520.020: PENALTIES**

Any person, firm or corporation violating any of the provisions of this Article shall, upon conviction thereof, be fined in any sum not to exceed five hundred dollars (\$500.00) or imprisonment for not to exceed sixty (60) days or be both fined and imprisoned. (CC 1985 §5-402)

**ARTICLE II. REMOVAL OF DAMAGED STRUCTURES****SECTION 520.030: DESIGNATION OF ENFORCEMENT AGENT**

The Building Official and/or other persons designated by the Mayor are authorized to enforce the provisions of K.S.A. 12-1750, et seq. (CC 1985 §5-4A01; Ord. No. 855, 12-19-88)

**SECTION 520.040: AUTHORITY-REQUIREMENTS OF INSURANCE COMPANIES**

Any insurance company liable for the payment of a claim of a named insured for a loss or damage to a building or other structure caused by or arising out of any fire, explosion or windstorm located within the City where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of seventy-five percent (75%) of the face value of the policy covering such building or other insured structure, shall comply with the following procedures:

1. The holder of a first (1st) real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall be paid.

2. The insurance company or companies shall withhold from the covered claim payment an amount not to exceed fifteen percent (15%) of the proceeds of any such payment, unless the Building Official has issued a certificate to the insurance company or companies that the insured has removed or will remove the damaged building or other structure, as well as all associated

debris, and repair, rebuild, or otherwise make the premises safe and secure, pursuant to K.S.A. Supp. 40-3906, and amendments thereto.

3. Such transfer of proceeds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the City shall be disbursed in accordance with the policy terms, except as otherwise provided herein.
4. Upon transfer of the funds as required in Subsection (2) of this Section, said insurance company shall provide the City with the name and address of the insured or insureds, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreed to between the insurance company or companies and the insured or insureds. The City shall then notify the named insured or insureds by registered mail that said insurance proceeds have been received by the City and apprise them of the procedures to be followed under these regulations. (CC 1985 §5-4A02; Ord. No. 855, 12-19-88; Ord. No. 1111 §9, 4-1-02)

**SECTION 520.050:****FIRE INSURANCE PROCEEDS FUND ESTABLISHED**

The City Treasurer is hereby authorized and does create a fund to be known as the Fire Insurance Proceeds Fund. All monies received by the City Treasurer, as provided for by this Article, shall be deposited in an interest-bearing account. (CC 1985 §5-4A03; Ord. No. 855, 12-19-88)

**SECTION 520.060:****RECEIPT OF INSURANCE PROCEEDS—DUTIES OF CITY**

- A. Upon receipt of the insurance proceeds referred to above, the City Treasurer shall immediately notify the City Clerk of said receipt and transmit all documentation received from the insurance company or companies.
- B. Within twenty (20) days of the receipt of said monies, the Building Official shall determine whether the City shall initiate proceedings under the provisions of K.S.A. 12-1750 et seq., as amended, and notify the City Treasurer of his/her decision. The Building Official shall commence proceedings not later than thirty (30) days after receipt of said funds by the City Treasurer.
- C. After the expiration of said thirty (30) day period or after being notified by the City that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the City Treasurer shall refund said monies, plus accrued interest to the insured or insureds as identified in the communication from the insurance company or companies.  
(CC 1985 §5-4A04; Ord. No. 855, 12-19-88)

**SECTION 520.070:****EXCESS PROCEEDS PAID—DUTY OF CITY**

If the Building Official has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all monies in excess of that which is ultimately necessary to comply with said provisions for the removal of the building or structure, less salvage value, shall be refunded to the insured.

(CC 1985 §5-4A05; Ord. No. 855, 12-19-88)



**SECTION 520.080: LIEN ESTABLISHED—OTHER  
ENCUMBRANCES—OTHER RULES AND REGULATIONS**

- A. The City in accordance with K.S.A. Supp. 40-3901 et seq., does hereby create and establish a lien in favor of said City in and to the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the City caused by or arising out of any fire, insured natural disaster or explosion. Said lien arises upon any unpaid tax, special ad valorem levy, special assessment or other charge imposed upon any real property by or on behalf of said City which is an encumbrance on real property without regard to whether evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one (1) year prior to the filing of a proof of loss.
- B. Prior to final settlement of any claim covered by this Section, the insurer or insurers shall contact the County Treasurer to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that amount owing under said encumbrances a draft payable to the County Treasurer.
- C. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.
- D. Pursuant to K.S.A. Supp. 40-3905, the City Clerk is hereby authorized and shall send a copy of this Chapter to the Commissioner of Insurance of the State of Kansas within fourteen (14) days after adoption.
- E. This Article shall apply to fire, natural disaster and explosion claims arising on all buildings or structures within the City. The Mayor is hereby authorized to promulgate reasonable regulations to carry out the provisions hereof.
- F. This Article shall not make the City a party to any insurance contract, nor is any insurer herein liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy. (CC 1985 §5-4A06; Ord. No. 855, 12-19-88)

## **CHAPTER 525: MECHANICAL CODE**

### **ARTICLE I. CODE ADOPTION**

#### **SECTION 525.010: INTERNATIONAL MECHANICAL CODE**

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 Mechanical Code, 2006 Edition, as published by the International Code Council, be and is hereby adopted as the Mechanical Code of the City of Mulvane in the State of Kansas regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems 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 Mechanical Code on file in the office of the City of Mulvane 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 Subsection (B) of this Section.

B. The following Sections are hereby revised:

1. Section 101.1 Insert: City of Mulvane.
2. Section 106.5.2 Insert: Fees for mechanical work shall be established and approved by the Governing Body and charged as set forth in Section 100.240.
3. Section 106.5.3 Insert: 80% and 80%.
4. Section 108.4 Insert: \$500.00 or 30 days.
5. Section 108.5 Insert: \$50.00 and \$500.00.

(CC 1985 §5-701; Ord. No. 941, 1-20-92; Ord. No. 1155 §§1—2, 10-21-02; Ord. No. 1253 §§1—3, 3-5-07; Ord. No. 1319 §1, 12-15-08)

#### **SECTION 525.020: CODE REMEDIAL**

This Code is declared to be remedial and shall be construed to accrue the beneficial interest and purpose thereof which are public safety, health and protection of life, property and general welfare.  
(CC 1985 §5-702; Ord. No. 525, 7-6-76)

#### **SECTION 525.030: UNLAWFUL ACTS—FINE**

A. It shall be unlawful for any person, firm or corporation to erect, install, alter, repair, relocate, add to, replace, use or maintain heating, ventilating, comfort cooling or refrigeration equipment in the jurisdiction or cause the same to be done contrary to or in violation of any of the provisions of this Code. Maintenance of equipment which would be unlawful under this Code if installed after the

effective date of this Code shall constitute a continuing violation of this Code.

- B. Any person, firm or corporation violating any provisions of this Code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is omitted, continued or permitted. Upon conviction of any such violation, such person shall be punished by

a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. (CC 1985 §5-703; Ord. No. 666, 4-4-81)

## ARTICLE II. CONTRACTORS, ETC.

### SECTION 525.040:

### CONTRACTORS—DEFINED—CLASSIFICATIONS

A "mechanical contractor" or "contractor" as used in this Chapter 525 of the Code means any individual or form of organization engaged principally in the business of selling, erecting, installing, altering, repairing, servicing or maintaining or who represents to the public as being able and capable of engaging in the business of any or all of the classifications as hereafter set forth.

1. *Class "A" (Air-Conditioning).* This class includes air handling equipment and air distribution, chilled water systems, warm air heating systems including controls and other items pertaining thereto.
2. *Class "B" (Refrigeration).* This class includes refrigeration systems and equipment of all types.
3. *Class "C" (Warm Air Heating).* This class includes equipment and systems whereby heating is accomplished by distributing heated air by forced or gravity circulation or by radiation.
4. *Class "D" (Boiler).* This class includes boilers and pressure vessels including controls and other items pertaining thereto. (CC 1985 §5-704; Ord. No. 525, 7-6-76; Ord. No. 1246 §1, 12-18-06)

### SECTION 525.050:

### CONTRACTORS—COMBINED CLASSIFICATIONS

A contractor who has been duly qualified to operate in one (1) of the classifications as set out in the preceding Section may become qualified in either or all of the other classes by procuring the contractor's license as set forth in Section 525.100 for the particular class involved.

(CC 1985 §5-705; Ord. No. 525, 7-6-76)

### SECTION 525.060:

### CONTRACTORS—MARKING OF TRUCKS, ETC.

Contractor's trucks or vehicles used in the performance of installation or service shall display the contractor's permit number in two (2) inch letters in a place on each side of such vehicle.

(CC 1985 §5-706; Ord. No. 525, 7-6-76)

### SECTION 525.070:

### CONTRACTORS—ESTABLISHED PLACE OF BUSINESS REQUIRED

Every contractor who has obtained a license as set forth in this Code shall have and maintain an established place of business at a definite address and with his/her registered name and number

displayed as it appears on his/her license. (CC 1985 §5-707; Ord. No. 525, 7-6-76)

**SECTION 525.080: JOURNEYMAN  
MECHANICS-DEFINED-CLASSIFICATIONS**

A "*journeyman mechanic*" as used in this Code means any individual working for a contractor of a class as set forth in Section 525.040 and engaged principally in the occupation of erecting, installing, altering, repairing, servicing or maintaining in any or all of the following classifications

and who is duly certified as herein set forth to engage in such occupation:

1. Class "A" (Air-Conditioning) as defined in Section 525.040;
2. Class "B" (Refrigeration) as defined in Section 525.040;
3. Class "C" (Warm Air Heating) as defined in Section 525.040;
4. Class "D" (Boiler) as defined in Section 525.040. (CC 1985 §5-708; Ord. No. 525, 7-6-76)

**SECTION 525.090: APPRENTICES**

Air-conditioning, refrigeration, warm air heating or boiler apprentices shall be permitted to work when accompanied by and working under the direct supervision of a contractor or journeyman who shall be responsible for the work being done by the apprentice.

(CC 1985 §5-709; Ord. No. 525, 7-6-76)

**ARTICLE III. CONTRACTOR'S LICENSES—FEES****SECTION 525.100: CONTRACTOR'S LICENSES—FEES**

- A. Annual fees shall be charged for contractor's licenses as set forth in Section 100.240 and paid semi-annually.
- B. A certificate of insurance in the amount of one million dollars (\$1,000,000.00) is required. (Ord. No. 1149 §14, 8-19-02; Ord. No. 1246 §1, 12-18-06)

**SECTION 525.105: MASTER AND JOURNEYMAN CERTIFICATE REQUIRED FOR MECHANICAL CONTRACTORS**

- A. It shall be unlawful for any person to engage in the business of mechanical contracting without first having a master certificate.
- B. Anyone engaging in or desiring to engage in the business of mechanical contracting shall, before obtaining any permit or transacting any business, procure a master certificate therefore from the Building Official or any other official or employee of the City of Mulvane, Kansas, as designated by the Governing Body of the City.
- C. *Certificates, Application And Examination.*
  1. Before sitting for a standard examination approved by the City (as set forth in Chapter 500, Article II of this Code), an applicant for a journeyman certificate shall demonstrate documented proof of a minimum of two (2) years field experience. "Field experience" means working

under the direct supervision of a person having a valid journeyman or master certificate or attending trade related schooling. No more than one (1) year of the requirement may be satisfied by trade related schooling. Schooling shall consist of a minimum of two hundred forty (240) hours of classroom training.

2. Before sitting for a standard examination approved by the City, an applicant for a master certificate shall demonstrate documented proof of having a valid journeyman certificate for a minimum of two (2) years or having field experience for a minimum of four (4) years.

3. Any qualifying applicant must have a score of a minimum of seventy-five percent (75%) from the approved testing agencies to be issued a new journeyman or master certificate.

D. *Renewal Certificates.*

1. Any applicant for renewal of a master or journeyman certificate must provide written proof of having completed biennially not less than twelve (12) hours of continuing legal education approved by the Building Official. Continuing education may be provided by a nationally recognized trade association, community college, technical school or technical college. All twelve (12) hours of education may consist of code update training on the code currently adopted.
2. All master and journeyman certificates, regardless of when they are issued, shall expire on the thirty-first (31st) day of December of each even-numbered year.
3. All annual fees, as set forth in Section 100.240, for master and journeyman certificates shall be paid on the date of renewal. Because certificates are issued for a two (2) year period, annual fees must be paid in two (2) year increments. (Ord. No. 1246 §2, 12-18-06)

## ARTICLE IV. PERMITS

### SECTION 525.110: PERMITS

- A. Before any air-conditioning, refrigeration, warm air heating or boiler work shall begin on any building in the City, the licensed contractor proposing to do such work shall make application for and secure a permit from the Building Official of Mulvane. The application shall bear the signature of the licensed air-conditioning, refrigeration, warm air heating or boiler contractor, and no more work shall be done than that authorized in the permit. An additional permit shall be obtained for work not covered in the original permit. It shall not be permissible to transfer a permit from one licensee to another.
- B. A permit or license is not required for an installation of so-called packaged mechanical refrigeration units where the capacity of each unit does not exceed two (2) horsepower. A permit or license is not required for the installation of room-type air-conditioners without duct work when the capacity of each unit does not exceed two (2) horsepower. All such installations must comply with all other requirements contained in this Code.
- C. Provided that, regardless of other Sections of this Title, any permit required by this Title may be issued to any person to do any work regulated by this Title in a single-family dwelling used exclusively for living purposes including the usual accessory buildings and quarters in connection with such buildings in the event that any such person is the bona fide owner of such dwelling and accessory buildings and quarters and that the same are occupied by the owner; provided that the owner shall personally purchase all material and shall personally perform all labor in connection therewith; and provided that such mechanical work shall be in accordance with the standards contained in this Title as verified by an inspection requested by such person and performed by the Mechanical Inspector.

D. No permit shall be required for minor repairs or alterations which do not exceed one hundred dollars (\$100.00) as the price charged for such work, but all such work shall comply with all requirements of this Code. (CC 1985 §5-724; Ord. No. 525, 7-6-76)

**ARTICLE V. IN GENERAL****SECTION 525.120: CERTAIN PERSONS EXEMPT FROM CERTIFICATE, LICENSE AND INSURANCE REQUIREMENTS**

Any person such as an operating engineer or maintenance mechanic who is in the continuous and permanent employ of another person and doing maintenance and repair work coming within the scope of this Code for such person shall be exempt from this Code as pertains to examination, certificate, license or insurance but shall be subject to all other requirements pertaining thereto when such work is performed on buildings owned or operated by such person.

(CC 1985 §5-727; Ord. No. 525, 7-6-76)

**SECTION 525.130: ELECTRICAL AND PLUMBING WORK**

- A. All electrical work, plumbing and gas fitting done in connection with any work covered by this Code shall be in conformance with Chapters 510 and 515. It is also unlawful for a person holding a license, as set forth in this Code, to operate as a contractor or as a journeyman mechanic to do or otherwise perform any electrical, plumbing or gas fitting work except as provided in this Section. Such contractor or mechanic shall be permitted to do all water piping within the system and make indirect connections to the City sewer but shall not make direct connections to either the City water system or the City sewers.
- B. It shall be permissible for a holder of a Class "A", "B" or "C" certificate to make original installations of package units of a capacity of seven and one-half (7½) horsepower or less on the load side of the disconnect means when such is not over five (5) feet from the unit and is within sight thereof. It shall also be permissible for such a person to do all electrical work in connection with maintenance, repairs or replacement on any system from the load side of the disconnect means of the unit. All such electrical work shall conform in all respects to the requirements of this Title V of this Code. (CC 1985 §5-729; Ord. No. 525, 7-6-76)

**SECTION 525.140: UNSAFE EQUIPMENT**

If any equipment or installation included within the scope of this Code has been declared to be unsafe and hazardous to life and property by the Mechanical Inspector, it shall be removed from the system it is serving. No such equipment that has been declared unsafe shall be reused unless it has been made to comply with the provisions of this Code or other ordinances pertaining thereto.

(CC 1985 §5-730; Ord. No. 525, 7-6-76)



## CHAPTER 530: STREETS AND SIDEWALKS

*Cross Reference—Snow emergency regulations and routes, see ch. 370.*

### ARTICLE I. GENERAL REGULATIONS

#### SECTION 530.010:

#### EXCAVATION BARRIERS AND GUARDS

It shall be the duty of every person who shall have charge of the construction of any excavation or obstruction adjacent to or under any sidewalk or street of this City, during the progress of such work, to cause such excavation to be securely guarded by a fence with at least three (3) strings of good six (6) inch boards nailed not less than eighteen (18) inches apart to posts firmly set in the ground or otherwise securely fixed in place; such posts to be not more than six (6) feet apart and the top of the highest post shall be not less than four and one-half (4½) feet from the surface of the sidewalk or street; and from one-half (½) hour after sunset to one-half (½) hour before sunrise to illuminate such excavation or obstruction with red lights sufficient in number and so placed as to show the full extent thereof. (R.O. 1924 §191; CC 1985 §12-101)

#### SECTION 530.020:

#### SIDEWALK DEFECT ELIMINATION

- A. This policy sets forth guidelines to uniformly promote quality sidewalks in the City of Mulvane:
  - 1. To enhance the neighborhood and homeowner property values, and
  - 2. To ensure safe surface conditions for pedestrians and/or persons confined to wheelchairs.
- B. It shall be unlawful for the owner of any property having a sidewalk adjacent thereto to permit any plank, brick, stone or segment of said sidewalk to be raised above the established level of said sidewalk more than three-quarters (¾) inch, in any manner which might catch the foot of a pedestrian, or impede the motion of a wheelchair, or to permit any holes or depressions to occur in the sidewalk in which a pedestrian might step or catch his/her foot in a manner liable to cause injury.
- C. The City Building Inspector shall investigate sidewalk conditions and make a recommendation to the City Administrator for the ordering or replacement of defective sidewalks:
  - 1. Sections of sidewalk which are inadequate and/or potentially dangerous to pedestrian or wheelchair traffic shall be condemned.
  - 2. Sections of sidewalk with simple tight cracks shall not be condemned unless those sections are adjacent to condemned sections. Sections of sidewalk with multiple cracks or cracks wide enough to grow grass shall be replaced.
  - 3. Sections of sidewalk that are raised or have sunken at least three-quarters (¾) inch create a trip hazard and shall be leveled or replaced.
  - 4. Sections of sidewalks showing signs of spalling (crumbling) shall be replaced.

5. Sections of sidewalk ponding water are potentially dangerous and shall be condemned; property owner may either raise the sidewalk or lower the parking.

6. Sections of sidewalk with excessive cross-slope (more than one-half (½) inch in twelve (12) inches) or sloped away from the street shall be replaced.
7. The corner section and any sections between the corner and the street shall be the City's responsibility.
8. If the property owner elects to have repairs done by anyone other than the City or its agents, a licensed contractor must be used. The City must be notified, in advance, to have the work inspected and taken off the condemned list, provided the Code has been satisfied.
9. All sidewalks shall be constructed as per Subsection (B) of the City of Mulvane "Street Standards", Section 530.060. (As a minimum, four (4) feet wide and four (4) inches thick.)
10. All sidewalks shall be float finished followed by a smooth trowel, leaving no low impressions that are not square to surface of the sidewalk. That shall be followed by a light broom textured finish to prevent skidding.

D. Any property owner convicted of violating any of the provisions of this Section shall be fined not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00). Each thirty (30) days in which the prior violation continues shall constitute a new and separate violation. (CC 1985 §12-103; Ord. No. 1004, 4-15-96; Ord. No. 1070, 11-1-99)

**SECTION 530.025:**

**PERMIT FEES**

The permit fee for construction or repair of sidewalks, driveways or curb cuts shall be as set forth in Section 100.240. (Ord. No. 1149 §15, 8-19-02)

**ARTICLE II. SIDEWALK CONSTRUCTION AND REPAIR**

**SECTION 530.030:**

**SIDEWALKS TO BE BUILT ON GRADES ESTABLISHED BY CITY**

All sidewalks constructed or reconstructed in this City shall be constructed on the established grade on file in the City Clerk's office. (R.O. 1924 §120; CC 1985 §12-201)

**SECTION 530.040:**

**PLANS AND SPECIFICATIONS**

All sidewalks within the City of Mulvane shall be constructed, repaired and reconstructed according to plans and specifications kept on file in the office of the City Clerk and in the office of the City Engineer, at the time of the adoption of this Code, which plans and specifications are hereby adopted by reference as provided by law. (R.O. 1924 §1802; CC 1985 §12-202)

**SECTION 530.050:**

**REPAIRS BY OWNER OR CITY**

It shall be the duty of the owner of property abutting on any sidewalk to keep the same repaired, but the City may, after giving five (5) days' notice to the owner or his/her agent (if known) of the necessity of making the repairs and without notice if the abutting lot or piece of land is unoccupied, make all necessary repairs at any time; provided, that the same shall be done and the cost thereof be assessed against the lot, or piece of land abutting on the sidewalks so repaired as may be provided by law. (CC 1985 §12-204; Revised, 1961; G.S. 12-1808)

**ARTICLE III. STREET DESIGN AND CONSTRUCTION**

**SECTION 530.060: MINIMUM STANDARDS FOR PAVED STREETS**

- A. Street design and construction shall conform to all applicable regulations in effect in addition to the following standards.
- B. *Standards For New Development.* This Subsection covers required improvements under the Mulvane Subdivision Regulations for "Urban Type Subdivisions". This Section of standards may also be applied to new construction or to the reconstruction of collector and arterial streets in developed or previously platted parts of the City, where City at large funds are used to pay for at least a portion of the street improvements. Refer to the Section entitled "Standards for Existing Development" for additional information.

1. *Earthworks/subgrade.*

- a. In fill sections, fill shall be Type B compaction, except for the top six (6) inches placed immediately under the subgrade upon which the pavement is supported which shall have ninety-five percent (95%) of standard proctor density.
- b. All newly constructed streets shall be supported by a stabilized subgrade. The subgrade may consist of soil chemically stabilized in place by lime, flyash or Portland cement; alternately, the subgrade may consist of a rock base.
- c. Minimum subgrade thicknesses are as follows:

*Chemical Stabilization Rock Base*

- (1)Local streets 6 inches 5 inches
- (2)Collector streets 6 inches 6 inches
- (3)Arterial streets 6 inches 6 inches

Detailed soils investigations to determine soil types and stabilization chemicals and application rates may be performed at the street design engineer's option, or if the designer is familiar with soil types he/she may use his/her own judgment to select stabilization methods and application rates for local and collector streets only. A soils investigation performed by a geotechnical engineer is required for arterial street design. If no soils investigation is obtained for local or collector street design, the following shall serve as a recommended guideline for chemical stabilization:

Clay soils: Pebble lime, 20–25 pounds per square yard  
Clay and sand clay mixtures: Flyash, 70–80 pounds per square yard  
Sandy soils: Portland cement, 50 pounds per square yard

Rock base materials and construction methods shall conform to applicable City of Wichita

Standard Specifications and detailed sheets.

2. *Pavements.*

a. Pavement material shall consist of either Portland cement concrete or asphalt concrete. Minimum thickness shall be six (6) inches. Minimum pavement thickness based on street classification are as follows:

<i>Concrete</i>	<i>Asphalt</i>
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(1) Local streets	6 inches	6 inches
(2) Collector streets	6 inches	7 inches
(3) Arterial Streets	8 inches	9 inches

b. All concrete pavement constructed at the above thickness shall be reinforced in accordance with the design engineer's recommendations. If unreinforced concrete is used, the pavement thickness shall be increased an appropriate amount to offset the lack of reinforcement. Plans for the construction of concrete streets shall include a joint plan. All joints shall be sawed and sealed.

3. *Valley gutters.* Where stormwater runoff crosses an intersection, a concrete valley gutter shall be provided. No valley gutters will be allowed across arterial streets; valley gutters will generally not be allowed to cross collector streets, unless a significant amount of storm sewer can be eliminated. Valley gutters shall conform to concrete pavement standards above. Minimum reinforcement shall be six (6) inches by six (6) inches/4-4 WWF, with dowel bars as required by the joint plan.

4. *Curbs and gutters.*

a. Curbs and gutters shall be required along all street pavement. Along concrete pavement, curbs and gutter may be poured in advance of the street pavement; alternately, curbs may be poured monolithically with the street pavement with a slipform machine.

b. Curbs and gutters shall be a minimum of two (2) feet to six (6) inches in width; gutter sections shall have a minimum thickness of six (6) inches. High curb (full curb) shall have a height of six (6) inches to six and five-eighths ( $6\frac{5}{8}$ ) inches above the gutter flowline; low curb (roll curb) shall have a height of three (3) inches to three and one-half (3½) inches above the gutter flowline. The amount of stormwater runoff which the street is to carry and the longitudinal slope of the street shall be considered when roll curb is selected. The use of roll curb may necessitate additional inlets and storm sewers. Roll curb shall not be used along arterial streets; roll curb generally shall not be used along collector streets, however, the Planning Commission may make exceptions if stormwater runoff flows and traffic volumes are relatively low.

c. *Designation of curbs and gutters.* It is hereby found and determined to be advisable and in the best interests and for the general health and welfare of the public, that all curbs and gutters constructed within the boundaries of the City of Mulvane, Kansas (hereinafter the "City"), from and after the date of adoption hereof (September 20, 1999), shall be and hereby are determined to be necessary for the purpose of carrying away excess storm water

which accumulates on the surfaces of the streets, avenues, roads, highways, trafficways, alleys, overpasses, underpasses, culverts and bridges located within the City; and as such, are hereby declared and designated to be a part of the City's Storm Water Collection and Drainage System.

5. *Street geometrics.* The following geometric design criteria are established in the Mulvane Subdivision Regulations: right-of-way width, pavement width, longitudinal slopes, horizontal curves, intersection radii, horizontal sight distances and vision triangles. Additional geometric designs criteria are as follows:
  - a. Pavement cross-slope (transverse to street) shall be one-quarter ( $\frac{1}{4}$ ) inch per foot minimum and three-eighths ( $\frac{3}{8}$ ) inch per foot maximum.
  - b. Parking slope (between back of curb and right-of-way line) shall be one-quarter ( $\frac{1}{4}$ ) inch per foot minimum.
6. *Storm sewers.* All storm sewers installed in conjunction with new streets shall be reinforced concrete pipe. Curb inlets and manholes shall be brick, cast in place concrete or precast concrete. Curb inlets shall have concrete tops. Where storm sewers discharge to open channels or natural drainageways, erosion protection shall be provided and may consist of limestone riprap, concrete or other material which is functional and aesthetically satisfactory.
7. *Traffic control signs, signals and striping.*
  - a. For local and collector streets constructed as required improvements under the Mulvane Subdivision Regulations, it is preferable to have street name signs and traffic control signs included in the design and construction of the project and paid for by the developer or special assessments. If the City and the developer mutually agree, the street signs and traffic control signs may be furnished and installed by the City of Mulvane and paid for either by the developer or charged to the property as part of the special assessments. Generally, no street striping is provided along local or collector streets; however, crosswalks or school crosswalks may be required at some locations.
  - b. Traffic control signs and street name signs shall be installed along newly constructed arterials. Traffic signals shall be installed where traffic volumes and intersection considerations are such that they are required.
  - c. All signs, striping and other traffic control devices shall be designed, furnished and installed in accordance with the manual on Uniform Traffic Control Devices (MUTCD) (latest edition).
8. *Approaches, sidewalks and wheelchair ramps.*
  - a. Concrete driveway approaches shall be six (6) inches concrete (minimum) and shall extend from back of curb to right-of-way line. Approaches may be unreinforced or reinforced at the property owner's request. Commercial or industrial approaches shall be eight (8) inches concrete where heavy truck traffic is a consideration.
  - b. Concrete sidewalks, where required, shall be four (4) inches thick concrete with a four (4) foot width, unreinforced. Wheelchair ramps shall conform with applicable standards.
  - c. All driveway approach, sidewalk wheelchair ramp and other incidental items of street construction shall conform to applicable City of Wichita Standard Specifications and details.

9. *Reference specifications/plan preparation.* All construction equipment, methods and materials necessary to construct the above-described pavement items, with the exception of signs, striping

and traffic control devices shall conform to applicable portions of the City of Wichita Standard Specification (latest edition) and related standard detail sheets.

10. *Commercial and industrial development.* The above-described standards are generally applicable for residential or light commercial land uses. The Planning Commission and/or City Council shall have the right to require local and collector streets in commercial or industrial areas to conform to higher standards, particularly with regard to pavement thickness and subgrade requirements, in areas where heavy truck traffic is likely.
11. *Exceptions.* Where arterial streets within the corporate limits of the City of Mulvane are to be paved with partial or complete Federal, State or County funds, design and construction standards established by the applicable funding agency shall govern over the standards contained herein, when said standards are more restrictive. In the event that the standards of the funding agency are partially or completely less restrictive than these City of Mulvane standards, the Mulvane City Council reserves the right to partially or completely waive these standards, upon agreement with or knowledge of the funding agency.

#### C. *Standards For Existing Development.*

1. In areas which are partially or completely developed with businesses or houses and where streets are not required to be constructed as part of platting, this Subsection shall apply.
2. Except for the interconnecting street law in the Kansas Statutes, where a City is authorized to require property owners to be assessed for paving a short length of street between two (2) streets which are already paved, the City of Mulvane is not expected to authorize paving of any local streets or collector streets, unless property owners present a valid paving petition under Kansas law.
3. When a valid petition is submitted by property owners for paving a local or collector street, the City Council shall decide at the public hearing required under improvement law what standards shall be applied to the petitioned project. The following options are submitted for consideration by the City Council:
  - a. The Council may determine that above-described standards which apply to new development may be applied to the petitioned project.
  - b. In older developed areas, where properties are served by rural-type sand or gravel surfaced roads where ditches and driveway pipes exist for drainage purposes, the Council may allow the continued use of the existing drainage system provided that the system is adequate to contain stormwater flows within public street or drainage right-of-way. This requirement may necessitate regarding ditches, installing new drainage pipes at some locations and replacing existing pipes with larger pipes at other locations. The Council may opt to not require curbs and gutter if the existing ditches and pipes are adequate or made to be adequate. New pavement shall be six (6) inches minimum thickness hot-mix asphalt. If the existing roadbed has sufficient strength through sand or gravel stabilization, chemical stabilization of subgrade may not be needed.
  - c. In developed areas which have curb and gutter streets but the pavement is deteriorated and property owners wish to have the street reconstructed, the Council may opt to save the

existing curb and gutter or make spot repairs where needed and reconstruct the pavement between the existing gutter.

- d. New pavement construction shall conform to the applicable standards described above for new development. Any necessary drainage improvements shall be constructed prior to constructing pavement.
4. Priming and sealing of existing sand or gravel roads shall not be allowed. (This does not refer to periodic sealing of existing streets which the City currently performs as part of its street maintenance program). Thin hot-mix overlays (thickness in the range of one (1) to four (4) inches) shall not be applied to existing sand or gravel roads. (Ord. No. 976, 9-7-94; Ord. No. 1068 §1, 9-20-99)

*Editor's note—As to additional street standards, see ord. no. 961 on file in the office of the city clerk.*

#### **ARTICLE IV. DRIVEWAYS AND CURB CUTS**

*Cross Reference—As to permit fees, see §530.025.*

#### **SECTION 530.070: DRIVEWAYS GENERALLY—PLANS AND SPECIFICATIONS APPROVED**

All driveways hereafter constructed in the City of Mulvane on streets with curb and gutter or where curb and gutter is under contract to be constructed, shall be constructed, repaired and reconstructed according to plans and specifications prepared by the City Engineer, approved by the Governing Body and filed in the office of the City Clerk. (CC 1985 §12-401; Ord. No. 230 §1, 1-5-59)

#### **SECTION 530.080: DRIVEWAY WIDTHS**

All such driveways shall be not less than ten (10) feet in width; provided, that when the Governing Body deems it necessary or advisable, it may order a driveway to be constructed of greater width. (CC 1985 §12-402; Ord. No. 230 §2, 1-5-59)

#### **SECTION 530.090: DRIVEWAY LOCATION**

All such driveways shall be located so that the nearest edge of the driveway is not less than six (6) feet from the side property line; provided, that where the Governing Body deems it necessary or advisable, it may give permission to locate a driveway less than six (6) feet from said property line. (CC 1985 §12-403; Ord. No. 230 §3, 1-5-59)

#### **SECTION 530.100: DRIVEWAY SPECIFICATIONS—REMOVAL OF CURB AND GUTTER**

The owner of any property abutting on any street or his/her duly authorized agent or contractor may,

in accordance with Section 530.070 of this Article, cut and remove any curb and gutter at construction joints to construct a driveway entrance to his/her premises; provided, that the curb and gutter shall be entirely cut and removed and replaced according to such plans and specifications filed in the office of the City Clerk and the driveway entrances shall not be so constructed as to change the grade of any existing sidewalk or curb and gutter except with the prior approval of the Governing Body. (CC 1985 §12-404; Ord. No. 230 §4, 1-5-59)

**SECTION 530.110: PENALTY FOR VIOLATION-INJUNCTION  
PROCEEDINGS**

It shall be unlawful for any person to construct, repair or reconstruct or cause or permit to be constructed, repaired or reconstructed any driveways in the City of Mulvane on streets with curb and gutter or where curb and gutter is under contract to be constructed, except in accordance with this Article and the plans and specifications filed in the office of the City Clerk; and any person who shall violate any of the provisions of this Article shall, upon conviction thereof, be fined not to exceed one hundred dollars (\$100.00). In addition to the imposition of the penalty herein provided, the Governing Body shall have the authority to enforce compliance with the provisions of this Article by injunction or other appropriate proceedings. (CC 1985 §12-405; Ord. No. 230 §5, 1-5-59)

**ARTICLE V. MOVING BUILDINGS****SECTION 530.120: PERMIT NECESSARY**

It shall be unlawful for any firm or corporation to move any house or other structure of the height of sixteen (16) feet or over or of a width of fifteen (15) feet or more or which cannot be moved at a speed of four (4) miles per hour or more upon or across any street, alley or sidewalk in this City without first obtaining a permit to do so as hereinafter provided.

(R.O. 1924 §145; CC 1985 §12-501)

**SECTION 530.130: APPLICATION FOR PERMITS**

All applications for permits to move houses, buildings, derricks or other structures mentioned in Section 530.120 shall be made in writing to the City Clerk, specifying the day and hour said moving is to commence and the route through the City's streets over which said building or structure shall be moved. If it shall be necessary to cut down and move, raise or in any way interfere with any wires or poles, the application shall state the name of the owners of said wires or poles and the time and place, when and where the removal of said poles or the cutting, raising or otherwise interfering with said wires will be necessary. (R.O. 1924 §146; CC 1985 §12-502)

**SECTION 530.140: APPLICANT TO NOTIFY WIRE OWNERS**

The applicant shall, upon the filing of such application, give not less than fifteen (15) days' written notice to the person, firm or corporation owning or operating such wires or poles, or to their agents, of the time and place, when and where the removal of said poles or the cutting, raising or otherwise interfering with said wires shall be necessary. (R.O. 1924 §147; CC 1985 §12-503)

**SECTION 530.150: DUTY OF OWNER OF POLES OR WIRES**

It shall be the duty of the person, firm or corporation owning or operating said poles or wires after service of notice, as provided in Section 530.140, to furnish competent workmen to remove such

poles or raise or cut such wires, as will be necessary to facilitate the moving of such house or other structure. The necessary expense which is incurred thereby shall be paid by the holder of the moving permit. (R.O. 1924 §148; CC 1985 §12-504)

**SECTION 530.160:**

**DUTY OF MOVER**

It shall be the duty of any person, firm or corporation moving any of the structures mentioned in Section 530.120 of this Article upon or across any street, alley or sidewalk in this City, to display red lanterns thereon in such manner as to show the extreme height and width thereof from thirty (30) minutes after sunset to thirty (30) minutes before sunrise. (R.O. 1924 §151; CC 1985 §12-507)

**SECTION 530.170:**

**MOVER TO PROVIDE INSURANCE**

The City may require any person, firm or corporation at the time of making application for a permit as provided in Section 530.130 of this Article to provide insurance in the amount of five hundred thousand dollars (\$500,000.00) and name the City as an additional insured on such policy thereby indemnifying the City against any loss or damage suit resulting from the failure of such person, firm or corporation to comply with the provisions of this Article or from their negligence.

(R.O. 1924 §152; CC 1985 §12-508)

**SECTION 530.180:**

**PENALTY**

Any person violating the provisions of this Article shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or by imprisonment for not more than sixty (60) days or by both such fine and imprisonment. (R.O. 1924 §153; CC 1985 §12-510)



## **CHAPTER 535: ARTERIAL ROADWAY IMPACT FEE**

### **SECTION 535.010:**

### **PURPOSE**

A City of Mulvane arterial roadway impact fee is hereby imposed upon new development for the purpose of equitably apportioning the costs associated with expanding the City's arterial roadway system to accommodate the needs created by such new development. The impact fee shall be imposed on all new residential construction within the City of Mulvane, Kansas, and all fees collected shall be utilized solely for arterial roadway improvements as such roads are designated in the City of Mulvane's Comprehensive Development Plan. (Ord. No. 1071 §1, 11-1-99)

### **SECTION 535.020:**

### **IMPOSITION OF IMPACT FEE**

Except as otherwise permitted herein, the impact fee provided for herein shall be assessed and collected at the time of the issuance of a building permit and no 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. (Ord. No. 1071 §2, 11-1-99)

### **SECTION 535.030:**

### **CALCULATION OF IMPACT FEE**

- A. Upon receipt of an application for a 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 this Chapter which shall be reviewed not less than biannually thereafter. Revisions to the amount of the impact fee shall be made by subsequent resolution.
- B. Upon determination of the appropriate impact fee as determined by the City's Zoning Administrator, the fee so imposed shall be collected by the Zoning Administrator as a condition precedent to the issuance of the building permit.
- C. Notwithstanding the foregoing, a land developer can request the assessment of an estimated impact fee at the time of final plat approval and may be permitted to pay the estimated fee then in effect. In such cases, the estimated fees collected shall be credited against the individual lots within the platted subdivision. At the time of the issuance of the building permit the requested development upon each lot will be taken into account and a determination will be made as to whether the actual development will be the same as assumed at the time of the payment of the estimated fee. If so, no additional fee will be imposed. If the usage of the lot as reflected within the building permit application indicates the construction of improvements will result in a higher fee than represented by the estimated fee, the City's Zoning Administrator shall collect an additional fee consistent with the actual proposed development of the lot, which additional fee shall be based upon rates prevailing at the time of the payment of the additional fee.
- D. An applicant for a zoning permit who feels aggrieved by the impact fee as determined by the City's Zoning Administrator may file a petition for review with the City Clerk or the Clerk's duly

designated agent for the purpose of seeking administrative review of a decision by the Zoning Administrator as to the applicability of the impact fee ordinance or the amount of the impact fee due. The City Clerk or his/her duly designated agent must provide the applicant, in writing, with a

decision upon such request. The decision shall include the reasons for the decision. Pending the outcome of such review a building permit may be issued, but only upon the posting of satisfactory financial sureties guaranteeing the payment of the fee as ultimately determined by the City Clerk or his/her duly designated agent. (Ord. No. 1071 §3, 11-1-99)

*Editor's Note—Res. no. 99-10 enacted November 1, 1999, set the arterial roadway impact fee at \$700.00 for a residential dwelling unit.*

**SECTION 535.040:****USE OF IMPACT FEE**

Upon receipt of 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 Transportation Impact Fund (TIF). All monies placed in said fund and all interest earned thereon shall be utilized solely and exclusively for the improvement of arterial roads as follows:

1. For the costs associated with engineering, financing, and actual construction or reconstruction of such arterial roads;
2. As reimbursement to the City for arterial roads in place, the costs for which were paid by the City at large after November 1, 1999.
3. Impact fee funds collected shall not be used for ordinary maintenance or repairs of the existing or new street networks. (Ord. No. 1071 §4, 11-1-99)

**SECTION 535.050:****CREDIT FOR PRIOR ASSESSMENT**

Any property owner whose land has been previously assessed a TIF fee shall be allowed a credit against the impact fee provided herein. The credit shall be equal to but may not exceed the dollar amount for which land was originally assessed a TIF fee, providing that such prior assessment has been fully paid. This Section shall generally only be applicable in the event of a change in the usage of land requiring a property owner to apply for a building permit for additional construction or reconstruction of improvements. (Ord. No. 1071 §5, 11-1-99)

**SECTION 535.060:****VARIANCES, EXCEPTIONS, APPEALS**

Petitions for variance and exceptions to the application of this Chapter shall be made to the City Clerk or his/her designated 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 appeal. The appeal shall be to the entire 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. (Ord. No. 1071 §6, 11-1-99)

**SECTION 535.070: EFFECT OF IMPACT FEE ON ZONING AND  
SUBDIVISION REGULATIONS AND OTHER LAWS OR REGULATIONS  
APPLICABLE**

The imposition of the impact fees provided for herein does not alter, negate, supersede or otherwise affect any other requirement of the City, County, State or Federal legislation or regulations that may be applicable to a development, including general or special benefit district participation, City Zoning and/or subdivision regulations and/or requirements that may impose or involve a transportation operational improvement. This Chapter shall not negate or alter any City requirements, standards or policies relating to transportation or street improvements including payment for or dedication of land for right-of-way or utility easements. (Ord. No. 1071 §7, 11-1-99)



outline is defined and used in this document

## **TITLE VI. BUSINESS AND OCCUPATION**

### **CHAPTER 600: ALCOHOLIC BEVERAGES**

*Editor's Note—Ord. no. 1411 §1, adopted February 18, 2013, repealed ch. 600 and enacted new provisions set out herein. Former ch. 600 derived from CC 1985 §§4-101—4-106, 4-108—4-110, 4-113, 4-115, 4-201—4-212, 4-214, 4-216—4-219; ord. no. 839, 3-21-88; ord. no. 843, 5-16-88; ord. no. 989, 6-19-95; ord. no. 1149 §§16—17, 8-19-02; ord. no. 1196 §1, 5-17-04; ord. no. 1227, 3-20-06; ord. no. 1353 §§1—3, 8-16-10.*

#### **ARTICLE I. CEREAL MALT BEVERAGES**

##### **SECTION 600.010: DEFINITIONS**

As used in this Article, the words and phrases used herein shall have the meanings set forth under State law, as the same exist from time to time, unless the context otherwise requires. (Ord. No. 1411 §1, 2-18-13)

##### **SECTION 600.020: LICENSE REQUIRED OF CEREAL MALT BEVERAGE RETAILERS**

No person shall sell any cereal malt beverage at retail without first having secured a license from the City for each place of business which such person desires to operate within the corporate limits of the City of Mulvane, Kansas, as herein provided. (Ord. No. 1411 §1, 2-18-13)

##### **SECTION 600.030: LICENSE TAX**

- A. The license tax for the retail sale of cereal malt beverages (as a general retailer, limited retailer or temporary retailer) shall be as set forth in Section 100.240.
- B. The full amount of the license tax shall be required regardless of the time of the year in which the application is made and the licensee shall be authorized to operate under the license for only the remainder of the calendar year in which the license is issued. (Ord. No. 1411 §1, 2-18-13)

##### **SECTION 600.040: APPLICATION FOR LICENSES**

Any person desiring to obtain or renew a cereal malt beverage license shall make an application to the Governing Body of the City and accompany the application by the required license tax for such place of business for which the person desires the license. The application shall be verified, upon a form prepared by the Attorney General of the State of Kansas, as in effect from time to time. (Ord.

**SECTION 600.050:**

**EXAMINATION—DISQUALIFICATION—APPROVAL**

Subject to the restrictions, qualifications, and limitations of State law, if the application for license is in proper form and accompanied by the license tax, the Governing Body shall examine the application and shall thereafter issue or renew a license to the applicants qualified at law. (Ord. No. 1411 §1, 2-18-13)

**SECTION 600.060:****LICENSE GRANTED**

The journal of the Governing Body shall show the action taken, and if the license is granted, the action of the Governing Body shall direct the officers charged by law to issue other licenses under the general licensing power of the City to execute the license by order of the Governing Body. The license shall not be transferable. The license shall state that it is not transferable and the calendar year for which issued. The license shall be kept posted in a conspicuous place in the place of business. (Ord. No. 1411 §1, 2-18-13)

**SECTION 600.070:****SPECIAL EVENT PERMITS**

Any person desiring to obtain a special event permit shall make an application to the City Clerk and accompany the application by the required license tax. Upon receipt of a properly complete application and the accompanying tax, the City Administrator or City Clerk may issue a special event permit, which shall allow the holder of such permit to offer for sale, sell and serve cereal malt beverages for consumption on specified unlicensed premises within the City, provided that:

1. The special event permit specifies the premises for which the permit is issued;
2. The special event permit is issued only for the duration of the special event, the dates and hours of which are specified in the permit;
3. No more than four (4) special event permits are issued to any one (1) applicant in a calendar year; and
4. The special event permit is not be transferable or assignable.

Any applicant for a special event permit shall pay the City, at the time of application, the required license tax in cash as provided for in Section 100.240 of this Code for each temporary permit issued hereunder. For the purposes of this Chapter, a special event permit shall be considered a "license" and any holder of a special event permit shall be considered a "licensee". (Ord. No. 1411 §1, 2-18-13)

**SECTION 600.080:****SUSPENSION OR REVOCATION OF LICENSE**

In addition to any and all other penalties imposed hereunder or under State law, the Governing Body of the City may suspend, or revoke such cereal malt beverage license for any violation of this Chapter, any violation of the Kansas Liquor Control Act, as amended from time to time, and for the reasons set forth, and in the manner provided by State law. (Ord. No. 1411 §1, 2-18-13)

**SECTION 600.090:****WHOLESALE AND/OR DISTRIBUTOR**

It shall be unlawful for any wholesaler and/or distributor, his/her or its agents or employees to sell and/or deliver cereal malt beverages within this City to persons authorized under this Article to sell the same within this City unless such wholesaler and/or distributor has first secured a license from the Kansas Department of Revenue. (Ord. No. 1411 §1, 2-18-13)

**ARTICLE II. INTOXICATING LIQUORS****SECTION 600.100: DEFINITIONS**

As used in this Article, the words and phrases used herein shall have the meanings set forth under State law, as the same exist from time to time, unless the context otherwise requires. (Ord. No. 1411 §1, 2-18-13)

**SECTION 600.110: LICENSES REQUIRED**

- A. No person shall maintain a club, farm winery, alcohol manufacturer, microbrewery, microdistillery, drinking establishment, alcohol distributor, retail package alcohol liquor establishment, or otherwise manufacture, offer for sale, sell, or serve alcoholic liquors either in their original package or by the drink without first having secured a valid, unexpired, and unrevoked license therefor from the State Director and, except in the case of a person holding a valid, unexpired and unrevoked caterer's license from the State Director, a valid, unexpired and unrevoked license or permit from the City for each place of business which such person desires to operate within the corporate limits of the City of Mulvane, Kansas.
- B. The qualifications, rights, and responsibilities of the licensees under the liquor licenses issued by the City shall be identical to the qualifications, rights, and responsibilities of licensees under licenses issued by the State Director. (Ord. No. 1411 §1, 2-18-13)

**SECTION 600.120: LICENSE TAX**

- A. A biennial license tax is hereby levied upon all persons making application for and securing a license required under this Article as set forth in Section 100.240.
- B. The full amount of the license tax shall be paid regardless of the time of the year that the application is made and the licensee shall operate under the license for only the remainder of the calendar year plus one (1) additional calendar year for which the license is issued. No, rebate or return of any portion of the license tax shall be made in the event the license is revoked for any cause provided under this Article.
- C. No license issued pursuant to this Article is transferable. (Ord. No. 1411 §1, 2-18-13)

**SECTION 600.130: APPLICATION FOR LICENSE**

Any person desiring to secure or renew a license under the provisions of this Article shall make and file a verified application to the Governing Body of the City and shall accompany the application with the required license tax as provided for in Section 100.240 of this Code. A true copy of the application shall be submitted to the Chief of Police, the Director of the City-County Health Department and the City Attorney by the City Clerk for investigation and recommendation to the Governing Body of the City. The application for any license required under this Article shall contain the following information:

1. The name and residence of the applicant.
2. The location of the premises for which the license is desired.

3. A set of fingerprints of the applicant, if required by the Chief of Police.
4. The name of the fee title owner or owners of the premises upon which the place of business is to be located.
5. True copy of the license issued to the applicant by the State Director. (Ord. No. 1411 §1, 2-18-13)

**SECTION 600.140:**

**EXAMINATION OF APPLICANT AND APPLICATION  
BY GOVERNING BODY—ISSUANCE OR DENIAL OF LICENSE**

Subject to the restrictions, qualifications, and limitations of State law, if the application for license is in proper form, accompanied by the license tax, and the State Director has issued the applicant the appropriate license under State law, the Governing Body shall examine the application and shall thereafter issue or renew a license to the applicants qualified at law. (Ord. No. 1411 §1, 2-18-13)

**SECTION 600.150:**

**TEMPORARY PERMIT**

The City Administrator or City Clerk may issue a temporary permit, which shall allow the holder of such permit to offer for sale, sell and serve alcoholic liquor for consumption on specified unlicensed premises within the City, if the proposed holder of such permit shall present a valid, unexpired, and unrevoked temporary permit issued by the State Director to such proposed holder and applicable to said unlicensed premises; provided however, that if said premises includes any City street, alley, road, sidewalk or highway, such proposed temporary permit shall be issued only if approved by the Governing Body. Any applicant for a temporary permit shall pay the City, at the time of application, the required license tax as provided for in Section 100.240 of this Code for each temporary permit issued hereunder. For the purposes of this Chapter, a temporary permit shall be considered a "license" and any holder of a temporary permit shall be considered a "licensee". (Ord. No. 1411 §1, 2-18-13)

**SECTION 600.160:**

**REVOCATION OR SUSPENSION BY GOVERNING  
BODY OF  
LICENSE—GROUNDS—RIGHT OF APPEAL**

The Governing Body of the City may suspend or revoke such liquor license for any violation of this Chapter, any violation of the Kansas Liquor Control Act, as amended from time to time, and for any reason set forth in State law. (Ord. No. 1411 §1, 2-18-13)

**ARTICLE III. GENERAL PROVISIONS**

**SECTION 600.170:**

**COMPLIANCE WITH LAWS—PROHIBITED ACTS**

- A. Any person holding a license under this Chapter shall at all times comply with all State and local laws, regulations, and rules applicable to such license holder. All restrictions, requirements, and

obligations imposed upon an alcoholic beverage license and licensee by State law shall apply to the license granted hereunder and the licensee.

B. The City has not expanded the days of sale at retail of cereal malt beverages or alcoholic liquor pursuant to K.S.A. 41-2911. (Ord. No. 1411 §1, 2-18-13)

**SECTION 600.180: CONSUMPTION OF ALCOHOLIC LIQUOR AND CEREAL MALT BEVERAGES PROHIBITED IN CERTAIN PLACES**

No person shall drink or consume any alcoholic liquor or cereal malt beverage on public property within the corporate limits of the City, except during special events of a specified time, place, and duration, and upon approval by the Governing Body of the City. Such request may be approved by the Governing Body of the City by resolution for the specified time, place, and duration of the event specified in the request. Approval by the Governing Body of a cereal malt beverage special event permit under Section 600.070 or a liquor temporary permit under Section 600.150 shall be deemed to permit such consumption as specified therein. (Ord. No. 1411 §1, 2-18-13)

**SECTION 600.190: IMMEDIATE ENTRY TO AND INSPECTION OF PREMISES CONDITION OF LICENSE—REVOCATION FOR REFUSAL**

Every license granted under this Chapter is conditioned upon the right of any duly authorized officer or agent of the director, the City, or any Law Enforcement Officer to immediate entry to and inspection of any premises licensed under this Chapter, and acceptance of any license shall conclusively be deemed to be the consent of the applicant and licensee or permit holder to such right of immediate entry and inspection. Such right of immediate entry and inspection shall be at any time when the premises are occupied and is not limited to hours when the licensed premises is open for business. Such consent shall not be revocable during the term of the license. Refusal of such entry shall be grounds for revocation of the license. (Ord. No. 1411 §1, 2-18-13)

**SECTION 600.200: SEVERABILITY**

If any provisions of this Article or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Article which can be given effect without the invalid provisions or application and to this end the provisions of this Article are severable. (Ord. No. 1411 §1, 2-18-13)

**SECTION 600.210: PENALTIES**

Any person violating any of the provisions of this Chapter shall, upon conviction thereof, be adjudged guilty of a misdemeanor and punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment for a period not exceeding six (6) months, or both. (Ord. No. 1411 §1, 2-18-13)



## **REGULATIONS**

## **CHAPTER 605: LICENSES AND BUSINESS**

*Cross References—Ambulance company licensing, see ch. 230, art. II; ambulance personnel licensing, see ch. 230, art. IV.*

### **ARTICLE I. PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS**

#### **SECTION 605.010: LICENSES REQUIRED**

- A. It shall be unlawful for any person, firm, or corporation to engage in the business of a solicitor in the City of Mulvane without having in force, and in his/her possession, a valid license to engage in such business as hereinafter provided. This Section shall not apply to:
  - 1. Persons representing a duly organized not-for-profit or governmental organization qualified to do business and in good standing in the State of Kansas, or
  - 2. An individual or entity which maintains a physical commercial location within a properly zoned area in the limits of the City used primarily for the sale of the same merchandise and/or services being solicited.
- B. "Solicitor" for the purposes of this Article shall mean each individual, whether individually or representing any corporation, partnership, limited liability company, or other entity, attempting direct personal contact for the purpose of selling merchandise or services, or soliciting interest in or advertising the purchase of merchandise or services door-to-door on public or residential private property to persons or other entities with whom such solicitor does not have a prior contractual relationship. (CC 1985 §8-101; Revised, 1961; Ord. No. 1390 §1, 2-6-12)

#### **SECTION 605.020: ISSUANCE BY CITY CLERK**

A license to engage in any of the businesses specified in the preceding Section shall be issued by the City Clerk upon application therefor and payment of the fee hereinafter provided. Such license shall not be transferable and shall be valid only on the day or days for which it is issued. (CC 1985 §8-102; Revised, 1961)

#### **SECTION 605.030: LICENSE FEES**

The fee for the license required by Section 605.010 hereof shall be as set forth in Section 100.240, which shall be paid to the City Clerk before the license is issued. Annual license fees shall be paid on or before May first (1st) of each year. State sales tax certificate must be provided before license is issued. (CC 1985 §8-103; Amending Ord. No. 918, 5-20-91; Ord. No. 1149 §18, 8-19-02)

#### **SECTION 605.035: NO SOLICITATION**

It shall be unlawful for any person, licensed or unlicensed, acting as a solicitor to solicit or contact any person at a residence which has posted a sign within reasonable view of such residence's front doorway stating "no solicitation", "no solicitors", or other similar language. This Section shall not apply to persons representing a duly organized not-for-profit or governmental organization qualified to do business and in good standing in the State of Kansas. (Ord. No. 1390 §2, 2-6-12)

**SECTION 605.040:**

**VIOLATION**

For purposes of construction and application of this Section, each solicitation at each address within the City limits shall be construed as a separate violation. (CC 1985 §8-104; Ord. No. 776, 1-20-86)

**ARTICLE II. POOL HALLS**

**SECTION 605.050:**

**LICENSE REQUIRED**

It shall be unlawful for any person, firm or corporation to operate or maintain for hire any pool, snooker or billiards hall, table or tables, within the limits of the City of Mulvane, Kansas, without first procuring a license therefor as provided herein. (CC 1985 §8-201; Ord. No. 127 §1, 4-2-51)

**SECTION 605.060:**

**LICENSE FEE**

The license fee for operating or maintaining for hire any pool, snooker or billiards hall, table or tables within the limits of said City shall be as set forth in Section 100.240. Such license fee shall be paid to the City Clerk who shall issue such license to such person, firm or corporation whose application shall have been first approved by the Mayor and Councilmen of said City, and such license so issued shall not be transferable. All license fees shall be payable in advance and the full amount of the license fee shall be required regardless of the time of the year in which the application is made, and the licensee shall only be authorized to operate under the license until the first (1st) day of May next following. (CC 1985 §8-202; Ord. No. 127 §4, 4-2-51; Ord. No. 237, 5-18-59; Ord. No. 1149 §19, 8-19-02)

**SECTION 605.070:**

**CONSTRUCTION REQUIREMENTS**

The room where any such billiards or pool hall is run, operated and maintained shall not be divided by any partitions, and the windows and doors of said room shall at all times be maintained so as to afford a full and unobstructed view of the interior of such room from the street, and said room shall be fitted and supplied with a toilet on the main ground floor, properly connected to and with the sewer system of said City. (CC 1985 §8-203; Ord. No. 127 §5, 4-2-51)

**SECTION 605.080:**

**RESERVED**

*Editor's Note—Ord. no. 1389 §1, adopted January 16, 2012, repealed section 605.080 "closing hours—sunday operation prohibited" in its entirety. Former section 605.080 derived from CC 1985 §8-204; ord. no. 127 §3, 4-2-51. This section has been reserved for the city's future use.*

**SECTION 605.090:**

**DISORDERLY CONDUCT PROHIBITED**

It shall be unlawful for any person, firm or corporation licensed as aforesaid to permit any illegal

drinking in such pool, snooker or billiards hall or to allow or permit any loud, profane or vulgar language to be used there. (CC 1985 §8-205; Ord. No. 127 §6, 4-2-51)

**SECTION 605.100: MINORS**

It shall be unlawful for any owner, proprietor or manager of any public billiard or pool hall to permit any person under the age of eighteen (18) years to be or remain in such billiard hall or to play pool, billiards or snooker, therein, for pay or otherwise, provided however, that the foregoing prohibition shall not apply to any person who is present within said public billiard or pool hall in the direct custody and under the dominion and control of his/her natural parent or legal guardian, said person being present to supervise and maintain control over the minor at all times. (CC 1985 §8-206; Ord. No. 747 §1, 5-7-84)

**SECTION 605.110: RESERVED**

*Editor's Note—Ord. no. 1389 §2, adopted January 16, 2012, repealed section 605.110 "number of pool halls limited" in its entirety. Former section 605.110 derived from CC 1985 §8-207; ord. no. 127 §7, 4-2-51. This section has been reserved for the city's future use.*

**SECTION 605.120: REVOCATION OF LICENSE**

The Governing Body, upon notice to the licensee and affording him/her an opportunity to be heard, may revoke any license granted hereunder for violation of the provisions of this Article. (CC 1985 §8-208; Revised, 1961)

**ARTICLE III. BOWLING ALLEYS AND COIN-OPERATED AMUSEMENT DEVICES****SECTION 605.130: BOWLING ALLEYS**

Operators of bowling alleys shall pay a yearly license fee of ten dollars (\$10.00) per alley for the first (1st) two (2) alleys and twenty dollars (\$20.00) for each additional alley operating in the City of Mulvane, Kansas; provided, that all alleys operating under one (1) license shall be in one (1) place of business. (CC 1985 §8-301; Ord. No. 127 §9, 4-2-51)

**SECTION 605.140: COIN-OPERATED AMUSEMENT DEVICES**

Persons maintaining coin-operated music machines, juke boxes, pinball machines or other similar coin-operated amusement devices shall pay a yearly license fee as set forth in Section 100.240 for each machine in operation in the City of Mulvane, Kansas. (CC 1985 §8-302; Ord. No. 127 §10, 4-2-51; Ord. No. 1149 §20, 8-19-02)

**SECTION 605.150: LICENSE FEES**

All license fees imposed or required by this Article shall be payable to the City Clerk in advance and

all licenses shall expire at the end of April of each calendar year. All licenses issued under this Article shall be issued for the place of business in which the item or items requiring a license are located and shall not be transferable. (CC 1985 §8-303; Ord. No. 127 §11, 4-2-51)

**ARTICLE IV. RECREATIONAL CENTERS****SECTION 605.160:****DEFINITION**

Any place of business located within the City wherein the primary purpose of said business is to offer to the public amusement or entertainment consisting of pinball machines, pool tables, marble machines, juke boxes, foosball, air hockey and any or all other coin-operated amusement devices shall for the purposes of this Article be deemed a "*recreational center*". (CC 1985 §4-301; Ord. No. 557, 9-6-77)

**SECTION 605.170:****OPEN VIEW OF INTERIOR**

From and after the effective date of this Article, a substantial portion of the interior of such recreational center shall be open to view from one (1) or more points on the exterior of such recreational center. Blinds, curtains, windows, doors and other such openings into any recreational center shall be at all times so drawn, constructed and arranged so that an unobstructed view may be had of the interior of said premises; provided however, all amusement centers licensed for the first (1st) time shall have at least one (1) door or window located so that an unobstructed view may be had of a substantial portion of the interior of said premises from the street. In extreme hardship cases, these requirements may be waived or altered by the Governing Body. (CC 1985 §4-302; Ord. No. 557, 9-6-77)

**SECTION 605.180:****INTERIOR LIGHTING**

The interior of all recreational centers shall be adequately lighted during business hours with at least one (1) footcandle of light thirty (30) inches above the floor in all portions thereof. (CC 1985 §4-303; Ord. No. 557, 9-6-77)

**SECTION 605.190:****CONDUCT OF BUSINESS**

The management of all recreation centers shall conduct the business in orderly fashion and shall not permit loud, boisterous or riotous conduct upon the premises. No cereal malt beverages may be served or consumed on said premises. (CC 1985 §4-304; Ord. No. 557, 9-6-77)

**SECTION 605.200:****VIOLATION**

Violation of this Article is a Class C misdemeanor. (CC 1985 §4-305; Ord. No. 557, 9-6-77)

**ARTICLE V. ENTERTAINERS****SECTION 605.210:****IDENTIFICATION PERMIT**

Every professional dancer, entertainer, or other performer except a musician or vocalist performing solely as a musician or vocalist who for compensation performs in any place licensed under Chapter 600 of the City of Mulvane Code, shall first obtain an identification permit. Any person engaging in any such performance without first having made application for such identification permit shall be guilty of a Class A misdemeanor. (CC 1985 §10-1501; Amended Ord. No. 920, 6-3-91)

**SECTION 605.220:****EMPLOYER**

Any person licensed under the provisions of the City Code of the City of Mulvane, Kansas, who employs or allows a professional dancer, entertainer or other performer who does not have an identification permit as set out herein or who permits or allows an entertainer or performer subject to regulation under the City Code to dance or perform within or about the premises shall be guilty of a Class A misdemeanor. Upon conviction thereof, all City licenses held by such employer or person allowing such prohibited conduct shall be subject to forfeiture, suspension and/or revocation. (CC 1985 §10-1502; Amended Ord. No. 920, 6-3-91)

**SECTION 605.230:****APPLICATION FOR PERMIT**

Any person desiring such identification permit shall file written application therefor with the Chief or Police or his/her designee giving his/her name, address and current and/or previous place of employment. Every performer or entertainer subject to this Article shall then be photographed and fingerprinted by the Police Department after which an identification permit shall be issued on such forms, interim and permanent, as are approved by the Chief of Police. Each such permit shall be valid for a period of one (1) year after which a new application shall be filed by any person desiring a current identification permit. An annual fee shall be paid for the filing of such application for the issuance of the identification permit as set forth in Section 100.240. (CC 1985 §10-1503; Amended Ord. No. 920, 6-3-91; Ord. No. 1391 §1, 2-6-12)

**SECTION 605.240:****UNLAWFUL ACTIONS**

It shall be unlawful for any professional dancer, entertainer, or other performer licensed hereunder to perform any manner of obscene, lewd, lascivious or prurient dance and it shall also be unlawful to allow any such performance. It shall be *prima facie* evidence of violation of this Section to wear any costume or other clothing which does not cover or which is transparent or does not conceal reproductive organs. (CC 1985 §10-1507; Amended Ord. No. 920, 6-3-91)

**SECTION 605.250:****REVOCATION OF IDENTIFICATION PERMIT**

A. No person who within two (2) years preceding the date of making application has been convicted of any felony or of any crime involving a morals charge or the violation of any controlled substance or intoxicating liquor law of any City, State or the United States shall be issued an identification permit. Any such identification permit required herein may be revoked permanently by the Governing Body of the City of Mulvane, Kansas, upon hearing at any regular meeting of the City Council, and may be suspended immediately for not to exceed thirty (30) days by the Chief of Police for any of the following reasons:

1. If the permittee has fraudulently obtained the identification permit by giving false information therefor;
2. Drunkenness of the permittee;
3. Violation of any provision of City ordinances or State or Federal Statutes pertaining to

intoxicating liquor, cereal malt beverages, or controlled substances.

4. The conviction of any felony or of any crime involving a morals charge.

B. For the purposes of this Code, "*morals charge*" shall include those charges involving prostitution, pimping, indecent exposure, lewd and lascivious conduct, illegal use, possession or sale of controlled substance as defined by State law. (CC 1985 §10-1508; Amended Ord. No. 920, 6-3-91)

**SECTION 605.260:**

**PENALTY**

Any person, corporation, firm or association violating any provision of this Article shall be guilty of a Class A misdemeanor. (CC 1985 §10-1509; Amended Ord. No. 920, 6-3-99)

**ARTICLE VI. TRASH HAULING**

**SECTION 605.270:**

**LICENSE REQUIRED**

All firms, persons, corporations, partnerships or others engaged in the collecting, hauling or disposing of trash, garbage or other waste within the City of Mulvane, Kansas, for consideration shall, prior to engaging in such business, obtain a license from the City of Mulvane. (CC 1985 §7-601; Ord. No. 439, 5-21-73; Ord. No. 1069, 10-18-99)

**SECTION 605.280:**

**APPLICATION FOR LICENSE**

All persons making an application for a license to engage in the business of hauling trash for consideration within the City of Mulvane, Kansas, shall first be required to file with the City Clerk the following:

1. A verified statement that the applicant individually has not been convicted of a felony as defined by the laws of the State of Kansas or the United States of America.
2. A certificate or statement to be furnished by the Chief of Police of the City of Mulvane, Kansas, or a duly authorized deputy stating that said individual has examined each vehicle to be used by the applicant for the purpose of hauling trash, garbage or other waste and that said individual finds each vehicle to be so used to be in a safe mechanical condition and that said vehicle is supplied with an adequate cover to protect said trash, garbage or other waste from flies or insects and, further, that said trash is in a covered condition and cannot negligently fall from said vehicle.
3. A Certificate of Insurance in the amount of not less than one million dollars (\$1,000,000.00) is required.
4. Each applicant shall furnish a certificate showing that he/she is authorized to dump trash, garbage or other refuse at a dump approved by the Wichita-Sedgwick County Health Department or Sumner County Health Department or a duly licensed Health Department within the State of Kansas. (CC 1985 §7-602; Ord. No. 439, 5-21-73; Ord. No. 1069, 10-18-99)

**SECTION 605.290:**

**ISSUANCE OF LICENSE**

Upon receipt of the certificates and proof as set out in Section 605.280 and upon the payment by the applicant for the purpose of hauling said trash, garbage or other waste to the City, said City Clerk shall issue to said qualified applicant a "Trash Hauler's License". All licenses shall expire on the thirty-first (31st) day of December each year and shall not be assignable or transferable, and there shall be no refunds for any unused portion of the period of said license. In the event that an

application is made, the qualifications met and a license issued, the fee as set forth in Section 100.240 shall be paid. (CC 1985 §7-603; Ord. No. 439, 5-21-73; Ord. No. 1069, 10-18-99; Ord. No. 1149 §21, 8-19-02)

**SECTION 605.300:****VEHICLES**

Each vehicle used for the purpose of collecting and hauling trash, garbage or other waste shall have prominently displayed on said vehicle the license number together with the name and telephone number of the licensee. (CC 1985 §7-604; Ord. No. 439, 5-21-73)

**SECTION 605.310:****REVOCATION OF LICENSE**

All licenses issued under the provisions of this Article may be revoked upon the recommendation of the Chief of Police of the City of Mulvane or the City Administrator of the City of Mulvane after approval by the Governing Body of said City for good cause; provided however, no license shall be revoked until notice has been given to the licensee and a hearing held before the Governing Body of the City of Mulvane, Kansas. (CC 1985 §7-605; Ord. No. 439, 5-21-73)

**ARTICLE VII. HAULING OF SEWAGE****SECTION 605.320:****UNAUTHORIZED**

The health, welfare and comfort of the citizens of the City of Mulvane shall be protected from the unauthorized dumping, discharging or hauling of sewage or septic tank refuse by the regulation and licensing of all persons, firms, or corporations engaged in the business of hauling sewage or septic tank cleaning. (CC 1985 §11-401; Ord. No. 440, 5-12-73)

**SECTION 605.330:****FEES**

No person, firm or corporation shall be permitted to haul, dump or discharge any sewage or septic tank refuse within the City limits of the City of Mulvane, Kansas, without first having secured a license therefor, paying the hereinafter specified fees and having paid a licensing fee to said City in the amount of fifty dollars (\$50.00). All licenses issued by the City shall be non-assignable and shall be renewable on or before the first (1st) day of June of each year.  
(CC 1985 §11-402; Ord. No. 440, 5-12-73)

**SECTION 605.340:****STANDARDS FOR HAULING**

To secure a license from the City of Mulvane for the purpose of hauling, dumping or discharging sewage or septic tank refuse within the City of Mulvane, Kansas, the applicant shall meet the following standards:

1. The applicant must be a duly licensed hauler, having received a license from the

appropriate County, State or Municipal Department of Health.

2. The applicant must furnish to the City Administrator or his/her duly authorized deputy proof satisfactory to said City Administrator or his/her duly authorized deputy that the applicant has met all standards promulgated by the County, City or State Departments of Health; provided however, all vehicles in which sewage or septic tank refuse is hauled, carried or discharged shall be closed containers with the appropriate discharge apparatus and must prominently display the license number of the City of Mulvane on both sides of the vehicle.
3. All vehicles or materials of conveyance used by the applicant in his/her business must carry public liability insurance as may be required by the Kansas Corporation Commission if the applicant has complied with the rules and regulations of said Commission, but in any event, in an amount of not less than fifty thousand dollars (\$50,000.00) each person and one hundred thousand dollars (\$100,000.00) each accident.
4. No vehicle, whether approved by the appropriate City, County or State Department of Health, or not approved, shall haul, dump and discharge sewage except in the receptacles designated by or provided by the City as designated places for reception by the City sewage treatment plant.
5. After consultation with the City Engineer and the Superintendent of the sewage treatment plant, the City Administrator shall prepare and post in conspicuous places all necessary rules and regulations for the safe, sanitary and orderly discharge of sewage or septic tank refuse by licensees, said rules to be modified from time to time as said City Administrator deems advisable. The City Administrator shall cause said rules and regulations to be posted at least in the City Building, at each designated discharge site and shall deliver a copy of said rules and regulations to each licensee upon issuance of a license to said individual, firm or corporation.  
(CC 1985 §11-403; Ord. No. 440, 5-12-73)

**SECTION 605.350:****DESIGNATED SITES**

No sewage or septic tank refuse shall be dumped by any individual, firm or corporation, licensee or otherwise, except at the specified and designated sites described in the foregoing Sections of this Article in compliance with all posted rules and regulations.

(CC 1985 §11-405; Ord. No. 440, 5-12-73)

**SECTION 605.360:****VIOLATION**

- A. Every person, firm or corporation who disobeys, violates or disregards the posted notices setting forth the rules and regulations adopted by the City Administrator may, after a hearing before the Governing Body of the City of Mulvane, have his/her license revoked for cause.
- B. Violation of the criminal terms of this Article by the licensee shall be grounds for revocation of said license.
- C. Upon conviction for cause or violation of the criminal penalty for this Article or for any other reasons causing a license to be suspended, no refunds or rebates shall be given the licensee.  
(CC 1985 §11-407; Ord. No. 440, 5-12-73)

**SECTION 605.370:****NON-ASSIGNABLE—RENEWAL**

No licenses are assignable and must be renewed each year on or before the first (1st) day of June of said calendar year. (CC 1985 §11-408; Ord. No. 440, 5-12-73)

**ARTICLE VIII. ARBORISTS****SECTION 605.380:****LICENSING OF ARBORISTS**

It shall be unlawful for any person, persons or firms to engage in the business or occupation of pruning, treating or removing street or park trees within the City without first applying for and procuring a license. The license fee shall be as set forth in Section 100.240 and shall be valid for twelve (12) months from the date of issue; provided however, that no license shall be required of any duly insured public utility or authorized officer or agent of the City doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of current liability insurance in the minimum amounts of fifty thousand dollars (\$50,000.00) for bodily injury and one hundred thousand dollars (\$100,000.00) property damage indemnifying the City and/or any person injured or damaged resulting from the pursuit of such endeavors as an arborist. (CC 1985 §12-110.2; Amending Ord. No. 899, 7-2-90; Ord. No. 1149 §22, 8-19-02)

**ARTICLE IX. MISCELLANEOUS BUSINESS****LICENSE FEES****SECTION 605.390:****MISCELLANEOUS BUSINESS LICENSE FEES**

It shall be unlawful for any person, persons or firms to engage in the business or occupation listed herein within the City without first applying for and procuring a license. The fees for auction permits, food vending licenses, garage sale permits, pawnbrokers' licenses, recycle truck licenses and taxi licenses shall be as set forth in Section 100.240. (Ord. No. 1149 §23, 8-19-02)

**SECTION 605.400:****TRANSIENT GUEST TAX**

The City hereby levies a transient guest tax in an amount set out in Section 100.240 of this Code upon the gross receipts derived from or paid directly or through an accommodations broker by transient guests for lodging or accommodations, exclusive of charges for incidental services or facilities, in any hotel, motel or tourist court located within the City. The transient guest tax levied pursuant to this Section shall be based on the gross rental receipts collected by any business. (Ord. No. 1315 §2, 10-6-08)

**ARTICLE X. VIDEO SERVICE PROVIDER FEE**

**SECTION 605.410:****VIDEO SERVICE PROVIDER FEE**

- A. The Governing Body of the City is hereby authorized to levy a video service provider fee pursuant to K.S.A. Section 12-2024(b) and (c) and amendments thereto.

B. The City hereby levies a five percent (5%) video service provider fee upon the gross revenues of any video service provider holding a State-issued video service authorization from the State of Kansas and providing video services within the jurisdiction of the City. The video service provider fee levied pursuant to this Article shall be based on the gross revenues as defined at K.S.A. Section 12-2024(d) and (e) and amendments thereto. (Ord. No. 1334 §§1-2, 9-21-09)

outline is defined and used in this document

## **TITLE VII. UTILITIES**

*Cross References—Water, ch. 705; sewers and sewage disposal, ch. 710; user charge system, ch. 715.*

### **CHAPTER 700: GENERAL PROVISIONS**

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

### **ARTICLE I. UTILITY SYSTEMS COMBINED**

#### **SECTION 700.005: POLE FEES**

Cable, telephone and electric companies shall pay to use City poles as set forth in Section 100.240. (Ord. No. 1149 §24, 8-19-02)

#### **SECTION 700.010: MERGER OF UTILITY SYSTEMS**

- A. The City hereby merges the electric and waterworks utility system, the sewer utility system and the stormwater management system of the City and such combined system shall be known as the Electric, Waterworks and Sewer Utility System of the City of Mulvane, Kansas (the "System").
- B. *1991 Prior Lien Bonds.* The 1991 bonds shall constitute a first and prior lien on the net revenues of the electric and waterworks system. (Ord. No. 997 §§1—2, 11-6-95; Ord. No. 1125 §1, 7-15-02)

### **ARTICLE II. UTILITY SERVICES**

#### **SECTION 700.020: APPLICATION FOR SERVICE**

Any property owner or resident requesting the right to attach municipal utility services to a residential or commercial structure shall make application through the office of the City Clerk. The form for application shall contain a statement of the nature and use to be made of the sewer or utility connection, a legal description of the property to be connected, a complete description of the type of the materials proposed to be used in making such connections and any other pertinent data necessary for the proper administration of the connection by the City or any owner or owners of such real property after being connected to the municipal utility services. The applicant shall not be permitted to make utility connections until:

1. All appropriate charges have been paid to the City;
2. The Building Official has approved the connection; and

3. Deposit shall have been made to cover the estimated cost to the City for making the connection with any unused amounts being returned to the applicant or additional sums being paid by the applicant.

The City shall have no obligation to make the connection for services upon an application regarding

real property which either has not been included in a benefit district or is not within the limits and boundaries of the City as a whole. (CC 1985 §11-301; Ord. No. 733, 11-21-83)

**SECTION 700.030: ACCESS**

The City's employees and officials shall have access to any of the premises served by municipal utilities for the purpose of inspecting the same and gathering data concerning the operation of the utility system at all reasonable times and dates, upon reasonable notice to the owner or tenant. (CC 1985 §11-302; Ord. No. 733, 11-21-83)

**SECTION 700.040: CONNECTION ASSESSMENT**

- A. When no assessment has been made for the lateral sewer against the property to be connected to the City sewer, upon approval of the application for connection by the City, the assessment fee for allowing connection to the municipal sewer utility shall be designated by City staff in writing. The assessment fee shall be the pro rata cost as determined by taking the average of the three (3) most recent sewer utility projects within the City and applying to the applicant's property the same method of assessment, whether per lot or otherwise, said calculation to utilize the three (3) most recent projects' total cost assessed in making the calculations.
- B. Separate and apart from, and in addition to, the above assessment fee, regardless of whether an assessment has been made for lateral sewer or an assessment fee paid pursuant to Subsection (A) above, where property is located within a sewer basin, a sewer basin connection fee shall be paid by the owner of any property proposing to connect to City sewer. As used herein, "*sewer basin*" shall mean an area of land specifically designated by the Governing Body of the City of Mulvane to benefit from a previously established interceptor sewer line, sewer main or other related improvement. The "*sewer basin connection fee*" shall be the fee specifically established by the City for each sewer basin based upon:
  1. Total costs to the City at large for the sewer line or related improvements benefitting the sewer basin (including, but not limited to, construction, excavation and material costs as well as legal, administrative, fiscal, engineering, finance and interest costs directly related to the improvement), and
  2. The relationship that the total area of the property proposing to connect to the City sewer (inclusive of streets, parks, reserves and other public dedications) bears to the total land area within the sewer basin from which the City intends to recoup its expenses.
- C. Subject to Subsection (D), the sewer basin connection fee shall be due for any property within a sewer basin proposing to connect to the City sewer service upon either of:
  1. The approval of the application for connection, or
  2. The acceptance of a petition for special assessment for sewer improvements necessitating a connection, as the case may be.

If the sewer basin connection fee is not timely paid, the City Clerk of said City shall from time to time and not less often than annually, certify to the County Clerk of the appropriate County, the legal

description of the real property to which said services were provided, along with the sum of such delinquent charges, including penalty and interest accrued, to be placed upon the tax rolls for collection. Upon such certification said charges shall become a lien against the property upon which they are certified, subject to the same penalties and collected in the same manner as taxes levied against the property are by law collectible.

- D. As an alternative to paying the sewer basin connection fee at the time of approval of application or acceptance of the special assessment petition as provided in Subsection (C) above, the owner of one hundred percent (100%) of the property to be served may request, and the City in its sole discretion may provide, the sewer basin connection fee be divided into ten (10) equal annual installments and placed upon the tax rolls for collection. Said installments shall include interest at the average yield borne by the City's most recently issued general obligation bonds. Upon such certification said charges shall become a lien against the property upon which they are certified, subject to the same penalties and collected in the same manner as taxes levied against the property are by law collectible.
- E. The procedure outlined above shall be construed as being in accordance with the laws of the State of Kansas and any provision herein deemed or finally determined to be contrary to the laws of Kansas shall be void provided that in such event the remaining provisions of this Section shall remain in full force and effect. (CC 1985 §11-303; Ord. No. 733, 11-21-83; Ord. No. 1190 §1, 1-5-04)

**SECTION 700.050:****PAYMENT OF FEES AND CHARGES—RETURNED****PAYMENT—  
MONIES RECEIVED**

- A. *Payment Of Fees And Charges.* All payments of fees and charges due to the City under this Title shall be made by cash, check, money order, wire transfer, automated clearing house transfer, electronic check, credit card, debit card, or any other form of payment acceptable to the City; provided however, that no payment in cash may include more than two dollars (\$2.00) in coins for each invoice or monthly bill.
- B. *Returned Payment.* In the event any payment by a person for fees and charges due under this Title is returned to the City as not payable (e.g., a "worthless check", insufficient funds, stop-payment, refused automatic debit), the City shall impose a returned payment service charge as set forth in Section 100.160 upon such person and shall accept only verified, immediately available funds (e.g., cash, money order) from such person for payments of fees and charges due to the City under this Title for the twelve (12) months following such return.
- C. *Monies Received.* All monies received as connection fees or payments for municipal utilities shall be placed into a Municipal Utility Fund. This fund shall be maintained separate and apart from General Fund monies and shall be utilized as directed by the Governing Body.
- D. *Waiver Of Available Funds Requirement.* For good cause shown upon satisfactory proof, the City Clerk may waive the requirement of payment in verified, immediately available funds whenever exceptional circumstances are shown. In the event this waiver is granted by the City Clerk, the City Clerk shall enter in the official records of the City an explanation of the circumstances under which the waiver was granted. (CC 1985 §11-305; Ord. No. 733, 11-21-83; Ord. No. 1410 §2, 2-18-13)

**SECTION 700.060:****SEWER TAP FEE**

The sewer tap fee for connecting to the City sewers shall be as set forth in Section 100.240. (Ord. No. 1149 §25, 8-19-02)

**SECTION 700.070:****CONNECTION FEES FOR WATER**

A. The parties desiring water service, in front of whose premises there is a main water line, shall pay

a service connection fee at the time application is made, according to the size of pipe required, as set forth in Section 100.240.

B. In addition to the connection fee heretofore specified, where pipe larger than one (1) inch in size is required or the connection is made under unusual circumstances involving greater than normal costs, the parties shall, as soon as the work has been completed, pay any excess of the cost of the labor and material over the connection fee paid at the time the application was made. (CC 1985 §14-102; Ord. No. 523, 6-21-76; Ord. No. 1064, 8-16-99; Ord. No. 1149 §26, 8-19-02)

**SECTION 700.080: NEW OR TRANSFERRING  
CUSTOMERS—CONNECTION FEES**

A. *Connection Fee.* There shall be a connection fee for any and all new and transferring utility customers as set forth in Section 100.240. Unless same day service is requested, new and transfer connections shall occur the next business day.

B. *Additional Fees.* In addition to the connection fee, there shall be charges as set forth in Section 100.240 for same day service calls. (CC 1985 §14-307; Ord. No. 567, 12-5-77; Ord. No. 1149 §27, 8-19-02; Ord. No. 1347 §1, 6-7-10)

**SECTION 700.090: DEPOSITS**

A. Security deposits required for guarantee of payment of utility bills shall be according to the size of meter required. Such deposits shall bear interest at the rate as set by the State Corporation Commission and will be refunded to the customer whenever the utility service is discontinued; provided that if any amount shall be due and unpaid for at the time service is discontinued, or the meter furnished shall be damaged in any way except by ordinary wear, the whole of such deposit or so much thereof as is necessary to pay the amount due the Utility Department shall be deducted from said deposit. The deposit required shall be as set forth in Section 100.240.

B. *Meter Deposit Refund.* After making either an initial or additional deposit as hereinabove provided, if a customer makes satisfactory timely payments by the due date for twelve (12) consecutive months following the payment of said deposit, then the customer may make written request upon a form provided by the City for the return of either the initial or additional deposits. (CC 1985 §14-203; Ord. No. 176 §4, 1-17-55; Ord. No. 1058 §700.090, 5-3-99; Ord. No. 1149 §28, 8-19-02)

**SECTION 700.100:****PERMITS ISSUED BY CITY CLERK**

The City Clerk, upon receiving an application as hereinbefore provided, if the same is in proper form, and receiving the required connection fees and advance payments and the customer's deposit as provided in this Code, shall issue a permit to the person or persons applying for the same to connect with the municipal water system or electric system. (CC 1985 §14-104; Revised, 1961)

**SECTION 700.110:****ALL WATER AND ELECTRICITY TO BE  
METERED—TEMPORARY PROVISION OF SYSTEM SERVICES**

- A. *Metering Requirement.* All water and electricity furnished by the municipal water and electric systems of this City shall be measured by meters furnished by the City for that purpose.
- B. *Temporary System Service—Procedure And Fees.* Where system services with respect to a given electric and/or water meter have been disconnected such that there is not a current established customer for such meter(s), a request may be made in writing to the City for the establishment of temporary service on one (1) or more meters, not to exceed four (4) hours. The purpose of such temporary provision of system services shall be limited to property inspections or other similarly limited purposes in which the consumption of any utility is restricted to that required to be used in connection with the specified limited purpose. Any request for such service must be made in writing at least one (1) full business day prior to the requested connection, and must specify:
  - 1. The meter or meters to be connected,
  - 2. The date and time of the connection, and
  - 3. The anticipated necessary duration of the connection (not to exceed four (4) hours).

As a prerequisite to any temporary connection of the requested system services, a per-meter fee (including any applicable taxes) shall be charged and collected by the City as set forth in a fee schedule available at the City offices (as allowed by item YY of Section 100.240 of the Code), which may, from time to time, be amended by the City. Further, should any measurable consumption of any system service occur during the requested temporary connection, the person requesting the service shall be billed for such usage at the current commercial rates. (R.O. 1924 §93; CC 1985 §14-105; Ord. No. 1388 §1, 1-16-12)

**SECTION 700.120:****CITY TO MAKE CONNECTIONS**

All taps shall be driven, street excavations made, corporation cocks inserted, pipes installed from main to curb, curb cock installed in an iron box to which the service pipe is to be connected, meters and switches installed and connections made with wires by the City employees only. (R.O. 1924 §94; CC 1985 §14-106)

**SECTION 700.130:****EVERY PREMISES TO HAVE SEPARATE  
CONNECTION**

Unless special permission is granted by the Superintendent of the water and electrical plant, each premise shall have a separate and distinct service connection, and where permission is granted for

branch services, each service must have a cut-off; provided however, that in the event the Superintendent of the water plant grants special permission, a minimum water charge and sewer fee shall be charged for each individual cut-off installed or properties zoned and utilized as commercial or businesses. (CC 1985 §14-107; Ord. No. 586, 8-21-78)

**SECTION 700.140: SERVICES TO BE INSTALLED BY LICENSED OPERATORS**

No one except regular employees of the Water and Electric Departments of this City or persons licensed as plumbers or electricians shall do any plumbing or wiring work on any pipes or wires connected or to be connected to the municipal water or electric systems. (R.O. 1924 §96; CC 1985 §14-108)

**SECTION 700.150: TRENCHING AND BACKFILLING**

No excavation made by a plumber in public ground shall be kept open longer than is absolutely necessary to make the connections required and while open, shall be protected by suitable barriers, guards and lights as provided in the ordinances of this City, and backfilling shall be thoroughly compacted and left in a condition satisfactory to the Street Commissioner. Where such excavation is in an unsatisfactory condition, the Street Commissioner shall repair it and the cost thereof be charged to the plumber, and his/her license will be suspended unless said sum is paid. (R.O. 1924 §97; CC 1985 §14-109)

**SECTION 700.160: CHARACTER OF PIPE FOR SERVICE CONNECTIONS**

All service pipes in this City shall be in conformance with the current Plumbing Code in force in the City. (R.O. 1924 §98; CC 1985 §14-110)

**SECTION 700.170: CHARACTER OF ELECTRICAL SERVICE CONNECTIONS**

All electrical service connections shall be made in the manner and form prescribed by the current Electric Code in force in the City. (R.O. 1924 §99; CC 1985 §14-111)

**SECTION 700.180: COST OF INSTALLATION BORNE BY CONSUMER**

The cost of original installation of all plumbing and wiring services and devices and all extensions hereafter made to such services as well as all repairs to the same shall be borne entirely by the consumer although such services and devices shall at all reasonable times be subject to inspection by duly authorized officials of the Water and Electric Departments of this City. Repairs found to be necessary by such officials shall be made promptly by the consumer or the City will discontinue service. (R.O. 1924 §103; CC 1985 §14-115)

**SECTION 700.190:****SERVICE WHERE NO WATER LINE**

Parties desiring water service in front of whose premises there is no water line shall assume the cost of running a pipe line from a service tap as made by the Water Department to their premises in addition to the connection fees and advance payments herein provided. (CC 1985 §14-116; Ord. No. 176 §3, 1-17-55)

**SECTION 700.200: METERS**

Every consumer shall provide a suitable place where a meter can be installed. All water and electric meters shall be located outside of buildings except in those cases where it is more advantageous to the City that the meter be located at a point determined by the City. The City shall install and maintain the same, and if at any time the consumer desires to have the meter tested for accuracy, the same shall be done by the City and a fee of thirty-five dollars (\$35.00) charged therefor to the consumer if the meter registered ninety-seven percent (97%) or more accurate. If the meter registers less than ninety-seven percent (97%) accurate, it shall be replaced and repaired before installation on another service, and no charge shall be made. (R.O. 1924 §104; CC 1985 §14-117; Ord. No. 176 §3, 1-17-55)

**SECTION 700.210: READING METERS—GATE LOCK FEE FOR LOCKED PREMISES**

- A. For the purpose of reading meters, duly authorized employees of the Water and Electric Departments of this City may legally enter upon any premises at any reasonable hour.
- B. Whenever any user fences or otherwise encloses the electric meter, he/she shall purchase a gate lock from the City at a rate as set forth in Section 100.240. (R.O. 1924 §105; CC 1985 §14-118; Ord. No. 1149 §29, 8-19-02)

**SECTION 700.220: DISCONTINUANCE OF SERVICE**

- A. The City hereby reserves the right to discontinue service to any or all customers of municipal water, sewer and electrical systems without notice when the same is necessary for the repair of the system.
- B. Billing shall be mailed on or before the twenty-fifth (25th) day of each month or the next business day thereafter for the previous month's service. Payment of utility billings shall be due upon the close of business on the fifth (5th) day of the month following the date of mailing. To the extent not otherwise provided by this Code, a one-time five percent (5%) late fee will be charged and become due and owing on the unpaid balance of any utility account for which payment is received after close of business on the fifth (5th) day of the month following the ordinary billing cycle. If the City does not receive a customer's payment within five (5) days of the billing due date (prior to the tenth (10th) of the month), the City shall mail such customer a delinquency and termination notice. If the City does not receive a customer's payment prior to 8:00 A.M. on the tenth (10th) day after the date of the mailing of such delinquency and termination notice (prior to 8:00 A.M. on the twentieth (20th) of the month) or the next business day thereafter if the twentieth (20th) is not a business day (the "disconnect date"), the City shall terminate and disconnect such customer's utility service for which payment is past due.
- C. The delinquency and termination notice mailed subsequent to the identification of delinquent bills shall provide the customer of record with the following information:
  1. Name and address where service is being provided;
  2. Account number;

3. Amount past due;
4. Notice that service shall be terminated upon failure to pay the delinquent billing prior to the disconnect date and that payment after 8:00 A.M. on the disconnect date will not avoid termination or related fees;

5. Notice of the utility administrative fee due if payment is not received by the City prior to the disconnect date;
6. Notice that the customer may request, no later than the close of business three (3) business days prior to the disconnect date, a hearing with respect to its past due bill.

D. If the City does not receive a customer's payment on its past due utility bill prior to the disconnect date, such customer shall be charged an additional utility administrative fee in the amount set forth in Section 100.240. If a customer's utility service is disconnected for non-payment and a customer requests reconnection to occur before 8:00 A.M. or after 5:00 P.M. on any business day or anytime on Saturday, Sunday or holidays, such customer shall be charged an additional after hours reconnection fee in the amount set forth in Section 100.240. Payments received after 5:00 P.M. on any business day shall be deemed to require after hours reconnection unless such customer specifically requests reconnection to occur between 8:00 A.M. and 5:00 P.M. on the next regular business day. Upon the issuance by the City of a customer's second (2nd) disconnection order for non-payment within a twelve (12) month period and upon each subsequent disconnection order, such customer shall deposit with the City (in addition to any applicable utility administrative fee and after hours reconnection fee) an additional deposit in an amount equal to the highest residential or commercial deposit (as appropriate) currently being charged by the City as set forth in Section 100.240. With respect to residential customers, the City shall collect such additional deposits until such time as the customer's total deposit amount on record reaches one thousand two hundred dollars (\$1,200.00). This deposit cap shall not apply to commercial utility accounts which shall have no such cap. All delinquent bills, service charges, fees and deposits shall be paid before any disconnected utility service will be reconnected.

E. Any customer whose utility bill is past due may request a hearing with respect to such past due bill. The request for hearing must be made no later than the close of business three (3) business days prior to the disconnect date. Such hearings will be conducted by two (2) or more of the following representatives:

1. Utility Distribution Director;
2. Utility Billing Clerk;
3. City Clerk;
4. City Administrator;
5. Mayor;
6. Other representative as may be appointed by the Mayor.

If a hearing is requested under this Section and such hearing cannot be held by the City prior to the disconnect date, the representatives to preside over such hearing may, in their sole and absolute discretion, postpone termination of service despite such customer's continued utility bill delinquency. No such extension may exceed fifteen (15) days from the disconnect date.

F. Utility departments of the City are hereby authorized to discontinue and disconnect utility services to any customer who shall be delinquent in payment of utility bills. Customers shall remain responsible for furnishing the departments and the City with the correct address for billing purposes.

(CC 1985 §14-120; Ord. No. 701, 10-18-82; Ord. No. 716, 5-16-83; Ord. No. 1058 §700.220D, 5-3-99; Ord. No. 1149 §30, 8-19-02; Ord. No. 1245, 12-4-06; Ord. No. 1347 §2, 6-7-10)

**SECTION 700.230:****REGULATIONS FOR DRILLING PRIVATE WATER****WELLS AND  
PROVIDING FOR A PERMIT THEREOF**

- A. Any person, association, corporation or partnership desiring to drill a private water well within the City limits of the City of Mulvane or those not within said City but connected to the municipal water utilities services shall first secure a permit from the City Clerk for drilling said well. Said permit shall disclose the exact location of said well and the avowed purposes for said well.
- B. In the event said well furnishes water to any portion of the residence or building within the City limits wherein City water is used, an appropriate check valve as hereinbefore specified shall be utilized. There shall be a permit fee as set forth in Section 100.240 for any person, association, corporation or partnership desiring to drill said well. (CC 1985 §14-121; Ord. No. 642, 10-20-80; Ord. No. 1149 §31, 8-19-02)

**SECTION 700.240:****ADJUSTMENT OF WATER BILLS**

- A. Where the monthly water bill of any user of the public water of Mulvane, Kansas, is above normal due to a consumer leak, the head of the Water Department may allow an adjustment based on the previous twelve (12) month average. Upon establishing a twelve (12) month average, the consumer is obligated to pay their own average based on the current rates established. The consumer is also obligated to pay for the additional water usage over their established average at the current City rate. Any difference in the amount to be paid by the consumer and the amount billed for the billing period shall be the credit adjustment allowed.
- B. If the consumer has not established a twelve (12) month average any adjustment shall be based on the City average water usage. The consumer is obligated to pay the City average based on the current rates established. The consumer is also obligated to pay for the additional water usage over the City average at the current City rate. Any difference in the amount to be paid by the consumer and the amount billed for the billing period shall be the credit adjustment allowed.
- C. No adjustments shall be made until a representative of the Water Department determines that the excessive bill was due to a consumers leak and said leak has been satisfactorily repaired; provided however, that no adjustment shall be made where water-cooled air-conditioning equipment is used.
- D. In individual cases where the indicated consumption for one (1) billing period is abnormally high, and the Water Department can find no possible explanation for such consumption, the head of the Water Department may allow an adjustment through the best practical method.
- E. No bill adjustment shall be extended to the same customer more than once during a twelve (12) month period. (CC 1985 §14-124; Ord. No. 974, 8-15-94)

**SECTION 700.250:****PRORATION OF RESIDENTIAL CHARGES**

Any residential subscriber who moves from one residential address within the City to another residential address within the City during the same calendar month shall be, upon application to the Superintendent, entitled to pro-rate the utility charge for such month for utility services delivered to any two (2) such locations within that month and such residential subscriber shall not be liable for

double payments. (CC 1985 §14-125; Amended Ord. No. 783, 3-17-86)

**ARTICLE III. WATER RATES****SECTION 700.260:****MONTHLY RATES**

A. Monthly rates for water and water services to be charged to consumers using water furnished by the City of Mulvane, Kansas, prior to the January 2010 billing shall be as follows:

Minimum monthly charge:

Up to 2,000 gallons of water per month      \$      9.00

Over 2,000 gallons of water per month, per each 1,000 gallons      4.70

*Incremental Charge.* In addition, each customer's monthly rate (calculated above) will be increased five percent (5%) above the rate calculated above.

B. Monthly rates for water and water services to be charged to consumers using water furnished by the City of Mulvane, Kansas, on and after the January 2010 billing (mailed on or about February 25, 2010 and thereafter) shall be as follows:

Minimum monthly charge      \$      5.25

Per each 1,000 gallons      \$      4.94

(CC 1985 §14-201; Amended Ord. No. 924; Ord. No. 1109, 9-17-01; Ord. No. 1211, 3-7-05; Ord. No. 1338, 12-7-09)

**SECTION 700.270:****RELOCATION CHARGE**

In the event a water meter is changed at the request of a customer or any builder, there shall be charged therefore sufficient funds to pay the cost of labor and the material cost as may be determined by the Superintendent of said Water Department. (CC 1985 §14-205; Ord. No. 566, 12-5-77)

**SECTION 700.280:****TEMPORARY WATER CONNECTIONS**

For each building site, repair site or construction site wherein water is temporarily required by the building contractor or his/her representative, a fee as set forth in Section 100.240 in addition to any permanent fees set out in the preceding Sections shall be paid. No temporary hookups of water may be transferred to other sites. If a permanent water hookup is not effected within ninety (90) days from the date of the original permit, then an additional fee as set forth in Section 100.240 will be charged for each ninety (90) days or portion thereof. (CC 1985 §14-207; Ord. No. 478, 1-20-75; Ord. No. 1149 §32, 8-19-02)

## ARTICLE IV. ELECTRICAL RATES

### SECTION 700.290: **RESIDENTIAL RATES**

- A. *Availability.* In all territory served by the City for which no specific schedules are provided.
- B. *Application.*
  - 1. The residential rates shall apply to electric service for all domestic purposes in single-family residences and individually metered apartments when supplied at one (1) point of delivery. All service is measured through one (1) watt-hour meter, except where the customer elects to take another rate. Where a portion of a residence unit is used for non-residential purposes, the appropriate general service schedule is applicable to all service. However, if the wiring is so arranged that the service for residential purposes and for non-residential purposes can be metered separately, this schedule will be applied to the residential service.
  - 2. Service to hotels, multi-family dwellings having more than three (3) living units, recognized rooming or boarding houses or to the halls, basements or other common use portions of an apartment building will not be supplied under this schedule. There shall be no obligation on the part of the City of Mulvane to render service under that Section of the net monthly rate applicable to permanently installed electric space heating equipment in the absence of written notice from the customer that he/she has permanently installed and is using electric space heating equipment in accordance with the specifications set forth in the net monthly rate.
- C. *Character Of Service.* Alternating current at approximately sixty (60) cycles, single-phase, and at such voltage as the City of Mulvane may have available for the service required.



D. *Net Monthly Rates.* The net monthly rate for residential service shall be:

1. *Minimum customer charge.* Five dollars forty-five cents (\$5.45).
2. *Energy charge.* For all general use billing:
  - a. During the months of September through May: \$.0686 per kwh.
  - b. During the months of June, July and August: \$.0686 per kwh for the first five hundred (500) kwh. \$.0786 per kwh for all additional kwh.

When permanently installed electric space heating equipment is in regular use to supply the entire space heating requirements in the home, all kwh used in excess of five hundred (500) kwh per month shall be billed at \$.0475 per kwh during the winter heating season. Application of this Section to bills rendered in the months of November through May is interpreted as covering the winter heating season.

3. *Cost of power.* All rates hereby established are based on a municipal cost of \$.03532 per net kwh generated and/or purchased from electric suppliers (the "base cost"). Whenever the actual average municipal cost of electricity generated and/or purchased shall differ from the base cost, the net monthly rates established above shall be increased/decreased by the amount which the actual cost of generated and/or purchased electricity per net kwh is above or below base cost. Provided that, the City of Mulvane Utility Department shall have the authority to spread the foregoing rate adjustment into subsequent months as it deems appropriate and manageable.
4. Reserved.

E. *Gross Monthly Bill.* The net monthly bill, computed in accordance with the net monthly rate plus five percent (5%) on the balance thereof.

F. *Payment.* The net monthly bill is due and payable when rendered; when not paid by the fifth (5th) of the following month, the gross monthly bill applies. Payments will be applied to the oldest balance first. (CC 1985 §14-310; Ord. No. 669, 6-1-81; Amended Ord. No. 790, 5-19-86; Ord. No. 977 §§1,7, 9-19-94; Ord. No. 1210, 3-7-05; Ord. No. 1400 §1, 8-6-12)

## SECTION 700.300:

## GENERAL SERVICE—COMMERCIAL

A. *Net Monthly Rate.* The net monthly rate for general service—commercial shall be:

1. For bills incurred during the months of September through May, bill is at:
  - a. Five dollars forty-five cents (\$5.45) minimum customer charge.
  - b. Four dollars eighty-five cents (\$4.85) per kw for each kw in excess of five (5) kw of demand.
  - c. \$.0848 per kwh for first one thousand (1,000) kwh.

- d. \$.0534 per kwh for all additional kwh.
- e. *Cost of power.* All rates hereby established are based on a municipal cost of \$.03532 per net kwh generated and/or purchased from electric suppliers (the "base cost"). Whenever the actual average municipal cost of electricity generated and/or purchased shall differ from the base cost, the net monthly rates established above shall be increased/decreased by the

amount which the actual cost of generated and/or purchased electricity per net kwh is above or below base cost. Provided that, the City of Mulvane Utility Department shall have the authority to spread the foregoing rate adjustment into subsequent months as it deems appropriate and manageable.

- f. Reserved.
- 2. For bills incurred during the months of June through August, billing is at:
  - a. Five dollars forty-five cents (\$5.45) minimum customer charge.
  - b. Five dollars seventy cents (\$5.70) per kw for each kw in excess of five (5) kw of demand.
  - c. \$.0848 per kwh for first one thousand (1,000) kwh.
  - d. \$.0534 per kwh for all additional kwh.
  - e. *Cost of power.* All rates hereby established are based on a municipal cost of \$.03532 per net kwh generated and/or purchased from electric suppliers (the "base cost"). Whenever the actual average municipal cost of electricity generated and/or purchased shall differ from the base cost, the net monthly rates established above shall be increased/decreased by the amount which the actual cost of generated and/or purchased electricity per net kwh is above or below base cost. Provided that, the City of Mulvane Utility Department shall have the authority to spread the foregoing rate adjustment into subsequent months as it deems appropriate and manageable.
- f. Reserved.
- B. *Demand.* The average kw supplied during the fifteen (15) minute period of maximum use during the month.
- C. *Gross Monthly Bill.* The net monthly bill, computed in accordance with the net monthly rate plus five percent (5%) on the balance thereof.
- D. *Payment.* The net monthly bill is due and payable when rendered; when not paid by the fifth (5th) of the following month, the gross monthly bill applies. Payments will be applied to the oldest balance first. (CC 1985 §14-301(A); Ord. No. 669, 6-1-81; Ord. No. 997 §§2,7, 9-19-94; Ord. No. 1210, 3-7-05; Ord. No. 1400 §2, 8-6-12)

**SECTION 700.310:**

**LARGE GENERAL SERVICE**

- A. *Availability.* In all territory served by the City of Mulvane.
- B. *Application.* To all electric service supplied to any customer contracting for forty (40) kw or more at one delivery point.
- C. *Character Of Service.* Service is at approximately sixty (60) cycles and at such phase and voltage as the City may have available for the service required.

D. *Net Monthly Rate.* The net monthly rate for large general service shall be:

1. Four hundred forty-five dollars (\$445.00) for the first forty (40) kw of demand.
2. Eight dollars forty-seven cents (\$8.47) per kw for all additional kw of demand.

3. \$.0392 per kwh for the first twenty thousand (20,000) kwh.
4. \$.0373 per kwh for the next five hundred eighty thousand (580,000) kwh.
5. \$.0363 per kwh for all additional kwh.
6. *Cost of power.* All rates hereby established are based on a municipal cost of \$.03532 per net kwh generated and/or purchased from electric suppliers (the "base cost"). Whenever the actual average municipal cost of electricity generated and/or purchased shall differ from the base cost, the net monthly rates established above shall be increased/decreased by the amount which the actual cost of generated and/or purchased electricity per net kwh is above or below base cost. Provided that, the City of Mulvane Utility Department shall have the authority to spread the foregoing rate adjustment into subsequent months as it deems appropriate and manageable.
7. Reserved.

E. *Demand.* The average kw supplied during the fifteen (15) minute period of maximum use during the month.

F. *Gross Monthly Bill.* The net monthly bill, computed in accordance with the net monthly rate plus five percent (5%) of the balance thereof.

G. *Payment.* The net monthly bill is due and payable when rendered; when not paid by the fifth (5th) day of the following month, the gross monthly bill applies. Payment will be applied to the oldest balance first. (CC 1985 §14-301(B); Ord. No. 669, 6-1-81; Amended Ord. No. 790, 5-19-86; Ord. No. 997 §§3,7, 9-19-94; Ord. No. 1210, 3-7-05; Ord. No. 1400 §3, 8-6-12)

**SECTION 700.320:**

**CITY RATE**

The net monthly rate for City service shall be:

Customer charge	none
Energy charge	\$.0649 per kwh

**SECTION 700.330:**

**COMBINATION OF RESIDENTIAL AND COMMERCIAL ENTERPRISE**

Any combination of residential and commercial enterprise on one (1) premises when served through one (1) meter is considered as commercial and will be served only on General Commercial Rate. If the wiring of the residential portion of the premises is entirely separate from the business portion and service to each is rendered through a separate meter, the Residential Service Rate will be applied to the residential portion and the Commercial Rate to the business portion, each to be considered as a separate customer. (CC 1985 §14-301(C); Ord. No. 669, 6-1-81; Ord. No. 997 §§4,7, 9-19-94)

**SECTION 700.340:**

**ATHLETIC FIELDS—RATES—DEMAND**

- A. The demand provision of this Article shall be applicable to all athletic fields until the Governing Body of said athletic field or fields have paid to the City of Mulvane the cost of all transformers, installation, wires, lights, labor and other charges that might be associated with the installation of said service or until said Governing Body or the owner of said athletic field has installed at its cost by its own duly authorized person the transformer, wires, poles, lights or other necessary appurtenances for the purpose of lighting said athletic field or fields.

B. In the event that the conditions set out in Subsection (A) have been satisfactorily met, then the following rates shall be applicable:

1. *Minimum customer charge.* Five dollars forty-five cents (\$5.45)
2. *Energy charge.* For general use billing is:
  - a. \$.0818 per kwh for the first one hundred (100) kwh.
  - b. \$.0686 per kwh for all additional kwh.
3. *Cost of power.* All rates hereby established are based on a municipal cost of \$.03532 per net kwh generated and/or purchased from electric suppliers (the "base cost"). Whenever the actual average municipal cost of electricity generated and/or purchased shall differ from the base cost, the net monthly rates established above shall be increased/decreased by the amount which the actual cost of generated and/or purchased electricity per net kwh is above or below base cost. Provided that, the City of Mulvane Utility Department shall have the authority to spread the foregoing rate adjustment into subsequent months as it deems appropriate and manageable.
4. Reserved.

C. The provisions of Section 700.310 above pertaining to the availability, application, character of service, gross monthly bill, and method of payment shall be applicable to this Section. (CC 1985 §14-301(E); Ord. No. 669, 6-1-81; Amended Ord. 790, 5-19-86; Ord. No. 977 §§5,7, 9-19-94; Ord. No. 1210, 3-7-05; Ord. No. 1400 §4, 8-6-12)

## **SECTION 700.350:**

## **TEMPORARY ELECTRICAL CONNECTIONS**

For each building site, repair site or construction site wherein electricity is temporarily required by the building contractor or his/her representative, a fee as set forth in Section 100.240 in addition to any permanent fees set out in the preceding Sections shall be paid. No temporary installation of electricity may be transferred to other sites. If a permanent electrical connection is not effected within ninety (90) days from the date of the original permit, then an additional fee as set forth in Section 100.240 will be charged for each ninety (90) days or a portion thereof; provided however, the above charges stated shall not apply to mobile homes. (CC 1985 §14-303; Ord. No. 656, 2-16-81; Ord. No. 1149 §33, 8-19-02)

## **SECTION 700.360:**

## **PUBLIC UTILITY REGULATORY POLICIES ACT**

- A. The City of Mulvane hereby undertakes to comply with all lawful regulations of the Federal Energy Regulatory Commission (FERC) codified in Subpart C of 18 CFR, Part 292, dealing with arrangements with qualifying congeneration and small power production facilities under Section 210 of the Public Utility Regulatory Policies Act 1978 (PURPA).
- B. The City Administrator/City Clerk and the City Attorney are jointly and severally authorized and directed to file with the FERC a copy of this Section reflecting the City's compliance with 18 CFR, Section 292.401(c). (CC 1985 §14-308; Ord. No. 727, 10-17-83)



**ARTICLE V. SEWAGE SERVICE CHARGE—RATES**

**SECTION 700.370: RESIDENCES NOT CONNECTED TO CITY WATER  
SYSTEM**

Any residence not connected to the City water system but having a sewer connected to the City sewer system of the City of Mulvane, Kansas, shall pay a monthly sewage service charge equal to the monthly sewage service as set by the residential customers of the City sewer system as set each year. (CC 1985 §11-205; Ord. No. 765; Amended Ord. No. 766, 7-15-85)



**SECTION 700.380: COMMERCIAL ESTABLISHMENTS NOT CONNECTED TO CITY WATER SYSTEM**

All commercial establishments having a sewage connection directly or indirectly with the sewage disposal system of the City of Mulvane, Kansas, which are not connected to the City water system shall be required to install a good and sufficient water meter of the type and kind to be approved by the City Water Department Supervisor and to measure the amount of water actually used (from whatever source other than the City water system) in said establishments. The connection of such establishments to the City Sewage Disposal system shall be deemed to be an authorization by such establishments to City employees to inspect the required meter and an authorization to come upon the premises at all reasonable hours to read the said meter. Based upon the average monthly gallons used, such establishment shall pay the sewer charge for commercial users.

(CC 1985 §11-206; Ord. No. 516, 4-5-76)

**SECTION 700.390: INDUSTRIAL ESTABLISHMENTS NOT CONNECTED TO CITY WATER SYSTEM**

All industrial type establishments having a sewage connection directly or indirectly with the sewage disposal system of the City of Mulvane, Kansas, and discharging therein sewage of such volume, type and character as shall place an unusual burden upon the City Sewage Disposal System and which are not connected to the City water system shall be required to install a good and sufficient water meter of a type and kind to be approved by the City Water Department supervisor and to measure the amount of water actually used (from whatever source other than the City water system) in said establishments. The connecting up of such establishments to the City sewage disposal system shall be deemed to be an authorization by such establishments to City employees to inspect the required meter and an authorization to come upon the premises at all reasonable hours to read the said meter. Based upon the average monthly gallons used, such establishments shall pay a sewage service charge rate that shall be determined by negotiation between the user and the City.

(CC 1985 §11-207; Ord. No. 516, 4-5-76)

**SECTION 700.400: DAMAGING SYSTEM—UNLAWFUL CONNECTION**

It shall be a misdemeanor for any person to deface, injure, destroy or in any manner limit the use or availability of any part of the sewage disposal system of the City or to tamper with such system or any part thereof or to make any connection therewith or to reconnect sewer service when such service has been disconnected for non-payment of a bill unless such bill has been paid in full including any reconnection fees remaining unpaid or to reconnect sewer service when such service has been disconnected for any reason. (CC 1985 §11-211; Ord. No. 516, 4-5-76)

**SECTION 700.410: LIEN ON REAL ESTATE**

Any unpaid sewage service charges imposed pursuant to the provisions of this Article shall constitute a lien upon the real estate served by the connection to the City's sanitary sewer system and shall be certified by the City Clerk to the County Clerk of Sumner County or Sedgwick County,

Kansas, as the case may be and shall be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other taxes are collectible by law.  
(CC 1985 §11-212; Ord. No. 205, 2-18-57)

**SECTION 700.420: USE OF REVENUES**

All revenues derived from sewage service charges shall be deposited in the City Treasury and credited to a separate fund to be known as the Sewage Disposal Fund. Such revenues shall be used exclusively in the manner and for the purpose specified in Section 12-631(l) of the Supplement to the General Statutes of Kansas. (CC 1985 §11-218; Ord. No. 205, 2-18-57)

## CHAPTER 705: WATER

*Cross References—Merger of utility systems, see §700.010; utility services and rates, ch. 700, art. II—V; user charge system, ch. 715.*

### USE ARTICLE I. REGULATIONS LIMITING WATER DURING PERIODS OF EMERGENCY

*Editor's Note—Ord. no. 1167 §13, adopted January 6, 2003 repealed sections 705.010—705.080 and enacted the new provisions set out herein. Former sections 705.010—705.080 derived from CC 1985 §§14-401—14-408 and ord. no. 631, 7-21-80.*

#### SECTION 705.010: PURPOSE

The purpose of this Article is to provide for the declaration of a water supply watch, warning or emergency and the implementation of voluntary and mandatory water conservation measures throughout the City in the event such a watch, warning or emergency is declared. (Ord. No. 1167 §1, 1-6-03)

#### SECTION 705.020: DEFINITIONS

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

*CLASSES OF USES OF WATER:* The following classes of uses of water are established:

1. *CLASS 1:* Water used for outdoor watering, either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational areas; or the washing of motor vehicles, boats, trailers or the exterior of any building or structure.
2. *CLASS 2:* Water used for any commercial or industrial, including agricultural, purposes except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their place of employment.
3. *CLASS 3:* Domestic usage other than that which would be included in either Classes 1 or 2.
4. *CLASS 4:* Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.

*CUSTOMER:* The customer of record using water for any purpose from the City's water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.

*WASTE OF WATER:* Includes, but is not limited to:

1. Permitting water to escape down a gutter, ditch or other surface drain; or
2. Failure to repair a controllable leak of water due to defective plumbing.

**WATER:** Water available to the City of Mulvane for treatment by virtue of its water rights or any treated water introduced by the City into its water distribution system, including water offered for sale at any coin-operated site. (Ord. No. 1167 §2, 1-6-03)

**SECTION 705.030:**

**DECLARATION OF WATER WATCH**

Whenever the Mayor of the City finds that conditions indicate that the probability of a drought or some other condition causing a major water supply shortage is rising, the Mayor shall be empowered to declare by proclamation that a water watch exists and that the Mayor shall take steps to inform the public and ask for voluntary reductions in water use. Such a watch shall be deemed to continue until it is declared by proclamation of the Mayor to have ended. (Ord. No. 1167 §3, 1-6-03)

**SECTION 705.040:**

**DECLARATION OF WATER WARNING**

Whenever the Mayor of the City finds that drought conditions or some other condition causing a major water supply shortage are present and supplies are starting to decline, the Mayor shall be empowered to declare by proclamation that a water warning exists and that the Mayor will recommend restrictions on non-essential uses during the period of warning. Such a warning shall be deemed to continue until it is declared by proclamation of the Mayor to have ended. (Ord. No. 1167 §4, 1-6-03)

**SECTION 705.050:**

**DECLARATION OF WATER EMERGENCY**

Whenever the Mayor of the City finds that an emergency exists by reason of a shortage of water supply needed for essential uses, the Mayor shall be empowered to declare by proclamation that a water supply emergency exists and that the City of Mulvane will impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by proclamation of the Mayor to have ended. (Ord. No. 1167 §5, 1-6-03)

**SECTION 705.060:**

**VOLUNTARY CONSERVATION MEASURES**

Upon the declaration of a water watch or water warning as provided in Sections 705.030 and 705.040, the Mayor (or the City Administrator) is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate non-essential water uses including, but not limited to, limitations on the following uses:

1. Class 1 uses of water.
2. Waste of water. (Ord. No. 1167 §6, 1-6-03)

**SECTION 705.070:**

**MANDATORY CONSERVATION MEASURES**

Upon the declaration of a water supply emergency as provided in Section 705.050, the Mayor (or the City Administrator) is also authorized to implement certain mandatory water conservation measures

including, but not limited to, the following:

§ 705.070	Water	§ 705.084
	<ol style="list-style-type: none"> <li>1. Suspension of new connections to the City's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered into by the City prior to the effective date of the declaration of the emergency;</li> <li>2. Restrictions on the uses of water in one (1) or more classes of water use, wholly or in part;</li> <li>3. Restrictions on the sales of water at coin-operated facilities or sites;</li> <li>4. The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per consumer restrictions;</li> <li>5. Complete or partial bans on the waste of water; and</li> <li>6. Any combination of the foregoing measures. (Ord. No. 1167 §7, 1-6-03)</li> </ol>	

## **SECTION 705.080: EMERGENCY WATER RATES**

Upon the declaration of a water supply emergency as provided in Section 705.050, the Governing Body of the City shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for, but are not limited to:

1. Higher charges for increasing usage per unit of use (increasing block rates);
2. Uniform charges for water usage per unit of use (uniform unit rate); or
3. Extra charges in excess of a specified level of water use (excess demand surcharge). (Ord. No. 1167 §8, 1-6-03)

## **SECTION 705.082: REGULATIONS**

During the effective period of any water supply emergency as provided for in Section 705.050, the Mayor (or City Manager or Water Superintendent) is empowered to promulgate such regulations as may be necessary to carry out the provisions of this Article, any water supply emergency resolution or emergency water rate ordinance. Such regulations shall be subject to the approval of the Governing Body at its next regular or special meeting. (Ord. No. 1167 §9, 1-6-03)

## **SECTION 705.084: VIOLATIONS, DISCONNECTIONS AND PENALTIES**

- A. If the Mayor, City Administrator, Water Superintendent or other City Official or officials charged with implementation and enforcement of this Article or a water supply emergency resolution team of any violation of any water use restrictions imposed pursuant to Sections 405.070 or 405.082 of this Article, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record any other person known to the City who is responsible for the violation or its correction shall be provided with either actual or mailed notice. Said notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the City determines is reasonable under the circumstances. If the order is not complied with, the City may terminate water service to the customer subject to the following procedures:



1. The City shall give the customer notice by mail or actual notice that water service will be discontinued within a specified time due to the violation and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the City Governing Body or a City Official designated as a hearing officer by the Governing Body;
2. If such a hearing is requested by the customer charged with the violation, he/she shall be given a full opportunity to be heard before termination is ordered; and
3. The Governing Body or hearing officer shall make findings of fact and order whether service should continue or be terminated.

B. A fee of fifty dollars (\$50.00) shall be paid for the reconnection of any water service terminated pursuant to Subsection (A). In the event of subsequent violations, the reconnection fee shall be two hundred dollars (\$200.00) for the second (2nd) reconnection and three hundred dollars (\$300.00) for any additional reconnections.

C. Violations of this Article shall be a municipal offense and may be prosecuted in Municipal Court. Any person so charged and found guilty in Municipal Court of violating the provisions of this Article shall be guilty of a municipal offense. Each day's violation shall constitute a separate offense. The penalty for an initial violation shall be a mandatory fine of one hundred dollars (\$100.00). In addition, such customer may be required by the court to serve a definite term of confinement in the City or County Jail which shall be fixed by the court and which shall not exceed thirty (30) days. The penalty for a second (2nd) or subsequent conviction shall be a mandatory fine of two hundred dollars (\$200.00). In addition, such customer shall serve a definite term of confinement in the City or County Jail which shall be fixed by the court and which shall not exceed thirty (30) days. (Ord. No. 1167 §10, 1-6-03)

#### **SECTION 705.086:**

#### **EMERGENCY TERMINATION**

Nothing in this Article shall limit the ability of any properly authorized City Official from terminating the supply of water to any or all customers upon the determination of such City Official that emergency termination of water service is required to protect the health and safety of the public. (Ord. No. 1167 §11, 1-6-03)

### **ARTICLE II. CROSS-CONNECTION CONTROL**

#### **SECTION 705.090:**

#### **GENERAL INFORMATION**

A. *Purpose.* The purpose of this Article is:

1. To protect the public potable water supply of City of Mulvane from pollution or contamination due to cross-connection;
2. To prohibit and eliminate all cross-connections within the public potable water supply system; and

3. To provide for the maintenance of a continuing effective cross-connection control program and thus protect the public health.

B. *Responsibility.* The City of Mulvane shall be responsible for effectively conducting the cross-connection control program of the City of Mulvane public potable water supply. If, in the judgement of said City of Mulvane an approved backflow prevention device is required the Utility Superintendent or his/her agent will give notice in writing to the customer to install the proper device. The customer shall immediately install the proper device at the customers expense. Failure to comply shall be grounds for discontinuing water service to said customer until the device is properly installed. (CC 1985 §14-701; Ord. No. 881, 9-5-89)

## **SECTION 705.100: DEFINITIONS**

As used in this Article, the following words or phrases shall have these prescribed meanings:

*AGENCY:* The department of the municipal government or water purveyor invested with the responsibility for enforcement of this Article.

*AIR GAP:* The unobstructed vertical distance at least twice the diameter of the supply line and no less than one (1) inch, through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle.

*APPROVED DEVICE:* Devices tested and accepted by a recognized testing laboratory approved by the Kansas Department of Health and Environment and the City of Mulvane.

*BACKFLOW:* The flow of water or other substances into the distribution system of a potable supply of water from any source other than its intended source. Backsiphonage is one type of backflow.

*BACKFLOW PREVENTER:* A device or means to prevent backflow.

*BACKSIPHONAGE:* The flow back of contaminated or polluted substances from a plumbing fixture or any vessel or source into the potable water supply system due to negative pressure in said system.

*CONTAMINANT:* Any substance that upon entering the potable water supply would render it a danger to the health or life of the consumer.

*CROSS-CONNECTION:* Any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other which contains water or any substance of unknown or questionable quality whereby there may be flow from one system to the other.

*DOUBLE-CHECK VALVE ASSEMBLY:* A device consisting of two (2) internally loaded soft seated check valves with positive shut-off valves on both upstream and downstream ends, and properly located test ports.

*DUAL-CHECK VALVE:* A device consisting of two (2) internally loaded soft seated check valves. This device does not contain test ports and is acceptable for use only at the meter of residential customers.

*FREE WATER SURFACE:* A water surface at atmospheric pressure.

*FLOOD LEVEL RIM:* The edge of the receptacle from which water overflows.

*FROST PROOF CLOSET:* A hopper with no water in the bowl and with the trap and water supply control valve located below frost line.

*KDHE:* The Kansas Department of Health and Environment.

*PLUMBING:* The practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping fixtures, appliances and appurtenances.

*POLLUTION:* The presence of any foreign substance (organic, inorganic or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely affect the water.

*REDUCED PRESSURE ZONE BACKFLOW PREVENTER:* An assembly of two (2) independently acting soft seated approved check valves together with a hydraulically operating mechanically independent differential pressure relief valve located between the check valves and at the same time below the first check valve. The unit shall contain properly located test cocks and resilient seated shut-off valves at each end of the assembly. To be approved these assemblies must be accessible for inspection and testing and be installed in an above ground location where no part of the assembly will be submerged.

*TESTER:* A trained technician certified in the testing and repair of backflow preventers.

*VACUUM:* Any absolute pressure less than that exerted by the atmosphere.

**VACUUM BREAKER:** A device that permits entrance of air into the water supply distribution line to prevent backsiphonage.

**WATER, POTABLE:** Water free from impurities in amounts sufficient to cause disease or harmful physiological effects. Its quality shall conform to Kansas Department of Health and Environment requirements for public water supplies.

**WATER, NON-POTABLE:** Water that is not safe for human consumption or that is of questionable potability. (CC 1985 §14-702; Ord. No. 881, 9-5-89)

## **SECTION 705.110: REQUIREMENTS**

- C. *General.* A public potable water supply system shall be designed, installed and maintained in such a manner as to prevent contamination from non potable sources through cross-connections or any piping connection to the system.
- D. *Cross-Connections Prohibited.* Cross-connections are prohibited except when and where, as approved by City of Mulvane, suitable backflow preventers are properly installed, tested and maintained to insure proper operation on a continuing basis.
- E. *Interconnections.* Interconnection between two (2) or more public water supplies shall be permitted only with the approval of the Kansas Department of Health and Environment. (K.S.A. 65-163(a))
- F. *Individual Water Supplies.* Connections between a private water supply and the public potable water are prohibited. (K.S.A. 65-163 (a))
- G. *Connections To Boilers.* Potable water connections to boiler feed water systems in which boiler water conditioning chemicals are or can be introduced shall be made through an air-gap or through a reduced pressure zone principle backflow preventer located in the potable water line before the point where such chemicals may be introduced.
- H. *Prohibited Connections.* Connection to the public potable water supply system for the following is prohibited unless properly protected by the appropriate backflow prevention device.
  - 1. Bidets.
  - 2. Operating, dissecting, embalming, and mortuary tables or similar equipment. In such installations the hose used for water supply shall terminate at least twelve (12) inches away from every point of the table or attachments.
  - 3. Pumps for non potable substances. Priming only through an air-gap.
  - 4. Building drains, sewers, or vent systems.
  - 5. Commercial buildings or industrial plants manufacturing or otherwise using polluting or contaminating substances.
  - 6. Any fixture of similar hazard.

I. *Refrigeration Unit Condensers And Cooling Jackets.* Except when potable water provided for a refrigeration condenser or cooling jacket is entirely outside the piping or tank containing a toxic

refrigerant, the inlet connection shall be provided with an approved backflow preventer. Heat-exchangers used to heat water for potable use shall be of the double wall type.

J. *Protective Devices Required.* The type of protective device required under this Article shall be determined by the degree of hazard which exists as follows:

1. Premises having auxiliary water supply shall protect the public system by either an approved air-gap or an approved reduced pressure principle backflow prevention assembly.
2. Premises having water or substances which would be non hazardous to the health and well being of the consumers shall protect the public system with no less than an approved double-check valve assembly.
3. Premises where material dangerous to health is handled in a manner which creates an actual or potential hazard shall protect the public system by an approved air-gap or an approved reduced pressure principle backflow prevention assembly.
4. Premises where cross-connections are uncontrolled shall protect the public water supply by installing an approved air-gap or an approved reduced pressure principle backflow prevention device at the service connection.
5. Premises where because of security requirements or other prohibitions it is impossible to complete an in plant cross-connection inspection, the public system shall be protected by an approved air-gap or an approved reduced pressure principle backflow prevention assembly.

Premises which may fall into one or more of the above mentioned categories may be, but are not limited to the following:

1. Beverage bottling plants.
2. *Buildings.* Hotels, apartments, public or private buildings, or other structures having actual or potential cross-connections.
3. Car wash facilities.
4. Chemical manufacturing, handling, or processing plants.
5. Chemically contaminated water.
6. Dairies and cold storage facilities.
7. Film or photography processing laboratories.
8. Fire systems.
9. Hospitals, medical centers, morgues, mortuaries, autopsy facilities, clinics, or nursing and convalescent homes.
10. Irrigation systems.

11. Laundries.

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12. Metal cleaning, processing, or fabricating plants.
13. Oil and gas production, storage, or transmission facilities.
14. Packing or food processing plants.
15. Paper and paper products plants.
16. Power Plants.
17. Radioactive materials plants or handling facilities.
18. Restricted or classified facilities.
19. Rubber plants.
20. Sand, gravel, or asphalt plants.
21. Schools or colleges.
22. Sewage and storm drainage facilities and reclaimed water systems.
23. Solar heating systems.
24. *Temporary service.* Fire hydrants, air valves, blow-offs and other outlets.
25. Water front marinas. (CC 1985 §14-703; Ord. No. 881, 9-5-89)

## **SECTION 705.120: INSTALLATION**

- A. Approved devices shall be installed at all fixtures and equipment where backflow or backsiphonage may occur and where a minimum air-gap between the potable water outlet and the fixture or equipment flood-level rim cannot be maintained. Backflow and backsiphonage devices of all types shall be in an accessible location. Installation in pits or any other location not properly drained shall be prohibited, except that dual-check valves may be installed in the meter box.
- B. *Connections Not Subject To Backpressure.* Where a water connection is not subject to back pressure, a vacuum breaker shall be installed on the discharge side of the last valve on the line serving the fixture or equipment. A list of some conditions requiring protective devices of this kind are given in the following table titled "Cross-Connections Where Protective Devices are Required".

### ***Cross-Connections Where Protective Devices Are Required***

***And***

### ***Critical Level (C-L) Settings For Vacuum Breakers.***

<b><i>Fixtures or Equipment</i></b>	<b><i>Method of Installation</i></b>
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Aspirators and ejectors	C-L at least 6 inches above flood level
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of receptacle served.

***Fixtures or Equipment      Method of Installation***

Dental units	On models without built in vacuum flood	C-L at least 6 inches above breakers C-L at least 6 inches above level rim of bowl.
Commercial dish washing machine	Cold	C-L at least 6 inches above flood level of machine. Installed on both hot and water supply lines.
Garbage can cleaning machines	Cold	C-L at least 6 inches above flood level of machine. Installed on both hot and water supply lines.
Hose Outlets		C-L at least 6 inches above highest point on hose line.
Commercial laundry machines	Cold	C-L at least 6 inches above flood level of machine. Installed on both hot and water supply lines.
Lawn sprinklers		C-L at least 6 inches above highest sprinkler head or discharge outlet.
Steam tables		C-L at least 6 inches above flood level rim.
Tanks and vats		C-L at least 6 inches above flood level rim or line.
Through urinals		C-L at least 30 inches above perforated flush pipe.
Flush tanks	Equipment with approved ball cock,	installed according to manufacturer's instructions.
Hose bibs	C-L at least 6 inches above flood level of receptacle served.	

C. *Connections Subject To Backpressure.* Where a potable water connection is made to a line, fixture, tank, vat, pump, or other equipment with a hazard of backflow or backsiphonage where the water connection is subject to backpressure, and an air-gap cannot be installed, the City of Mulvane may require the use of an approved reduced pressure principle backflow preventer. A partial list of such connections is shown in the following table "Partial List of Cross-Connections Subject to Back Pressure".



**PARTIAL LIST OF CROSS-CONNECTIONS SUBJECT  
TO BACK PRESSURE**

Chemical linesPumps  
Dock water outlets Steam lines  
Individual water suppliesSwimming pools  
Industrial process water lines Pressure tanks  
Tanks and vats - bottom inlets Hose bibs

- D. *Barometric Loop.* Water connections where an actual or potential backsiphonage hazard exists may in lieu of devices specified above be provided with a barometric loop. Barometric loops shall precede the point of connection.
- E. *Dual-Check Valve.* Dual-check valves may be installed at the meter. These valves shall be inspected and repaired not less frequent than every third (3rd) year. These valves shall be installed only in situations where the City of Mulvane is assured that only non contaminating substances are subject to backflow into the potable system.
- F. *Vacuum Breakers.* Atmospheric vacuum breakers shall be installed with the critical level at least six (6) inches above the flood rim of the fixture they serve and on the discharge side of the last control valve to the fixture. No shut off valve or faucet shall be installed beyond the atmospheric vacuum breaker. Pressure vacuum breakers shall be installed with the critical level at least twelve (12) inches above the flood rim but may have control valves down stream from the vacuum breaker. For closed equipment or vessels such as pressure sterilizers the top of the vessel shall be considered the flood level rim and a check valve shall be installed on the discharge side of the pressure vacuum breaker. (CC 1985 §14-704; Ord. No. 881, 9-5-89)

**SECTION 705.130:****MAINTENANCE AND REPAIR**

- A. It shall be the responsibility of building and premise owners to maintain all backflow preventers and vacuum breakers within the building or on the premises in good working order and to make sure no piping or other arrangements have been installed for the purpose of bypassing the backflow devices. Testing and repair of these devices should be made by qualified technicians. (Qualified technicians are those technicians who have completed a Kansas Department of Health and Environment approved training course and have passed a written examination such as the American Backflow Prevention Association device testers examination.) The City of Mulvane shall certify the device testers after ascertaining the technician meets the above qualifications. The City of Mulvane will also assure the proper installation of all backflow preventers and will set appropriate testing and overhaul schedules for such devices. Testing intervals shall not exceed one (1) year and overhaul intervals shall not exceed (5) years.
- B. *Certified Tester/Repair Technicians.* All certified tester/repair technicians shall be re-certified at no less than three (3) year intervals. Persons certified as tester/repair technicians at the time of the adoption of this Article shall continue to be certified for a period of not more than three (3) years as determined by the City of Mulvane. (CC 1985 §14-705; Ord. No. 881, 9-5-89)

**SECTION 705.140:****VIOLATION, NOTICE**

The City of Mulvane shall notify the owner, or authorized agent of the owner, of a building or premises in which there is found a violation of this Article, of such violation. The City of Mulvane shall set a reasonable time for the owner to have the violation corrected. If the owner fails to correct

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the violation within the specified time the City of Mulvane shall cease delivery of water to the building or premises until the violation shall be satisfactorily corrected.  
(CC 1985 §14-706; Ord. No. 881, 9-5-89)

## CHAPTER 710: SEWERS AND SEWAGE DISPOSAL

*Cross References—Merger of utility systems, see §700.010; utility services, ch. 700, art. II; service charges, ch. 700, art. III—V; user charge system, ch. 715.*

### **DRAINS—ARTICLE I. PUBLIC AND PRIVATE SEWERS AND SEWER USE REGULATIONS**

#### **SECTION 710.010: DEFINITIONS**

Unless the context specifically indicates otherwise, the meanings of the terms used in this Article shall be as follows:

***BOD (denoting Biochemical Oxygen Demand):*** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Celsius (20°C), expressed in milligrams per liter.

***BUILDING DRAIN:*** That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.

***BUILDING SEWER:*** The extension from the building drain to the public sewer or other place of disposal.

***COMBINED SEWER:*** A sewer receiving both surface runoff and sewage.

***GARBAGE:*** Solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

***INDUSTRIAL WASTES:*** The liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

***NATURAL OUTLET:*** Any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

***PERSON:*** Any individual, firm, company, association, society, corporation or group.

***pH:*** The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

***PROPERLY SHREDDED GARBAGE:*** The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half (1/2) inch in any dimension.

***PUBLIC SEWER:*** A sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.

*SANITARY SEWER:* A sewer which carries sewage and to which storm, surface and groundwaters 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.

*SEWAGE TREATMENT PLANT:* Any arrangement of devices and structures used for treating sewage.

*SEWAGE WORKS:* All facilities for collecting, pumping, treating and disposing of sewage.

*SEWER:* A pipe or conduit for carrying sewage.

*SHALL:* Is mandatory; *MAY:* Is permissive.

*SLUG:* Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

*STORM DRAIN (sometimes termed "Storm Sewer"):* A sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

*SUPERINTENDENT:* The Superintendent of the Water Utility of the City of Mulvane or an authorized deputy, agent or representative.

*SUSPENDED SOLIDS:* Solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

*WATERCOURSE:* A channel in which a flow of water occurs either continuously or intermittently. (CC 1985 §14-601; Ord. No. 644, 10-20-80)

## **SECTION 710.020: USE OF PUBLIC SEWER**

- A. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City of Mulvane or in any area under jurisdiction of said City any human or animal excrement, garbage or other objectionable waste
- B. It shall be unlawful to discharge to any natural outlet within the City of Mulvane or in any area under the jurisdiction of said City any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Article.
- C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
- D. The owner of all houses, buildings or properties used for human employment, recreation or other purposes situated within the City and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City is hereby required at his/her expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Article within ninety

(90) days after the date of official notice to do so, provided that said public sewer is

within one hundred (100) feet of the property line and any private sewage disposal system shall be cleaned of sludge and filled with clean bankrun gravel or dirt.

(CC 1985 §14-602; Ord. No. 644, 10-20-80)

**SECTION 710.030:****PUBLIC SEWER NOT AVAILABLE**

- A. Where a public sanitary or combined sewer is not available, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Article.
- B. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the City which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Superintendent. A permit and inspection fee of twenty-five dollars (\$25.00) shall be paid to the City at the time the application is filed.
- C. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He/she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within twenty-four (24) hours of the receipt of notice by the Superintendent.
- D. The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State Board of Health and Environment. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than twenty thousand (20,000) square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- E. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the City.
- F. No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.

(CC 1985 §14-603; Ord. No. 644, 10-20-80)

**SECTION 710.040:****GENERALITIES**

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.
- B. The owners or their agents shall make application for sewer permits. The permit application shall be supplemented by any plans, specifications or other information pertinent in the judgment of the Superintendent.
- C. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.



D. A separate and independent building sewer shall be provided for every building except where one (1) building stands at the rear of another building under the same ownership on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

E. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Any gasoline, benzene, naphta, fuel oil or other flammable or explosive liquid, solid or gas.
2. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.
3. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works such as but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

F. No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely, in the opinion of the Superintendent, that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his/her opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances prohibited are:

1. Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150°F)(65°C).
2. Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two degrees Fahrenheit (32°F) and one hundred fifty degrees Fahrenheit (150°F)(0 and 65°C).
3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.

4. Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions whether neutralized or not.

5. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances or wastes exerting an excessive chlorine requirement to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
6. Any waters or wastes containing phenols or other taste or odor-producing substances in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, Federal or other public agencies of jurisdiction for such discharge to the receiving waters.
7. Any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
8. Any waters or wastes having a pH in excess of 9.5.
9. Materials which exert or cause:
  - a. Unusual concentrations of inert suspended solids (such as, but not limited to, fuller earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).
  - b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - c. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein
10. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
11. Any waters or wastes having:
  - a. A five (5) day BOD greater than three hundred (300) parts per million by weight,
  - b. Containing more than three hundred fifty (350) parts per million by weight of suspended solids, or
  - c. Having an average daily flow greater than two percent (2%) of the average sewage flow of the City

shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at his/her expense, such preliminary treatment as may be necessary to:

- (1) Reduce the biochemical oxygen demand to three hundred (300) parts per million by weight,



- (2) Reduce the suspended solids to three hundred fifty (350) parts per million by weight, or
- (3) Control the quantities and rates of discharge of such waters or wastes. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

G. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contained the substances or possess the characteristics enumerated in Subsection (D) of this Section, and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipments, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the Superintendent may:

- 1. Reject the wastes.
- 2. Require pretreatment to an acceptable condition for discharge to the public sewers.
- 3. Require control over the quantities and rates of discharge, and/or,
- 4. Require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Subsection (K) of this Section.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, ordinances and laws.

H. Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients, except that such interceptors shall be of a type and capacity approved by the Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.

I. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his/her expense.

J. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his/her expense and shall be maintained by him/her so as to be safe and accessible at all times.

K. No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, by the

industrial concern. (CC 1985 §14-604; Ord. No. 644, 10-20-80)

**SECTION 710.045:****INSTALLATION OF BACK WATER VALVES**

To prevent the backflow from the public sanitary sewer system, it shall be required in all new construction that each building sanitary sewer drain, connected to the City sanitary sewer system, shall have a backwater valve installed.

1. The device shall be installed where it is accessible for inspection and repair.
2. The device shall be installed in accordance with the Section 710-9 of the 1997 Edition of the Uniform Plumbing Code. (Ord. No. 1092, 11-20-00)

**SECTION 710.050:****PROTECTION FROM DAMAGE**

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (CC 1985 §14-605; Ord. No. 644, 10-20-80)

**SECTION 710.060:****SUPERINTENDENT**

- A. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Article. The Superintendent or his/her representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.
- B. While performing the necessary work on private properties, the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.
- C. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easements shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.  
(CC 1985 §14-606; Ord. No. 644, 10-20-80)

**SECTION 710.070: VIOLATIONS-LIABILITY**

- A. Any person found to be violating any provision of this Article, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- B. Any person violating any of the provisions of this Article shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

(CC 1985 §14-607; Ord. No. 644, 10-20-80)

## CHAPTER 715: USER CHARGE SYSTEM

### SECTION 715.010:

### USER CHARGE SYSTEM—PURPOSE

It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the City to collect charges from all users who contribute wastewater to the City's treatment works. The proceeds of such charges so derived will be used for the purpose of operating and maintaining the public wastewater treatment works. (CC 1985 §14-501; Ord. No. 643, 10-20-80)

### SECTION 715.020:

### DEFINITIONS

Unless the context specifically indicates otherwise, the meanings of terms used in this Chapter shall be as follows:

*BOD (DENOTING BIOCHEMICAL OXYGEN DEMAND):* The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Celsius (20°C), expressed in milligrams per liter (mg/l).

*COST PARTICIPATION RATIO:* That ratio (as a percentage) that the actual pounds of pollutants contributed to the treatment works by a significant contributor bears to the pounds of pollutants contributed by all users including the significant contributor, where pounds of pollutants are computed from the actual measured total of TKN, TSS and BOD (each averaged over the last twelve (12) months, as available) multiplied by the amount of water used.

*FORMULA RATE:* The monthly user charge for significant contributors which consists of the sum of the variable monthly charge and participating user charge, all computed in accordance with provisions of Section 715.040(D).

*OPERATION AND MAINTENANCE:* All expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for managing and maintaining the sewage works to achieve the capacity and performance for which such works were designed and constructed.

*PARTICIPATING USER CHARGE:* This charge shall be the product of total treatment works cost multiplied by a significant contributor's cost participation ratio.

*REPLACEMENT:* Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "*operation and maintenance*" includes replacement.

*SHALL:* Is mandatory; *MAY:* Is permissive.

*SIGNIFICANT CONTRIBUTOR:* Any user of the City's treatment works who, upon sample testing or by admission, either:

1. Contributes effluent to the treatment works which contains:
  - a. Five (5) day BOD concentrations at or in excess of over three hundred (300) mg per liter, or

- b. TKN concentrations at or in excess of forty (40) mg per liter, or
- c. TSS concentrations at or in excess of three hundred fifty (350) mg per liter; or
2. Contribute volumes of wastewater averaging in excess of eight thousand (8,000) gallons per day.

**TKN (DENOTING TOTAL KJELDAHL NITROGEN):** The sum of organic nitrogen, ammonia ( $\text{NH}_3$ ), and ammonium ( $\text{NH}_4^+$ ) in the chemical analysis of the wastewater measured in milligrams per liter, all in accordance with applicable industry standards.

**TOTAL TREATMENT WORKS COST:** The average of the sum total monthly cost of operating the treatment works over the preceding twelve (12) months (less the costs of any wastewater treatment or pretreatment facilities necessitated by and specifically constructed for use by a significant contributor and otherwise included in a significant contributor's variable monthly charge), including labor, debt service, electricity, testing, licensure fees and other allocable costs of the treatment works not included in the variable monthly charge.

**TREATMENT WORKS:** Any devices and systems for the storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances; extensions, improvement, remodeling additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment (including land for composting sludge, temporary storage of such compost and land used for the storage of treated wastewater in land treatment systems before land application); or any other method of system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.

**TSS (DENOTING TOTAL SUSPENDED SOLIDS):** Solids that either float on the surface of, or are in suspension in, water, sewage or other liquids and which are removable by laboratory filters of the industry specified pore size, measured in milligrams per liter, all computed in accordance with applicable industry standards.

**USEFUL LIFE:** The estimated period during which a treatment works will be operated.

**USER CHARGE:** That portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment works.

**VARIABLE MONTHLY CHARGE:** The sum total of all actual monthly operational costs of the wastewater treatment or pretreatment facilities necessitated by and specifically constructed for use by a significant contributor, including the sum of:

1. Actual electrical costs to the City, as metered at any newly constructed headworks and force main injection stations (except to the extent such electricity is provided by the significant contributor), plus

2. The City's actual cost of water used, as metered at said headworks and injection stations, plus
3. The cost of all chemicals actually used, when used, at such locations, computed at the last known cost for the City's purchase of said chemicals.

**WATER METER:** A water volume measuring and recording device, furnished and/or installed by the City of Mulvane or furnished and/or installed by others and approved by the City of Mulvane. (CC 1985 §14-502; Ord. No. 643, 10-20-80; Ord. No. 1385 §1, 11-21-11)

**SECTION 715.030: USER CHARGE SYSTEM**

- A. The User Charge System shall generate adequate annual revenues to pay costs of annual operation and maintenance including replacement which the City may by ordinance designate to be paid by the User Charge System.
- B. The total user charge collected is designated for operation and maintenance including replacement purposes as established in Appendices A and B of this ordinance, which are on file in the City offices, and shall be deposited in a separate non-lapsing fund known as the Operation, Maintenance and Replacement Fund and will be kept in two (2) primary accounts as follows:
  1. An account designated for the specific purpose of defraying operating and maintenance costs (excluding replacement) of the treatment works (Operation and Maintenance Account).
  2. An account designated for the specific purpose of ensuring replacement needs over the useful life of the treatment works (Replacement Account). Deposits in the Replacement Account shall be made annually from the operation, maintenance and replacement revenue in the amount of fifteen thousand dollars (\$15,000.00) annually.
- C. Fiscal year-end balances in the Operation and Maintenance Account and the Replacement Account shall be carried over to the same accounts in the subsequent fiscal year and shall be used for no other purposes than those designated for these accounts. Monies which have been transferred from other sources to meet temporary shortages in the Operation, Maintenance and Replacement Fund shall be returned to their respective accounts upon appropriate adjustment of the User Charge Rates for operation, maintenance and replacement. The User Charge Rates shall be adjusted such that the transferred monies will be returned to their respective accounts within the fiscal year following the fiscal year in which the monies were borrowed. (CC 1985 §14-503; Ord. No. 643, 10-20-80)

**SECTION 715.040: PAYMENTS BY USERS**

- A. Each user shall pay for the services provided by the City based on his/her use of the treatment works as determined by water meters acceptable to the City.
- B. For residential contributors, monthly user charges will be based on average monthly water usage during the months of December, January and February. If a residential contributor has not established a December, January and February average, his/her monthly user charge shall be the average charge of all other residential contributors.

For industrial and commercial contributors, user charges shall be based on water used during the current month. If a commercial or industrial contributor has a consumptive use of water or in some other manner uses water which is not returned to the wastewater collection system, the user charge for that contributor may be based on a wastewater meter or separate water meters installed and maintained at the contributor's expense and in a manner acceptable to the City.

C. *Monthly User Charge.* Each residential and commercial contributor shall each pay a monthly user charge for operation and maintenance of the City's treatment works, computed in accordance with Section 715.040, as follows:

1. *Ordinary contributor within the City.* Except for significant contributors (hereinafter defined), the monthly rate to be charged to residential and commercial customers using sewer services within the City of Mulvane, Kansas, shall be comprised of both a minimum charge and a user rate charge, as follows:

Minimum monthly charge	\$21.00 (minimum charge)
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Per each 1,000 gallons	\$5.25 (user rate charge)
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2. *Ordinary contributor outside the City.* Monthly rates to be charged to residential and commercial customers located outside the City limits but using sewer services of the City of Mulvane, Kansas, shall be as separately contracted for by each consumer and in the absence of such written agreement shall be billed monthly at one hundred twenty-five percent (125%) of the amounts established for residents of the City and, in the absence of usage information, an average usage of similarly situated customers shall be applied as the user rate.
3. *Significant contributors.* Notwithstanding the provisions of Section 715.040(C)(1) and (2), significant contributors to the City's treatment works shall pay a monthly user charge equal to the formula rate, computed in accordance with provisions of Section 715.040(D)

D. *Formula Rate.* The Utilities Superintendent shall or shall cause others to compute the formula rate from actual use by significant contributors and actual costs obtained at the end of each billing cycle. The Utilities Superintendent shall obtain at least one (1) statistical sample over a twenty-four (24) hour period during each month from each significant contributor's direct effluent and the total effluent contributed to the treatment works as the basis for computing the relative pollutants used to determine the cost participation ratio. In the event of any unexplained anomaly in such samples, if there is insufficient time to obtain an additional (corrected) sample reading, the Utilities Superintendent shall use the average sample reading for the last twelve (12) months to compute the cost participation ratio. In the event that another customer shall use or contribute to a significant contributor's effluent, such that it shall not be possible to obtain a stand-alone statistic, flow or sampling of pollutants, or such that other customers contribute effluent through the same facilities originally constructed for a significant contributor, the participating user charge for such significant contributor shall be accordingly reduced by the full amount of the monthly user charge collected from such other customer(s). In the event two (2) or more significant contributors contribute effluent to the treatment works through the same facilities originally constructed for a single significant contributor, the total formula rate attributable to such significant contributors shall be prorated for each significant contributor by the percentage of such significant contributor's use of municipal water as compared to the total of all municipal water used by all significant contributors using the same facilities all as measured pursuant to the Code.

E. Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the City's treatment works or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works, shall pay for such increased costs. The charge to each such user shall be as determined by the responsible plant operating personnel and approved by the City Council.

F. The User Charge Rates established in this Section apply to all users, regardless of their location, of the City's treatment works.

G. *Sewer Charges.* Transfer to another address. When a sewer service customer transfers service from one (1) address to another within the limits of the City, the Utilities Superintendent shall pro-rate the charge for service between the two (2) City addresses as precisely as practicable to prevent

double charges for sewer service. When the Utilities Superintendent has determined that a customer has transferred sewer service to another address as above provided, the following formula shall be followed:

1. The monthly rate for the prior month shall be divided by thirty (30) days, then multiplied by the number of days of service.
2. Where not otherwise specifically provided for under this Chapter, the Utilities Superintendent shall decree such rules and regulations as are reasonable and necessary to assess, charge and collect sewer charges in any lawful manner consistent with this Chapter. (CC 1985 §14-504; Ord. No. 643, 10-20-80; Ord. No. 811, 2-16-87; Ord. No. 1019, 11-18-96; Ord. No. 1094 §1, 12-18-00; Ord. No. 1125 §2, 7-15-02; Ord. No. 1212, 3-7-05; Ord. No. 1258, 3-5-07; Ord. No. 1301, 4-7-08; Ord. No. 1340, 1-18-10; Ord. No. 1385 §§2-3, 11-21-11; Ord. No. 1397 §1, 7-16-12)

**SECTION 715.050:****PENALTY FOR NON-PAYMENT–DISCONNECTION  
OF SERVICE**

- A. All bills for the use of the City's sewage disposal system shall be due and payable monthly at the office of the City Clerk of the City of Mulvane on or before twenty-four (24) days from the date of billing for said service in which the bill comes due. When any bill is not paid on or before twenty-four (24) days from the date of billing for said service, both water and sewer service to such customer shall be cut off. All bills remaining unpaid after the tenth (10th) day from the date of billing for said service, shall have a penalty of five percent (5%) added to the total bill for sewer service charges. Failure to receive a bill shall not excuse a customer from his/her obligation to pay within the time specified. Should the City be unable to bill the customer for service rendered during any month, the billing next time shall include the charges for sewer service rendered during the unbilled month. A "month" shall be considered as a period of approximately thirty (30) days. When a customer's sewer is disconnected because of nonpayment of the bill, a fee of two hundred fifty dollars (\$250.00) shall be charged for such disconnection of service and an additional fee of two hundred fifty dollars (\$250.00) shall be charged for reconnection of sewer service.
- B. A late payment penalty of five percent (5%) of the user charge bill will be added to each delinquent bill for each thirty (30) days of delinquency. When any bill is sixty (60) days in default, the charges shall constitute a lien upon the real estate served by the connection to the sewer. When directed to do so by the Governing Body of the City, the City Clerk shall certify the accumulated charges and penalties to the County Clerk to be placed on the tax rolls for collection. (CC 1985 §14-505; Amended Ord. No. 766, 7-15-85)

**SECTION 715.060:****REVISION OF RATES**

- A. The City will review the User Charge System every year and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement costs among users and user classes.
- B. The City will notify each user at least annually in conjunction with a regular bill of the rate being

charged for operation and maintenance including replacement of the treatment works. (CC 1985 §14-506; Ord. No. 643, 10-20-80)

**SECTION 715.070: ESTABLISHING AND ENFORCING SEWER USER CHARGES**

Under the provisions of K.S.A. 12-631 et seq., the City has the legal authority to establish and to enforce sewer user charges on all existing or future users of the system whether located inside the City limits or outside the City limits. (CC 1985 §14-507; Ord. No. 643, 10-20-80)



**SYSTEM****CHAPTER 720: STORMWATER MANAGEMENT****SECTION 720.010:****SYSTEM****CREATION OF STORMWATER MANAGEMENT**

Pursuant to the provisions of Charter Ordinance No. 20, the City of Mulvane does hereby establish a stormwater management system and declares its intention to operate, construct, maintain and repair such stormwater management system. It is hereby found, determined and declared that the elements of the stormwater management system which provide for the collection, treatment and disposal of stormwater are of benefit and provide services to property within the incorporated City limits. The beneficiaries of the system include all real properties within the City which benefit by the provisions, operation and improvement of the system. Such benefits may include, but are not limited to, the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater, the reduction of hazard to property and life resulting from stormwater runoff, improvement in general health and welfare through reduction of undesirable stormwater conditions, and improvement to the water quality in the storm and surface water system and its receiving waters. (Ord. No. 1125 §3, 7-15-02)

**SECTION 720.015:****STORM DRAINAGE FEE**

- A. There is hereby assessed against all property within the City that is connected to either the water or sanitary sewer systems, or both, of the City a monthly storm drainage fee. Such fee is based upon a determination of a comparable amount of impervious area for uses within each rate category as set forth hereinafter. The owner, occupant and any person who is responsible for the payment of water and/or sewer service to the property shall all be jointly and severally responsible for the payment of said fee. Persons responsible for the payment of water and/or sewer service to the property shall include the person responsible for payment for water provided to a master meter that is then distributed to multiple users, whether or not said users are located on the same property as the master meter. The fee shall be calculated as follows:
  1. All property devoted to a residential use shall be assessed the sum of one dollar (\$1.00) per month per non-commercial living unit. The term "*residential*" shall include single-family homes, mobile homes and mobile home parks, duplexes and apartment units. The term "*residential*" shall not include rooming and boarding houses, fraternities, sororities and similar facilities. The term "*living unit*" shall mean and include one (1) or more rooms in a residential building and subordinate support structures which are arranged, designed, used or intended for use by one (1) family and which includes cooking space and lawful sanitary facilities reserved for the occupants thereof.
  2. Property devoted to any use other than residential, as set forth above, shall be assessed a monthly fee based upon the number of square feet developed for that particular use, as follows:

Less than or equal to 500,000 square feet	\$1.00
500,001 to 1,000,000 square feet	5.00
1,000,001 to 1,500,000 square feet	10.00
1,500,001 to 2,000,000 square feet	20.00

For all properties in excess of two million (2,000,000) square feet (forty-six (46±) acres), the fee shall be fifty cents (\$0.50) multiplied by the number of acres in the property.

1. In determining the area of property developed for a particular use, the area measured shall include all property contiguous to the particular use and under the same ownership, except that portion of said property that is both unimproved and legally subject to being subdivided from that portion actually devoted to the primary use. In situations where property is used in common with more than one (1) use, the common area shall be included with each use in the same proportions as the area of each use bears to the area of the total of all uses. In situations where property is devoted to uses on more than one (1) level, the area of the property shall be proportionately divided among the levels.

A. The revenue generated by this fee shall be set aside in a special fund to be used only for the acquisition, construction, reconstruction, maintenance and repair of stormwater system facilities and infrastructure appurtenant thereto, including the acquisition and related costs thereof, of real estate for such use. In addition, said fund may be used to pay fees to study and prepare documents related to such facilities and to make payments of principal and interest on bonds issued for such improvements. Nothing in this Chapter shall be deemed to limit or restrict the City's ability to use and obtain other sources or funds for the same or similar purposes.

B. The monthly fees set forth above may be included as part of the monthly bill for water and sanitary sewer service but shall be identified separately on said billing, said fees shall be due at the same time as water charges are due and the failure to pay said fees shall be considered a failure to pay water charges and enforceable pursuant to Section 715.050 of this Code. If the monthly fees are not included as part of a water or sewer bill, they shall be billed at least annually. In addition, anytime water service is established or re-established to a property, all fees hereunder shall be paid current as of the date such water service is established or re-established.

C. *Appeals.*

1. Any person who disagrees with the calculation of their storm drainage fee or who believes that the actual amount of impervious area located upon their property justifies a reduction in the square footage of their property used to calculate the fee, in order to make their fee consistent with other uses with a similar amount of impervious area, may appeal the determination of their fee to the Building Inspector. The appeal shall be in writing. The Building Inspector shall thereafter hold an informal hearing. The Building Inspector, prior to such hearing, may request that the appealing party provide information concerning the basis of the appeal, including a land survey showing dwelling units, total property area and impervious area, as appropriate, if such information is deemed to be material by the Building Inspector. Based upon information provided, the Building Inspector shall make a determination of the storm drainage fee for such property. The Building Inspector shall notify parties in writing of his/her decision.
2. A person shall have the right to appeal the decision of the Building Inspector to a Board comprised of the City Administrator, or his/her designee, the Utilities Director and the Street Superintendent. Such appeal shall be made within fifteen (15) days of the date of the written decision of the Building Inspector. Such appeal shall be in writing and filed with the Building Inspector. A hearing on such appeal shall be held within thirty (30) days from the date of filing and the applicant shall be given seven (7) days' advance notice of the time and date of such hearing. Within seven (7) days after the conclusion of such hearing, the Board shall render a decision in writing that sets forth findings that support its decision. The decision of the Board shall be final and any further appeal of such decision shall be to the district court pursuant to K.S.A. 60-2101(d). (Ord. No. 1125 §4, 7-15-02)



## **SYSTEM AND REGULATIONS**

# **CHAPTER 725: STORMWATER MANAGEMENT**

### **SECTION 725.010:**

### **DEFINITIONS**

The terms defined at Chapter 710 are fully incorporated into this Chapter 725. In addition, unless the context specifically indicates otherwise, the meanings of the terms used in this Chapter shall be as follows:

*CONSTRUCTION PROJECT:* Any construction activities which result in a land disturbance of greater than or equal to one (1) acre. A project which includes construction activities disturbing less than one (1) acre is included as a construction project if such construction activity is part of a larger common plan of development or sale that would disturb one (1) acre or more.

*DEVELOPMENT PROJECT:* Any post-construction new development or redevelopment project which disturbs greater than or equal to one (1) acre. A project which disturbs less than one (1) acre is included as a development project if such project is part of a larger common plan of development or sale that would disturb one (1) acre or more.

*DISCHARGE:* Any addition or introduction of any pollutant, stormwater or any other substance whatsoever into the stormwater management system.

*STORMWATER:* Stormwater runoff, snow melt runoff and surface runoff and drainage.

*SUBDIVISION REGULATIONS:* The subdivision regulations of the City of Mulvane incorporated into the Municipal Code of the City of Mulvane by Ordinance No. 1188 and any subsequent ordinances, as amended or restated from time to time. (Ord. No. 1320 §1, 1-19-09)

### **SECTION 725.015:**

### **ADMINISTRATION**

The Building Code Administrator shall be responsible for administration, implementation, management and enforcement of all stormwater management system regulations. (Ord. No. 1320 §1, 1-19-09)

### **SECTION 725.020:**

### **GENERAL PROHIBITIONS**

- A. Except as otherwise provided in this Chapter 725, it shall be unlawful for any person to place, deposit, introduce or permit to be placed, deposited or introduced into the stormwater management system any discharge that is not composed entirely of stormwater.
- B. The following non-stormwater discharges are allowed and shall not be considered violations of this Chapter:
  1. Discharge from water line flushing;
  2. Diverted stream flow;

3. Rising ground water;
4. Uncontaminated ground water infiltration as defined under 40 C.F.R. 35.2005(2) to separate storm sewers;
5. Uncontaminated pumped ground water;

6. Contaminated ground water if authorized by the Kansas Department of Health and Environment;
7. Discharges from potable water sources;
8. Discharges from foundation drains;
9. Air conditioning condensate;
10. Irrigation waters;
11. Springs;
12. Water from crawl space pumps;
13. Discharges from footing drains;
14. Discharge from individual residential car washing;
15. Flows from riparian habitats and wetlands;
16. Swimming pool discharges excluding filter backwash;
17. Street wash waters (excluding street sweepings which have been removed from the street);
18. Discharges or flows from emergency fire-fighting activities;
19. Heat pump discharge waters (residential only);
20. Treated wastewater meeting requirements of a permit under the National Pollutant Discharge Elimination System (NPDES);
21. Other discharges determined not to be a significant source of pollutants to waters of the State, a public health hazard or a nuisance. (Ord. No. 1320 §1, 1-19-09)

**SECTION 725.025:****SPECIFIC PROHIBITIONS**

It shall be unlawful for any person to place, deposit, introduce or permit to be placed, deposited or introduced into the stormwater management system any of the following, provided however, the following items are not intended to be inclusive of all the discharges prohibited by the general prohibitions in Section 725.020:

1. Human or animal excrement, gray water (from home clothes washing, bathing, showers, dishwashing and food preparation), other wastewater from household drains and waterborne waste normally discharged from the sanitary conveniences of dwellings, including apartment houses and hotels, office buildings, factories and institutions;
2. Any putrescible animal or vegetable waste;

3. Any oil or petroleum product including, but not limited to, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, #1 and #2 diesel, motor oil, crude oil, sludge, oil refuse or oil mixed with waste;
4. Any pesticide, meaning any substance or mixture of substances intended to prevent, destroy, repel or migrate any pest, or substances intended for use as a plant regulator, defoliant or desiccant;
5. Any hazardous substance as listed in Table 302.4 of 40 C.F.R. Part 302;

6. Any hazardous waste as identified by the Environmental Protection Agency pursuant to 40 C.F.R. 261;
7. Any hazardous household waste, meaning any material generated in a household, including single and multiple residences, by a consumer which, except for the exclusion provided in 40 C.F.R. 261.4(b)(1), would be considered a hazardous waste under 40 C.F.R. 261;
8. Any extremely hazardous substance as listed in the appendices to 40 C.F.R. Part 355. (Ord. No. 1320 §1, 1-19-09)

**SECTION 725.030: CONSTRUCTION PROJECT STORMWATER  
RUNOFF CONTROL**

- A. The owners of construction sites involving a construction project shall ensure that best management practices are used to control and reduce discharges other than stormwater from entering the stormwater management system, to reduce erosion and to prevent the discharge of sediment into the stormwater management system, all to the maximum extent possible under the circumstances.
- B. The owners of construction sites involving a construction project or a qualified representative of such owner shall inspect disturbed areas, areas used for storage of materials that are exposed to precipitation, structural control measures and locations where vehicles enter or exit the site, at least once every seven (7) days and within twenty-four (24) hours of the end of a storm that produces one-half (½) inch or more of precipitation to ensure minimal non-stormwater discharges into the stormwater management system. Such inspections shall be made in writing and shall be available for inspection by the Building Code Administrator.
- C. The owner of a construction site involving a construction project is responsible for removing any non-stormwater discharge from the stormwater management system. If the owner fails to remove said discharge within the time period prescribed in the notice of violation from the Building Code Administrator, the City may remove the discharge and assess the cost thereof to the owner. Failure to pay such assessments shall be a violation of this Section.
- D. The owner of a construction site involving a construction project shall implement all necessary preventive measures and conservation standards which are used by the County Conservation District to control and prevent erosion at the construction site and surrounding areas.
- E. The Building Code Administrator or his/her authorized representatives shall have the right to enter any construction project at any reasonable time to determine if the owner is complying with all requirements of this Chapter. Owners shall allow the inspectors ready access to all parts of the premises for the purposes of inspection.
- F. In addition to the penalties authorized for violation of this Chapter set forth in Section 725.040, the Building Code Administrator may deny approval of any building permit, grading permit, subdivision plat, site development plan or any other City approval necessary to commence or continue construction or to assume occupancy if a construction project is in violation or has violated this Section. (Ord. No. 1320 §1, 1-19-09)

**SECTION 725.035: DEVELOPMENT PROJECT STORMWATER  
580.6**

## **CONTROL**

Any development project must comply fully with the design standards (erosion controls) and required improvements set forth in Article 6 Section 105 and Article 7 Section 102B of the Subdivision Regulations. Development projects shall be subject to all penalties and enforcement actions authorized under the subdivision regulations. (Ord. No. 1320 §1, 1-19-09)

**SECTION 725.040:****VIOLATIONS**

- A. Pursuant to K.S.A. 12-761, as amended, any violations of this Chapter shall be deemed to be a misdemeanor. Any person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment for not more than six (6) months for each offense, or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.
- B. The City shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provisions of this Chapter and to abate nuisances maintained in violation thereof; and in addition to other remedies, the appropriate authorities of the City of Mulvane may institute injunction, mandamus or other appropriate action or proceeding to prevent violations of this Section. (Ord. No. 1320 §1, 1-19-09)