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2014

*The Code of the  
City of  
Pleasanton,  
Kansas*

Adobe Acrobat PDF (Portable Document File) Facsimile

A Codification of  
the General  
Ordinances of  
the City of  
Pleasanton, **KS** .

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## CHAPTER I. ADMINISTRATION

### ARTICLE 1. GENERAL PROVISIONS

- 1-101 CODE DESIGNATED. The chapters, articles and sections herein shall constitute and be designated as “The Code of the City of Pleasanton, Kansas” and may be so cited. The Code may also be cited as the “Pleasanton City Code.”
- 1-102 DEFINITIONS. In the construction of this code and of all ordinances of the city, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the governing body or the context clearly requires otherwise:
- (a) “City” shall mean the City of Pleasanton, Kansas.
  - (b) “Code” shall mean “The Code of the City of Pleasanton, Kansas.”
  - (c) “Computation of Time”. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be a Saturday, Sunday, or legal holiday, that day shall be excluded.
  - (d) “County” means the County of Linn in the State of Kansas.
  - (e) “Delegation of Authority”. Whenever a provision appears requiring or authorizing the head of a department or officer of the city to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate, and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.
  - (f) “Gender”. Words importing the masculine gender include the feminine and neuter.
  - (g) “Governing Body” shall be construed to mean the mayor and city council of the city, or those persons appointed to fill a vacancy in the office of the mayor or the council as provided in this code.
  - (h) “In the city” shall mean and include all territory over which the city now has or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.
  - (i) “Joint authority”. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

- (j) "Month" shall mean a calendar month.
- (k) "Number". Words used in the singular include the plural and words used in the singular include the singular.
- (l) "Oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the word "swear" is equivalent to the word "affirm".
- (m) "Officers, departments, etc.". Officers, departments, boards, commissions and employees referred to in this code shall mean officers, departments, boards, commissions and employees of the city, unless the context clearly indicates otherwise.
- (n) "Owner" applied to a building or land shall include not only the owner of the whole but any part owner, joint owner, tenant in common or joint tenant of the whole or a part of such building or land.
- (o) "Person" includes a firm, partnership, association of persons, corporation, organization or any other group acting as a unit, as well as an individual.
- (p) "Property" includes real, personal and mixed property.
- (q) "Real Property" includes lands, tenements and hereditaments, and all rights thereto and interest therein, equitable as well as legal.
- (r) "Shall, May". "Shall" is mandatory and "may" is permissive.
- (s) "Sidewalk" means any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.
- (t) "Signature, subscription" includes a mark when the person cannot write, when his or her name is written near such mark and is witnessed by a person who writes his or her own name as a witness.
- (u) "State" shall be construed to mean the State of Kansas.
- (v) "Street" means and includes public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the city.
- (w) "Tenant or occupant" applied to a building or land, shall

include any person holding a written or oral lease of, or who occupies the whole or part of such building or land, whether alone or with others.

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

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

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

- 1-103. EXISTING ORDINANCES. The provisions appearing in this code, so far as they are in substance the same as those or ordinances existing at the time of the effective date of this code, shall be considered as continuations thereof and not as new enactments.
- 1-104. EFFECT OF REPEAL. The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which has accrued, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein.
- 1-105. CATCHLINES OF SECTIONS. The catch lines of the sections of this code printed in capital letters are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles or such sections, nor as any part of any section, nor unless expressly so provided, shall they be so deemed when any section, including its catch line, is amended or reenacted.
- 1-106. PARENTHETICAL AND REFERENCE MATTER. The matter in parenthesis at the ends of sections is for information only and is not a part of the code. Citations indicate only the source and the text may or may not be changed by this code. This code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015. Reference matter not in parenthesis is for information only and is not a part of the code.
- 1-107. AMENDMENTS. Any portion of this code may be amended by specific reference to the section number as follows: "Section \_\_\_\_\_ of the code of the City of Pleasanton is hereby amended to read as follows: (the new provisions shall then be set out in full)..." A new section not heretofore existing in the code may be added as follows: "The code of the City of Pleasanton is hereby amended by adding a section (or article or chapter)

which reads as follows:...(the new provisions shall be set out in full)...” All sections, or articles, or chapters to be repealed shall be repealed by specific reference as follows: “Section (or article or chapter) \_\_\_\_\_ of the code of the City of Pleasanton is hereby repealed.”

- 1-108. ORDINANCE. The governing body shall have the care, management and control of the city and its finances, and shall pass all ordinances needed for the welfare of the city. All ordinances shall be valid when a majority of all the members-elect of the council shall vote in favor. Where the number of favorable votes is one less than required, the mayor shall have the power to cast the deciding vote in favor of the ordinance.
- 1-109. SAME; SUBJECT AND TITLE; AMENDMENT. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections to be repealed.
- 1-110. SAME; PUBLICATION. No ordinance, except those appropriating money, shall be in force until published in the official city newspaper by the city clerk. One publication of any ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication.
- 1-111. SAME; ORDINANCE BOOK. Following final passage and approval of each ordinance, the city clerk shall enter the same in the ordinance book of the city as provided by law. Each ordinance shall have appended thereto the manner in which the ordinance passed, the date of passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which published, and the date of publication.
- 1-112. RESOLUTIONS, MOTIONS. Except where a state statute or city ordinance requires otherwise, all resolutions and motions shall be passed voted upon favorably by a majority of a quorum of the city council.
- 1-113. CITY RECORDS. The city clerk or any other officer or employee having custody of city records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 to 12-121 inclusive, which is incorporated by reference herein as if set out in full and as provided in the state open records act and the city policy regarding open public records.
- 1-114. ALTERING CODE. It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of this code, or the 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 Pleasanton to be misrepresented thereby. This restriction shall not apply to amendments or revisions of this code authorized by ordinance duly adopted by the governing body.

- 1-115. **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 in violation of this code and punished in accordance with section 1-116. Each day any violation of this code continues shall constitute a separate offense.
- 1-116. **GENERAL PENALTY.** Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with this section.
- (A) A fine of not more than \$1,000; or
  - (B) Imprisonment in jail for not more than 179 days; or
  - (C) Both such fine and imprisonment.
- 1-117. **SEVERABILITY.** If for any reason any chapter, article, section, subsection, sentence, clause or phrase of this code or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid or unenforceable, such decision shall not effect the validity of the remaining portions of this code.

## **ARTICLE 2. GOVERNING BODY**

- 1-201. **GOVERNING BODY.** The governing body shall consist of a mayor and council to be elected as set out in Chapter 6 of this code.
- 1-202. **SAME; POWERS GENERALLY.** All powers exercised by cities of the third class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law. All executive and administrative authority granted or limited by law shall be vested in the mayor and council as the governing body of the city.
- 1-203. **SAME; MEETINGS.**
- (a) Regular meetings of the governing body shall be held on the 1<sup>st</sup> and 3<sup>rd</sup> Monday of each month at 6:00 PM. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the city offices, the governing body shall, by motion, determine to set the regular meeting on an alternative day or to forego a meeting. (Ord# 1989 7/2/12)
  - (b) Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the council, specifying the object

and purpose of such meeting, which request shall be read at the meeting and entered at length on the journal.

(c) Regular or special meetings of the governing body may be adjourned for the completion of its business at such subsequent time and place as the governing body shall determine in its motion to adjourn.

- 1-204. SAME; QUORUM. In all cases it shall require the presence of three council members-elect to constitute a quorum to do business.
- 1-205. POWERS OF THE MAYOR. The mayor shall preside at all meetings of the governing body. The mayor shall have the tie-breaking vote on all questions when the members present are equally divided. The mayor shall:
- (a) Sign the commissions and appointments of all officers elected or appointed;
  - (b) Take care that the ordinances of the city are complied with;
  - (c) Endorse the approval of the governing body on all official bonds;
  - (d) From time to time communicate to the city council such information and recommend such measures as he or she may deem advisable;
  - (e) Have the power to approve or veto any ordinance as the laws of the state shall prescribe;
  - (f) Sign all orders and drafts drawn upon the city treasury for money.
- 1-206. PRESIDENT OF THE COUNCIL. The city council shall elect one of its own body as president of the council. The president of the council shall preside at all meetings of the council in the absence of the mayor. In the absence of both the mayor and the president of the council, the council shall elect one of its members as "acting president of the council". The president and acting president, when occupying the place of mayor, shall have the same privileges as other council members, but shall exercise no veto.
- 1-207. ADMINISTRATIVE POWERS. The governing body has designated that a city administrator be responsible for the administration of a policy.
- 1-208. VACANCIES IN GOVERNING BODY; HOW FILLED. In case of a vacancy in the office of mayor by reason of resignation, death, or removal from office or from the city, the president of the council shall become mayor until the next regular election for that office and a vacancy shall occur in the office of the council member becoming mayor. In case of a vacancy in the council occurring by reason of resignation,

death, or removal from office or from the city, the mayor, by and with the advice and consent of the remaining council members shall appoint some suitable elector to fill the vacancy until the next general election for that office. In case any person elected as a council member neglects or refuses to qualify within 30 days after his election, he shall be deemed to have refused to accept such office and a vacancy shall be deemed to exist. Thereupon, the mayor may, with the consent of the remaining council members, appoint some suitable elector to fill said vacancy.

- 1- 209. COMPENSATION. Members of the governing body shall receive as compensation such amounts as may be fixed by ordinance.
- 1-210. EXPENSES. Each member of the governing body shall receive for his or her services and as reimbursement for his or her expenses, compensation as follows:
- (a) Mileage at the same rate as established by the governing body for compensation for all employees for each mile traveled by the shortest route upon the performance of duties assigned by the mayor or council.
  - (b) Reimbursement for actual food and lodging expenses upon the performance of duties assigned by the mayor or council, provided such expenses shall be documented by proper receipts.
- 1-211. RULES AND ORDER OF BUSINESS. The following shall constitute guidelines for the rules and order of business of the city.
- Rule 1. Adjourned meetings. Adjourned meetings of the governing body may be held at such time and place as the governing body may determine in the motion to adjourn.
- Rule 2. Special meetings. Special meetings may be held at any time upon a call signed by a majority of the governing body. Every member of the governing body must be notified of the special meeting.
- Rule 3. Order of Business. At the hour appointed for meeting, the governing body shall be called together by the mayor, and in his or her absence by the acting mayor. The city clerk shall be present to take meeting minutes and note the absentees and announce whether a quorum be present. Upon the appearance of a quorum, the governing body shall proceed to business, which shall be conducted in the following order:
- 1. Mayor's Comments/Request for Executive Sessions
  - 2. City Administrator's Report & Financial Overview
  - 3. Approve Consent Agenda, including minutes of the last regular meeting and intervening special meetings and authorization of payments.

4. Public comments and requests.
5. Council member discussion
6. City Attorney Report
7. Chief of Police Report
8. Planning and Zoning Report
9. Public Works Report
10. New Business
11. Unfinished business
12. Reminders
13. Adjourn

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

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

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

Rule 7. Resolutions. All resolutions must be in writing.

Rule 8. Motions During Debate. When a question is under debate no motion shall be entertained except:

1. To adjourn
2. To lay on the table
3. To take the previous question
4. To postpone
5. To amend

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

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

Rule 11. Voting: Abstaining from Voting. When a question is put by the chair, every member present shall vote unless for special reasons the chair shall excuse him or her. For those questions for which an abstention is permitted,

such a vote shall be counted as a vote cast in favor of the position taken by the majority of those persons present and voting. In doubtful cases the chair may direct, or any member may call for, a division. The yeas and nays shall be called upon a requisition of the chair or any member, and upon the final passage of all ordinances in which case the names of the members voting, and their votes shall be recorded in the minutes.

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

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

Rule 14. Passing of Ordinances. All ordinances shall be read by sections, at which time amendments, if any, may be offered, but the reading of any section shall not preclude the offering of an amendment to any preceding one. If amendments are made the chair shall so report, and each section shall be read as amended before the vote on the passage of the ordinance is taken. After reading and amendment (if any) of the ordinance, the question shall be: "Shall the ordinance pass?" The vote on the final passage of the ordinance shall be taken by yeas and nays, which shall be entered on the journal by the clerk; and no ordinance shall be valid unless a majority of (or otherwise as required by law) the members of the council vote in favor thereof. Provided, that no ordinance and no section or sections or an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed.

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

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

Rule 17. Robert's Rules of Order. In all points not covered by these rules the governing body shall be governed in its procedures by Robert's Rules of Order.

1-212. CODE OF ETHICS.

(a) Declaration of Policy- The proper operation of our government requires that public official and employees be independent, impartial and responsible to the people; that governmental decisions and policy be

made in the proper channels and that the public have confidence in the integrity of its government. In recognition of those goals, there is hereby established a Code of Ethics for all officials and employees, whether elected or appointed, paid or unpaid. The purpose of this code is to establish ethical standards by setting forth those acts or actions that are incompatible with the best interests of the city.

(b) Responsibilities of Public Office. Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and to carry out impartially the laws of the nation, state, and city and thus to foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the long-term public interest must be their primary concern.

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

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

(d) Fair and Equal Treatment.

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

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

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

(e) Conflict of Interest. No elected or appointive city official or employee,

whether paid or unpaid, shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his or her duties in the public interest or would tend to impair his or her independence of judgment or action in the performance of his or her official duties. Personal, as distinguished from financial, interest includes an interest arising from blood or marriage relationships or close business or political association. Specific conflicts of interest are enumerated below for the guidance of officials and employees:

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

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

(3) Gifts and Favors. No elected or appointive city official or employee shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm, or corporation which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the city; nor shall any such official or employee (a) accept any gift, favor or thing of value that may intend to influence him or her in the discharge of his or her duties or (b) grant in the discharge of his or her duties any improper favor, service or thing of value. The prohibition against gifts or favors shall not apply to: (a) an occasional, nonpecuniary gift, of only nominal value or (b) an award publicly presented in recognition of public service, or (c) any gift which would have been offered or given to him or her if not an official or employee.

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

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

- 1-301. APPOINTMENT. At the first regular meeting in May of each year, the mayor, by and with the consent of the council, shall appoint a city clerk and city treasurer, and may appoint a city attorney, municipal judge, chief of police and such other officers as may be deemed necessary for the best interest of the city. Such officers shall hold their respective offices until their successors have been appointed and qualified. All such appointments shall be entered on the journal of proceedings of the governing body. The duties and salaries of all appointed officers shall be fixed by ordinance.
- 1-302. EMPLOYMENT. The mayor with the consent of the council shall have authority to hire all other employees, or such authority may be delegated to the City Administrator.
- 1-303. REMOVAL.
- (a) A majority of all members elect of the governing body may remove any appointed officer.
- (b) For good cause, the mayor may suspend at any time any appointed officer.
- (c) Employees, other than appointed officers, may be removed by the City Administrator.
- (d) No officer or employee shall be removed for cause until he or she has been given notice and afforded the opportunity for a hearing.
- 1-304. VACANCY IN OFFICE. Whenever a vacancy occurs in any appointive office for whatever reason, the vacancy shall be filled by the governing body. Any person appointed to fill such vacancy shall serve only until the next regular time for appointment.
- 1-305. CITY CLERK. The city clerk shall:
- (a) Be custodian of all city records, books, files, papers, documents and other personal effects belonging to the city and not properly pertaining to any other office;
- (b) Attend and keep a record of the proceedings of all regular and special meetings of the governing body;
- (c) Enter every appointment of office and the date thereof in the journal;
- (d) Enter or place each ordinance of the city in the ordinance books after its passage;
- (f) Publish all ordinances, except those appropriating money, and such



resolutions, notices and proclamations as may be required by law or ordinance.

(g) Keep a full and accurate record of all money received and paid out in a ledger book provided by the governing body;

(h) Publish an annual financial statement;

1-306. SAME; FISCAL RECORDS. The city clerk shall:

(a) Prepare and keep suitable fiscal records according to generally accepted accounting principles;

(b) Assist in preparing the annual budget;

(c) Audit all claims against the city for goods or services rendered for the consideration of the governing body. His or her accounts shall properly show the amounts paid from any fund of the city and the cash balance existing in each fund;

(d) Keep an accurate account of all bonds issued by the city;

(e) Keep a record of all special assessments.

1-307. SAME; SEAL; OATHS. The city clerk shall:

(a) Have custody of the corporate seal of the city and shall affix the same to the official copy of all ordinances, contracts, and other documents required to be authenticated;

(b) Have power to administer oaths for all purposes pertaining to the business and affairs of the city;

(c) Keep suitable files of all such oaths required to be deposited in his or her office.

1-308. SAME; WITHHOLDING AGENTS. The city clerk is designated as the withholding agent of the city for the purposes of the Federal Revenue (Income) Act and shall perform the duties required of withholding agents by said act or any other act requiring withholding from the compensation of any city officer or employee. The clerk shall perform such other duties as may be prescribed by the governing body or the Kansas statutes.

1-309. DEPUTY CITY CLERK. A deputy clerk may be appointed by the city council. The deputy shall assume the duties of the city clerk when the city clerk is unable to perform those duties or is absent from the city. At all other times, the deputy shall act as an assistant to the city clerk and shall be appointed annually at the time of the city clerk's appointment, and

when the position is vacated. The deputy city clerk also acts as the utility billing clerk and the municipal court clerk. The deputy shall be responsible for utility billing records. The deputy city clerk shall Deposit all public moneys and sign all checks of the city.

1-310. CITY TREASURER. The city treasurer shall:

- (a) Pay out city funds only upon orders or warrants properly signed by the city administrator and city clerk;
- (b) Perform such other duties as may be prescribed by the governing body or the Kansas statutes.

1-311. CITY ATTORNEY; OFFICE; DUTIES. There is hereby established the office of city attorney. No person shall be eligible for the office of city attorney who is not an attorney at law admitted to practice in the Supreme Court of the State of Kansas. The city attorney shall be charged with the general direction and supervision of the legal affairs of the city. The city attorney shall:

- (a) Attend meetings of the city council when so directed to attend by the council;
- (b) Advise the city council and all officers of the city upon such legal questions affecting the city and its offices as may be submitted to him or her;
- (c) When requested by the city council, give opinions in writing upon any such questions;
- (d) Draft such ordinances, contracts, leases, easements, conveyances and other instruments in writing as may be submitted to him or her in the regular transaction of affairs of the city;
- (e) Approve all ordinances of the city as to form and legality;
- (f) Attend planning commission and board of zoning appeals meetings when so directed by the boards;
- (g) Appeal and prosecute all violations of city ordinances in municipal court when his or her services shall be required;
- (h) Perform such other duties as may be prescribed by the governing body and the Kansas statutes.

1-312. APPOINTMENT OR EMPLOYMENT IN MORE THAN ONE POSITION. The same person may be appointed to more than one appointive office, or

employed in more than one department, except that the same person shall not be appointed to incompatible offices. Salaries or wages of such persons shall be prorated between the proper funds of the several offices or departments.

1-313. CONFLICT OF INTEREST.

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

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

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

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

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

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

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

1-314. CITY ADMINISTRATOR.

(a) Creation. There is hereby created the position of city administrator who shall be under the direct supervision of the mayor and council of the city. The city administrator shall be appointed by the mayor with the consent of the city council and shall serve at the pleasure of the council. If the city administrator is employed by the city council under an employment contract with other than an "at will" term, the city council may terminate said contract early under the terms of any such contract by a 2/3 vote of the council or at the conclusion of the term of the contract, with proper notice under the terms of the contract, by a majority vote of the council. The city administrator shall be appointed on the basis of his or her qualifications and ability. The same person may hold the office of city clerk and the office of city administrator.

(b) Powers, Duties, and Responsibilities of City Administrator. The city administrator shall be the chief administrative officer of the city and shall be responsible to the mayor and council for administration of city affairs. He or

she shall exercise such responsibilities and execute such duties as are prescribed by state statute and city ordinance, and such other duties and responsibilities as may be lawfully delegated by the mayor and/or council. Such prescribed and delegated responsibilities and duties shall include, but not be limited to, the following:

- (1) Maintain general administrative and managerial supervision over the various functions, departments, personnel, projects and services of the city.
- (2) Implement council policy.
- (3) Record official transactions and proceedings of governing body meetings, as well as any city board or committee meetings when requested.
- (4) Oversee the maintenance of all city accounting records for both expenditures and revenues.
- (5) Develop, prepare and submit policy considerations to the governing body for action.
- (6) Prepare and manage the annual budget.
- (7) Prepare and deliver reports to council.
- (8) Promote economic development projects.
- (9) Investigate and prepare the writing of grants for the city.
- (10) Take responsibility for organizational development.
- (11) Supervise all department heads.
- (12) Negotiate on behalf of the city.
- (13) Exercise general supervision and control over all city purchases and expenditures in accordance with the budget and such policies as may be established by the governing body and to supervise the management and care of all city land, property, buildings and equipment.
- (14) Take responsibility for personnel and human resources management and recommend to the mayor and council the hiring and discharging of appointive officers and employees.
- (15) Take responsibility for short- and long-range planning.
- (16) Perform such other duties as the governing body may direct.

(c) Orders and Reports. It shall be the general practice of the governing body to issue all orders and directives to all city officers and departments and receive reports and communications there from through the city administrator. (Ord# 1972 9/7/10)

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

- 1-401. PERSONNEL POLICIES AND GUIDELINES. There is hereby incorporated by reference for the purpose of establishing employee personnel rules and regulations the document entitled "Personnel Policies and Guidelines for the City of Pleasanton". No fewer than three copies of said document shall be marked or stamped with "Official Copy as adopted by the Code of the City of Pleasanton" and to which there shall be attached a copy of this section. Said official copies shall be filed with the

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

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

- 1-501. OATH. All officers and employees of the city, whether elected or appointed, either under the laws of the State of Kansas or ordinances of the city, shall before entering upon the duties of their respective offices, take and subscribe an oath or affirmation as follows:  
“I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States and the Constitution of the State of Kansas and faithfully discharge the duties of \_\_\_\_\_ . So help me God.”
- 1-502. OATHS FILED. All officers and employees required to take and subscribe or sign an oath or affirmation shall be supplied the forms for the purpose at the expense of the city and upon taking and subscribing or signing any such oath or affirmation, the same shall be filed by the city clerk.
- 1-503. BONDS REQUIRED.  
(a) The following city officers shall each, before entering upon the duties of his or her office, give a good and sufficient corporate surety bond to the city. The bond shall be in the following amount, to wit:
1. City Treasurer- \$50,000
  2. City Clerk- \$50,000
  3. Clerk of Municipal Court- \$50,000
  4. Judge of Municipal Court- \$50,000
- (b) The governing body may provide for the coverage by blanket bond of such officers and employees and in such amounts as the governing body may, by resolution designate.
- 1-504. SAME; PREMIUMS. All premiums on surety bonds shall be paid by the city.
- 1-505. CONDITION OF BONDS. Each of the bonds required in section 1-503 of this article shall be conditioned for the faithful performance of duty and all acts required by the laws of Kansas and of the city, and for the application and payment over tot the proper persons of al moneys or property coming in to the hands of each such officer by virtue of his or her office.
- 1-506. APPROVAL OF BONDS. All bonds given to the city shall be approved as to their form by the city attorney and as to surety and sufficiency by the governing body, unless otherwise provided by the laws of the

State of Kansas.

## **ARTICLE 6. OPEN RECORDS**

### **1-601. POLICY.**

(a) It is hereby declared to be the policy of the city that all public records which are made, maintained or kept by or are in the possession of the city, its officers and employees, shall be open for public inspection as provided by, and subject to the restrictions imposed by, the Kansas Open Records Act.

(b) Any person, upon request, shall have access to such open public records for the purpose of inspecting, abstracting or copying such records while they are in the possession, custody, and control of the appointed or designated record custodian thereof, or his or her designated representative.

### **1-602. RECORD CUSTODIANS.**

(a) All city officers and employees appointed or designated as record custodians under this article shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the city; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this city for inspecting and copying upon public records.

(b) The official custodian shall prominently display or distribute or otherwise make available to the public a brochure in the form prescribed by the Local Freedom of Information Officer that contains basic information about the rights of a requester, the responsibilities of a public agency, and the procedures for inspecting or obtaining a copy of public records under the Kansas Open Records Act. The official custodian shall display or distribute or otherwise make available to the public the brochure at one or more places in the administrative offices of the city where it is available to members of the public who request public information in person.

### **1-603. LOCAL FREEDOM OF INFORMATION OFFICERS.** The Local Freedom of Information Officer shall:

(a) Prepare and provide educational materials and information concerning the Kansas Open Records Act;

(b) Be available to assist the city and members of the general public to resolve disputes relating to the Kansas Open Records Act;

(c) Respond to inquiries relating to the Kansas Open Records Act;

(d) Establish the requirements for the content, size, shape and other physical characteristics of a brochure required to be displayed or distributed or otherwise made available to the public under the Kansas Open Records Act. In establishing such requirements for the content of the brochure, the Local Freedom of Information Officer shall include plainly written basic procedures for inspecting and obtaining a copy of public records under the Act.

- 1-604. PUBLIC REQUEST FOR ACCESS. All city offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to an open public record. Such hours shall be no fewer than the hours each business day the office is regularly open to the public. For any city office not open Monday through Friday, hours shall be established by the record custodian for each such day at which time any person may request access to an open public record.
- 1-605. FACILITIES FOR PUBLIC INSPECTION. All city offices keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. The office of the city clerk, being the principal record keeper of the city, shall be used as the principal office for providing access to and providing copies of open records to the maximum extent practicable. Requesters of records shall be referred to the office of the city clerk except when requested records are not in that office and are available in another city office.
- 1-606. PROCEDURES FOR INSPECTION. Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the governing body for record inspection and copying, including those procedures established by record custodians and authorized by the governing body. Such procedures shall be posted in each city office keeping and maintaining open public records.
- 1-607. APPOINTMENT OF OFFICIAL CUSTODIAN. The City Clerk is hereby appointed as official custodian for purposes of the Kansas Open Records Act and is hereby charged with responsibility for compliance with that Act with respect to all public records.
- 1-608. APPOINTMENT OF LOCAL FREEDOM OF INFORMATION OFFICER. The City Clerk, or the Deputy City Clerk in the Clerk's absence, is hereby appointed as the local freedom of information officer and charged with all of the duties as set forth in Section 1-603.

- 1-609. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS.  
(a) Each of the official custodians appointed in section 1-606 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.  
  
(b) Whenever an official custodian shall appoint another person as a record custodian, he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations.
- 1-610. REQUESTS TO BE DIRECTED TO FREEDOM OF INFORMATION OFFICER. 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 Freedom of Information Officer.
- 1-611. FEE ADMINISTRATION. The city clerk is hereby authorized to provide the clerk's office with sufficient cash to enable the making of change for record fee purposes. The clerk shall transmit all record fee moneys to the city treasury not less than monthly. The clerk shall maintain duplicates of all records and copy request forms, completed as to the amount of fee charged and collected.
- 1-612. INSPECTION FEE.  
(a) Where a request has been made for inspection of any open public record which is readily available to the record custodian, there shall be no inspection fee charged to the requester.  
  
(b) In all cases not covered by subsection (a) of this section, a record inspection fee shall be charged at a rate of \$30.00 per hour per employee engaged in the record search. A minimum charge of \$20.00 shall be charged for each such request.
- 1-613. COPYING AND FAXING FEES. (a) A fee of \$.75 per page for non-color copies and \$1.00 for color copies shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment. Faxing fees shall be \$1.00 per fax  
(b) For copying any public records which cannot be reproduced by the City's photocopying equipment, the requester shall be charged the actual cost to the City, including staff time, in reproducing such records.
- 1-614. PREPAYMENT OF FEES. The record custodian shall demand prepayment of the fees established by this article. The prepayment amount shall be an estimate of the inspection and/or copying charges that will be accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to the inspection of the requested record or delivery of the requested copies.



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

**ARTICLE 7. INVESTMENT OF IDLE FUNDS – RESERVE**

## CHAPTER II. ANIMAL CONTROL AND REGULATION

### ARTICLE 1. GENERAL PROVISIONS

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

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

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

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

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

(e) Bite means any actual or suspected abrasion, scratch, puncture, tear, bruise, or piercing of the skin, caused by any animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bit.

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

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

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

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

(j) Harbor means to allow any animal to habitually remain or lodge or be fed within one's home, store, yard, enclosure, place of business or any

other premises where one resides or over which one has control.

(k) Humane Live Animal Trap means any cage trap that upon activation encloses an animal without placing any physical restraint upon any part of the body of such animal.

(l) Humanely Euthanize means the proper injection of a substance that quickly and painlessly terminated the life of an animal, or any other method approved by the American Veterinary Medical Association or the American Humane Society.

(m) Immediate Control means the regulation and supervision by a competent person so that an animal is unable to run or get loose at will.

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

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

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

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

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

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

(t) Veterinarian means a Doctor of Veterinary Medicine licensed by the State of Kansas.

2-102. ANIMAL CONTROL OFFICER; DUTY TO IMPOUND; CITATION  
ALTERNATIVE.

(a) There is hereby created the position of animal control officer for the city and such officer shall be charged with the enforcement of this chapter. Any person employed by the city as an animal control officer and commissioner by the chief of police of the city shall have such powers and authority as allowed by law in the enforcement of this chapter. All animal

control officers shall be subject to the supervision and direction of the chief of police of the city.

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

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

2-103. SAME; CAPTURE/DESTRUCTION. When deemed necessary by law enforcement officers or the animal control officer for the health, safety and welfare of the residents of the city, such officers and/or their agents may:  
(a) Place a humane trap on public or a requesting resident's property for the purpose of capturing any animal defined in this chapter as creating a nuisance in the city.

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

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

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

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

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

(a) Adequate pickup and impounding of all stray and ownerless dogs and

cats and animals otherwise in violation of the provisions of this chapter.

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

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

(d) Facilities for the humane destruction of animals.

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

2-107. **CRUELTY TO ANIMALS.** It shall be unlawful for any person to:

(a) Willfully or maliciously kill, maim, disfigure, torture, beat with a stick, chain, club or other object, mutilate, poison, burn or scald with any substance, or otherwise cruelly set upon any animals, except that reasonable force may be employed to drive off vicious animals.

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

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

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

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

other animal.

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

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

(h) These provisions shall not apply to the exceptions sanctioned under section 2-108.

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

2-108 SAME; EXCEPTIONS. The provisions of section 2-107 shall not apply to:  
(a) Normal or accepted veterinary or veterinary hospital practices or treatment of animals under active veterinary care;

(b) Bona fide experiments carried on by commonly recognized research facilities;

(c) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;

(d) Rodeo practices accepted by the rodeo cowboys' association;

(e) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or by an authorized agent such as a licensed veterinarian, at the request of the owner.

(f) The humane killing of an animal by the animal control officer, a public health officer or a law enforcement officer in the performance of his other official duty;

(g) The humane killing of an unclaimed animal after **three full business days** following the receipt of such animal at a municipal pound or an incorporated humane society shelter by the owner, operator or authorized agents of such establishments.

2-109. KEEPING ANIMALS. It shall be unlawful for the owner, lessee, occupant or person in charge of any premises in the city to possess and maintain

any animal or fowl within the city or permit to be maintained thereon any stable, shed, pen or other place where horses, mules, cattle, sheep, goats or swine, or undomesticated animals are kept. This provision shall not apply to:

(a) The maintaining of a stockyard or sales barn for the loading, unloading, temporary detention and sale of such livestock, if the location of such stockyard or sales barn does not otherwise violate the zoning ordinances of the city.

(b) The maintaining of dogs which are regulated by Article 2 of this chapter.

(c) The maintaining of non-poisonous and non-vicious animals and fowl which are commonly kept as household pets, such as cats, hamsters, rabbits, parakeets, and comparable animals, when kept as household pets and in a safe and sanitary manner in accordance with section 2-113 or this chapter.

(d) The transporting of animals through the city by ordinary and customary means.

(e) The maintenance of any animal of the horse family, the bovine family, or any of the cloven hoof family in any area of one acre or more, provided that said area has facilities for the humane care of such animal, and provided that such facilities include adequate fence, shelter, food and water; in addition, this exception is limited to the keeping of no more than two such animals, of any combination of the permitted animal families, per acre, and said animals must be maintained in a sanitary fashion.

(f) The maintaining of chickens, ducks, geese, turkeys, guineas or any other domestic fowl if said fowl are enclosed in a proper and sanitary manner to avoid their escape.

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

2-111. NUISANCE; ANIMAL ACTIVITIES PROHIBITED. It shall be unlawful for the owner of any animal to keep or maintain such animal in the city so as to constitute a nuisance. For the purpose of this section, nuisance is defined as any animal which:

(a) Molests or interferes with persons in the public right-of-way.

- (b) Attacks or injures persons, or other domestic animals.
- (c) Damages public or private property other than that of its owner or harbinger by its activities or with its excrement.
- (d) Scatters refuse that is bagged or otherwise contained.
- (e) Causes any condition which threatens or endangers the health or well being of persons or other animals.

If a summons is issued charging violation of this provision, a subpoena shall also be issued to the complainant to testify to the nuisance under oath.

- 2-112. NOISY ANIMALS. The keeping or harboring of any animal which by loud, frequent and habitual barking, howling, yelping, mewing, roaring or screeching shall disturb the peace of any neighborhood is hereby prohibited. It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the condition, and if he or she fails to do so, the city may abate it by taking up, impounding and/or disposing of the animal at the expense of the owner.
- 2-113. ANIMAL CONFINES; SHELTERS. (a) It shall be unlawful for any person to keep or maintain any animal in any yard, structure or area that is not clean, dry and sanitary, free from debris and offensive odors that annoy any neighbor, and devoid of rodents and vermin.
- 2-114. DEATH OF ANIMALS. All dead animals shall be disposed of by the owner or keepers within 24 hours of the animal's death, by burial, incineration in a facility approved by the animal control officer, by rendering or by other lawful means approved by the animal control officer. No dead animal shall be dumped on any public or private property.
- 2-115. VICIOUS ANIMALS PROHIBITED.
- (a) Prohibition. It shall be unlawful for any person to keep, possess or harbor a vicious animal within the city. Impoundment of animals whose owners have been cited for violation of this section shall be at the discretion of the animal control officer. If the animal presents a clear and present danger to the public health or safety, it shall be the duty of the animal control officer or his agent to impound such animal.
- (b) Definition. For purposes of this chapter, a vicious animal shall include:
1. Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals;



2. Any animal which attacks a human being or domestic animal without provocation;
3. Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting;
4. Any animal which is urged by its owner or harborer to attack, or whose owner or harborer threatens to provoke such animal to attack, any law enforcement officer while such officer is engaged in the performance of official duty.

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

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

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

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

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

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

2-116. **RUNNING AT LARGE.** It shall be unlawful for any person to willfully allow any animal or fowl under his or her control to be or to run at large with the city. Any animal or fowl found at large shall be impounded as provided in section 2-117 or 2-207 (dogs).

2-117. **IMPOUNDMENT; FEE; NOTICE; RECORD-ANIMAL OTHER THAN DOGS**

(a) The animal control officer or law enforcement officer shall impound any animal or fowl found at large in the city or constituting a nuisance or otherwise in violation of this chapter in a suitable pound or enclosure provided or contracted for by the city. The impounding officer shall make diligent inquiry as to the owner of the animal and shall notify the owner thereof of such impoundment as soon as reasonably possible.

(b) The city shall be entitled to receive from such owner an impoundment fee of \$25.00 plus the actual cost of feeding and maintaining the animal while impounded.

(c) In case the identity of the owner of the impounded animal or fowl cannot be ascertained, the animal control officer or police officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding, and shall thereupon immediately post a public notice stating that the animal, describing the same with the date and place of taking, has been taken up, and that unless the charges of impounding the same, together with any license fees due and unpaid, are paid within three business days from the date of

the notice, that the animal will be disposed of as provided in this code.

(d) The animal control officer shall each month submit a report to the Chief of Police showing the number of animals impounded and disposed of, and the fees collected pursuant to this article and shall pay those fees to the city clerk for credit to the general fund.

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

2-119. IMPOUNDMENT OF RABIES SUSPECTS.

(a) Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in the city pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. If in the opinion of the local health officer symptoms develop justifying a microscopic examination, then the animal shall be killed, and examination made by the state board of health.

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

(c) Any animal desired for observation by the local health officer under this section shall be delivered to the animal control officer or any law enforcement officer upon demand and shall not be withheld, hidden or harbored. Any person violating this provision shall be guilty of a violation of this code. Upon refusal of any person to so deliver such animal, the municipal judge shall cause a warrant to be issued for the arrest of such person, which warrant shall also provide for the surrender of the animal

and shall be lawful authority for the apprehending and forcible taking of such animal.

- 2-120. ANIMALS BITTEN BY RABID ANIMALS. Whenever a dog, cat or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten to report that fact to the local health officer and/or the police department. It shall also be the duty of the owner of the bitten animal to either destroy or have the bitten animal destroyed unless:
- (a) The animal which was bitten had been vaccinated against rabies at least three weeks before being bitten and has a current vaccination; and
  - (b) If the bitten animal has a current vaccination, it shall be confined for 90 days; and
  - (c) The bitten animal shall be released from confinement only upon written order from the local health officer, who declares the animal to be free of rabies; and
  - (d) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of.
- 2-121. VEHICULAR ACCIDENTS INVOLVING ANIMALS. Any person who as the operator of a motor vehicle strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained, and located, the operator shall at once report the accident to the animal control officer or any law enforcement officer.
- 2-122. EMERGENCY; PROCLAMATION. The mayor is hereby authorized whenever in his opinion the danger to the public safety from rabid animals is made imminent to issue a proclamation ordering all persons owning any animal in the city to confine the animal in a good and sufficient enclosure from which the animal cannot escape, or fasten such animal by means of a chain on the premises where the owner may reside, for such time as may be specified in such proclamation. Any animal not confined during such time may be disposed of wherever found by any police officer or the animal control officer of the city. The owner of such animal shall be prosecuted for such violation hereof.

## ARTICLE 2. DOGS.

- 2-201. (a) Dog shall mean all members of the canes familiars, male or female, 12 weeks of age or older.
- (b) Own shall mean and include own, keep, harbor, shelter, manage,

possess, or have a part interest in any dog. If a minor owns a dog subject to the provisions of this article, the head of the household of which such minor owner is a member shall be deemed the owner of such dog for the purpose of this article and shall be responsible as the owner, whether or not such household head is himself or herself a minor. If not a member of a household, such minor owner shall himself or herself be directly subject to the provisions of this article.

(c) Owner shall mean one who owns, his or her employee or agent, or other competent person into whose charge the actual owner has committed his or her dog's care or control whether for a fee or otherwise.

(d) Household shall mean those persons living in the same dwelling unit, whatever.

(e) At large. Any dog shall be deemed to be at large when it is off the premises occupied by the owner's household as their abode and when not accompanied by its owner.

(f) Vicious dog shall mean any dog which is fierce, dangerous, mean or uncontrollable, or one which has previously attacked or bitten any person or domestic animal or demonstrated a propensity to attack or bite a person or domestic animal.

(g) Person shall mean any individual, firm, association, partnership or corporation.

(h) Competent person shall mean a human being who is capable of controlling the dog in question and to whose command the dog is obedient.

2-202.

#### REGISTRATION AND VACCINATION REQUIREMENTS.

(a) It shall be unlawful for any person living within the corporate limits of the city to own or maintain any dog without first having had the dog inoculated against rabies according to current veterinary practices and paying a registration fee to the city clerk. The vaccination shall be administered by, or under the supervision and direction of a licensed veterinarian who shall attest to the fact of the inoculation or vaccination upon a certificate, the form of which shall be approved by the city. No registration shall be accomplished unless the owner seeking such registration shall present such a certificate of vaccination, properly completed as herein set forth, to the city clerk.

(b) Registration and vaccination requirements found in subsection (a) hereof shall not apply to any dog which has not reached the age of twelve weeks.

2-203.

REGISTRATION FEES.

(a) The City Clerk shall collect a registration fee of \$2.00 for each neutered male or spayed female dog whose owners reside within the corporate limits of the City.

(b) The City Clerk shall collect a registration fee of \$5.00 for each un-neutered male or un-spayed female dog whose owner resides within the corporate limits of the City. It shall be presumed that any female dog is unsprayed unless the owner thereof shall present satisfactory evidence to the contrary in the form of certified statement of a licensed veterinarian or by a statement of the owner verified under oath by affidavit. Such evidence may be permanently entered or filed in the City Clerk's registration books. (Ord. #1997 7/15/13)

(c) All dogs belonging to the same household shall be registered in the name of the head of such household.

(d) Any dog newly acquired by an owner residing within the corporate limits of the City shall be registered hereunder at the time of said acquisition.

(e) Any dog reaching the age of twelve weeks shall be registered hereunder at the time of reaching that age.

(f) All registrations issued by the City Clerk hereunder shall be valid until the April 30<sup>th</sup> following the issuing of the registration.

(g) The City Clerk shall collect a fee of \$2.00 for any replacement tag. (Ord. # 1932 4/2/07)

2-204.

REGISTRATION PROCEDURE.

(a.) The city clerk upon presentation of a certificate of vaccination issued within 12 month prior to the date of registration, and upon payment of the fees, all as herein before set out, shall record the following information for each dog registered: Owner's name, address, color, breed, sex, age, weight, names (if any), and vaccination number of dog. After recording the information, the city clerk shall issue a license to the owner, and shall provide for each dog so registered, a tag of metal or other durable substance, having stamped or marked thereon the registration number which corresponds to the number of the registration record. This tag shall be kept on the dog at all times when the dog is outside the dwelling of the owner.

(b) The owner of any dog shall cause the same to wear collar or harness while the dog is outside the dwelling of the owner. The tag herein required should be securely affixed to the collar or harness of each registered. The tag shall be easily visible. Replacement tags shall be issued upon the payment of the sum of \$2.00 each

(c) The City Clerk may between April 1 and April 30 of each year, cause

notice to be given of the upcoming registration period for dogs by publication once in the official city newspaper.

- 2-205      **EXCEPTION TO REGISTRATION; REQUIREMENTS FOR VISITING DOGS.** The provisions of this article with respect to registrations shall not apply to any dog owned by any person visiting or temporarily remaining within the city for less than 30 days. However, such dogs shall be kept under restraint by the owner thereof at all times.
- 2-206.      **RUNNING AT LARGE PROHIBITED.** It shall be unlawful for the owner of any dog to permit such dog to run at large within the corporate limits of the city at any time.
- 2-207.      **DOG FIGHTING.** It shall be unlawful for any person by words, sign or otherwise, to set any dog to fight, or cause any dog to attack and other dog or animal, or aid or abet or encourage any dog to attack or chase any human being not engaged in malicious or criminal acts; or being the owner, knowingly to permit such dog to fight without endeavoring to prevent the same.
- 2-208.      **KEEPING VICIOUS DOGS PROHIBITED.** It shall be unlawful for any person to keep any vicious dog within the corporate limits of the city.
- 2-209.      **TRESPASS.** It shall be unlawful for any person to permit any dog to trespass upon or do injury to public or private property of another.
- 2-210.      **UNSPAYED FEMALE DOGS. CONFINEMENT DURING HEAT.**  
Unspayed female dog shall be kept securely confined in an enclosed place while in heat.
- 2-211.      **NOISY DOGS, COMPLAINT PROCEDURE.** It shall be unlawful for the owner of any dog to permit in a careless, inattentive, willful or malicious manner such dog to howl, bark or yelp so as to disturb the peace and quiet of the neighborhood. Any complaint hereunder must be signed by at least two landowners or occupants who reside within 150 feet of the property whereon such dog is located.
- 2-212.      **CRUELTY TO DOGS UNLAWFUL.** It shall be unlawful for any person to neglect, deprive, of necessary sustenance, cruelly beat, mutilate or cruelly kill a dog or cause or procure the same within the corporate limits of the city.
- a) Cruelty to animals is:
1. Intentionally killing, injuring, maiming, torturing or mutilating any animal;

2. Abandoning or leaving any animal in any place without making provisions for its proper care.

3. Having physical custody of any animal and failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal; or

b) The provisions of this section shall not apply to:

1. Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated.

2. The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control. (Ord. 1809, Sec. 13; Code 2003)

## 2-213. IMPOUNDMENT, DISPOSITION.

(a) Any dog in violation of this article within the corporate limits of the city shall be subject to impoundment by the city and a record of all dogs impounded shall be kept. Such record shall include the following information: color, sex, weight, and height, identifying marks, registration number or rabies vaccination number (if any) and the date of impoundment.

(b) If the dog so impounded has no current registration tag, it shall be kept for 3 days and if within that time the owner does not appear to claim such dog, it may be sold, euthanized, or otherwise disposed of. If at the end of 3 days of the impoundment date, the putative owner of such impounded dog pays all fines, fees and court costs due hereunder, the animal shall be turned over to the person claiming it. In addition to any other fines, fees or court costs hereunder, the owner of an impounded dog shall pay a boarding fee of \$10.00 per day of impoundment plus an impoundment fee of \$25 for the first impoundment of the animal within a 12 month period, \$50 for the second impoundment within that period, \$75 for the third impoundment within that period, and \$100 for the fourth or more impoundment in a 12-month period. Putative owners must also comply with all other requirements of this ordinance prior to any dog being released to that individual. (Ord# 1932 4/2/07)

(c) If the dog so impounded has a current registration tag attached to its collar, the owner of such dog, as shown by the records of city clerk, shall be notified in writing or phone as soon as possible within the 10 day impounding period the city clerk had been unable to locate the owner, upon having been located, refuses to claim or redeem the dog, then the dog may be sold, euthanized, or otherwise disposed of.

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



defense in any prosecution commenced hereunder.

(e) Any Dog impounded hereunder shall be held and not released to its putative owner unless and until said owner has paid all fines and court costs arising as a result of the violation of this ordinance, in addition to the payment of any other costs and fees assessed under any provision of this ordinance as amended. Upon said release, the putative owner shall have two (2) business days to comply with all other requirements of this ordinance and to provide the City Clerk with satisfactory documentation verifying such compliance. Failure to provide such documentation within the specified time period shall be deemed a violation of this ordinance.

(f) Any dog impounded hereunder and not reclaimed by its rightful owner within three working days may be offered by the animal control officer for adoption to a qualified applicant pursuant to the following terms:

(1) Any such dog shall have been surgically spayed or neutered and vaccinated prior to physical transfer of the dog to the applicant, or

(2) The prospective owner shall sign an agreement to have the dog spayed or neutered and vaccinated and shall deposit with the city a Spay/Neuter/Vaccination Deposit in the amount of \$75.00 or such other amount as shall be set by the animal control officer and which shall be approximately the average of spaying and neutering fees and vaccination fees charged by veterinarians serving the region. In addition, the prospective owners shall pay an adoption fee of \$25.00 and shall register the dog with the city and pay all applicable registration fees therefore. The Spay/Neuter/Vaccination Deposit made pursuant to such agreement shall be refunded to such person upon presentation within 14 days of written documentation signed by a licensed veterinarian that the dog has been spayed neutered and vaccinated. If such person does not reclaim the deposit within 14 days, the deposit made hereunder shall be forfeited and the dog may be reclaimed by the city. (Ord. #1997 7/15/13)

or

(3) The dog shall be transferred to a local pet rescue and put up for adoption through that agency. The dog shall be spayed or neutered prior to adoption and all vaccines shall be current and age-appropriate prior to adoption. The agency shall collect an adoption fee for the upkeep and vet care of the animal from the parties that adopt the dog. No fees shall be given to the city for the adoption of the animal.

(3) Other conditions and terms of adoption which are not in contravention of the terms of this Ordinance may be proposed by the Animal Control Officer and approved as policies by the

Governing Body.”

- 2-214. **IMPOUNDMENT OR CONFINEMENT OF RABIES SUSPECTS.**
- (a) Any dog which is suspected to having rabies, or any dog which has bitten a human being and has thereby caused a laceration of the skin of such human being, shall be seized and confined in a veterinary hospital for a period of 10 days, provided however the period of confinement may be shortened at the discretion of the veterinarian in charge of the hospital. The conditions of this section shall not supersede time limitations of the state statutes.
- (b) Any dog bitten by a known rabid animal shall be seized and confined in a veterinary hospital, as provided in subsection (a).
- (c) All expenses incurred during the period of confinement in a veterinary hospital for the purposes of this section shall be borne by the owner of the dog. If any dog so impounded is not claimed by the owner within the 10-day period, then the veterinarian shall transfer the dog to the impounding facility of the city where such dog shall be disposed of according to the provisions of section 2-215 hereof. All costs assessed may be added to owner's taxes.
- 2-215. **RABIES, STATE OF EMERGENCY: PUBLICATION NOTICE.** When there exists sufficient evidence to believe that rabies exists in or near the city, the governing body may, by resolution, require all dog owners within the corporate limits of the city to confine their dogs or securely muzzle such dogs with a wire or leather muzzle for such length of time as may be designated in the resolution or until otherwise ordered; and it shall be unlawful for any person to permit a dog to run at large in violation of the terms of the resolution. Such a resolution shall not become effective unless and until the same is published one time in the official city newspaper.
- 2-216. **KILLING AUTHORIZED UNDER CERTAIN CONDITIONS.** The animal control person or police official shall be authorized to kill any dog which is impractical or impossible to catch, capture, or tranquilize and which is endangering persons.
- 2-217. **BREAKING POUND:** It shall be unlawful for any person not duly authorized to do so to break open or attempt to break open any enclosure in which dogs are confined or held pursuant to the provisions of this article, or to take or let out any dog placed therein by an officer of this city, or take or attempt to take from an office of this city, and dog taken by him, her or in any manner, interfere with or hinder any office of this city in the enforcement of this article.

- 2-218. RIGHT OF ENTRY. The animal control person or police official shall have the right of entry upon any private, unenclosed lots or lands for the purpose of collecting any dog whose presence thereupon is a violation of this article and it shall be unlawful for any person to interfere with the city official in the exercise of this right. The animal control person or police official shall have the further right of entry to any property or premises during the period provided in section 2-216 hereof and it shall be unlawful for any person to interfere with the city official in the exercise of this right.
- 2-219. DUMPING OR ABANDONING ANY ANIMAL WITHIN CITY OF PLEASANTON. It shall be unlawful to abandon any animal in the city.
- 2-220. PROHIBITING PIT BULLS. It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the city, any pitbull dog. Pit Bull Dog is defined to mean:
- (a) The bull terrier breed of dog.
  - (b) Staffordshire bull terrier breed of dog.
  - (c) The American pit bull terrier breed of dog.
  - (d) The American Staffordshire terrier breed of dog.
  - (e) Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bull dogs or pit bull terriers.
  - (f) Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, and any other breed commonly known as pit bulls, pit bull dogs, or pit bull terriers, or a combination of any of these breeds.
  - (g) No person shall solicit, or otherwise offer for sale, trade, or gift, within the City of Pleasanton, any "Pitbull dog" as defined by this Section.
- 2-221. PENALTY.
- (a) Any person violating any of the provisions of this article may be charged with a misdemeanor and will be assessed the normal court costs and a fine determined according to the following schedule: For the first offense, a minimum fine of \$20.00 and a maximum fine of \$200.00. For the second offense, a minimum fine of \$40.00 and a maximum fine of \$400.00. For the third and subsequent offenses, a minimum fine of \$80.00 and a maximum fine of \$500.00. In addition to the afore said fine, violators will be assessed a handling fee of \$25.00 before any dog may be retrieved from the holding pen. The Court in its discretion may order any offending dog destroyed.
  - (b) In addition to the fines assessed by subsection (a), the Court shall impose a fine for each day after adjudication of guilt has been made that defendant remains in violation of Section 2-220. Said fines shall be not

less than \$100 per day and not more than \$200 per day for the first violation of Section 2-220, a fine of not less than \$200 per day and not more than \$300 per day for the second violation of Section 2-220, and a fine not less than \$300 per day and not more than \$500 per day for the third and subsequent violation of Section 2-220. For the purpose of this Section, each day after adjudication of guilt hereunder shall be deemed a separate violation and the fines instituted here shall be so assessed.

### **ARTICLE 3. OTHER ANIMALS**

#### **2-301. EXOTIC ANIMALS.**

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

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

1. All poisonous animals including rear-fang snakes.
2. Apes: Chimpanzees; gibbons; gorillas, orangutans; and siamangs.
3. Baboons.
4. Badgers.
5. Bears.
6. Bison.
7. Bobcats.
8. Cheetahs.
9. Crocodilians, 30 inches in length or more.
10. Constrictor snakes, six feet in length or more.
11. Coyotes.
12. Deer; includes all members of the deer family, for example, white tailed deer, elk, antelope and moose.
13. Elephants.
14. Game cocks and other fighting birds.
15. Hippopotami.
16. Hyenas.
17. Jaguars.

18. Leopards.

19. Lions.

20. Lynxes.

# **CHAPTER III. BEVERAGES**

## **ARTICLE 1. GENERAL PROVISIONS**

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

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

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

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

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

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

**(f).** Club means a Class A or Class B club.

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

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

## **ARTICLE 2. CEREAL MALT BEVERAGES**

- 3-201. DEFINITIONS:** For the purpose of this article the following definitions shall apply unless the context clearly requires otherwise.
- (a). Cereal malt beverage:** Any fermented but un-distilled liquor brewed or made from a malt or mixture of malt substitute, but shall not include any such liquor which contains more than three and two-thirds percent of alcohol by weight.
  - (b). General retailer:** A person who has a license to sell cereal malt beverages at retail.
  - (c). Limited retailer:** A person who has a license to sell cereal malt beverages at retail only in original and unopened containers and not for consumption on the premises.
  - (d). Person.** Individuals, firms, co-partnerships, corporations, and associates.
- 3-202. LICENSE REQUIRED OF RETAILERS.**
- (a).** It shall be unlawful for any person to sell any cereal malt beverage at retail without a license for each place of business where cereal malt beverages are to be sold at retail.
  - (b).** It shall be unlawful for any person, having a license to sell cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any cereal malt beverage in any other manner.
- 3-203. APPLICATIONS.** Any person desiring a license shall make an application to the governing body of the city and accompany the application by the required license fee for each place of business for which the person desires the license. The application shall be verified, and upon a form prepared by the attorney general of the State of Kansas, and shall contain:
- (a).** The name and residence of the applicant and how long he or she has resided within the State of Kansas.
  - (b).** The particular place for which a license is desired.
  - (c).** The name of the owner of the premises upon which the place of business is located.
  - (d).** The names and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired.;
  - (e).** A statement that the applicant is a citizen of the United States and not less than 21 years of age and that he or she has not within two years immediately preceding the date of making application been convicted of a

**3-102. RESTRICTION ON LOCATION.**

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

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

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

**3-103. MINORS ON PREMISES.**

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

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

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

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

**3-105. DRINKING ON STREETS OR IN PUBLIC PLACES.**

(a). Except as provided in subsection (b). it shall be unlawful for any person to drink or consume alcoholic liquor upon any public street or highway or thoroughfare; in beer parlors, taverns, pool halls, or places to which the general public has access, whether or not an admission or other



fee is charged or collected, upon property owned by the state or any governmental subdivision thereof; or inside vehicles while upon a street, highway, or other public thoroughfare.

**(b).** The provisions of subsection (a).shall not apply to the consumption of alcoholic liquor:

1. Upon real property leased by a city to others under K.S.A. 12-1740, *et seq.* If the property is being used for hotel or motel purposes incidental thereto.
2. Upon property owned or operated by an airport authority created pursuant to Chapter 27 of the Kansas Status Annotated (K.S.A. 41-719).

### **3-106. OPEN CONTAINER**

**(a).** No person shall transport in any vehicle upon highway or street any alcoholic liquor unless such liquor is:

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

**(b).** As used in this section highway and street have meanings provided by K.S.A. 8-1424 and K.S.A. 8-1473 and amendments thereto.

felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States;

**(f).** Each application for a general retailer's license shall be accompanied by a certificate from the city health officer certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of Chapter 7 of this code.

**(g).** Each application for a general retailer's license must be accompanied by a certificate from the city fire chief certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of Chapter 8 of this code.

**(h).** The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the chief of police of the city for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this ordinance. The city police shall report to the mayor not later than five working days subsequent to the receipt of such application. The application shall be scheduled for consideration by the governing body at the earliest meeting consistent with current notification requirements.

### **3-204. LICENSE APPLICATION PROCEDURES.**

**(a).** All applicants for a new and renewed cereal malt beverage license shall be submitted to the city clerk 10 days in advance of the governing body meeting at which they will be considered.

**(b).** The city clerk's office shall notify the applicant of an existing license 30 days in advance of its expiration.

**(c).** The clerk's office shall provide copies of all applications to the police department, to the fire department, and to the city codes/county health official or designee when they are received. The police department will run a records check on all applicants and the fire department and city codes/county health official or designee will inspect the premises in accordance with the city fire codes and/or ordinances. The departments will then recommend approval, or disapproval, of applications within five working days of the department's receipt of the application.

**(d).** The governing body will not consider any application for a new or renewed license that has not been submitted 10 days in advance and been reviewed by the above city departments.

(e). An applicant who does not hold a cereal malt beverage license in the city shall attend the governing body meeting when the application for a new license will be considered.

**3-205. LICENSE GRANTED; DENIED.**

(a). The journal of the governing body shall show the action taken on the application.

(b). If the license is granted, the city clerk shall issue the license which shall show the name of the licensee and the year for which issued.

(c). No license shall be transferred to another licensee.

(d). If the license shall be denied, the license fee shall be immediately returned to the person who has made application.

**3-206. LICENSE TO BE POSTED.** Each license shall be posted in a conspicuous place in the place of business for which the license is issued.

**3-207. LICENSE, DISQUALIFICATION.** No license shall be issued to:

(a). A person who has not been a resident in good faith of the State of Kansas for at least one year immediately preceding application and a resident of Linn County for at least six months prior to filing of such application.

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

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

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

(e). A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license.

(f). A corporation if any manager, officer or director thereof or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation would be ineligible to receive a license hereunder for any reason other than non-residence within the city or county.

(g). A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 25 percent of the stock, of a corporation: (A). Has had a retailer's license revoked under K.S.A. 41-

2708 and amendments thereto; or (B). has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state.

**(h).** A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee.

**(i).** A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, retailer residency requirements or age, except that this subsection (i). shall not apply in determining eligibility for a renewal license.

**3-208. RESTRICTIONS UPON LOCATION.**

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

**(b).** It shall be unlawful to sell or dispense at retail any cereal malt beverage at any place within the city limits that is within a 400-foot radius of any church, school or library.

**(c).** The provisions of this section shall not apply to any establishment holding a cereal malt beverage license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation. The governing body shall grant such a waiver only following public notice and hearing.

**(d).** Public dancing is hereby prohibited in any establishment wherein the city had issued a license for the sale of cereal malt beverages.

**3-209. LICENSE FEE.** The rules and regulations regarding license fees shall be as follows:

**(a).** General Retailer – for each place of business selling cereal malt beverages at retail consumption on the premises, \$50 plus applicable state fee per calendar year.

**(b).** Limited Retailer – for each place of business selling only at retail cereal malt beverages in original and unopened containers and not for consumption on the premises, \$50 plus applicable state fee per calendar year.

Full amount of the license fee shall be required regardless of the time of the year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued.

**3-210. SUSPENSION OF LICENSE.** The chief of police, upon five days' written notice, shall have the authority to suspend such license for a period not to

exceed 30 days, for any violation of the provisions of this article or other laws pertaining to cereal malt beverages, which violation does not in his or her judgment justify a recommendation of revocation. The licensee may appeal such order of suspension to the governing body within seven days from the date of such order.

**3-211. LICENSE SUSPENSION/REVOCAION BY GOVERNING BODY.** The governing body of the city, upon five days' written notice, to a person holding a license to sell cereal malt beverages may permanently revoke or cause to be suspended for a period of not more than 30 days such license for any of the following reasons:

- (a).** If a licensee has fraudulently obtained the license by giving false information in the application therefore;
- (b).** If the licensee has violated any of the provisions of this article or has become ineligible to obtain a license under this article;
- (c).** Drunkenness of a person holding such license, drunkenness of a licensee's manager or employee while on duty and while on the premises for which the license is issued, or for a licensee, his or her manager or employee permitting any intoxicated person to remain in such place selling cereal malt beverages;
- (d).** The sale of cereal malt beverages to any person under the legal age of consumption;
- (e).** For permitting any gambling in or upon any premises licensed under this article;
- (f).** For permitting any person to mix drinks with materials purchased in any premises licensed under this article or brought into the premises for this purpose;
- (g).** For the employment of any person under the age established by the State of Kansas for employment involving dispensing cereal malt beverages;
- (h).** For the employment of persons adjudged guilty of a felony or of a violation of any law relating to intoxicating liquor;
- (i).** For the sale or possession of, or for permitting the use or consumption of alcoholic liquor within or upon any premise licensed under this article;
- (j).** The nonpayment of any license fees;
- (k).** If the licensee has become ineligible to obtain a license under any alcoholic liquor, private club or drinking establishment ordinance of the city;
- (l).** The provisions of subsections (f). and (i). shall not apply if such place of business is also currently licensed as a private club.

- 3-212. SAME; APPEAL.** The licensee, within 20 days after the order of the governing body revoking any license, may appeal to the district court of Linn County, Kansas, and the district court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken under this section shall not suspend the order of revocation of the license of any licensee, nor shall any new license be issued to such person or any person acting for or on his behalf, for a period of six months thereafter.
- 3-213. CHANGE OF LOCATION.** If a licensee desires to change the location of his or her place of business, he or she shall make an application to the governing body showing the same information relating to the proposed location as in the case of an original application. Such application shall be accompanied by a fee of \$10. If the application is in proper form and the location is not in a prohibited zone and all other requirements relating to such place of business are met, a new license shall be issued for the new location for the balance of the year for which a current license is held by the licensee.
- 3-214. WHOLESALERS AND/OR DISTRIBUTORS.** It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver cereal malt beverages within the city, to persons authorized under this ordinance to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the State of Kansas authorizing such sales.
- 3-215. BUSINESS REGULATIONS.** It shall be the duty of every licensee to observe the following regulations.
- (a).** The place of business licensed and operating under this article shall at all times have a front and rear exit unlocked when open for business.
  - (b).** The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition and shall at all times be open to the inspection of the police/fire/health officers of the city, county and state.
  - (c).** Except as provided by subsection (d), no cereal malt beverages may be sold or dispensed between the hours of 12:00 midnight and 6:00 a.m., or consumed between the hours of 12:00 a.m., and 6:00 a.m., or on Sunday, except in a place of business which is licensed to sell cereal malt beverages for consumption on the premises, which derives not less than 30 percent of its gross receipts from the sale of food for consumption on the licensed premises. Closing hours for clubs shall conform to K.S.A. 41-2614 and any amendments thereto.
  - (d).** Cereal malt beverages may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. 41-2701 *et seq.* and licensed as a club by the State of Kansas.

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

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

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

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

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

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

(k). No licensee shall employ any person who has been judged guilty of a felony.

**3-216. SANITARY CONDITIONS REQUIRED.** All parts of the licensed premises including furnishings and equipment shall be kept clean and in a sanitary condition, free from flies, rodents and vermin at all times. The licensed premises shall have at least one restroom for each sex easily accessible at all times to its patrons and employees. The restroom shall be equipped with at least one lavatory with hot and cold running water, be well lighted, and be furnished at all times with paper towels or other mechanical means of drying hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self-closing and toilet paper at all times shall be provided. Easily cleanable receptacles shall be provided for waste material and such receptacles in toilet rooms for women shall be covered. The restrooms shall at all times be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspections by the city codes/county health officer or designee.

**3-217. MINORS ON PREMISES.**

(a). It shall be unlawful for any person under 21 years of age to remain on any premises where the sale of cereal malt beverages is licensed for on-premises consumption.

(b). This section shall not apply if the person under 21 years is an

employee of the licensed establishment, or is accompanied by his or her parent or guardian, or if the licensed establishment derives not more than 50 percent of its gross receipts in each calendar year from the sale of cereal malt beverages for on premises consumption.

- 3-218. SALE, CONSUMPTION, PUBLIC PROPERTY.** It shall be unlawful for any person to sell, serve, dispense, drink or consume any cereal malt beverage upon any street, public thoroughfare, or upon property owned by the state of any governmental subdivision thereof, or in any public place not licensed to sell cereal malt beverages for consumption on the premises within or under the jurisdiction of the city.
- 3-219. OPEN CONTAINERS.**
- (a).** No person shall transport in any vehicle upon highway or street any cereal malt beverage unless such cereal malt beverage is:
1. In the original, unopened package or container, the seal of which has not been broken and from which the original cap or cork or other means of closure has not been removed.
  2. In the locked, rear trunk or rear compartment or any locked outside compartment which is not accessible to any person in the vehicle while it is in motion, or:
  3. In the exclusive possession of a passenger in a vehicle which is a recreational vehicle as defined by K.S.A. 75-1212 or a bus as defined by K.S.A. 8-1406, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.
- (b).** As used in this diction “highway” and “street” have meanings provided by KSA 8-1424 AND KSA 8-1473 and amendments thereto.
- 3-220. RESTRICTION ON LOCATION.** No person shall operate any business for the consumption of cereal malt beverages upon the premises if the structure in which the business is located within 200 ft. from the nearest property line of any existing hospital, school, church or library.
- 3-221. PRIVATE PROPERTY.** Nothing in this article shall be deemed to prevent, regulate or control the consumption of cereal melt beverages upon private property by those occupying private property as the owner, or as a lessee of an owner and by the guest of the owner of lessee, provided that no charge is made by the owner or lessee for the serving of any cereal malt beverage.
- 3-222. PREMISES, ILLUMINATION.** It shall be unlawful for any owner, operator, or licensee to operate any place of business licensed for the sale and consumption of cereal malt beverages on the premises without sufficient illumination to measure not less than five foot candles of light in all portions of the place of business measured at a height of 36 inches above the floor.



## ARTICLE 3. ALCOHOLIC LIQUOR

- 3-301. DEFINITION.** Alcoholic beverage or alcoholic liquor as used in this article includes the varieties of liquor, spirits, wine and beer and every liquid or solid, patented or not, containing alcoholic, alcoholic liquor, spirits, wine or beer, and capable of being consumed as a beverage by a human being, but does not include any beer or cereal malt beverage containing not more than three and two-tenths percent of alcohol by weight.
- 3-302. STATE LICENSE REQUIRED.**
- (a).** It shall be unlawful for any person to keep for sale, offer for sale, or expose for sale or sell any alcoholic liquor as defined by the “Kansas liquor control act” without first having obtained a state license to do so.
  - (b).** The holder of a license for the retail sale in the city of alcoholic liquors by the package issued by the state director of alcoholic beverage control shall present such license to the city clerk when applying to pay the occupation tax levied in section 3-303 and the tax shall be received and a receipt shall be issued for the period covered by the state license.
- 3-303. OCCUPATIONAL TAX.** There is hereby levied an annual occupation tax of \$200 on any person holding a license issued by the state director of alcoholic beverage control for the retail sale within the city of alcoholic liquors for consumption off the premises. Such tax shall be paid by the retailer to the city clerk before business is begun under an original state license and shall be paid within five days after any renewal of a state license.
- 3-304. POSTING OF RECEIPT.** Every licensee under this article shall cause the city alcoholic liquor retailer’s occupation tax receipt to be placed in plain view, next to or below the state license in a conspicuous place on the licensed premises.
- 3-305. HOURS OF SALE.** No person shall sell at retail any alcoholic liquor:
- (a).** On any Sunday;
  - (b).** On Decoration Day or Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day;
  - (c).** Before 9 a.m. or after 11 p.m. on any day when the sale thereof is permitted.
- 3-306. BUSINESS REGULATIONS.** It shall be unlawful for a retailer of alcoholic liquor to:
- (a).** Permit any person to mix drinks in or on the licensed premises;
  - (b).** Employ any person under the age of 21 years in connection with the operation of the retail establishment;

- (c). Employ any person in connection with the operation of retail establishment who has been adjudged guilty of a felony;
- (d). Furnish any entertainment in his or her premises or permit any pinball machine or game of skill or chance to be located in or on the premises; or
- (e). Have in his or her possession for sale at retail bottles, cask, or other containers containing alcoholic liquor, except in the original package.
- (f). Sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person under 21 years of age.

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

## ARTICLE 4. PRIVATE CLUBS

- 3-401. LICENSE REQUIRED.** It shall be unlawful for any person granted a private club license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a local license from the city clerk.
- 3-402. LICENSE FEE.**
- (a).** There is hereby levied an annual license fee on each private club located in the city which has a private club license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license. The city license fee for a Class A club shall be \$150 and the city license fee for a Class B club shall be \$150.
  - (b).** All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.
  - (c).** The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.
  - (d).** Every licensee shall cause the city club license to be placed in plain view next or below the state license in a conspicuous place on the licensed premises.
- 3-403. BUSINESS REGULATIONS.**
- (a).** No club licensed hereunder shall allow serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.
  - (b).** Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverages for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.
  - (c).** No club membership shall be sold to any person under 21 years of age, nor shall alcoholic beverages or cereal malt beverages be given, sold or traded to any person under 21 years of age.

# **CHAPTER IV- BUILDINGS AND CONSTRUCTION**

## **ARTICLE 4. BUILDING PERMITS**

- 4-401.** It shall be unlawful for any person to build, move, remodel, or reconstruct any structure, as defined by the City zoning ordinance, within the city of Pleasanton, without obtaining a building permit pursuant to the requirements of the zoning code.
- 4-402.** Section 4-401 shall not apply to remodeling which does not require structural change to the building involved.
- 4-403.** Any person intending to demolish or demolishing any structure in the City of Pleasanton shall give notice of such intent or action as soon as is reasonably possible by contacting the City offices and informing the Clerk of the location and extent of said demolition.
- 4-405.** City building officials, the City superintendent, and the City Police Department are hereby authorized to issue a Stop Work order to any person failing to comply with Section 1 of this ordinance. Upon the issuance of a Stop Work order, the property owner must cause all work on the structure involved to cease immediately.
- 4-406.** Any person who fails to comply with Section 1 or Section 4 of this ordinance, upon conviction in municipal court, will be deemed guilty of a misdemeanor.
- 4-407.** Every day during which such a violation occurs or continues shall constitute a separate offense.
- 4-408.** Persons convicted of violating this ordinance shall be fined not less than \$50 and not more than \$500 for each separate offense.

## ARTICLE 5. MOVING BUILDINGS

- 4-501. BUILDING OFFICIAL; AUTHORITY.** The codes enforcement officer or his or her authorized designee shall be responsible for the administration and enforcement of this article.
- 4-502. PERMIT REQUIRED.** No person, firm or corporation shall move, haul, or transport any house, building, derrick, or other structure of the height when loaded for movement of 16 feet or more from the surface of the highway, road, street or alley, or a width of eight feet or more or which cannot be moved at a speed of four miles per hour or faster, upon, across or over any street, alley or sidewalk in this city without first obtaining a permit therefore.
- 4-503. SAME: APPLICATION FOR PERMIT.** All applications for permits required under the provisions of this article shall be made in writing to the city clerk specifying the day and hour said moving is to commence and the rout through the city's streets over which the house, building, derrick or other structure shall be moved and stating whether it will be necessary to cut and move, raise, or in any way interfere with any wires, cables or other aerial equipment of any public or municipally-owned utility, and if so, the application shall also state the name of the public or municipally-owned utility, and the time and location that the applicant's moving operations shall necessitate the cutting, moving, rising or otherwise interfering with such aerial facilities.
- 4-504. SAME; BOND, INSURANCE REQUIRED.**
- (a).** It shall be the duty of any person at the time of making application for a permit as provided in this article to give a good and sufficient surety bond to the city, to be approved by the governing body, indemnifying the city against any loss or damage resulting from the failure of any such person to comply with the provisions of this article or for any damage or injury caused in moving any such house or structure. The bond herein shall be in the sum of \$5,000., or cash may be deposited in lieu of such surety bond.
  - (b).** A public liability insurance policy issued by an insurance company authorized to do business in the State of Kansas, in the amount of \$100,000. per person, \$300,000. per accident as to personal injury, and \$50,000. property damage may be permitted in lieu of a bond.
- 4-505. SAME FEE.** Before any permit to move any house or structure is given under the provisions of this article, the applicant shall pay a fee of not less than \$5 to the city clerk; plus the additional cost for the time for any city crews involved in such moving.

**4-506. ROUTE; DUTIES OF BUILDING OFFICIAL.** The city clerk shall, upon filing of the above application, refer the same to the chief building official or his or her authorized designee to check the proposed route and determine if it is practical to move such house or other structure over the route proposed. If it shall appear that such route is not practical and another route may be used equally well with less danger to street and travel, and then he or she may designate such other route as the one to be used and shall notify the applicant of the same. The building official may also require the planking of any street, bridge or culvert or any part thereof to prevent damage thereto. It shall also be the duty of the chief building official or his or her authorized designee to inspect the progress of moving any house or other structure to see that the same is being moved in accordance with the provisions of this article.

**4-507. NOTICE TO OWNERS.**

**(a).** Upon issuance of a moving permit the applicant shall give not less than 15 days written notice to any person owning or operating any wires, cables or other aerial equipment along the proposed route of the intent to move the structure, giving the time and location that the applicants moving operation shall necessitate the cutting, moving, raising or interfering of any wires, cables or other aerial equipment.

**(b).** The notice provision of subsection (a). shall not apply where the person owning or operating any wires, cables or other aerial equipment has waived their right to advance notice.

**(c).** Should the moving operation be delayed, the applicant shall give the owner or his or her agent not less than 24 hours advance notice of the actual operation.

**4-508. DUTY OF OWNERS.**

**(a).** It shall be the duty of the person or the city owning or operating such poles or wires after service of notice as provided herein, to furnish competent lineman or workmen to remove such poles, or raise or cut such wires as will be necessary to facilitate the moving of such house or structure. The necessary expense which is incurred thereby shall be paid by the holder of the moving permit.

**(b).** The owner of any wires, cables or other aerial equipment, after service of notice as provided in section 4-507, shall be liable to the permit holder for damages in an amount not to exceed \$100 per day for each day the owner shall fail or refuse to accommodate the permit holder's moving operations.

**4-509. INTERFERING WITH POLES; WIRES.** It shall be unlawful for any person engaged in moving any house or other structure to raise, cut or in any way interfere with any wires or poles bearing wires or any other aerial equipment.

**4-510. DISPLAY OF LANTERNS.** It shall be the duty of any person moving any of the structures mentioned in this article upon or across any street, alley or sidewalk or other public place, in this city, to display red lanterns thereon in such a manner as to show the extreme height and width thereof from sunset to sunrise.

**4-511. DISPLAY OF LANTERNS.** It shall be the duty of any person moving any of the structures mentioned in this article upon or across any street, alley or sidewalk or other public place, in this city, to display red lanterns thereon in such a manner as to show the extreme height and width thereof from sunset to sunrise.

## **ARTICLE 6. DANGEROUS AND UNFIT STRUCTURES**

- 4-601. PURPOSE.** The governing body has found that there exist within the corporate limits of the city structures which are unfit for human use or habitation because of dilapidation, defects increasing the hazards of fire or accidents, structural defects or other conditions which render such structures unsafe, unsanitary or otherwise inimical to the general welfare of the city, or conditions which provide a general blight upon the neighborhood or surrounding properties. It is hereby deemed necessary by the governing body to require or cause the repair, closing or demolition or removal of such structures as provided in this article.
- 4-602. DEFINITIONS.** For the purpose of this article, the following words and terms shall have the following meanings:
- (a).** Public Officer means the city superintendent or his or her authorized representative.
  - (b).** Structure shall include any building, wall, superstructure or other structure which requires location on the ground, or is attached to something having a location on the ground.
- 4-603. PUBLIC OFFICER; DUTIES.** The public officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this article, including the following:
- (a).** Inspect any structure which appears to be unsafe, dangerous or unfit for human habitation;
  - (b).** Have authority to enter upon premises at reasonable hours for the purpose of making such inspections. Entry shall be made so as to cause the least possible inconvenience to any person in possession of the structure. If entry is denied, the public officer may seek an order for this purpose from a court of competent jurisdiction.
  - (c).** Report all structures which he or she believes to be dangerous, unsafe or unfit for human habitation to the governing body.
  - (d).** Receive petitions as provided in this article.
- 4-604. PROCEDURE; PETITION.** Whenever a petition is filed with the public officer by at least five residents charging that any structure is dangerous, unsafe or unfit for human habitation, or whenever it appears to the public officer on his or her own motion that any structure is dangerous, unsafe or unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges, report such findings to the governing body.



**4-610. SAME; MAKE SITE SAFE.** Upon removal of any structure, the owner shall fill any basement or other excavation located upon the premises and take any other action necessary to leave the premises in a safe condition. If the owner fails to take such action, the public officer may proceed to make the site safe.

**4-611. ASSESSMENT OF COSTS.**

(a). The cost to the city of any repairs, alterations, improvements, vacating, removal or demolition by the public officer, including making the site safe, shall be reported to the city clerk.

(b). The city shall give notice to the owner of the structure by restricted mail of the cost of removing the structure and making the premises safe and secure. The notice shall also state that payment of the cost is due and payable within 30 days following receipt of the notice.

(c). If the costs remain unpaid after 30 days following receipt of notice, the city clerk may sell any salvage from the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing the structure and making the site safe. Any proceeds in excess of that required to recover the costs shall be paid to the owner of the premises upon which the structure was located.

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

**4-612. IMMEDIATE HAZARD.** When in the opinion of the governing body any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the governing body may direct the public officer to erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay. Such action may be taken without prior notice to or hearing of the owners, agents, lien holders and occupants. The cost of any action under this section shall be assessed against the property as provided in section 4-611.

- 4-613. APPEALS FROM ORDER.** Any person affected by an order issued by the governing body under this article may, within 30 days following service of the order, petition the district court of the county in which the structure is located for an injunction restraining the public officer from carrying out the provisions of the order pending final disposition of the case.
- 4-614. SCOPE OF ARTICLE.** Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this article shall be in addition to and supplemental to the powers conferred by the constitution, any other law or ordinance. Nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise or to exercise those powers granted specifically by K.S.A. 12-1750; 1756.
- 4-615. HOUSE NUMBERS REQUIRED.**
- (A).** All property owners in the City of Pleasanton, Kansas, shall prominently display correct 911-compliant street numbers on the front of each home or business building in a manner that allows said numbers to be readily visible to emergency responders and others from the street.
  - (b).** Violation of Section 1 shall be deemed a misdemeanor punishable, upon conviction, by a fine of \$25.
  - (c).** Correction of said violation, as verified by written certification by the City Police Department, prior to defendant's arraignment date shall result in the charge being dismissed at the City's cost.
  - (d).** Upon Conviction, said fine shall be suspended upon certification by the City Police Department in writing that the property owner has corrected the said failure to comply within 10 days of conviction and payment of court costs, if so ordered by the court.

- 4-605. SAME; NOTICE.** The governing body upon receiving a report as provided in section 4-604 shall by resolution fix a time and place at which the owner, the owner's agent, any lien holder of records and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished.
- 4-606. SAME; PUBLICATION.**
- (a).** The resolution shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing.
  - (b).** A copy of the resolution shall be mailed by certified mail within three days after its first publication to each owner, agent, lien holder and occupant at the last known place of residence and shall be marked "deliver to addressee only."
- 4-607. SAME; HEARING, ORDER.** If after notice and hearing, the governing body determines that the structure under consideration is dangerous, unsafe or unfit for human use or habitation, it shall state in writing its findings of fact in support of such determination and shall cause the resolution to be published once in the official city newspaper and a copy mailed to the owners, agents, lien holders of record and occupants in the same manner provided for the notice of hearing. The resolution shall fix a reasonable time within which the repair or removal of such structure shall be commenced and a statement that if the owner of such structure fails to commence the repair or removal of such structure within the time stated or fails to diligently prosecute the same until the work is completed, the governing body will cause the structure to be razed and removed.
- 4-608. DUTY OF OWNER.** Whenever any structure within the city shall be found to be dangerous, unsafe or unfit for human use or habitation, it shall be the duty and obligation of the owner of the property to render the same secure and safe or to remove the same.
- 4-609. SAME, FAILURE TO COMPLY.**
- (a).** If, within the time specified in the order, the owner fails to comply with the order to repair, alter, improve or vacate the structure, the public officer may cause the structure to be repaired, altered, improved, or to be vacated and closed.
  - (b).** If within, the time specified in the order, the owner fails to comply with the order to remove or demolish the structure, the public officer may cause the structure to be removed and demolished.

## **CHAPTER V. BUSINESS REGULATIONS**

### **ARTICLE 1. SOLICITORS, CANVASSERS, PEDDLERS**

- 5-101. DISTURBING THE PEACE.** Except when authorized in writing by the city clerk, no person shall use any sound device, including any loud-speaking radio or sound-amplifying system upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced there from to be capable of being plainly heard upon the streets, avenues alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such person proposes to sell.
- 5-102. USE OF STREETS AND SIDEWALKS.** Except when authorized in writing by the city clerk, no peddler, solicitor or canvasser or any other person shall have exclusive right to any location in the public streets for the purpose of selling or soliciting sales, nor shall any person be permitted a stationary location in the public streets, nor shall any person be permitted to operate in the sidewalks and streets within the fire limits of the city or any congested area where his or her operations might impede or inconvenience the public.
- 5-103.** Repealed (*ORD. # 1990 4/1/13*)

## Article 2. BUSINESS LICENSE

### 5-201. DEFINITIONS.

(a). "Business" includes all activities engaged in with the object of gain, benefit, or advantage, directly or indirectly, and which maintains a store, storefront, warehouse, factory, shop or other site out of which business is conducted.

(b). "Person" means any individual, corporation, company firm, joint stock company, co-partnership, joint venture, trust business trust, club, association, society, or any group of individuals acting as a unit, whether mutual, cooperative fraternal, nonprofit, or otherwise, including receiver, administrator, executor, assignee, or trustee in bankruptcy.

5-202. **LICENSE REQUIRED.** Unless otherwise exempted by the code of the City of Pleasanton, it shall be unlawful for any person to conduct, pursue carry on or operate any business in the city without first paying the license fee prescribed and procuring such a license from the City Clerk whenever the procuring of the license is required by the city.

5-203. **APPLICATION FOR LICENSE.** Every person desiring to do business in the city, and not otherwise exempt, shall apply to the city clerk for a license to operate such business. The clerk shall verify that the location of said business is properly zoned for such business, and no business license shall be granted until appropriate zoning has been verified. Upon said verification and the payment of the fee required hereunder, the city clerk shall issue to the applicant a license which shall be signed by the city clerk. It shall be the duty of the city clerk to pay over the amount so collected on each license issued to the city treasure of the city.

5-204. **NOT ASSIGNABLE OR TRANSFERABLE.** No license granted by the city shall be assignable or transferable; nor shall such license authorize any person to do business or act under it duty the person named therein, nor at more than one place. There shall be no refunds except as specifically provided.

5-205. **LICENSE PERIOD; DURATION.** Unless otherwise provided, licenses shall commence and endure from January 1, or the date after January 1 on which said application is approved, and expire on December 31 of the same year.

### 5-206. EXEMPTIONS.

(a). Farmers. No producer or grower, or his or her agents or employees, selling in the city, farm or garden products or fruits grown by him or her in the state shall be required to pay any license fee or occupation tax imposed by any law of this city, and he or she, his or her agents or

employees, are hereby exempt from the payment of any such fees or taxes, or the securing of a license.

**(b).** Nonprofit Organization Fundraising. Occasional fundraising by schools, churches, civic organization and similar entities shall be exempt.

**(c).** Internet-Based Businesses. Business based on line and without a physical location for meeting the public or otherwise doing business within the City, shall be exempt.

**(d).** Farmers Markets, Flee Markets and similar activities, when organized on an occasional basis (no more than twice per year) by a nonprofit entity or as a fund-raising activity for the public benefit. This exemption shall include participants on said Market or activity.

**(e).** Individuals holding a personal/family garage sale, tag sale or similar activity on an occasional basis (no more than twice per year) to sell their own possessions to the public.

**5-207. LICENSE FEES.** Unless otherwise provided, there shall be no license fees for this license

**5-208. SAME; WHEN PAYABLE; TIME PERIOD.**

**(a).** All license fees shall be due and payable before the commencement of trade, occupation, business or profession for which license fees are required.

**(b).** No license shall be issued until the fee is paid.

**(c).** Licensed shall be renewed on or before the expiration date of the current licenses.

**5-209. PAYMENT OF FEES; RECEIPT.** The city clerk shall, upon payment of any license fee specified, give a receipt therefor stating the amount paid, the nature of the licenses issued, for what time and to whom issued, and if possible, the exact location where the business is to be carried on and the kind of business.

**5-210. CONTENTS OF LICENSE.** Unless otherwise provide all licenses shall be dated on the date of their issue, and shall state the name of the licensee, the kind of business he or she desires to engage in g the location thereof, the amount paid ,and the time the license shall expire; and the person having such license shall be authorized to carry on the business therein named.

**5-211. RECORD BOOK.** The city clerk shall keep a book in which shall be entered the name of each person licensed, his or her address, the date of the license, the purpose for which it is granted, the amount paid therefor, and the time the same shall expire and within 24 hours after any license has expired, the city clerk shall notify the chief of police of such expiration, unless the same shall have been renewed.

- 5-212. DISPLAY OF LICENSE.** A persons doing business in a permanent location are required to have their license conspicuously displayed in their place of business, and all persons to whom licenses are issued not having a permanent place of business are required to carry their licenses with them and any licensee shall present the license for inspection when requested to do so by any citizen or office of the city.
- 5-213. DIRECTORY OF BUSINESS.** The city shall maintain on its web-site a directory of all currently licensed businesses, along with their contact information as provided on the Application for a Business License. Businesses whose license has expired will be removed from said Directory.
- 5-214. INTERANT AND STREET SALES.** No person or entity shall sell or offer for sale any goods on or in the public streets, public or private parking lots, sidewalks or any other location when such goods are offered for sale from trucks, other vehicles, temporary booths or other temporary modes of display of goods for sale unless said person or entity has met the following conditions.
- (a).** The person or entity has applies for and received a Business License form the City Clerk.
  - (b).** The applicant has paid the City Clerk, in advance a fee of \$5.00 for said Permit.
  - (c).** The applicant has secured and provided to the City Clerk written permission to locate the proposed sales activity from the owner of the private property upon which the applicant proposes to conduct such sales activity.
  - (d).** If the proposed location for sales activity is on City property, including streets and parking lots, the applicant has secured form the City Clerk written permission to so locate the sales activity.
  - (e).** This section shall apply to Farmers Markets, Flee Markets and similar activities when those activities do not meet the conditions of Section 5-206.
- 5-215. PENALTY.** Any person convicted of a violation of this ordinance shall be fined no less than \$50.00 and no more than \$500.00 for each violation. Each day in violation of this article may be considered a separate violation. (ORD.# 1990 4/1/13)

# **CHAPTER VI. ELECTIONS**

## **ARTICLE 1. CITY ELECTIONS**

- 6-101. CONDUCT OF ELECTION.** The election of city officials shall be conducted in all respects as provided by the laws of Kansas governing the holding of city elections.
- 6-102. HOURS OF VOTING.** At all city elections the polls shall be open at 7:00 a.m. and close at 7:00 p.m., unless different hours are set and publicly announced by the county election officer.
- 6-103. QUALIFICATIONS.** The officers elected or appointed under this act shall be qualified electors of the city, except the city may appoint nonresidents as city attorney, municipal judge, city clerk, city treasurer, and as law enforcement officers when deemed necessary, including the appointment of nonresidents who also serve as city attorney, municipal judge or law enforcement officers of another municipality or public agency; provided, that nothing herein shall authorize the appointment of nonresidents of this state.
- 6-104. COMMENCEMENT OF TERMS OF OFFICE; OATH OF OFFICE.**
- (a).** The term of office for newly elected city officials shall commence with and include the first regular meeting of the governing body following certification of the election by the county election officer.
  - (b).** Every person elected or appointed to city office, before entering upon the duties of such office shall take and subscribe an oath or affirmation as specified in K.S.A. 54-106, and amendments thereto, and every such oath or affirmation shall be filed with the city clerk.
- 6-105. TERMS OF OFFICE.** Council member's shall be elected for four year terms. The mayor shall be elected to a two year term.



# **CHAPTER VII. FIRE**

## **ARTICLE 1. FIRE DEPARTMENT**

- 7-101. CITY FIRE DEPARTMENT ESTABLISHED.** The fire department of the City is hereby established and the department shall be organized to consist of a fire chief, an assistant fire chief and up to 25 firefighters. Members of the fire department shall be appointed by the mayor and confirmed by the council.
- 7-102. MEMBERSHIP; FIRE DRILL.** Members of the fire department shall all be volunteers. They shall meet at least once each month for practice and drill. The chief of the fire department shall keep a record of attendance of such meetings. Any member who shall fail to attend six consecutive meetings shall automatically become expelled from membership.
- 7-103. SUPERVISION OF DEPARTMENT.** The chief of the fire department shall be under the supervision of the mayor and shall have immediate superintendence and control over and be responsible for the care and condition of the fire apparatus and equipment. It shall be the chief's duty to see that all such apparatus and equipment is ready at all times for immediate use. It shall also be the chief's duty to submit a written report as to the condition of all fire apparatus and equipment to the governing body at their first meeting in October of each year.
- 7-104. FIRE CHIEF; POWERS.**
- (a).** The fire chief shall be responsible for the discipline of the members and is hereby given authority to suspend or expel any member for refusal to obey orders or for misconduct or failure to do his or her duty at a fire.
  - (b).** The chief shall also have the right to summon any and all persons present to aid in extinguishing a fire or to aid in removing personal property from any building on fire or in danger thereof and in guarding the same.
  - (c).** At fires, the chief shall have full power, control and command of all persons present and shall direct the use of the fire apparatus and equipment and command the fire fighters in the discharge of their duties. He or she shall take such measures as he or she shall deem proper and necessary in the preservation and protection of property and extinguishing of fires.
- 7-105. SAME; RECORDS.** The chief of the fire department shall keep in convenient form a complete record of all fires. Such information shall include the time and

location, construction of building, owner, occupancy, how extinguished, value of building and contents, loss on building and contents, insurance on building and contents, members responding to the alarm and any other information deemed advisable.

- 7-106. ASSISTANT CHIEF.** In the absence of the chief, the assistant fire chief shall perform all the duties and have all the authority and responsibility of the chief as conferred by this chapter.
- 7-107. PRIVATE USE OF FIRE EQUIPMENT.** It shall be unlawful for any person or persons to take away or use any fire apparatus or equipment for any private purpose or for any person willfully and without proper authority to remove, take away, keep or conceal any tool, appliance, equipment or other article used in any way by the fire department.
- 7-108. FIRE EQUIPMENT; EMERGENCY RIGHT-OF-WAY AND USE.**
- (a).** All fire apparatus and equipment is hereby given and granted the exclusive right-of-way over and through all streets, avenues, alleys and public thoroughfares in the city while in route to fires or in response to any alarm and it shall be unlawful for any person or persons to in any manner obstruct or hinder the apparatus or equipment.
  - (b).** All emergency vehicles of the fire department while proceeding on official business shall be operated in strict accordance with the requirements of the Kansas Statutes regarding the operation of emergency vehicles and each departmental member assigned to the operation of emergency vehicles and familiarizes him or her with the requirements of the law and govern him or herself accordingly. Any operator violating the provisions of the state law shall be liable for disciplinary action.
- 7-109. SAME; FIRE HOSE.** It shall be unlawful for any person or persons to drive any vehicle over any fire hose laid on any street, alley or lot. This section shall not apply to any apparatus or vehicle being driven by members of the fire department.
- 7-110. OBSTRUCTION OF FIRE HYDRANT.** It shall be unlawful for any person to place or cause to be placed upon or about any fire hydrant any rubbish, building material, fence or other obstruction of any character or in any manner obstruct, hinder or delay the fire department in the performance of its duties in case of fire. Nor shall any person fasten to any fire hydrant any guy rope or brace nor stand any vehicle within 15 feet of any such hydrant.
- 7-111. FALSE ALARM.** It shall be unlawful for any person to knowingly make or sound or cause to be made or sounded or by any other means, any false alarm.

## ARTICLE 2. FIRE PREVENTION

- 7-201. FIRE PREVENTION CODE INCORPORATED.** There is hereby adopted by the governing body of the city, for the purpose of prescribing regulations, governing conditions hazardous to life and property from fire or explosion, that certain code and standards known as the Uniform Fire Code, edition of 1994, including all the Appendix chapters and the Uniform Fire Code Standards and the National fire Codes of the National Fire Protection Association (NFPA) 1994 and amendments hereafter, Fire Protection Association (NFPA) 1994 land amendments hereafter, published by the Western Fire Chiefs Association and the International Conference of Building Officials, being particularly the 1994 editions thereof and the whole thereof, save and except such portions as hereinafter deleted, modified or amended by section 7-203 of this article three copies which Code and Standards have been and are now filed in the office of the clerk of the City of Pleasanton, Kansas and the same are hereby adopted and incorporated as fully as if set out at length herein and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city.
- 7-202. SAME; ENFORCEMENT.** The code hereby adopted shall be enforced by the chief of the fire department.
- 7-203. SAME; AMENDMENTS.**
- (a).** Wherever the word municipality is used in the code hereby adopted, it shall be held to mean the City of Pleasanton.
  - (b).** All sections of the Uniform Fire code relating to fireworks are hereby deleted in their entirety.
- 7-204. OPEN BURNING.**
- (a).** Open burning or refuse, including household refuse, construction/demolition refuse, industrial refuse and all other refuse other than weeds, brush, grass, leaves, trees, logs, stumps, clippings and other vegetative matter, is prohibited in the City of Pleasanton. (ORD.# 1947 11/19/07)
    - (1).** No fire permitted hereunder shall be left unattended by the person starting or maintaining it until it is completely extinguished.
    - (2).** Burning may be commenced two hours after sunrise and all fires permitted hereunder shall be fully and safely extinguished by one hour after sunset.
    - (3).** A sufficient method of extinguishment must be on site.
    - (4).** Any permits required under state or federal statute or regulation must be obtained.
    - (5).** Any fire creating an unreasonable nuisance, discomfort, or health danger to others in the form of smoke or odor, and which is

not extinguished upon notice of such, shall be considered to be in violation of this ordinance. (ORD.# 1982 9/6/11)

(B). Nothing herein shall be construed as requiring a permit for prohibiting or limiting as to time, per Subsection (a), Part (2) above, any fire built in an outdoor fire ring, stove, oven, fireplace, barbeque, pit, or portable burner used for recreational purposes, provided that any such fire shall be extinguished and made safe before the persons starting or maintaining such fire shall leave the place where the fire was started. (ORD.# 1981 8/9/11)

(C). Any person violating this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of up to \$600. Additionally, a person found guilty of violating this ordinance may be ordered to reimburse for any damages or costs incurred by any party, including the City, as a result of the violation.

- 7-205. STACKING OF HAY OR STRAW.** It shall be unlawful for any person to deposit, stack or store any hay or straw within 500 feet of any building located inside the fire limits of the city.
- 7-206. KEEPING OF PACKING MATERIALS.** It shall be unlawful to keep excelsior or other packing material in any other than metal or wood metal lined boxes or bins having self- closing or automatic covers. All refuse and trash from rooms where packing or unpacking is done shall be removed daily.
- 7-207. STORAGE OF ASHES.** It shall be unlawful to store ashes inside of any no fireproof building unless they are stored in a noncombustible container or receptacle and a clearance of at least five feet shall be maintained between such container and receptacle and any combustible materials not place therein. Ashes shall not be stored outside of any building in wooden, plastic or paper product receptacles or dumped in contact with or in close proximity to any combustible materials.
- 7-208. FILLING GASOLINE TANKS OF MOTOR VEHICLES.** The engines of motor vehicles shall be stopped when the gasoline tanks of such vehicles are being filled with gasoline at service stations or other places where gasoline is supplied to motor vehicles. The driver or person in control of such vehicle when the gasoline tank of same is being filled who reuses, neglects or fails to stop the engine of such vehicle shall likewise be guilty of a violation of this code.
- 7-209 FIRE HAZARDS GENERALLY.** It is unlawful for any person to cause or create anywhere within the city, or to permit on any premises under his or her control, any situation or condition that is conducive to or likely to cause or permit the outbreak of fire or the spreading of fire. Any situation or condition conducive of or failure to comply with any law pertaining to the storage, handling or use of inflammable oils, explosives, liquefied petroleum gases or

fertilizers and all wires and other conductors charged with electricity, is declared to be a fire hazard. The placing of stools, chairs or any other obstruction in the aisles, hallways, doorway or exit of any theater, public hall, auditorium, church or other place of indoor public assemblage or the failure to provide any such place of public assemblage with sufficient, accessible and unobstructed fire exits and escapes is also declared to be a fire hazard. The obstruction of any street, avenue, alley, fire hydrant or any other condition that might delay the fire department in fighting fire is declared to be unlawful.

- 7-210. SAME; INSPECTIONS TO DISCOVER.** It shall be the duty of the fire chief to inspect or cause to be inspected by fire department officers or members, as often as may be necessary all building, particularly all mercantile buildings, manufacturing plants, warehouses, garages, hotels, boarding houses, rooming houses, theaters, auditoriums and all places of public assemblage, for the purpose of discovering the violation of any fire preventive law or any fire hazard and ascertaining and causing to be corrected any conditions liable to cause fires and to see that all place of public assemblage, hotels and rooming houses have sufficient and unobstructed facilities for escape there from in case of fire.
- 7-211. ABATEMENT OF FIRE HAZARDS; ISSUING ORDER.** Whenever any officer or member of the fire department shall find or discover any fire hazard or shall find in any building or upon any premises combustible or explosive material or dangerous accumulation of rubbish or unnecessary accumulation of paper, boxes, shavings or any other inflammable material, so situated as to endanger property by the probability of fire or shall find or discover any violation of this chapter or any other law hazardous to public safety from fires, the fire chief shall order the fire hazard or danger from the fire forthwith abated and remedied and such order shall be complied with immediately by the owner or occupant of such buildings or premises. If the hazard or condition ordered abated and remedied is a violation of or a failure to comply with any law, the fire chief shall report the matter to the city attorney and he or she shall, if he or she deems it advisable, prosecute the offender.
- 7-212. SAME; SERVICE OF ORDER; RECORDS.** Any order made under section shall be in writing and may be served personally upon the owner or occupant of the premises or by leaving it with any person in charge of the premises or if the premises are unoccupied and the owner is a nonresident of the city, then by mailing a copy to the owner's last known post-office address. One notice to either the occupant or owner shall be sufficient. The fire chief shall keep a record of and copies of all such orders and notices and shall follow up such notices at the expiration of the time for compliance therewith and when complied with make proper entry, and if not complied with, file complaint with the municipal court against the property owner and/or occupant.

## ARTICLE 3. FIREWORKS

- 7-301. FIREWORKS DEFINED.** For purposes of this ordinance, the term fireworks shall mean those items as defined by the rules and regulations of the Kansas state fire marshal, and shall include but not be limited to: firecrackers, torpedoes, sparklers, Roman candles, sky rockets, pin wheels, cap or toy pistols (except such pistols or any like device designed to discharge paper caps containing not more than .25 grains of explosive mixture), canes, bombs, cannons or other like devices and all classes of fireworks that may be shot into the air or propelled over the ground by explosive discharges or any device using blank cartridges.
- 7-302. FIREWORKS PROHIBITED.**
- (a). Except as provided elsewhere in this section; it shall be unlawful for any person to keep, store, display for sale, fire, discharge or explode any fireworks.
  - (b). Nothing in this ordinance shall be construed as applying to:
    - (1). Toy paper caps containing not more than .25 of a grain of explosive composition per cap;
    - (2). The manufacture, storage, sale or authorized use of signals necessary for the safe operation of railroads or other classes of public or private transportation;
    - (3). The military or naval forces of the United States or of this state while in the performance of official duty;
    - (4). Law enforcement officers while in the performance of official duty; or
    - (5). The sale or use of blank cartridges for ceremonial, theatrical or athletic events.
  - (c). It shall be unlawful for a parent, legal guardian, person who stands in loco parents, or a person to whom legal custody has been given by a court order of any minor person under eighteen years of age to knowingly permit or by inefficient or lack of control allow such minor person to violate any section of this ordinance.
- 7-303. SAME: EXCEPTIONS; DISCHARGES.**
- (a). Prohibition of discharging fireworks shall not apply to the firing or discharge of fireworks in the city between the hours of 8:00 a.m. and 12:00 midnight on June 27 through July 4<sup>th</sup> of any year.
  - (b). The governing body of the city may, in its discretion, grant permission at any time for the public display of fireworks by responsible individuals or organizations when such display or displays shall be of such a character and so located, discharged and fired as shall not be a fire hazard or endanger persons or surrounding property.

(c). It shall be unlawful for any person, firm or corporation to give any public display of fireworks without having first obtained a permit thereof.

(d). No permit shall be granted hereunder prior to the applicant's providing to the City written verification from the Fire Chief of Pleasanton that the Fire Department has approved the application, that the Fire Department has approved the site and arrangements for the display, and that the Fire Department has detailed equipment and members to be present for the display to supervise all aspects thereof and to assure the safety of all participants and observers.

**7-304. REGULATIONS GOVERNING THE SALE OF FIREWORKS.**

(a). It shall be unlawful for any person to sell, display for sell, offer to sell or give away any type of fireworks within the city without first paying a fee of \$5.00 per establishment or premises to the city clerk and applying for and securing a permit therefore on or before June 1 of the permit year.

(b). No permit shall be issued for any location where retail sales are not permitted under the zoning laws, except for locations where retail sales lawfully occurred in June, 2005. Prior to the issuance of the permit, an inspection will be made of the applicant's facility for compliance with this chapter and other pertinent laws, and no permit shall be issued for any premises not in compliance with such laws. Upon qualifying for the permit, the permitted shall prominently display the same at the establishment or premises where fireworks are to be sold or displayed for sale. The permit fee shall not be refundable upon failure to qualify for the permit or withdrawal or cancellation of the application or permit.

(c). Any person who has first obtained a valid permit to sell fireworks within the city may do so between the hours of 8:00 a.m. and 12:00 midnight commencing June 27 and through July 4th of each year.

(d). Two functioning and approved fire extinguishers must be provided and kept in close proximity to the stock of fireworks in all permanent buildings where fireworks are stored, sold or displayed for sale.

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

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

(g). Violators of this section shall, upon conviction, be fined up to \$500.00 per violation. Each day of violation shall be considered a separate violation.

**7-305. APPROVED FIREWORKS; BOTTLE ROCKETS PROHIBITED.**

(a). All fireworks offered for sale and discharged within the city shall be of a type that has been tested and approved for sale and use within the state by the state fire marshal.

(b). Bottle rockets and other similar self-propelled firework or fireworks devices consisting of a tube and attached guiding stock or rod shall not be sold or discharged in the city.

**7-306. DISCHARGE ON STREETS AND PUBLIC PROPERTY PROHIBITED.** It shall be unlawful for any person to discharge, ignite or fire any fireworks upon any public street, alley or avenue within the city.

**7-307. THROWING PROHIBITED.** It shall be unlawful for any person to throw, cast or propel fireworks of any kind in the direction of or into the path of any animal, person or group of persons, or from, in the direction of or into any vehicle of any kind, whether said vehicle is moving or stationary.

**7-308. SALE OF FIREWORKS; WHERE PROHIBITED.**

(a). It shall be unlawful for fireworks to be stored, sold or displayed for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable substances are kept, unless such fireworks are in a separate and distinct section or department of the premises.

(b). Where the fire chief deems there is a fire hazard, he or she is hereby authorized to have such hazard abated.

**7-309. RETAIL DISPLAY OF FIREWORKS.**

(a). All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where such fireworks are in the original package.

(b). All fireworks displayed for sale must remain in original packages, except where an attendant is on constant duty at all times where such fireworks are on display; provided, that fireworks in open stock may be kept in show cases or counters out of the reach of the public without an attendant being on duty.

(c). Signs reading "Fireworks for Sale--No Smoking Allowed" shall be displayed in the section of a store or premises set aside for the sale of fireworks.



**7-310. FIRE EXTINGUISHERS REQUIRED.**

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

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

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

**7-312. AUTHORITY OF FIRE CHIEF AND LAW ENFORCEMENT OFFICERS.** The chief of the fire department and all law enforcement officers of the City are authorized to seize and confiscate all fireworks which may be kept, stored or used in violation of any section of this ordinance, and all of the rules of the state fire marshal. He or she shall dispose of all such fireworks as may be directed by the governing body.

**7-313.** It shall be unlawful for a parent, legal guardian, person who stands in loco parents, or a person to whom legal custody has been given by a court order of any minor person under eighteen years of age to knowingly permit or by inefficient or lack of control allow such minor person to violate any section of this article.

# **CHAPTER VIII. HEALTH AND WELFARE**

## **ARTICLE 1. HEALTH NUISANCES**

- 8-101. NUISANCES UNLAWFUL; DEFINED.** It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:
- (a).** Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;
  - (b).** All dead animals not removed within 24 hours after death;
  - (c).** Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;
  - (d).** All stagnant ponds or pools of water;
  - (e).** All grass or weeds or other unsightly vegetation; *(ORD.# 1966 4/19/10)*
  - (f).** Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited on the sanitary landfill, or otherwise disposed of, or any icebox or refrigerator not in actual use.  
*(Ord.# 1966 4/19/10)*
  - (g).** All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;
  - (h).** Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city.
- 8-102. PUBLIC OFFICER.** The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this article.
- 8-103. COMPLAINTS; INQUIRY AND INSPECTION.** The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, chief of police, director of operations, or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings.  
*(ORD.# 1966 4/19/10)*

**8-104. RIGHT OF ENTRY.** The public officer has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists.

**8-105. ORDER OF VIOLATION.**

**(a).** The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-101 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

**(b).** if the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24 month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.

**8-106. SAME; CONTENTS.** The order shall state the condition(s). which is (are) in violation of section 8-101. The notice shall also inform the person, corporation, partnership or association that:

**(a).** He, she or they shall have 10 days from the date of serving the order to abate the condition(s). in violation of section 8-101; or

**(b).** He, she or they have 10 days from the date of serving the order to request a hearing before the governing body or its designated representative of the matter as provided by section 8-109;

**(c).** Failure to abate the condition(s). or to request a hearing within the time allowed may result in prosecution as provided by section 8-107 and/or abatement of the condition(s). by the city as provided by section 8-108.

**8-107. FAILURE TO COMPLY; PENALTY.** Should the person, corporation, partnership or association fail to comply with the order to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of section 8-101, be fined according to the following schedule of fines.

Within any 12 month period:

- First violation - \$75.00
- Second violation - \$150.00
- Third violation - \$300.00
- Fourth and subsequent violations - \$500.00

Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (ORD.# 1987 5/7/12)

**8-108. ABATEMENT.** In addition to, or as an alternative to prosecution as provided in section 8-107, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to section 8-105 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-106, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-110. A copy of the resolution shall be served upon the person in violation in one of the following ways:

(a). Personal service upon the person in violation;

(b). Certified mail, return receipt requested; or

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

(d). If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24 month period, the governing body of the city nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.

**8-109. HEARING.** If a hearing is requested within the 10 day period as provided in section 8-106, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the

person's right to contest the findings of the public officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body and the resolution shall be served upon the person in the manner provided in section 8-108.

**8-110. COSTS ASSESSED.** If the city abates or removes the nuisance pursuant to section 8-108, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days' notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1, 115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1, 115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.

**8-111. PUBLIC URINATION AND DEFECATION:**

**(a).**It is unlawful for any person to urinated or defecate in public, other than when using a toilet, urinal or commode located in a restroom, bathroom or other structure enclosed from public view.

**(b).**The enforcement provisions of this section shall not apply to the following individuals who may not be able to adequately control the bodily functions that control urination or defecation:

**(1).** Children five **(5)**. years of age or younger;

**(2).** Persons of any age who violate this ordinance due to a verified medical condition.

**(c).** The penalty for violation of this Section shall be a fine of up to \$500. per violation. *(ORD.# 1980 7/18/11)*

## ARTICLE 2. INSURANCE PROCEEDS FUND

- 8-201. SCOPE AND APPLICATION.** The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 *et seq.*, whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this article.
- 8-202. LIEN CREATED.** The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, caused by or arising out of any fire, explosion or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy(s). covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument or such tax, levy, assessment, expense or other charge that has remained undercharged for at least one year prior to the filing of a proof of loss.
- 8-203. SAME; ENCUMBRANCES.** Prior to final settlement on any claim covered by section 8-202, the insurer or insurers shall contact the county treasurer, Linn County, Kansas, to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the county treasurer, Linn County, Kansas.
- 8-204. SAME; PRO RATA BASIS.** Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.
- 8-205. PROCEDURE.**
- (a).** When final settlement on a covered claim has been agreed to or arrived at between the named insured or insured's and the company or companies and the final settlement exceeds 75 percent of the face value of the policy covering any building or other insured structure and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the city treasurer in an amount equal to the sum of 15 percent of the covered claim payment, unless the chief building

inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris or repaired, rebuilt or otherwise made the premises safe and secure.

**(b).** Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.

**(c).** Upon the transfer of the funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the named insured or insured's, the total insurance coverage applicable to said building or other structure and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insured's by certified mail, return receipt requested, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this article.

**8-206. FUND CREATED; DEPOSIT OF MONEYS.** The city treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund". All moneys received by the city treasurer as provided for by this article shall be placed in the fund and deposited in an interest-bearing account.

**8-207. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.**

**(a).** Upon receipt of moneys as provided for by this article, the city treasurer shall immediately notify the chief building inspector of said receipt and transmit all documentation received from the insurance company or companies to the chief building inspector.

**(b).** Within 20-days of the receipt of said moneys, the chief building inspector shall determine, after prior investigation, whether the city shall instigate proceedings under the provisions of K.S.A. 12-1750 *et seq.*, as amended.

**(c).** Prior to the expiration of the 20 days established by subsection (b) of this section, the chief building inspector shall notify the city treasurer whether he/she intends to initiate proceedings under K.S.A. 12-1750 *et seq.*, as amended.

**(d).** If the chief building inspector has determined that proceedings under K.S.A. 12-1750 *et seq.*, as amended shall be initiated, he/she will do so immediately but no later than 30 days after receipt of the moneys by the city treasurer.

(e). Upon notification to the city treasurer by the chief building inspector that no proceedings shall be initiated under K.S.A. 12-1750 *et seq.*, as amended, the city treasurer shall return all such moneys received, plus accrued interest, to the insured or insured's as identified in the communication from the insurance company or companies. Such return shall be accomplished within 30 days of the receipt of the moneys from the insurance company or companies.

- 8-208. REMOVAL OF STRUCTURE; EXCESS MONEYS.** If the chief building inspector has proceeded under the provisions of K.S.A. 12-1750 *et seq.*, as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured.
- 8-209. SAME; DISPOSITION OF FUNDS.** If the chief building inspector, with regard to a building or other structure damaged by fire, explosion or windstorm, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of section 8-205(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the chief building inspector shall immediately affect the release of the lien resulting there from. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under section 8-205(a), the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred.
- 8-210. EFFECT UPON INSURANCE POLICIES.** This article shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.
- 8-211. INSURERS; LIABILITY.** Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this article or releasing or disclosing any information pursuant to this article.



**8-307. TEMPORARY PERMIT.** A permit for the temporary parking of a vintage vehicle, a spare parts vehicle, a race car and a recreational vehicle, which would otherwise be considered a nuisance under this article may be obtained at city hall. The vehicle's owner must complete an application for a temporary permit and provide evidence of ownership of the vehicle. The permit, when acquired for a vintage vehicle, shall be for a (30) day period. The permit, when acquired for a spare parts vehicle, a race car or a recreational vehicle, shall be for a fourteen (14) day period and is not renewable. All permit applications shall be accompanied by a non-refundable \$5.00 permit fee. *(ORD.# 1966 4/19/10)*

**8-308. ORDER OF VIOLATION.**

**(a).** The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-301 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested or by personal service. If the property is unoccupied and the owner is a non-resident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

**(b).** If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24 month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a non-resident, notice provided by this section shall be given by telephone communication or first class mail.

**8-309. SAME; CONTENTS.** The order shall state the condition(s). which is (are) in violation of section 8-303. The notice shall also inform the person, corporation, partnership or association that;

**(a).** He, she or they shall have 10 days from the date of serving the order to abate the condition**(s)**. in violation of section 8-301; or

**(b).** he, she or they have 10 days from the date of serving the notice to request a hearing before the governing body of the matter as provided by section 8-310;

**(c).** Failure to abate the condition**(s)**. or to request a hearing within the time allowed may result in prosecution as provided by section 8-308 and/or abatement of the condition**(s)**. by the city as provided by section 8-311.

## **ARTICLE 3. JUNKED MOTOR VEHICLES ON PRIVATE PROPERTY**

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

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

**8-302. DEFINITIONS.** As used in this article, unless the context clearly indicates otherwise:

- (a). Inoperable means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed;
- (b). Vehicle means, without limitation, any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.
- (c). Vintage Vehicle means a vehicle that qualifies as an antique vehicle as outlined in Kansas Statutes.
- (d). Spare Parts Vehicle means a vehicle, which has been obtained for the harvesting of spare parts for personal use.
- (e). Race Car means a vehicle modified for and specifically limited to use in competitive off-road racing.
- (f). Recreational Vehicle means a motorized self-contained vehicle designed for the purpose of temporary housing.
- (g). Tarp Covered Vehicle means a vehicle covered by a tarp of sufficient size, strength and density to screen the vehicle from the view of the public and to prohibit ready access to the vehicle by children.

**8-303. NUISANCES UNLAWFUL; DEFINED; EXCEPTIONS.** It shall be unlawful for any person to maintain or permit any motor vehicle nuisance within the city.

**(a).** A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable.

**(1).** Absence of a current registration plate upon the vehicle;

**(2).** Placement of the vehicle or parts thereof upon jacks, blocks or other supports;

**(3).** Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway.

**(b).** The provisions of this article shall not apply to:

**(1).** Any motor vehicle which is enclosed in a garage or other building;

**(2).** To the parking or storage of a vehicle inoperable for a period of 30 consecutive days or less; or

**(3).** To any person conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this subsection shall be construed to authorize the maintenance of a public nuisance.

**8-304. PUBLIC OFFICER.** The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this article.

**8-305. COMPLAINTS; INQUIRY AND INSPECTION.** The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings.

*(Ord.# 1966 4/19/10)*

**8-306. RIGHT OF ENTRY.** The public officer has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists.

(d). Notice pursuant to Section 8-315 below (*ORD.# 1979 7/18/11*)

**8-310. FAILURE TO COMPLY; PENALTY.** Should the person fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a complaint in the municipal court of the city against such person and upon conviction of any violation of provisions of section 8-303, be fined according to the following schedule of fines:

Within any 12 month period:

- First violation - \$75.00
- Second violation - \$150.00
- Third violation - \$300.00
- Fourth and subsequent violations - \$500.00

Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (*ORD.# 1987 5/7/12*)

**8-311. ABATEMENT.** In addition to, or as an alternative to prosecution as provided in section 8-310, the public officer may seek to remedy violations of this article in the following manner. If a person to whom a notice has been sent pursuant to section 8-308 has neither alleviated the conditions causing the alleged violation or requested a hearing before the governing body within the time period specified in section 8-309, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution.

The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-314. A copy of the resolution shall be served upon the person in violation in one of the following ways:

(a). Personal service upon the person in violation;

(b). Service by certified mail, return receipt requested; or

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

(d). If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24 month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or

provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a non-resident, notice provided by this section shall be given by telephone communication or first class mail.

- 8-312. DISPOSITION OF VEHICLE.** Disposition of any motor vehicle removed and abated from private property pursuant to this article shall be as provided by K.S.A. Supp. 8-1102, as amended.
- 8-313. HEARING.** If a hearing is requested within 10-day period as provided in section 8-309, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel and the person and the city may introduce such witnesses and evidence as is deemed necessary and properly by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body and the resolution shall be served upon the person in the matter provided in section 8-311.
- 8-314. COSTS ASSESSED.** If the city abates or removes the nuisance pursuant to section 8-311, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1, 115 and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1, 115 and amendments thereto, but only until the full cost and applicable interest has been paid in full.

**8-315.** If, within 24 months of the passage of a resolution hereunder to abate junked motor vehicle on any property, such a nuisance recurs on that property, the Codes Enforcement Officer is hereby authorized to abate the condition after serving the property owner with a ten-day notice to remove said vehicle(s)..  
*(ORD.# 1979 7/18/11)*

## ARTICLE 4. WEEDS

- 8-401. WEEDS TO BE REMOVED.** It shall be unlawful for any owner, agent, lessee, tenant or other person occupying or having charge or control of any premises to permit weeds 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, right-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided.
- 8-402. DEFINITIONS.** Weeds as used herein, means any of the following:
- (a).** Brush and woody vines shall be classified as weeds;
  - (b).** Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
  - (c).** Weeds which bear or may bear seeds of a downy or wing nature;
  - (d).** Weeds which are located in an area which harbors rats, insects, animals, reptiles or any other creature which either may or does constitute a menace to health, public safety or welfare;
  - (e).** Weeds and grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12-inches in height. (*Ord.# 1795, Sec. 2; Code 2003*)
- 8-403 PUBLIC OFFICER; NOTICE TO REMOVE.**
- (a).** The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this article. The public officer or authorized assistant shall give written notice to the owner, occupant or agent of such property by certified mail, return receipt requested or by personal service to cut or destroy weeds; provided, however, that if the property is unoccupied and the owner is a non-resident, such notice shall be sent by certified, return receipt requested, to the last known address of the owner. Such notice shall only be given once per calendar year.
  - (b).** The notice to be given hereunder shall state:
    - (1).** That the owner, occupant or agent in charge of the property is in violation of the city weed control law;
    - (2).** That the owner, occupant or agent in control of the property is ordered to cut or destroy the weeds within 10-days of the receipt of the notice;
    - (3).** That the owner, occupant or agent in control of the property may request a hearing before the governing body or its designated

representative within 5-days of the receipt of the notice or if the owner is unknown or a non-resident and there is no resident agent, 10-days after notice has been published by the city clerk in the official newspaper;

**(4).** That if the owner, occupant or agent in control of the property does not cut or destroy the weeds or fails to request a hearing within the allowed time, the city or its authorized agent will cut or destroy the weeds and assess the cost of the cutting or destroying the weeds, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property;

**(5).** That the owner, occupant or agent in control of the property will be given an opportunity to pay the assessment and if it is not paid within 30-days of such notice, it will be added to the property tax as a special assessment;

**(6).** That no further notice will be given during the current calendar year prior to the removal of weeds from the property; and,

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

**(c).** If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this subsection, the city may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided notice as required by this article.

#### **8-404. ABATEMENT; ASSESSMENT OF COSTS.**

**(a).** If the owner, occupant or agent in charge of the property has neither alleviated the conditions causing the alleged violation nor requested a hearing within the time periods specified in section 8-403, the public officer or an authorized assistant shall abate or remove the conditions causing the violation.

**(b).** If the city abates or removes the nuisance pursuant to this section, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30-days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section.

**(c).** The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1, 115 and amendments thereto or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall



certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-0, 115 and amendments thereto, but only until the full cost and applicable interest has been paid in full.

- 8-405. RIGHT OF ENTRY.** The public officer and the public officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this article.
- 8-406. UNLAWFUL INTERFERENCE.** It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute a code violation.
- 8-407. NOXIOUS WEEDS.**
- (a). Nothing in this article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.
- (b). For the purpose of this article, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafyspurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannsegia densiflora*), musk (nodding) thistle (*Carduus nutans* L.) and Johnson grass (*Sorghum halepense*).
- 8-408. FAILURE TO COMPLY; PENALTY.** . Should the person fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a complaint in the municipal court of the city against such person and upon conviction of any violation of provisions of this Article, be fined according to the following schedule of fines:
- Within any 12 month period:
- First violation - \$75.00
  - Second violation - \$ 150.00
  - Third violation - \$300.00
  - Fourth and subsequent violations - \$500.00
- Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (ORD.# 1987 5/7/12)

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

- 8-501. TITLE.** This article shall be known as the “Minimum Standard for Housing and Premises Code”, and will be referred to herein as “this code”.
- 8-502. GENERAL.** Buildings used in whole or in part as a home or residence of a single family or person and every building used in whole or in part as a home or residence of two or more persons or families living in separate apartments and all premises, either residential or non-residential, shall conform to the requirements of this code.
- 8-503. DECLARATION OF POLICY.** The governing body declares the purpose of this code is to protect, preserve and promote the physical and mental health of the people, investigate and control communicable diseases, regulate privately and publicly-owned structures or dwellings and all premises for the purpose of sanitation and public health, general appearance and protect the safety of the people and promote the general welfare by legislation which shall be applicable to all dwellings, structures and premises now in existence or hereafter constructed or developed and which legislation:
- (a).** Establishes minimum standards for basic equipment and facilities for light, ventilation and heating, for safety from fire, for the use and location and amount of space for human occupancy and for safe and sanitary maintenance;
  - (b).** Establishes standards concerning unsightly and blighted buildings and premises, both residential and non-residential structures.
  - (c).** Determines the responsibilities of owners, operators and occupants.
  - (d).** Provides for the administration and enforcement thereof.
- 8-504. DEFINITIONS.** The following definitions shall apply to the enforcement of this code:
- (a).** Basement shall mean a portion of a building located partly or wholly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.
  - (b).** Cellar shall mean a portion of a building located partly or wholly underground and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.
  - (c).** Dwelling shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants: provided that temporary housing hereinafter defined shall not be regarded as a dwelling.

**(d).** Dwelling Unit shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

**(e).** Habitable Dwelling shall mean any structure or part thereof that shall be used as a home or place of abode by one or more persons.

**(f).** Habitable Room shall mean a room designed to be used for living, sleeping, eating or cooking purposes, excluding bathrooms, toilet rooms, closets, halls and storage places or other similar places, not used by persons for extended periods.

**(g).** Infestation shall mean the presence, within or around a dwelling of insects, rodents or other pests.

**(h).** Multiple Dwelling shall mean any dwelling containing more than two dwelling units.

**(i).** Occupant shall mean any person, over one year of age, living, sleeping, cooking or eating in or having actual possession of a dwelling unit or rooming unit.

**(j).** Operator shall mean any person who has charge, care, owns or has control of a premise or of a building or structure or part thereof, in which dwelling units or rooming units are let.

**(k).** Owner shall mean any person, firm or corporation, who jointly or severally along with others, shall be in actual possession of or have charge, care and control of any structure or dwelling unit or premises within the city as owner, employee or agent of the owner or as trustee or guardian of the estate or person of the title holder and such person shall be deemed and taken to be the owner or owner of such property within the true intent and meaning of this code and shall be bound to comply with the provisions of this article to the same extent as the record owner and notice to any such person shall be deemed and taken to be a good and sufficient notice as if such person or persons were actually the record owner or owner of such property.

**(l).** Person shall mean and include any individual, firm, corporation, association or partnership.

**(m).** Plumbing shall mean and include all of the following supplied facilities and equipment: gas or fuel pipes, gas or fuel burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer, gas or fuel lines.

(n). Premise shall mean any lot or land area, either residential or non-residential, not covered by a structure and which is subject to a city tax in part or in whole.

(o). Public Officer shall mean the city superintendent.

(p). Rooming House shall mean any dwelling or that part of a dwelling containing one or more rooming units in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, sister or brother of the owner or operator.

(q). Rooming Unit shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(r). Refuse. For the purpose of this article refuse shall include garbage and trash.

(1). Garbage shall mean any accumulation of animal, fruit or vegetable waste matter that attends the preparation of, use of, cooking of, delivering of or storage of meats, fish, fowl, fruit or vegetable.

(2). Trash (Combustible). For the purpose of this article combustible trash shall mean waste consisting of papers, cartons, boxes, barrels, wood and excelsior, tree branches, yard trimmings, wood furniture, bedding and leaves or any other combustible materials.

(3). Trash (Non-combustible). For the purpose of this article non-combustible trash shall mean waste consisting of metals, tin cans, glass, crockery, other mineral refuse and ashes and street rubbish and sweepings, dirt, sand, concrete scrap or any other non-combustible material.

(s). Structure shall mean anything constructed or erected on the ground or attached to something having a location on the ground.

(t). Supplied shall mean paid for, furnished or provided by or under the control of the owner or operator.

(u). Temporary Housing shall mean any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, hose or building or another structure or to any utilities system on the same premises for more than 30 consecutive days, except when located in a mobile home court duly licensed under laws of the city.

(v). Words – Meanings. Whenever the words “dwelling”, “dwelling unit”, “rooming house”, “rooming unit”, “premises” are used in this ordinance, they shall be construed as though they were followed by the words “or any part thereof”.

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

(a). It shall be the duty of the owner of every occupied or unoccupied dwelling, building and premises or vacant premise, including all yards, lawns and courts to keep such property clean and free from any accumulation of filth, rubbish, garbage or any similar matter as covered by sections 8-508:509.

(b). It shall be the duty of each occupant of a dwelling unit to keep in clean condition the portion of the property which he or she occupies and of which he or she has exclusive control. To comply with the rules and regulations, to place all garbage and refuse in proper containers. Where care of the premise is not the responsibility of the occupant then the owner is responsible for violations of this code applicable to the premise.

(c). If receptacles are not provided by the owner, then the occupant shall provide receptacles as may be necessary to contain all garbage and trash.

(d). Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his or her dwelling unit is the unit primarily infested.

(e). notwithstanding, the foregoing provisions of this section, whenever infestation is caused by failure of the owner to maintain a dwelling in a vermin proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner and operator.

(f). Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.

**8-506. REGULATIONS FOR THE USE AND OCCUPANCY OF DWELLING.** No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking or eating therein, which does not comply with the following requirements. The following requirements are hereby declared essential to the health and safety of the occupants of such dwelling or dwelling unit:

(a). Attached Garages or Non-dwelling Areas. All non-dwelling occupancies shall be separated from the dwelling unit by a fire resistant wall and if the dwelling and garage are covered by a common or connecting roof, then the ceiling also must have a fire resistance rating of not less than one hour as defined in the building code.

**(b). Basement or Cellar.** The basement or cellar of any dwelling shall be reasonably dry and ventilated and shall be kept free from rubbish accumulation.

**(c). Basement Dwelling Units.** The use of basements or cellars for dwelling units is prohibited unless they comply with section 8-506(r) governing ventilation, provided however, if occupied at the time of the passage of this code and if it complies with all other provisions of this code, the public officer may approve less than the required windows, if in his or her opinion, the window area is not detrimental to the occupants. Any basement used as a sleeping area shall have at least two (2) separate entrances available as routes of egress. *(ORD.# 1993 11/5/12)*

**(d). Bathing Facilities.** Every dwelling unit shall contain within a room which affords privacy to a person in the room, a bathtub or shower in good working condition and properly connected to an approved water and sewer system.

**(e). Boarding and Rooming Houses.** No room shall be used for sleeping purposes unless the ceiling height is at least seven feet and there are at least 400 cubic feet of air space for each occupant over six years of age. For sleeping rooms with sloping ceilings, the ceiling height shall be at least seven feet over at least 50 percent of the floor area.

**(1).** Bathing facilities shall be provided in the form of a tub or shower for each eight occupants. Separate facilities shall be provided for each sex and plainly marked.

**(2).** A flush water closet shall be provided for each six occupants and shall be separated with the separate access from bathing facilities if more than four occupants are served by each. Separate facilities shall be provided for each sex and shall be plainly marked.

**(f). Drainage.** All courts, yards or other areas on the premises of any dwelling shall be so graded and drained that there is no pooling of the water thereon. Properly constructed wading and swimming pools and fish ponds are exempt from this section.

**(g). Entrances.**

**(1).** There shall be for each dwelling unit a normally used separate access either to a hallway, stairway or street, which is safe or in good repair.

**(2).** A secondary exit to the ground shall be available in case of fire through windows, porch roofs, ladders or any combination that is free of hazard or egress.

**(h). Floor Area.** Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof. The floor space shall be calculated on the basis of total habitable room area, inside measurements. No floor space shall be included in determining habitable room area over which the ceiling is less than seven feet above the floor for the purpose of this subsection.

**(i). Garbage and Trash Receptacles.** Every dwelling and every dwelling unit shall be provided with such receptacles, not exceeding 32 gallon capacity, as may be necessary to contain all garbage and trash and such receptacles shall at all times be maintained in good repair.

**(j). Heating.** Every dwelling and every dwelling unit shall be so constructed, insulated and maintained and be provided by owner or occupant with heating units so that it is capable of reaching an air temperature of 70 degrees Fahrenheit under ordinary winter conditions. The chimney of the dwelling or dwelling unit shall be maintained in good order and the owner of the approved heating equipment shall maintain it in good order and repair.

**(k). Kitchen Sink.** In every dwelling unit containing two or more rooms, there shall be at least one kitchen sink with public water under pressure and connected to the public sewer or if that sewer system is not available, to a sewage disposal system approved by the city health department.

**(l). Lavatory Facilities.** Every dwelling unit shall contain within its walls a lavatory basin in good working condition and properly connected to an approved water and sewer system and located in the same room as the required flush water closet or as near to the room as practicable.

**(m). Lighting.** Every habitable room shall have a ceiling electric outlet and a duplex outlet in wall or floor or at least two wall or floor outlets.

**(n). Lighting of Toilets and Bathrooms.** Every toilet and every bathroom in every dwelling shall have at least one electric light in either the ceiling or on the wall.

**(o). Plumbing.** All plumbing, water closets and other plumbing fixtures in every dwelling or dwelling unit shall be maintained in good working order.

**(p). Privies.** All pit privies, privy vaults, "dry hopper" sewer-connected privies and frost-proof closets are hereby declared to be a public nuisance.

**(q). Toilet Facilities.** There shall be at least one flush water closet in good working condition for each dwelling unit, which flush water closet shall be located within the dwelling and in a room which affords privacy.

**(r). Ventilation.** Every habitable room in a dwelling or dwelling unit shall contain a window or windows operable directly to the outside air and the total area of such window or windows shall be not less than five percent of the floor area of such room. An approved system of mechanical ventilation or air conditioning may be used in lieu of operable windows. Such system shall be capable of providing not less than four air changes per hour, except that in toilet compartments such system shall provide a complete air change every five minutes and be automatically put in operation when the toilet compartment light is in the “on” position.

**(s). Water Heating Facilities.** Every dwelling shall have supplied water heating facilities which are installed in an approved manner and are maintained and operated in a safe and good working condition and are properly connected with the hot water lines to the kitchen sink, lavatory and bathtub or shower.

**(t). Windows and Doors.** Every window and exterior door shall be reasonably weather-tight, lockable and rodent-proof and shall be kept in good working condition and good repair.

**(u). Fire Alarms.** Every landlord shall install one working smoke and/or fire alarm in each room that is intended for use as a sleeping area and one smoke and/or fire alarm in the same room or portion of a room containing the home heating system. Alarms shall be mounted on the room ceiling or within 16 inches of the highest ceiling point. At least one carbon monoxide detector shall be mounted within five feet of home heating system. Upon occupancy of the home by a tenant, and until the tenant vacates the home, the tenant shall be responsible for the care and maintenance of all alarms. *(ORD.# 1993 11/5/12)*

**(v). Roof Repair Maintenance.** All roofs and roofing material shall be maintained in good condition and shall be water-tight. All roof repairs shall be made with materials consistent in substance and appearance with the materials of the surrounding area of the roof. Maintenance of the roof shall be the responsibility of the property owner. *(Ord.# 1993 11/5/12)*

**(w). Structural Integrity.** The structural integrity of the dwelling unit shall at all times be maintained in good condition. All sagging or rotting portions of the roof, floors walls, foundation, floor joists and plates, ceiling and all other structural members of the unit shall be repaired and kept in a safe and usable condition. *(ORD.# 1993 11/5/12)*

**(x). Electrical Wiring.** All electrical wiring and its components, including but not limited to outlets, switches and junction boxes , shall be properly installed, and covered so that no exposed wiring is visible or accessible. Proper breaker switches or fuse boxes shall be installed and maintained in good working order. *(ORD.# 1993 11/5/12)*



**8-507. MAINTENANCE AND REPAIR; DWELLINGS.** Every dwelling and every part thereof shall be maintained in good repair by the owner or agent and be fit for human habitation. The roof shall be maintained so as not to leak and all rainwater shall be drained there from so as not to cause dampness in the walls or ceilings. All floors, stairways, doors, porches, windows, skylights, chimneys, toilets, sinks, walls and ceilings shall be kept in good repair and usable condition.

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

**(a).** The Public Officer may determine, or five citizens may petition in writing that any dwelling unit is unfit for human use or habitation if he, she or they find that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such buildings or other residents of the neighborhood or which shall have a blighting influence on properties in the area.

**(b).** Such Conditions may include the following without limitation:

**(1).** Defects therein increasing the hazards of fire, accident or other calamities.

**(2).** Lack of:

I. Adequate ventilation

II. Light

III. Cleanliness

IV. Sanitary facilities

**(3).** Dilapidation

**(4).** Disrepair

**(5).** Structural defects

**(6).** Overcrowding

**(7).** Inadequate ingress and egress

**(8).** Unsightly appearance that constitute a blight to the adjoining property, the neighborhood or the city.

**(9).** Air Pollution

**(c).** Placarding – Order to Vacate. Any dwelling or dwelling unit condemned as unfit for human habitation and so designated and placarded by the public officer shall be vacated within a reasonable time as so ordered.

**(d).** Notice of Violation. Procedures as outlined in section 8-512 are applicable hereto.

(e). Compliance Required before Re-occupancy. No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation until written approval is secured from and such placard is removed by the public officer.

(1). The public officer shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

(2). It shall be unlawful for anyone to let, lease, occupy or permit the occupancy, whether for a consideration or not, of any dwelling so posted and any violation of this provision shall constitute a public offense within the meaning of this code.

(3). It shall be unlawful for any person to deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except the public officer as herein provided and any violation of this provision shall constitute a public offense within the meaning of this code.

**8-509. DESIGNATION OF BLIGHTED PREMISES (RESIDENTIAL AND (NON-RESIDENTIAL)).** The designation of unsightly and blighted premises and elimination thereof shall be carried out in compliance with the following requirements.

(a). The Public Officer may determine or five citizens may petition in writing, that if the appearance of a premise is not commensurate with the character of the properties in the neighborhood or otherwise constitutes a blight to the adjoining property or the neighborhood or the city for such reasons as, but not limited to:

(1). Dead trees or other unsightly natural growth

(2). Unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof; vermin infestation, inadequate drainage

(3). Violation of any other law or regulations relating to the use of land and the use and occupancy of the buildings and improvements.

(b). Notice of Violation. Procedures as outlined in section 8-512 are applicable hereto.

**8-510. DESIGNATION OF BLIGHTED BUILDINGS AND PREMISES (NON-RESIDENTIAL).**

(a). Certain Blighted Conditions covered in sections 8-508:509 concerning buildings and premises which are on the tax roll of the city are applicable to all non-residential buildings and premises.

(b). Notice of Violation. Procedures of notification shall follow those prescribed in section 8-512.

**8-511. INSPECTION OF BUILDINGS, STRUCTURES AND PREMISES.**

**(a).** For the Purpose of Determining Compliance with the provisions of this code, the public officer or his/her authorized representative is hereby authorized to make inspections to determine the condition, use and occupancy of dwellings, dwelling units, rooming units and the premises upon which the same are located. This requirement is applicable to existing dwellings or buildings.

**(b).** The Public Officer is not limited by the conditions in the above paragraph **(a)**. where new construction or vacant premises are involved and may make such inspections at any appropriate time.

**(c).** The Owner, Operator and Occupant of every dwelling, dwelling unit and rooming unit shall give the public officer or his/her authorized representative, during reasonable hours, free access to such dwelling, dwelling unit and rooming unit and its premises, for the purpose of such inspection, examination and survey after identification by proper credentials.

**(d).** Every Occupant of a dwelling shall give the owner thereof, or his/her authorized agent or employee, access to any part of such dwelling or its premises, at all reasonable times, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this code or with any rule or regulation adopted and promulgated or any order issued pursuant to the provisions of this code.

**8-512. NOTICE OF VIOLATIONS; PROCEDURES.**

**(a).** Informal Discussion. Whenever the public officer or his/her authorized representative determines that there has been a violation of any provision of this code, the public officer will arrange with the alleged violator for an informal discussion of violations and whether repair and correction is justified.

**(b).** Formal Hearing. If a satisfactory solution to the violations, either by correction, demolition or removal, is not forthcoming, then a legal notice of a formal hearing will be issued according to the following procedures:

**(1).** Shall be in writing

**(2).** Shall list the violations alleged to exist or to have been committed

**(3).** Shall provide a reasonable time, but not less than 30 days in any event for the correction of the violations particularized.

**(4).** Shall be addressed to and served upon the owner of the property, the operator of the dwelling and the occupant of the dwelling unit or the rooming unit concerned, if the occupant is or may be responsible for violation.

(5). If one or more persons whom the notice is addressed cannot be found or served after diligent effort to do so, service may be made upon such person or persons by posting a notice in a conspicuous place in or about the dwelling affected by the notice, in which event the public officer or his/her authorized representative shall include in the record a statement as to why such posting was necessary.

(6). Delivery shall be by certified mail, return receipt requested or by personal service. If service is made by certified mail, the public officer or his/her authorized representative shall include in the record a verified statement giving details regarding the mailing.

**8-513. PUBLIC OFFICER: AUTHORITY.** For the purpose of protecting the city against unsightly or blighted premises, also the health, welfare and safety of the inhabitants of dwellings or dwelling units, the public officer referred heretofore is hereby authorized, with the consent and prior knowledge of the governing body, to enforce provisions of this code and of other laws which regulate or set standards affecting buildings and premises.

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

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

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

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

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

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

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

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

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

**8-516. DEMOLITION BY PUBLIC OFFICER; PROCEDURE AND COSTS.**

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

(b). The Cost of Demolition by a Public Officer shall be a lien upon the property upon which the cost was incurred and such lien, including as a part thereof an allowance of his/her costs and necessary attorney's fees, may be foreclosed in judicial proceedings in the manner provided or authorized by law for loans secured by liens on real property or shall be assessed as a special assessment upon the lot or parcel of land on which the structure was located and the city clerk at the time of certifying other city taxes, shall extend the same on the tax rolls against the lot or parcel of land.

(c). If the Structure is Removed or Demolished by the Public Officer he/she shall offer for bids and sell the structure or the materials of such structure. The proceeds of such sale shall be credited against the cost of the removal or demolition and, if there is any balance remaining, it shall be paid to the parties entitled thereto after deduction of costs or judicial proceedings, if any, including the necessary attorney's fees incurred therein, as determined by the court, if involved. (Code 2003)

**8-517. CONFLICT OF LAWS; EFFECT OR PARTIAL INVALIDITY.**

(a). Conflicts between the provisions of this code and with a provision of any zoning, building, fire, safety or health ordinance or code of the city, existing on the effective date of this article, the provision shall prevail which establishes the higher standard.

(b). Conflicts between this article with a provision of any other ordinance or code of the city existing on the effective date of this article which establishes a lower standard, the provisions of this article shall be deemed to prevail and such other laws or codes are hereby declared to be repealed to the extent that they may be found in conflict with this code.

**8-518. GOVERNING BODY; APPEALS.**

(a). Any person, firm or corporation considering themselves aggrieved by the decision of the public officer and who desires to present a formal protest to the governing body shall in writing, request a hearing before the governing body within 10 days after receiving notice of the decision from the public officer, as provided in section 8-512(b). Such protest and request for a hearing shall be filed with the office of the city clerk.

## ARTICLE 6. RODENT CONTROL

- 8-601. DEFINITIONS.** For the purposes of this article, the following words and phrases shall have the following meanings:
- (a). Building.** Any structure, whether public or private, that is adapted for occupancy as a residence, the transaction of business, the rendering of professional services, amusement, the display, sale or storage of goods, wares or merchandise or the performance of work or labor, including office buildings, public buildings, stores, theater, markets, restaurants, workshops and all other houses, sheds and other structures on the premises used for business purposes.
  - (b). Occupant.** The person that has the use of, controls or occupies any business building or any portion thereof, whether owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, the owner, agent or other person having custody of the building shall have the responsibilities of an occupant of a building.
  - (c). Owner.** The owner of any building or structure, whether individual, firm, partnership or corporation.
  - (d). Rat harborage.** Any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside a structure of any kind.
  - (e). Rat stoppage.** A form of rat-proofing to prevent the ingress of rats into buildings from the exterior or from one building to another, consisting essentially of the closing of all openings in the exterior walls, ground or first floors, basements, roofs and foundations, that may be reached by rats from the ground by climbing or by burrowing, with material or equipment impervious to rat-gnawing.
- 8-602. BUILDING MAINTENANCE.** All buildings and structures located within the present or future boundaries of the city shall be rat-stopped, freed of rats and maintained in a rat-stopped and rat-free condition.
- 8-603. NOTICE TO RAT-STOP; WHEN CITY TO DO WORK.** Upon receipt of written notice from the governing body, the owner of any building or structure specified therein shall take immediate measures for the rat-stoppage of such building or structure. The work shall be completed in the time specified in the written notice, which shall be within 15-days or within the time of any written extension thereof that may have been granted by the governing body.
- 8-604. FAILURE TO COMPLY.** If the owner fails to comply with such written notice of extension, then the governing body is authorized to take such action as may be necessary to completely rat-stop the building or structure at the expense of

the owner and the city clerk shall submit bills for the expense thereof to the owner of the building or structure. If the bills are not paid within 60-days, the city clerk shall certify the amount due to the city treasurer and the charge shall be a lien against the property where the work has been done and the owner shall be promptly billed therefore. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for rat-stoppage.

- 8-605. REPLACE RAT-STOPPAGE.** It shall be unlawful for any occupant, owner, contractor, public utility company, plumber or any other person to remove the rat-stoppage from any building or structure for any purpose and fail to restore the same in a satisfactory condition or to make any new openings that are not closed or sealed against the entrance of rats.
- 8-606. NOTICE TO ERADICATE RATS.** Whenever the governing body notifies in writing the owner of any building or structure theretofore rat-stopped as hereinabove defined, that there is evidence of rat infestation of the building or structure, the owner shall immediately institute appropriate measures for freeing the premises so occupied of all rats. Unless suitable measures for freeing the building or structure of rats are institute within five days after the receipt of notice and unless continually maintained in a satisfactory manner, the city is hereby authorized to free the building or structure of rats at the expense of the owner thereof and the city clerk shall submit bills for the expense thereof to the owner of the building or structure and if the same are not paid, the city clerk shall certify the amount due from the owner to the city treasurer and the owner shall be promptly billed therefore. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for the eradication measures.
- 8-607. CONDITIONS CONDUCIVE TO HARBORAGE OF RATS.**
- (a).** All food and feed kept within the city for feeding animals shall be kept and stored in rat-free and rat-proof containers, compartments or rooms unless kept in a rat-stopped building.
  - (b).** It shall be unlawful for any person to place, leave, dump or permit to accumulate any garbage or trash in any building or premises so that the same shall afford food and harborage for rats.
  - (c).** It shall be unlawful for any person to accumulate or to permit the accumulation on any premises or on any open lot any lumber, boxes, barrels, bricks, stone or similar materials that may be permitted to remain thereon and which are rat harborages, unless the same shall be placed on open racks that are elevated not less than 12-inches above the ground, evenly piled or stacked.

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

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

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

(e). Except where an immediate hazard exists as described in section 8-612 of this code, the filing of a protest and request for a hearing before the governing body as specified in subsection (a) shall operate as a stay of the enforcement of the public officer's order until such time as the governing body has reached a decision on the matter.

**8-519. RIGHT OF PETITION.** After exhausting the remedy provided in section 8-518, any person aggrieved by an order issued by the public officer and approved by the governing body after a hearing on the matter, may within 30 days from the date which the order became final petition the district court of the county in which the property is located to restrain the public officer from carrying out the provisions of the order.



(d). Whenever conditions inside or under any building or structure provide such extensive harborage for rats that the health department deems it necessary to eliminate such harborage, he/she may require the owner to install suitable cement floors in basements or to replace wooden first or ground floors or require the owner to correct such other interior rat harborage as may be necessary in order to facilitate the eradication of rats in a reasonable time and thereby to reduce the cost of such eradication.

**8-608. INSPECTIONS.** The codes enforcement officer is empowered to make such inspections and re-inspections of the interior and exterior of any building or structure as in his or her opinion may be necessary to determine full compliance with this article.

## ARTICLE 7. LITTERING

**8-701. PROHIBITION.** Littering is hereby prohibited

**8-702. DEFINITIONS.** Littering is dumping, throwing, placing, depositing or leaving, or causing to be dumped, thrown, deposited or left any refuse of any kind or any object or substance which tends to pollute, mar or deface, into or about:

**(a).** 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

**(b).** Any private property without the consent of the owner or occupant of such property.

**8-703. PENALTY.**

**(a).** Conviction of violation of this Article shall be punishable by a fine of up to \$1,000.00 and an order for restitution for any damage caused by the littering of which the defendant is convicted.

**(b).** In addition to the fines and restitution specified in sub-section (A)., a person convicted of lettering may, at the Court's discretion, be required to pick up litter for a time and in a place prescribed by the Court and within the Court's jurisdiction. (*ORD. # 1960 12/1/08*)

## ARTICLE 8. LANDLORD LICENSING

- 8-801** (a). It is hereby declared that there exist within the town rental housing units, which by reason of their operation, use or occupancy affect or are likely to affect the public health, safety and general welfare of the city.
- (b). It is further declared that the purpose of the ordinance codified in this chapter is to protect the health, safety and general welfare of the citizens of the city by requiring the licensing of owners of rental housing units as well as the registration and regulation of all rental housing units which are or shall be in the existence in the city.
- 8-802** The following definitions shall apply in the interpretation and enforcement of this chapter
- “Clerk” means the person elected to serve as the city clerk, or any deputy or employee appointed by the clerk, with the approval of the city council or the City Administrator.
- “Code” means any provision in the Pleasanton Municipal Code.
- “Code enforcement officer” means an officer specifically designated by the city of Pleasanton to enforce the Pleasanton Municipal Code.
- “Landlord” means an owner of rental housing units.
- “Landlord license” means a license that is issued to a landlord by the City Administrator of the city of Pleasanton upon evidence of completion of a Landlord License Application, and which is valid for one year.
- “Landlord license application” means the application for a landlord license.
- “Manager” means a person employed by or on behalf of the owner to operate, maintains and conducts the business of the landlord.
- “Nuisance” means a condition, conduct, or activity on real property that is:  
(1). injurious to health; (2). indecent; (3). offensive to the senses; or  
(4). an obstruction to the free use of property; so as essentially to interfere with the comfortable enjoyment of life or property.
- “Owner” means the legal title holder or holders of the realty, **except:** (1). if legal title is held by a trust, “owner” means the beneficial owner or owners of the trust; and (2). if there is a purchaser or purchasers under a real estate installment sales contract, “owner” means the purchaser or purchasers; and (3). the manager if authorized to act on behalf of the owner for purposes of this chapter. The singular shall include the plural throughout.
- “Person” means and includes an individual, corporation, firm, partnership, association, organization, company, or limited liability company.

“Property management action plan” means a plan agreed to by the City Administrator and the landlord to bring the rental unit into compliance with the applicable codes listed herein.

“Registered agent” means an agent of the owner or landlord who lives within Linn County, Kansas or has been designated as the registered agent

“Rental unit” or “rental housing unit” means any apartment, house, duplex, condominium, or room in a rooming house that is not owner-occupied which is let or intended to be let to a person for compensation.

“Rental unit application” means the application which the landlord completes in order to obtain a rental unit permit for each rental unit owned by the landlord.

“Rental unit permit” means an annual permit issued by the City Administrator to a landlord following the filing of a permit application form and the appropriate inspections required by this chapter.

“Rental unit inspection fee” means a fee paid by the landlord when said landlord has challenged the results of the initial City inspection of a rental unit and the resulting professional inspection has concurred with the initial City inspection. Said fee shall be paid before a rental unit permit is granted and shall be equal to the total cost to the City of said professional inspection.

“Rooming house” means any building used for living and sleeping in which a person or persons are housed with no individual kitchen facilities provided.

“State” means the state of Kansas.

“Tenant” means any person, other than the owner, entitled to occupy a rental unit under a lease agreement to the exclusion of others.

“City Administrator” means the person employed by the city council to be the administrative head of the city.

**8-803**

**(a).** An owner of a rental unit must obtain a landlord license from the city before the owner permits occupancy of such rental unit. It is unlawful for any owner without a landlord license to lease a rental unit. For those owners of currently occupied rental units at the time of passage of this chapter, a landlord license must be obtained within ninety days of the date of passage of this chapter.

**(b).** Procedure for Obtaining Landlord License.

**(1).** Landlord License Application. Each owner of a rental unit shall file a landlord license application with the City Clerk. All landlord

license applications shall be submitted to the City Clerk on forms prescribed by the City Administrator and maintained on file in the City Clerk's office. Upon receipt of a landlord license application, the City Clerk shall forward such form or information to the City Administrator for his or her review, in accordance with this chapter. The landlord license application shall require the owner to give the following information under oath:

- (A).** Names, address, telephone number and e-mail address of the owner;
- (B).** Registered agent's name, address, telephone number and e-mail address if applicable;
- (C).** Name, address, telephone number and e-mail of on-site management company or individual, if different from the owner;
- (D).** The names of partners or corporate officers and their office addresses if applicable;
- (E).** The length of time the business has operated in the city or the state;
- (F).** If the owner is a corporation, a certificate from the Secretary of State certifying that the applicant is a corporation in good standing under the laws of the state and is certified to do business in the state;
- (G).** Whether or not the owner or any partner or corporate officer has been denied a license or had a license revoked or suspended in connection with maintaining, operating, or conducting the business of a landlord in the city or state;
- (H).** Whether or not the owner or any partner or corporate officer has been convicted of a felony in connection with maintaining, operating, or conducting a business or commercial activity;
- (I).** A statement that the owner agrees to conduct, maintain and supervise all rental units and the surrounding premises owned by the owner so as to not create a nuisance, or permit conduct or activity at the rental unit or on its premises that endangers the public health and welfare;
- (J).** A statement that the owner certifies that the landlord license application is accurate and does not contain any material omissions and/or materially false or misleading information.

**(2).** Issuance of Landlord License. Upon receipt of the completed landlord license application, and subject to all other requirements of

this Article, the City Administrator shall issue the landlord license to the owner.

**(3).** Amended Landlord License Application. If at any time the information contained in the landlord license application changes materially before the filing of a new landlord license application, the landlord shall update the landlord license application. Failure to update the landlord license application shall be a violation of this chapter.

**(c).** Restrictions of the Landlord License. A landlord license shall be valid for one calendar year. The initial license shall be valid for whatever portion of the calendar year remains at the time the application is filed.. A landlord license is nontransferable. A landlord license, in and of itself, shall not be interpreted as granting the owner the privilege of letting the structure for residential occupancy, but must be accompanied by a valid rental unit permit for each unit.

**(d).** Renewal of the Landlord License. At the expiration of the landlord license, the owner may renew the landlord license by submitting another landlord license application. A renewal of the landlord license may not be refused without cause.

**(e).** Grounds for Denial of Landlord License Applications. The City Administrator may deny any landlord license application if he/she determines that any or the following events have occurred or conditions exist:

**(1).** The owner has failed to provide all the information requested on the landlord license application pursuant to subsection (b).(1). of this section;

**(2).** The owner has failed to pay all the required fees and penalties pursuant to this chapter;

**(3).** If the owner is a non-natural person, the applicant is not organized under the laws of the state of Kansas, controlled by the laws of the state or is not authorized and qualified to engage in business in the state;

**(4).** The owner has refused inspection of a rental unit and its premises by public authorities acting pursuant to law;

**(5).** The owner has obtained the landlord license or rental unit permit through fraud, collusion or illegality;

**(6).** The owner or any partner or corporate officer has been denied a license or had a license revoked in connection with maintaining, operating, or conducting the business of a landlord in the city or state;

- (7).** The owner or any partner or corporate officer has been convicted of a felony in connection with maintaining, operating, or conducting a business or commercial activity;
- (8).** The owner has materially or substantially failed to comply with a property action management plan;
- (9).** The owner has failed to remediate any material statutory or code violations of any rental unit;
- (10)** The application or any previous application for a landlord license filed by an owner contains any material omissions and/or materially false or misleading information;
- (11)** Any rental unit and/or the premises of the owner are conducted or maintained in such a manner as to create a nuisance, or threat to the public health or general welfare;
- (12)** The owner has been determined to be aiding, abetting, encouraging, permitting, harboring, or engaging in criminal conduct or criminal activities in any of his rental units or on any of the owner's rental unit premises; or
- (13)** The owner, or any partner or corporate officer of the owner or the manager, of the premises sought to be operated under the landlord license has failed to comply in any material respect with any city ordinances, or state law applicable thereto, so that such failure to comply resulted in or may result in the endangerment of the tenant's or general public's health, safety and welfare. If the City Administrator believes there is reasonable cause to deny a landlord license application, the City Administrator shall issue written notice of the denial to the owner with the specific grounds for such denial. The City Administrator shall return the landlord license fee, if paid, to the owner whose application was denied. The owner may appeal the determination of the City Administrator to the city council as set forth in Section 8-105 of this chapter.

**(f).** Revocation of the Landlord License. The City Administrator may revoke a landlord license at any time. The City Administrator may revoke a landlord license if he/she determines that any of the following events have occurred or conditions exist:

- (1).** The landlord is a non-natural person and is no longer authorized or qualified to engage in business in the state;
- (2).** The landlord has refused inspection of a rental unit and its premises by public authorities acting pursuant to law;
- (3).** The landlord has obtained the landlord license or rental unit permit through fraud, collusion or illegality;

- (4).** The owner or any partner or corporate officer has been denied a license or had a license revoked or suspended in connection with maintaining, operating, or conducting the business of a landlord in the city or state;
- (5).** The owner or any partner or corporate officer has been convicted of a felony in connection with maintaining, operating, or conducting a business or commercial activity;
- (6).** The landlord has materially or substantially failed to comply with a property action management plan;
- (7).** The landlord has failed to remediate any statutory or code violations of any rental unit;
- (8).** A landlord license application filed by an owner, including required updates, contains any material omissions and/or materially false or misleading information;
- (9).** Any rental unit and/or premises of the landlord are conducted or maintained in such a manner as to create a nuisance which threatens the public health or general welfare;
- (10)** The landlord has been deemed to be aiding, abetting, encouraging, permitting, harboring, or engaged in criminal conduct or criminal activities in any of his/her rental units or on any of his/her rental unit premises;
- (11)** The landlord has failed to pay any outstanding penalties or fees that have been outstanding for ninety days;
- (12)** The owner, or any partner or corporate officer of the owner, of the premises sought to be operated under the landlord license has failed to comply in any material respect with any city ordinances, or state law applicable thereto, so that such failure to comply resulted in or may result in the endangerment of the tenant's or general public's health, safety and welfare. If the City Administrator believes there is reasonable cause to revoke a landlord's license, the City Administrator shall issue written notice of the revocation with the specific grounds for the revocation. The owner may appeal the revocation to the city council as set forth in Section 8-105 of this chapter.

**8-804**

**(a).** Rental Unit Permit Required. It is unlawful for any owner to let a rental unit to a person for occupancy unless there is a valid rental unit permit issued for such rental unit pursuant to this chapter. A landlord must register annually each of his/her rental units on or before the expiration date of the prior rental unit permit each year by filing a rental unit permit application with the City Clerk. An owner must apply for a rental unit permit for each rental unit within ninety days of the effective date of the



ordinance codified in this chapter or within thirty days of obtaining title to a rental unit. Rental Unit Permits shall be valid for one calendar year. The initial Rental Unit Permit shall be valid for that portion of the calendar year remaining at the time of the initial application. All Rental Unit Permits shall expire on the final day of the calendar year.

**(b).** Procedure. All rental unit permit applications shall be submitted to the City Clerk on forms prescribed by the City Administrator and maintained on file in the City Clerk's office. Upon receipt of a rental unit permit application, the City Clerk shall forward such application or information to the City Administrator for his or her review, in accordance with this chapter.

**(c).** Rental Unit Permit Application. The rental unit permit application shall include and state, under oath, the following information:

**(1).** Name, address, phone number, and e-mail address of the owner;

**(2).** Name, address, phone number, and e-mail address of the manager;

**(3).** Proof of a valid landlord license issued by the city;

**(4).** Street address of the rental unit, or detailed listing of all rental units containing the street address and unit number of all rental units at the owner's complex;

**(5).** A statement that the owner agrees to conduct, maintain and supervise all rental units and the surrounding premises owned by the owner so as to not create a nuisance, or permit conduct or activity at the rental unit or on its premises that endangers the public health and welfare;

**(6).** A statement that the owner certifies that the rental unit application is accurate and does not contain any material omissions and/or materially false or misleading information. For purposes of this section, a post office box does not suffice as an address. One rental unit permit application may be submitted for all rental units, as identified by exhibit, containing the above-referenced information and a separate rental unit permit fee for each rental unit.

**(d).** City Inspection.

**(1).** Upon each vacancy or change of occupants in the rental unit, and before new or different tenants shall occupy the unit, the landlord shall notify the City Administrator, and the building inspector, the code enforcement officer and any other governmental agencies as required by the City Administrator, may inspect the rental unit as directed by the City Administrator, to verify zoning and to ensure that the rental unit complies with the applicable provisions

of the code. An inspection is not required prior to the issuance of the rental unit permit.

**(2).** The landlord shall be notified of a date and time that the inspection will take place.

**(A).** A search warrant may be obtained to inspect the rental unit, to the extent the landlord does not consent to an inspection.

**(B).** No rental unit having a rental unit permit shall be inspected more than once a year unless a substantiated complaint has been received from a city citizen or the City Administrator has reasonable cause to believe a violation of the code exists.

**(B).** Each Landlord shall be provided a check list of sections of the Minimum Housing Code that will be covered in the inspection.

**(3).** No fee shall be charged for this City inspection.

**(4).** The officer with the department charged with the duty of making an inspection shall make a report thereon, favorable or otherwise, to the City Administrator within ten days after completing the inspection. The report shall specify all violations of the code.

**(5).** If the landlord believes the initial City inspection report is incorrect in deficits it has identified in the rental unit, the landlord may appeal the report in writing to the City Administrator, who shall schedule an inspection by a professional building inspector. If the professional inspection upholds the findings of the initial City inspection, the landlord shall be assessed an inspection fee equal to the cost to the City of the professional inspection. This fee shall be paid in full prior to the issuance of a rental unit permit.

**(6).** In lieu of the initial City inspection described herein, the City Administrator may accept written evidence that the rental unit in questions has been inspected and approved within the previous 90 days by a qualified Inspector in behalf of the Department of Housing and Urban Development.

**(e).** Issuance of Rental Unit Permit. Upon receipt of a rental unit application and the Rental Unit Inspection Fee, if applicable, the City Administrator shall issue a rental unit permit for each rental unit set forth in the permit application complying with this chapter and not in violation of subsection (h). of this section. A rental unit permit shall be valid for one calendar year, except that the initial rental unit permit shall be valid for that portion of the calendar year remaining at the time of the initial issuance of the permit. A rental unit permit issued pursuant to this section is renewable on or before the expiration of such permit, and all renewal

permits shall be dated on, or as of, the date the permit would have otherwise expired.

**(f).** Amended Registration. If at any time the information contained in the rental unit application materially changes before the filing of the annual rental unit permit application, the landlord shall update the rental unit permit application. No fee shall be required to update the rental unit permit application. Failure to update the rental unit permit application shall be a violation of this chapter.

**(g).** Property Management Action Plan.

**(1).** If after inspection, violations of the code exist, the landlord shall be cited for the violations by the inspecting officer. If after ten days following the citation, the violations continue, the City Administrator shall meet with the landlord to develop a property management action plan to bring the rental unit into compliance by a specified date. The property management action plan may concern, but is not limited to the following issues:

- (A).** Providing a habitable dwelling;
- (B).** Observing occupancy limits;
- (C).** Maintaining electrical systems meeting code requirements;
- (D).** Maintaining plumbing systems meeting code requirements;
- (E).** Maintaining heating and cooling systems meeting code requirements;
- (F).** Maintaining proper fire protection systems;
- (G).** Eliminating health and safety hazards;
- (H).** Improving or providing for the security of the premises; **or**

**(2).** Requiring regular inspections if problems with the rental unit occurs regularly.

**(3).** If the landlord fails to take action either by:

- I.** not meeting with the City Administrator;
- II.** not implementing the property management action plan; or
- III.** not completing the property management action plan by the required date, the landlord shall be in violation of this chapter

**(4).** If the tenant of the rental unit is impeding the landlord from complying with the code, the City Administrator shall meet with the landlord and the tenant to develop a property management action plan.

**(5).** Upon compliance with the property management action plan , the City Administrator shall issue or reissue the rental unit permit.

**(h).** Denial or Suspension of a Rental Unit Permit. An application for a rental unit permit may be denied, or a rental unit permit may be suspended, by the City Administrator if the City Administrator determines that any of the following events has occurred or conditions exist:

**(1).** The rental unit permit was obtained through fraud, collusion or illegality;

**(2).** There is a material and substantial noncompliance with the property management action plan;

**(3).** The landlord has failed to remediate code violations

**(4).** The rental unit permit application filed by the landlord contains material omissions and/or materially false or misleading information;

**(5).** The rental unit subject to the permit and/or its premises are conducted or maintained in such a manner as to create a nuisance, or threat to the public health or general welfare;

**(6).** The rental unit subject to the rental unit permit and/or its premises has been determined to be aiding, abetting, permitting, harboring, or used in criminal conduct or criminal activities; or

**(7).** The owner's landlord license has been suspended or revoked in accordance with this chapter. Before a rental unit permit may be suspended, the City Administrator shall give written notice of the suspension to the landlord with the date of suspension effective thirty days from the date of the notice. The suspension will remain in effect until all fees and penalties have been paid and the rental unit is in compliance. A denial or suspension may be appealed to the city council as set forth in Section 8-105 of this chapter.

**(i).** Notice. Notice of all violations of the Minimum Housing Code or of any other city regulations of codes, as well as notice of any proceedings under this act, shall be served in person or by first class mail on both the resident of the rental unit and on the Landlord.

**(j).** Revocation of a Rental Unit Permit. A rental unit permit may be revoked after three suspensions or if the suspension remains in effect for ninety days. A revocation of a rental unit permit may be appealed to the city council as set forth in Section 8-105 of this chapter.

**8-805** Whenever an owner wishes to appeal any decision of the City Administrator:

**(1)** . refusing to issue or renew a landlord license;

**(2)** . suspending or revoking a landlord license;

**(3)** . refusing to issue or renew a rental unit permit; or

(4). suspending or revoking a rental unit permit, the owner must first appeal to the city council in compliance with the procedures set forth herein.

(a). An owner may request in writing an informal hearing to dispute the determination of the City Administrator, within ten days after receiving notice of:

(1). a refusal to issue or renew a landlord license;

(2). a suspension or revocation of a landlord license;

(3). a refusal to issue or renew a rental unit permit; or

(4). a suspension or revocation of a rental unit permit. The written request to dispute the determination must be filed with the City Clerk. The City Clerk shall notify the city council.

(b). Following notification, the city council shall:

(1). Set the appeal for a hearing;

(2). Set a time, date, and location for such hearing; and

(3). Notify the owner and the City Administrator of the hearing time, date, and location at least ten working days prior to the hearing.

(c). The hearing shall be conducted by the city council or its designated officer; provided however, that the City Administrator shall not conduct such hearing.

(d). The owner shall bear the burden of proof that the City Administrator's decision should be vacated. The City Administrator or person appointed by the City Administrator may present evidence at the hearing which supports the City Administrator's decision.

(e). Following a hearing, the city council may overturn or confirm the City Administrator's determination. The decision of the city council or hearing officers or his/her appointees shall be final and the decision, together with reasons thereof, shall be delivered in writing within thirty working days from the close of the hearing to the person taking the appeal with a copy delivered to the City Administrator who shall keep all decisions on file in the City Administrator's office

(f). All decisions shall become effective upon delivery to the City Administrator.

**8-806** Any person who violates any provision of this chapter shall be subject to a fine of not more than one hundred dollars per day for each violation. Each day that a violation continues shall be a separate offense. (ORD.# 1994 1/8/13)

# **CHAPTER IX. MUNICIPAL COURT**

## **ARTICLE 1. GENERAL PROVISIONS**

- 9-101. MUNICIPAL COURT ESTABLISHED.** There is hereby established a municipal court for the City of Pleasanton, Kansas. The municipal court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city.
- 9-102. SAME; PRACTICE AND PROCEDURE.** The Kansas code of procedure for municipal courts, as set forth in K.S.A. 12-4101 *et seq.* and all acts amendatory for supplemental thereto shall govern the practice and procedure in all cases in the municipal court.
- 9-103. TIME AND PLACE OF SESSIONS.** Municipal court shall be held in the municipal courtroom in the city hall building on such days and at such hours as the municipal judge designates.
- 9-104. MUNICIPAL JUDGE; APPOINTMENT.** The municipal court shall be presided over by a municipal judge. The mayor, subject to the approval of the city council, shall appoint the judge of the municipal court.
- 9-105. SAME; ABSENCE; VACANCY; PRO TEM.** In the event the municipal judge is temporarily unable to preside due to absence, illness or disqualification, the municipal judge shall designate an attorney or other qualified person to act as judge pro tempore. In the event the municipal judge fails to appoint a judge pro tempore, the judge pro tempore shall be appointed in the same manner as the municipal judge is selected. The judge pro tempore shall receive compensation as shall be provided by ordinance, payable in the same manner as the compensation of the regular municipal judge.  
In the event a vacancy shall occur in the office of municipal judge, a successor shall be appointed to fill the unexpired term in the same manner as the municipal judge was appointed.
- 9-106. SAME; POWERS AND DUTIES.** The municipal judge shall have such powers and duties as set forth in the Kansas code of procedure for municipal courts (K.S.A. 12-4101 *et seq.*) and all acts amendatory or supplemental thereto.
- 9-107. SAME; SALARY.** The municipal judge shall receive a salary as shall be fixed by ordinance.

**9-108. COURT CLERK.** There is hereby established the office of the clerk of the municipal court of the City of Pleasanton, Kansas, which office shall be filled by appointment by the municipal judge of the municipal court. The duties of the office shall be those prescribed by the Code for Municipal Courts set forth in Chapter 12, Article 41 of the Kansas Statutes and shall include the following duties:

(a). The clerk shall issue all process of the court, administer oaths, file and preserve all papers, docket cases and set same for trial and shall perform such further acts as may be necessary to carry out the duties and responsibilities of the court. The clerk shall receive, account for and pay to the city treasurer monthly all fines and forfeited bonds paid into the court. The clerk shall make reports to the judicial administrator and furnish the information when requested by him/her or a departmental justice on such forms furnished by the judicial administrator and approved by the Supreme Court.

(b). The clerk of the municipal court shall within 10 days after selection and before entering upon the duties of office, execute to the city such bond as the governing body may require, which shall be approved by the governing body and file in the office of the city clerk, conditioned for the faithful performance of the duties required of him/her by law and for the faithful application and payment of all moneys that may come into his/her hands in the execution of the duties of the office. The city shall pay the cost of such bond.

(c). The monthly salary of the clerk shall be fixed by ordinance.

(d). A majority of all members of the council may remove the clerk appointed under the authority of this article or for good cause the mayor may temporarily suspend any such appointed clerk.

**9-109. PAYMENT OF FINE.** Where a municipal court judgment against any person results in a fine and/or court costs only, the same shall be satisfied by paying the amount of such fine and/or court costs to the municipal court immediately on the rendition of judgment or at such time as the municipal judge shall determine.

**9-110. SAME; FAILURE TO PAY SEPARATE VIOLATION.** It shall be unlawful for any person to willfully fail to pay any lawfully imposed fine for a violation of any law of the city within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the fine is due. Such conduct constitutes a violation of this article, regardless of the full payment of the fine after such time.

**9-111. FAILURE TO APPEAR.**

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

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

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

**(d).** Failure to appear, upon conviction thereof, shall be punishable by incarceration for up to 30 days and/or a fine of up to \$250.

**9-112. COURT COSTS.** Each person found guilty of a violation of the ordinances of the City of Pleasanton, Kansas, shall be assessed costs for the administration of justice in the Municipal Court of the City of Pleasanton, Kansas and such costs shall be determined by ordinance.

**(a).** Each person found guilty of a violation of any ordinance of the City of Pleasanton, Kansas shall be assessed costs of Thirty-nine dollars and fifty cents (\$39.50) for the administration of justice in the Municipal Court of the City of Pleasanton, Kansas.

**(b).** If a defendant is found guilty of more than one charge arising out of the same incident, all of those charges shall be considered as one case for the purpose of calculating and assessing court costs, and that defendant shall only be assessed on court cost for the case.

**(c).** Convictions of parking violations shall not be considered cases for the purpose of this ordinance and no assessment of court costs shall be made thereon.

**(d).** In addition to the above referenced court costs, the City of Pleasanton shall collect on each case, as defined above, those State of Kansas costs mandated by statute. (Ord. #1976 1/18/11)



# **CHAPTER X. POLICE**

## **ARTICLE 1. POLICE DEPARTMENT**

**10-101. POLICE DEPARTMENT.** The law enforcement department shall consist of a chief of police and such number of regular law enforcement officers as shall be appointed as provided by K.S.A. 15-204.

**10-102. LAW ENFORCEMENT PERSONNEL; GENERAL DUTIES.** It shall be the general duty of the chief of police and all sworn law enforcement personnel to the best of their ability to preserve good order, peace and quiet throughout the city as provided by law or ordinance.

The chief of police and all sworn law enforcement personnel shall at all times have power to make arrest under proper process or without process on view of any offense against the laws of the State of Kansas or laws of the city and to keep all persons so arrested, unless admitted to bail, in the city jail, county jail or other proper place to prevent their escape until their trial can be had before the proper officer.

All persons arrested for violation of any law of the state and who shall not be charged with an offense under any law of the city shall be released to the custody of the sheriff of the county and such arrest shall be reported to the county attorney.

**10-103. RULES AND REGULATIONS.** The chief of police shall have power to make such rules and regulations as may be necessary for the proper and efficient conduct of the department. Such rules and regulations shall be approved by the governing body.

## ARTICLE 2. PROPERTY IN POLICE CUSTODY

- 10-201. REGULATIONS.** The police department is required to establish regulations detailing the collection, storage and inventory of property which may come under its control by any manner.
- 10-202. DISPOSITION.** Any property which has been acquired or turned over to the police department and has been classified in accordance with procedures existing in the police department as unclaimed or for which the proper owner cannot be ascertained shall be kept for a minimum of 90 days. After a period of 90 days, such property, except as provided in section 10-203, shall be sold at public auction to the highest bidder and the proceeds after expenses shall be paid to the city general fund.
- 10-203. SAME; EXEMPT PROPERTY.** The following classes of property shall be considered exceptions to section 10-202 and shall be dealt with in the following manner:
- (a).** Cash money shall be turned over to the city general fund unless it shall be determined to have collector's value, in which case it shall be auctioned according to the provisions in section 10-202.
  - (b).** Firearms which are available for disposition may be dealt with in the following manner:
    - (1).** If compatible with law enforcement usage, they may be turned over to the police department inventory.
    - (2).** They may be sold to a firearms dealer who maintains the appropriate federal firearms license.
    - (3).** They may be destroyed.
    - (4).** In no case shall firearms be sold at public auction.
  - (c).** Other weapons such as knives, etc., which are deemed to have a legitimate value may be sold at auction, however, homemade weapons or weapons of a contraband nature shall be destroyed.
  - (d).** Any items determined to be contraband such as explosives, narcotics, etc., shall be destroyed.
  - (e).** Items of a pharmaceutical nature, which, while not contraband when properly dispensed or which are of an over-the-counter-variety, shall be destroyed.
  - (f).** Foodstuffs, if sealed and undamaged may be turned over to any appropriate social service agency or destroyed, but shall not be auctioned.
  - (g).** Alcohol products such as beer, wine, whiskey, etc., shall be destroyed.

(h). Items with a value in excess of \$500 may be sold after advertising said item in a general circulation newspaper on at least two occasions. Such sales shall be by closed bid.

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

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

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

## ARTICLE 3. POLICE FEES

**10-301. FEE FOR POLICE RESPONSES TO PARTY.** Definitions. As used in this article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

Host: The person who owns or is in possession of the property where the party, gathering or event takes place or the person in charge of the premises or the person who organized the event. If the host is a minor, then the parents or guardians of that minor will be jointly and severally liable for the fee incurred for police services.

Party, Gathering or Event: An event involving a group of persons who have assembled or are assembling for a social occasion or for a social activity

Police Services Fee: The cost to the city of any special security assignment, including, but not limited to, salaries of police officers while responding to or remaining at the party, gathering or event, the pro rata cost of equipment, the cost of repairing city equipment and property, the cost of any medical treatment of injured police officers and the cost of reasonable attorney fees.

Special Security Assignment: The assignment of police officers, services and equipment during a second or subsequent response to the party, gathering or event after the delivery of a written notice to the host that a fee may be imposed for costs incurred by the city for any subsequent police response.

**10-302. INITIAL POLICE RESPONSES TO PARTIES, GATHERINGS OR EVENTS.**

When any police officer responds to any party, gathering or event and that police officer determines that there is a threat to the public peace, health, safety or general welfare, the police officer shall issue a written notice to the host or hosts that a subsequent response to that same location or address within 24 hours of the first response shall be deemed a special security assignment rendered to provide security and order on behalf of the party, gathering or event and that the host may be liable for a police services fee as defined in this article. (Code 2003)

**10-303. SUBSEQUENT POLICE RESPONSES TO PARTIES, GATHERINGS OR EVENTS; LIABILITY.** If, after a written notice is issued pursuant to section 10-302, a subsequent police response or responses is necessary to the same location or address within 24 hours of the first response, such response or responses shall be deemed a special security assignment. Persons previously warned shall be jointly and severally liable for a police services fee as defined in this article.

The amount of the fee shall be a debt owed to the city by the person or person warned and if he/she is a minor, his/her parents or guardians shall be jointly and severally liable for the debt.

**10-304. COST; COLLECTION.** The chief of police shall notify the city treasurer in writing of the performance of a special security assignment, of the name and address of the responsible person or persons, the date and time of the incident, the services performed, the costs and such other information as may be required. The city treasurer shall thereafter cause appropriate billings to be made.

(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 ordinances of the city;

(5). The vehicle was used in authorized public activities, such as parades, fireworks, sport events, musical productions and other activities which have the approval of the department of the city authorized to grant such approval.

#### **11-204. CURFEW.**

(a). It shall be unlawful for a child under the age of 18 years to wander, lounge, loaf, loiter or play in, about or upon any public street, alley, sidewalk, vacant lot, public place or other place normally accessible to the general public for public use, whether on foot or in a vehicle or any other means after the hour of 10:00 p.m. and before the hour of 6:00 a.m. on the dates of October 29<sup>th</sup>, 30<sup>th</sup>, 31<sup>st</sup> and November 1<sup>st</sup>. It shall be unlawful for any parent or legal guardian of any child under the age of 18 years to suffer, permit or allow any such child to wander, lounge, loaf, loiter or play in, about or upon any public street, alley, public for public use, during the hours of curfew applicable to such child unless such child is accompanied by a parent or legal guardian.

(b). Exceptions. The curfew restriction set out in subsection (a). shall not apply under the following circumstances:

(1). When a person under 18 years of age is accompanied by his/her parent or guardian.

(2). when a person under 18 years of age is attending a school function or other activity under the supervision of a school or sponsored by parents or while returning home from any such function or activity by way of the most direct route.

(3). When a person under 18 years of age is going to or from a place of lawful employment by way of the most direct route or is an emergency errand.

(c). Possession of Eggs Prohibited. It shall be unlawful for any person to have or exercise control over any kind of eggs while on or in any public area including but not limited to streets, highways, roads, parks and parking lots within the city. Further, it shall be unlawful to throw or project such eggs onto any such public area or any person or property located or traveling on such public area or roadway. The provisions of this section shall apply to the following calendar days beginning and ending at the time specified:

**Beginning 12 a.m. on October 29<sup>th</sup> to 12 a.m. November 2<sup>nd</sup> each year.**

# **CHAPTER XI. PUBLIC OFFENSES**

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

### **11-101. INCORPORATING UNIFORM PUBLIC OFFENSE CODE.**

**(a).**There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Pleasanton, Kansas, that certain code known as the “Uniform Public Offense Code”, current edition as adopted by ordinance by the City Council from time to time, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped “Official Copy as Incorporated by the code of the city of Pleasanton, Kansas,” with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this section and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. Each year the current edition of said “Uniform Public Offense Code” shall automatically be adopted and become effective under this Code on the first day of August, or as soon thereafter as said current edition is available. *(ORD.# 1992 9/17/12)*

**(b).**Section 5.2 of the Uniform Public Offense Code is hereby amended to establish a minimum fine of \$500. *(ORD.# 1985 2/21/12)*

## ARTICLE 2. LOCAL REGULATIONS

**11-201. LINN COUNTY DOMESTIC VIOLENCE POLICY.** The City of Pleasanton hereby adopts the Linn County Domestic Violence Policy. Copies of the Linn County Domestic Violence Policy are on file at City Hall.

**11-202. SKATEBOARDS.**

(a). It shall be unlawful to operate a skateboard (and/or skate wheels) from main to Walnut on Tenth Street of the city.

(b). Penalty for violation of the article shall be punishable by impoundment of the skateboard (and/or wheeled skates).

(c). In all instances an impoundment fee of \$25 shall be paid for the release of impounded property under this article.

**11-203. LOUD SOUND AMPLIFICATION IN MOTOR VEHICLES.** Loud sound amplification systems prohibited.

(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 50 or more feet from the vehicle.

(b). Sound amplification system means any radio, tape player, compact disc player, loud speaker or other electronic device used for the amplification of sound.

(c). Plainly audible means any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of 50 feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and bass reverberations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway alley, parking lot or driveway.

(d). 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 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;



**(d).** It shall be unlawful for a parent, legal guardian, person who stands in loco parents, or a person to whom legal custody has been given by a court order of any minor person under eighteen years of age to knowingly permit or by inefficient or lack of control allow such minor person to violate any section of this ordinance.

## ARTICLE 3 – JUVENILE CURFEW

### 11-301. DEFINITIONS.

- (a). **CITY:** means the City of Pleasanton, Kansas
- (b). **EMANCIPATED MINOR:** means a minor who no longer has a parent-child relationship as a result of marriage, or as a result of being recognized as an adult by order of a court of competent jurisdiction.
- (c). **LEGITIMATE PARENTALLY APPROVED ERRAND:** means a minor performing a necessary task directed by the minor's parent (**s**), and the nonperformance of the errand, or delay would result in injury or undue hardship.
- (b). **MINOR:** means any un-emancipated or unmarried person under the age of 18 years of age.
- (d). **PARENT:** is any person having legal custody of minor as; a natural parent, adoptive parent, legal guardian, or person to whom the court has given or ordered legal custody.
- (e). **PUBLIC PLACE:** means a publicly or privately owned place to which the general public or substantial numbers of people have access. A public place does not include the residence of a minor, or the residence of a minor's parent or responsible adult.
- (f). **RESPONSIBLE ADULT:** means a person at least 21 years of age to whom a parent has expressly given permission to accompany a minor.

### 11-302. PROHIBITION.

- (a). It shall be unlawful for any minor to loiter, idle or congregate or be upon: the streets, sidewalks, parks, playgrounds, public places, and vacant lots, or ride upon, drive or otherwise operate or be a passenger in any automobile, bicycle, or other vehicle in upon, over, or through the streets or other public places within the city between the following hours:
  - (1). On Sunday through Thursday from 11:00pm to 5:00am the next morning (6 hours)
  - (2). On Friday and Saturday evening from 12:00am (midnight ) to 5:00am the next morning (5 hours)
- (b). It shall also be unlawful for any parent to permit a minor to loiter, idle or congregate or be upon: the streets, sidewalks, parks, playgrounds, public places, and vacant lots, or ride upon, drive or otherwise operate or be a passenger in any automobile, bicycler, or other vehicle in upon, over or through the streets or other public places within the city between the following hours:
- (c). On Sunday through Thursday from 11:00pm to 5:00am the next morning (6 hours)

**(d).**On Friday and Saturday evening from 12:00am (midnight ) to 5:00am the next morning (5 hours)

**11-303. PENALTIES.**

**(a).** When the minor has been duly notified or been issued a notice to appear before the Municipal Court of the City of Pleasanton, Kansas by a duly appointed law enforcement officer working as a uniformed police officer for the City, and has been convicted of the offenses as stated in section 11-302 they shall be punished by a fine not to exceed \$100.00 or be granted community service as outlined by the Municipal Court.

**(b).** When a parent, guardian, or responsible adult of any minor has been duly notified or been issued a notice to appear before the Municipal Court of the City of Pleasanton, Kansas by a duly appointed law enforcement officer working as a uniformed police officer for the City, and has been convicted of the offenses as stated in section 11-302 they shall be punished by a fine not to exceed \$100.00 or be granted community service as outlined by the Municipal Court.

**11-304. EXCEPTIONS TO CURFEW.**

**(a)** Notwithstanding the provisions the minor curfew ordinance does not apply in the following cases:

**(1)** . At any time the minor is accompanied by a parent or responsible adult authorized by the parent to take the parents place to accompany the minor for a designated period of time and purpose within a specified area.

**(2)** . If the minor is employed for a period of time 45 minutes after work, provided that circumstances suggest the minor is returning from work to a place of residence.

**(3)** . When a minor is returning home from an activity that is supervised by adults and sponsored by the city, civic organization, or public or private school, or any entity that takes responsibility for the minor provided that the activity has not concluded for more than 45 minutes prior to contact with the minor.

**(4)** . At any time the minor is on a legitimate parentally approved errand.

**(5)** . At any time the minor is on a trip in interstate commerce.

**(6)** . At any time the minor is required to leave a residence because of emergency.

**(7)** . At any time the minor is engaged in a activity that is protected by the First Amendment to the United States Constitution, or the freedom of speech, religion, or expression provisions of the Kansas State Constitution. *(ORD.# 1962 6/14/09)*

# **CHAPTER XII. PUBLIC PROPERTY**

## **ARTICLE 1. CITY PARKS**

- 12-101 CITY LAWS EXTENDED TO PARK.** The laws of the city shall extend to and cover all city parks.
- 12-102. POLICE JURISDICTION OVER PARKS.** The city shall have police regulations governing any public parks belonging to the city and the chief of police and law enforcement officers of the city shall have full power to enforce city laws governing city parks and shall maintain order therein.
- 12-203. DAMAGING PARK PROPERTY.** It shall be unlawful for any person, except duly authorized city employees, to willfully or wantonly remove, injure, tarnish, deface or destroy any building, walk, bench, tree or improvement or property of any kind belonging to any park owned by the city.
- 12-204. DANGEROUS WEAPONS NOT ALLOWED.**
- (a).** Except as provided in subsection (b) it shall be unlawful for any person to carry or have in his/her possession any firearm or dangerous weapon or to shoot or discharge the same within the limits of any city parks.
  - (b).** The provisions of subsection (a) above shall not apply to duly authorized law enforcement officers in the performance of official duty.
- 12-205. VEHICLE REGULATIONS.**
- (a).** Motor vehicles, including any vehicle licensed to operate on public streets, roads and highways shall be operated in a safe and prudent manner at all times in park areas.
  - (b).** Except as provided in subsection (d) it shall be unlawful for any person to park any motor vehicle in any area not designated for such purpose.
  - (c).** Except as provided in subsection (d) it shall be unlawful for any person to operate any motor vehicle within any city park except upon roads, drives and parking areas established by the city.
  - (d).** Subsections (b) and (c) above shall not apply to authorized city employees while engaged in the maintenance and care of the park and shall not apply to city sponsored or approved events occurring in city parks and on city property.

(e). It shall be unlawful to operate any such vehicle in any park area at a speed in excess of 20 M.P.H.

- 12-106. HUNTING.** It shall be unlawful for any person to pursue, catch, trap, maim, kill, shoot or take any wildlife, either bird or animal, in any manner at any time while in any city park, except for duly authorized city employees or individuals acting at the behest of city officials.
- 12-107. FIRES.** It shall be unlawful for any person to build or kindle any fire in any city park except in the ovens, stoves or grills provided for that purpose by the city and such fire must be extinguished by the person, persons or parties starting such fire, immediately after use thereof.
- 12-108. CAMPING PROHIBITED.** Overnight camping is hereby prohibited in city parks except where posted.
- 12-109. SANITATION.** All waste material, paper, trash, rubbish, tin cans, bottles, containers, garbage and refuse of any kind whatsoever shall be deposited in disposal containers provided for such purposes. No such waste or contaminating material shall be discarded otherwise. No sticks, stones, trash or other objects shall be thrown or discarded in or on any park lands, fountains, pools, drinking fountains, sanitary facilities or other improvements.
- 12-110. PROHIBITION AGAINST ALCOHOLIC BEVERAGES AND CEREAL MALT BEVERAGES.** It shall be unlawful for any person or persons to use, consume or have on the premises of any park or other city property within the city any alcoholic liquor or cereal malt beverage, except that otherwise lawful use of cereal malt beverages shall not be prohibited at the East City Lake.
- 12-111. PRESERVATION OF NATURAL STATE.** It shall be unlawful for any person, except duly authorized city employees, to take, injure or disturb any live or dead tree, plant, shrub or flower, or otherwise interfere with the natural state of city parks.
- 12-112. GENERAL REGULATIONS.** The city may post such rules and regulations, as are approved by the governing body, pertaining to the use of the city parks in a conspicuous place in each city park. Violations of these posted rules shall constitute a violation of this code.

## ARTICLE 2. CITY LAKES

### **12-201. LAKE REGULATIONS.**

**(a).** As used in this article, unless the context clearly requires a different meaning:

**(1).** Vessel-Any water craft designed to be propelled by machinery, oars, paddles or wind action upon a sail for navigation on the water.

**(2).** Motorboat-Any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion.

**(3).** Owner-The person, other than the lien holder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat.

**(4).** Person-An individual, partnership, firm, corporation, association or other entity.

**(5).** Operate-Navigate or otherwise use a motorboat or a vessel.

**(6).** PFD-means any type **I, II, III, IV, V** Personal Floatation Device (PDF) approved by the United States Coast Guard for use on recreational vessels.

**(7).** Operator-The person who operates or has charge of the navigation or use of a motorboat or a vessel.

**(b).** The East City Lake and West City Lake areas shall be managed by the regulations of this article.

**(c).** The police jurisdiction and the authority of the city includes the East City Lake, West City Lake and appurtenances thereto and all ordinances of the city shall hereafter apply to acts and conduct of any person on the premises.

**(d).** The public shall be permitted the lawful, sanitary and orderly use of the lakes for motor boating as herein provided. All persons maintaining, operating or riding in boats do so entirely at their own risk so far as the city is concerned and such persons are warned that the city does not maintain the lakes for boating purposes and nor does the city represent that it is safe to use boats on city lakes.

**(e).** Persons desiring to operate any vessel or motorboat upon the lakes shall make application to the city clerk or such other persons as may be designated by the city clerk for a license, which the application shall include Ordinance No. 1824 and shall be given a printed copy of portions of this ordinance; that he is familiar with the contents of same and that his or her motorboat in all respects complies with all applicable provisions of Article 8 Chapter 82a, Kansas Statutes Annotated and with all applicable rules and regulations established by the Kansas Department of Wildlife

and Parks pursuant to the provisions of the statute.

**(1).** The boat license fee for all residents of the city - \$10 out of city resident's boat license fee - \$20.

**(2).** No license shall be granted to any person and no one shall operate a boat, which does not then possess a valid motor operator license.

**(3).** All licenses shall be for the calendar year, regardless of the time of issuance and shall expire on the 31<sup>st</sup> day of December of the year issued. The license authorized herein shall authorize the use of the motorboat only by the licensee or members of his immediate family and shall not be transferable or refundable. The city clerk shall prepare all necessary application forms and licenses to comply with the provisions of this article and such application forms shall show the name of the owner, make and serial number of the boat, if any and the make, serial number and horsepower of the motor.

**(f).** It shall be unlawful for any person to operate a motorboat on the lake without a license as aforesaid or in violation of any of the applicable provisions of Article 8, Chapter 8-2a, K.S.A., or in violation of any of the applicable rules and regulations adopted by the Kansas Department of Wildlife and Parks pursuant to the provisions of the statute and the motorboat shall be operated in such a fashion as not to produce a wake.

**(g).** The operator of every vessel shall require all persons 12 years of age and younger to wear an approved personal flotation device and the operator of every vessel shall have at least one approved personal flotation device for each individual in the vessel.

**(1).** The operator of every vessel shall require every person 12 years of age or under to wear a United States Coast Guard approved Type I, Type II or Type III personal flotation device of the appropriate size for the individual and in good and serviceable condition while on board or being towed by such vessel. A life belt or ring shall not satisfy the requirement of this section.

**(2).** The operator of every vessel shall have at least one Type I, Type II, Type III personal flotation device approved by the United States Coast Guard on board for each individual in the vessel and at least one Type I, Type II, Type III personal flotation device approved by the United States Coast Guard on board for each individual being towed. Each such PFD shall be in good and serviceable condition and so placed as to be readily accessible.

**(3).** The operator of each vessel 16 feet or greater in length, except canoes and kayaks, in addition to the provisions of subsection (a) and (b) above, shall have at least one Type IV PFD on board.

- (h).** Water skiing and surfboarding is hereby prohibited.
- (i).** No motorboat with toilet facilities will be permitted upon lake unless said toilet is sealed in such a manner that it cannot be used.
- (j).** The lakes may be closed to motor boating at any time and for any period of time for any reason deemed advisable by the governing body of the city and the licenses herein authorized are conditioned thereon and no refund will be made to licenses in the event of the closure.
- (k).** The city reserves the right to make additional rules and regulations concerning motor boating on the lakes which shall be binding upon licenses upon the posting of printed copies of the rules and regulations of the lakes.
- (l).** No person shall empty or throw refuse, garbage, rubbish or waste of any kind in or on the lakes and no human excrement shall be deposited or discharged into the lakes.
- (m).** Swimming.
- (1).** Prohibited at East City Lake: Swimming and/or bathing in the East City Lake of Pleasanton is prohibited at all times; the city not representing that the lake is fit, safe or proper for swimming.**(2).** Designated area at West City Lake: Swimming will be allowed only within the area designated by the city for swimming during the hours that the lake is open to the public. No lifeguards will be on duty and all persons who swim shall do so at their own risk, with no responsibility to the city.
- (3).** Inner tube fishing shall be prohibited at all city lakes, except within designated swimming areas.
- (n).** Except as otherwise permitted below, no overnight camping is permitted and the lakes are closed to the public from 10:00 p.m. until 5:00 a.m., except for the exclusive use of fishing. *(ORD.# 1977 6/6/11)*
- (o).** No firearms of any description or nature are allowed on any property owned by the city which surrounds the lakes areas or in or on the lakes themselves.
- (p).** The city reserves the right to block all entrances to the lakes or any part thereof for the purpose of collecting admissions for any events staged at the lakes by the city or any organization having approval of the city to charge admissions for any and all events.
- (q).** The creel limits for fish taken from the lakes of the city shall be identical to those creel limits promulgated and disseminated by the State of Kansas, either by statute or through regulations of the Kansas Department of Wildlife and Parks. Violation of this section shall result in a fine of \$50 for each separate offense.



**(r).** No set lines.

**(s).** Persons desiring to fish in or on the lakes of the city shall have and be in actual personal possession of a current, valid State of Kansas fishing license, if the individual is required by the State of Kansas to have a fishing license to fish within the state. Individuals fishing or appearing to fish or appearing to have been fishing in or on the lakes of the city shall present their state fishing permit and identification to any city, county or state law enforcement official who shall enquire.

**(t).** Notwithstanding sub-section (n) above, overnight camping shall be allowed at the East Lake, subject to the following restrictions, any violation of which shall be deemed a violation of this Section of the Code:

**(1).** Only primitive camping shall be allowed and in designated areas only;

**(2).** Fires shall be allowed only in fire pits, and all fires must be tended to by campers and fully extinguished before being left;

**(3).** No alcohol shall be permitted in camp sites;

**(4).** No gray water or other waste dumping shall be permitted.  
(ORD.# 1977 6/6/11)

#### **12-202. WEST LAKE WALKING TRAIL.**

**(a).** Trail shall be used only for walking and running and not for use of any vehicle of any type, including but not limited to bicycles, any motorized vehicle or any other means of conveyance; except that in the case of an individual requiring the use of a wheelchair, motorized or otherwise, due to disability, permanent or temporary, such person shall not be prohibited from using the wheelchair on the trail, providing such individual operates the wheelchair in a reasonably safe and considerate manner;

**(b).** No person shall cause a horse or other such large animal to be on or about the trail for any purpose; however, this clause shall not be interpreted to prohibit the possession of a dog of any size on or about the trail.

#### **12-203. VEHICLE USE AT EAST LAKE.**

**(a).** The south road of Pleasanton's East Lake shall be closed to all vehicular traffic from December 1 to March 1 of each year. City maintenance personnel shall erect appropriate barriers and signage to affect such closure.

**(b).** It shall be a violation of this ordinance for any unauthorized vehicle, including automobiles, trucks, motorcycles, ATVs and any other vehicle, to enter upon said Road or the grounds adjacent thereto for any purpose.

**(c).** It shall be a violation of this ordinance for any unauthorized vehicle to

circumvent barriers placed on said road to effect the closure thereof.

**(d).** It shall be a violation of this ordinance for any unauthorized person to remove, alter, or damage barriers or signage placed on said road to effect the closure thereof.

**(e).** Each separate violation of this ordinance shall be deemed a misdemeanor and upon conviction shall be punishable by a fine of not less than Fifty Dollars (\$50) and not more than Five Hundred Dollars (\$500). In addition to any fines assessed hereunder, violators, upon conviction, shall pay restitution to the City the cost of repairing any damages done to barriers, signage or grounds resulting from said violation.

**12-204. FISH FEEDERS.**

**(a).** It is unlawful for any person, except for City Employees, City Contractors, or State Officers on official business, to approach within fifty feet of any fish feeding mechanism on any lake owned by the City of Pleasanton, Kansas.

**(b).** It is unlawful for any person to climb upon, move, collide with, or in any way damage or deface any fish feeding mechanism on any lake owned by the City of Pleasanton, Kansas.

**(c).** Violation of this ordinance shall constitute a misdemeanor punishable by a fine of not less than \$50 and not more than \$500 for each occurrence.

# **CHAPTER XIII. STREETS AND SIDEWALKS**

## **ARTICLE 1. SIDEWALKS**

- 13-101. PERMIT REQUIRED.** It shall be unlawful to construct, reconstruct or repair any sidewalk within the city until the plans first have been approved by the governing body and a permit issued for such work by the city clerk.  
*(ORD. # 1948 11/19/07)*
- 13-102. SIDEWALK GRADE.** Hereafter all sidewalks constructed or reconstructed in the city shall be constructed on the established grade. When the governing body shall order a sidewalk constructed as hereafter provided, the city shall pay the cost of bringing the street to grade for the sidewalk. Where no grade has been established, the owner of abutting property may construct a sidewalk on the natural grade. If the grade has been established, the city clerk shall furnish the property owner with the official grade by reference to a stated distance above or below the street grade.
- 13-103. SAME; SPECIFICATIONS.** Hereafter all sidewalks shall be of single-course construction and shall be constructed and laid in accordance with standard plans and specifications hereby adopted by reference and filed in the office of the city clerk as provided by K.S.A. 12-1802. It shall be unlawful for any person, firm or corporation to construct, reconstruct or repair any sidewalk except as provided by this article.
- 13-104. SAME; PETITION.** When a person signed by no fewer than 10 citizens owning real estate in the city requesting construction of a sidewalk is filed with the city clerk, the governing body may in its discretion, by a resolution, order such sidewalk constructed as herein provided.
- 13-105. SAME; CONDEMNATION, RECONSTRUCTION.** When any sidewalk, in the opinion of the governing body, become inadequate or unsafe for travel thereon, the governing body may adopt a resolution condemning such walk and providing for the construction of a new walk in the place of the walk condemned.
- 13-106. NOTICE; PUBLICATION.** The resolution providing for the construction or reconstruction of a sidewalk, as the case may be, shall give the owner of the abutting property not less than 30 days nor more than 60 days after its publication one time in the official city paper in which to construct or cause to be constructed or reconstructed the sidewalk at his or her own expense. If the sidewalk is not constructed by the property owner within the time specified, the governing body shall cause the work to be done by contract.

- 13-107. RIGHT OF ABUTTING OWNER.** Nothing in this article shall be construed to prohibit the owner of property abutting on a street, who desires to construct or reconstruct a sidewalk at his or her own expense and in accordance with official plans and specifications for the purpose and which meet such other requirements as would have to be met if the sidewalk were constructed or reconstructed by the city, to construct or reconstruct a sidewalk without any petition or a condemning resolution by the governing body. If such property owner desires the sidewalk to be constructed and reconstructed by the city and an assessment levied as provided by law in other cases, her or she shall file a request with the governing body. The governing body, in its discretion, may provide for the construction or reconstruction of the sidewalk requested in the same manner as in other cases where citizens or taxpayers petition the governing body.
- 13-108. REPAIRS BY OWNER OR CITY.** It shall be the duty of the owner of the abutting property to keep the sidewalk in repair, but the city may, after giving five days' notice to the owner or his or her agent, if known, of the necessity for making repairs or without notice if the lot or piece of land is unoccupied, make all necessary repairs at any time. The same shall be done and the cost thereof assessed against the lot or piece of land abutting on the sidewalk so repaired as may be provided by law.
- 13-109. PERFORMANCE, STATUTORY BOND.** In any case where the reconstruction or construction of a sidewalk is required to be done by contract as provided in section 13-106 hereof, the governing body may require the contractor to give a bond for the faithful performance of the contract and for the construction of the sidewalk in accordance with the plans and specifications, ordinances of the city or laws of Kansas and for all contracts exceeding \$1,000 entered into by the city for any such purpose a statutory lien bonds required by K.S.A. 60-1111 shall be furnished.
- 13-110. SAME; EXCEPTION.** The governing body may authorize the granting of temporary permits in connection with a building or moving permit for limited times only to the owner of property abutting on any sidewalk to use or encumber such sidewalk or public way of the city during the construction of any building or improvement thereon. No permit shall be issued for such purpose until plans for warning and safeguarding the public during such use of sidewalks shall have been submitted by the owner or his or her contractor and approved by the governing body.

**13-111. SIDEWALK DEMOLITION.** When any sidewalk is demolished by the property owner pursuant to a permit issued under this article, the property owner shall be responsible for removal and disposal of all debris resulting from said demolition and for returning the site to grade. If the property owner fails to comply with this requirement, the City may, after giving five days' notice to the owner or his or her agent, if known, of the necessity for making repairs or without notice if the lot or piece of land is unoccupied, make all necessary repairs at any time. The same shall be done and the cost thereof assessed against the lot or piece of land abutting on the sidewalk so repaired as may be provided by law. *(ORD.# 1948 11/19/07)*

## ARTICLE 2. STREETS

- 13-201. EXCAVATION PERMIT.** No person, other than authorized city employees, shall dig or excavate any hole, ditch, trench or tunnel in or under any street, alley, sidewalk, park or other public property or public easement through private property without first having secured a permit for such excavation. Application shall be made to the city clerk.
- 13-202. SAME; BOND.**
- (a).** No permit authorized in this article shall be issued until the applicant has given to the city a good and sufficient bond in the sum of \$5,000 conditioned that the applicant will faithfully comply with all the terms and conditions of this article and will indemnify and hold the city harmless against all costs, expenses, damages and injuries by persons or by the city sustained by reason of the carelessness or negligence of the permit holder. No bond for this purpose shall run for longer than two years without being renewed. The bond shall remain in full force and effect as to each excavation for two years after the same has been made or completed.
  - (b).** Any utility operating under a franchise or a contractor under contract with the city for municipal improvement shall not be required to give bond as provided in subsection (a)..
  - (c).** Each bond given under this section shall be approved by the city attorney and filed with the city clerk.
- 13-203. SAME; FILED.** If the application is approved by the city, the city clerk shall issue a permit upon payment of a fee of \$5. Each permit issued under the provisions of this section shall cover only one specified excavation.
- 13-204. SAME; BARRICADES.** Any person to whom an excavation permit is issued shall enclose all excavations which they make with sufficient barricades and danger signs at all times and shall maintain sufficient warning lights or flares at nighttime. The holder of an excavation permit shall take all necessary precautions to guard the public against all accidents from the beginning of the work to the completion of the same.
- 13-205. SAME; UNLAWFUL ACTS.** It shall be unlawful for any person, except those having authority from the city or any officer thereof to throw down, interfere with or remove any barriers, barricades or lights placed in any street to guard and warn the traveling public of any construction work thereon or adjacent thereto.

**13-206. CUTTING CURBS; PAVEMENT.**

(a). No person shall cut any curb, gutter, pavement, blacktop, sidewalk or excavate any street, alley or other public grounds of the city for any purpose without first obtaining a permit authorizing the same from the city clerk.

(b). Once the work for which the excavation was made has been completed the city shall restore the pavement, blacktop, sidewalk or other surfacing at the expense of the person for whom the excavation was made.

(c). In lieu of the city replacing pavement, it may elect to authorize utility companies or contractors to resurface streets or sidewalks with like materials, subject to approval of the street superintendent.

**13-207. ALTERING DRAINAGE.** No person shall change or alter any gutter, storm sewer, drain or drainage structure which has been constructed or is being lawfully maintained or controlled by the city unless such change or alteration has been authorized or directed by the governing body.

**13-208. UNFINISHED PAVEMENT.** No person shall walk upon, drive or ride over or across any pavement, sidewalk or incomplete grading which has not been opened for traffic.

**13-209. USING STREETS.**

(a). No person shall occupy any portion of any street, alley or sidewalk for the purpose of temporarily storing building materials without first obtaining a permit for such temporary use from the governing body.

(b). No person may use any portion of any sidewalk or street right-of-way for the purpose of displaying or offering for sale wares, goods, merchandise or other items. Nothing in this article, however, shall be construed as prohibiting the city governing body from temporarily waiving the prohibition of this subsection in connection with community promotions or community-wide celebrations when such waiver is considered to be in the best interest of the city.

**13-210. DANGEROUS OBJECTS IN.** It shall be unlawful for any person to place, throw or cause to be placed or thrown in or on any street, alley, sidewalk or other public grounds of the city, any glass, tacks, nails, bottles, wire or other dangerous objects that might wound any person or animal or cut or puncture any pneumatic tire while passing over the same.

**13-211. PETROLEUM PRODUCTS IN STREETS.** It shall be unlawful for any person, firm or corporation to deposit or throw any waste oil, fuel oil, kerosene, gasoline or other products of petroleum or any acids into or upon any street or

public grounds of the city or willfully to permit the same to be spilled, dripped or otherwise to come into contact with the surface of any street, alley or sidewalk within the city.

- 13-212. DISCHARGING WATER ON STREETS.** It shall be unlawful for any person, firm or corporation to throw or discharge water into any ditch, street, avenue or alley in the city or to cause any water to stand or form pools or to flow in a stream thereon. This section shall not apply to persons cleaning or flushing such streets, avenues or alleys under the authority of the governing body, nor to members of the fire department.
- 13-213. BURNING IN STREETS.** It shall be unlawful be unlawful for any person to make or cause to be made, any fire upon any of the paved streets, alleys or street intersections within the city.
- 13-214. THROWING IN STREETS.** It shall be unlawful to throw or bat any ball, stone or other hard substance, or any other object, into, on, or across any street or alley or at or against any building or vehicle.
- 13-215. HAULING LOOSE MATERIAL.** It shall be unlawful to haul over the streets or alleys of this city any loose material of any kind except in a vehicle so constructed or maintained as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alleys.



## ARTICLE 3. TREES AND SHRUBS

- 13-301. PUBLIC TREE CARE.** The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure safety when servicing city utilities or to preserve the symmetry and beauty of public grounds. The city may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements or is affected with any injurious fungus, insect or other pest.
- 13-302. DISEASED TREES; DETERMINATION.** Whenever any competent city authority or competent state or federal authority shall file with the governing body a statement in writing based upon a laboratory test or other supporting evidence that trees or tree materials or shrubs located upon private property within the city are infected or infested with or harbor any tree or plant disease or insect or larvae, the uncontrolled presence of which may constitute a hazard to or result in the damage or extinction of other trees or shrubs in the community, describing the same and where located, the governing body shall direct the city clerk to forthwith issue notice requiring the owner or agent of the owner of the premises to treat or to remove any such designated tree, tree material or shrub within a time specified in the notice.
- 13-303. SAME; NOTICE SERVED.** Notice shall be served by a police officer by delivering a copy thereof to the owner and the person in possession of such property or if the same be unoccupied or the owner a nonresident of the city, then the city clerk shall notify the owner by mailing a notice by certified mail to his last known address.
- 13-304. SAME; FAILURE OF OWNER; DUTY OF CITY.** If the owner or agent shall fail to comply with the requirements of the notice within the time specified in the notice, then the chief of police shall proceed to have the designated tree, tree material or shrub treated or removed and report the cost thereof to the city clerk. In lieu of city employees performing any such work, the governing body may contract with any competent person, company or corporation for the performance of such work.
- 13-305. SAME; PREVENT SPREAD OF DISEASE.** No tree, tree materials or shrubs as mentioned herein which have been cut down, either by the property owner or by the city, shall be permitted to remain on the premises, but shall be immediately treated, removed and burned or immediately burned upon the premises, if safe to do so, so as to prevent the spread of the tree disease.

**13-306. DANGEROUS, DEAD OR DISEASED TREES ON PRIVATE PROPERTY.**

(a). Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 14 feet above the surface of the street or tight-of-way. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

(b). The city shall have the right to cause the removal of any dangerous, dead or diseased trees on private property within the city when such trees constitute a hazard to life and property. The city will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. The owners, within 30 days of the notice may request a hearing covering the ordered removal. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove the trees and charge the cost of removal on the owner's property tax notice.

**13-307. TREES ON PUBLIC PROPERTY; COST BORNE BY CITY.** The city shall have the authority to treat or to remove any tree as defined in section 13-301 of this article or to remove any dead tree as mentioned herein, which is located within the limits of any public right-of-way within the city. The adjacent property owners shall not be responsible for the cost of treatment or removal of any such trees within the public right-of-way and this expense shall be borne by the city at large.

**13-308. COSTS ON TAX ROLLS.** The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for treatment or removal performed under the authority of sections 13-304:306 and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the general fund or other proper fund of the city and such fund shall be reimbursed when payments therefore are received or when such assessments are collected and received by the city.

**13-309. INJURING TREES AND SHRUBS.** No person shall willfully break, cut, take away, destroy, injure, mutilate or attempt to willfully break, cut, take away, destroy, injure or mutilate any tree, shrub, vine, flower or landscaping standing, growing or being upon the premises in the possession of another or growing on any public ground, street, sidewalk, promenade or park in the city.

**13-310. FIRE HYDRANTS, PLANTINGS ADJACENT TO.** No person shall plant or cause to be planted nor allow to grow upon property owned by him or her any shrubs, trees or planting of any kind within 10 feet of any fire hydrant in the city, in order that every fire hydrant shall be in full view day or night, to fire apparatus approaching from any direction.

# **CHAPTER XIV. TRAFFIC**

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

- 14-101. INCORPORATING STANDARD TRAFFIC ORDINANCE.** There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Pleasanton, Kansas, that certain standard traffic ordinance known as the “Standard Traffic Ordinance for Kansas Cities,” current edition as adopted by ordinance by the city council from time to time, prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. 12-3009 through 12-3012, inclusive, as amended. No fewer than three copies of said standard ordinance shall be marked or stamped “Official copy as Incorporated by the Code of the City of Pleasanton, Kansas,” with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this section and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. Each year the current edition of said Standard Traffic Ordinance for Kansas Cities shall automatically be adopted and become effective under this Code on the first day of August, or as soon thereafter as said current edition is available. *(ORD.# 1992 9/17/12)*
- 14-102. SAME; TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES.**
- (a).** An ordinance traffic infraction is a violation of any section of this article that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction K.S.A. Supp. 8-2118.
  - (b).** All traffic violations which are included within this article and which are not ordinance traffic infractions as defined in subsection (a). of this section, shall be considered traffic offenses.
- 14-103. PENALTY FOR SCHEDULED FINES.** Unless otherwise prescribed by State Statute or by a specific ordinance or code section, the fine for violation of an ordinance traffic infraction or any other traffic offense for which the municipal judge establishes a fine in a fine schedule shall not be less than \$10 nor more than \$2500, except for speeding, which shall not be less than \$10 nor more than \$1000. A person convicted of 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 fined fixed by the court not to exceed \$2500.

## ARTICLE 2. LOCAL TRAFFIC REGULATIONS

- 14-201. TRAFFIC CONTROL DEVICES AND MARKINGS.** The Standard Traffic Ordinance as adopted is hereby modified by adding thereto the following: The governing body may, by resolution, establish and fix the location of such traffic control devices as may be deemed necessary to guide and warn traffic under the provisions of this chapter, other traffic ordinances and the state laws. The city shall place and maintain such traffic control signs, signals and devices when and as may be required by the authority of the governing body to make effective the provisions of this chapter and other ordinances for the regulation of traffic. Any official traffic control device placed pursuant to this section shall be marked and labeled on a map of the City of Pleasanton for the purpose of displaying all such traffic control devices and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business.
- 14-202. DESTRUCTION OR VANDALIZING OF TRAFFIC CONTROL SIGNS.**
- (a). No traffic sign, whether permanently or temporarily posted may be altered in wording, location or color, except by an employee of the city.
  - (b). The penalty shall be a fine of not less than \$10 or more than \$50 for each offense.
- 14-203. PROHIBITING EXHIBITION OF SPEED OR ACCELERATION.** (a) Those acts which cause or create unnecessary rapid acceleration, unnecessary tire squealing, 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 cause the vehicle to unnecessarily turn abruptly, sway or lose traction with the road surface are prohibited.
- 14-204. RESTRICTING DRIVING OFF THE ROADWAYS AT THE EAST CITY LAKE**
- (a). It shall be unlawful to operate any vehicle off of the prepared roadway surface at the East City Lake, where the operation of such vehicle will cause any depression or rutting of any of the grassy areas.
- 14-205. RIDING BICYCLES ON SIDEWALKS.**
- (a). It shall be unlawful for any person or persons to ride any bicycle, tricycle, wheeled conveyance, skate board, skates or any other vehicle of like nature upon any sidewalk on either side of Main Street from 6<sup>th</sup> Street to 12<sup>th</sup> Street within the city.
  - (b). Any parent or guardian of any minor who authorizes or knowingly permits such minor to violate subsection (a) hereof shall be deemed to be in violation of said section.

**14-206. ATTACHING OF ANY OBJECT OR SIGN TO TRAFFIC CONTROL DEVICE.**

It shall be unlawful for any person to attach any sign or device to any traffic control sign or to the pole attached thereto.

**14-207. REGULATION OF VEHICLES ON CITY PROPERTY.**

**(a). DEFINITIONS**

**(1).** "Licensed Vehicles" means any vehicle that is or may be licensed for operation on streets and highways within the State of Kansas under that statutes of the State or City Codes.

**(2).** "Unlicensed Vehicles" means any vehicle that may not be licensed to operate on streets and highways within the State of Kansas or which is not regulated by the Statutes of the State of Kansas.

**(b). OPERATION OF LICENSED VEHICLES ON CITY OWNED**

**PROPERTY.** It shall be unlawful for any person to operate any unauthorized LICENSED VEHICLE, including, but not limited to automobiles, trucks, and motorcycles, on any property owned or leased by the City of Pleasanton, Kansas, unless said operation shall be upon the designated and prepared roadways and parking areas within said City property.

**(c). OPERATION OF UNLICENSED VEHICLES ON CITY OWNED**

**PROPERTY.** It shall be unlawful for any person to operate any unauthorized UNLICENSED VEHICLE on any property owned or leased by the City of Pleasanton, Kansas.

**(d). EXCEPTIONS.** Subsection (c) above shall not apply to golf carts reasonably operated in the course of lawful use of the Municipal Golf Course of the City of Pleasanton, Kansas.

**(e). PENALTY.** Each separate violation of this ordinance shall be deemed a misdemeanor and upon conviction shall be punishable by a fine of not less than Fifty Dollars (\$50) and not more than Five Hundred Dollars (\$500). In addition to any fines assessed hereunder, violators, upon conviction, shall pay restitution to the City the cost of repairing any damages done to barriers, signage or grounds resulting from said violation.

**14-208. REGULATION OF ALL-TERRAIN VEHICLES.**

**(a). DEFINITION.** For the purposes herein, the following words and phrases shall have the meanings set opposite them.

**(1). "ALL-TERRAIN VEHICLE" (ATV).** Any motorized non highway vehicle 45 inches or less in width, having a dry weight of 650 pounds or less, traveling on three or more low-pressure tires, having a seat

designed to be straddled by the operator. As used in this subsection, low-pressure tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 12 inches or less, and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the manufacturer.

**(b). OPERATION OF ALL-TERRAIN VEHICLES ON CITY STREETS AND ALLEYS.** It shall be unlawful for any person to operate, or for the owner thereof knowingly to permit the operation, upon any street or alley within the city limits of the City of Pleasanton, Kansas, any ALL-TERRAIN VEHICLE.

**(c). OPERATION OF ALL-TERRAIN VEHICLES ON CITY OWNED OR LEASED PROPERTY.** It shall be unlawful for any person to operate, or for the owner thereof knowingly to permit the operation, upon any City owned or leased property within or without the city limits of the City of Pleasanton, Kansas, any ALL-TERRAIN VEHICLE, with the exception that this provision shall not apply to City Sponsored or City Approved Special Events occurring on such City owned or leased property.

**(d). PENALTY.** Each violation of any provision of this Ordinance shall constitute a misdemeanor punishable by a fine not exceeding \$500.00.

**(e).** It shall be unlawful for a parent, legal guardian, person who stands in loco parents, or a person to whom legal custody has been given by a court order of any minor person under eighteen years of age to knowingly permit or by inefficient or lack of control allow such minor person to violate any section of this ordinance.

**14-209. LOW-PROFILE MOTORIZED VEHICLES** shall mean any motorized vehicle that:

- (1).** Is not regulated by the State or by any other City Code provision;
- (2).** Is not otherwise permitted upon the highways or sidewalks
- (3).** Is less than thirty-six inches (36") in height when in its normal operating position, notwithstanding any flag, antenna, or other device attached or modification made thereto.
- (4).** Is not a lawn mower, lawn tractor, or other motorized lawn care device.

**(a).** Operation of Low-Profile Motorized Vehicles On City Streets and Alleys. It shall be unlawful for any person to operate, or for the owner thereof knowingly to permit the operation, upon any street, sidewalk, or alley within the city limits of the City of Pleasanton, Kansas, of any Low Profile Motorized Vehicle

**(b).** Operation of Low Profile Motorized Vehicle on City Owned or Leased

Property. It shall be unlawful for any person to operate, or for the owner thereof knowingly to permit the operation, upon any City owned or leased property within or outside the city limits of the City of Pleasanton, Kansas, of any Low Profile Motorized Vehicle, with the exception that this provision shall not apply to City Sponsored or City Approved Special Events occurring on such City owned or leased property.

**(c).** Penalty. Each violation of any provision of this Ordinance shall constitute a misdemeanor punishable by a fine not exceeding \$500.

**14-210. UNIFORM SPEED LIMITS**

Pursuant to K.S.A. §8-1560, the speed limit on all streets within the City of Pleasanton, Kansas, shall be 30 miles per hour, except in those areas designated by ordinance to be school zones or a business district or otherwise determined by an engineering and traffic investigation to require a lesser speed limit, which speed limit shall be 20 miles per hour.

**14-211. SCHOOL ZONE ESTABLISHED**

**(a).** The following streets are hereby designated a School Zone with a speed limit of 20 miles per hour:

- Park Street from School Street (aka Ash Street) to Sycamore Street;
- 13<sup>th</sup> Street from School Street (aka Ash Street) to Sycamore Street;
- 12<sup>th</sup> Street from School Street (aka Ash Street) to Sycamore Street;
- 10<sup>th</sup> Street from School Street (aka Ash Street) to Sycamore Street;
- Cedar Street from Park Street to 10<sup>th</sup> Street;
- Walnut Street from Park Street to 10<sup>th</sup> Street;
- School Street (aka Ash Street) from Park Street to West Lakes Lane; and
- That part of West Lakes Lane from the point of its intersection with 10<sup>th</sup> Street to a point 500 feet west of School Street (aka Ash Street).

**(b).** The speed limit of 20 MPH established herein for school zones shall be effective only during days of school operation between the hours of 7:00 AM and 4:00 PM.

**14-212. BUSINESS DISTRICT ESTABLISHED**

The following streets are hereby designated a Business District with a speed limit of 20 miles per hour:

- Main Street from 6<sup>th</sup> Street to 12<sup>th</sup> Street
- Laurel Street from 12<sup>th</sup> Street to Park Street



- 12<sup>th</sup> Street from Depot Street to Laurel Street
- Depot Street from 6<sup>th</sup> Street to 12<sup>th</sup> Street
- Lynn Street from 6<sup>th</sup> Street to 12<sup>th</sup> Street
- 6<sup>th</sup> Street from Depot Street to Lynn Street
- 7<sup>th</sup> Street from Depot Street to Lynn Street
- 8<sup>th</sup> Street from Depot Street to Lynn Street
- 9<sup>th</sup> Street from Depot Street to Lynn Street
- 10<sup>th</sup> Street from Depot Street to Lynn Street
- 11<sup>th</sup> Street Depot Street to Lynn Street

**14-213. SIGNS**

The City Public Works Department is hereby ordered to install appropriate signage, including “Reduced Speed Ahead” signs pursuant to the requirements of the Manual on Uniform Traffic Control Devices.

**14-213a. MICRO UTILITY TRUCK**

**(a).** Means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 144 inches, has an un-laden weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. “Micro utility truck” does not include a work-site utility vehicle.

**(b).** Micro Utility Trucks may be operated upon the public streets, roads and alleys of the City subject to the following requirement and restrictions:

**(1).** No Micro Utility Truck shall be operated on any public street, road or alley unless such vehicle shall comply with the equipment requirements outlined in Kansas Statutes Annotated Article 17, Chapter 8.

**(2).** No Micro Utility Truck shall be operated on any public street, road or alley unless such vehicle has been first inspected by an official of the Pleasanton Police Department to verify that the vehicle is properly equipped. Said inspection shall be recorded in the files of the Police Department and a Micro Utility Truck registration sticker shall be issued by the Police Department, which sticker shall be affixed to the lower left hand corner of the vehicle’s windshield. No Micro Utility Truck shall be operated on any public street, road or alley unless a valid registration sticker is so affixed. Said sticker shall be valid until January 1 of the year following the initial registration and must be renewed annually before February 1 of each year by submitting the vehicle to an annual inspection by the Police Department. Vehicle owner shall pay a non-refundable registration/inspection fee of \$25.00 prior to any inspection taking

place; provided that if the initial registration takes place after July 1 of the first year of registration the fee shall be \$15.00. Replacement stickers for lost or damaged stickers may be acquired at a cost of \$5.00 by application to the Police Department and verification of valid registration.

**(3).** Every person operating a Micro Utility Truck on the public streets, roads or alleys of the City shall be subject to all of the duties applicable to a driver of a motor vehicle imposed by law, including Section 200 of the Standard Traffic Ordinance, as then in effect, which requires liability insurance and which is expressly made applicable herein to Micro Utility Trucks.

**(c).** All Micro Utility Trucks are entitled to full use of a lane of traffic, and no motor vehicle shall be driven in such a manner as to deprive any Micro Utility Truck of the full use of a lane.

**(d).** No person operating a Micro Utility Truck shall overtake and pass in the same lane any other vehicle operating in that lane.

**(e).** No person shall operate a Micro Utility Truck between lanes of traffic or between adjacent lines or rows of vehicles.

**(f).** No person shall operate a Micro Utility Truck on any public street, road, or alley within the City unless such person has a valid driver's license.

**(g).** A violation of this Section shall be deemed an ordinance traffic infraction. Upon 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 201 of the Standard Traffic Ordinance, as then in effect.

*(ORD.# 1955 7/21/08)*

**(4).** Part 3, above, requiring the inspection and registration of micro utility trucks, shall not apply to vehicle dealers licensed under the Kansas Vehicle Dealers and Manufacturers Licensing Act when said dealers own such vehicles for use or resale and when said dealers display on the vehicle during its operation a valid "Dealers Plate" as defined and regulated by KSA 8-2406." *(ORD.# 1957 8/18/08)*

**14-213b** It shall be unlawful for any person to operate any of the following vehicles upon any public street, lane, highway or alleyway within the City of Pleasanton, unless such vehicle is licensed by the State of Kansas for Operation upon the highways of the State, is properly equipped for such operation, and is operated pursuant to all enacted vehicle operation regulations:

**(a)** Any Motorized Personal Assistive Mobility Device, as defined in the Standard Traffic Ordinance;

- (b) Any Motorized Skateboard or similar motorized scooter;
- (c) Any Motorized Wheelchair, unless the operator is physically disabled and demonstrates the need for a wheelchair for mobility;
- (d) Any Low Power Cycle (*ORD.# 1958 10/20/08*)

**14-214. TRUCK ROUTES AND PROHIBITING CERTAIN TRUCK PARKING JAKE BRAKING PENALTY FOR VIOLATION**

Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined the sum of \$25.00; provided, however, that any person who, within the immediately preceding 30 days, has been convicted of a violation of any provision of this article, shall be fined the sum of \$100.00.

**14-215. ROUTES DESIGNATED**

When signs are erected giving notice thereof, no person shall operate a truck in excess of a rated capacity of 12 tons; or a truck-trailer or semitrailer in excess of a rated capacity of 20 tons on any street in the city, other than the following:

- 6<sup>th</sup> Street from **US** Highway 69 to Main Street
- Main Street from 6<sup>th</sup> Street to 12<sup>th</sup> Street
- 12<sup>th</sup> Street from Main Street to Laurel Street
- Laurel Street from 12<sup>th</sup> Street to the City Limits

**14-216. EXCEPTIONS**

The provisions of 14-215 shall not apply to:

- (1) Emergency vehicles, such as ambulances or fire trucks;
- (2) Street, sewer, gas, electrics or other utility repair and maintenance vehicles;
- (3) Vehicles providing local delivery or merchandise, goods or mail;
- (4) Vehicles for the purpose of collection of trash and refuse.
- (5) Vehicles belonging to or contracted to work for municipalities.  
(*ORD. # 2001 12/16/13*)

**14-217. PARKING**

No person shall park any truck, trailer or semitrailer in any residential section of the city, other than those vehicles designated in 14-216 except that a tractor without trailer may be parked in a residential area so long as that tractor is not parked on the street but is parked on private property. No person shall park any truck, trailer, or semitrailer, including those vehicles designated in 14-216, on any street in the City where the vehicle may otherwise legally park, for a period of more than one hour. Nothing in this section shall be deemed to apply to pick-up trucks and similar vehicles used for personal transportation.

**14-218. USE OR OPERATION OF MECHANICAL EXHAUSE DEVICES**

It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the city any mechanical exhaust device designed to aid in the stopping or braking of a vehicle, in a manner so as to create excessive, loud, or unusual explosive noise from a vehicle. This subsection shall include, but not be limited to, the procedure commonly known as jake braking.

## **ARTICLE 3. ABANDONED MOTOR VEHICLES ON PUBLIC PROPERTY**

**14-301. DEFINITIONS.** For the purpose of this article, the following terms, phrases, words and their derivations shall have the following meanings:

(a). Highway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. Where the word "highway" or the word "street" is used in this article, it means street, avenue, boulevard, thoroughfare, alley and other public way for vehicular travel by whatever name, unless the context clearly indicates otherwise.

(b). Motor Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively on stationary rails or tracks.

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

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

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

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

(c). Any vehicle which interferes with public highway operations.

(d). Any motor vehicle which:

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

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

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

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

(f). Any motor vehicle which has been abandoned or parked on any real property, other than public property or property open to use by the public, may be moved and disposed of in accordance with the terms of this article by the police department upon the request of the owner or occupant of

such real property. The real property referred to herein shall not be owned or leased by the person who abandons or parks said vehicle or by the owner or lessee of such vehicle. The city or any person, partnership, corporation or their agent conducting a business enterprise for the purpose of towing vehicles which removes such vehicle from the real property at the request of the police department shall have a possessor lien on such vehicle for the cost incurred in removing, towing and storing such vehicle. For purposes of this article, common areas shall be construed not to mean public property or property open to the public.

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

**14-304. NOTICE OF IMPOUNDMENT; STORAGE OF VEHICLE.**

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

**(b).** When Owner not Present.

**(1).** When the police department impounds and removes a motor vehicle pursuant to section 14-302(a) and the owner of the motor vehicle is not present at the time of the impoundment, the police department shall, if such motor vehicle has displayed thereon a registration plate issued by the division of vehicles and has been

registered with said division, mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration and to the lien holder, if any, of record in the county in which the title shows the owner resides, if registered in this state. The notice shall be in the form prescribed by the police department containing the same information as required by section 14-304(a). The police department shall use reasonable diligence in determining the title owner or if from a non-title state, the registered owner of the vehicle and shall inquire by mail of the office of the register of deeds of the county in which the title shows the owner resides, if registered in this state, as to whether there are any lien holders of record. If the owner cannot be served by certified mail at the address on the motor vehicle registration and there is no other known address of the owner, the owner shall be deemed to be a resident of the state whose whereabouts are unknown and service shall be made on the Secretary of State as provided in K.S.A. 8-401.

**(2).** If the owner does not reside in the state, as appears from the motor vehicle registration and the owner cannot be served by certified mail at the address on the motor vehicle registration and there is no other known address of the owner, the owner shall be deemed a non-resident of the state and service shall be made on the Secretary of State as provided in K.S.A. 8-401.

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

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

**14-306 RELEASE OF MOTOR VEHICLE FROM IMPOUNDMENT.**

**(a). Generally.** Unless the vehicle is impounded pursuant to section 14-302(b) herein, the owner of an impounded motor vehicle may secure the release of the motor vehicle from impoundment upon requesting such release and presenting proof of ownership satisfactory to the custodian of the place where the motor vehicle is stored. If the custodian is satisfied that the person making the request is the owner or his or her authorized agent, he/she shall release the motor vehicle to the owner or his/her agent. Nothing in the preceding sentence shall preclude the owner of the impounded motor vehicle or his/her agent from paying any towing and storage charges that may be assessed against the motor vehicle, but neither the police department nor the custodian of the storage charges as a condition precedent to such release. At the same time as the owner or his/her agent requests release of the impounded motor vehicle and if such request is made within 40 days after the owner receives a copy of the notice of impoundment, the police department shall provide him/her an opportunity to make a request for a hearing on the propriety of the impoundment and on the amount and his/her liability for the towing and storage charges occasioned by the impoundment; provided, that if the owner or his/her agent requests release of the impounded motor vehicle more than 40 days after the owner receives a copy of the notice of impoundment, no hearing may be requested on the impoundment or on the towing and storage charges and the owner shall be conclusively presumed to have consented to the impoundment and to the amount of and his/her liability for the towing and storage charges.

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

**14-307. HEARING.** If the owner of an impounded motor vehicle or his/her agent timely requests the release of the motor vehicle from impoundment and a hearing on



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

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

**14-308. CHARGES CONSTITUTE A LIEN.** The towing and storage charges occasioned by the impoundment of a motor vehicle pursuant to section 14-302 shall be and constitute a lien upon the impounded motor vehicle, except as

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

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

**14-310. REDEMPTION.** If the city is to conduct the sale:

**(a).** Any holder of a recorded lien or retained title on a motor vehicle to be sold by the city under the provisions of section 14-309 may claim and take possession thereof, upon payment of accrued charges and estimated costs of publication of the notice of sale to the police department and the deposit with the police department of sufficient assurance by surety bond or otherwise, approved by the city attorney, that the motor vehicle will be forthcoming for public sale thereof or upon claim of the rightful owner prior to the sale. The police department shall, within three days, make a report to the city treasurer and deliver the charges and costs so paid to the city treasurer, taking a receipt therefore and filing it, together with a duplicate copy of the report to the city treasurer, with the records in his/her office.

The funds shall be held in a trust account until final disposition of the motor vehicle. Not less than five days before the date for sale of the motor vehicle, the police department shall notify the lien holder or retained titleholder of the time and place for the sale and the lien holder or retained titleholder shall deliver such motor vehicle to the police department at or before 12:00 noon of the day before the sale. At the sale the amount paid shall be credited on the bid of the lien holder or retained titleholder. If the lien holder or retained titleholder is the successful bidder for the motor vehicle, the police department shall report this fact to the city treasurer and then the funds previously paid by the lien holder or retained titleholder shall be relieved of the trust previously impressed and become the same as other funds received by the city for storage and costs of impounded motor vehicles. If the motor vehicle is sold for a higher bid to any person other than the lien holder or retained titleholder, the police department shall report this fact to the city treasurer and the lien holder or retained titleholder shall be refunded the amount previously paid by him out of the trust account.

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

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

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

- 14-313. IMPLEMENTATION OF ARTICLE.** The police department and city treasurer are authorized to make rules for the implementation and administration of this article.
- 14-314. REIMBURSEMENT FOR DISCHARGED LIENS.** If a lien created by section 14-308 and held by a private wrecker or towing firm is discharged by section 14-308 pursuant to a determination by a hearing examiner that an impoundment was improper and that the city shall bear part or all of the towing and storage charges, the city shall pay to the firm the amount determined by the hearing examiner. No payment shall be made until it is authorized by the city attorney.

## ARTICLE 4. HAZARDOUS MATERIALS

- 14-401. HAZARDOUS MATERIAL DEFINED.** As used in this article, the term hazardous material shall mean any material or combination of material which, because of its quantity, concentration or physical, chemical, biological or infectious characteristics, poses a substantial present or potential hazard to human health or safety or the environment if released into the workplace or environment or when improperly treated, stored, transported or disposed of or otherwise managed.
- 14-402. SAME; EXCEPTIONS.** The provisions of this article shall not apply to any container which shall have a capacity of 150 gallons or less which shall be used for the purpose of supplying fuel for the vehicle on which it is mounted. These provisions shall also not apply to vehicles, trailers, containers or tanks containing anhydrous ammonia or other material primarily used by farmers for fertilizer purposes when such vehicles, trailers, containers or tanks are parked or housed upon property designated for the placement of such vehicle, trailer, container or tank by any farmers cooperative, elevator company or farm supply store located within the city limits.
- 14-403. TRANSPORTATION OF HAZARDOUS MATERIALS.** Except as provided in section 14-404 it shall be unlawful for any person, firm, corporation or other entity to transport any hazardous material upon any street, avenue, highway, road, alley or any other public right-of-way in the city.
- 14-404. HAZARDOUS MATERIALS ROUTES.** The provisions of section 14-403 shall apply to all streets, avenues, highways, roadways, alleys or other public right-of-ways within the city except those specified within this section where transportation of hazardous material shall be allowed. Transportation of hazardous materials shall be allowed upon the following streets, avenues, highways or roadways:
- (a). (Reserved)
  - (b). (Reserved)
  - (c). (Reserved)
- 14-405. PARKING OF VEHICLES OR TRAILERS CARRYING HAZARDOUS MATERIALS.**
- (a). Except as provided in subsections (b). and (c)., it shall be unlawful for any person, firm, corporation or other entity to park any vehicle, trailer or semi-trailer carrying any hazardous material within any of the following city zoning districts as defined in Chapter 16 of this code:

(1). (Reserved)

(b). Subsection (a) shall not apply to vehicles, trailers or semi-trailers parked for continuous periods of time not to exceed one hour where such vehicles, trailers or semi-trailers are parked along those routes specified in section 14-404 of this code.

(c). Subsection (a) shall not apply to any vehicle, trailer or semi-trailer carrying any hazardous material where such vehicle, trailer or semi-trailer is not parked within 500 feet of any structure used for human habitation.

**14-406. REMOVAL OF ILLEGALLY PARKED TRAILERS.** If any vehicle, trailer or a semi-trailer is found parked in violation of the provisions of this article, the fire chief or assistant chief or any law enforcement officer may require the owner, operator or lessee of the trailer to move it within two hours. If such removal is not accomplished on the order of any such officer, it may be accomplished by any such officer, by any reasonable means, if the continued presence of the trailer or semi-trailer at its parked location constitutes, adds to or prevents correction of a situation threatening imminent injury or damage to persons or property.

# **CHAPTER XV. UTILITIES**

## **ARTICLE 1. GENERAL PROVISIONS**

**15-101. DEFINITION.** For purposes of this article utility services shall include water and other utility services provided by the city.

**15-102. DELINQUENT ACCOUNTS.** Unless otherwise provided, water or other utility service shall be terminated for non-payment of service fees or charges in accordance with sections 15-103:104.

**15-103. NOTICE; HEARING.**

(a). If a utility bill has not been paid on or before the due date as provided in this chapter, a delinquency and termination notice shall be issued by the city clerk within five days after the delinquency occurs and mailed to the customer at his/her last known address. A copy also shall be mailed to the occupant of the premises if the occupant and the customer are not the same person.

(b). The notice shall state:

(1). The amount due, plus delinquency charge;

(2). Notice that service will be terminated if the amount due is not paid within 10 days from the date of the notice unless the date on the notice to pay the charges due shall be on a Saturday, Sunday or legal holiday, in which event such notice will give the consumer until the close of the next business day in which to pay the charges;

(3). Notice that the customer has the right to a hearing before the designated hearing officer;

(4). Notice that the request for a hearing must be in writing and filed with the city clerk no later than three days prior to the date for termination of service.

(c). Upon receipt of a request for hearing, the city clerk shall advise the customer of the date, time and place of the hearing which shall be held within three working days following receipt of the request.

**15-104. SAME; FINDING.** Following the hearing, if the hearing officer shall find that service should not be terminated, then notice of such finding shall be presented to the city clerk. If the officer finds that service should be terminated, an order shall be issued terminating service five days after the date of the order. The customer shall be notified either in person or by mailing a letter to his/her last known address by certified mail, return receipt requested. However, if the order is made at the hearing in the presence of the

customer, then no further notice need be given. The hearing officer has a right, for good cause, to grant an extension, not to exceed 10 days, for the termination of such service. The hearing officer shall be the City Clerk or the Clerk's designee.

**15-105. UTILITY DEPOSIT.**

(a). Each new customer making application for utility service shall make a cash deposit to the city in the amount as specified in subsection (b), the deposits to serve as a guaranty for the payment of service thereafter furnished to the customer's premises.

(b). Cash deposits for the indicated utility service shall be in the following amounts:

(1). Water Service - \$75.00.

(c). In the event that utility service shall be disconnected or discontinued for failure to pay any bill due the city for such utility, such cash deposit shall be applied as a credit against all amount due from the customer to the city and if there shall remain any surplus of such deposit, the same shall be returned to the customer.

(d). Deposits collected pursuant to this section shall be governed by the provisions of K.S.A. 12-822 as amended.

**15-106. DELINQUENT ACCOUNTS; REFUSAL OF SERVICE; TERMINATION OF SERVICE; LIEN AGAINST PROPERTY**

(a). In the event that any person, except the United States or the state of Kansas, shall fail to pay the fees or charges for such utility services(s), Utility service shall be terminated as provided in sections 15-102 through 15-104. The governing body may refuse the delivery of utility service(s), as permitted by law, until such time as the fees and charges are paid in full.

(b). In the event that any person, except the United States or the state of Kansas, residing, occupying, using or operating on property to which utility service(s) furnished by the city is not paid, the unpaid fees or charges shall constitute a lien upon the property to which the utilities are furnished. The amount of the unpaid fees or charges shall be certified by the governing body to the county clerk of the county in which the property is located, to be placed upon the tax roll for collection, subject to the same penalties and collected in the same manner as other taxes are collected by law.

(c). The lien, described in subsection (b) of this section, shall not attach to property for unpaid utility fees or charges when the utility service(s) have been contracted for by a tenant and not by the landlord or owner of the property to which the utility service is provided.



(d). If at the time of application for utility service the applicant has an outstanding balance or unpaid fees or charges for utility services provided by the city, the application shall not be accepted until all fees or charges are paid in full.

(e). If utility service is furnished to leased premises on the application and request of the lessor of the premises, then all billings for utilities furnished to such leased premises shall be made directly to the lessor, and the lessor shall be fully liable for the cost of service furnished.

**15-107. PETTY CASH FUND.** A petty cash fund in the amount of \$200.00 is established for the use of the city utilities department for the purpose of paying postage, freight, temporary labor and other emergency expenses, including refund of deposits made to secure payment of accounts.

**15-108. SAME; DEPOSITS.** The petty cash fund shall be deposited in the regular depository bank of the city and paid out on the order of the city clerk by check which shall state clearly the purpose for which issued. (Code 2003)

**15-109. SAME; VOUCHERS.** Whenever the petty cash fund becomes low or depleted, the city clerk shall prepare vouchers covering expenses as have been paid from the petty cash fund and shall submit such vouchers together with the paid checks to the governing body for review and allowance of the amounts from the regular funds of the utilities. Warrants issued therefore shall be payable to the petty cash fund and shall be deposited therein to restore said petty cash fund to its original amount.

**15-110.** Water bills are due on the 10<sup>th</sup> of the month. Customers who have failed to pay a water bill by the 21<sup>st</sup> day of the month will have their water service disconnected; except, however, if, prior to the 21<sup>st</sup> day of the month, such customer notifies the Water Clerk of the customers inability to pay such bill by the 21<sup>st</sup>, and if the customer pays ½ of the bill before the 21<sup>st</sup> day of the month or, if the last day of the month falls on a Friday or weekend, the first Monday following the last day of the month. If the remainder of the overdue bill is not paid by that date, water service will be discontinued until all charges, including any applicable reconnection fees are brought current.

**15-111.** If water service is disconnected due to non-payment, a reconnection fee shall be assessed upon the account and must be paid prior to reconnection. The fee shall be assessed on the following scale, which shall apply to the customer's entire history of service with the City:

- (1) . First reconnection – no fee
- (2) . Second reconnection - \$25.00
- (3) . Third reconnection - \$50.00
- (4) . Fourth reconnection - \$75.00
- (5) . After Fourth reconnection - \$100.00 (ORD.# 1961 3/2/09)

## ARTICLE 2. WATER

**15-201. SUPERINTENDENT OF WATER AND SEWAGE.** The general management, care, control and supervision of the city water system shall be in the superintendent of water and sewage, who shall be appointed by the mayor with the consent of the governing body.

**15-202. REGULATIONS.** The furnishing of water to customers by the city through its waterworks system shall be governed by the regulations set out in this article.

**15-203. SERVICE NOT GUARANTEED.** The city does not guarantee the delivery of water through any of its mains and connecting services at any time except only when its mains, pumping machinery, power service connection are in good working order and the supply of water is sufficient for the usual demand of its consumers.

**15-204. SERVICE CONNECTIONS REQUIRED.**

(a). The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose, situated within the city abutting on any street, alley or right-of-way in which there is now located or may in the future be located near public water mains, is hereby required at his/her own expense to make connection to such public water main.

(b). Before any connection is made to the city's water system an application must be made in writing to the city clerk by the owner of the premises or his/her authorized representative for a permit to make such connection.

(c). Notwithstanding anything else in this article, special connection regulations shall govern the connection of Manufactured Home Parks to the City's water system.

(1). The owner of the Park, or his designee, shall make application to the City for a Master Meter or Meters, which shall meter all water supplied by the City to all users in the Park. A deposit shall be paid for the Master Meter, the amount of which shall be equal to the charge for the total average monthly use for the Park in the previous calendar year concluding the most recent December 31, plus a deposit of \$75 for each Master Meter installed by the City to measure water used by the Park. Each January 1, or as soon thereafter practicable, the City will review the Park's water use for the previous calendar year and will adjust the deposit for the ensuing year based on that use. If there is an increase in the deposit required for the ensuing year, the City will notify the Park management in writing of

said increase and the Park management will make the required additional deposit by the due date of the first water billing cycle of the new year. Failure to make the additional deposit will be deemed a failure to have a deposit on file and may result in discontinuation of service pursuant to other sections of this code.

**(2).** The Park management shall be responsible for installing and maintaining all lines to and within the park, from the Master Meter on. Each and every occupied manufactured home within the Manufactured Home Park shall be connected to the water system.

**(3).** If the Park management wishes to place a meter at each Manufactured Home site within the park, it may purchase said meters from the City. *(ORD.# 1969 1/19/10)*

**15-205. APPLICATION FOR SERVICE.**

**(a).** Any person, firm or corporation desiring a connection with the municipal water system shall apply in writing to the city clerk on a form furnished by the city for that purpose, for a permit to make the connection.

**(b).** The application shall:

1. Contain an exact description including street address of the property to be served;
2. State the size of tap required;
3. State the size and kind of service pipe to be used;
4. State the full name of the owner of the premises to be served;
5. State the purpose for which the water is to be used;
6. State any other pertinent information required by the city clerk;
7. Be signed by the owner or occupant of the premises to be served or his/her authorized agent.

**(c).** Each application for a connection permit shall be accompanied by payment of fees and/or costs specified in section 15-207.

**15-206. CITY TO MAKE CONNECTIONS.** All taps shall be given, street excavations made, corporation cocks inserted, pipes installed from main to curb and the curb cock installed in a meter box to which the service pipe is to be connected by city employees only.

**15-207. CONNECTION FEES.** The fees for connection to the city waterworks system shall be as follows:

**(a).** For connecting water main with three-fourths inch tap, three-fourths inch service line and installing three-fourths inch meter - \$\_\_\_\_\_ plus tax;

**(b).** For connecting water main with larger than a three-fourths inch tap, service line or meter - \$\_\_\_\_\_ plus tax.

**15-208. CURB COCKS.** There shall be a curb cock in every service line attached to the city main, the same to be placed within the meter box. Curb cocks shall be supplied with strong and suitable "T" handles.

**15-209. CHECK VALVES.** Check valves are required on all connections to steam boilers or on any other connection deemed necessary by the water superintendent. Safety and relief valves shall be placed on all boilers or other steam apparatus connected with the water system where the steam pressure may be raised in excess of 40 pounds per square inch.

**15-210. UNAUTHORIZED SERVICE.**

**(a).** It shall be unlawful for any person, firm or corporation, other than duly authorized city officials or employees to turn water on or off at the water meter or curb cock shut off, with a key or in any other manner, without first obtaining written permission from the mayor or the governing body.

**(b).** Every single-family home having water service provided by the City of Pleasanton shall be connected to said water service by a separate and individual meter.

**(c).** Every business having water service provided by the City of Pleasanton, other than a business lawfully operating as a home business under the zoning ordinances of the City of Pleasanton, shall be connected to said water service by a separate and individual meter.

**(d).** Any property owner or occupant connecting a second home or business to an existing meter in violation of this section shall be notified by the Public Works superintendent in writing that said connection is in violation of city ordinance and given 30 days to discontinue the violation. Failure to do so may result in water service being terminated to the meter in question. Service will be reestablished upon evidence that the violation has been corrected and a reconnect fee paid.

**15-211. METERS.**

**(a).** All water furnished to customers shall be metered.

**(b).** Meters shall be located between the sidewalk or property line and curbing when the main is in the street and on private property within three feet of the alley line when the main is in the alley. In the business district the meters may be installed in the basement at a location specified by the city.

**(c).** The city's responsibility stops at the property line.

**15-212. SAME; TESTING.**

**(a).** At the discretion of the City, meters may be tested before being set and at any other time thereafter when they appear to be measuring incorrectly.

(b). Upon request of any water customer who has a reasonable belief that said customer's water meter is inaccurate, the Public Works Department may, at the direction of the Mayor, remove the meter and submit it for a test of its accuracy, provided that the customer deposits with the City a deposit of \$100 prior to such removal and submission.

(c). If the meter is found to be inaccurate beyond the normal limits of variability, with the result that the customer may have been charged for more water than has likely been used, the City will make any adjustments to the water bill allowed under this policy and the deposit will be applied to the water bill, provided that if the total bill due and payable is less than \$100.00, the balance will be refunded to the customer.

(d). If the meter is not found to be inaccurate beyond the normal limits of variability, the deposit will be forfeited to pay the cost of the meter's removal and testing.

(e). In the event that a customer has an unusually high water bill, whether or not the reason is able to be determined, the customer may request the City council to adjust the rate charged for the excess water usage over and above the customer's monthly average for the previous 12 months. The Council or its designee may, at its sole discretion, adjust the rate to the wholesale rate. Further, if it appears that said high usage is the result of an inaccurate meter as determined under the terms of Part (b) above, the Council may, at its sole discretion, reduce the total amount of water billed. (ORD.# 1968 1/4/10)

**15-213. TAMPERING WITH METER.** It shall be unlawful for any person to break the seal of any meter, to alter the register or mechanism of any meter or to make any outlet or connection in any manner so that water supplied by the city may be used or wasted without being metered. It shall be unlawful for any person except an authorized employee of the water department to turn any curb cock on or off.

**15-214. LEAKS PROHIBITED; PENALTY.** No allowances shall be made for water used or lost through leaks, carelessness, neglect or otherwise after the same has passed through the meter. However, every customer shall have the right to appeal to the city from water bill or meter reading which he/she may consider excessive.

**15-215. DISCONNECTION, RECONNECTION CHARGE.** The governing body shall establish, by ordinance, a water service disconnection and reconnection charge. Whenever the city receives a request from a customer for termination of water service, the disconnection charge shall be added to the customer's final bill. Any service disconnected for non-payment of delinquent bill shall be reconnected only upon payment of the delinquent bill, interest penalty thereon and the reconnection charge.

**15-216. UTILITY DEPOSIT.** At the time of making application for water service, the property owner or customer shall make a cash deposit in the amount and manner specified in section 15-105 to secure payment of accrued bills or bills due on discontinuance of service. Meter deposits shall be transferable from one address to another address under the following conditions:

(a). All water charges, fees and penalties at the original address are fully paid and current.

(b). An “overlap” of no more than 2 business days will be allowed. If a longer “overlap” is needed, a second deposit, at current rates, must be refunded or applied to water usage at the original address. In this situation, failure to pay the 2<sup>nd</sup> deposit will result in termination of service.

*(ORD.# 1967 1/4/10)*

**15-217. INTERRUPT SERVICE.** The city reserves the right to interrupt water service for the purpose of making repairs or extensions to water lines or equipment.

**15-218. PROHIBITED ACTS.** It shall be a violation of this article for any unauthorized person to:

(a). Perform any work upon the pipes or appurtenances of the city’s waterworks system beyond a private property line unless such person is employed by the city;

(b). Make any connections with any extension of the supply pipes of any consumer without written permission to do so having been first obtained from the governing body;

(c). Remove, handle or otherwise molest or disturb any meter, meter lid, cutoff or any other appurtenances to the water system of the city.

**15-219. WASTING WATER.** Water users shall prevent unnecessary waste of water and shall keep sprinklers, hydrants, faucets and all apparatus, including the service line leading from the property to the meter in good condition at their expense.

**15-220. RIGHT OF ACCESS.** Authorized employees of the city may enter upon any premises at reasonable hours for the purpose of reading the meter or servicing or inspecting meters or water lines.

**15-221. RATES.**

(a) Beginning with the water usage period billed August 1, 2013, the minimum water charge for residents within the city limits and for residents living outside the city limits shall be \$30.00 for the first 1000 gallons.

(b) Beginning with the water usage period billed January 1, 2014; the basic sewer rate adjustment for the first 5000 gallons of water usage shall be \$22.00.

(c) Beginning with the water usage period billed July 1, 2014; the basic sewer rate adjustment for the first 5000 gallons of water usage shall be \$30.00.

(d) Beginning with the water usage period billed January 1, 2015, and thereafter upon the first billing period of each year, the basic 1000 gallon charge and the sewer rate adjustment shall each be automatically increased 3% each year for all users, unless the Council shall act to postpone, cancel or suspend such increase. (ORD.# 1996 7/1/13)

- 15-222. PAYMENT OF BILLS.** All water bills for the previous month's water service shall be paid on or before the 10<sup>th</sup> day of the month following the service. For any billing not paid when due, a late charge of 0.10 percent will be added to the bill.
- 15-223. DELINQUENT ACCOUNTS; NOTICE; HEARING; FINDING; LIABILITY.** Water service shall be terminated for non-payment of service fees or charges as provided in sections 15-102:104.
- 15-224. USE DURING FIRE.** No person owning or occupying premises connected to the municipal water system shall use or allow to be used during a fire any water from the water system except for the purpose of extinguishing the fire. Upon the sounding of a fire alarm it shall be the duty of every such person to see that all water services are tightly closed and that no water is used except in extraordinary cases of emergency during the fire.
- 15-225. CROSS-CONNECTIONS PROHIBITED.** No person, company, corporation or institution shall establish or permit to be established or maintain or permit to be maintained, any cross connection whereby a private water supply or any source of contamination may enter the regular public water supply of the city unless the source is approved by the city council of the city and the Kansas Department of Health and Environment.
- 15-226. PROTECTIVE BACKFLOW DEVICES REQUIRED.** Approved devices to protect against backflow or back-siphoning shall be installed at all fixtures and equipment where backflow or back-siphoning may occur and where there is a hazard of contamination of the potable water supply system.
- 15-227. INSPECTION.** The superintendent of public works or other designate of the city council of the city shall have the right of entry into any building or premises in the city as frequently as necessary in order to ensure that plumbing has been installed in a manner as to prevent the possibility of contamination of the public water supply of the city.
- 15-228. PROTECTION FROM CONTAMINANTS.** Pursuant to the authority given under home rule authority and K.S.A 65-163a, the city may refuse to deliver

water to any premises where a condition exists which might lead to the contamination of the public water and may continue to refuse to deliver water until the condition is corrected to the satisfaction of the city. In addition, the city may immediately terminate water service to a premises where a backflow or back-siphoning condition exists which may be hazardous to the health of customers served by this public water supply system of the city.

**15-229. INCORPORATION BY REFERENCE.** There is hereby incorporated by reference for the purpose of regulating cross connections between the public water supply and any sources of contamination that manual adopted by the governing body of the city, known as, "Manual of Regulations Regulating Backflow and Back-siphoning of Contaminants Due to Cross connections for the City of Pleasanton Public Water Supply." When completed, no fewer than three copies of said manual shall be marked or stamped, "Official copy as Adopted by Proper Ordinance No. 1732," and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.

**15-230. NON-PROFIT WATER RATE.**

Non-governmental non-profit organizations which have water service within the City of Pleasanton, Kansas, shall, upon documentation of their non-profit status, be provided up to 3000 gallons of water per monthly billing cycle without charge. The organizations covered by this section include, but are not limited to, formally organized churches, the Pleasanton Community Building, the Congregate Meals Center, the Linn County Museum, and the Pleasanton Youth Center.

Organizations qualifying and receiving water under Section 1 hereof shall be charged the "Wholesale" water rate for any water use in any monthly billing cycle which exceeds 3000 gallons.

**15-231 EMPLOYEE WATER USAGE REIMBURSEMENT.** Every Full-time City employee who is employed by the City of Pleasanton on December 1 of any year, and who has residential water service from the City of Pleasanton, and who receives that service at a residence occupied by the employee within the City limits of the City of Pleasanton, shall receive an annual reimbursement of certain portions of the water/sewer rates charges for water they have used during the previous year. Said reimbursement shall be calculated during the month of December each year and shall be based on water usage reports available for the twelve months beginning December 1 of the PREVIOUS year to December 1 of the CURRENT year. The amount of reimbursement shall be the cost of up to the first 5000 gallons per month of actual water usage as recorded by the employee's residential water meter. Water/sewer usage beyond 5000 gallons per month shall be charged the regular retail rate, including applicable minimums, for all water in excess of 5000 gallons. The reimbursement shall be included in the employee's final pay check of the year and shall be considered taxable income to the employee. (ORD. # 1998 9/16/13)



### **ARTICLE 3. SEWERS**

**15-301. DEFINITIONS.** Unless the context clearly indicates otherwise, the meaning of words and terms as used in this article shall be as follows:

(a). Building Drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner-face of the building wall.

(b). Building Sewer shall mean the extension from the building drain to the public sewer or other place of disposal.

(c). B.O.D. (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees centigrade, expressed in parts per million by weight.

(d). PH shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(e). Individual Domestic means any single family residence, commercial business, office, institution, school, church or public entity having an individual direct or indirect connection to the wastewater facilities of the city and on individual city or private water service meter or connection to any such water service.

(f). Industrial means any industrial business engaged in the manufacturing or processing of one or more products and in which wastewaters are produced from such manufacturing or processing and said wastewaters are discharged directly or indirectly to the wastewater facilities of the city.

(g). Multi-domestic means any multi-family residence, apartment or mobile home and any commercial business, office, institution, school, church or public entity having a direct or indirect connection to the wastewater facilities of the city and not having an individual water service meter but is served with city or private metered water by the owner of the property on which it is located.

(h). Superintendent shall mean the superintendent of the city or his/her authorized deputy, agent or representative.

(i). Sewage shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.

(j). Sewer shall mean a pipe or conduit for carrying sewage.

- (k).** Public Sewer shall mean a sewer in which all owners of abutting properties have equal rights and is controlled by public authority.
- (l).** Combined Sewers shall mean sewers receiving both surface runoff and sewage, are permitted.
- (m).** Sanitary Sewer shall mean a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.
- (n).** Storm Sewer or Storm Drain shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.
- (o).** Sewage Treatment Plant shall mean any arrangement of devices and structures used for treating sewage.
- (p).** Suspended Solids shall mean solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.
- (q).** User means any person as defined in section 1-102, including an institution, governmental agency or political subdivision producing wastewater requiring processing and treatment to remove pollutants and having premises connected to the wastewater facilities.
- (r).** Wastewater means sewage, the combination of liquids and water carried wastes from residences, commercial and industrial buildings, institutions, governmental agencies, together with any ground, surface or storm water that may be present.
- (s).** Normal wastewater. The strength of normal wastewater shall be considered within the following ranges:
- (1).** A five day biochemical oxygen demand of 300 milligrams per liter or less;
  - (2).** A suspended solid concentration of 350 milligrams per liter or less;
  - (3).** Hydrogen ion concentration of 5.0 to 9.0.

## ARTICLE 4. SEWER CONNECTIONS

- 15-401. SEWER CONNECTION REQUIRED.** The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at his/her expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 90 days after date of official notice to do so, provided that said public sewer is within 140 feet of the property line.
- 15-402. PERMIT; CONNECTION FEE.**
- (a). No person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city.
  - (b). There shall be charged a fee of \$\_\_\_\_\_ payable at the time of making application for the permit.
- 15-403. APPLICATION.** Any person desiring to make a connection to the city sewer system shall apply in writing to the city clerk who shall forward the application to the utility superintendent. The application shall contain:
- (a). The legal description of the property to be connected;
  - (b). The name and address of the owner or owners of the property;
  - (c). The kind of property to be connected (residential, commercial or industrial);
  - (d). The point of proposed connection to the city sewer line.
- 15-404. COSTS.**
- (a). All costs and expense incident to the installation and connection or moving of the building sewer shall be paid by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
  - (b). When an installation, connection, relocation or repair of a sewer requires excavation of any portion of any City Street, the City shall pay for the gravel and street patch material required to restore the excavation and complete said installation.
- 15-405. SEWER CONNECTION.** The connection of the building sewer into the public sewer shall be made at the "Y" branch if such branch is available at a suitable location. Where no properly located "Y" branch is available, the connection shall be made in the manner approved by the utility superintendent and at a location designated by the superintendent.

- 15-406. SEWER FOR EACH BUILDING.** Separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available or can be feasibly constructed to the rear building. In such case, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
- 15-407. SAME; SPECIFICATIONS.** The building sewer shall be constructed of cast iron pipe, ASTM specifications A74-42, or approved equal; vitrified clay sewer pipe, ASTM specifications C13-44T, or approved equal; or an approved plastic pipe. Any plastic pipe to be installed on any building sewer shall not be approved by the city until the owner has furnished descriptive literature and typical sample section of the plastic pipe proposed for installation, to the city for inspection and review. All joints on all pipe installed shall be tight and waterproof. Any part of the building sewer that is located within 10 feet of a water service pipe or city water main shall be constructed of approved cast iron soil pipe with approved joints. No building sewer shall be installed within three feet of existing gas lines. If installed in filled or unstable ground, the building sewer shall be constructed of cast iron soil pipe, except that non-metallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the city.
- 15-408. SAME.** The size and slope of the building sewer to be installed shall be subject to the approval of the city inspector, but in no event shall the diameter of the pipe be less than four inches. The slope at which a six inch pipe is to be laid shall be not less than 1/8 inch per foot and for four inch pipe, not less than 1/4 inch per foot. Any grades for the pipe, which are proposed for installation at grades less than these specified, shall be approved by the city inspector prior to placement.
- 15-409. SAME.** Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with approved curved pipe and fittings, including cleanout fittings.
- 15-410. SAME.** At buildings in which the building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer. The use of any pumping equipment for which cross-connections with a public water supply system are needed, is prohibited. The total costs of pumping equipment and pumping equipment operational costs shall be those of the owner.

- 15-411. SAME.** No building sewer shall be laid across a cesspool, septic tank or vault until the cesspool, septic tank or vault has been well cleaned and filled with an approved earth or sand fill, then thoroughly tamped and water settled. Cast iron pipe may be used across cesspools or septic tanks, if proper bedding and support for the sewer pipe is acquired.
- 15-412. SAME.** All excavation required for the installation of the building sewer shall be open trench work unless otherwise approved by the city. Pipe laying and backfill shall be performed in accordance with ASTM specifications C12-19, except that no backfill shall be placed until the work has been inspected and approved.
- 15-413. SAME.** All joints in the building sewers shall be made watertight. If recommended by the city inspector, a water pressure test shall be made on the completed sewer to insure a compliance with this requirement, requiring that the building sewer withstand an internal water pressure of 5 psi., without leakage.  
Cast iron pipe with lead joints shall be firmly packed with oakum or hemp and filled with molten lead, Federal Specification QQ-L-156, not less than one inch deep. Lead shall be run in one pour and caulked and packed tight. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved.  
All joints in vitrified clay pipe shall be the polyurethane-compression type joints, approved by the city inspector.  
Joints for all plastic pipe used in building sewers shall be the slip type joints or solvent weld type, approved by the city.  
Joints between any two different type of pipes shall be made with lead, asphalt jointing materials or concrete, as approved by the city. All joints shall be watertight and constructed to insure minimum root penetration and to the satisfaction of the city.
- 15-414. SEWER EXCAVATIONS: DAMAGES.** All excavations for buildings sewers shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, curb and gutters, sidewalks, parkways and other public property removed or damaged during the installation of the building sewer, shall be repaired or replaced in a manner acceptable to the city and at the total expense of the owner. It is further agreed that any parties involved in any excavating or installation work for sewer installations as above set out, will hold the city harmless from any and all damages to persons or property resulting from or growing out of any opening or excavation or any negligence act or from any operation made within the city.
- 15-415. FAILURE TO CONNECT.**  
**(a).** If any person as defined in section 1-102 shall fail to connect any dwelling or building with the sewer system after being noticed, the city

may cause such buildings to be connected with the sewer system as authorized by K.S.A. 12-631.

**(b).** The cost and expense, including inspection fees, shall be assessed against the property. Until such assessments shall have been collected and paid to the city, the cost of making such connection may be paid from the general fund or through the issuance of no fund warrants.  
(Code 2003)

- 15-416. PRIVY UNLAWFUL.** It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage except as provided in this article.
- 15-417. PRIVATE SEWER SYSTEM.** Where a public sanitary sewer is not available under the provisions of section 15-402 the building sewer shall be connected to a private sewage disposal system complying with the provisions of sections 15-417 to 15-422.
- 15-418. SAME; PERMIT.** Before commencing construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the utility superintendent. The application shall be accompanied by any plans, specifications or other information deemed necessary by the utility superintendent. A permit and inspection fee of \$\_\_\_\_\_ shall be paid to the city at the time the application is filed.
- 15-419. SAME; INSPECTION.** The utility superintendent or his/her authorized representative shall be allowed to inspect the work at any stage of construction and the applicant shall notify the superintendent when the work is ready for final inspection or before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the superintendent.
- 15-420. SAME; DISCHARGE.**
- (a).** The type, capacities, location and layout of the private sewage disposal system shall comply with all recommendations and requirements of the Water Pollution control Section of the Kansas State Department of Health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than one acre. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.
- (b).** At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 15-402, a direct connection shall be made to the public sewer in compliance with this article and abandoned and filled with suitable and acceptable materials.

- 15-421. SAME; ADDITIONAL REQUIREMENTS.** No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the city or county health officer.
- 15-422. DISPOSAL OF SEWAGE.** It shall be unlawful for any person to deposit or discharge from any source whatsoever any sewage or human excrement upon any public or private grounds within the city or to permit the contents of any privy, vault or septic tank to be deposited or discharged upon the surface of any grounds. Any unauthorized or unapproved privy vault, septic tank or other means or places for the disposal of sewage, excrement and polluted water may be abated as a public nuisance upon the order of the city or county board of health in accordance with the laws of Kansas.
- 15-423. DAMAGE TO SEWERS.** It shall be unlawful for any unauthorized person to maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any sewer, structure, appurtenance or equipment which is part of the municipal sewer system.
- 15-424. NATURAL OUTLET.** It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city any sanitary sewage, industrial wastes or other polluted waters except where suitable treatment has been provided in accordance with the provisions of this article.
- 15-425. STANDARDS.** The size, slope, alignment, materials, excavation, placing of pipe, jointing, testing and backfilling shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city.
- 15-426. OLD BUILDING SEWERS.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the utility superintendent, to meet all requirements of this article.
- 15-427. MUD, GREASE TRAPS.** All garages, filling stations, milk plants or other commercial or industrial plants connected to the public sewer shall construct and maintain proper and sufficient interceptors or traps to prevent the discharge of any sand, mud, sediment, litter, waste or any substance harmful to the effective operation and maintenance of the city sewer system, into the building sewer. (Code 2003)
- 15-428. ROOF, FOUNDATION DRAINS.**  
**(a).** It shall be unlawful to connect downspouts from any roof area, drains from any building foundation, paved areas, yards or open courts or to discharge liquid wastes from any air conditioning unit or cooling device having a capacity in excess of one ton per hour or one horsepower into any city sanitary sewer.

(b). All discharges prohibited in subsection (a) may be discharged into the public gutter or storm drains or open drainage ditches provided such discharge does not create a nuisance. No such liquids may be discharged into any unpaved street or alley.

**15-429. SAME; EXCEPTION.** Discharges from air conditioning units in excess of one ton per hour or one horsepower may be permitted into a building sewer upon approval of the utility superintendent where there is a finding that such cooling water cannot be re-circulated and that such waste water does not overload the capacity of the sewer or interfere with the effective operation of the sewage disposal works of the city.

**15-430. PROHIBITED DISCHARGES.** No person shall discharge any of the following waters or wastes to any public sewer:

(a). Liquid or vapor having a temperature higher than 150 degrees Fahrenheit;

(b). Water or waste which may contain more than 100 parts per million, by weight, of fat, oil or grease;

(c). Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;

(d). Garbage that has not been properly shredded;

(e). Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;

(f). Waters or wastes having a ph lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;

(g). Waters or wastes containing a toxic poisonous substance in sufficient quantity to injury or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the sewage treatment plant;

(h). Water or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;

(i). Noxious or malodorous gas or substance capable of creating a public nuisance.

**15-431. BILLS.**

(a). Bills shall be rendered monthly as provided in section 15-222 and shall be collected as a combined utility bill.



**(b).** Any person at the time of beginning or terminating service who receives service for a period of less than 17 consecutive days shall be billed at no less than one-half of the regular minimum monthly rate. For service of 17 consecutive days or more the charge shall be not less than full regular minimum monthly rate.

**15-432. DELINQUENT ACCOUNTS; LIEN AGAINST PROPERTY.**

**(a).** In the event any person, except the United States and the state of Kansas or any political subdivision thereof, shall fail to pay the user charges when due, water service shall be terminated as provided in sections 15-102:104.

**(b).** In lieu of terminating water service, the governing body may elect to assess such delinquent charges as a lien upon the real estate serviced as provided in section 15-106 and the city clerk shall certify such delinquent charges to the county clerk to be placed on the tax roll and collected in like manner as other taxes are collected. (Code 2003)

## **ARTICLE 5. SOLID WASTE - RESERVE**

### **ARTICLE 6. GAS – RESERVE**

### **ARTICLE 7. WATER CONSERVATION**

**15-701 PURPOSE.** The purpose of this article is to provide for a progressive water supply conservation program, including 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 by the governing body of the City.

**15-702 DEFINITIONS.**

(a). “Water, as used in this article, shall mean water available to the City of Pleasanton for treatment by virtue of the City’s water right, water supply, water supply contracts or any treated water introduced by the City into its water distribution system, including water offered for sale at any coin-operated site.

(b). “Customer”, as used in this article , shall mean the customer of record using water for any purpose from the City’s water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.

(c). “Waste of Water”, as used in this article, includes, but is not limited to:

(1). Permitting water to escaped down a, street, roadway or other surface intended for vehicle driving purposes, and / or any gutter, ditch, or other surface drain; or

(2). Failure to repair controllable leak of water due to defective plumbing.

**15-703 CLASSES OF WATER USE.** The following classes of uses of water are established for the purpose of this article:

(a). Class 1: Water used for outdoor watering; either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing field, swimming pools or other recreational area; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.

(b). Class 2: Water used for any commercial, agricultural or industrial purposes, except water actually necessary to maintain the health and personal hygiene of bona fide employees or such business or interest while such employees are engaged in the performance of their duties at their place of employment.

(c). Class 3: Domestic usage, other than that which would be included in either classes 1 or 2.

(d). Class 4: Water necessary only to sustain human life and the lives of domestic livestock and pets and maintain standards of hygiene and sanitation.

**15-704 PROGRESSIVE EMERGENCY MEASURES.** In the event that the governing body of the City or the City's designated official determines that the City's water supply may be in subject to a shortage in supply or the governing body of the City determines there is need for conservation of the City's water resources for any reason, the City may begin the progressive three (3) stage water conservation program by declaring a water watch as described in 15-704(a) or, in times of need and / or duress, the governing body of the City may choose to declare any section of the program described in 15-704 in effect at any time:

(a). **Stage 1: Declaration of Water Watch.** Whenever the governing body of the City finds that conditions indicate that the probability of a drought or some other condition causing a major water supply shortage is rising, it shall be empowered to declare, by resolution, that a water watch exist and the it shall take steps to inform the public and ask for voluntary reductions in water use. Such a watch shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water watch shall be effective upon their publication in the official city newspaper.

(b). **Stage 2: Declaration of Water Warning.** Whenever the governing body of the City finds that drought conditions or some other condition causing a major water supply shortage are present and supplies are starting to decline, it shall be empowered to declare by resolution that a water warning exists and that it recommend restrictions on nonessential uses during the period of warning. Such a warning shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the beginning and ending of the water warning shall be effective upon their publication in the official city newspaper. Pursuant to the approval of the Chief Engineer, Division of Water Resources, Kansa Department of Agriculture, the recommended restrictions on nonessential uses may be extended to private wells within the City limits.

(c). **Stage 3: Declaration of Water Emergency.** Whenever the governing body of the City finds that an emergency exists by reason of a shortage of water supply need for essential uses, it shall be empowered to declare by resolution that a water supply emergency exists and that it will impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by

resolution of the governing body to have ended. The resolution declaring the existence and end of a water supply emergency shall be effective upon their publication in the official city newspaper. Pursuant to the approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, the mandatory restricts on water use may be extend to private wells within the City limits.

**15-705 VOLUNTARY CONSERVATION MEASURES.** Upon the declaration of a water watch or water warning as provided in 15-704 3(a) or 15-704(b), the mayor (or the city manager) is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate nonessential water uses including, but not limited to, limitation on the following uses:

- (a). Class 1 uses of water.
- (b). Waste of water.

**15-706 MANDATORY CONSERVATION MEASURES.** Upon the declaration of a water supply emergency as provided in 15-704 (c), the mayor (or the city manager or authorized city official) is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following conservation measures:

- (a). Suspension of new connections to the City's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered into by the City prior to the effective date of the declaration of the emergency;
- (b). Restrictions on the uses of water in one or more classes of water use as described in 15-703(b), wholly or in part;
- (c). Restrictions on the sales of water at coin-operated facilities or sites;
- (d). The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per consumer restrictions;
- (e). Complete or partial bans on the waste of water; and
- (f). Any combination of the measures in 15-706(a-e) as the governing body of the City or authorized city official may deem appropriate and / or necessary.

**15-707 EMERGENCY WATER RATES.** Upon the declaration of a water supply emergency as provided in 15-704(c), the governing body of the City shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rate may provide for, but are not limited to:

- (a). Higher charges for increasing usage per unity of use (increasing block rates);
- (b). Uniform charges for water usage per unit of use (uniform unity rate);  
or
- (c). Extra charges in excess of a specified level of water use (excess demand surcharge).

**15-708 REGULATIONS.** During the effective period of any water supply emergency as provided for in 15-704(c), the mayor (or city manager or water superintendent or other authorized city official) is empowered to promulgate such regulation 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.

**15-709 VIOLATIONS, DISCONNECTIONS AND PENALTIES.**

(a). If the mayor, city manager, water superintendent, or other authorized city official or officials charged with implementation and enforcement of this article or a water supply emergency resolution learn of any violation of any water use restrictions imposed pursuant to 15-706 or 15-708 of this article, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record and / or any other person know to the City to be responsible for the violation and / or the correction of said violation shall be provided with either actual or mailed notice. Said notice shall describe the violation(s) and order that the noted violation(s) be corrected, cured or abated immediately or with in such specified time as the City determines reasonable for such correction, cure or abatement under the circumstances. In the event the order is not cured within the time period given in the notice, 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 with a specified time due to the violation(s) 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 City governing body;

(2). If such a hearing is requested by the customer charged with the violation, the customer shall be given a full opportunity to be heard by the City governing body or the city official designated as a hearing officer by the City governing body before termination is ordered; and the City governing body or the city official designated as a hearing officer by the City governing body shall make findings on fact and order whether service should continue or be terminated.

**(b).** Upon the first reconnection of water service terminated pursuant to 15-709 (a) within a one-year, a warning shall be issued that future reconnection will result in a reconnection fee. A fee of \$25.00 shall be paid for the second reconnection of any water service terminated pursuant to 15-709 (a) with-in a one-year period. A reconnection fee of \$50.00 shall be paid for the third reconnection within the one-year period. A reconnection fee of \$75.00 shall be paid for the fourth reconnection with in the one-year period. A reconnection fee of \$100.00 shall be paid for the fifth and subsequent reconnections within the one-year period.

**(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 calendar day in which a violation is observed shall constitute a separate offense. The penalty of an initial violation shall be a mandatory fine of \$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 5 days. The penalty for a second or subsequent conviction shall be a mandatory fine of \$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 10 days.

**15-710. 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 or for any other emergency as required or authorized by ordinance or as deemed necessity of the City by such city official or the governing body of the City.

**15-711. SERVEABILITY.** If any provision of this article is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the article and its applicability to other persons and circumstances shall not be affected thereby. (ORD. # 2003 2/3/14)

# **CHAPTER XVI. ZONING AND PLANNING**

## **ARTICLE 1. CITY PLANNING COMMISSION / BOARD OF ZONING APPEALS**

- 16-101. COMMISSION RE-ESTABLISHMENT.** There is hereby re-established the Pleasanton City Planning Commission which is composed of not less than five members of which two members shall reside outside the city, but within the designated planning area of the city which is within at least three miles of the corporate limits of the city. The planning commission was originally created by Ordinance No. 1796 which was passed and approved on April 23, 1997.
- 16-102. MEMBERSHIP, TERMS, INTEREST AND COMPENSATION.** The members of the planning commission shall be appointed by the mayor with the consent of the governing body at the first regular meeting of the governing body in May of each year and take office at the next regular meeting of the commission. All members shall be appointed for staggered terms of three 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 of 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 or she shall be disqualified to discuss or vote on the 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.
- 16-103. 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 bylaws. The commission shall elect one member as chairperson and one member as vice-chairman who shall serve one 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 bylaws for the transaction of business and hearing procedures. All actions by the commission shall be taken by a majority vote of the entire membership of the commission; except that, a majority of the members present and voting at the hearing shall be required to recommend approval or denial of an amendment to the zoning regulations, a

rezoning amendment or a special use permit. 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.

- 16-104. POWERS AND DUTIES.** The governing body and planning commission shall have all the rights, powers and duties as authorized in K.S.A. 12-741 et seq., and amendments thereto, which are hereby incorporated by reference as part of this section and shall be given full force and effect as if the same had been fully set forth. 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 Linn County in which the city is located, which in the opinion of the commission 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.
- 16-105 BOARD OF ZONING APPEALS.** The planning commission is hereby designated to also serve as the city's board of zoning appeals with all the powers and duties as provided for in K.S.A. 12-759. The board shall adopt rules in the form of bylaws for its operation which shall include hearing procedures. Such bylaws shall be subject to the approval of the governing body. Public records shall be kept of all official actions of the board which shall be maintained separately from those of the commission. The board shall keep minutes of its proceedings showing evidence presented findings of fact, decisions and the vote upon each question or appeal. A majority of the members of the board present and voting at the hearing shall be required to decide any appeal. Subject to subsequent approval of the governing body, the board shall establish a scale of reasonable fees to be paid in advance by the appealing party. The present membership of the board of zoning appeals shall be disbanded effective January 1, 2002.
- 16-106 BUDGET.** The governing body shall approve a budget for the planning commission and make such allowances to the commission as it deems proper, including funds for the employment of such employees or consultants as the governing body may authorize and provide, and shall add the same to the general budget. Prior to the time that moneys are available under the budget, the governing body may appropriate moneys for such purposes from the general fund. The governing body may enter into such contracts as it deems necessary and may receive and expand funds and moneys from the state or federal government or from any other resources for such purposes.



## **ARTICLE 2. ZONING REGULATIONS**

**16-201 ZONING REGULATIONS INCORPORATED.** There are hereby adopted by the governing body of the City of Pleasanton, Kansas, as prepared by the city and consisting of Ordinance Nos. \_\_\_\_\_ and entitled, "Zoning Regulations of the City of Pleasanton, Kansas." No fewer than three copies of the zoning regulations marked "Official Copy as Incorporated by the Code of the City of Pleasanton" and to which there shall be a published copy of this section attached, shall be filed with the city clerk to be open for inspection and available to the public at all reasonable business hours.

## **ARTICLE 3. SUBDIVISION REGULATIONS**

**16-301 REGULATIONS INCORPORATED.** There are hereby incorporated by reference, as if set out fully herein, certain regulations governing the subdivision of land located within the City of Pleasanton, Kansas and certain surrounding area as described therein, as adopted by the governing body of the City of Pleasanton, Kansas and prepared by \_\_\_\_\_. No fewer than three copies of the subdivision regulations marked "Official Copy as incorporated by the Code of the City of Pleasanton" and to which there shall be a published copy of this section attached, shall be filed with the city clerk to be open for inspection and available to the public at all reasonable hours.

## **ARTICLE 4. MANUFACTURED HOME & RECREATIONAL VEHICLE CODE**

**16-401** Manufactured Home & Recreational Vehicles

**SECTION 1** Title: This code shall be known and may be cited as the "Manufactured Home and Recreational Vehicle Code of Pleasanton, Kansas", and shall hereinafter be referred to as "this Code."

**SECTION 2** Purpose: This Code is intended to serve the following purposes:

- (1). Promote the health, safety, morals, comfort and general welfare of the citizens of the City of Pleasanton, Kansas.
- (2). Establish standards for the placement of manufactured homes and recreational vehicles within the City of Pleasanton, Kansas.

**SECTION 3** Applicability: This Code shall be applicable to the placement of manufactured homes and recreational vehicles within the City of Pleasanton, Kansas. Nothing hereunder shall pertain to "job trailers," "construction trailers," "portable classrooms," or "portable offices."

**SECTION 4** Definitions: As used in this Code, the following definitions shall apply unless the context clearly requires otherwise:

- (1) Camp. A recreational vehicle campground.
- (2) Health Officer. The Director of the Linn County Health Department, or his/her authorized representative.
- (3) House Trailer. A recreational vehicle.
- (4) Inspection Officer. The Zoning Administrator of the City of Pleasanton, or his/her authorized representative.
- (5) Manufactured Home. A dwelling unit substantially assembled in an off-site manufacturing facility for installation or assembly at the dwelling site, bearing a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards Act established by 42 U.S.C. 5403, and generally known as the HUD Code.
- (6) Manufactured Home Accessory Building or Structure. A subordinate building or structure which is an addition to or supplements the facilities provided by a manufactured home, such as awnings, cabanas, storage structures, carports, porches, fences, skirting, or windbreaks.
- (7) Manufactured Home Installation Contractor. A contractor who has been licensed to obtain the required permits to perform footing and pier installation, anchorage and tie-down installation, and skirting installation as required by this Code.
- (8) Manufactured Home Lot. A plot of ground within a park for the placement of one manufactured home for single-family occupancy and the exclusive use of its occupants, and which provides the necessary utility services for water, sewage and electricity.
- (9) Manufactured Home Pad. That portion of the manufactured home lot on which the manufactured home unit, and any attached awning, is placed.
- (10) Manufactured Home Park. An area, parcel, tract, or plot of ground equipped as required for support of manufactured homes and used or intended to be used by two or more occupied manufactured homes, provided the manufactured home spaces shall not be sold or offered for sale individually. The term "manufactured home park" does not include sale lots on which unoccupied manufactured homes, whether new or used, are parked for the purpose of storage, inspection or sale.
- (11) Manufactured Home Sales Area. An open space, other than a street or alley, used for display or sale of new or used manufactured homes, and where no repair work is done except minor incidental repair of manufactured homes to be displayed and sold on the premises.

**(12) Manufactured Home Skirting.** The enclosing of the area between the manufactured home and the ground with a material designed to obscure from view the chassis of a manufactured home.

**(13) Manufactured Home, Residential-Design.** A manufactured home on a permanent foundation which has (A) minimum dimensions of 22 feet in body width, (B) a pitched roof, and (C) siding and roofing materials which are customarily used on site-built homes. A residential-designed manufactured home shall be considered a single-family dwelling.

**(14) Mobile Home.** A transportable, factory-built structure designed to be used as a year-round residential dwelling, built prior to or not in conformance with the National Manufactured Home Construction and Safety Standards Act, which became effective June 15, 1976.

**(15) Modular Home.** A structure consisting of one or more components manufactured off-site in conformance to the standards of the building code of the city and related technical codes and moved to the construction site for final assembly as a dwelling unit, and placed on a permanent foundation as required for permanent structures.

**(16) Motor Home.** A recreational vehicle.

**(17) Occupy, Occupancy, or Occupied.** The use of any mobile home, manufactured home or recreational vehicle by any person for living, sleeping, cooking or eating purposes for any period of four (4) consecutive days.

**(18) Operator.** The person or business that has charge, care or control of a licensed or unlicensed park or camp, or portion thereof; and/or the person or business that holds the license for a park or camp.

**(19) Park.** A manufactured home park, including any nonconforming manufactured home park.

**(20) Person.** Any individual, firm, trust, partnership, association or corporation.

**(21) Pier.** One of the structural supports, required by the Uniform Standard Code for Manufactured Homes and Recreational Vehicles Act, for a manufactured home which is not secured to the ground on a permanent foundation.

**(22) Recreational Vehicle.** A vehicular-type unit built on or for use on a chassis and designed as living quarters, both permanent and temporary, for recreational camping or travel use, and which has its own motive power, or is mounted on, or which can be drawn by another vehicle. The term recreational vehicle shall include, but not be limited to, motor homes, travel trailers, camper trailers, house trailers, pickup truck campers, hauling trailers, and camper buses.

**(23) Recreational Vehicle Campground.** A lot, tract or parcel of land designed for occupancy by recreational vehicles for temporary or transient living purposes, including the use of camping spaces for tents.

**(24) Roadway.** Any private street located within a park or camp and providing for the general vehicular and/or pedestrian circulation within the park or camp.

**(25) Service Building.** A building housing all of the following: separate toilet facilities for men and women, laundry facilities and separate bath or shower accommodations. Such building may also include other associated uses such as an office and recreational facilities for the park or camp.

**(26) Trailer Camp.** A recreational vehicle campground.

**SECTION 5 Manufactured Homes and Recreational Vehicles:** (Where Permitted) All new placements of manufactured homes and recreational vehicles shall be done in conformance with the provisions of this Code and in conformance with the Zoning Regulations of the City of Pleasanton, Kansas. Placement of residential-designed manufactured homes shall be treated the same as the establishment of a single-family dwelling under the terms of the Zoning Regulations, but shall comply with the siting provisions of this Code.

**(a) Exceptions:**

**(1)** A manufactured home may be occupied at a construction site by a night watchman or by construction project workmen when approved by the Inspection Officer when deemed necessary for security and/or construction purposes. Such permission may be canceled by the Inspection Officer upon three (3) days written notice when in the opinion of the Inspection Officer the intent of this section is being violated.

**(2)** A manufactured home may be occupied other than within a park, and a recreational vehicle may be occupied other than within a camp, for a period not to exceed six (6) months for the purpose of providing temporary housing following a local disaster such as fire, wind or flood damage; provided a permit is secured in accordance with this Code.

**(3)** A recreational vehicle may occupy a manufactured home lot in a park for a period not to exceed thirty (30) days, provided a service building as required for a camp is within two hundred (200) feet of the lot so occupied.

**SECTION 6 Installation or Relocation of Mobile Homes Prohibited.** Mobile homes, as defined herein, shall not be moved into, relocated or installed within the City of Pleasanton. Any mobile home lawfully in existence at the time of the adoption of this Code shall comply with the siting provisions hereof to the greatest extent possible within one (1). year of the adoption of this Code.

**SECTION 7 Recreational Vehicles: Parking or Storage of.** Recreational vehicles may be stored in private garages, or on the side yard or rear yard of private homes, business or industrial areas. No recreational vehicle so stored shall be used for residential purposes. This provision shall also apply to the storage or parking of boats, jet skis, hauling trailers and the like.

**SECTION 8 Recreational Vehicle Campground License.** All persons operating a camp within the City of Pleasanton shall obtain a Recreational Vehicle Campground License from the City after approval by the Inspection Officer and the payment of the required fee. Such license shall expire on December 31 of the year of issuance, but may be renewed for additional periods of one (1) calendar year after approval by the Inspection Officer and the payment of the required fee, subject to the provisions of this Code. No person shall operate a camp without a current Recreational Vehicle Campground License.

**SECTION 9 Manufactured Home Park License.** All persons operating a park within the City of Pleasanton shall obtain a Manufactured Home Park License from the City after approval by the Inspection Officer and the payment of the required fee. Such license shall expire on December 31 of the year of issuance, but may be renewed for additional periods of one (1) calendar year after approval by the Inspection Officer and the payment of the required fee, subject to the provisions of this Code. No person shall operate a park without a current Manufactured Home Park License,

**SECTION 10 Permits Required for Installation of Manufactured Homes.** A manufactured home installation permit shall be obtained from the Inspection Officer for every manufactured home placed or relocated within the City of Pleasanton. The purpose of such manufactured home installation permit is to assure the manufactured home is placed in conformance with the requirements of this Code. Manufactured home installation permits shall be obtained at least three (3) full business days prior to installation of any manufactured home within the City of Pleasanton. Manufactured home installation permits may only be obtained by a licensed Manufactured Home Installation Contractor (as defined in this Code) or by the owner of the manufactured home.

Permits and inspections for any building, electrical, plumbing, sewer or mechanical construction work other than manufactured home anchorage, footings and foundations, or skirting, must be obtained as required by the applicable City of Pleasanton building, electrical, plumbing, sewer and mechanical codes.

**SECTION 11 Inspections.** All construction or work for which a manufactured home installation permit is required shall be subject to inspection by the City of Pleasanton, Kansas. The City may, in its discretion, require a survey of the lot

in question to verify that the manufactured home will be located on the lot in accordance with the approved plans.

It shall be the duty of the permit applicant to cause the work to be accessible and exposed for inspection by the City. The City shall not be liable for expense entailed in the removal or replacement of any material required to allow inspection.

**SECTION 12** Required Inspections. The manufactured home shall not be occupied prior to obtaining final inspection approval of the City.

**SECTION 13** Permits for Individual Manufactured Homes and Recreational Vehicles Located Other Than Within a Park or a Camp. Prior to occupying a recreational vehicle located other than within a camp as permitted by Section 5(2) or Section 5(3), a permit shall be obtained from the City. Said permit shall only be approved after receipt of the required application by the Inspection Officer, after payment of the required fee and after obtaining all other required permits required by the City.

(a) Any person desirous of locating a recreational vehicle in accordance with Section 5(2) and Section 5(3) shall make an application to the Inspection Officer for a temporary permit. Such application shall be in writing, signed by the applicant, and shall include the name, address and telephone number of the applicant, the location and legal description of the property on which the manufactured home or recreational vehicle is requested to be located, and all other applicable information as follows:

(1) The reason(s) such application is being applied for, the number of days the recreational vehicle is intended to be parked, which in no event shall exceed six (6) months, and a site or plot plan of the property in question which shows the location of all existing buildings and where the recreational vehicle will be temporarily installed.

(2) The connection of the recreational vehicle to any utility shall be in accordance with all applicable regulations of the City of Pleasanton.

**SECTION 14** Residential-Designed Manufactured Home Siting Standards.

In order for residential-designed manufactured homes, when installed on individual lots, to be substantially compatible with the appearance of an on-site, conventionally built, single-family dwelling, the following aesthetic criteria and siting standards shall apply:

(a) Any person intending to place a residential-designed manufactured home on an individual lot within the City of Pleasanton is expected to be sensitive to the overall size of the lot on which the residential-designed manufactured home is to be placed in relationship to the size of the residential-designed manufactured home proposed to be placed. The setback requirements of the Zoning Regulations will apply to the same extent as for a site-built home. Acquisition of a residential-designed

manufactured home too large for the lot in question shall be considered a self-imposed hardship and will not be eligible for a variance.

**(b)** The intent of this Code is to encourage residential-designed manufactured home placement within the community in such a manner to be the least disruptive in appearance to the neighborhood. Every residential-designed manufactured home shall be placed on a lot in a manner consistent with the orientation of the homes on the surrounding lots in the immediate vicinity, including those across the street. Where ranch-style homes predominate, the placement of a residential-designed manufactured home shall be such that the greatest length of the home faces the street. Where home styles in the neighborhood are other than ranch-style, the placement of the residential-designed manufactured home shall be designed to be as compatible as possible with the neighborhood. Placement of residential-designed manufactured homes at an angle to the street on interior lots shall be avoided if at all possible.

**(c)** Every manufactured home shall have roof pitch with a minimum vertical rise of 3 inches for each 12 inches of horizontal run, and the roof shall be finished with a type of roofing material that is commonly used in standard residential construction in the City. All roof structures shall provide an eave projection of no less than eight (8) inches.

**(d)** The exterior siding shall consist predominantly of vinyl or metal siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard; and the exterior siding shall be comparable in composition, appearance and durability to the exterior siding commonly used in residential construction.

**(e)** Each residential-designed manufactured home shall be placed on a permanent foundation and shall be set up in accordance with the recommended installation procedures of the manufacturer. If those standards are not available, the standards set by the National Conference of States on Building Codes and Standards and published in "Manufactured Home Installations, 1994" (NCS BCS A225.1) shall be followed. Further, a continuous, permanent masonry curtain wall, unpierced except for required ventilation and access, which may include walk-out basements and garages, shall be installed under the perimeter of the manufactured home.

**(f)** Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the manufactured home shall be installed, constructed, and anchored securely to the ground. All such structures shall comply with all adopted building codes and other applicable rules, regulations and ordinances of the City.

**(g)** The moving hitch, wheels and axles, and transporting lights shall be removed.

**SECTION 15** License and Permit Fees. The fees for the licenses and permits required by this Code shall be as follows:

- (a) The annual license fee for a Manufactured Home Park shall be ten dollars (\$10.00) per developed manufactured home space, regardless of whether occupied or not.
- (b) The annual license fee for a Recreational Vehicle Campground shall be five dollars (\$5.00) per developed recreational vehicle space, regardless of whether occupied or not.
- (c) The permit for placement of a manufactured home anywhere within the City of Pleasanton shall be ten dollars (\$10.00).
- (d) The permit for the temporary placement of a manufactured home or a recreational vehicle, as specified within Sections 15 (2) or 15 (3), shall be five dollars (\$5.00).
- (e) The fee for reinstatement of any license or permit that has expired shall be the same as for the original acquisition of the license or permit. A license or permit that has been revoked shall be subject to a penalty fee to be determined by the Governing Body.
- (f) Any lapsed license or permit applied for after the fact shall be charged double the fees.

**SECTION 16** Existing Parks. All persons operating existing parks shall obtain the appropriate license as required by this Code by *November 6, 2006*. The Inspection Officer shall determine the appropriate classification for each park based on the records filed with the City in the application for the license. All persons operating parks at the time of the adoption of this Code shall be permitted to continue to operate said park for the first year, or portion thereof, without meeting the requirements of the provisions of this Code. Subsequent license renewals shall be issued, unless otherwise provided for by the City. Failure to comply with this requirement may result in the imposition of penalties as provided herein.

**SECTION 17** Application for New Recreational Vehicle Campgrounds and New Manufactured Home Parks. All persons developing new Recreational Vehicle Campgrounds or new Manufactured Home Parks shall make an application to the Inspection Officer for the appropriate license. Applications may be made only after all approvals have been granted as required by the Zoning Regulations of the City of Pleasanton.

- (a) The application for a license shall include the following:
  - (1) Name and address of the owner/applicant.
  - (2) Location and legal description of the Recreational Vehicle Campground or the Manufactured Home Park.



- (3)** Topographic survey of the property with natural features and existing utilities.
- (4)** The area and dimensions of the tract of land proposed for the Recreational Vehicle Campground or Manufactured Home Park.
- (5)** The number, location and dimensions of all recreational vehicle spaces or manufactured home spaces.
- (6)** The location and width of roadways and walkways.
- (7)** The number, location and size of all parking stalls and parking areas.
- (8)** Plans for the water supply, refuse and sewage disposal facilities, electrical service, and gas service.
- (9)** The location of water, sewer, gas, electrical, and other utility lines and easements protecting these utilities.
- (10)** Plans for controlling surface drainage.
- (11)** The location of recreation areas, storage areas, laundry areas, and other facilities and/or service buildings common to the Recreational Vehicle Campground or the Manufactured Home Park.
- (12)** The location and description of the lighting system.
- (13)** Plans for screening through the use of plant material, fencing and other landscaping structures and features.

**(b)** In addition, the Recreational Vehicle Campground or Manufactured Home Park license application shall include:

- (1)** Engineering plans and specifications of the water supply and internal distribution system.
- (2)** Plans and specifications of the internal sanitary sewer system.
- (3)** Plans and specifications for the lighting and electrical systems.
- (4)** Plans and specifications for gas lines.
- (5)** Plans and specifications for streets.

The Inspection Officer shall review, or submit for review to the appropriate officials or agencies, the information submitted above. All review comments regarding engineering aspects from the City Engineer and other appropriate persons and agencies shall be directed to the Inspection Officer. The Inspection Officer shall issue a Recreational Vehicle Campground or Manufactured Home Park license when he or she is assured that the construction, alteration or extension shall be in compliance with the site plan as approved by the Governing Body in the zoning approval and the provisions of this Code. No Recreational Vehicle Campground or Manufactured Home Park license shall be issued for the alteration or extension of an existing camp or park, whether same is conforming or nonconforming to this Code, unless the entire camp or park is brought to the standards established in this Code.

**SECTION 18** Recreational Vehicle Campground and Manufactured Home Park Design Standards. The following standards shall apply in the design of a proposed Recreational Vehicle Campground or a proposed Manufactured Home Park.

**(a). RECREATIONAL VEHICLE CAMPGROUND:** The location of recreational vehicle spaces, common facilities and service buildings should be arranged within the Recreational Vehicle Campground in a manner which provides maximum outdoor living area and a compatible relationship between the recreational vehicle spaces, parking, storage building area, utility corridor and outdoor living space. The following minimum design requirements shall be observed in all Recreational Vehicle Campgrounds:

**(1)** The tract to be used as a recreational vehicle campground shall not be less than two (2) acres in area. Under no circumstances shall a mobile home or a manufactured home be parked in a recreational vehicle campground.

**(2)** The number and location of access drives shall be controlled for traffic safety and protection of surrounding properties; provided that no individual space shall be designed for direct access to a street outside the boundaries of the recreational vehicle campground. All interior access drives shall be at least 20 feet in width. All interior access drives and parking areas shall be paved with concrete or asphalt paving.

**(3)** The minimum area for a space for parking one recreational vehicle shall be 1,400 square feet, with minimum dimensions of 35 feet by 40 feet and with corners of each site visibly marked by a permanent marker.

**(4)** The recreational vehicle campground shall contain community facilities, including play space, parking and access roads. In addition, every recreational vehicle campground shall contain at least one service building and shall provide one additional service building for each 100 spaces. Each service building shall:

- i. Be located within three hundred (300) feet of the recreational vehicle campground.
- ii. Be of permanent construction.
- iii. Have one (1) flush-type toilet, one (1) lavatory, and one (1) shower or bathtub for females; and one (1) flush-type toilet, one (1) lavatory, and one (1) shower or bathtub for males; for each thirty (30) spaces. All lavatories, bathtubs, and showers shall be connected with both hot and cold water.
- iv. Have an accessible, adequate, safe and potable supply of cold water.

- v. Comply with all applicable adopted building codes regarding the construction of buildings and the installation of electrical, plumbing, heating and air-conditioning systems.
- vi. Be maintained in a clean, sanitary condition and kept free of any condition that will menace the health of any occupants of the public or will constitute a menace.

**(5)** The recreational vehicle campground shall be surrounded by an open space 50 feet wide along the street frontage with an arterial highway or section line road, and 25 feet wide along all other lot lines or street frontages. Screening at least six (6) feet in height shall be provided between the recreational vehicle campground and any adjoining residential area.

**(6)** No recreational vehicle shall be parked closer than 25 feet to any part of any other trailer or service building and no part of a recreational vehicle shall extend closer than 5 feet to the boundaries of the individual space.

**(7)** Off-street parking spaces for motor vehicles shall be provided in the ratio of one parking space per individual space; said spaces to be located in convenient location to individual spaces.

**(8)** In a residential district, accessory signs, in addition to internal directional signs, shall be limited to one flat or detached sign, with sign area limited to 25 square feet. Said sign may be illuminated.

**(9)** Proper provision shall be made for public water supply, sanitary sewage disposal, fire protection, refuse collection, laundry, toilet and bathing facilities. All shall be indicated on a site plan of the proposed recreational vehicle campground and shall be installed and/or constructed in accordance with all other state and/or local laws and regulations. A sewage dump station shall be provided within every recreational vehicle campground.

**(10)** The proposed recreational vehicle campground shall comply with all provisions of this and other federal, state and/or local laws and regulations.

**(c) MANUFACTURED HOME PARK:** The location of manufactured homes, common facilities and service buildings should be arranged within the Manufactured Home Park in a manner which provides optimum open space and accessibility and compatibility of uses. Likewise, the size and orientation of individual lots within a Manufactured Home Park should be designed to provide maximum outdoor living area and a compatible relationship between the manufactured home, parking, storage building area, utility corridor and outdoor living space. The following minimum requirements shall be observed in all Manufactured Home Parks:

- (1)** The tract to be used as a Manufactured Home Park shall be at least two (2) acres.
- (2)** The Manufactured Home Park shall not be developed at a gross density greater than seven (7) manufactured homes for every one (3) net acre of land, excluding road rights-of-way and common open spaces within the Manufactured Home Park.
- (3)** No part of any manufactured home or other building or structure shall be located within 50 feet of any public road right-of-way, nor within 25 feet of any exterior property line of the Manufactured Home Park.
- (4)** Individual Manufactured Home Lot shall be designed to meet the following standards:
  - i.** Each manufactured home lot to be occupied by a single-wide unit shall consist of at least 4,500 square feet, with a minimum width of 45 feet and a minimum length of 100 feet. Each manufactured home lot to be occupied by a double-wide unit shall consist of at least 5,000 square feet, with a minimum width of 55 feet and a minimum length of 90 feet.
  - ii.** Each manufactured home lot shall have a front yard of at least 20 feet measured from the edge of the pavement to the closest point of the lower face of the manufactured home. The front yard may be reduced to 10 feet when on-street parking is provided along the same side of the street.
  - iii.** Each manufactured home lot shall have a side yard on each side of the manufactured home. A minimum of 5 feet shall be allowed on one side of the lot, provided a minimum of 25 feet shall be maintained between manufactured homes on adjoining lots.
  - iv.** Each manufactured home lot shall have a rear yard of at least 15 feet.
  - v.** No manufactured home or other building or structure shall exceed 20 feet in height.
- (5).** In addition to compliance with all adopted codes, rules, regulations and ordinances of the City, the minimum requirements pertaining to structural, design, utility service, and maintenance features within a Manufactured Home Park shall be as follows:
  - (d). Utilities.** Sanitary sewer and water facilities shall be provided for each lot within the Manufactured Home Park. All manufactured homes within the Manufactured Home Park shall be served by a central water supply adequate to provide fire protection by hydrants, and by a public sanitary sewer system. Individual electrical service and fuel gas service shall be provided to each lot with the park. The service so provided shall

be separately metered for each lot, each lot shall have separate disconnect points from any other lot, and shall not be provided service from any other home or lot. All utility lines shall be placed underground and there shall no overhead wires or support poles except those required for street or other lighting purposes.

**(e) Streets.** All internal streets shall be surfaced with materials consistent with that required for public streets within the City and shall be durable and well drained under normal use and weather conditions. The surface shall be maintained free of cracks, holes and other hazards by the Manufactured Home Park management. All internal streets shall be owned and maintained by the owner of the Manufactured Home Park Manufactured Home Park.

**(1)** Grades of all streets shall be sufficient to insure adequate surface drainage. Grades shall not exceed 8 percent.

**(2)** Minimum pavement widths shall be as follows:

- i.** Entrance streets and all other streets with parking allowances on both sides of the street shall be a minimum of 42 feet in width.
- ii.** Streets with parking allowances on one side only shall be a minimum of 30 feet in width.
- iii.** Streets with no parking allowances shall be a minimum of 24 feet in width.

**(f). Manufactured Home Pad.** Concrete runners shall be provided on every manufactured home lot to accommodate the manufactured home and its attached accessory structures. The runners shall be constructed to provide anchoring facilities for the placement and tie-down of the manufactured home to secure it against accidental uplift, sliding, rotation and over-turning. Runners shall be installed before any manufactured home is occupied.

**(g). Recreation.** One or more recreation areas shall be provided within every Manufactured Home Park. The size of such recreation area(s) shall not be less than 10 percent of the gross area of the Manufactured Home Park and shall be located so as to be easily accessible to all Park residents. Recreation areas shall be maintained by the Park management and may include space for community building(s). and community use facilities such as indoor recreation, meeting rooms and similar uses.

**(h). Parking.** Adequate parking shall be provided for the use of Park residents and guests. Each manufactured home lot shall have parking for at least two (2) motor vehicles. The parking spaces may be provided on street or off-street. A parking space shall be a minimum of 9 feet by 19 feet.

**(i). Skirting.** Skirting of a durable type of material and construction shall be installed on each manufactured home to enclose the open space between the bottom of the manufactured home floor and the grade level of the manufactured home pad. Such skirting shall be constructed of material consistent with the exterior surface of the manufactured home and maintained in a manner to enhance the appearance of the Manufactured Home Park.

**(j). Screening.** Effective screening shall be provided along the boundary lines of the Manufactured Home Park to serve as a buffer through the use of plantings, berms or other landscaping features.

**(k). Lighting.** Adequate lighting shall be provided for all streets, walkways, service buildings and other facilities subject to nighttime use.

**(l). Storm Shelter.** A common storm shelter capable of providing adequate shelter from severe weather for all Manufactured Home Park residents shall be provided. The shelter shall provide a minimum of five (5) square feet of space for each lot within the park and shall be located no more than 300 lineal feet from each lot.

**(m). Storage Lot.** All Manufactured Home Parks shall have an area or areas set aside for the storage of boats, boat trailers, hauling trailers, motor vehicles, snowmobiles, and other equipment for seasonal or periodic use to be non-commercially operated and for the exclusive use of residents of the Manufactured Home Park. Such items listed above shall not be stored upon a manufactures home lot nor upon the streets within a Manufactured Home Park. All storage lots shall be screened from external view to the standards listed in Section 18(2)(e)(7) above.

**(n). Lot Identification.** Each manufactured home lot within the Manufactured Home Park shall be numbered in an orderly fashion and in a secure and consistent manner throughout the Manufactured Home Park. The lot number shall be displayed on the lot and be visible at all times.

**SECTION 19. Garbage and Refuse:** Provisions for garbage and refuse storage, collection and disposal shall be maintained by the operator for a licensed camp or park so as not to create health hazards, rodent harborage, insect breeding areas, accident hazards or air pollution.

**SECTION 20. Rodents and Insects:** Camps and parks shall be maintained free of excessive insect or rodent infestation. The camp or park management shall keep all areas outside the confines of the individual recreational vehicles or manufactured homes reasonably free of breeding, harboring and feeding places for rodents and insects. Such areas shall be kept free of litter, trash, salvage material, junk and weeds or other obnoxious vegetation growths in excess of twelve (12) inches in height. Individual recreational vehicle or

manufactured home occupants shall be responsible for the extermination of any rodent or insect infestations occurring within the individual recreational vehicle or manufactured home.

**SECTION 21. Register.** It shall be the duty of the person operating each camp or park to keep a register containing a record of all recreational vehicles and manufactured home owners and tenants located within each camp or park. The register shall contain the name and address of each occupant; the make, model, year and manufacturer of each recreational vehicle or manufactured home, including the name of the contractors responsible for connections to the utilities. The person operating each camp or park shall keep the register available for inspection at all reasonable hours by law enforcement officers, assessors, public health officials and other officials whose duties necessitate acquisition of the information contained in the register.

It shall be the responsibility of the person operating each park to notify the Inspection Officer of every new or relocated manufactured home to be installed at least three (3) working business days prior to the date of installation so that the appropriate inspections can be made for compliance with this Code and all other applicable rules and regulations of the City.

**SECTION 22. Alterations or Additions to Manufactured Homes or Mobile Homes.** Accessory structures not exceeding one hundred (100) square feet in size, carports and residential patio and deck structures may be constructed adjacent to manufactured homes or existing mobile homes so long as such structures comply in all respects to the applicable provisions of the building code and other related technical codes, and the appropriate permits are secured from the City. Skirting of manufactured homes and existing mobile homes is permissible only with noncombustible material; however, skirting shall not permanently attach the manufactured home or existing mobile home to the ground, provide a harborage for rodents, or create a fire hazard. To the greatest extent possible, the provisions stated above shall also apply to recreational vehicles.

**SECTION 23. Manufactured Home Ground Anchors.** Every new or relocated manufactured home installed after the effective date of this Code shall be anchored in accordance with the manufacturer's printed instructions complying with the National Manufactured Home Construction and Safety Standards Act and any regulations promulgated there under. It shall be the responsibility of the manufactured home owner or licensed manufactured home installer to demonstrate compliance with this anchoring requirement. In the event the owner of licensed manufactured home installer is unable to do so, the manufactured home shall be anchored in the following manner:

- (a) Ground anchors shall be attached both to the frame and to straps or cables that pass from one side over the top and down the opposite side.
- (b) Ground anchors shall be clearly marked with identification as required by K.S.A. 75-1228, as amended, and as noted on approved certificates issued by the Director of the Architectural Services Division of the State Department of Administration.
- (c) Each ground anchor shall be capable of withstanding a vertical pull force of four thousand seven hundred fifty (4,750) pounds in place.
- (d) The number of anchors required shall be:
  - (1) Three (3) on each lengthwise side for a manufactured home not less than thirty-two (32) feet nor more than fifty (50) feet in length.
  - (2) Four (4) on each lengthwise side for manufactured homes more than fifty (50) feet not more than seventy (70) feet in length.
  - (3) Five (5) on each lengthwise side for manufactured homes more than seventy (70) feet in length.
- (e). The anchors shall be spaced such that each anchor will resist approximately the same force as the others.
- (f). Strap or cable tie-downs used to connect the manufactured home to its anchors shall be of a type that is marked with identification as required by K.S.A. 75-1228, as amended, and as noted on approval certificates issued by the Director of the Architectural Services Division of the State Department of Administration.
- (g). Corner roof protectors shall be used with over-the-top cables or straps which are not factory-installed with the manufactured home.

**SECTION 24. Appeals.** Appeals from the interpretation or application of the provisions of this Code may be to the City Council. Such appeals shall be made to the Inspection Officer who may refer the matter to an appropriate board, commission or department for recommendation prior to placing the matter on the agenda for City Council consideration.

**SECTION 25. Penalties.** Any person who is found guilty of violating any provision of this Code is guilty of a misdemeanor and shall be punishable by a fine of not more than five hundred dollars (\$500.00). Each day that a violation of this Code occurs constitutes a separate offense and is punishable hereunder as a separate violation.



# **APPENDIX A – CHARTER ORDINANCES**

**NOTE:** The charter ordinances included herein are for information only. Each of them contains the substance as adopted by the governing body but enacting clauses, publication clauses and signatures have been omitted to conserve space. Complete copies of each charter ordinance as adopted are on file in the office of the city clerk and with the Kansas secretary of state. Date of passage by the governing body of each charter ordinance is shown in parentheses at the end of the text.

## **CHARTER ORDINANCE NO. 1**

A CHARTER ORDINANCE EXEMPTING THE CITY OF PLEASANTON, KANSAS FROM K.S.A. 79-5001 TO 79-5017, INCLUSIVE, AND ANY AMENDMENTS THERETO.

**Section 1.** The City of Pleasanton, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it K.S.A. 79-5001 to 79-5017, inclusive, and any amendments thereto, which is an enactment of the legislature applicable to this city but which is not applicable uniformly to all cities.

**Section 2.** The provisions of K.S.A. 79-5001, to 79-5017, inclusive, any amendments thereto, shall not apply to any taxes levied by the City of Pleasanton, Kansas. (12-26-85)

## **CHARTER ORDINANCE NO. 2**

A CHARTER ORDINANCE EXEMPTING THE CITY OF PLEASANTON, KANSAS FROM THE PROVISIONS OF K.S.A. 79-5028, AS AMENDED BY 1991 HOUSE BILL NO. 2222, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

**Section 1.** The City of Pleasanton, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas and as provided by K.S.A. 79-5036(a), as amended by 1991 House Bill No. 2222, hereby elects to exempt itself from the provisions of K.S.A. 79-5028, as amended. K.S.A. 79-5028, as amended, is part of an enactment commonly known as the Kansas property tax lid law, which enactment applies to this city but does not apply uniformly to all cities.

**Section 2.** The following is hereby substituted for the provisions of K.S.A. 79-5028, as amended. The provisions of K.S.A. 79-5021 to 79-5035, inclusive, and amendments thereto, shall not limit the levy of taxes by the governing body of the City of Pleasanton. (5-13-91)

### **CHARTER ORDINANCE NO. 3**

A CHARTER ORDINANCE EXEMPTING THE CITY OF PLEASANTON, KANSAS, FROM SECTION 15-201, K.S.A. 1971 SUPP. PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE ELECTION OF THE MAYOR AND COUNCILMEMBERS, THEIR TERMS OF OFFICE AND THE FILLING OF VACANCIES.

**Section 1.** The City of Pleasanton, Kansas, by the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas hereby elects to exempt itself from and make inapplicable to it Section 15-201, K.S.A. 1971 Supp. and provided substitute and additional provisions as hereinafter set forth in this ordinance. Such statutory section is applicable to this city but is not applicable uniformly to all cities.

**Section 2.** On the first Tuesday in April, 1993, there shall be elected a mayor and five council members. At said election three candidates for council members receiving the highest number of votes shall be declared elected for a term of four years. The mayor and candidates for councilmember receiving the next two highest numbers of votes shall be declared elected for a term of two years. Succeeding elections for all council members shall be for four year terms or until the successors to such office are qualified. The mayor's term will remain at two years. Whenever there is a tie vote for two or more candidates and it is necessary to determine which candidate receives the office, the winner shall be determined by lot by the board of canvassers. The terms of the officers shall begin at the first regular meeting of the council following the certification of the elected candidate and they shall qualify by taking the oath of office and otherwise, if there be other qualifications prescribed, at any time after receiving notice of election and before or at the beginning of said meeting.

In case of a vacancy in the office of mayor by reason of resignation, death or removal from office or from the city, the president of the council shall become mayor until the next regular election for that office and a vacancy shall occur in the office of the council member becoming mayor.

In case of a vacancy in the council occurring by reason of resignation, death, or removal from office or from the city, the mayor, by and with the advice and consent of the remaining council members shall appoint some suitable elector

to fill the vacancy until the next election for that office. In case any person elected as a council member neglects or refuses to qualify within 30 days after his election, he shall be deemed to have refused to accept such office and a vacancy shall be deemed exist. Thereupon, the mayor may, with the consent of the remaining council members, appoint some suitable elector to fill said vacancy.

#### **CHARTER ORDINANCE NO. 4**

AN ORDINANCE PROVIDING FOR AND CREATING THE OFFICE OF DEPUTY CITY CLERK.

**Section 1. DEPUTY TO BE APPOINTED BY CITY COUNCIL.** Deputy shall assume duties of city clerk when city clerk is unable to perform duties or is absent from the city. At all other times the deputy shall act as an assistant to the city clerk and shall be appointed annually at the time of the city clerk except if position is vacated. (8-11-93)

#### **CHARTER ORDINANCE NO. 5**

A CHARTER ORDINANCE EXEMPTING THE CITY OF PLEASANTON, KANSAS, FROM SECTION 12-4112 OF THE KANSAS STATUTES ANNOTATED, PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, AND AUTHORIZING THE ASSESSMENT OF COURT COSTS IN CASES HEARD IN MUNICIPAL COURT OF THE CITY OF PLEASANTON, KANSAS.

**Section 1.** The City of Pleasanton, Kansas, a city of the third class, by the power vested in it by Article 3 12, Section 5, of the constitution of the State of Kansas, hereby elects to exempt and does exempt itself from and makes inapplicable to it, Section 12-4112 of the Kansas Statutes Annotated, which is not uniformly applicable to all cities, the legislature having made special provisions applying to certain classes of cities in said enactment.

**Section 2.** In lieu of K.S.A. 12-4112, the governing body of the City of Pleasanton, Kansas, hereby adopts the following provisions:

Each person found guilty of a violation of the ordinances of the City of Pleasanton, Kansas, shall be assessed costs for the administration of justice in the Municipal Court of the City of Pleasanton, Kansas, and such costs shall be determined by ordinance. (5-10-95)

## **CHARTER ORDINANCE NO. 6**

A CHARTER ORDINANCE EXEMPTING THE CITY OF PLEASANTON, KANSAS, FROM K.S.A. 15-209, INSOFAR AS SAID STATUTE APPLIES TO THE APPOINTED OFFICERS OF THE CITY AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, ALLOWING APPOINTED CITY OFFICERS TO BE NON-RESIDENTS OF SAID CITY.

**Section 1.** The City of Pleasanton, Kansas, a city of the third class, by the power vested in it by Article 12, Section 5 of the Constitution of the State of the State of Kansas, hereby elects to exempt itself from the provisions of K.S.A. 15-209 insofar as said section applies to the appointment of non-residents of the city as appointed city officers.

**Section 2.** Appointed officers of the City of Pleasanton, Kansas, need not be qualified electors of said city and may be non-residents of said city, but must be residents of the State of Kansas.

**Section 3.** Except as herein specifically provided, other provisions of K.S.A. 15-209 not pertaining to the residence of appointed city officers shall apply in all respects to the City of Pleasanton, Kansas. (3-5-01)

## **APPENDIX B – FRANCHISES**

### **ORDINANCE NO. 1713**

AN ORDINANCE OF THE CITY OF PLEASANTON, KANSAS, GRANTING TO W.K. COMMUNICATIONS, INC., A KANSAS CORPORATION, ITS SUCCESSORS AND ASSIGNS FOR A TERM OF 15 YEARS, AND THE RIGHT AND FRANCHISE TO ACQUIRE, MAINTAIN, AND OPERATE A COMMUNITY ANTENNA TELEVISION AND RADIO PROGRAMS AND ENTERTAINMENT FOR ALL PURPOSES AND ENVIRONS THEREOF, AND TO USE AND OCCUPY THE STREETS, ALLEYS, EASEMENTS AND OTHER PUBLIC PLACES OF THE CITY AND TO USE THE ELECTRIC UTILITY POLES OF THE CITY FOR SUCH COMMUNITY ANTENNA TELEVISION AND CLOSED CIRCUIT ELECTRONIC SYSTEM.

**Section 1.** There is hereby granted to W.K. Communications, Inc. hereinafter called the grantee; and to its successors, lessees and assigns, for the full term of 15 years from the date hereof, the non-exclusive right, power, authority, and franchise to establish, construct, acquire, maintain and operate a community antenna television and closed-circuit electronic system in the City of Pleasanton, herein called the city; to render, furnish, sell, and distribute television signals and programs and entertainment for all purposes, together with closed –circuit electronic service from such system to the inhabitants of the city and its environs; and to use and occupy the streets, alleys, easements and other public places of the city as the same now exist or may hereafter exist, for the grantee’s community television and closed-circuit electronic system, include the right to enter and construct, erect, locate, relocated, repair, and rebuild in, or under, along over and across the streets, alleys, easements and other facilities owned, leased or otherwise used by the grantee for the furnishing of a community antenna television and closed-circuit electronic service within the city and environs thereof during the continuance of the franchise hereby granted. The company shall not be required to extend its service line to service a prospective customer located within the city, except upon written agreement by the prospective customer to pay to the grantee a sum equal to the additional cost incurred by the grantee for the extension of the service feeder line. However, if the city annexes an area adjoining the present city limits, the company shall extend its service line to service the customers located within the area if the following requirements are met: (a). the customers are residential in nature; (b). there will be 10 customers per mile of cable plant; and (c). each customer makes a nonrefundable prepayment for one year of cable service plus the normal installation charge.

**Section 2. CONSTRUCTION.** (a). The grantee's transmission and distribution system poles, wires, and appurtenances shall be located, erected, and maintained so as to not endanger or interfere with any improvements the city may deem proper to make or to hinder unnecessarily or obstruct the free public use of the streets, alleys, easements, bridges or other public property. The grantee's transmission and distribution system shall in no way interfere with other public utilities now in existence and in operation nor will it interfere with the continued operation and expansion of the public utilities.

The grantee shall have the right to set, erect, install and maintain its own poles for the mounting of its amplifiers, cables and appurtenances; provided, that the grantee shall keep and maintain a complete set of maps showing the location of all such poles and that the city shall be provided with a copy of this map; the map to be kept up-to-date and accurate at all times, such updating to be the responsibility of the grantee.

In the maintenance and operation of its transmission and distribution system in the streets, alleys, easements, and other public places and in the course of any new construction or addition to its facilities, the grantee shall proceed so as to cause the least possible inconvenience to the general public. All excavations shall be properly guarded and protected and shall be replaced and the surface restored in a good condition promptly after completion of such work. The grantee shall at all times, comply with any and all rules and regulations which the city has made or may make applying to the public generally with reference to the removal or replacement of pavement and to excavations in the streets and other public places.

**Section 3.** The grantee shall have the authority to promulgate such rules, regulations, terms and conditions of its business as shall be reasonably necessary to enable the grantee to exercise its rights and perform its services under this franchise and to assure an uninterrupted service to each and all of its customers. The grantee shall have the right and power to fix, charge, collect and receive rates for its community antenna television and closed-circuit electronic service, subject to any applicable rules and regulations of the Federal Communications Commission.

**Section 4.** The city reserves the right of reasonable regulation of the erection, construction or installation of any facilities by the grantee and to reasonably designate where such facilities are to be placed within the public ways and places.

**Section 5.** In the event the city shall lawfully elect to change or alter the location or grade of any street, alley, easement or other public place or change or relocate or replace its utility poles at any time during the existence of this franchise, the grantee shall, upon reasonable notice given by the city, remove, relay and/or relocate any system installation affected by such change, by and at grantee's expense.

**Section 6.** The grantee shall, upon the request of any person holding a building or moving permit, temporarily raise or lower its wires to permit the moving of buildings and other structures. The actual and necessary expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same and the grantee shall have the authority to request and require such payment in advance. The grantee shall be given no less than 48 hours advance notice to arrange for such temporary wire changes.

**Section 7.** The grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places and easements of the city so as to prevent the branches of such trees from coming in contact with the wires, cables and appurtenances of the grantee, all trimming to be done under the supervision and direction of the city and by and at the expense of the grantee.

**Section 8.** The grantee shall, at all times during the existence of this franchise, be subject to all lawful exercise of the police power by the city and to such reasonable regulations as the city shall hereafter by resolution or ordinance provide.

**Section 9.** In consideration of the rights, privileges and franchise hereby granted and as compensation to the city for the use of its public ways and places by the grantee and in lieu of all occupation and license taxes, the grantee shall annually pay to the city, an amount equal to three percent of all basic monthly service charges to residential and commercial customers of the grantee. Basic monthly service charges shall not include charges for additional service provided by the grantee to its customers beyond the basic monthly service charge nor taxes on service furnished by the grantee herein imposed directly on any subscriber or user by any state, city or other governmental unit and collected by the grantee on behalf of such governmental unit. This amount shall be paid to the city on or before the 15<sup>th</sup> day of January, of every year, for the preceding year and the city shall receive, from the grantee, a copy of all of the grantee's records and books of accounting from which the annual fee amount for that given year has been derived. The grantee shall further make its full and complete books of accounting and records relating to its operations in the city available to and open for inspection by any authorized agents of the city. If requested, grantee shall submit to the city its most recently prepared financial statements for grantee as a whole, such statements shall be treated by the city as confidential.

**Section 10.** The city reserves the right to establish and administer a hearing board wherein any citizens of the city who have reasonably requested service from the grantee and who have not been afforded such service by the grantee or who have concerns about the quality of the service, can be heard. The city further reserves the right to require, if after due hearing process, it appears so warranted, that the grantee correct or improve any operating deficiencies in its

service to a subscriber to this service, or to provide initial service to such a citizen of the city. If after 30 day's time the quality of the existing service has not been corrected or improved or new service has not been initiated, as directed by the appropriate city board, that the city reserves the right to terminate this franchise and rescind all rights, powers, and privileges herein granted.

**Section 11.** The grantee may maintain an office in the city for the operation of this system or related activities, but shall not be obligated to do so. In the event that grantee does not maintain a local office, grantee shall make a local or toll-free telephone number available to its customers in the city and shall permit its customers to pay their bills to grantee at a facility located in the city. Grantee agrees to have maintenance personnel available in the local area to insure quality maintenance.

**Section 12.** Grantee shall, concurrently with the filing of its acceptance of this franchise, furnish to the city and file with the city clerk of the city and at all times during the term of this franchise, maintain in full force and effect, at its own costs and expense, and general comprehensive liability insurance policy, indemnifying and defending city, its officers, boards, councils, agents, and employees, in a form satisfactory to the city attorney of the city, from and against all claims by any person whatsoever for loss or damage for personal injury, or death or property damage occasioned by the operations of grantee under the franchise herein granted or alleged to have been caused by grantee, with minimum limits for personal injury or death to any one person, for personal injury or death to two or more persons in any one occurrence and for damage to property resulting from any one occurrence, stated in amounts satisfactory to the city attorney of the city. Grantee shall also carry, at its expense, workman's compensation insurance coverage.

**Section 13.** All ordinances and parts of ordinances in conflict herewith are hereby repealed as of the effective date of this ordinance.

**Section 14.** All provisions of this ordinance shall be binding upon the grantee and all successors, lessees, and assigns of the grantee whether expressly stated herein or not and all of the rights powers, authorities, grants and privileges secured by this ordinance to the grantee shall be held to inure to the benefit of the grantee and all successors, lessees and assigns of the grantee.

**Section 15.** If any portion of this ordinance shall be found to be at variance with the rules and Regulations of the Federal Communications Commission, as presently constituted, or as hereinafter enacted, this ordinance shall be modified within one year of the effective date of such FCC Rules and Regulations so as to conform with the requirements of the FCC as they pertain to the regulations of cable television system; and the grantee shall in turn, be



required to operate under this ordinance as hereafter constituted as it may be redrawn to conform with applicable Rules and Regulations of the Federal Communications Commission.

**Section 16.** The franchise granted herein shall be subject to all of the provisions of Kansas Statutes Annotated, Section 12-2006 et seq., pertaining to the regulation of cable television service and any subsequent legislation supplementary thereto. (12-11-91)

## **ORDINANCE NO. 1790**

AN ORDINANCE GRANTING A FRANCHISE BY THE CITY OF PLEASANTON, COUNTY OF LINN, KANSAS, TO GREELEY GAS COMPANY, A DIVISION OF ATMOS ENERGY CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO FURNISH, SELL AND DISTRIBUTE GAS TO THE CITY AND TO ALL PERSONS, BUSINESSES AND INDUSTRIES WITHIN THE CITY AND THE RIGHT TO ACQUIRE, CONSTRUCT, INSTALL, LOCATE, MAINTAIN, OPERATE AND EXTEND INTO, WITHIN, AND THROUGH THE CITY ALL FACILITIES REASONABLY NECESSARY TO FURNISH, SELL, AND DISTRIBUTE GAS TO THE CITY AND TO ALL PERSONS, BUSINESSES AND INDUSTRIES WITHIN THE CITY AND IN THE TERRITORY ADJACENT THERETO AND THE RIGHT TO MAKE REASONABLE USE OF ALL STREETS AND OTHER PUBLIC PLACES AS MAY BE NECESSARY, AND FIXING THE TERMS AND CONDITIONS THEREOF.

**Section 1. Definitions.** For the purpose of this franchise, the following words and phrases shall have the meaning given in this article. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word shall is mandatory and may be permissive. Words not defined in this article shall be given their common and ordinary meaning:

City – The City of Pleasanton, Linn County, Kansas, and includes the territory as currently is or may in the future be included within the boundaries of the City of Pleasanton.

Company – The Greeley Gas Company and its successors.

Council of City Council – The governing body of the City of Pleasanton.

Distribution Facilities – Facilities reasonably necessary to provide gas within the city.

Facilities – All facilities reasonably necessary to provide gas into, within, and through the city and include plants, works, systems, lines, equipment, pipes, mains, underground links, gas compressors and meters.

Gas or Natural Gas – Gaseous fuels as natural, artificial, synthetic, liquefied natural, liquefied petroleum, manufactured, or any mixture thereof.

Kansas Corporation Commission and/or KCC – The State Corporation Commission of the State of Kansas or other authority succeeding to the regulatory powers of the KCC.

Revenues – Amounts of money which the company receives from its customers within the city for the sale of gas under rates, temporary or

permanent, authorized by the KCC and represents amounts billed under such rates as adjusted for refunds, the net write-off of uncollectible accounts, corrections or other regulatory adjustments.

Streets and other Public Places – Streets, alleys, viaducts, bridges, roads, lanes, easements, public ways and other public places in the city.

**Section 2.1** Grant of Franchise. The city hereby grants to the company, for the period specified and subject to the conditions, terms and provisions contained in this ordinance, the right to furnish, sell, and distribute gas to the city and to all persons, businesses and industries within the city; the right to acquire, construct, install, locate, maintain, operate and extend into, within and through the city all facilities reasonably necessary to provide gas to the city and to all persons, businesses and industries within the city and in the territory adjacent thereto; and the right to make reasonable use of all streets and other public places as may be necessary to carry out the terms of the ordinance.

**Section 2.2** Terms of Franchise. The term of this franchise shall be for 20 years, beginning November 1, 1996, and expiring October 31, 2016.

**Section 3.1** Franchise Fee. In consideration for the grantee of this franchise, the company shall collect and remit to the city a sum equal to three percent of the revenues derived annually from the sale of gas within the city, excluding the amount received from the city itself for gas service furnished it, which fee the company and the city agree is adequate compensation. Annual franchise fee payments shall be made on or before March 1 for the preceding calendar year ending December 31. Payments at the beginning and end of the franchise shall be prorated.

**Section 3.2** Franchise Fee Payment in Lieu of Other Fees. Payment of the franchise fee by the company is accepted by the city in lieu of any occupancy tax, license tax, permit charge, inspection fee or similar tax, assessment or excise upon the pipes, mains, meters or other personal property of the company or on the privilege of doing business or other personal property of the company or on the privilege of doing business or in connection with the physical operation thereof, but does not exempt the company from any lawful taxation upon its real property or any other tax not related to the franchise or the physical operation thereof.

**Section 4.1** Conduct of Business. The company may establish, from time to time, such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the company to exercise its rights and perform its obligations under this franchise provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the laws of the State of Kansas.

**Section 4.2 Tariffs on File.** The company shall keep on file in its nearest office copies of all its tariffs currently in effect and on file with the KCC. The tariffs shall be available for inspection by the public.

**Section 4.3 Compliance with KCC Regulations.** The company shall comply with all rules and regulations adopted by the KCC.

**Section 4.4 Compliance with Company Tariffs.** The company shall furnish gas within the city to the city and to all persons, businesses and industries within the city at the rates and under the terms and conditions set forth in its tariffs on file with the KCC.

**Section 4.5 Applicability of Company Tariffs.** The city and the company recognize that the lawful provisions of the company's tariffs on file and in effect with the KCC are controlling over any inconsistent provision in this franchise dealing with the same subject matter.

**Section 5.1 Location of Facilities.** Company facilities shall not interfere with the city's water mains, sewer mains or other municipal use of streets and other public places. Company facilities shall be located so as to cause minimum interference with public use of streets and other public places and shall be maintained in good repair and condition. The city council acknowledges that as of the date of this ordinance, the company and its facilities are in compliance with the provisions of this section.

**Section 5.2 Excavation and Construction.** All construction, excavation, maintenance and repair work done by the company shall be done in a timely and expeditious manner which minimizes the inconvenience to the public and individuals. All such construction, excavation, maintenance, and repair work done by the company shall comply with all applicable state and federal codes. All public and private property whose use conforms to restrictions in easements disturbed by company construction or excavation activities shall be restored as soon as practicable by the company at its expense to substantially its former condition. The company shall comply with the city's request for reasonable and prompt action to remedy all damage to private property adjacent to streets or dedicated easements where the company is performing construction, excavation, maintenance or repair work. The city reserves the right to restore property and remedy damages caused by company activities at the expense of the company in the event the company fails to perform such work within a reasonable time after notice from the city.

**Section 5.3 Relocation of Company Facilities.** If at any time the city requests the company to relocate any distribution gas main or service connection installed or maintained in streets or other public places in order to permit the city to change street grades, pavements, sewers, water mains or other city works,

such relocation shall be made by the company at its expense. The company is not obligated hereunder to relocate any facilities at its expense which were installed in private easements obtained by the company, the underlying fee of which was, at some point subsequent to installation, transferred to the city. Following relocation, all property shall be restored to substantially its former condition by the company at its expense.

**Section 5.4 Service to New Areas.** If during the term of this franchise the boundaries of the city are expanded, the company shall extend service to the newly incorporated areas. Service to annexed areas shall be in accordance with the terms of this franchise agreement.

**Section 5.5 Restoration of Service.** In the event the company's gas system, or any part thereof, is partially or wholly destroyed or incapacitated, the company shall use due diligence to restore its system to satisfactory service within the shortest practicable time.

**Section 5.6 Supply and Quality of Service.** The company shall make available an adequate supply of gas to provide service in the city. The company's facilities shall be of sufficient quality, durability, and redundancy to provide adequate and efficient gas service to the city.

**Section 5.7 Safety Regulations by the City.** The city reserves the right to adopt, from time to time, reasonable regulations in the exercise of its police power which are necessary to ensure the health, safety and welfare of the public, provided that such regulations are not destructive of the rights granted herein. The company agrees to comply with all such regulations, in the construction, maintenance and operation of its facilities and in the provision of gas within the city.

**Section 5.8 Inspection, Audit and Quality Control.** The city shall have the right to inspect, at all reasonable times, any portion of the company's system used to serve the city and its residents. The city also shall have the right to inspect and conduct an audit of company records relevant to compliance with any terms of this ordinance at all reasonable times. The company agrees to cooperate with the city in conducting the inspection and/or audit and to correct any discrepancies affecting the city's interest in a prompt and efficient manner.

**Section 6.1 Assignment.** Nothing in this ordinance shall prevent the company from assigning its rights under this franchise.

**Section 6.2 Savings Clause.** If any portion of this franchise ordinance is declared illegal or void by a court of competent jurisdiction, the remainder of the ordinances shall survive and not be affected thereby.

**Section 7.1** Expiration of Franchise; Purchase or Condemnation. If at the time of expiration of the franchise granted under this ordinance no extension or renewal has been negotiated between the city and the company, the company shall have the right to remove its distribution facilities from the streets and other public places, but only after the city has had sufficient tie to purchase or condemn the facilities. In removing its facilities, the company shall remove in a workmanlike manner, at the company's expense, from the streets and other public places all distribution facilities belonging to the company which are not purchased by the city at the expiration of the franchise. All public property shall be restored by the company to its former condition, to the extent practicable, after the removal. (10-9-96)

## **ORDINANCE NO. 1810**

AN ORDINANCE GRANTING KANSAS CITY POWER AND LIGHT COMPANY, ITS GRANTEEES, SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO CONSTRUCT AND MAINTAIN ALL WORKS AND PLANTS NECESSARY OR PROPER FOR SUPPLYING CONSUMERS WITH ELECTRIC OR OTHER ENERGY, GRANTING TO THE COMPANY THE RIGHT TO USE THE STREETS, ALLEYS, AND ALL OTHER PUBLIC PLACES, PRESCRIBING THE TERMS OF AND RELATING TO SUCH FRANCHISE, AND REPEALING INCONSISTENT ORDINANCES OR PART THEREOF.

**Section 1.** In consideration of the benefits to be derived by the city and the inhabitants thereof from the construction, operation, and maintenance of an electric light and power transmission and distribution system and the supplying of electric energy to the public, there is hereby granted to the company and its successors and assigns, for the term of 20 years from the effective date hereof, a franchise and authority to construct, operate and maintain in the existing and any future extended corporate limits of the city all appropriate facilities and plants for carrying on a power and light business and all other operations connected therewith or incident thereto for the purpose of supplying the city and outlying areas with electric or other energy in such forms as may be reasonably required for domestic, commercial, industrial, municipal and other purposes and to produce and supply such energy by manufacture, generation, purchase or otherwise, and to transmit and distribute same by means of underground or overhead lines or otherwise, and for any or all of the purposes it is authorized to (1). construct, install, replace, and remove conduits or other underground facilities for the installation and protection of its underground wire and cables, (ii) place poles, lamp posts, guys, and anchors for its overhead wires, cables and street lights on all streets, alleys, avenues,

bridges, parks, parking and other public places or thoroughfares, (iii) construct, erect, and maintain all buildings, machinery and attachments of any and every kind for any and all of the purposes, and (iv) enter upon any and all of the public places within the corporate limits of the city as they now exist or may hereafter be opened, widened, extended, laid out and established, including any other territory hereafter added thereto or coming under its jurisdiction, and to trim trees upon and overhanging such places and make such excavations thereon as may be appropriate for the construction, repair and renewal of its overhead and underground facilities and plants.

**Section 2.** Any pavements, sidewalks or curbing taken up or any and all excavations made shall be done under the supervision and direction of the governing body of the city under all necessary permits issued for the work, and shall be made and done in such manner as to give the least inconvenience to the inhabitants of the city and the public generally, and pavements, sidewalks, curbing and excavations shall be replaced and repaired in as good condition as before with all convenient speed, all at the expense of the company.

**Section 3.** During the continuance of this franchise, the company shall construct, maintain and operate its transmission and distribution system within the city and shall furnish electric energy to the city and its inhabitants in accordance with the terms of this franchise, the rates, charges, rules and regulations now on file with the State Corporation Commission of the State of Kansas, or such revision of rates, charges, rules and regulations as may be lawfully established from time to time in accordance with the laws of the State of Kansas. Nothing contained herein shall be construed as a guarantee upon the part of the company to furnish uninterrupted service, and interruptions due to Acts of God, fire, strikes, civil or military authority, orders of court and other causes reasonably beyond the control of the company are specifically exempt from the terms of this section.

**Section 4.** The company shall, at all times, in the construction, maintenance and operation of its electric transmission, distribution and street lighting system, use all reasonable and proper precautions to avoid damage or injury to persons or property, and shall hold and save harmless the city from any and all damage, injury and expense caused by the sole negligence of the company, its successors and assigns.

**Section 5.** In consideration of the premises, the company agrees to pay to the city and the city agrees to accept as adequate compensation and consideration for the franchise hereby granted and in lieu of occupation, license, privilege and all other taxes and fees, five percent of the total of the gross receipts charged and collected for electric energy sold for domestic, commercial and industrial consumption by the company to all consumers located in the present or future corporate boundaries of the city during the term of this franchise. Any consideration hereunder shall be reported and paid to the city by the company on a semi-annual basis on or before each July 31 and January 31 for the

years in which this franchise remains in effect, reflecting such electric energy sold for the six months' period ending at the last meter reading preceding each June 30 and December 31, respectively. Such payments shall first be applied to the amount due to the company from the city for street lighting and traffic signal service billed for the applicable six months period (the "SLTS Billings Amount") and by paying the remainder, if any, in cash to the city. If in any applicable six months' period the SLTS Billing Amount exceeds the gross receipts amount due to the city, the company shall for such excess bill the city and the city shall pay the same in cash to the company. The term "gross receipts," as used in this section shall not include (1). the electrical energy sold to the United States or the State of Kansas or to any agency or political subdivision thereof, (2). the electrical energy sold for other use which cannot be classified as domestic, commercial, or industrial, such as the electrical energy used by public utilities, telephone, telegraph, and radio communication companies, railroads, pipeline companies, educational institutions not operating for profit, churches and charitable institutions, (3). the electrical energy sold for sale, and (4). the amounts paid to the city pursuant to this section.

**Section 6.** This ordinance shall not take effect and be in force until after the expiration of 60 days from the date of this final passage and acceptance by the company within 60 days, in writing; if no acceptance as hereinbefore provide has been filed, then this ordinance shall be ipso facto, absolutely, null and void.

**Section 7.** All provisions of this ordinance shall be binding upon the company from and after the date this ordinance takes effect, and shall inure to the benefit of the company, its grantees, successors and assigns. (10/22)