CITY OF LANSING, KANSAS

City Code

TABLE OF CONTENTS

Chapters

CHAPTER 1	ADMINISTRATION
CHAPTER 2	ANIMAL CONTROL AND REGULATION
CHAPTER 3	BEVERAGES
CHAPTER 4	BUILDINGS AND CONSTRUCTION
CHAPTER 5	BUSINESS REGULATIONS
CHAPTER 6	ELECTIONS
CHAPTER 7	FIRE
CHAPTER 8	HEALTH AND WELFARE
CHAPTER 9	MINIMUM HOUSING AND PROPERTY MAINTAINANCE
CHAPTER 10	MUNICIPAL COURT
CHAPTER 11	POLICE
CHAPTER 12	PUBLIC OFFENSES
CHAPTER 13	PARKS AND PUBLIC PROPERTY
CHAPTER 14	STREETS, SIDEWALKS, AND RIGHT-OF-WAY
CHAPTER 15	TRAFFIC
CHAPTER 16	UTILITIES
CHAPTER 17	ZONING AND PLANNING

CHAPTER 1. ADMINISTRATION

Article 1. General Provisions
Article 2. Governing Body
Article 3. City Administrator
Article 4. Officers and Employees
Article 5. Investment of Idle Funds
Article 6. Personnel and Employee Benefits
Article 7. Open Records
Article 8. Economic Development Committee

ARTICLE 1. GENERAL PROVISIONS

1-101 CODE DESIGNATED

The chapters, articles and sections herein shall constitute and may be designated as the "Code of the City of Lansing, Kansas," or the "Lansing City Code," and may be so cited.

1-102 DEFINITIONS

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

A) City shall mean the City of Lansing, in Leavenworth County, Kansas.

B) Computation of time means the time within which an act is to be done and shall be computed by excluding the first and including the last day. If the last day is a Sunday or legal holiday, that day shall be excluded.

C) County means the County of Leavenworth, Kansas.

D) Delegation of Authority means whenever a provision appears requiring or authorizing the head of a department or other officer of the City to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.

E) Gender means words importing the masculine gender including the feminine and neuter.

F) In the City means and includes any territory within the corporate limits of the City of Lansing, Kansas, and the police jurisdiction thereof and any other territory over which regulatory power has been conferred on the City by law, except as otherwise specified.

G) Joint authority means all words giving a joint authority to three or more persons or officers and shall be construed as giving such authority to a majority of such persons or officers.

H) Number means words used in the singular include the plural, and words used in the plural include the singular.

I) Oath includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath and in such cases, the words "swear" and "sworn" are equivalent to the words "affirm" and affirmed."

J) 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.

K) Person includes a firm, partnership, association of persons, corporation, organization or any other group acting as a unit, as well as an individual.

L) Property includes real, personal and mixed property.

M) Real property includes land, tenements and hereditaments.

N) Shall and will are mandatory.

O) Sidewalk means any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

P) 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.

Q) Tenant or Occupant applied to a building or land, means any person who occupies the whole or part of such building or land, whether alone or with others.

R) Governing Body means the Governing Body of Lansing, Leavenworth County, Kansas.

1-103 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 to ordinances indicate only the source and the text may or may not be changed by this Code. This Code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015. Reference matter not in parenthesis is for information only and is not a part of this Code.

1-104 CATCHLINES OF SECTIONS

The catch lines or headings of the sections of this Code are intended as mere words to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of any section nor, unless expressly so provided, shall they be so deemed when any section, including its catch line, is amended or reenacted.

1-105 AMENDMENTS: REPEAL

Any portion of this Code may be amended by specific reference to the section number as follows: "That section _____ of the Code of the City of Lansing is hereby amended to read as follows: (The section as amended shall then be set out in full)." A new section not heretofore existing in the Code may be added as follows: "That the Code of the City of Lansing is hereby amended by adding a section (or article or chapter) which reads as follows. . . (the new section 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 Lansing is hereby repealed."
(K.S.A. 12-3004)

1-106 REPEALING ORDINANCES

The repeal of a repealing ordinance does not revive the ordinance originally repealed. The repeal of an ordinance, the adoption of an ordinance containing a repeal of an ordinance, or the adoption of a codification of the general ordinances of the City including the repeal of such general ordinances, does not impair or affect the validity of a pending action, proceeding or prosecution under the repealed ordinance, unless the content of the surviving ordinance clearly indicates such affect. The repeal of an ordinance as part of the

codification of the ordinance shall not be interpreted as a repeal of the findings or recitals of the ordinance unless such findings or recitals are explicitly repealed therein.

1-107 POWERS GENERALLY

All powers exercised by cities of the second class or which shall hereafter be conferred upon them shall be exercised by the Governing Body, subject to such limitations as prescribed by law.

1-108 ORDINANCES

The Governing Body shall have the care, management and control of the City and its finances and shall pass all ordinances needed for the welfare of the City. No ordinance shall be valid unless a majority of all the members elected or appointed to the Governing Body vote in favor. (K.S.A. 12-3002)

1-109 SAME; PUBLICATION

No ordinance, except those appropriating money, shall be in force until published, in summary or in whole, in the official City newspaper by the City Clerk. One publication, or summary of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication. If a summary of the ordinance is printed in the newspaper, the full ordinance shall be available on the City's official website for at least one week after the publication of the summary.
(K.S.A. 12-3007)

1-110 SAME; ORDINANCE BOOK

Following final passage and approval of each ordinance, the City Clerk shall enter the same in the ordinance book of the City as provided by law. Each ordinance shall have appended thereto the manner in which the ordinance was passed, the date of passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which published and the date of publication.
(K.S.A. 12-3008)

1-111 RESOLUTIONS, MOTIONS

Except where a state statute or City ordinance specifically requires otherwise, all resolutions and motions shall be passed if voted upon favorably by a majority of a quorum of the Governing Body.

1-112 EMERGENCY GOVERNMENT

In the event of a catastrophe in which all or a majority of the members of the Governing Body are fatally injured, the interim Governing Body

shall be composed of the surviving members: the City Attorney, the City Clerk and a sufficient number of the appointed officials selected in the order of the greatest seniority in office to make up a Governing Body of the prescribed number.

1-113 MEETINGS

A) Regular meetings of the Governing Body shall be held on the first and third Thursday of each month. Meetings will be held at 7:00 p.m. in the Council Chamber in City Hall. When such meeting day shall be on a legal holiday (or any other day observed as a holiday by the City) or the day before Christmas, the Governing Body may fix the preceding or succeeding day not observed as a holiday as a regular meeting day by a majority vote of the Governing Body.

B) The Mayor or any three (3) Governing Body members may call special meetings of the Governing Body. When any special meeting of the Governing Body is called, the object thereof shall be submitted to the Governing Body in writing, and the Clerk shall enter the call and the object, as well as any action taken thereon, upon the journal and no other business shall be transacted except that mentioned in the call. A written notice of any such special meeting shall be served personally upon each council member or left at his or her usual place of residence and each council member shall be contacted verbally at least two hours before the time of such meeting.
(K.S.A. 14-111)

1-114 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.

1-115 ALTERING CODE

It shall be unlawful for any person, firm or corporation to change, amend by additions or deletions any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Lansing 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.

1-116 SCOPE OF APPLICATION

Any person convicted of doing any of the acts or things prohibited or made unlawful or the failing to do any of the things commanded to be done, as specified and set forth in this Code, shall be deemed guilty of a misdemeanor and punished in accordance with Section 1-117. Each day any violation of this Code continues shall constitute a separate offense.

1-117 GENERAL PENALTIES

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 less than $1.00 or more than $500.00; or

B) Imprisonment in the City jail for not more than 30 days; or

C) Both such fine and imprisonment not to exceed (A) and (B) above.

1-118 SEVERABILITY

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

1-119 RIGHT OF ENTRY FOR INSPECTION

Whenever it is necessary to make an inspection to enforce any ordinance or resolution, or whenever there is reasonable cause to believe there exists an ordinance or resolution violation in any building or upon any premises within the jurisdiction of the City, any authorized official of the City may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him by ordinance; provided that, except in emergency situations or when consent of the owner and/or occupant to the inspection has been otherwise obtained, he shall give the owner and/or occupant, if they can be located after reasonable effort, twenty-four hours written notice of the authorized official's intention to inspect. The notice transmitted to the owner and/or occupant shall state that the property owner has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant duly authorized by law. In the event the owner and/or occupant refuses entry after such request has been made, the official is hereby empowered to seek

assistance from any court of competent jurisdiction in obtaining such entry.

1-120 APPEAL OF ADVERSE ADMINISTRATIVE RULINGS

Any administrative ruling, order or decision made by any officer or employee of the City, including but not limited to denial or revocation of permits and licenses, which adversely affect any person, may be appealed by such person to the Governing Body in writing within ten days following the adverse ruling, order or decision. A hearing shall be scheduled by the Governing Body within ten days following the written appeal. The decision of the Governing Body on such appeal shall be final and conclusive.

ARTICLE 2. GOVERNING BODY

1-201 GOVERNING BODY; VACANCIES

The Governing Body shall consist of a Mayor and eight Governing Body members to be elected as provided by Charter Ordinances No. 1-2016 set out in Appendix A of this Code. Vacancies on the Governing Body shall be filled by the election of a successor by a majority vote of the remaining Council Members, except that in the case of a tie vote, the Mayor shall cast the deciding vote. No distinction shall be made in the titles and duties among the Councilmember's except as the Governing Body shall organize itself for business. Vacancies for the position of Mayor shall be filled according to Chapter 6 Section 6-107(F) of the City Code.
(K.S.A. 12-1005e; 13-1806)

1-202 SAME; QUORUM; CONDUCT OF MEETINGS

All regular and special meetings shall be open to the public. It shall require a majority of the Governing Body elect to constitute a quorum for the transaction of business. No ordinance shall be passed except by the affirmative vote of a majority of the members that may include the Mayor of the Governing Body.

1-203 MAYOR

The Mayor shall preside at all meetings of the Governing Body. He or she shall have the tie-breaking vote on all questions when the members present are equally divided. He or she shall:

A) Take care that the ordinances of the City are complied with;

B) Sign the commissions and appointments of all officers elected or appointed;

C) Endorse the approval of the Governing Body on all official bonds;

D) From time to time communicate to the Governing Body 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. Any ordinance vetoed by the Mayor may be passed over the veto by a vote of three-fourths (3/4) of the whole number of council members elected;

F) Sign all orders and drafts drawn upon the City Treasury for money.

1-204 PRESIDENT OF THE COUNCIL

The Governing Body shall elect one of its own bodies as President of the Governing Body at the first meeting in May. The President of the Governing Body shall preside at all meetings of the Governing Body in the absence of the Mayor. In the absence of both the Mayor and the President of the Governing Body, the Governing Body shall elect one of its members as "Acting President of the Governing Body." 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.
(K.S.A. 14-204, 14-308)

1-205 CITY ADMINISTRATOR

The Governing Body shall provide for such offices as shall be necessary to carry out the provisions of the law and determine salaries for the same. It shall appoint a City Administrator as hereinafter provided who shall be responsible for his or her efficient administration of the City's business.

1-206 ADMINISTRATIVE DEPARTMENTS

Administrative departments shall be created by the Governing Body as the public business may demand and as provided by State statutes.
(K.S.A. 12-1015)

1-207 BOARDS AND COMMITTEES

Whenever authorized to do so by State law or the ordinances of the City, the Mayor, with approval of the City Council shall appoint members of various City Boards and Committees.

1-208 ADMINISTRATIVE POWERS

The Governing Body may designate whether the administration of a policy or the carrying out of any order shall be performed by a committee, an appointive officer, or the Mayor. If no administrative authority is designated it shall be vested in the Mayor.

1-209 COMPENSATION

There is hereby established for the elected Council Member’s a salary of $120.51 per month, and for the elected Mayor a salary of $533.54 per month.

1-210 EXPENSES

Members of the Governing Body shall be reimbursed for all expenses incurred in the performance of their official duties. However, no expense shall be reimbursed until an itemized accounting shall have been presented and approved by the City Administrator.

1-211 BONDS OF MAYOR AND COUNCILMEMBERS

Each Governing Body member shall, before entering upon the duties of his or her office, give a good and sufficient surety bond, payable to and for the use and benefit of the City. Such bond shall be in the sum of $10,000, conditioned for the faithful discharge of duties and that he or she will save the City harmless from all loss caused by neglect of duty or misfeasance in office, or for the willful expenditures of any moneys of the City in violation of the law. The cost of such surety bond shall be borne by the City.

ARTICLE 3. CITY ADMINISTRATOR

1-301 CITY ADMINISTRATOR; APPOINTMENT

There is hereby created the position of the City Administrator, who shall be under the direct supervision of the Mayor and Governing Body of the City. The City Administrator will be appointed by the Governing Body. He or she may be discharged for cause with a majority vote of the Governing Body. The City Administrator may resign by submitting a resignation in writing at least thirty (30) days prior to the expected departure date, unless the parties otherwise agree. The City Administrator, no later than six months after accepting employment with the City, shall reside in the City. The City Administrator shall be appointed on the basis of qualifications and ability.

1-302 APPOINTMENT AND TERM

The administration of the City's business shall be in the hands of the City Administrator, who shall be appointed by the Governing Body and shall hold office at the pleasure of the Governing Body. The City Administrator shall be under the direct supervision of the Mayor and the Governing Body. The City Administrator shall be hired by the Mayor after consultation with and the approval of the Governing Body.

1-303 POWERS, DUTIES AND RESPONSIBILITIES OF THE CITY ADMINISTRATOR

Except as otherwise provided by law or ordinance of the City, the City Administrator shall:

A) Act as personnel officer for the City; recommend salary and wage scales and working conditions for officers, officials and employees of the City. The City Administrator shall have the authority to reprimand and suspend, with or without pay, any employee of the City. It shall be the responsibility of the City Administrator to see that all employees are duly and properly evaluated. The City Administrator shall make recommendations to the Governing Body as to any other personnel actions.

B) Exercise general supervision and control over all City purchases and expenditures in accordance with the budget and such policies as established by the Governing Body.

C) Have the care and management of all City-owned land, property, buildings and equipment. The City Administrator shall supervise the taking and recording of departmental inventories.

D) In conjunction with the City Finance Director, annually prepare and submit to the Governing Body the required budgets.

E) Represent the City in intergovernmental matters and affairs as directed by the Governing Body.

F) Keep the Governing Body advised of: possible grants, other benefits, any changes and/or improvements which the Administrator believes may be beneficial to the municipality.

G) Attend all official meetings of the Governing Body, and other bodies as directed by the Governing Body, and to prepare, in cooperation with other policies of the City, the agenda and order of business for the Governing Body, unless excused by the Mayor and/or Governing Body.

H) Make such recommendations to the Governing Body as are deemed necessary for effective and efficient administration of all City services.

I) Perform such other duties as the Governing Body may direct from time to time.

J) Investigate the affairs and conduct of any department, agency, officer or employee, and compile evidence and insure the attendance of witnesses for administrative proceedings.

1-304 DUTIES AND FUNCTIONS OF CITY ADMINISTRATOR; APPOINTMENTS

The City Administrator shall be responsible for the administration of all the affairs of the City. He or she shall see that all laws and ordinances are enforced. He or she shall appoint and remove all heads of departments and all subordinate officers and employees of the City. All appointments shall be made upon merit and fitness alone. The City Administrator shall be responsible for the discipline of all appointive officers, and may, without notice, cause the affairs of any department or the conduct of any officer or employee to be examined. He or she shall prepare and submit the annual budget to the Governing Body and keep the Governing Body fully advised as to the financial conditions and needs of the City. He or she shall make recommendations to the Governing Body on all matters concerning the welfare of the City. No member of the Governing Body shall directly interfere with the conduct of any department except at the expressed direction of the Governing Body.

1-305 CERTAIN POWERS OF THE CITY ADMINISTRATOR CONCERNING PROPERTY OWNED OR LEASED BY THE CITY OF LANSING

A) The City Administrator and his or her designees are granted the authority, with good and lawful cause, to order any individual not to enter, to leave, or not to return to any property owned by the City of Lansing.

B) The powers in this section are not an exclusive enumeration of the powers of the City Administrator and are not meant in any way to impair the City Administrator's ability to exercise the other powers that he or she possesses.

ARTICLE 4. OFFICERS AND EMPLOYEES

1-401 ORGANIZATION

The affairs of the City shall be conducted by the officers and employees of such administrative divisions as may be established by the City Administrator.

1-402 OFFICERS AND EMPLOYEES; APPOINTMENT

All city officers and employees shall be appointed by the City Administrator in accordance with Charter Ordinance 1-2016, except as otherwise provided by state law or other City ordinances. The City Administrator is authorized to act as, and to perform the duties of any office for which he or she is qualified; and may appoint one person to perform the duties of more than one officer or employee provided their duties are not incompatible and the same is not prohibited by law or by other ordinances.

1-403 CONTRACT POSITIONS

The contract positions of the City shall include the City Attorney, City Prosecutor, City Engineer, Municipal Judge, Public Defender, and the City Administrator. The Mayor shall appoint, by and with consent of the City Council, the contract positions.

1-404 QUALIFICATIONS

Qualifications for appointment to a position in the classified service and duties assigned to any such position shall be in accordance with rules and regulations prescribed by the Governing Body.

1-405 RESIDENCY REQUIREMENTS FOR CERTAIN CITY EMPLOYEES

A) The following City employees are hereby required to establish and maintain a permanent residence within the incorporated boundaries of the City of Lansing, Kansas for the positions of: City Administrator and all Department Directors, including, but not limited to the following positions: City Clerk, Chief of Police, Community and Economic Development Director, Finance Director, Human Resources Director, Library Director, Parks & Recreation Director, Public Works Director, and Wastewater Utility Director.

B) Employees as described in subsection (a) of this section who are not already residents of the City of Lansing shall have a period of six (6) months after completion of their probationary period to establish residence within the City, after the end of such

eighteen (18) month period their exemption from the requirements of this section shall terminate.

C) Violation of any of the provisions of this section shall result in discharge from employment with the City.

D) Any such individual employed at the time this section is adopted by the Governing Body shall be exempt from the requirements set forth in this section; however, in the event an exempt employee relocates into the City limits the employee's exemption status shall terminate.

E) The City Administrator, in his sole discretion, may exempt an individual from this provision when he or she believes that such exemption is in the best interest of the City. The City Administrator will provide notification to the Governing Body on any request for an employee to be exempted from the residency requirement.

1-406 VACANCY IN OFFICE

Whenever a vacancy occurs in any appointive office for whatever reason, the vacancy shall be filled by the City Administrator with approval of the Governing Body. Any person appointed to fill such vacancy shall serve only until the next regular time for appointment.

1-407 OATH

All officers and employees of the City, whether elected or appointed, either under the laws of the state or ordinances of the City, shall before entering upon the duties of their respective office, take and subscribe an oath or affirmation as follows: "I do affirm that I will support the constitution of the United States and the constitution of the State of Kansas and faithfully discharge the duties of _____ (here enter the name of office), for the City of Lansing, Kansas during the term for which I was appointed."

1-408 CITY CLERK

The City Clerk shall:

A) Be custodian of all the City records, books, files, papers, documents and other personal effects belonging to the City not properly pertaining to any other office.

B) Carry on all the official correspondence of the City.

C) Attend and keep a record of the proceedings of all meetings of the Governing Body.

D) Keep record of every appointment of office and the date thereof.

E) Enter or place each ordinance of the City in the ordinance books after its passage.

F) Publish all ordinances or summaries thereof (except those appropriating money) and such resolutions, notices and proclamations as may be required by law or ordinance.

1-409 SAME; SEAL

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 in accordance with Section 1-416.

1-410 SAME; FISCAL RECORDS

The Finance Director and/or their designee 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. The Finance Director's 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.

1-411 SAME; WITHHOLDING AGENT

The Finance Director is designated as the withholding agent of the City for the purposes of the Federal Revenue (Income Tax) 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.

1-412 SAME; FINANCE DIRECTOR

The Finance Director shall, in coordination with the Accounting Specialist shall:

A) Keep a full and accurate record;

B) Publish a quarterly financial statement (K.S.A. 12-1608);

C) Deposit all public moneys and sign checks of the City;

D) Pay out the funds of the City upon properly signed warrants and warrant checks (K.S.A. 10-803);

E) Perform such other duties as may be prescribed by the Governing Body or the Kansas statutes.

1-413 CITY ATTORNEY

The City Attorney shall be a licensed attorney in the State of Kansas and shall:

A) Attend meetings of the Governing Body;

B) Advise the Governing Body and all officers of the City upon such legal questions affecting the City and its offices as may be submitted to him/her;

C) When requested by the Governing Body, 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/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 meetings;

G) Perform such other duties as may be prescribed by the Governing Body and the Kansas statutes.

H) The City Attorney shall report to City Administrator.

1-414 CITY PROSECUTOR

The City Prosecutor shall be a licensed attorney in the State of Kansas and shall:

A) Attend City Municipal Court on scheduled court dates;

B) Advise the Governing Body and all officers of the City upon such legal prosecutorial questions affecting the City and its offices as may be submitted to him/her;

C) When requested by the Governing Body, give opinions in writing upon any such questions;

D) Draft such resolutions, ordinances and other instruments in writing as may be submitted to him/her in the regular transaction of the prosecutorial affairs of the City;

E) Approve all ordinances which are prosecuted and enforced in the Lansing Municipal Court as to form and legality;

F) Perform such other duties as may be prescribed by the Governing Body and the Kansas statutes.

G) The City Prosecutor shall report to the City Administrator.

1-415 CITY ENGINEER

The City Engineer shall be a licensed professional engineer in the State of Kansas. He or she may be responsible for:

A) The design and specifications for all City streets, sewers, water lines, public buildings and other public facilities;

B) The inspection of all public works projects including streets, sewers, water lines and other public facilities;

C) The general supervision of the maintenance and repair of all public facilities as directed by the City Administrator;

D) Perform such other duties as may be prescribed by the Governing Body and the Kansas statutes;

E) The City Engineer shall report to the City Administrator.

1-416 OATHS FILED

All officers and employees shall be supplied the forms for the oath at the expense of the City and upon taking and subscribing or signing such oath or affirmation, the same shall be filed with the City Clerk or Human Resources Director.

1-417 BONDS; APPOINTED OFFICERS

The City Administrator and such other officers as the Governing Body

may require, shall each, before entering upon the duties of their respective offices give a good and sufficient surety company bond to the City, approved by the Governing Body, in the amount specified herein or as shall be required by the Governing Body conditioned upon the officer's faithful performance and faithful discharge of his or her respective duties. The cost of such surety bonds shall be borne by the City. Bonds for the following officers shall be in the following amounts:

City Administrator - $25,000;
City Clerk - $25,000;
Finance Director - $50,000;
Human Resources Director - $25,000
Municipal Judge - $5,000; and
Assistant City Clerk - $5,000.

1-418 CONDITION OF BONDS

Each of the bonds required in section 1-417 shall be conditioned for the faithful performance of duty and all acts required by the laws of Kansas and the ordinances of the City, and for the application and payment over to the proper persons of all moneys or property coming into the hands of each such officer by virtue of his office.

1-419 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 City Clerk, unless otherwise provided by the laws of the State of Kansas.

ARTICLE 5. INVESTMENT OF IDLE FUNDS

1-501 INVESTMENT OF IDLE FUNDS

Temporarily idle moneys of the City not currently needed, may in accordance with the procedure hereafter described be invested in:

A) Temporary notes or no-fund warrants of the City;

B) Time deposits, open accounts or certificates of deposit with maturities of not more than two years in commercial banks or trust companies which have offices located in the City. If no commercial bank or trust company is located in the City, then in commercial banks or trust companies which have offices located in Leavenworth County, or in the counties of the State of Kansas adjacent to Leavenworth County, as provided for, and subject to the restrictions of, K.S.A. 12-1675;

C) Time certificates of deposit with maturities of not more than two years with state or federally chartered savings and loan associations which have offices located in the City;

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

E) United States treasury bills or notes with maturities as the Governing Body shall determine, but not exceeding two years. Investments shall only be conducted with the following, which is doing business within the State of Kansas, any state or national bank, state or federally chartered savings and loan association, or federally chartered savings bank, the federal reserve bank of Kansas City, Missouri, set out by K.S.A. 12-1675(b) (5);

F) Municipal Investment Pool Fund established in K.S.A. 1996 Supp. 12-1677a, and amendments thereto. (K.S.A. 12-1675)

1-502 INVESTMENT OF TEMPORARILY IDLE FUNDS; RECORDS; RESTRICTIONS

The City Administrator or his or her designee shall submit to the Governing Body a quarterly report of the City's investment program. This report shall contain information regarding the amount of money invested, the maturity date of the investment and the annual rate of interest of each security. The City Administrator shall provide an investment program which shall limit the amounts invested and schedule the maturities of investments so that at all times the City will have sufficient funds available in demand deposits in its depository banks to assure prompt payment of obligations.

1-503 CUSTODY AND SAFEKEEPING

Securities purchased pursuant to this Article shall be under the joint care of the City Clerk, Finance Director and City Administrator and shall be held in the custody of a state or national bank or trust company, or shall be kept by such officers in a safety deposit box of the City in a bank or trust company, and shall be held in the name of the City and their redemption, transfer or withdrawal shall be permitted only upon the written instruct of at least two such City officers.

1-504 INTEREST ON TIME DEPOSITS AND/OR EARNINGS

The interest or earnings of investments made pursuant to this Article shall be credited pro rata to the fund or funds of the City from which the investments were made.

1-505 SALE OR TRANSFER

If, in order to maintain sufficient moneys on demand deposit in any fund as provided above, it becomes necessary to transfer or sell any securities of such funds, any two (2) or more of the officers so authorized as provided in section 1-503 may transfer said securities to any other fund or funds in which there are temporarily idle moneys, or shall sell such securities and for such purpose they shall have authority to make any necessary written directions, endorsements or assignments for and on behalf of the City. Any such transfer or sales shall be reported in writing to the Governing Body at its next regular meeting.

ARTICLE 6. PERSONNEL AND EMPLOYEE BENEFITS

1-601 PERSONNEL RULES AND REGULATIONS

There is hereby incorporated by reference for the purpose of establishing employee personnel rules and regulations the document entitled "Employee Handbook of the City of Lansing." An official copy shall be filed with the Human Resources Director and shall be open to inspection and available to the public at all reasonable hours. The Employee Handbook shall be posted on the City's intranet and be available for access by all employees of the City of Lansing.

ARTICLE 7. OPEN RECORDS

1-701 STATEMENT OF POLICY

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.

1-702 ACCESS TO OPEN RECORDS

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.

1-703 OFFICE HOURS

All City offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to any 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.

1-704 INSPECTION, COPYING FEES

It is the purpose of this Article to establish reasonable fees and charges for the provision of access to or copies of open public records in the possession of the City to avoid the necessity of using general public funds of the City to subsidize special services and benefits to a record requester. The official record custodian shall periodically recommend to the Governing Body such changes in this Article as may be necessary to secure this purpose.

1-705 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 $18.00 per hour.

1-706 COPYING FEE

A) A fee of twenty-five cents ($0.25) per page, with a minimum of $5.00 (for the first five pages) shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment.

B) A fee of $5.00 per disk shall be charged for electronic copies.

C) 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.

D) A fee of ten dollars ($10.00) per card will be charged for fingerprints. A fee of ten dollars ($10.00) will be charged for fingerprints for Law Enforcement and National Security Checks per subject.

E) A fee of three dollars ($3.00) may be charged for each notary stamp needed other than those required for Law Enforcement or National Security purposes.

1-707 PREPAYMENTS OF FEES

A) A deposit of $25.00 shall be required from the requestor at the time of the record request prior to inspection of the requested record or delivery of the requested copies. This deposit will be used to offset the inspection and/or copying fees. No deposit will be required if the record is readily available and no copies are requested.

B) A record custodian shall demand prepayment of the fees established by this Article whenever he or she believes this to be in the best interest of the City. The prepayment amount shall be an estimate of the inspection and/or copying charges accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to inspection of the requested record or delivery of the requested copies.

C) Prepayment of inspection and/or copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed ten dollars ($10.00) above the prepaid deposit.

D) Where prepayment has been demanded by the record custodian, no record shall be made available to the requester until such prepayment has been made.

1-708 PAYMENT

All fees charged under this Article shall be paid to the City Clerk. When the total fees due from whatever source under this section reaches $25.00; they shall be paid to the City Clerk, however, all fees shall be paid no less than once on a monthly basis.

1-709 APPOINTMENT OF OFFICIAL CUSTODIANS

The following City officers are hereby appointed as official custodians for purposes of the Kansas Open Records Act, and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed public records:

A) City Clerk - All public records kept and maintained in the City Clerk's office and all other public records not provided for elsewhere in this section.

B) Chief of Police - All public records not on file in the office of the City Clerk and kept and maintained in the City Police Department.

C) City Administrator – All public records not on file in the office of the City Clerk and kept and maintained in the City Administrator's office.

D) City Attorney / City Prosecutor - All public records not on file in the office of the City Clerk and kept and maintained in the City Attorney's and/or City Prosecutor's office.

E) City Engineer - All public records not on file in the office of the City Clerk and kept and maintained in the City Engineer's office.

F) Clerk of the Municipal Court - All public records not on file in the office of the City Clerk and kept and maintained in the municipal court.

G) Community and Economic Development Director - All public records not on file in the office of the City Clerk and kept and maintained in the Economic Development/CVB Department or Lansing Historical Museum.

H) Finance Director – All public records not on file in the office of the City Clerk and kept and maintained in the Finance Department.

I) Library Director - All public records not on file in the office of the City Clerk and kept and maintained in the Lansing Community Library.

J) Human Resources Director – All public records not on file in the office of the City Clerk and kept and maintained in the Human Resources Department.

K) Parks and Recreation Director - All public records not on file in the office of the City Clerk and kept and maintained in the Parks and Recreation Department.

L) Public Works Director - All public records not on file in the office of the City Clerk and kept and maintained in the Public Works Department.

M) Wastewater Utility Director - All public records not on file in the office of the City Clerk and kept and maintained in the Wastewater Department.

1-710 DESIGNATION OF ADDITIONAL RECORD CUSTODIANS

A) Each of the official custodians appointed 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 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.

1-711 DUTIES OF CUSTODIANS

All City officers and employees appointed or designated as record custodians under this article shall:

A) Protect public records from damage and disorganization;

B) Prevent excessive disruption of the essential functions of the City;

C) Provide assistance and information upon request;

D) Act upon any request for inspection of any open public records that are in his/her possession as quickly as possible but has until the end of the third business day to

act upon these requests. If a response to a request is delayed, a written explanation will be provided by the City Clerk; and

E) Shall carry out the procedures adopted by this City for inspecting and copying open public records.

1-712 DELAYS OF OPEN RECORDS REQUESTS

If a response to a request is delayed, a written explanation will be provided by the City Clerk to the requestor. There may be delays in responding to requests for information for the following reasons:

A) Additional information is needed in order to retrieve the records.

B) Legal issues must be addressed before the records are released.

C) Requested records are archived or stored off site.

D) The volume of records requested is large and will take time to duplicate.

1-713 DENIAL OF OPEN RECORDS REQUESTS

If a response to a request is denied, a written explanation will be provided by the City Clerk to the requestor. A request may be denied in whole or part for the following reasons:

A) The requested record does not exist.

B) The requested records are exempt from disclosure by law.

C) The request is unclear and must be submitted with more detail.

D) The request places an "unreasonable burden" upon the City or is intended to disrupt the operations of the City (KSA 45-218(e)).

ARTICLE 8. ECONOMIC DEVELOPMENT COMMITTEE

1-801 COMMITTEE ESTABLISHED, MEMBERSHIP

The Committee shall consist of the following positions: The Mayor of the City of Lansing, the City Administrator, representatives from the Economic Development Department including the Economic Development Director, Economic Development Assistant; the Public Information Officer, one (1) representative from the Lansing School District USD 469, three (3) members of the Governing Body, and five (5) representatives from the business community.

1-802 SAME, COMMITTEE DUTIES

The purpose of the Committee is to oversee the Economic Development Department's efforts to attract and retain jobs in Leavenworth County. The duties of the Committee shall be:

A) Review and make recommendations regarding issues related to economic development

B) Receive briefings and reports regarding economic development related items including infrastructure, new businesses, prospective businesses, and marketing materials

C) The Committee shall have other responsibilities and duties as the Governing Body of the City may from time to time assign to the Committee concerning the economic development of the City

1-803 SAME, MEETINGS

The Committee shall meet on a quarterly basis, provided that the chair of the Committee may cause additional meetings of the Committee to be held as the need arises

1-804 SAME, COMMITTEE CHAIR

The Committee shall be chaired by the Economic Development/CVB Director. The Committee shall provide for the preparation and approval of minutes of Committee meetings, and shall provide copies of the same to the Governing Body.

1-805 SAME, BY-LAWS

The Committee may adopt by-laws governing the operation of the Committee, provided that such by-laws do not conflict with the provisions of this Code or any other applicable law.

CHAPTER 2. ANIMAL CONTROL AND REGULATION

Article 1. General Provisions Concerning Animals
Article 2. Cruelty to Animals
Article 3. Offenses Generally
Article 4. Dangerous Animals
Article 5. Permits and Licensing
Article 6. Kennels

ARTICLE 1. GENERAL PROVISIONS CONCERNING ANIMALS

2-101 FINDINGS OF THE GOVERNING BODY

The Governing Body of the City of Lansing, Kansas hereby finds that to protect and preserve the public health, safety and welfare it is necessary to prohibit the ownership of certain animals within the City and to establish regulations governing the ownership of animals allowed within the City.

2-102 DEFINITIONS

As used in this Chapter:

A. "Abandon" shall mean to leave an animal without demonstrated or apparent intent to recover or resume custody; to leave an animal for more than 12 hours without providing adequate food and shelter for the duration of the absence; or to turn out or release an animal for the purpose of causing it to be impounded.

B. "Animal Shelter" or "pound" means a facility which is used or designed for use to house, contain, impound or harbor any seized stray, homeless, relinquished or abandoned animal or a person who acts as an animal rescuer, or who collects and cares for unwanted animals or offers them for adoption. Animal shelter or pound also includes a facility of an individual or organization, profit or nonprofit, maintaining 20 or more dogs or cats, or both, for the purpose of collecting, accumulating, amassing or maintaining the animals or offering the animals for adoption.

C. "Dangerous animal" shall mean and include:

1. Any mammal, amphibian, fish, reptile or fowl which is of a species which, due to size, vicious nature or other characteristics would constitute a danger to human life, physical well-being, or property, including but not limited to, lions, tigers, leopards, panthers, bears, wolves, apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, alligators,

crocodiles, and snakes which are venomous or otherwise present a risk of serious physical harm or death to human beings as a result of their nature or physical makeup including, but not limited to, boa constrictors, Madagascar ground boas, green and yellow anacondas, Cuban boas, Indian pythons, reticulated pythons, African rock pythons, Amethystine pythons, Boelen's pythons and all members of the family pythonidae that exceed six feet in length.

2. Any dog or cat having a disposition or propensity to attack or bite any person or animal without provocation. For the purposes of this chapter, where the official records of the Chief Animal Control Officer indicate a dog or cat has aggressively bitten any person or persons, it shall be prima facie evidence that said dog or cat is a dangerous animal.

   a. Notwithstanding the definition of a dangerous animal above, no animal may be declared dangerous if any injury or damage is sustained by a person or animal who at the time such injury or damage was sustained, was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime, or if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

3. Any domesticated dog that has in its known genetic history and/or formal pedigree crossbreeding with the wolf species to include, but not be limited to, animals referred to as wolf-hybrids or wolf-mix breeds or the breed known as Tundra Shepherd. The registration of an animal at any time in any jurisdiction as a wolf-hybrid, wolf mix or Tundra Shepherd shall constitute prima facie evidence the animal is a dangerous animal. For the purposes of this section all references to animals described herein shall be to wolf-hybrids.

   The registration of a dog at any time in any jurisdiction as a pit bull or as any of the dogs listed above shall constitute prima facie evidence the animal is a dangerous animal.

D. "Domesticated" shall mean bred for and adapted to living dependently in an urban household setting.

E. "Humane" shall mean a manner of care including, but not limited to, protection from harm, providing of shelter with adequate protection

from the elements, ventilation, sanitation, and appropriate food and potable water consistent with the requirements and habits of the animal's species, type, size, age and condition.

F. "Kennel" shall mean a place of business where four or more animals are brought, sold, bred, raised or kept for the purpose of boarding, sale, resale, training or teaching, and which business is done commercially and for profit.

G. "Officer" shall mean City Animal Control Officer or City Police Officer.

H. "Own" or "Owning" shall mean to keep, maintain, harbor, shelter, manage, possess, control, sell, trade, buy or have a part interest.

I. "Owner" shall mean the person who owns, keeps, harbors, shelters manages, controls or possesses an animal or specified animal. A parent or legal guardian shall be deemed to be an owner of an animal or specified animal owned or maintained by a minor in the parent's or guardian's charge.

J. "Person" shall mean and include any natural person, association, partnership, organization or corporation.

K. "Spay" or "neuter" shall mean to render permanently incapable of producing offspring.

2-103 OWNING CERTAIN ANIMALS PROHIBITED

It shall be unlawful for any person(s) to own, within the City limits, any animal except as excluded in Section 2-104.

2-104 ANIMALS EXCLUDED FROM PROHIBITION

Animals excluded from the prohibition under Section 2-103 are:

A. Domestic dogs, except:

1. Those hybridized with wild canines; or

2. Those that are "dangerous animals", as defined in Section 2-102(C), unless the owner has complied with all requirements set forth in Section 2-402 of this Chapter.

B. Domestic cats, except:

1. Those hybridized with wild felines; or

2. Those that are "dangerous animals", as defined in Section 2-

102(C), unless the owner has complied with all requirements set forth in Section 2-402 of this Chapter.

C. Domesticated rodents

D. Domesticated European ferrets

E. Rabbits

F. Birds and fowl including chickens, ducks, geese, turkey, guineas, and pigeons, except for species protected by state or federal law

G. Nonvenomous snakes less than six (6) feet in length, except that such snakes shall be required to be maintained on the owner's premises or property

H. Nonvenomous lizards

I. Turtles, except for species protected by state or federal law

J. Amphibians

K. Fish

L. Invertebrates except bees

M. Any animal in the ownership of a veterinary clinic operated by a licensed veterinarian, provided that the animal is properly restrained

N. Any animal in the ownership of a person designated and licensed as an animal rehabilitator by the Kansas Wildlife and Parks Department, provided that the animal is properly restrained

O. Any animal in the ownership of a person temporarily transporting such animal through the City, provided that the animal is properly restrained

P. Any animal in the ownership of a bona fide medical institution or accredited educational institution, provided that the animal is properly restrained

Q. Any animal temporarily owned by a facility licensed by the Kansas Animal Health Department for the purpose of impounding, sheltering, or caring for animals, provided that the animal is properly restrained

2-105 ANIMALS PROHIBITED IN RESIDENTIALLY ZONED AREAS

A. A person wanting to own, keep, harbor or shelter any of the following in a residentially zoned area shall be required to apply for and obtain a permit as stated in Article 5 of this Chapter:

1. Livestock, including but not limited to cattle, horses, mules, goats, swine, and/or sheep

2. Bees, unless being owned, kept, harbored or maintained in an area zoned agricultural and more than 100 yards from a residentially zoned area

2-106 LIMIT ON NUMBER OF ANIMALS

With the exception of domesticated rodents, fish, and invertebrates, it shall be unlawful for any person(s) to own, keep or harbor any combination of more than four non-prohibited animals at the same address or on the same premises within the City limits without first applying for and obtaining a Special Permit as provided for in Article 5 of this Chapter.

2-107 CONFISCATION OF PROHIBITED ANIMAL

The Municipal Court Judge may order the confiscation of a prohibited animal if the animal poses an immediate danger to the public or itself. Upon the conviction of a person for owning an animal as prohibited by this Chapter, the Municipal Court Judge shall order the animal confiscated and transferred to an appropriate licensed animal rehabilitation or care facility. The Municipal Court Judge may order the release of the animal to the owner provided that the animal will not be kept within the City limits.

2-108 PENALTY

Violation of Section 2-103 shall be a municipal offense for which a mandatory court appearance is required, and upon conviction, the defendant shall be fined no less than $90.00 nor more than $500.00 per offense, plus applicable court costs.

ARTICLE 2. CRUELTY TO ANIMALS

2-201 **CRUELTY TO ANIMALS** (see 11.11 of the UPOC also)

A. Cruel acts and conditions enumerated:

1. It shall be unlawful for any person:

a. To willfully or maliciously kill, maim, disfigure or torture, strike, hit or beat with a stick, board, chain, club or other object; mutilate, burn, or scald with any substance**;** or drive over any domesticated animal, or cruelly set an animal upon another animal, except that reasonable force may be employed to drive off vicious or trespassing animals; or

b. By any means to make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with harmful or poisonous substances (it is not the intent of this subsection to prohibit the use of poisonous substances for the control of vermin of significance to the public health); or

c. To fail, refuse or neglect to provide any animal in said person's charge or custody as owner or otherwise, with proper food, drink, shade, care, or structurally-sound weatherproof shelter appropriate for the type, age and/or size of the animal; or

d. To drive or work any animal cruelly; or

e. To abandon any animal within the City limits; or

f. To leave any animal confined in a vehicle for more than five (5) minutes in extreme weather conditions, defined as less than thirty (30) degrees Fahrenheit or more than eighty (80) degrees Fahrenheit; or

g. To transport an animal in the trunk of a vehicle; or

h. To cause, instigate, stage, or train any animal

to fight or permit any fight between any animal and another animal or human; or

i. To give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter a place of amusement; or offer such vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade; or

j. To attach chains or other tethers, restraints or implements directly to an animal without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal; or

k. To continuously picket, tether or stake an animal (excluding those used by businesses for security during non-business hours) for more than two (2) continuous hours, except that tethering or staking of the same animal may resume after a hiatus of three (3) continuous hours, for up to six (6) hours total time on a tether or stake per day; provided that for the purpose of tethering or staking an animal, a chain, leash, rope or tether shall be at least 10 feet in length; or

l. To use a chain, leash, rope, collaring device, tether, or any assembly or attachments thereto to picket an animal that shall weigh more than one-eighth (1/8) of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area picketed; or

m. To picket an animal in such a manner as to cause injury, strangulation, or entanglement of the animal on fences, trees, or other man-made or natural obstacles.

2. Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report any injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law

enforcement agency or to the local humane society.

B. Exceptions
Nothing in Subsection (A) of this Section shall:

1. Be deemed to prohibit any action by a licensed veterinarian done in accordance with accepted standards of veterinary medicine, or any action taken by a law enforcement officer pursuant to the interests of public health and safety; or

2. Be interpreted as prohibiting any act done in self-defense or done to defend another person.

2-202 PROCEDURES FOR CRUELTY TO ANIMALS; FINES

A. Any public health officer, law enforcement officer, code enforcement officer, or licensed veterinarian may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals, as defined by Section 2-201; provided that entry upon private property shall only be accomplished with the assistance of a law enforcement officer. Such officer, agent or veterinarian may inspect, care for, or treat such animal or place such animal in the care of any facility with which the City has contracted for animal sheltering services or a licensed veterinarian for treatment, boarding or other care or, if an officer of such animal sheltering facility or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane destruction.

B. The owner or keeper of an animal destroyed pursuant to subsection (A) shall not be entitled to recover damages for the destruction of such animal unless the owner proves that such destruction was unreasonable and unwarranted.

C. Expenses incurred for the care, treatment or boarding of any animal taken into custody pursuant to subsection (A) pending prosecution of the owner or keeper of such animal for the crime of cruelty to animals as defined in Section 2-201 shall be assessed to the owner or keeper as a cost of the case if the owner or keeper is adjudicated guilty of such crime.

D. If a person is adjudicated guilty of the crime of cruelty to animals as defined in Section 2-201 and the court determines that such animal owned or possessed by such person would be in the future subject to any cruelty to animals, such animal shall not be returned to or remain with such person. Such animal may be turned over to a

duly incorporated humane society, animal shelter or control or licensed veterinarian for sale, adoption or other disposition.

E. Unless the animal obtained pursuant to this Section is the evidentiary subject of a pending prosecution, the owner or keeper of the animal shall have a maximum of four (4) business days after the animal is taken into custody to obtain the animal from the veterinarian or the animal sheltering facility having custody of the animal. The veterinarian or the animal sheltering facility shall notify the owner or keeper of the animal, if known or reasonably ascertainable. The failure of the owner or keeper to obtain custody of the animal in the time provided shall provide the authority for the Municipal Judge to declare that the animal be disposed of by the veterinarian or the animal sheltering facility by adoption or destruction.

F. Violation of Section 2-201 shall be a municipal offense for which a mandatory court appearance is required, and upon conviction, the defendant shall be fined not less than $90.00 nor more than $1,000.00, plus applicable court costs, per offense. The Municipal Judge shall not have authority to suspend the minimum fine. In addition, the Municipal Judge shall have authority to sentence the convicted defendant to a maximum six (6) month sentence in jail.

ARTICLE 3. OFFENSES GENERALLY

2-301 ANIMAL NUISANCES

A. It shall be unlawful for any person to:

1. Own any animal, including a dog or cat, in a residentially-zoned district, which by frequent or long continued noise shall disturb the comfort or repose of any person within the vicinity of such animal (see also noise ordinance 12-301); or

2. Own any animal, including a dog or cat, in a residentially-zoned district, which shall by the nature of their maintenance or by the numbers of the same shall create an offensive odor so as to be objectionable to surrounding residences; or

3. Own any dog or cat, in a residentially-zoned district, which is in heat, unless such animal is confined in a secure and sufficiently enclosed area; or

4. Own on their premises more than four (4) dogs, cats or other non-prohibited animals or combination of non-prohibited animals, ten (10) weeks in age or older, unless such premises is licensed as a commercial kennel or a Special Permit has been issued by the City as provided for in Article 5 of this Chapter. The limit to four animals shall not include rodents, fish, and invertebrates.

Violation of this Section shall be a municipal offense and upon conviction shall be punishable by a fine of $90.00, plus applicable court costs, per offense.

2-302 RESPONSIBILITY FOR REMOVAL OF ANIMAL EXCREMENT

A. It shall be unlawful for any person to appear with an animal upon the public right-of-way, within public places or upon the property of another, absent that person's consent, without some means for removal of excrement that may be deposited by the animal.

B. It shall be unlawful for any person who is an owner or possessor of an animal in their care to fail to remove any excrement deposited by the animal upon any public or private property, other than the property of the owner of the animal.

C. The provisions of this Section shall not apply to persons who have a physical disability or visual impairment, who are using service dogs, and can provide adequate documentation, upon demand of

an animal control officer or law enforcement officer, that the service dog is an animal trained by an accredited institution which trains dogs for service work for the physically disabled or visually impaired.

Violation of this Section shall a municipal offense and upon conviction shall be punishable by a fine of $90.00, plus applicable court costs, per offense. The Municipal Judge shall have no authority to suspend the fine or any portion thereof.

2-303 ANIMALS RUNNING AT LARGE; FINES

A. It shall be unlawful for any person to own or keep a dog or cat or other animal which runs at large in the City. Knowledge or acquiescence by the owner or keeper is not an element of the offense.

B. An animal shall not be deemed to be running at large if:

1. The animal is firmly attached to a leash or chain under the physical control of its owner or keeper; or

2. The animal is within a structure or within a fence enclosure with the permission of the owner or keeper of the structure or fence enclosure; or

3. The animal has an operating electronic collar and is under the charge, care or control, of its owner or keeper who is operating an electronic pet containment system or electronic training system for the animal in the owner's back or side yard. Notwithstanding this subsection, all animals on or in the public right-of-way must be kept on a leash or chain under the physical control of its owner or keeper.

C. Any animal on property without the permission of the property owner shall be deemed to be an animal at large and the owner of such animal shall be in violation of this Section.

D. Any cat that is on the property of its owner or keeper shall not be deemed to be running at large in the City.

E. The provisions of this Section shall not apply to persons who have a physical disability or visual impairment, who are using service dogs, and can provide adequate documentation, upon demand of an animal control officer or law enforcement officer, that the service dog is an animal trained by an accredited institution which trains dogs for service work for the physically disabled or visually

impaired.

F. Any person found guilty of a violation of this Section shall be fined as follows: $90.00 for the first offense within a twelve (12) month period; $100.00 for the second offense within a twelve (12) month period; $110.00 for the third offense within a twelve (12) month period; and $160.00 for the fourth and subsequent offense(s) within a twelve (12) month period. The Municipal Judge shall have no authority to suspend the fine or any portion thereof established by this Section. The fine shall be in addition to any applicable court costs or impoundment fees. The animal sheltering facility having custody of the animal, if any, shall not release an animal to an owner if the owner has failed to pay a fine or has failed to appear in Municipal Court for the adjudication of a violation of this Section.

2-304 HABITUAL VIOLATOR; ANIMAL AT-LARGE

A. It shall be a separate municipal offense for any person to receive four (4) or more citations for violation of Section 2-303 within a twenty-four (24) month consecutive period. Such person may then be cited as a habitual violator.

B. Violation of this Section shall be a municipal offense for which a mandatory court appearance is required. Any person found guilty of a violation of this Section shall be fined not less than $90.00 nor more than $500.00, plus applicable court costs, for each habitual violator citation. The Municipal Judge shall have no authority to suspend the minimum fine or any portion thereof. In addition thereto, the Municipal Judge shall have the authority to sentence the individual to up to six (6) months in jail. It shall be a defense to an alleged violation of this Section for the defendant to have been adjudged not guilty, or the charge dismissed, for a specific citation issued under Section 2-303.

2-305 AGGRESSIVE ANIMALS RUNNING AT LARGE; PENALTIES

A. An “aggressive animal running at large” means any animal at large pursuant to Section 2-303 that without provocation, exhibits aggression or combativeness toward a person or another domestic animal, whether or not said person or animal is attacked, bitten, or scratched by the aggressive animal at large.

B. Any person found guilty of violating Section 2-303, where the animal at large is an aggressive animal pursuant to subsection (A) of this Section, shall be fined as follows: $110.00 for the first offense within a twelve (12) month period, or by imprisonment, for

not more than 10 days, or by both such fine and imprisonment; $120.00 for the second offense within a twelve (12) month period, or by imprisonment, for not more than 10 days, or by both such fine and imprisonment; $130.00 for the third offense within a twelve (12) month period, or by imprisonment, for not more than 14 days, or by both such fine and imprisonment; and $180.00 for the fourth and subsequent offense(s) within a twelve (12) month period, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment. The Municipal Judge shall have no authority to suspend the fine (or any portion thereof) established by this Section but shall have the authority to suspend the term of imprisonment. The fine shall be in addition to any applicable court costs or impoundment fees. The animal sheltering facility having custody of the animal, if any, shall not release an animal to an owner if the owner has failed to pay a fine or has failed to appear in Municipal Court for the adjudication of a violation of this Section.

2-306 HABITUAL VIOLATOR; AGGRESSIVE ANIMAL AT-LARGE

A. It shall be a separate municipal offense for any person to receive four (4) or more citations for violation of Section 2-305 within a twenty-four (24) month consecutive period. Such person may then be cited as a habitual violator.

B. Violation of this Section shall be a municipal offense for which a mandatory court appearance is required. Any person found guilty of violation of this Section shall be fined not less than $180.00 nor more than $500.00, plus applicable court costs, for each habitual violator citation. The Municipal Judge shall have no authority to suspend the minimum fine or any portion thereof. In addition thereto, the Municipal Judge shall have the authority to sentence the individual to up to six (6) months in jail. It shall be a defense to an alleged violation of this Section for the defendant to have been adjudged not guilty, or the charge dismissed, for a specific citation issued under Section 2-305.

2-307 PURSUIT ONTO PRIVATE PROPERTY

A law enforcement officer or animal control officer shall have the right of entry upon any private unenclosed lots or lands to pursue and capture any animal, including a dog or cat, found to be running at large or whose presence is in violation of any article in this chapter.

2-308 IMPOUNDING, REDEMPTION AND DISPOSITION

A dog, cat or other animal found running at large or in violation of the articles within this chapter, situated within the corporate limits of the City, may be taken up by the officer or brought in by a member of the public

and may be impounded at any facility with which the City has contracted for animal sheltering services. The officer shall make a record of all dogs or cats so impounded with their description, date of impoundment and rabies vaccination number if available. If, within four (4) business days from the date any dog or cat is impounded and the owner of such dog or cat shall appear and claim his or her dog or cat, said dog or cat may be released upon payment of the following fees:

A. A pick-up fee of $40.00, and

B. A fee of $10.00 per day for each day that said animal remains in the custody of the facility after the day on which the animal was impounded.

All fees required by this Section shall be payable to the City, and no animal shall be released until the animal's owner proves that the animal, if a dog or cat, is currently immunized against rabies, is properly licensed pursuant to Article 5 of this Chapter, and all impoundment and board fees have been paid in full to the City. Rabies immunization and licensing are not required until the animal is over four (4) months of age. If said animal is over four (4) months of age and is not currently immunized against rabies and licensed as required, then the owner shall post a $20 cash bond, in addition to the impoundment and board fees as required above, for the release of the animal. In addition, the owner shall pay for the purchase of a City license tag for the animal, in accordance with the provisions of Article 5 of this Chapter. Said license tag shall be retained by the City until such time as the animal owner provides proof of current rabies immunization for the animal. If proof of immunization is provided within five (5) business days of the animal's release from impound, the cash bond posted by the animal's owner shall be refunded to said owner. After five (5) business days, the bond shall be retained by the City.

Any owner or keeper of a dog or cat who wishes to forfeit or otherwise terminate their ownership of said animal may bring the animal to the Lansing Police Department for surrender. At such time, the owner shall complete a written statement (including the animal's behavioral history and medical records, if available) irrevocably surrendering ownership of the animal and shall at that time pay a $100.00 surrender fee to the City. The City expressly reserves the right to refuse to accept custody of any dog or cat offered for surrender.

2-309 FILING COMPLAINT; ENFORCEMENT

It is hereby made the duty of the animal control officer, or anyone having the authority of an animal control officer, including but not limited to law enforcement officers, to enforce the terms and provisions of this chapter. Pursuant to Charter Ordinance No. 1-2016, and other lawful authority, the

animal control officer is authorized to issue citations to the owner of and/or impound any dog, cat or other animal found in violation of the terms of this Chapter. The Chief of Police may appoint persons to be known as animal control officers, whose duties it shall be to assist in the enforcement of this Article as defined by K.S.A. 12-4113(j) and to work under the immediate supervision and direction of the Police Department.

Any person having personal knowledge of the violations of any of the provisions of this article may make a verified complaint of the facts showing a violation of this article before the Municipal Court Judge and upon the filing of such a complaint, the Municipal Court Judge may issue proper legal process to enforce the penalties provided herein

2-310 DAMAGE TO PRIVATE PROPERTY

The owner of any animal shall be in violation of this Article and subject to the penalties prescribed herein if any such animal damages private property not belonging to the animal owner.

2-311 TRANQUILIZER/STUN GUN/LETHAL FORCE

The Chief of Police or his/her designate shall be authorized to use a tranquilizer gun or Taser in the enforcement of this chapter. He/she shall be authorized to tranquilize/stun an animal which is impractical or impossible to catch or capture. In circumstances where the officer or another human being is in threat of great bodily harm from an animal, or an animal has been critically injured, lethal force maybe employed against the animal.

2-312 ANIMAL BITES, COMMUNICABLE DISEASE; QUARANTINE

A. OWNER KNOWN: Upon receipt of notification from a duly licensed practitioner of medicine or registered nurse that an animal bite incident has occurred, or upon the receipt of reliable and verifiable information that an animal is believed to have rabies or some other serious communicable disease, an officer shall make reasonable efforts to contact the owner of the animal involved in the incident and advise the owner to place the animal immediately with a regularly licensed and practicing veterinarian of the owner's choice for a confinement period of a minimum of ten (10) days from the time of the occurrence of the bite, or if no bite then a minimum of (10) days from notification. The exact period of confinement may be longer than ten (10) days at the discretion of the veterinarian selected and the owner shall be liable for all confinement costs incurred.

B. FAILURE TO COMPLY: Any owner who shall fail to comply with the provisions of this Section, within twenty-four (24) hours or one (1)

business day of notification, shall be deemed in violation of this Article and an officer shall take such animal into custody and commit it for the above described confinement period.

C. OWNER UNKNOWN: Biting animals, or animals suspected of having rabies or some other serious communicable disease for which an owner cannot be located, shall be taken into custody by the animal control officer and confined for observation. If the bite to the victim is on the neck or head, or if the animal is behaving strangely or is ill, the animal shall be held for twenty-four (24) hours before euthanized. If the bite to the victim is not on the neck or head, and if the animal is not behaving strangely or is not ill, the animal shall be held for three (3) days before euthanized. If the owner is later identified and seeks to claim the animal, the provisions of Subsection (A) shall govern the confinement of the animal. Should such animal become ill, die or be euthanized within the confinement period, the bite victim or victim's representative shall be notified and the City shall direct further management of the animal or animal remains. If the animal is alive and well at the end of the confinement period, the bite victim or victim's representative shall be notified, and the animal shall become the property of any facility with which the City has contracted for animal sheltering services.

D. STATE LAW: Kansas Administrative Regulations (K.A.R.) 28-1-13, and amendments thereto, shall be followed concerning the isolation of biting animals for observation, examination and quarantine, unless the provisions of this Chapter require more stringent procedures.

2-313 BREAKING POUND

It shall be unlawful for any person to break open, or assist, counsel or advise the breaking open of the City pound, or to take or let out any animal placed therein by the impounding officer. This section shall not apply to any officer duly authorized to handle animals impounded.

2-314 PENALTY

Unless otherwise specified herein, upon a first conviction for a violation of any section of this Article, a defendant shall be fined $90.00, plus applicable court costs. A second or subsequent violation of any section of this Article shall be a municipal offense for which a mandatory court appearance is required, and shall be punishable by a fine of not less than $110.00 nor more than $500.00, plus applicable court costs, and/or imprisonment for not more than ten (10) days. Each consecutive day's violation shall constitute a separate punishable offense. Any costs associated with the impoundment of the animal shall be assessed against

the convicted person and shall be in addition to any fines or other penalties imposed.

ARTICLE 4. DANGEROUS ANIMALS

2-401 PROHIBITIONS

Except as provided elsewhere in this article, no person shall own, keep, or harbor any Dangerous Animal, as defined in Section 2-102(C) of this Chapter, in the City of Lansing.

2-402 EXCEPTIONS; PERMIT AND REGISTRATION REQUIREMENTS

The prohibition on Dangerous Animals in Section 2-401 of this Article shall NOT extend to the following situations, provided that any person or organization desiring to own, harbor or have charge, custody, control or possession of a Dangerous Animal pursuant to the following subsections has first secured a permit pursuant to Article 5 of this Chapter:

A. The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where they are kept as live specimens for the public to view, or for the purpose of instruction or study;

B. The keeping of such animals for exhibition to the public of such animals by a circus, carnival or other exhibit or show;

C. The keeping of such animals in a bona fide, licensed veterinary hospital for treatment;

D. Commercial establishments possessing such animals for the purpose of sale or display;

E. The keeping of a Dangerous Animal as defined in Section 2-102 (C)(2) herein or wolf-hybrids as defined in Section 2-102(C)(4) herein, provided that the following additional requirements are met for each such animal to be kept pursuant to this subsection:

1. Each animal shall at all times be securely confined in one of the following manners:

a. Indoors, inside a residence or structure equipped with windows and doors that prevent the animal from exiting the structure on its own volition; or

b. Outdoors, in a securely enclosed and locked pen or kennel having: secure sides, which are either anchored to a secure floor or embedded at least two (2) feet into the ground; a secure top attached to the sides; and access controlled by a keyed or combination lock. Said structure must comply with all City building and zoning regulations and must be

adequately lighted and ventilated and kept in a clean and sanitary condition; or

c. Outdoors, outside its kennel or pen but securely restrained with 1) a muzzling device sufficient to prevent the animal from biting persons or other animals, and 2) a leash no longer than four (4) feet in length. Said leash must at all times be under the physical control of a person and shall not be attached to inanimate objects such as trees, posts, buildings, etc.

1. The owner, keeper or harborer of an animal under this subsection shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign shall be posted on the kennel or pen of such animal.

2. Each animal owned, kept or harbored pursuant to this subsection shall be registered with the City according to the requirements of Article 5 of this Chapter.

3. The owner, keeper or harborer of an animal under this subsection shall, within ten (10) business days of receiving approval from the City for ownership of such animal, provide proof to the Chief of Police of public liability insurance in a single incident amount of $300,000.00 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. This shall require a special insurance rider. At the time of application for permit renewal, the owner, keeper or harborer must show proof of insurance for the present registration period and proof that there was insurance coverage throughout the period of the prior registration year.

   a. In the event said liability insurance is canceled, lapsed, or for any other reason becomes non-enforceable, said owner, keeper, or harborer shall be in violation of the provisions of this ordinance and subject to the penalties provided herein.

4. The owner, keeper or harborer of an animal pursuant to this subsection shall, within ten (10) business days of receiving approval from the City for ownership of such animal, provide to the Chief of Police two color photographs of the registered

animal clearly showing the color and approximate size of the animal.

5. The owner, keeper or harborer of an animal pursuant to this subsection shall, within ten (10) days of the occurrence of any of the following events, report such event to the Chief of Police in writing:

    1. Death of the animal;

    2. Birth of offspring of the animal; or

    3. The new address of the animal owner should the owner move within the corporate City limits.

Any animal found to be the subject of a violation of any of the provisions of this subsection shall be subject to immediate seizure and impoundment and shall be delivered to a place of confinement, which may be with any organization which is authorized by law to accept, own, keep or harbor such animals. In addition, failure to comply will result in the revocation of the license for such animal and the permit providing for the keeping of such animal resulting in the immediate removal of the animal from the City, and may result in criminal penalties against the owner of such animal as provided for elsewhere in this Chapter.

F. The keeping of any snakes of the species boa constrictors, Madagascar ground boas, green and yellow anacondas, Cuban boas, Indian pythons, reticulated pythons, African rock pythons, Amethystine pythons, Boelen's pythons and all members of the family pythonidae that exceed six feet in length; provided, these animals shall be kept under the following mandatory conditions.

1. In consideration of the right of the public not to be unexpectedly exposed to snakes, these animals will not be openly displayed in a public setting outside of established forums for such practices to include herpetological shows, educational displays, pet stores and other special displays whereby members of the public are forewarned that a snake(s) may be displayed in the open.

2. Snakes shall be transported in a manner that precludes escape. At a minimum snakes shall be placed in a sturdy cloth bag free of holes or tears and the bag placed in a box or similar container. The box or container must be locked or sealed during transportation.

3. Snakes shall be housed in secure cages with hinged tops or doors or a sliding glass front which includes a locking mechanism. The cage shall be kept in a room modified to prevent snake escapes and which has a door which shall be kept shut or locked when not occupied by the owner.

4. Snakes requiring permits shall not be sold to minors.

5. Pet stores or other vendors or sellers of snakes requiring permits are required to provide a copy of this ordinance to all prospective purchasers of such snakes.

6. Snakes will not be fed or in any fashion provided any live or living creature while observable by any member of the public or in any manner which may otherwise violate the humane laws of the City.

7. It shall be unlawful, and a violation of this subsection, for any person to not comply with the standards set forth herein.

2-403 EXEMPTIONS

The provisions of this Article shall not apply to the transportation of such animals through this City, when such transporter has taken adequate safeguards to protect the public and has notified the local law enforcement agency of the proposed route of transportation and the time thereof and shall not apply to dogs kept by law enforcement agencies.

2-404 NOTICE OF KEEPING DANGEROUS ANIMALS

Upon the written complaint of any person, or the personal observation of an officer or animal control officer, that a person owns or is keeping or harboring a Dangerous Animal in violation of this chapter in the City, the Chief of Police or his/her designated representative shall forthwith cause the matter to be investigated; and if after investigation the facts indicate that such person named in the complaint is in fact the owner or is keeping or harboring any such Dangerous Animal in the City, the Chief of Police shall forthwith send written notice to such person requiring such person to safely remove said animal from the City within 48 hours of the date of said notice. Notice as herein provided shall not be required where such Dangerous Animal has previously caused serious physical harm or death to any person or has escaped and is at large in which case the Chief of Police or his/her designated representative shall cause said animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

2-405 TEMPORARY PERMITS; POWERS

The Chief of Police or a person under his/her authority may, following application for a permit pursuant to Article 5 of this Chapter and pending final disposition of the same, grant a temporary permit for the maintenance within the City of any such animal upon such conditions as he/she shall, in his/her sole discretion, require when, in his/her opinion, there is no reasonable doubt as to the consistency thereof with the public health, safety and general welfare, but no such animal shall be otherwise kept or maintained within this City or permitted to occupy any premises within this City except while such a regular or temporary permit is in full force and effect.

2-406 COMMERICAL ESTABLISHMENTS

A. Commercial establishments possessing such animals for the purpose of sale or display may replace the same with others of the same kind, but the number of each shall not be in excess of the number thereof allowed by the terms of such permit. Such establishments may, in the discretion of the Chief of Police or his/her designated representative, be granted a permit for those such numbers of each kind of animal as do not exceed the maximum number such establishment estimates will be maintained by it in this City at any one time during the period of the permit. Such permit shall require the immediate notification of the Chief of Police or his/her designated representative upon the acquisition of any animal having a prior history of any incident involving the public health or safety, or resulting in any bodily injury or property damage.

B. Upon the sale of any dangerous animal, said commercial establishment shall immediately send notification of said sale along with the name and address of the buyer, the method of transporting the animal, the path of travel of such transportation, and the destination to the Chief of Police or his/her designated representative.

2-407 SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this chapter or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof.

2-408 VIOLATIONS AND PENALTIES

Unless otherwise stated herein, a violation of any provision of this Article shall be a municipal violation for which a mandatory court appearance shall be required. Upon conviction in the Municipal Court, a defendant

shall be fined not less than $200.00 nor more than $1,000.00, plus applicable court costs, per offense. In addition to the fine imposed, the Court may sentence the defendant to imprisonment in the county jail for a period not to exceed 30 days. In addition, the Court shall order the registration of and permit for the subject animal revoked and the animal removed from the City. Should the defendant refuse to remove the animal from the City, the Municipal Court Judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this ordinance continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this ordinance.

2-409 COSTS TO BE PAID BY RESPONSIBLE PARTIES

Any reasonable costs incurred by the Chief of Police or his/her designated representative in seizing, impounding, confining or disposing of any dangerous or wild animal, pursuant to the provisions of this Article shall be charged against the owner, keeper, or harborer of such animal and shall be collected by the Chief of Police.

ARTICLE 5. PERMITS AND LICENSING

2-501 PERMIT REQUIRED FOR MORE THAN FOUR ANIMALS

Any person or organization wishing to own, keep or harbor more than four dogs, cats or other non-prohibited animals or combination of non-prohibited animals at the same address or on the same premises shall be required to obtain a City permit for said ownership..

A. An application for any permit required pursuant to this Section shall be made to the City Clerk in writing and upon a form furnished by the City Clerk. Said application shall be verified by the person who desires to have, keep, maintain or have in his/her possession or under his/her control, in the City, the animals for which a permit is required, and shall set forth the following:

1. Name, address and telephone number of the applicant.

2. The applicant's interest in such animals and justification why such number of animals should be allowed in the City.

3. The proposed location, and the name, address, and telephone number of the owner of such location, and of the lessee, if any.

4. The number and general description of all animals for which the permit is sought.

5. Any information known to the applicant concerning vicious or dangerous propensities of all such animals.

6. The housing arrangements for all such animals with particular details as to safety or structure, locks, fencing, etc.

7. Safety precautions proposed to be taken.

8. Noises or odors anticipated in the keeping of such animals.

9. Prior history of incidents involving the public health or safety involving any of said animals.

10. Proof of insurance to cover those who may be injured or killed by said animal.

11. A statement, signed by the applicant, indemnifying the City and its agents and employees for any and all injuries that may result from said animal.

12. Any additional information required by the Chief of Police or his/her designated representative at the time of filing such application or thereafter.

In addition, the applicant shall allow the Chief of Police or his designated representative the ability to inspect the animals and/or property where the animals are to be kept.

B. The fee for a permit application shall be $25.00 per permit. The fee is nonrefundable. Said fee shall be payable to the City Clerk at the time of filing the permit application.

C. Upon the submission of a fully and properly completed application for permit and fees, the City Clerk shall forward the permit application to the Governing Body. The matter shall be set for hearing on a regularly scheduled council meeting not later than 45 days after submission and acceptance of a fully and properly completed application for permit and the appropriate fees.

D. No permit shall be granted except upon an explicit finding by the Governing Body of Lansing that the issuance of a permit will not be contrary to the public health, safety and general welfare. The Governing Body may consider, but is not limited to the following factors in making its determination: the possible impact on neighbors and the surrounding area; the possibility of harm to the general public; detriment to the health of the animal(s) or neighboring animals; public nuisance, sanitary or offensive conditions; the noises from the animals and possible odors; the number of animals; planning and zoning requirements; etc. The Governing Body may attach requirements and conditions to the issuance of the permit which the applicant will be required to comply with. The decision of the Governing Body is final.

2-502 PERMITS; OTHER

Any permit which is required under the provisions of this Chapter, except for the permits specified in Section 2-501 and Section 2-601, shall be subject to the following provisions:

A. An application for such permit shall be made to the Chief of Police in writing and upon a form furnished by the Chief of Police. Said application shall be verified by the person who desires to have, keep, maintain or have in his/her possession or under his/her control, in the City, the animal for which a permit is required, and shall set forth the following:

1. Name, address and telephone number of the applicant.

2. The applicant's interest in such animal and justification why such prohibited animal should be allowed in the City.

3. The proposed location, and the name, address, and telephone number of the owner of such location, and of the lessee, if any.

4. The number and general description of all animals for which the permit is sought.

5. Any information known to the applicant concerning vicious or dangerous propensities of all such animals.

6. The housing arrangements for all such animals with particular details as to safety or structure, locks, fencing, etc.

7. Safety precautions proposed to be taken.

8. Noises or odors anticipated in the keeping of such animals.

9. Prior history of incidents involving the public health or safety involving any of said animals.

10. Proof of insurance to cover those who may be injured or killed by said animal.

11. A statement, signed by the applicant, indemnifying the City and its agents and employees for any and all injuries that may result from said animal.

12. Any additional information required by the Chief of Police or his/her designated representative at the time of filing such application or thereafter.

In addition, the applicant shall allow the Chief of Police or his/her designated representative the ability to inspect the animal and/or property where the animal is to be kept.

B. The fee for a permit application shall be $25.00 per permit. The fee is nonrefundable. Said fee shall be payable to the Chief of Police at the time of filing the permit application.

C. Upon the submission of a fully and properly completed application for permit and fees, the Chief of Police or his/her designated representative shall begin an investigation to determine whether or not the permit should be issued.

D. No permit shall be granted except upon an explicit finding by the Chief of Police that the issuance of a permit will not be contrary to the public health, safety and general welfare. The Chief of Police may consider, but is not limited to the following factors in making his/her determination: the possible impact on neighbors and the surrounding area; the possibility of harm to the general public; detriment to the health of the animal(s) or neighboring animals; public nuisance; sanitary or offensive conditions; the noises from the animals and possible odors; the number of animals; planning and zoning requirements; etc. The Chief of Police may attach requirements and conditions to the issuance of the permit which the applicant will be required to comply with.

2-503 PERMIT, TERM AND RENEWAL

No permit required by this chapter shall be granted for a period in excess of one year. An application for renewal of any permit shall be made not less than 45 days prior to the expiration thereof, and shall be accompanied by a $25.00 renewal fee.

2-504 PERMIT; INSPECTIONS, INVESTIGATIONS, AND ISSUANCE OF RENEWAL

Prior to the annual renewal of any permit issued hereunder and at least once, not more than six (6) months after the issuance of any such permit or after its renewal, the Chief of Police, animal control officer or a designated representative shall inspect the premises subject to such permit to determine whether the person to whom it has been issued is complying or continuing to comply with all of the conditions specified in this Article. In addition, the officer or representative shall investigate the past history of the permit holder to determine whether during the past permit period the permit holder was in compliance with all of the conditions specified in this Article. The investigation may include a review of department records and interviews with the permit holder and neighbors. If the officer or representative determines during any such inspection and investigation that any of the conditions therein specified are being violated or have been noted during the past permit period, he/she shall recommend denial of a renewal of any such permit, and/or he/she shall recommend revocation of such permit in the event that such violation is not corrected within such period of time as she/he shall direct. Upon completion of the investigation and review process provided herein, the Chief of Police or his/her designated representative shall, in the case of a multiple animal permit, recommend to the City Clerk that the permit be renewed or that the renewal application be denied, and in the case of any other permit required pursuant to this Chapter, either renew or deny the permit.

2-505 PERMIT; REVOCATION AND SUSPENSION|

The Chief of Police may, for good cause, revoke any permit or modify any terms or provisions thereof and may, in the event it is reasonably necessary to protect against an immediate threat or danger to the public health or safety, suspend any permit or portion thereof without hearing. Failure to comply with any of the provisions of this chapter shall be considered good cause for revocation or suspension of a permit.

2-506 APPEALS; FEE

A. Any person aggrieved by or dissatisfied with any of the decisions, rulings, actions or findings by the Chief of Police or his designated representative in regards to a denial, revocation or suspension of a permit may, within ten (10) days thereafter, file a written notice or statement of appeal from said decision, ruling, action or finding to the Lansing Governing Body.

B. An administrative fee of $10.00 shall be paid to the City Clerk and is required for each appeal to the Lansing Governing Body, and no appeal shall be set for hearing until such fee has been paid. No appeal shall be set for hearing if it is filed more than ten (10) days after said action, decision, ruling or findings of the Chief of Police or his designated representative from which the party is appealing.

C. An appeal shall be scheduled for hearing within forty-five (45) days after the request and fees are received by the City Clerk.

D. The filing of an appeal under this subsection shall not stay any action taken pursuant to this chapter.

E. The decision of the Governing Body to either affirm or reverse the determination previously made by the Chief of Police regarding the issuance of a permit shall be final.

2-507 LICENSING; VACCINATION

No person shall own or have custody of any dog or cat over four months of age unless such dog or cat is licensed as herein provided.

A. Before a license will be issued, the animal owner must produce satisfactory evidence that the dog or cat has been vaccinated against rabies with either of the following:

1. Killed tissue vaccine (also known as “one-year” vaccine) within the 12 months previous to the date of the issuance of the license.

2. Modified live virus vaccine (also known as “three-year” vaccine) within the 36 months previous to the date of the

issuance of the license.

B. The license fee shall be $15.00 for each dog or cat; however, if spayed or neutered the license fee shall be $7.50 for each dog or cat.

C. All licenses shall be valid from the date of issuance through the last day of the month containing the one-year anniversary of the date of issuance. The office of the Chief of Police is authorized to issue dog and cat licenses.

D. Each person shall, upon purchase of the required license, cause such animal to wear a durable tag furnished by the police department for the particular animal for which the license is issued, and bearing the animal's assigned number. In case of the loss of any tag, the police department shall, upon presentation of the original receipt, issue a duplicate tag at no charge. No person shall place upon any animal a City-issued tag other than the one given for the particular animal for which it is issued.

E. Failure of an owner or keeper of an animal required to be registered pursuant to this Chapter to either:

1. Procure and maintain current rabies vaccination(s) on said animal; and/or

2. Purchase the annual City license for said animal,

shall be a municipal offense and, upon conviction, shall be punishable by a fine of $90.00, plus applicable court costs.

2-508 VIOLATIONS AND PENALTIES

Unless otherwise stated herein, the failure to obtain any permit required pursuant to this Article shall be a municipal violation for which a mandatory court appearance shall be required. Upon conviction in the Municipal Court, a defendant shall be fined not less than $200.00 nor more than $1,000.00, plus applicable court costs, per offense. In addition to the fine imposed, the Court may sentence the defendant to imprisonment in the county jail for a period not to exceed 30 days. In addition, the Court shall order the registration (if any) of the subject animal revoked and the animal removed from the City. Should the defendant refuse to remove the animal from the City, the Municipal Court Judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal.

ARTICLE 6. KENNELS

2-601 KENNELS; LICENSE REQUIRED

A. No person, firm or corporation shall operate a kennel commercially or for profit within the City, unless such person, firm or corporation shall have first obtained a license from the City Clerk and has complied with and been approved by the state for all state licensing requirements, said proof to be furnished to the City Clerk.

B. Licenses shall be valid for a period of five (5) years from the date of issuance.

C. Outdoor Kennels shall only be permitted in areas zoned as A-1. Indoor Kennels shall be permitted in any zoning area except residential.

D. No permit shall be issued, and if a permit has been issued then it shall be revoked, if the Governing Body finds that the kennel is being kept in a manner that is:

1. Offensive

2. Unsanitary

3. Detrimental to the health of the people in the neighborhood

4. Detrimental to the health of the animal(s) or neighboring animals

5. A public nuisance

6. In violation of applicable City ordinances (i.e. running at large, failure to license, etc.), zoning regulations or laws and regulations of the State of Kansas

7. Not within the specifications set out within the issued permit

2-602 SAME; FEE

The fee for a license to operate a kennel shall be $25.00 per year.

2-603 SAME; VACCINATION

No license shall be issued without a certificate of immunization for each animal as set out in section 2-502 of this Chapter

2-604 ZONING REGULATIONS

No license shall be issued for the establishment of a kennel within an area

zoned for residential use within the City.

2-605 PENALTIES

Violation of any provision of this Article shall be a municipal offense for which a mandatory court appearance is required. Any person, firm or corporation convicted of a violation of this code, shall be punished by a fine not less than $90.00 nor more than $500.00, plus any applicable court costs.

CHAPTER 3. BEVERAGES

Article 1. General Provisions
Article 2. Cereal Malt Beverages
Article 3. Alcoholic Liquor
Article 4. Private Clubs
Article 5. Additional Regulation on Establishments

ARTICLE 1. GENERAL PROVISIONS

3-101 DEFINITIONS

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

A. Alcohol means the product of distillation of any fermented liquid, whether rectified or diluted, whatever the origin thereof, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

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

C. Cereal Malt Beverage means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any such liquor which is more than 3.2 percent alcohol by weight.

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

E. Class B Club means a premise 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 that may be open to the general public, where alcoholic liquor by the individual drink is sold.

H. 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.

I. Retailer means any person who sells at retail, or offers for sale at retail, alcoholic liquors in the original package for consumption off of and away from the premises.

J. General Retailer means a person who has a license to sell cereal malt beverages at retail for consumption on the premises.

K. Limited Retailer means a person who has a license to sell cereal malt beverages at retail only in original and unopened containers and not for consumption on the premises.

L. Place of Business means any place at which cereal malt beverages or alcoholic beverages or both are sold.

M. Wholesaler or Distributor means any individuals, firms, co partnerships, corporations and associations which sell or offer for sale any beverage referred to in this chapter, to persons, co partnerships, corporations and associations authorized by this chapter to sell cereal malt beverages at retail.

N. 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 or serve alcoholic liquor or cereal malt beverage, which may be open to the public.

O. Licensee means the person who has been properly issued a license, including a temporary permit, to sell alcoholic liquor within the corporate limits of the City.

P. Person means any natural person, corporation, partnership or association.

Q. School means any public or parochial school containing any of the grades from kindergarten through twelfth grade.

R. College or University means an educational institution providing general academic instruction equivalent to the standards prescribed by the state board of education.

3-102 RESTRICTIONS ON LOCATION

A. No alcoholic liquor shall be sold or served by a person holding a license or permit from the City, at a place of business or other premises located within 400 feet of any school, college, or church. The distance to be measured along the public rights of way, by the shortest route by which a pedestrian would normally walk, from the nearest property line of the school or church, to the primary public entrance to the building, or part thereof, occupied by the place of business or other premises.

B. The distance limitation of subsection (a) above shall not apply to a place of business or premises for which a license had been issued by the City prior to the publication of this Article, and for which a license has been in effect at all times since the publication of this Article. Any temporary lapse of the license not exceeding sixty (60) days in length shall be disregarded in applying this paragraph.

C. The distance limitation of subsection (a) shall not apply when the licensee or license applicant petitions for and receives a waiver of the distance limitation from the Governing Body of the City. The Governing Body shall grant such 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. At least thirty (30) days prior to such hearing, the City Clerk shall give notice of such hearing by first class mail to all churches and schools located within 400 feet of the place of business or premises for which a waiver is sought.

D. No license 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, fire or health codes.

E. In no event shall a retailer's license be issued for a premises which is located within 400 feet of any school or college or church, except that if any such school, college or church is

established within 400 feet of any licensed premises after the premises have been licensed, the limitation imposed by this subparagraph (e) shall not apply to such premises.

3-103 REMOVAL FROM PREMISES PROHIBITED

No person shall remove any drink of alcoholic liquor or any open container of cereal malt beverage from any premises licensed as a private club, drinking establishment or cereal malt beverage retailer. Violation of this Section by a person is a misdemeanor punishable by a fine not to exceed $500.00.

3-104 CONSUMPTION OF ALCOHOLIC LIQUOR AND CEREAL MALT BEVERAGE IN PUBLIC PLACES PROHIBITED; EXCEPTIONS

A. No person shall drink or consume any alcoholic liquor or cereal malt beverage on City-owned public property. However, this prohibition shall not apply to the Lansing Community Center, which is property owned by the City. Any person granted use of the Lansing Community Center must abide by the regulations and submit the fees set forth in the Community Center Policy.

B. No person shall sell, dispense, serve, consume or possess an open container of alcoholic liquor or cereal malt beverage on the public streets, alleys, sidewalks, roads, highways, or public parking lots as otherwise provided for in the City Code.

C. No person shall sell, dispense, serve, or consume alcoholic liquor or possess an open container of alcoholic liquor or cereal malt beverage inside vehicles while upon the public streets, alleys, roads, highways, or public parking lots, except when permitted by K.S.A. 8-1599, as amended.

D. No person shall drink or consume alcoholic liquor or cereal malt beverage on private property except:

1. On premises where the sale of liquor or cereal malt beverage by the individual drink is authorized by the Club and Drinking Establishment Act, K.S.A. 41-2601 et seq., and amendments thereto, or by the Cereal Malt Beverage Act, K.S.A. 41-2701 et seq., and amendments thereto, and by the City licensing requirements, Chapter 3: Beverages, and amendments thereto;

2. Upon private property by a person occupying such property as an owner or lessee of an owner and the

guests of such person (and only with such person's permission), if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or cereal malt beverage or any substance mixed with any alcoholic liquor or cereal malt beverage and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, or K.S.A. 41-2701 et seq., and amendments thereto, or Lansing City Code Chapter 3: Beverages, and amendments thereto, takes place; or

3. In a lodging room of any hotel, motel, or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or cereal malt beverage and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, or K.S.A. 41-2701 et seq., and amendments thereto, or Lansing City Code Chapter 3: Beverages, and amendments thereto, takes place; or

4. In a private dining room of a hotel, motel, or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor or cereal malt beverage in violation of K.S.A. 41-803 et seq., and amendments thereto, or K.S.A. 41-2701 et seq., and amendments thereto, or Lansing City Code Chapter 3: Beverages, and amendments thereto, takes place; or

5. On the premises of a micro brewery or farm winery, if authorized by K.S.A. 41-308a or K.S.A. 41-308b, and amendments thereto.

E. No person shall drink or consume alcoholic liquor on public property except:

1. Upon real property leased by the City to others, under the provisions of K.S.A. 12-1740 to 12-1749, inclusive, and any amendments thereto, if such real property is actually being used for hotel or motel purpose or purposes incidental thereto;

2. In any state-owned or operated building or structure, and upon the surrounding premises, which is furnished to and occupied by any state officer or employee as a residence;

3. Upon property exempted from the provisions of subsection (D).

4. That cereal malt beverages, beer and wine, as those terms are defined in this article, may be sold, served, dispensed and consumed at any City sponsored event as appointed by the Governing Body.

5. That any licensed caterer selling, serving and dispensing alcohol on public property listed herein must receive authorization from the Kansas Alcohol Beverage Control and the Governing Body. An application must be obtained and submitted to the City Clerk for approval from the Governing Body.

F. Violation of any provision of this section is a misdemeanor punishable by a fine of not less than $50 nor more than $500 or by imprisonment for not more than six months, or both.

3-105 RETAIL LIQUOR ESTABLISHMENTS: HOURS OF SALE

A. The sale at retail liquor establishments of alcoholic liquor on Sundays shall only occur between the hours of 12:00 p.m. and 8:00 p.m.

B. The sale of retail alcoholic liquor shall not occur on Easter.

C. On all other days except Sunday, the sale at retail liquor establishments of alcoholic liquor shall only occur between the hours of 9:00 a.m. and 11:00 p.m.

D. Memorial Day, Independence Day and Labor Day sales shall only occur between the hours of 9:00 a.m. and 11:00 p.m. Charter Ordinance No. 1-2003.

3-106 HABITUAL PUBLIC NUISANCES PROHIBITED

A. A drinking establishment or private club is a habitual public nuisance when it operates in a manner that habitually harms the public health, safety or welfare of the general public, neighboring properties or occupants of neighboring properties, or patrons. Habitual public nuisances are hereby prohibited.

B. A habitual public nuisance as defined by subsection (a) shall only be determined to exist if the Governing Body makes the following findings:

1. The harm to the public health, safety or welfare can be fairly attributed to the operation of the private club or drinking establishment. The proximity of other licensed premises or similar facilities shall be considered by the Governing Body in making this finding.

2. The harm to the public health, safety or welfare is of a habitual nature, and not limited to isolated incidents of an infrequent occurrence.

C. In determining the penalty for a drinking establishment or private club that is a habitual public nuisance, the Governing Body shall consider:

1. Whether the owners and operators of the drinking establishment or private club have taken actions to mitigate or eliminate the harm to public health, safety or welfare; and

2. Whether the harm to public health, safety or welfare includes violations of law on the part of the private club or drinking establishment owners, operators, employees, or patrons.

D. Nothing in this ordinance shall be interpreted as penalizing a drinking establishment or private club, or the owner or employees of such drinking establishment or private club, solely for requesting assistance or reporting an incident to the police department. The City encourages drinking establishments and private club owners and employees to promptly report to the police department harmful or potentially harmful acts or conduct on the part of patrons.

3-107 PENALTY PROVISION

Unless otherwise provided, the penalty provided for violations of this article shall be a misdemeanor punishable by a fine of not less than $50.00 nor more than $500.00, or by imprisonment for not more than six (6) months or by both such fine and imprisonment.

3-108 LICENSES REQUIRED

It shall be unlawful for any person to sell or serve any alcoholic liquor within the City without first obtaining a local license from the City Clerk in addition to a license granted by the State of Kansas.

3-109 LICENSES REQUIRED; FEES

A. There is hereby levied a license fee every two years in the amount fixed by the Fee Schedule on each Caterer, Class A Club, Class B Club, Drinking Establishment, and Alcoholic Liquor Retailer. There is hereby levied a license fee for each day of an event in the amount fixed by the Fee Schedule on each Temporary Permit Holder. Such fee shall be paid before business is begun under an original state license and within five (5) days after any renewal of a state license and thereafter in accordance with the provisions of Section 3-302. The completed and executed written application for such license shall be filed with the City Clerk at the time such fee is paid.

B. All applications for new or renewal City licenses shall be submitted to the City Clerk. Upon presentation of a state license, issued by the State Director of Alcoholic Beverage Control, payment of the City license fee and filing the completed license application, the Governing Body shall issue a City license if the applicant complies with all applicable provisions of this Article, the City Zoning Ordinance and other applicable ordinances of the City.

C. Every licensee shall cause the City license to be placed in plain view next to or below the state license, in a conspicuous place on any licensed premises.

D. All fees paid for any annual license fee under this section shall be non-refundable.

3-110 QUALIFICATION FOR PRIVATE CLUB OR DRINKING ESTABLISHMENT

A. The Governing Body of the City shall, if the applicant is qualified by law, issue a license to the applicant.

B. A City license shall not be issued to an applicant unless such applicant is in compliance with the provisions of K.S.A. 41-2601 et seq.

C. A City license shall not be issued to an applicant unless such applicant is in compliance with the provisions of Section 3-111.

3-111 ADDITIONAL REQUIREMENTS FOR CITY LICENSURE FOR PRIVATE CLUBS AND DRINKING ESTABLISHMENT

A. The Governing Body may require additional conditions for the issuance of a City license or continued retention of existing City

license for a private club or drinking establishment, upon a finding that the public health, safety, or welfare require such conditions. The City Administrator shall recommend conditions for licensure, as appropriate. Such conditions of licensure may include, but are not limited to the following:

1. Exterior lighting requirements;

2. Exterior fencing requirements;

3. Appropriate structural additions, deletions or changes to the premises to: reduce loitering by patrons outside the premises, reduce noise from the premises, and reduce littering by employees and patrons, or such other structural changes that may be necessitated in the interest of public health, safety or welfare.

4. Posting in the premises or outside the premises appropriate notices or signs advising patrons to leave the area after closing, respect property rights of neighbors and other appropriate notices and signs which the Governing Body may require.

5. Reduced hours of operation from those provided in Section 3-113.

6. Such other conditions as may be appropriate for the protection and preservation of public health, safety or welfare.

B. Additional requirements for City licensure of a private club or drinking establishment as set out in Subsection (a) shall only be imposed after the license holder or applicant has been mailed, to the address on the license or application, by certified mail, return-receipt requested, notice of the proposed conditions. After the posting of the certified mail, the license holder or applicant shall have ten (10) days to submit a written request to the City Clerk for a hearing before the Governing Body on the proposed conditions.

C. The Governing Body may issue a City license conditioned upon the licensee complying with all requirements within thirty (30) days after license issuance of such time as established by the Governing Body.

D. During the duration of a City license, the Governing Body may require additional conditions on a City license, under procedures and requirements set forth under this Section.

3-112 REVOCATION OR SUSPENSION OF CITY LICENSE FOR PRIVATE CLUB OR DRINKING ESTABLISHMENT

The Governing Body may revoke or suspend the license of a private club or drinking establishment under this chapter for any one or more of the following reasons:

A. Suspension or revocation of State license.

B. Violation of any provisions of K.S.A. 41-2601 et seq.

C. Violation of any provisions of this Article.

D. Habitual violations of occupancy limits established by the City, which shall be defined as three (3) or more violations within a twelve (12) consecutive month period. Revocation or suspension of a license for habitual violations of occupancy limits shall require a finding by the Governing Body that the occupancy limit violations represented a substantial threat, in either the number of violations or the excess above the occupancy limit, to the safety of club or establishment employees and patrons.

E. Determination that private club or drinking establishment is a habitual public nuisance as defined by Section 3-106.

3-113 BUSINESS REGULATIONS; ALCOHOLIC LIQUOR

A. No person shall have any alcoholic liquor in his or her possession while in the place of business, unless the premises are currently licensed under a license issued by the State Director of Alcoholic Beverage Control;

B. No one under twenty-one (21) years of age shall consume or be served alcoholic liquor and a sign so stating shall be prominently posted in all such places;

C. No licensee, or his or her agent or employee, shall allow the serving, mixing or consumption of alcoholic liquor on his or her premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.

D. Cereal malt beverage may be sold on the premises licensed for retail sale of cereal malt beverage for on-premises consumption

at any time when alcoholic liquor is allowed by law to be served on the premises.

E. No licensee, or his or her agent or employee, shall sell, give, trade, or permit the sale, give or trade of any alcoholic liquor to any person less than twenty-one (21) years of age.

3-114 CATERERS; NOTICE TO CHIEF OF POLICE

Prior to any event at which a caterer shall sell or serve alcoholic liquor by the individual drink, a caterer shall provide written notice to the Chief of Police at least seven (7) days prior to the event if the event will take place within the City. The notice shall contain the location, name of the group sponsoring the event, and the exact date and time the caterer will be serving.

3-115 CITY TEMPORARY PERMIT

A. It shall be unlawful for any person to conduct an event under a state-issued temporary permit without first applying for a local temporary permit at least seven (7) days before the event. Written application for the local temporary permit shall be made to the City Clerk and shall clearly state:

1. Name of the applicant;

2. The group for which the event is planned;

3. The location of the event;

4. The date and time of the event;

5. Any anticipated need for police, fire or other municipal services.

B. Upon presentation of a state temporary permit, payment of the City's temporary permit fee and a written application as provided for in Subsection (a), the City Clerk shall issue a local temporary permit to the applicant if there are no conflicts with any zoning or other ordinances of the City.

C. The City Clerk shall notify the Chief of Police whenever a temporary permit has been issued and forward a copy of the permit and application to the Chief of Police.

3-116 PENALTIES

If any licensee violates any of the provisions of this Article, the

Governing Body of the City, upon ten (10) days written notice to the licensee, may, upon hearing, permanently revoke or cause to be suspended for a period of not more than six (6) months the license; or, in the alternative, the individual holding the license may be charged in the municipal court with a violation of the alcoholic liquor laws of the City and upon conviction shall be found guilty of a misdemeanor.

ARTICLE 2. CEREAL MALT BEVERAGES

3-201 DEFINITIONS

The definitions of words defined in Section 3-101 of this Code shall apply to this Chapter unless a contrary definition is provided herein. In addition thereto, the following definitions shall apply in this Article:

A. Licensee means the person who has been properly issued a license to sell cereal malt beverage within the corporate limits of the City.

B. Place of Business shall mean any place where cereal malt beverages are sold.

C. Retailer means any person who sells or offers for sale any cereal malt beverage for use or consumption and not for resale in any form.

3-202 CONSUMPTION OF CEREAL MALT BEVERAGE IN PUBLIC PLACES PROHIBITED; EXCEPTIONS

A. No person shall drink or consume cereal malt beverage or possess an open container of cereal malt beverage on the public streets, alleys, sidewalks, roads, highways, or public parking lots.

B. No person shall drink or consume cereal malt beverage or possess an open container of cereal malt beverage inside vehicles while upon the public streets, alleys, roads, highways, or public parking lots, except when permitted by K.S.A. 8-1599, as amended.

C. No person shall drink or consume cereal malt beverage on public or private property except as permitted by Section 3-104;

3-203 LICENSES REQUIRED OF RETAILERS

A. It shall be unlawful for any person to sell any cereal malt beverage at retail without a license for each place of business where cereal malt beverages are to be sold at retail.

B. It shall be unlawful for any person, having a license to sell cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any cereal malt beverage in any other manner.
(K.S.A. 41-2702)

3-204 APPLICATION

Any person desiring a license shall make an application to the Governing Body of the City and accompany the application by the required license fee for each place of business for which the person desires the license. The application shall be verified, and upon a form prepared by the attorney general of the State of Kansas, and shall contain:

A. The name and residence of the applicant and how long he or she has resided within the State of Kansas;

B. The particular place for which a license is desired;

C. The name of the owner of the premises upon which the place of business is located;

D. The names and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired.

E. A statement that the applicant is a citizen of the United States and not less than 21 years of age and that he or she has not within two years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States;

The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the City with any information pertinent to the application. One copy of such application shall immediately be transmitted to the chief of police of the City for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The chief shall report to the Governing Body 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.

3-205 LICENSE APPLICATION PROCEDURES

No person shall sell any cereal malt beverages at retail without having

first secured a license for each place of business as herein provided. All applications for the renewal of annual licenses shall be submitted to the City Clerk on or before November 15, preceding the calendar year for which the renewal of license is sought. All new or change of ownership applications must be submitted to the City Clerk fifteen (15) days in advance of the date sought for such issuance.

The application shall be verified and upon a form prepared by the Attorney General of the State and shall contain:

A. The name and residence of the applicant and how long he or she resided within the State of Kansas, County of Leavenworth and City of Lansing;

B. The particular place for which the license is desired;

C. The name of the owner of the premises upon which the place of business is located;

D. A statement that the applicant is a citizen of the United States and not less than twenty-one (21) years of age, and that he or she has not within two (2) years immediately preceding the date of making application, been convicted of a felony or any crime involving moral turpitude or being adjudged guilty of drunkenness or driving a motor vehicle while under the influence of intoxicating liquor or alcohol; or, the violation of any other intoxicating liquor law of any state or of the United States.

E. All applications shall indicate whether the applicant will sell or offer for sale cereal malt beverages in original and unopened containers and not for consumption on the premises, or primarily for sale, use and consumption on the licensed premises.

F. All applications shall indicate whether the license shall be permanent or temporary, and if temporary the date(s) and time(s) of the event.

G. The licensee shall submit payment of the fees as provided for in Section 3-206.

H. The licensee shall submit any state licenses as required under K.S.A. 41-2702, prior to any City license being issued.

The Clerk's office shall provide copies of all applications to the Police Department and Community Development Division when they are received. A records check will be run on all applicants; and

Community Development Division will inspect the premises in accord with Chapters 7 and 8 of this Code. The Police Department and Community Development Division will then recommend approval, or disapproval, of applications within five working days of the receipt of the application.

The Governing Body will not consider any application for a new or renewed license that has not been submitted to the City Clerk 15 days in advance and been reviewed by the above City departments.

An applicant who has not had a cereal malt beverage license in the City shall attend the Governing Body meeting when the application for a new license will be considered.

3-206 LICENSE CLASSIFICATION AND FEES

All applications for cereal malt beverage licenses shall be accompanied by payment in full of the fee stated herein, and no application shall be considered complete until such fee is paid. The full amount of the license fee shall be required regardless of the time of the year in which the application is made, and the licensee shall only be authorized to operate a license for the remainder of the calendar year in which the license is issued. The license shall be kept posted in a conspicuous place in the place of business. All licenses shall be issued for a specific location and shall be nontransferable.

The classification of licenses and fees for each shall be as follows:

A. Cereal Malt Beverage for consumption on premises - $200.00 plus $25.00 for the State Stamp Tax

B. Cereal Malt Beverage license for the sale of cereal malt beverages in original and unopened containers and not for consumption on any license premises - $50.00 plus $25.00 for the State Stamp Tax

C. Cereal Malt Beverage Temporary Licenses - $50.00 plus $25.00 for the State Stamp Tax.

3-207 LICENSES 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.

3-208 SAME; APPROVAL; DISQUALIFICATION

A. The Governing Body of the City shall, if the applicant is qualified as provided by law, issue a license to the applicant.

B. No license shall be issued to:

1. A person who is not a resident of the county in which the place of business covered by the license is located, has not been a resident of such county for at least six months or has not been a resident in good faith of the State of Kansas;

2. A person who has not been a resident of this state for at least one year immediately preceding application for a retailer's license;

3. A person who is not of good character and reputation in the community in which the person resides;

4. A person who is not a citizen of the United States;

5. A person who, within two (2) years immediately preceding the date of application, has been convicted of a felony or any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or violation of any other intoxicating liquor law of any state or of the United States;

6. A partnership, unless all the members of the partnership are otherwise qualified to obtain a license;

7. A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than twenty-five percent (25%) of the stock of such corporation, would be ineligible to receive a license hereunder for any reason other than the citizenship and residency requirements;

8. A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than

twenty-five percent (25%) of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than twenty-five percent (25%) of the stock, of a corporation which: (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;

9. A person whose place of business is conducted by a manager or agent unless the manager or agent possesses all the qualifications of a licensee;

10. A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, residence requirements or age, except that this subsection (b)(10) shall not apply in determining eligibility for a renewal license;

11. Any person, until after the premises for which application has been made has been inspected by the Health Officer, the Code Enforcement Officer, the Fire Chief, the Chief of Police, or their duly authorized representatives and found to be in compliance with all laws, regulations and ordinances applicable thereto;

12. A person who has not presented for inspection, at the time of making the application, a bona fide deed, lease or other satisfactory written evidence that the applicant and prospective licensee is the owner of the place for which a license is desired or is the person to whom the owner of such place has been given in good faith the possession and control of such premises.

3-208 LICENSES TO BE POSTED

Each license shall be posted in a conspicuous place in the place of business for which the license is issued.

3-209 RESTRICTIONS ON LOCATION

A. No cereal malt beverage shall be sold or served by a person holding a license or permit from the City, at a place of business or other premises located within 400 feet of any school, college, or church. The distance shall be measured along the public rights of way, by the shortest route by which a pedestrian would

normally walk, from the nearest property line of the school or church, to the primary public entrance to the building, or part thereof, occupied by the place of business or other premises.

B. The business limitation of subsection (a) shall not apply to a place of business or premises for which a license had been issued by the City prior to the publication of this Article, and for which a license has been in effect at all times since the publication of this Article. Any temporary lapse of the license not exceeding sixty (60) days in length shall be disregarded in applying this paragraph.

C. The distance limitation of subsection (a) shall not apply when the licensee or license applicant petitions for and receives a waiver of the distance limitation from the Governing Body of the City. The Governing Body shall grant such 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. At least thirty (30) days prior to such hearing, the City Clerk shall give notice of such hearing by first class mail to all churches and schools located within 400 feet of the place of business or premises for which a waiver is sought.

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 chapter or other laws pertaining to cereal malt beverages, which violation does not in his or her judgment justify a recommendation of revocation. The licensee may appeal such order of suspension to the Governing Body within seven days from the date of such order.

3-211 LICENSE SUSPENSION/REVOCATION 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 shall 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, has become ineligible to obtain a license under this article or the licensee has violated any of the provisions K.S.A. 41-2701 et. seq., and amendments thereto;

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

D. The sale of cereal malt beverages to any person under the legal age for consumption of cereal malt beverage;

E. For permitting any gambling in or upon the licensee’s place of business 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 or selling cereal malt beverages;

H. The employment or continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or of any violation of the intoxicating liquor laws of the State of Kansas, another state or the United States;

I. The sale or possession of, or permitting any person to use or consume on the licensed premises, any alcoholic liquor;

J. The nonpayment of any license fees;

K. If the licensee has become ineligible to obtain a license under this chapter;

L. The provisions of subsections (f) and (i) shall not apply if such place of business is also currently licensed as a private club or a drinking establishment pursuant to the Club and Drinking Establishment Act.

M. The licensee has been convicted of a violation of the Beer and Cereal Malt Beverage Keg Registration Act; or

N. There has been a violation of K.S.A. 21-4106 or 21-4107, and amendments thereto, in or upon the licensee’s place of business. (K.S.A. 41-2708)

3-212 SAME; PROCEDURE

A. Whenever any law enforcement officer has reason to believe that a licensee has violated the provisions of section 3-208(a) or (b), that officer shall cause a written complaint to be filed with the Governing Body. Such complaint shall sufficiently define the charges against the licensee and the grounds upon which his or her license is sought to be suspended or revoked.

B. On receipt of such complaint, the Governing Body shall set a hearing upon the complaint and shall give written notice of such hearing to the licensee. A copy of the complaint shall accompany the notice. The hearing shall be initially scheduled during a regular meeting of the Governing Body and shall be at least ten (10) days from the date the notice is sent.

C. At the hearing, evidence shall be presented in support of the complaint by the City Prosecutor and the licensee shall have the right to be present and represented by counsel, the right to cross-examine witnesses, and the right to present witnesses and evidence on his or her own behalf. A continuance of such hearing may be granted by the Governing Body for good cause shown.

D. The Governing Body shall decide whether the allegations in the complaint are true by a majority vote of those members present at the meeting. If they find any allegations to be true, such finding shall constitute one violation and the Governing Body shall proceed to determine the disposition of the matter.

3-213 SAME; AUTHORIZED DISPOSITION

A. The Governing Body, upon finding that an allegation based upon 3-211 (a – n) is true shall revoke the licensee's license.

B. The Governing Body, upon a finding that an allegation based upon any other subsection of 3-211 is true shall make the following dispositions:

1. Upon a licensee's first violation within a three (3) year period, suspend his or her license for not less than one day nor more than ten (10) days;

2. Upon a licensee's second violation within a three (3) year period, suspend his or her license for not less than five (5) days nor more than two (2) months;

3. Upon a licensee's third or subsequent violation within a three (3) year period, suspend his or her license for not less than thirty (30) days nor more than six (6) months or may revoke the licensee's license.

C. The decision and disposition of the Governing Body shall be reduced to writing and the dates of any suspension shall be stated therein. A copy of such decision shall be forthwith sent to the licensee and any such suspension or revocation may begin immediately.

3-214 SAME; APPEAL

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

3-215 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 $50. 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.

3-216 WHOLESALERS AND/OR DISTRIBUTORS

It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver cereal malt beverages within the City, to persons authorized under this article to sell the same within this City unless such wholesaler and/or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the State of Kansas authorizing such sales.
(K.S.A. 41-307:307a)

3-217 SAMPLES FOR TESTING

Any person engaged in retailing cereal malt beverages under the terms of this Article shall upon demand by the Chief of Police or the Chief's

agent or any police officer; furnish samples of any cereal malt beverages in their possession for the purpose of testing the alcoholic content thereof.

3-218 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 time have a front and rear exit unlocked when open for business.

B. The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition and shall at all times be open to the inspection of the police and health officers of the City, county and state.

C. Except as provided by subsection (d), no person shall sell at retail cereal malt beverage:

1. Between the hours of 12 midnight and 6 a.m.;

2. In the original package before 12 noon [or] after 8 p.m. on Sunday;

3. On Easter Sunday; or

4. For consumption on the licensed premises on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises and which is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a City where such sales on Sunday have been authorized by ordinance of the Governing Body of the City.

D. No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises also are licensed as a club pursuant to the club and drinking establishment act.

E. Cereal malt beverages may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed

pursuant to K.S.A. 41-2701 et seq., and licensed as a club by the State Director of Alcoholic Beverage Control.

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

G. 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.

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

I. No licensee or agent or employee of the licensee shall sell or permit the sale of cereal malt beverage to any person less than 21 years of age.

J. 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.

K. 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.

L. No licensee or agent or employee of the licensee shall employ any person less than 21 years of age in dispensing cereal malt beverages. No licensee shall employ any person who has been judged guilty of a felony.

3-219 CEREAL MALT BEVERAGE RETAILERS – FOR OFF PREMISES CONSUMPTION: HOURS OF SALE

A. Pursuant to K.S.A. 41-2704, the sale at retail of cereal malt beverage in the original package for off premises consumption, is allowed within the City on any Sunday, except Easter, between the hours of 12:00 noon and 8:00 p.m.

B. Pursuant to K.S.A. 41-2704, on all other days except Sunday, the sale at retail of licensed cereal malt beverage in the original package for off premises consumption, shall only occur between the hours of 6:00 a.m. and 12:00 midnight.

C. Memorial Day, Independence Day and Labor Day sales shall only occur between the hours of 9:00 a.m. and 11:00 p.m.

3-220 BUSINESS REGULATIONS; CEREAL MALT BEVERAGE – ON PREMISES CONSUMPTION

It shall be the duty of every licensee to observe the following regulations. Noncompliance shall constitute a misdemeanor:

A. The place of business licensed and operating under this Article shall at all times have a front and rear exit unlocked when open for business;

B. The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition, and shall at all times be open to the inspection of the police and health officers of the City, County and State;

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 beverage for consumption on the premises, which derives not less than thirty percent (30%) 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 by the State Director of Alcoholic Beverage Control;

E. The place of business shall be open to the public and to the police at all times during business hours, except that premises licensed as a club pursuant to the Kansas Club and Drinking Establishment Act shall be open to the police at any time;

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

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

H. No person shall remove or carry out from the licensee's place of business, any open container of cereal malt beverage, and a sign so stating shall be prominently posted in all such places of business;

I. No licensee or agent or employee of the licensee shall sell, give, trade or permit the sale, give or trade of any cereal malt beverage to any person under twenty-one (21) years of age;

J. 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. This provision shall not apply to the State Lottery.

K. No licensee or agent or employee of the licensee shall permit any person to mix alcoholic drinks with materials purchased in the place of business or brought in for such purpose unless such licensee also holds a license for such place of business pursuant to Article 1 of this Chapter;

L. No licensee shall employ any person who has been adjudged guilty of a felony;

M. No licensee or agent or employee of the licensee shall employ any person under the legal age established by the State of Kansas for employment involving dispensing cereal malt beverages; and

N. In a place of business which derives more than twenty percent (20%) of gross sales from the sale of cereal malt beverages, no person, except the licensee and his or her employees for that establishment or independent contractors hired by the licensee, shall remain or be found in such premises between the hours of 2:00 a.m. and 6:00 a.m. The licensee may request special permission from the Governing Body to extend the 2:00 a.m. closing;

O. Any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than $500, or by imprisonment for not more than one year, or both such fine and imprisonment.

3-221 PROHIBITED CONDUCT ON PREMISES

The following conduct by a cereal malt beverage licensee, manager or employee, or agent, or any person under the direction and control of a

licensee, occurring on the licensed premises, is deemed contrary to public welfare and is prohibited:

A. Remaining or permitting any person to remain in or upon the premises who exposes to view any portion of the female breasts below the top of the areola or any portion of males/females pubic hair, anus, buttocks or genitals;

B. Permitting any employee on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva or genitals of any other employee or any patron;

C. Encouraging or permitting any patron on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva, or genitals of any employee;

D. Performing or permitting any person to perform on the licensed premises acts of or acts which simulate:

1. Sexual intercourse, masturbation, sodomy, or any other sexual act which is prohibited by law; or

2. Touching, caressing or fondling such persons' breasts, buttocks, anus or genitals.

E. Using or permitting any person to use on the licensed premises, any artificial devices or inanimate objects to depict any of the acts prohibited by paragraph (d) of this section.

F. Showing or permitting any person to show on the licensed premises any motion picture, film, photograph, electronic reproduction, or other visual reproduction depicting:

1. Acts or simulated acts of sexual intercourse, masturbation, sodomy, or any sexual act which is prohibited by law;

2. The touching, caressing or fondling of the buttocks, anus, genitals or the female breasts;

3. Scenes in which a person displays the buttocks, anus, genitals or the female breasts.

G. As used in this section, the term <u>premises</u> means the premises licensed by the City as a cereal malt beverage establishment and such other areas, under the control of the licensee or his or her employee or employees, that are in such close proximity to

the licensed premises that activities and conduct of persons within such other areas may be viewed by persons on or within the licensed premises.

3-222 SANITARY CONDITIONS REQUIRED

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

ARTICLE 3. ALCOHOLIC LIQUOR

3-301 STATE LICENSES 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 license to do so.

B. The holder of a license for the retail sale in the City of alcoholic liquors by the package issued by the state director of alcoholic beverage control shall present such license to the City Clerk when applying to pay the occupation tax levied in section 3-302 and the tax shall be received and a receipt shall be issued for the period covered by the state license.

3-302 OCCUPATION TAXES LEVIED

Any licensee holding a license for any of the purposes hereafter mentioned issued by the state director of alcoholic beverage control and within the corporate limits of the City, shall pay an annual occupation tax to the City as follows:

A. To manufacture alcohol and spirits - $2,500;

B. To manufacture beer and wine:

1. Beer (regardless of alcoholic content)

   a) 1 to 100 barrel daily capacity or any part thereof - $200;

   b) 100 to 150 barrel daily capacity - $400;

   c) 150 to 200 barrel daily capacity - $700;

   d) 200 to 300 barrel daily capacity - $1,000;

   e) 300 to 400 barrel daily capacity - $1,300;

   f) 400 to 500 barrel daily capacity - $1,400;

   g) 500 or more barrel daily capacity - $1,600.

2. Wines - $500.
   Provided, that the words <u>daily capacity</u>, as used herein shall mean the average barrel production for the previous 12 months of manufacturing operation. And, provided

further, that if no such basis for comparison exists, the manufacturing license shall pay, in advance, for the first year's operation a tax of $1,000.

C. Alcoholic liquor distributor for the first and each additional distributing pale of business operated in this City by the same licensee and wholesaling and jobbing alcoholic liquors, except beer - $1,250;

D. Beer distributor, for the first and each additional wholesale distributing place of business operated in this City by the same licensee and wholesaling or jobbing beer, containing more than 3.2 percent of alcohol by weight, only - $150;

E. Retailers: Alcoholic liquors (including beer containing more than 3.2 percent of alcohol by weight), for consumption off the premises (sales in the original package only) - $600;

F. Non-beverage user
(K.S.A. 41-102(12)):
Class 1 (not to exceed 100 gallons) - $10;
Class 2 (not to exceed 1,000 gallons) - $50;
Class 3 (not to exceed 5,000 gallons) - $100;
Class 4 (not to exceed 10,000 gallons) - $200;
Class 5 (in excess of 10,000 gallons) - $500.
The tax shall be paid before business is begun under an original state license within 10 days after the renewal of a state license. (K.S.A. 41-101 et seq.)

3-303 POSTING OF RECEIPT

Every licensee under this article shall cause the City alcoholic liquor retailer's occupation tax receipt to be placed in plain view, next to or below the state license in a conspicuous place on the licensed premises.

3-304 HOURS OF SALE

No person shall sell at retail any alcoholic liquor:

A. On Sunday before 12 noon or after 8 p.m.;

B. On Easter Sunday, Thanksgiving Day or Christmas Day; or

C. Before 9 a.m. or after 11 p.m. on any day when the sale is permitted. (K.S.A. 41-712)

3-305 BUSINESS REGULATIONS

It shall be unlawful for a retailer of alcoholic liquor to:

A. Permit any person to mix drinks in or on the licensed premises;

B. Employ any person under the age of 21 years in connection with the operation of the retail establishment;

C. Employ any person in connection with the operation of the retail establishment who has been adjudged guilty of a felony;

D. Furnish any entertainment in his or her premises or permit any pinball machine or game of skill or chance to be located in or on the premises; or

E. Have in his or her possession for sale at retail any bottles, cask, or other containers containing alcoholic liquor, except in the original package.

F. Sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person less than 21 years of age.

3-306 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 beverage in any building, structure or premises, for consumption in such building or upon such premises if such consumption is within 400 feet from the nearest property line of any existing hospital, school, church or library.
(K.S.A. 41-710)

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. An annual license fee is hereby levied upon all corporations, partnerships or individuals operating a club within the City in the amount of $600. The licensee shall operate under the license for a period of 24 months from the date of its issuance and shall be renewable every two years. No rebate or return of any portions of the license fee shall be made in case the license is revoked for any cause provided under this article or in the event that the club ceases to function prior to the completion of its 24-month period.

B. All applications for new or renewal City licenses shall be submitted to the City Clerk. Upon presentation of a state license, payment of the City license fee and the license application, the City Clerk shall issue a City license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the City.

C. The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.

D. Every licensee shall cause the City club license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.

3-403 BUSINESS REGULATIONS

No club licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.

ARTICLE 5. ADDITIONAL REGULATIONS ON ESTABLISHMENTS

3-501 DEFINITIONS

As used in this Article:

A. Licensed Premises shall mean a Class A Club, Class B Club, Drinking Establishment, Caterer or an establishment licensed to sell cereal malt beverages, as defined in Articles 1 and 2 of this Chapter.

B. Licensee shall mean a person who has been properly issued a license to operate a licensed premise within the corporate limits of the City.

C. Nude or Partially Nude shall mean less than completely or opaquely covering and exposing to view any portion of the human pubic area, anus, vulva or genitals, or any simulation thereof, or any female breast area below a point immediately above the top of the areola.

3-502 NUDITY PROHIBITED IN LICENSED PREMISES

No licensee shall engage, permit, or allow an employee, agent, or independent contractor, of the licensee to be nude or partially nude in the licensed premises. No licensee shall allow or permit any nude or partially nude person to remain in the licensed premises.

3-503 PENALTY AND REVOCATION OF LICENSE

If any licensee violates any of the provisions of this Article, the Governing Body of the City, upon ten (10) days written notice to the licensee, may, upon hearing, permanently revoke or cause to be suspended for a period of not more than six (6) months the license; and the individual holding the license may be charged in municipal court with a violation of the alcoholic liquor laws of the City and upon conviction shall be found guilty of a misdemeanor.

CHAPTER 4. BUILDINGS AND CONSTRUCTION

Article 1. International Building Code Requirements and Administration
Article 2. International Residential Code
Article 3. International Plumbing and Fuel/Gas Code and Administration
Article 4. National Electrical Code Requirements and Administration
Article 5. International Mechanical Requirements and Administration
Article 6. Moving Buildings
Article 7. Fences
Article 8. Swimming Pools
Article 9. Demolition
Article 10. Antennas
Article 11. Occupational Licensure Requirements
Article 12. Oil and Gas
Article 13. Building and House Numbering

ARTICLE 1. INTERNATIONAL BUILDING CODE

4-101 MINIMUM STANDARDS

This article, including the International Building Code, 2003 Edition, incorporated by Section 4-102 shall constitute the minimum standards regulating the erection, construction, enlargement, alteration, repair, conversion, demolition, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the city.

4-102 INTERNATIONAL BUILDING CODE AND APPENDIX; ADOPTION

The code known as the International Building Code, 2003 Edition, including Appendixes are hereby adopted by reference and made part of this article, except such parts or portions thereof as are specifically changed, omitted, or added to in this article, for the City of Lansing.

Section 1: That a certain document, three (3) copies of which are on file in the office of the City Clerk of the City of Lansing, being marked and designated as the International Building Code,2003 edition, including Appendix Chapters C,D,E,F, H, J and I (see International Building Code Section 101.2.1, 2003 edition), as published by the International Code Council, be and is hereby adopted as the Building Code of the City of Lansing, in the State of Kansas for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure

that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code on file in the office of the City of Lansing are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

4-103 ENFORCEMENT

The International Building Code of the city shall be enforced by the Community Development Superintendent.

4-104 AMENDMENTS

The amendments to the International Building Code adopted by this article shall be as set out in this section. All references to section and chapter numbers in the text of this division shall be construed as if followed by the words "of the International Building Code" unless clearly indicated to the contrary.

Section 101.1: Shall read 101.1 Title

These regulations shall be known as the Building Code of the City of Lansing hereinafter referred to as "this code."

Section 101.4.1 Electrical shall read

The provisions of the **2002 National Electrical Code** shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto

Section 105.2 shall read 105.2 Work exempt from permit

Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

A. Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses provided the floor area does not exceed 120 square feet (11.15 m2).

2. Oil derricks.

3. Retaining walls which are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.

4. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

5. Temporary motion picture, television and theater stage sets and scenery.

6. Prefabricated swimming pools accessory to a Group R-3 occupancy, as applicable in Section 101.2, which are less than 24 inches (610 mm) deep and located in rear yard only.

7. Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.

8. Swings and other playground equipment accessory to detached one- and two-family dwellings.

B. Electrical:

1. Repairs and maintenance: A permit shall not be required for minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

C. Gas:

1. Portable heating, cooking or clothes drying appliances.

2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

3. Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

D. Mechanical:

1. Portable heating appliance.

2. Portable ventilation appliances.

3. Portable cooling unit.

4. Steam, hot or chilled-water piping within any heating or cooling equipment regulated by this code.

5. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

6. Portable evaporative cooler.

7. Self-contained refrigeration systems containing 10 pounds (4.54 kg) or less of refrigerant or that are actuated by motors of 1 horsepower (746 W) or less.

8. Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid. The stopping of leaks in drains, water, soil, waste or vent pipe; provided, however, that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

Section 108.3 shall read 108.3 Building permit valuations

Any applicant applying for a **remodeling or addition** permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the Community Development Superintendent, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the Community Development Superintendent. Final building permit valuation shall be set by the Community Development Superintendent

Section 112.1.1 is amended as follows:
In order to determine the suitability of alternate materials and methods of construction, and to provide for a reasonable interpretation of the provisions of this code, there shall be and is hereby created a Board of Appeals consisting of five members, who shall serve for a period of three years, who are qualified by experience and training to pass upon matters pertaining to building construction, and who are not employees of the jurisdiction. The Community Development Superintendent or his designated agent shall be an ex officio member of and shall act as Secretary to said Board, but shall have no vote on any matter before the Board. The Board of Appeals shall be appointed by the Mayor, which appointment shall be subject to the approval of the Government Body. The Board shall adopt reasonable rules and regulations for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy of the Community Development Superintendent or his designated agent. The decisions of the Board of Appeals shall be subject to review by the governing body of the city upon request of any involved party. The fee for an application for an appeal to the Board shall be $25, no part of which is refundable. The Community Development Superintendent or his designated agent shall be responsible for the collection of the application fee. Any issues to be brought before the Board of Appeals shall be presented in writing to the Community Development Superintendent. The Community Development Superintendent shall convene the Board within three weeks of written appeal request.

Section 112.3.1 is deleted in its entirety

Chapter 2. Alley, is amended as follows:
Alley - Any public space or thoroughfare designated as such by subdivision plats as filed with the city which has been dedicated or deeded to the public for public use.

Chapter 2. Sleeping Room, is added as follows:

Sleeping room - Any room in a building or structure that generally may be used for sleeping purposes, with a closet adjacent and a two or more fixture bathroom available on that level.

Detached garage - An accessory structure with a separate foundation and no connecting walls to an R-1 or R-3 occupancy.

Section 1612.3 shall read 1612.3 is deleted in its entirety

Section 3410.2: Shall read 3410.2 Applicability

Structures existing prior to adoption of this code, in which there is work involving additions, alterations or changes of occupancy shall be made to conform to the requirements of this section or the provisions of Sections 3403 through 3407. The provisions in Sections 3410.2.1 through 3410.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, S and U. These provisions shall not apply to buildings with occupancies in Group H or I.

ARTICLE 2. INTERNATIONAL RESIDENTIAL CODE

4-201 INTERNATIONAL RESIDENTIAL CODE INCORPORATED BY REFERENCE

There is hereby incorporated by reference the “International Residential Code, 2003 Edition,” published by the International Code Council. No fewer than three copies of the “International Residential Code, 2003 Edition,” marked or stamped “Official Copy as incorporated by Ordinance No. _____,”to which shall be attached a copy of this incorporating ordinance, and shall be filed with the city clerk and open to inspection and available to the public at all reasonable business hours.

4-202 IRC DELETIONS

Section R103 of the International Residential Code, 2003 Edition, are hereby deleted in its entirety.

4-203 IRC SECTION R101.1 AMENDED

Section R101.1 of the International Residential Code, 2003 Edition, is hereby amended to read as follows:

R101.1 Title. These provisions shall be known as the *Residential Code for One- and Two-Family Dwellings* of the City of Lansing, and shall be cited as such and will be referred to herein as "this code."

Section R105.2 of the International Residential Code, 2003 Edition, is hereby amended to read as follows:

R105.2 Work exempt from permit. Permits shall not be required for the following. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

A. Building:

1. One-story detached accessory structures, provided the exterior dimensions area does not exceed 120 square feet.

2. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

3. Prefabricated swimming pools that are less than 24 inches (610 mm) deep and located in rear yard only.

4. Swings and other playground equipment accessory to a one or two-family dwelling.

5. Window awnings supported by an exterior wall which do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.

B. Electrical:

1. Repairs and maintenance: A permit shall not be required for minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

C. Gas:

1. Portable heating, cooking or clothes drying appliances.

2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

3. Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

D. Mechanical:

1. Portable heating appliance.

2. Portable ventilation appliances.

3. Portable cooling unit.

4. Steam, hot or chilled-water piping within any heating or cooling equipment regulated by this code.

5. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

6. Portable evaporative cooler.

7. Self-contained refrigeration systems containing 10 pounds (4.54 kg) or less of refrigerant or that are actuated by motors of 1 horsepower (746 W) or less.

8. Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid. The stopping of leaks in drains, water, soil, waste or vent pipe; provided, however, that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

4-204 IRC TABLE R301.2(1) AMENDED

Table R301.2(1) of the International Residential Code, 2003 Edition, is hereby amended to read as follows:

TABLE R301.2(1)

R404.1.3 shall be amended to read; A design in accordance with accepted engineering practice shall be provided for concrete or masonry foundation walls when any of the conditions listed below exist. Where applicable, a standard design approved by the City may be used in lieu of a design from the design professional.

4-205 IRC SECTION P2603.6.1 AMENDED

Section P2603.6.1 of the International Residential Code, 2003 Edition, is hereby amended to read as follows:
P2603.6.1 Building Sewer depth. Shall be 12” and 42”..

4-206 IRC SECTION P3103.1 AMENDED

Section P3103.1 of the International Residential Code, 2003 Edition, is hereby amended to read as follows:
P3103.1 Roof extension. All open vent pipes which extend through a roof shall be terminated at least 6 inches above the roof or 2 inches above the anticipated snow accumulation, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least 7 feet (2134 mm) above the roof.

Section E3802.11 be amended to read as follows: Bedroom Outlets All branch circuits that supply 125-volt, single-phase, 15- and 20- ampere outlets installed in dwelling unit bedrooms shall be protected by an arc-fault circuit interrupter listed to provide protection of the entire branch circuit.

Exception: Smoke detectors shall not be installed on branch circuits which are protected by an arc-fault circuit interrupter.

ARTICLE 3. INTERNATIONAL PLUMBING CODE

4-301 MINIMUM STANDARDS

This article, including the International Plumbing Code, 2003 Edition, incorporated by reference, shall constitute the minimum standards for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing, gas piping, or drainage systems in the city.

4-302 INTERNATIONAL PLUMBING CODE; ADOPTION

The code known as the International Plumbing Code, 2003 Edition, and its appendix A, B, C, D, E, F, G it published by the International Code Council is hereby incorporated by reference and made a part of this article, the same as if fully set forth herein, except such parts or portions thereof as are specifically changed, omitted, or added to in this article.

4-303 NUMBER OF COPIES

There shall be not less than three copies of the International Plumbing Code kept on file in the office of the city clerk and made available for inspection by the public at all reasonable hours. The file copies of the code shall be marked or stamped, "Official Copy as Incorporated by the Code of the City of Lansing, Kansas," with all sections or portions thereof intended to be omitted clearly marked to show any such omission, or showing the sections, articles, parts or portions that are incorporated as the case may be and to which shall be attached a copy of this article.

4-304 AMENDMENTS

The amendments to the International Plumbing Code adopted by section 4-302 shall be as set out. All references to section and chapter numbers in the text shall be construed as if followed by the words "of the International Plumbing Code," unless clearly indicated in the contrary.

Section 101.1 Title

These regulations shall be known as the International Plumbing Code of City of Lansing hereinafter referred to as “this code”.

Section 103.1.1, shall be amended as follows:

The Community Development Superintendent or his or her designee is hereby authorized to enforce all provisions of this code.

Section 106.6.2 Insert fee schedule

Section 106.6.3 Fee refunds; Refunds shall not exceed 50% of the fee paid and all other refunds shall be pro rata as determined by the Director of Public Works or his or her authorized designee.

Section 108.4 Violations Penalties; Any violation of this section shall be punishable by a minimum fine of $150.00 and a maximum fine not to exceed $1,000.00. Each day a violation continues to exist shall be deemed a separate offense.

Section 108.4 Violations and Penalties, shall be amended to add the following:

A. Working without a license.

1. First Offense: Double the license fee and all work must immediately cease until proper licensing is obtained.

2. Second Offense: Charges shall be filed in the Municipal Court of the city.

B. Working without a permit.

1. First Offense: Fine equal to double the permit fee, plus the regular permit fee.

2. Second Offense: Fine equal to triple the permit fee, plus the regular permit fee.

3. Third Offense: Charges shall be filed in the Municipal Court of the city.

Chapter 3 General Provisions, shall be added as follows:

A. The requirements of this section shall not be considered to prohibit the operation of plumbing or drainage systems installed to replace existing equipment or fixtures serving an occupied portion of the building in the event a request for inspection of such equipment or fixture has been filed with the Community Development Superintendent not more than 72 hours after such replacement work is commenced, and before any portion of such plumbing or drainage system is concealed by any permanent portion of the building.

B. It shall be unlawful for any person to conduct, carry on, or engage in the business of plumbing or act in the capacity as a plumbing contractor without first having had issued to him/her a valid plumbing contractor's license, nor shall any person, advertise for plumbing work in the city without such contractor's license.

C. It shall be unlawful for any person to labor at the trade of plumbing without first having been issued a current license by the city certifying that this person is working as an employee of a licensed plumbing contractor in the city.

D. It shall be unlawful for any person to conduct, carry on, or engage in the business of gas fitting or act in the capacity as a gas contractor without first having issued to him/her a valid gas contractor's license.

E. It shall be unlawful for any person to labor at the trade of gas fitting without first having issued to him/her a valid gas fitter's license.

F. An apprentice plumber shall be permitted to work at the plumbing trade only when accompanied by and under the supervision of a licensed plumbing contractor, master plumber, or journeyman plumber. Apprentice plumbing licenses shall be renewed annually for a period of not less than two years and not more than four years except when extended by the Plumbing Board. After the maximum time period, the apprentice plumber shall take the journeyman plumber examination as set forth herein.

Chapter 2 Definitions shall add the following Definition of Contractors, Plumbers, and Gas Fitters.

A. Plumbing Contractor - A person who may conduct, carry-on, or engage in the business of plumbing and who holds a current Lansing, Kansas, master plumber license.

B. Master Plumber - A person who may conduct, carry on, or engage in the business of plumbing in a shop where there is a plumbing contractor. A master plumber may labor at the trade of gas fitting as an employee of a gas contractor.

C. Journeyman Plumber - A person who labors at the trade of plumbing as an employee of a plumbing contractor. A journeyman plumber may labor at the trade of gas fitting as an employee of a gas contractor.

D. Apprentice Plumber - A person who labors at the trade of plumbing as an employee under direct supervision and in the immediate presence of a plumbing contractor, master plumber, or journeyman plumber. The number of apprentices at the job site shall be limited to two apprentices for each licensed plumbing contractor, master plumber, or journeyman plumber.

E. Gas Contractor - A person who may conduct, carry on, or engage in the business of gas fitting and who holds a current Lansing, Kansas, gas fitter's license.

F. Master Gas Fitter - A person who may conduct, carry on, or engage in the business of gas fitting in a shop where there is one gas contractor.

G. Journeyman Gas Fitter - A person who labors at the trade of gas fitting as an employee of a master gas fitter or plumbing contractor.

Chapter 1 104.9 shall add Issuance of Certificate of Qualification.

A. The Plumbing Board or Community Development Superintendent shall issue a trade license pursuant to the following provisions:

1. Plumbing contractor license shall be issued to every person who makes application for such in conformance with Section 104.9, pays the required fee, and successfully passes the Master Plumber Examination by an approved testing agency, acceptable to the jurisdiction having authority with a minimum score of 75 percent. Each contractor needs to submit (12) twelve hours of trade specific continuing education credit hours biannually pursuant to state statutes

2. Master plumber license shall be issued to every person who makes application for such, pays the required fee, and successfully passes the Master Plumber Examination by an approved testing agency acceptable to the

jurisdiction having authority, with a minimum score of 75 percent. Each master needs to submit (12) twelve hours of trade specific continuing education credit hours biannually pursuant to state statutes

3. Journeyman plumber license shall be issued to every person who makes application for such, pays the required fee, and successfully passed the Journeyman Plumber Examination by an approved testing agency acceptable to the jurisdiction having authority, with a minimum score of 75 percent. Each journeyman needs to submit (12) twelve hours of trade specific continuing education credit hours biannually pursuant to state statutes

4. Apprentice plumber license shall be issued to every person who makes application for such, pays the required fee, and meets the additional requirement set forth herein.

5. Gas contractor license shall be issued to every person who makes application for such in conformance pays the required fee, and successfully passes the Master Gas Fitter Examination by an approved testing agency acceptable to the authority having jurisdiction, or the Master Mechanical Examination by an approved testing agency, with a minimum score of 75 percent. Each contractor needs to submit (12) twelve hours of trade specific continuing education credit hours biannually pursuant to state statutes

6. Master gas fitter license shall be issued to every person who makes application for such, pays the required fee, and successfully passes the Master Gas Fitter Examination by an approved testing agency acceptable to the jurisdiction having authority, or the Master Mechanical Examination by an approved testing agency acceptable to the jurisdiction having authority, with a minimum score of 75 percent. Each master needs to submit (12) twelve hours of trade specific continuing education credit hours biannually pursuant to state statutes

7. Journeyman gas fitter license shall be issued to every person who makes application for such, pays the required fee, and successfully passes the Journeyman Gas Fitter Examination by an approved testing agency acceptable to

the jurisdiction having authority, or the Journeyman Mechanical Examination by an approved testing agency, with a minimum score of 75 percent. Each journeyman needs to submit (12) twelve hours of trade specific continuing education credit hours biannually pursuant to state statutes

Section 109 Means of Appeal shall be amended to read as follows; In order to determine the suitability of alternate materials and methods of construction, to provide for a reasonable interpretation of the provisions of this code, and act as Board of Appeals in making a correct determination of any appeal arising from actions of the administrative authority, there shall be and is hereby created a Board of Appeals in making a correct determination of any appeal arising from actions of the administrative authority, there shall be and hereby created a Board of Appeals consisting of five members, who shall serve for a period of three years, and who are qualified by experience and training to pass upon matters pertaining to plumbing and drainage construction and who are not employees of the jurisdiction. The Community Development Superintendent or his designated agent shall be an ex-officio member of and shall act as secretary to said Board, but shall have no vote on any matter before the Board. The Board of Appeals shall be appointed by the Mayor, which appointment shall be subject to the approval of the Government Body. The Board shall adopt reasonable rules and regulations for conducting its business, and shall render all decisions and findings in writing to the appellant, with a duplicate copy to the Community Development Superintendent or his designated agent. The decisions of the Board of Appeals shall be subject to review by the governing body of the city upon request of any involved party. The fee for an appeal to the Board shall be $25, no part of which is refundable. The Community Development Superintendent or designated agent shall be responsible for the collection of the application fee. Any appeal to be brought before the Board of Appeals shall be presented in writing to the Community Development Superintendent. The Community Development Superintendent shall convene the Board within three weeks of written appeal request.

109.2 shall be deleted in its entirety.

109.2.1 shall be deleted in its entirety

109.2.6 shall be deleted in its entirety

109.6.1 shall be deleted in its entirety

Chapter 1 Section 109.10 Application for License

A. License. It shall be unlawful for any person to engage in business as a plumbing contractor or gas contractor without first having had issued to him a valid plumbing contractor or gas contractor license by the city.

B. Bond. Each plumbing contractor and gas contractor shall file a surety bond with the city in the sum of $5,000 before any permit authorized by this ordinance shall be granted to perform any work for which a permit is required under the city ordinances, and indemnifying and saving harmless the city from all suits or actions of every character and description brought against it for, or on account of, any injuries, or damages received, or sustained by any part or parties to whom such permit is issued, his or their servants or agents in the performance or prosecution of the work thereunder.

C. Insurance. Each plumbing contractor and gas contractor, further, shall file an insurance certificate with the city certifying public liability insurance in the amount of $1,000,000 for any one accident or more, and property damage and products liability in the amount of $1,000,000. Notice in writing shall be given to the city at least 30 days before the date of cancellation or expiration of any of the insurance policies, and new certificates shall be issued immediately upon the issuance of new or renewed policies. A plumbing contractor or gas contractor license is not transferable, and right of a firm, partnership, or corporation to do business under a plumbing or gas contractor license depends upon the retention of the person holding the license as an acting member or officer of the firm, partnership, or corporation.

D. Yearly Fees.

Plumbing Contractor	$100.00
Master Plumber	25.00
Journeyman Plumber	10.00
Apprentice Plumber	5.00
Gas Contractor	100.00
Master Gas Fitter	25.00
Journeyman Gas Fitter	10.00

All licenses shall be issued on a yearly basis and shall expire on December 31st of the year the license is issued. No license shall be renewed more than 90 days after the expiration date until the applicant has paid appropriate fees and penalty assessment for late renewal of $50.00.

E. Exception to Licensing Requirement. It shall be unlawful for any person to perform any work covered by this ordinance without proper licensing except in accordance with the following conditions:

1. The work is done in a single family dwelling used exclusively for living purposes, including the usual accessory buildings and quarter in connection with such buildings, and;

2. The person doing the work is a bona fide owner of such dwelling and accessory buildings and quarters, and the same are occupied or will be occupied by the owner for a minimum of one year immediately following the completion of the work, and;

3. The owner / occupant shall personally perform all labor in connection therewith.

Part 1, Administration, Section 30.4, Permits and Inspections, Fees. Table No. 3-A shall be amended as follows:

For Issuing Each Permit	$15.00
---IN ADDITION---	
For each plumbing fixture or trap or set of fixtures on one trap (including water, drainage piping and backflow protection therefore)	2.00
For each building sewer and each trailer park sewer	5.00
Rainwater systems -- per drain (inside building)	2.00

For each cesspool	5.00
For each private sewage disposal system	10.00
For each water heater and/or vent	2.00
For each gas piping system of one to four outlets	2.00
For each gas piping system five or more, per outlet	.50
For each industrial waste pre-treatment interceptor, including its trap and vent, excepting kitchen type grease interceptors functioning as fixture traps	2.00
For installation, alteration or repair of water piping and/or water treating equipment	2.00
For repair or alteration of drainage or vent piping	2.00
For each lawn sprinkler system on any one meter, including backflow protection devices therefore	2.00
For vacuum breakers or backflow protective devices on tanks, vats, etc. or for installation on unprotected plumbing fixtures, including necessary water piping - one to four	2.00
Five or more, each	.50

Section 305.6.1 Sewer Depth shall be 12” and 42” inches.

Section 504.3 Shutdown A means for disconnecting an electric hot water supply system from its energy supply shall be provided in accordance with the NFPA 70 National Electrical Code, 2002 Edition. A separate valve shall be provided to shut off the energy fuel supply to all other types of hot water supply systems.

Section 904.1 Roof Extensions - All open vent pipes that extend through a roof shall be terminated at least six inches (6”) above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least seven feet (7”) above the roof.

Section 608.1 shall have the addition of Cross Connection Control, Lawn Sprinkler System, shall read as follows:
All lawn sprinkler systems to have a double check valve installed.

(c)(2), shall be amended to read:

This inspection shall include an air pressure test, at which time the gas piping shall stand a pressure of not less than 40 pounds per square inch (68.9 kpa) gauge pressure, for a period of no less than 20 minutes, measured on all new structures as part of the rough-in inspection, and on any structure where the gas has been shut off for six months or longer. This inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be covered or concealed are so concealed and before any fixtures, appliances, or shutoff valve has been attached thereto.

ARTICLE 4. NATIONAL ELECTRICAL CODE REQUIREMENTS AND ADMINISTRATION

4-401 MINIMUM STANDARDS

This article, including the National Electrical Code, 2002 Edition, of the National Fire Protection Association (NFPA No. 70-2002) including Article 80 and the International Administrative Code provisions for the National Electrical Code, 2002 Edition, incorporated by reference, shall constitute the minimum standards for all electrical work done or performed under the provisions of this article, except as herein after provided.

4-402 NATIONAL ELECTRIC CODE AND INTERNATIONAL ADMINISTRATIVE CODE PROVISIONS; ADOPTION

The code known as the National Electric Code and the Administrative Code Provisions for the National Electric Code, 2002 Edition, is hereby incorporated by reference and made part of this article, the same as if fully set forth herein, except such parts or portions thereof as are specifically changed, omitted, or added to in this article.

4-403 NUMBER OF COPIES

There shall be not less than three copies of the National Electrical Code and the Administrative Code Provisions for the National Electric Code, 2002 Edition, kept on file in the office of the city clerk and made available for inspection by the public at all reasonable hours. The file copies of the code shall be marked or stamped, "Official Copy as Incorporated by the Code of the City of Lansing, Kansas," with all sections or portions thereof intended to be omitted clearly marked to show any such omission, or showing the sections, articles, parts or portions that are incorporated as the case may be and to which shall be attached a copy of this article.

4-404 AMENDMENTS

The amendments to the National Electrical Code (NEC) and the Administrative Code Provisions of the NEC, 2002 Edition, adopted by section 4-402 shall be as set out. All references to section and chapter numbers in the text shall be construed as if followed by the words "of the National Electrical Code," or "the Administrative Code Provisions," unless clearly indicated in the contrary.

Shall be amended as follows:

A. General - add the following paragraphs:
The Community Development Superintendent, or his or her designee, may authorize deviations from the requirement of the National Electrical Code in hardship and exception cases and shall keep a record of any such deviations he/she has authorized.
The Community Development Superintendent shall assist the Fire Chief in making an inspection of any electrical wiring which is considered dangerous or hazardous, when called upon to do so by the Fire Chief.

B. Authority to Disconnect Utilities in Emergencies - shall be amended to read as follows:
When inspection of electrical wiring, installations, fixtures, appliances or other equipment reveals any condition which the Community Development Superintendent believes is imminently hazardous to life, limb, or property, the Community Development Superintendent is authorized to enter upon the premises and to cause said hazardous wiring, installations, fixtures, appliances, or other equipment to be removed, repaired, disconnected, or otherwise made safe without delay and without prior notice to the owner or occupant of the property. The Community Development Superintendent shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure or electrical system or equipment, of the decision to disconnect prior to taking such action, and shall notify the serving utility, owner and occupant of the building, structure or building service equipment, in writing, of the disconnection immediately thereafter.

C. Authority to Condemn Electrical System and Equipment shall be amended to read as follows:

When inspection of such electrical wiring, installation, fixtures, appliances, or equipment reveals any condition which, in the opinion of the Community Development Superintendent, is or has been installed or his being used in violation of the provisions of this article, the Community Development Superintendent shall cause written notice by certified mail to be served upon the agent, representative, or employee of the owner of such premises having control thereof, to correct such condition within 48 hours or within such longer time as the Community Development Superintendent may deem reasonable.

The Community Development Superintendent is hereby authorized and directed to cause notice to be served by certified mail upon any person furnishing electric current to defective wiring, installations, fixtures, appliances, or other equipment to cease to supply current to the same until such time as the Community Development Superintendent notifies said person in writing that current may again be furnished.

It shall be unlawful for any person or supplier of electric energy to furnish, connect, or cause to be connected, electric current to any wiring, installations, fixtures, appliances, or other equipment which has been condemned or disconnected or rendered inoperative, or where final inspection has not been made or approved by the Community Development Superintendent, or to use such wires, installations, fixtures, appliances, or other equipment as a part of any electrical system until the same has been repaired and the repairs approved in writing by the Community Development Superintendent.

Whenever, under the provisions of this article, it shall be necessary for the Community Development Superintendent to enter upon any premises and to cause hazardous conditions found therein to be corrected and made safe, the costs of correcting the same shall be borne by the owner of the electrical equipment concerned.

Section 80.19, Permit Fees, shall be amended to add the following:

EXCEPTION: The fee for new construction Group R, Division 3 Occupancy, shall be in accordance with the fee schedule approved by the Governing Body.

Section 80.19 Inspections, General, shall be amended to add the following paragraph:
The issuance of permits or certificates of approval as required by this article shall not be construed as relieving any person from liability for damages to person or property in connection with the operation, control, and installation of any electrical equipment, and the city shall not be held as assuming any liability by reason of the issuance of permits or certificates of approval. The intention of the provisions of this article are to afford the public safety to life and property in so far as such safety can be provided by law.

4-405 Section 100 shall add the following:

ADDITIONAL ELECTRICAL WIRING AND APPARATUS REGULATIONS.

A. Minimum Service Entrance Size.

1. New and existing one and two family dwellings with floor area not exceeding 1,000 square feet -- 100 amperes.

2. New and existing one and two family dwellings with floor area exceeding 1,000 square feet -- 150 amperes.

3. Commercial buildings shall not have less than 100 amperes.

B. All electrical service entrance switches and panels, both rough-in and finished, shall bear a label or tag with name and telephone number identifying the contractor doing the work. All new installation of service switches and meter locations shall be provided with simple identification tags or marks indicating their capacity. When major repairs are made to old installations, similar identifications shall be provided.

C. All gasoline stations, garages, and businesses employed in the dispensing of volatile liquids shall be so wired that all conduit leaving the main feed panel shall contain seal-off fittings in addition to those required by the NEC. (All conduit must be rigid.)

D. Where the size of a service is increased, all wiring installed in conjunction with the new service shall conform to the minimum standards as set forth in section 4-401.

E. All new meter installations to one and two family dwellings shall be installed in a weatherproof-type outdoor metal box or meter fitting approved by the utility company for such purposes and located on the outside of the building; location to be designated by the public utility furnishing the service. The disconnecting means to control all circuits and devices, except meters, high impedance shunt circuits (such as potential coils of meters and control circuits to time switches), surge protective capacitors, and circuits for emergency lighting and fire alarms may be connected on the supply side of the disconnecting means.

F. Aluminum wire or copper clad wire must be 60 amperes or larger and used only for service entrance or panel feeders.

4-406 ENFORCEMENT

The NEC and all provisions provided for herein, shall be enforced by the Community Development Superintendent.

4-407 DEFINITIONS

A. Electrical Contractor shall mean a person who may conduct, carry-on, or engage in the business of electrical work and who holds a current Lansing, Kansas, master electrician license.

B. Master Electrician shall mean a person who may conduct, carry-on, or engage in the business of electrical work in a shop where there is an electrical contractor.

C. Journeyman Electrician shall mean person who labors at the trade of electrical work as an employee of an electrical contractor.

D. Apprentice Electrician shall mean a person who labors at the trade of electrical work as an employee under direct supervision and in the immediate presence of an electrical contractor, master electrician, or journeyman electrician. The number of apprentices at the job site shall be limited to two apprentices for each licensed electrical contractor, master electrician, or journeyman electrician.

4-408 ISSUANCE OF TRADE LICENSE

The Electrical Board or the building inspector shall issue a trade license pursuant to the following provisions:

A. Electrical Contractor License shall be issued to every person who makes application for such in conformance with section 4-410 pays the required fee, and successfully passes the Master Electrician Examination by an approved testing agency acceptable to the jurisdiction having authority, with a minimum test score of 75 percent. Each contractor needs to submit (12) twelve hours of trade specific continuing education credit hours biannually pursuant to state statutes.

B. Master Electrician License shall be issued to every person who makes application for such, pays the required fee, and successfully passes the Master Electrician Examination by an

approved testing agency acceptable to the jurisdiction having authority, with a minimum score of 75 percent. Each Master needs to submit (12) twelve hours of trade specific continuing education credit hours biannually pursuant to state statutes.

C. Journeyman Electrician License shall be issued to every person who makes application for such, pays the required fee, and successfully passes the Journeyman Electrical Examination by an approved testing agency acceptable to the jurisdiction having authority, with a minimum score of 75 percent. Each journeyman needs to submit (12) twelve hours of trade specific continuing education credit hours biannually pursuant to state statutes

4-409 Section 80.15 shall be amended to read: ELECTRICAL BOARD/BOARD OF APPEALS

A. In order to determine the suitability of alternate materials and methods of construction, to provide for a reasonable interpretation of the provisions of this code, and act as Board of Appeals in making a correct decision of any appeal arising from actions of the administrative authority, there shall be and is hereby created a Board of Appeals consisting of five members, who shall serve for a period of three years, who are qualified by experience and training to pass upon matters pertaining to the construction, installation, maintenance, or materials of electrical wiring and apparatus, and who are not employees of the jurisdiction. The Community Development Superintendent or his designated agent shall be an ex officio member of and shall act as secretary to said Board, but shall have no vote on any matter before the Board. The Board of Appeals shall be appointed by the mayor, which appointment shall be subject to the approval of the Governing Body.

B. The Board shall adopt reasonable rules and regulations for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy of the Community Development Superintendent or his designated agent. The decisions of the Board of Appeals shall be subject to review by the governing body of the city upon request of any involved party. The fee for an appeal to the Board shall be $25, no part of which is refundable. The Community Development Superintendent or his designated agent shall be responsible for the collection of the application fee. Any issues to be brought before the Board of Appeals shall be in writing to the Community

Development Superintendent. The Community Development Superintendent shall convene the Board within three weeks of written appeal request.
Items A, B, 1,3,C,D,G shall be deleted in its entirety.

4-410 APPLICATION FOR LICENSE

A. General. It shall be unlawful for any person to engage in business as an electrical contractor without first having had issued to him or a firm's designated agent a valid electrical contractor license by the city of Lansing, Kansas.

B. License. It shall be unlawful for any person to labor at the electrical trade without first having been issued a current license by the city of Lansing, Kansas, certifying that this person is working as an employee of a licensed electrical contractor in the city of Lansing, Kansas.

C. Bond. Each electrical contractor shall file a surety bond with the city in the sum of $5,000 before any permit authorized by this article shall be granted to perform any work for which a permit is required under this code or other city ordinances, and indemnifying and saving harmless the city from all suits or actions of every character and description brought against it for, or on account of, any injuries or damages received or sustained by any party or parties to whom such permit is issued, his or their servants or agents in the performance or prosecution of the work thereunder.

D. Insurance. Each electrical contractor shall file an insurance certificate with the city certifying public liability insurance in the amount of $1,000,000 for any one accident or more, and property damage and products liability in the amount of $1,000,000. Notice in writing shall be given to the city at least thirty days before the date of cancellation or expiration of any of the insurance policies, and new certificates shall be issued immediately upon the issuance of new or renewed policies. An electrical contractor license is not transferable, and right of a firm, partnership, or corporation to do business sunder a contractor license depends upon the retention of the person holding the license as an acting member or officer of the firm, partnership, or corporation.

E. Fees.

Electrical Contractor	$100.00
Master Electrician	25.00
Journeyman Electrician	10.00
Apprentice	5.00

All licenses shall be renewed on a yearly basis and shall expire on December 31st of the year the license is issued. No license shall be renewed more than 90 days after the expiration date until the applicant has paid appropriate fees and penalty assessment of $50.00 for late renewal.

F. Exception to Licensing Requirement. It shall be unlawful for any person to perform any work covered by this article without proper licensing except in accordance with the following conditions:

1. The work is done in a single family dwelling used exclusively for living purposes, including the usual accessory building and quarters in connection with such buildings, and;

2. The person doing the work is a bona fide owner of such dwelling and accessory buildings and quarters, and the same are occupied or will be occupied by the owner, and;

3. The owner/occupant shall personally perform all labor in connection therewith.

4-411 Section 80.23 (3) PENALTIES

A. Working without a license.

1. First Offense: Double the license fee and all work must immediately cease until proper licensing is obtained.

2. Second Offense: Charges shall be filed in the Municipal Court of the city.

B. Working without a permit.

1. First Offense: Fine equal to double the permit fee, plus the regular permit fee.

2. Second Offense: Fine equal to triple the permit fee, plus the regular permit fee.

3. Third Offense: Charges shall be filed in the Municipal Court of the city.

Section 80.27 Deleted in its entirety.

ARTICLE 5. INTERNATIONAL MECHANICAL CODE AND ADMINISTRATION

4-501 MINIMUM STANDARDS

This article, including the International Mechanical Code, 2003 Edition, incorporated by reference in section 4-502, shall constitute the minimum standards for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of heating, ventilating, cooling, refrigeration systems, incinerators or other heat-producing appliances.

4-502 INTERNATIONAL MECHANICAL CODE AND APPENDIX; ADOPTION

The code known as the International Mechanical Code, 2003 Edition, including Appendix A and B, published by the International Code Council, is hereby incorporated by reference and made part of this article, the same as if fully set forth herein, except such parts or portions thereof as are specifically changed, omitted, or added to in this article.

4-503 NUMBER OF COPIES

There shall be not less than three copies of the International Mechanical Code 2003 Edition, kept on file in the office of the city clerk and made available for inspection by the public at all reasonable hours. The file copies of the code shall be marked or stamped, "Official Copy and Incorporated by the Code of the City of Lansing, Kansas," with all sections or portions thereof intended to be omitted clearly marked to show any such omission, or showing the sections, articles, parts or portions that are incorporated as the case may be and to which shall be attached a copy of this article.

4-504 AMENDMENTS

The amendments to the International Mechanical Code adopted by Section 2 shall be as set out. All references to section and chapter numbers in the text shall be construed as if followed by the words "of the International Mechanical Code," unless clearly indicated in the contrary.

Section 101.1 Title. These regulations shall be known as the Mechanical Code of City of Lansing, hereinafter referred to as “this code”

Add a Section 102.10 State Boiler Inspector. Where permits are issued and portions of the work require inspections and approval of

boilers, water heaters of 80 gallon capacity or larger, and pressure vessels by the state of Kansas, those portions of the work will comply with the state requirements in lieu of compliance with the technical provisions of this code. Contact the State Boiler Inspector at the State Department of Human Resources for complete information regarding state requirements. State approval is generally required for all boilers that require permits.

Exceptions:

A. Boilers serving individual dwelling units and their accessory structures.

B. Boilers serving apartment houses with less than five (5) families.

C. Pressure vessels that do not exceed 15 cubic feet and 250 psi.

Section 106.5.1 shall be deleted in its entirety

Section 106.5.2 Fee schedule shall be in accordance with the fee schedule approved by the Governing Body.

Section 106.5.3 Fee refunds; Refunds shall not exceed 50% of the fee paid and all other refunds shall be pro rata as determined by the Director of Public Works or his or her authorized designee.

Section 108.4 Violations Penalties; Any violation of this section shall be punishable by a minimum fine of $150.00 and a maximum fine not to exceed $1,000.00. Each day a violation continues to exist shall be deemed a separate offense.

Section 109.2, shall be amended to read as follows:
In order to determine the suitability of alternate materials and methods of construction, and to provide for a reasonable interpretation of the provisions of this code, there shall be and is hereby created a Board of Appeals consisting of five members, who are qualified by experience and training to pass upon matters pertaining to HVAC construction and who are not employees of the jurisdiction. The mechanical inspector or his designated agent shall be an ex officio member of and shall act as Secretary to said Board, but shall have no vote on any matter before the Board. The Board of Appeals shall be appointed by the mayor to serve for a period of three years, which appointment shall be subject to the approval of the Government Body. The Board shall adopt reasonable rules and regulations for conducting its business, and shall

render all decisions and findings in writing to the appellant with a duplicate copy to the mechanical inspector or his designated agent. The decisions of the Board of Appeals shall be subject to review by the governing body of the city upon request of any involved party. The fee for an application for an appeal to the Board shall be $25, no part of which is refundable. The mechanical inspector or his designated agent shall be responsible for the collection of the application fee. Any issues to be brought before the Board of Appeals shall be presented in writing to the mechanical inspector. The mechanical inspector shall convene the Board within three weeks of written appeal request

Section 109.2.1 is deleted in its entirety.

Section 109.2.2 is deleted in its entirety.

Section 109.2.6 is deleted in its entirety

Section 109.6.1 is deleted in its entirety

Chapter 1 Administration, Section 101.1 Title shall be amended as follows:
These regulations shall be known as the Mechanical Code of the City of Lansing, hereinafter referred to as "this code."

Section 106.5.2

Section 106.5.3 shall insert

Chapter 2, Definitions Section 202, the following definition shall be added:

Section 201.3 shall read: "…National Electrical Code..."

Chapter 3 GENERAL REGULATIONS

Section 306.3.1 shall read: "… National Electrical Code..."

Section 301.7 is amended to read: Electrical wiring, controls and connections to equipment and appliances regulated by this code shall be in accordance with the National Electrical Code, 2002 Edition.

Section 1305.1 shall add Drain condensate line shall be 5/8" to ¾" line.

4-505 ADMINISTRATION, DEFINITIONS

A. Mechanical Contractor: Person who may conduct, carry on, seek, or engage in the business of mechanical systems installation, replacement, or service and is also a Master Mechanical.

B. Master Mechanical: Person who has successfully passed an examination with a minimum passing score of 75% by a testing agency which has been approved by the governing authority of this code.

C. Mechanical Installer: Person who works at the mechanical trade as an employee of a mechanical contractor.

4-506 SAME; GENERAL PROVISIONS

A. It shall be unlawful for any person to engage in business as a mechanical contractor without first having had issued to him a valid mechanical contractor's license by the city.

B. It shall be unlawful for any person to labor at the mechanical trade as an installer without first having been issued a current identification card by the city certifying that this person is working as an employee of a licensed mechanical contractor in the city.

4-507 SAME; APPLICATION FOR LICENSE

A. Any person who is required by this code to possess a mechanical contractor's license or mechanical installer's license shall make application to the city.

B. Each mechanical contractor shall file a surety bond with the city in the sum of $5,000 before any permit authorized by this article shall be granted to perform any work for which a permit is required under the city ordinances, and indemnifying and saving harmless the city from all suits or actions of every character and description brought against it for, or on account of any injuries, or damages received, or sustained by any party or parties to whom such permit is issued, his/her or their servants or agents in the performance or prosecution of the work thereunder.

C. Each mechanical contractor, further, shall file an insurance certificate with the city certifying public liability insurance in the amount of $1,000,000 for any one accident or more, and property damage and products liability in the amount of $1,000,000. Notice in writing shall be given to the city at least 30

days before the date of cancellation or expiration of any of the insurance policies referred to in required certificates, and new certificates shall be issued immediately upon the issuance of new or renewed policies. A mechanical contractor's license is not transferable, and right of a firm, partnership, or corporation to do business under a mechanical contractor's license depends upon the retention of the person holding the license as an acting member or officer of the firm, partnership, or corporation.

D. The name of the business and the address of each business shall be included with the application for license.

E. Trade specific continuing education credit hours must be submitted biannually in the amount of (12) twelve hours for each contractor/master for this trade in accordance with state law.

4-508 SAME; YEARLY LICENSE FEES

A. The yearly license fee shall be as follows:

Mechanical Contractor	$100.00
Mechanical Master	25.00
Mechanical Installer	10.00

B. All licenses shall be renewed on a yearly basis and shall expire on December 31st of the year the license is issued. No license shall be renewed more than 90 days after the expiration date until the applicant has paid appropriate fees and penalty assessment of $50.00 for late renewal

4-509 SAME; EXCEPTION TO LICENSING REQUIREMENT

It shall be unlawful for any person to perform any work covered by this article without proper licensing except in accordance with the following conditions:

A. The work is done in a single family dwelling used exclusively for living purposes, including the usual accessory buildings and quarters in connection with such buildings.

B. The person doing the work is the bona fide owner of such dwelling and accessory buildings and quarters, and the same are occupied or will be occupied by the owner.

C. The owner/occupant shall personally perform all labor in connection therewith.

4-510 SAME; ENFORCEMENT

A. Working without a license.

1. First Offense: Double the license fee and all work must immediately cease until proper licensing is obtained.

2. Second Offense: Charges shall be filed in the Municipal Court of the city.

B. Working without a permit.

1. First Offense: Fine equal to double the permit fee, plus the regular permit fee.

2. Second Offense: Fine equal to triple the permit fee, plus the regular permit fee.

3. Third Offense: Charges shall be filed in the Municipal Court of the city.

4. If no offense has been committed within a 12 month period, the next subsequent offense shall be treated as a first offense.

ARTICLE 6. MOVING BUILDINGS

4-601 PERMIT NECESSARY

It shall be unlawful for any person to move, haul or transport, any house, building, derrick or other structure of the height of 16 feet or over, or of a width of 15 feet or more upon, across or over any street or alley in this city without first obtaining a permit therefore as hereinafter provided.

4-602 APPLICATION FOR PERMITS

A. All applications for permits to move houses, buildings, derricks or other structures mentioned in section 4-601 shall be made in writing to the building inspector, at least 48 hours prior to move, not including weekends and/or holidays, specifying the day and hour said moving is to commence and the route through the city's streets over which said building or structure shall be moved. If it shall be necessary to cut down and move, raise, or in any manner interfere with any wires or poles, the application shall state the name of the owners of said wires and poles, the time and place, when and where the removal of said poles and the cutting, raising, or otherwise interfering with said wires will be necessary. Said application shall include letters of confirmation from all utility companies owning or operating wires, cables, poles, or other aerial equipment along the route, that any cutting, moving, raising of any wires cables, poles, or other aerial equipment will be completed before the moving shall begin. No permit for moving shall be issued until all utility disconnect notices have been returned to the office of the building inspector.

B. The following information must be submitted with and as a part of the permit application: Overall width and overall transported height of the load; Total length of load(s), tractor(s), and truck(s); Gross weight of loaded truck(s) and tractor(s); diagram showing spacing of all axles center to center, and width of axles center to center of wheels, and tread width of tires; Anticipated date of move; Hours of move beginning to end in Lansing; Current Kansas Manufactured Housing Program certification must be submitted by all persons making connections to utilities. (KSA 58-4219)

C. The Public Works Director may refuse to issue a permit if the load capacity of any bridge or roadway on the route applied for is insufficient for the load as configured, and may require the

applicant to provide for a structural analysis by a Kansas Licensed Structural Engineer if his determination is disputed.

4-603 FEES FOR PERMITS

Before a permit to move any house, building, derrick or other structure is granted under the provisions of this article, the applicant for said permit shall pay to the city, which shall be deposited to the credit of the general fund of the city, the sum as set forth by the current fee schedule approved by the Governing Body.

4-604 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. (K.S.A. 17-1916)

4-605 DUTY OF OWNERS OF POLES OR WIRES

It shall be the duty of the person, firm or corporation owning or operating said poles or wires after service of notice, as required in section 4-604 to furnish competent workmen or linemen to remove such poles or raise or cut such wires, as will be necessary to facilitate the moving of such house, building, derrick or other structure. The necessary expense which is incurred thereby shall be paid by the holder of the moving permit.

4-606 UNLAWFUL TO MOLEST WIRES

No person engaged in moving any house, building, derrick or other structure shall raise, cut, or in any way interfere with any such poles or wires unless the persons or authorities owning or having control of the same shall refuse to do so after having been notified as required in section 4-604 and then only by competent workmen as specified in section 4-605. In such case the necessary and reasonable expense

shall be paid by the owners of the poles and wires handled and the said poles and wires shall be promptly replaced and the damages thereto promptly repaired.

4-607 DUTY OF BUILDING INSPECTOR

It shall be the duty of the building inspector, from time to time, to inspect the progress of moving of any building, house or other structure and to see that said house, building or other structure is being moved in accordance with the provisions of this article.

4-608 DUTY OF MOVER

It shall be the duty of any person, firm or corporation moving any of the structures mentioned in section 4-601 to display red lanterns thereon in such a manner as to show the extreme height and width thereof from 30 minutes before sunset to 30 minutes after sunrise.

4-609 MOVER TO FURNISH BOND

It shall be the duty of any person at the time of making application for a permit as provided in section 4-601 to execute in the favor of the city a good and sufficient cash or surety bond indemnifying the city against any loss or damage to streets or public property resulting from the failure of such person to comply with the provisions of this article or from their negligence. The amount of the cash or surety bond shall be in the amount of $5,000. The moving company shall also furnish the city with a certificate of insurance in the amount of $1,000,000.00 naming the city as additional insured to indemnify the city against any loss or damage suit resulting from the failure of such person to comply with the provisions of this article.

4-610 DUTY TO REPAIR DAMAGES

If in the moving of any structure under this article, any person shall cause damage to any street, avenue, alley, or public place, or to any building, bridge, or other property belonging to the city, the same shall be immediately repaired under the direction and supervision of the city's Director of Public Works.

ARTICLE 7. FENCES

4-701 PERMIT REQUIRED; FEE

It shall be unlawful for any person to erect or install anywhere in the city fencing without first obtaining a permit from the Community Development Division of the Public Works Department. Applications for permits that contain unusual requests or invoice disputes of property lines shall be referred to the governing body for approval prior to a permit being issued. Applications for fence permits must be made to the Community Development Division. A site plan showing the property lines, any improvements on the lot, and the proposed fence location shall be submitted with the permit application. Prior to review and processing of the application by the Community Development Division the applicant shall locate or have located, and mark with a lathe or pin flag all property corner pins for the lot, and the proposed location of each end post and corner post, along with the proposed location of each post of any fence to be built on a curve. Once the locations noted above have been located and clearly marked, the applicant shall notify the Community Development Division for an on-site inspection. No post or fence installation may proceed prior to inspection, approval, and processing of the permit. Approval of the permit is contingent upon the field review finding that the proposed fence location complies with all regulations, and that all other requirements of this article are met. Providing that the inspection fee is paid, a satisfactory site plan has been submitted, and the application is complete, a field review will be made within 1 business day of notification that the property lines and proposed fence location has been marked per these requirements.

Permit fee for fence installation shall be as listed in the Schedule of Fees.

4-702 DEFINITIONS

For purposes of this article the following terms shall have the following meanings:

A. Open fences are those constructed of wood, masonry, metal woven wire, or other material whose surface area is greater than 50 percent open.

B. Solid fences are those constructed of wood, masonry, metal, or other material whose surface area is or may become less than 50 percent open.

4-703 RESIDENTIAL ZONES; PERMITTED FENCING

Fences in residential areas of the city shall be either of open or solid type construction.

4-704 SAME; PROHIBITED FENCING

A. Barbed wired. No person shall construct, keep, or maintain any barbed wire fence, or fence any part of which is composed of barbed wire, within a residential area of the city.

B. Electric fence. No person shall construct, keep, or maintain an electrically charged fence within a residential area of the city.

4-705 RESIDENTIAL FENCES; STANDARDS

A. Front yard:

1. No solid fence shall be constructed or reconstructed beyond the front building line of residential property.

2. Open fences may be constructed in the front yard but shall not exceed 48 inches in height above the natural contour of the ground.

B. Side or rear yards:

1. No solid fence located in a side or rear yard of residential property shall be constructed to a height greater than 48 inches above the natural contour of the ground; provided that the city inspector may issue a permit to authorize a solid fence to be constructed to a height not to exceed seven feet around paved patios and swimming pools, the fence shall not extend beyond the building setback lines as established by the platting and zoning regulations.

2. No open fence located in a side or rear yard shall be constructed to a height greater than 72 inches above the natural contour of the ground

3. All fences shall remain 12” inches off property line unless written permission of the adjacent property owner to install fence on property line, is on file with the Community Development Division as part of the permitting process.

4-706 FENCES IN COMMERCIAL DISTRICTS

A. Fences in commercial areas of the city shall be either of open or solid type construction.

B. Commercial fences shall be not less than six feet not more than eight feet in height.

C. Fencing of the chain link type in commercial areas may be topped with barbed wire on slanted arms. Where slanted arms are used they shall be upward at an angle of not less than 45 degrees and shall be slanted to the interior when located within three feet of a sidewalk or pedestrian way.

D. Commercial fences shall be constructed under a permit issued by the city inspector. Permits shall be renewable every five years upon certification by the building inspector that the fence is in good repair.

4-707 FENCES IN AGRICULTURAL DISTRICTS

A. The term agricultural fences shall apply only to areas conforming to the requirements of the zoning regulations for areas used for the growing of crops or pasture for livestock.

B. Agricultural fences shall be either of open or solid construction.

C. Agricultural fences shall not exceed four feet in height above the natural contour of the ground.

D. The use of barbed wire in the construction, deconstruction, or maintenance of agricultural fence shall be by a special permit issued by the city inspector. The permit shall not be given or renewed if the fence forms a boundary with any property zoned as residential.

4-708 FENCE HEIGHT RESTRICTIONS

It shall be unlawful for any person to erect, install, cause to be erected or cause to be installed any property line fence unless written permission is obtained from the owner of the private property adjacent to the fence location.

4-709 SAME; HEDGES OR EVERGREENS

A. The owner of any hedge or evergreen fence along the side of any street, avenue, or alley, shall not permit any such hedge or evergreen fence to grow to exceed four feet in height.

B. The owner of any hedge or evergreen fence along the side of any street, avenue, or alley, shall on 30 days' notice in writing given by the city inspector be required to trim such hedge or evergreen fence to conform to the requirements of subsection (a).

4-710 PENALTY

Any fence work done in part or whole prior to receipt of an approved fence permit is considered a violation, and is grounds for a citation. Each day of non-compliance is considered a separate violation. A person convicted of violating any of the conditions of this article shall be guilty of a public offense and subject to the penalty of a fine of not less than $150.00 nor more than $500.00 or by imprisonment of not more than 30 days or both such fine and imprisonment.

ARTICLE 8. SWIMMING POOLS

4-801 DEFINITION

The term swimming pool shall mean any receptacle for water, or an artificial pool of water having a depth at any point of more than two feet, intended for the purpose of immersion or partial immersion therein of human beings, and including all appurtenant equipment thereto, regardless whether said receptacle is totally above the ground, partially in the ground or totally in the ground.

4-802 COMPLIANCE REQUIRED, PERMIT

A. It shall be unlawful to construct, maintain, install or enlarge any swimming pool in the city except in compliance with all of the provisions of this article.

B. It shall be unlawful to proceed with the construction, installation, enlargement or alteration of any swimming pool and appurtenances, within the city unless permits therefore shall have first been obtained from the building inspector.

4-803 LOCATION

No portion of a swimming pool outside a building shall be located at a distance less than eight feet from any side or rear property line, or building line. Pumps, filters and pool water disinfection equipment installations and appurtenant equipment, shall be located at a distance not less than eight feet from any side property line. All pools shall be located in the rear yards only.

4-804 APPROVAL OF DRAWINGS, PLANS

A. All drawings and plans for the construction, installation, enlargement or alteration of any swimming pool and appurtenances shall first be presented to the building inspector for examination and approval as to the proper location and construction thereof.

B. All plans and drawings shall be drawn to a scale of not less than one-eighth of an inch to the foot, on paper or cloth, in ink, or by some process that will not fade or obliterate. All distances and dimensions shall be accurately figured and drawings made explicit and complete, showing the lot line, and including information pertaining to the pool, walk, and fence construction, water supply system, drainage and water disposal systems, and

all appurtenances pertaining to the swimming pool. Detail plans and vertical elevations shall also be provided in accordance with the city building code.

C. All swimming pools, appurtenances, water supply and drainage system shall be constructed in conformity with the approved plans and comply with other requirements of this code. (Health and Welfare) (Discharging of Pools)

4-805 SWIMMING POOL STANDARDS

A. All swimming pools shall be of the recirculation type in which circulation of the water is maintained through the pool by pumps; the water drawn from the pool being clarified and disinfected before being returned to the pool.

B. Swimming pool inside walls and floors shall be constructed of any impervious material which will provide a tight tank and easily cleaned surfaces. The floor or bottom surface of the pool shall have a nonslip finish as smooth as possible. The side and end inside walls of a pool shall present a smooth finish and shall be vertical to a depth of at least six feet or shall have a slope or curvature meeting one of the following conditions:

1. The pool wall may be vertical for 30 inches from the water level, below which the wall may be curved to the bottom with a radius at any point equal to the difference between the depth at that point, and 30 inches.

2. To a depth of six feet, except as in (1) above, the wall's slope shall not be less than one foot horizontal and six feet vertical.

4-806 SAME; STRUCTURAL DESIGN

Swimming pools shall be designed to withstand the water pressure from within and to resist the pressure of the earth when the pool is empty, to a pressure of 2200 pounds per square foot. The slope of the bottom of any part of a pool in which the water is less than five feet in depth shall not be more than one foot in each 10 feet. The maximum slope where water is five feet or more in depth shall not exceed one foot in two feet.

4-807 SAME; FENCES, GATES

All outdoor swimming pools shall be completely enclosed by a fence of

not less than six foot in height above the grade level. All fence openings or points of entry into the pool area enclosure shall be equipped with gates, and shall be of not less than six foot in height above the grade level. The fence may be constructed of wire or of wood materials. In the event that wire is used for the fence to enclose the pool area the fence shall be constructed of a minimum number eleven and one-half gauge woven wire mesh corrosion-resistant material. In the event the fence is constructed of wood, the wooden materials shall be of strength of not less than one-half inch in thickness with spacing's of no greater than three inches in width. All gates shall be equipped with closing and latching devices capable of being locked with a padlock and the gate shall be locked with a padlock during the absence of the owners or tenants of the real property whereon the swimming pool is situated. All fence posts shall be decay or corrosion-resistant and shall be set in a concrete base at a depth of not less than two and one-half feet, and no farther than 10 feet apart.

4-808 SAME; LADDERS, STEPS

One or more means of egress in the form of steps or ladders shall be provided for all swimming pools.

4-809 SAME; ELECTRICAL EQUIPMENT

A. All electrical installations provided for, installed, and used in conjunction with private residential swimming pools, shall be in conformance with the provisions of this code regulating electrical installations.

B. No current carrying electrical conductors shall cross private residential swimming pools, either overhead or underground or within 15 feet of such pools.

C. All metal fences, enclosures, or railings near or adjacent to swimming pools, which might become electrically alive as a result of contact with broken overhead conductors or from any other cause, shall be effectively grounded.

4-810 INSPECTIONS

The building inspector periodically shall inspect all swimming pools to determine whether or not the provisions of the ordinances regarding safety applicable thereto are being complied with.

4-811 PERMIT FEE

The fee for a permit for the erection or construction or re-construction

or construction of a swimming pool shall be $20 for pools of less than 1000 gallon capacity, or $100.00 for pools of more than 1000 gallon capacity. An additional $5.00 fee shall be charged for in-ground electrical pools, or $17.00 for above ground electrical pools.

4-812 PENALTY

Any person violating any of the provisions of this article upon conviction thereof shall be fined in any amount not less than $150.00 and shall not exceed $500.00 or be imprisoned for a period not to exceed 30 days, or shall both be so fined or imprisoned.

ARTICLE 9. DEMOLITION

4-901 PERMIT NECESSARY

It shall be unlawful for any person, firm, or corporation, hereinafter referred to as contractor, to demolish any house, building, derrick, or other structure greater than 120 square feet in the city without first obtaining a permit as stated below.

4-902 APPLICATION FOR PERMITS, AND FEES

All applications for permits to demolish any house, building, derrick, or structure as mentioned in Section 4-901 shall be made in writing to the code enforcement officer, and no work shall begin until such demolition permit has been issued. The term of the permit will be 90 days with one opportunity to petition the Governing Body for an extension of 90 days for just cause. Fee for permit shall in accordance with the fee schedule approved by the Governing Body.

4-903 PERFORMANCE BOND

A performance bond executed by the contractor in the amount of five thousand dollars ($5,000.00) or one hundred (100) percent of the bid price, whichever is the greater, shall be submitted with the executed contract or permit application. The bond may be in the form of a surety bond or a cashier's check. No bank letters will be accepted as performance bonds. This bond shall be a guarantee (a) for the faithful performance and completion of the work and (b) for any repair or replacement cost resulting from any damage or failure of the contractor to properly restore the site. Such instruments will be returned thirty days after satisfactory completion of the work.

4-904 INSURANCE

Any contractor proposing to engage in the act of demolishing any house, building, derrick, or other structure in this city shall furnish the building inspector with a certificate of insurance in the amount of one million dollars ($1,000,000.00), naming the city as co-insured to indemnify the city against any loss or damage suit resulting from the failure of such person to comply with the provisions of this article.

4-905 DISCONNECTION OF UTILITIES

No work will be performed until all utilities have been properly disconnected and acknowledged as follows:

A. Sewer Lines. The sewer lines will be capped in accordance with the International Plumbing Code;, work is to be done by a plumbing contractor licensed by the city of Lansing and

inspected and acknowledged by the city Community Development Superintendent.

B. Gas Service. Kansas Gas Service will disconnect the gas service lines as acknowledged by the chief foreman or gas service manager.

C. Electric Service. Westar Energy will disconnect the electric service lines as acknowledged by the chief foreman or electric service manager.

D. Water Lines. A licensed plumber shall disconnect the water service line as acknowledged by Lan-Del Water District service foreman or manager.

E. Cable Television. Time Warner Cable Company shall disconnect the cable television lines as acknowledged by the chief foreman or manager.

F. Telephone Service. AT& T shall disconnect the telephone service lines as acknowledged by their engineer.

4-906 NOTIFICATION

Unless the Community Development Superintendent has determined that the structure is in a hazardous condition and must be removed immediately, the contractor will notify the building inspector before starting to demolish any structure. The contractor shall give a five (5) day notice to the adjacent property owners so they may protect their property in any way necessary from the wrecking process.

4-907 WRECKING AND DEMOLITION

Rules and regulations concerning the wrecking and demolition of structures in the city shall be as follows:

A. Wrecking. No material shall be placed on a floor of any building in the course of demolition; the brick, timbers, and other parts of such story shall be lowered to the ground immediately upon displacement. The materials to be removed shall be properly wet to prevent dust incidental to their removal. When any building has been wrecked, the contractor shall immediately clear the property and adjacent streets and alleys of all rubbish, refuse, and loose materials from such wrecking.

B. Barriers and Protective Closures. The contractor shall barricade the project site or erect protective closures whenever any

building exceeds one (1) story in height, or is within ten feet (10') of any street or alley property line. A roof for the entire length of the project shall be provided over any permanent sidewalk from the time the wrecking starts until it reaches the level of the first story.

4-908 BLASTING, GENERAL

Blasting shall be allowed in accordance with Section 5100 of the Technical Specifications for Public and Private Improvements of the City of Lansing, Kansas (For additional information refer to Chapter 7).

4-909 DISPOSAL OF HAZARDOUS MATERIALS

Disposal of hazardous materials such as asbestos will be accomplished in accordance with Kansas State statutes. The contractor shall determine the presence of such materials, estimate the cost of removal, and secure the necessary State permit for removal and proper disposal of all hazardous materials.

4-910 DISPOSAL OF MATERIALS

A. All clear rubble, brick, broken concrete, masonry, roofing materials, roof felt, tar paper, asphalt shingles, lumber, timber, brush, and other materials, may be disposed of at a State certified rubble fill site. Contractor must furnish the city a plan for disposal of this material and location of proposed sites. All disposal sites must be approved by the Kansas Department of Health and Environment.

B. All perishable, non-burnable, or non-rubble fill materials must be disposed of properly at contractor's expense.

4-911 BASEMENT FILLED

All wood, metal, and material that will rot or decay will be removed from the basement prior to filling. All basement openings will be filled with rock, brick, or clean fill and covered with at least eighteen inches (18") of dirt. No wood, metal, or materials that will rot or decay will be used as fill material. All fills will be dozer packed so that sink holes will not develop. The contractor will notify the building inspector before filling in the basement so that an inspection can be made of the excavation and of the fill materials to be used.

4-912 DAMAGE TO ADJACENT STRUCTURES, EQUIPMENT AND SIGNS

The contractor will be held responsible for any damage to adjacent structures, sidewalks, streets, or signs resulting from his/her operation

and shall repair or replace any such damaged structures, streets, walks, or signs to the satisfaction of, and at no additional cost to the city of Lansing.

4-913 FINAL INSPECTION

Upon completion of all work, the building inspection department will perform a final inspection and issue a certificate of completion to conclude the file documentation by the city.

4-914 PENALTIES

It shall be unlawful for any person, firm, or corporation to violate or neglect to comply with any provision herein. Any person, firm, or corporation who shall violate any of the provisions of this article or who shall neglect to comply with the terms herein, shall be fined a sum of not less than $150.00 nor more than one thousand dollars ($1,000.00), and/or imprisoned for 180 days, and the violation of each separate provision of this article shall be a separate offense, and each day's violation of each separate provision thereof shall constitute a separate offense.

ARTICLE 10. ANTENNAS

4-1001 ANTENNAS; PROHIBITED

Except as provided herein no antenna shall be erected, constructed, altered or maintained on any lot within the city.

4-1002 SAME; DEFINITIONS

Antenna as used herein means any shape antenna for communications or for receiving television signals from a satellite.

4-1003 SAME; REQUIREMENTS

All type antennas located outside of the building shall meet the following requirements:

A. A building permit and payment of a $15 fee.

B. Maximum number per residential lot - one.

C. Minimum setback from all property lines of lot - 10 feet.

D. No antenna may be located in a front or side yard.

E. All cables and lines serving the antenna shall be located underground.

4-1004 PENALTY

Any violation of this article shall be deemed to be a violation of this code and upon conviction for each and every offense be sentenced to pay a fine of not more than $100. Each day continued violation of this article, after written notice thereof, shall constitute a separate violation.

4-1005 PROHIBITIONS; WAIVED

The prohibition of some sections of this article may be waived by the governing body upon a showing by the landowner that compliance would cause the landowner undue hardship and that a waiver of some sections of this article would not be detrimental to the welfare of the surrounding community.

ARTICLE 11. OCCUPATIONAL LICENSURE REQUIREMENTS

4-1101 All business entities wishing to engage in residential or commercial construction by contract or for hire must first obtain from the office of Community Development an occupational license to perform such work. The license fee will be paid annually beginning January 1 and expiring December 31 of each calendar year. The established fee for this license will be $100 per business per year. This licensure does not take the place of obtaining the required permits needed for the construction being completed. Occupations required to be licensed under this section include, but are not limited to, the following:

A. **General Contractors-Class A, General Contractor:** A Class A License shall entitle the holder thereof to construct, remodel, repair, and demolish any structure.

B. **Building Contractors-Class B, Building Contractor:** A Class B License shall entitle the holder thereof to construct, remodel, repair, and demolish all structures not exceeding three stories in height. A Class B License shall also entitle the license holder to perform non-structural remodeling, tenant-finish, and repairs of all structures.

C. **Residential Contractor-Class C, Residential Contractor:** A Class C License shall entitle the holder thereof to construct, remodel, repair, and demolish single family or duplex residences and buildings accessory thereto.

D. **Fire Protection Contractor-Class D-FP Fire Protection:** A Class D-FP License shall entitle the holder thereof to install, maintain, repair, service, test, and inspect automatic sprinkler and standpipe systems for all structures, including all spray and deluge, carbon dioxide, foam, dry chemical, and inert gas systems, and all related lines, tanks, fire control systems, and appurtenances to any of the foregoing. Such contractor shall be responsible for the training and oversight of all tradesmen in its employment as well as the means, method, and manner of the fire protection installation including construction, improvement, renovation, repair, and maintenance on a construction project.

E. **Roofing Contractor-Class D-R Roofing:** A Class D-R License shall entitle the holder thereof to install, maintain, repair, replace, and remove the roof assembly of any structure, including the roof deck, vapor retarder, substrate, thermal barrier, insulation, and

roof coverings of all types. All roofers applying for an occupational license will be required to provide a copy of the State of Kansas Roofing Registration before occupational licenses or permits will be issued.
HB 2024

F. **Swimming Pool Contractor-Class D-P Swimming Pool Contractor:** A class D-P Swimming Pool license shall entitle the holder thereof to install outdoor or indoor, above ground, or below ground swimming pools, spas, or hot tubs, including installations of solar heating and appurtenant equipment associated with such construction.

G. **Fence Contractor- Class D-F Fence Contractor:** A class D-F Fencing license shall entitle the holder thereof to install fencing in accordance with the current approved code on fencing.

H. **Siding and Windows Contractor- Class D-S Siding Contractor:** A class D-S Siding and Windows license shall entitle the holder thereof to install, maintain or repair siding, windows, guttering related to the weatherproofing of a structure.

I. **Lawn and Irrigation Contractor – Class D-I Irrigation Contractor:** A class D-I Lawn Landscape and Irrigation license shall entitle the holder thereof to install, maintain or repair systems with the approved permits for the system being installed.

J. **Deck/Handyman Contractor – Class D-D Deck Contractor:** A class D-D Deck/Handyman license shall entitle the holder thereof to build, maintain, or repair decks and minor issues of the structure. Such issues might include but not limited to expansion of decks, fixing stairs, small repairs damaged by elements, patios, or roofing/siding repairs. This **will not include** any engagement of **Plumbing, Electrical, or HVAC** installations or repairing of systems.

K. **Miscellaneous Construction Contractor- Class D-M Miscellaneous Contractor:** A class D-M Miscellaneous Construction includes all contractors not specified in aforementioned licensure categories yet are working in the construction trade. The following is included under this category but not limited to; painters, sheet rockers, bricklayers, insulators,

carpet layers, or any other occupations engaging/doing business in the construction industry.

ARTICLE 12. OIL AND GAS

4-1201 PURPOSE

The purpose of this article is to establish uniform and reasonable limitations, safeguards, and controls of oil and gas operations based on the following criteria:

A. Aiding those owners of land in the economic utilization of their mineral rights in a safe and reasonable manner.

B. Protecting existing residential and commercial areas from incompatible land use activities.

C. Providing for the orderly growth and development of lands consistent with the comprehensive plan.

D. Minimizing any risks to the public health, safety, comfort, convenience, prosperity and general welfare.

E. Maintaining the city's character and economic viability.

F. Providing for the cost of administering the provisions of this article.

4-1202 DEFINITIONS

Unless otherwise stated herein, the definitions set out in K.S.A. 55-150 and amendments thereto, and K.A.R. 82-3-10 shall apply to this article. For the purpose of this chapter, the following definitions shall apply:

A. City shall mean the municipality of Lansing, Kansas;

B. Government Body shall mean the governing body of the city;

C. Mayor shall mean the chief elected official of the city;

D. City Administrator shall mean the chief administrative officer of the city;

E. State shall mean the State of Kansas, its branches, departments, agencies, boards or the officers thereof;

F. Person shall mean and include any person, firm, partnership, association, corporation, trust, cooperative, or other type of organization;

G. Permittee shall mean the person to whom is issued a permit or permits under the terms of this chapter;

H. Well shall mean, unless specifically qualified, any hole or holes, bore or bores, to any depth for the purpose of producing and recovering any oil, gas or liquefied petroleum matter or deleterious substance(s);

I. Natural Production shall mean the raising to the surface of the earth, by means of natural flow, petroleum or natural gas;

J. Artificial Production shall mean the raising to the surface of the earth, by means of other than natural flow, petroleum or natural gas;

K. Deleterious Substances shall mean any chemical, salt water, oil field brine, waste oil, waste emulsified oil, basic sediment, mud or injurious substance(s) produced or used in the drilling, development, producing, transportation, refining and process of oil, gas or condensate;

L. Pollution shall mean the contamination or other alteration of the physical, chemical, or biological properties of any natural waters of the city, or such discharge of any liquid, gaseous or solid substance into any waters of the city as well or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety, or welfare to domestic, commercial, industrial, agricultural, recreational, or other beneficial uses; or to livestock, animals or aquatic life;

M. Water, Waters of the City or City Water shall mean all streams, lakes, ponds, marshes, water courses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon the city or any portion thereof;

N. Pressure Maintenance shall mean an operation by which gas, water, or other fluids are injected into a supply of oil to maintain pressure or retard pressure decline therein for the purpose of facilitating recovery;

O. Enhanced Recovery shall mean an operation by which fluid or energy is introduced into a source of supply for the purpose of facilitating recovery therefrom;

P. Corporation Commission shall mean the Kansas Corporation Commission;

Q. All technical or oil and gas industry words or phrases used herein and not specifically defined herein shall have that meaning customarily attributable thereto by prudent operators in the oil and gas industry;

R. Oil and Gas Inspector shall mean that person, firm, or corporation qualified and employed by the city to enforce the provisions of this article, or by his or her authorized representative;

S. Abandoned Well shall mean (1) each well in which no production casing has been run, and for which drilling or testing operations have ceased for 30 consecutive days, or (2) any other well for which there is no current city permit;

T. Salt Water as used in this article shall mean any water containing more than 500 mg/1 chlorides;

U. Treatable Water shall mean surface and subsurface water in its natural state which may or may not require treatment to be useful for human consumption, and contains less than 10,000 ppm total dissolved solids and/or 5,000 ppl chlorides.

4-1203 PERMIT REQUIRED

No person shall drill an oil or gas well within the city limits of the city until that person has obtained a drilling permit, issued by the Government Body as set forth in this article.

A. A separate permit shall be required prior to each well drilling for oil and/or gas.

B. No person may apply for a drill permit as required in this article until a conditional use permit, as authorized by the city zoning code, permitting the desired use has been granted to the parcel on which the drilling is to take place.

C. In case special conditions are applied to the conditional use permit, those conditions shall apply in addition to any conditions

set forth in this article. In case of conflict, the more restrictive conditions shall apply.

D. The rights granted under the permit as required by this article are nontransferable.

4-1204 APPLICATION AND FILING FEE

A. Every application for a permit to drill an original well or to re-enter an abandoned well shall be in writing, signed by the applicant or some person duly authorized to sign same on his or her behalf, and it shall be filed with the oil and gas inspector and be accompanied by a filing fee in the amount established by the Government Body. No application shall request a permit to drill more than one well. The application shall contain full information required by the oil and gas inspector, including the following:

1. Name and address of applicant and date of application.

2. Where applying for a proposed original well:

   a) A block map of the forty (40) acres surrounding the drill site, including thereon topographical contour lines, the location of the proposed access road, the location of the proposed well, and distance therefrom to all existing dwelling-houses, streets, alleys, public areas, utility easements, abandoned wells and other structures whether designed for human occupancy, animals or otherwise, adjoining the leased and the proposed drill site, and the proposed location of transmission lines from the proposed drill site to the point or points where the transmission lines exit the property, within one thousand (1,000) feet of any such well, and the location of all existing oil, gas or fresh water wells within the forty (40) acre tract. The block map for plat shall also show the one hundred (100) year flood plain on the entire lease or the forty (40) acres surrounding the drill site, whichever is greater

3. A drilling prognosis, to specify in detail the amount, weight, and size of conductor pipe and surface pipe and the procedures to be used for cementing such. Plugging

procedures to be used in the event production is not established shall also be specified.

4. A statement of the provisions for water for the drilling rig.

5. A written plan for disposal of deleterious substances produced during the drilling operations and any deleterious substances produced as a result of production from the well. This plan shall include the method of transportation and name of transporter or transport contractor for the deleterious substances and the name and location of permitted disposal site, including a copy of the permit for the disposal site and a contract with the owner of the permitted site for the disposal of the deleterious substances, or in the alternative, provide proof of ownership of the permitted disposal site. The permittee shall provide monthly reports to the city of the amount of salt water and other deleterious substances produced, along with receipts for disposal of same.

6. The name and address of the person within the State of Kansas upon whom service of process upon applicant may be made within this State; and in the case of any non-resident person who has no such service agent within this state, there shall be attached to the application the designation of such a service agent within this state. There shall be attached to the application the designation of such a service agent resident in Leavenworth County, Kansas, and a consent that service of summons may be made upon such person in any action to enforce any of the obligations of the applicant hereunder.

7. A verification of the above information by the applicant hereunder.

8. Satisfactory evidence that applicant possesses a valid lease agreement by persons owning at least 51 percent of the mineral interest upon and under the real estate described in the application and upon which the oil and gas well proposed in the application to be drilled.

9. A written undertaking of the applicant that, in the event a well is either nonproductive or abandoned, within thirty (30) days after the determination thereof or in connection

with the drilling, completion, production or maintenance of the well shall be removed; that the premises will be fully restored to its original condition as soon as practicable and in no case more than thirty (30) days after such determination.

10. A written undertaking of the applicant that if such well is productive and completed, only the tools, machinery, structures and equipment necessary for the normal daily operation thereof shall be maintained at the well site and that the premises surrounding the immediate well site shall be restored to its original condition as nearly as practicable and in no case more than thirty (30) days after the completion of the well. Provided, however, that the permittee may apply for an extension if, in his or her opinion, weather does not permit compliance.

11. A fire prevention and protection plan. The applicant shall submit a plan to the city clerk and such plan should include safety procedures and equipment used by the applicant, the type of drilling and its relationship to nearby structures and activities and a contingency plan should a fire occur. The Leavenworth County Fire District #1 fire inspector shall review and approve, in writing, such plans and amendments for compliance with this article. Amendments shall be made to the plan as necessary to retain a comparable level of safety for any change, addition or intensification of drilling or production activities, whether in design, location, construction, installation, operation, or maintenance. Plan amendments shall be approved in the same manner as described above. The applicant shall implement any such approved plan and amendment for the design, location, construction, installation, operation, and maintenance of all equipment related to drilling or production.

12. An emergency procedures plan shall be furnished. The plan shall be designed to minimize to be commensurate with the risk to persons, property, and the community welfare from a fire or fire hazard by having available or having procedures and access to persons and equipment capable of controlling and eliminating the fire or fire

hazard. Such procedures shall be posted at the drilling or production site.

13. A plan showing in detail the proposed screening of the site in the event the well becomes a producing well.

B. A copy of the approved drilling permit from the corporation commission, any orders issued by the corporation commission, and a copy of the staking plat shall be filed with the city prior to issuance of the municipal permit.

C. Where the application is one for the re-entry of an abandoned well, the application shall contain all the information required by section 4-1204(a) above, with the exception that the oil and gas inspector may vary the requirements thereof to suit the application before him or her. Provided, that such an application for a permit to re-enter an abandoned well shall provide the following information in every case:

1. A statement of:

a) The then condition of the well;

b) The depth to which it is proposed such well shall be deepened;

c) The proposed casing program to be used in connection with the proposed deepening; and

d) Evidence of adequate current tests showing that the casing strings currently passed the same tests that are required in the case of the drilling of an original well.

D. The drilling permit applicant shall deposit the filing fee with the city clerk which is to be held in a special drilling permit account and earmarked for each specific drilling permit application. Out of the deposit will be paid all the direct fees and costs incurred by the city of administering, regulating and enforcing the ordinance as to that specific well for which the drilling permit was issued. If the costs to the city of administering, regulating and enforcing the ordinance exceed the amount of the fee, including the cost of litigation over the nonpayment of the filing fee, then the permittee must put into the account an amount equal to the amount by which the costs exceed the fee amount.

1. All fees and costs including but not limited to administration, engineering, technical, accounting and legal will be directly billed or debited to the account of each specific permitted well. Following the final inspections and approval of plugging and abandonment procedures by the oil and gas inspector, any remaining balance of the account shall be returned to the permittee, minus the amount of the annual fee to operate provided for elsewhere in this article.

2. Upon permittee request, the permit accounts shall be open to audit at any reasonable time during Lansing's business hours.

3. Permittee shall be sent a copy of all invoices or statements of directly billed administration, regulation or legal costs by whomever such work is performed or completed simultaneously with billing Lansing by claim. All such invoices or statements shall be itemized on a time basis, if billing is done on a time basis.

E. If the permittee objects to the reasonableness of any or all items in a billing or claim, the permittee may protest to the Government Body prior to approval of the same at the next regularly scheduled city council meeting.

1. During the period of protest, the permittee may submit the issue of whether the amount of the bill or claim is reasonable to arbitration with the permittee to pay the arbitrator's fees in all cases. The parties to such arbitration will be permittee and the person or organization presenting the bill or claim.

2. The arbitrator's decision shall be presented to the city at the next regularly scheduled city council meeting for the council's consideration as to whether or not the billing or claim or any amount thereof is reasonable or any amount thereof shall be approved. Only the arbitrator's decision shall be considered by the council at this city council meeting.

3. If the parties to arbitration cannot agree on an arbitrator, the method of appointment set forth in K.S.A. 5-201 et seq. shall be used.

4-1205 ISSUANCE OR REFUSAL OF PERMIT AND PERMITTEE'S INSURANCE AND BOND

A. The oil and gas inspector's office, within 30 business days after the filing of an application for a permit under this article shall determine whether or not the application complies in all respects with the provisions of this article and applicable federal and state law, and, if it does, shall recommend to the mayor and Government Body that the permit be issued. Each permit issued under the terms of this article shall:

1. By reference have incorporated therein all the provisions of this article with the same force and effect as if this article were copied verbatim therein;

2. By reference have incorporated therein all the provisions of applicable state law and the rules, regulations and standards adopted in accordance therewith relating to the protection of human beings, animals, and natural resources;

3. Specify that the term of the permit shall be for a period of six (6) months from the date of approval;

4. Specify the conditions imposed by the oil and gas inspector as are by this article authorized;

5. Specify that no actual operations shall be commenced until the permittee shall file and have approved the required bonds and certificate of insurance in the appropriate amounts as provided for elsewhere herein.

B. If the permit be issued, it shall, in two originals, be signed by the mayor and the permittee, and when so signed shall constitute the permittee's license to drill and operate in the city and the contractual obligation of the permittee to comply with the terms of such permit, such bonds as are required and applicable to state law, rules, regulations, standards and directives. One executed original copy of the permit shall be kept available for inspection by any city or state law enforcement official who shall demand to see same.

C. If the permit be refused, or if the applicant notifies the oil and gas inspector, in writing, that he or she does not elect to accept the

permit as tendered and wishes to withdraw his or her application, or if the bonds of the applicant be not approved, then upon the happening of any of the events, the cash fee filed with the application shall be refunded to the applicant, except that there shall be retained therefrom by the city the sum of $200 as a processing fee.

D. The permit fee provided in section 4-1204(a) shall be paid not later than ninety (90) days after approval by the Government Body of the drilling application, or prior to commencement of any drilling operations, whichever event occurs first. If the permit fee is not paid within such time, the permit shall not be issued, and approval shall be automatically canceled and a new drilling application shall be required. The Government Body may extend the time for payment beyond ninety (90) days for good cause shown.

E. In the event a permit shall be issued by the oil and gas inspector, no actual operations shall be commenced until the permittee shall file with the city bonds and a certificate of insurance as follows:

1. A bond in the principal sum of at least $100,000. The bond shall be executed by a reliable insurance company authorized to do business in the state, as surety, and with the applicant as principal, running to the city for the benefit of the city and all persons concerned, conditioned that the permittee will comply with the terms and conditions of this article in the operation of the well for either natural or artificial production, injection or disposal. The bond shall become effective on or before the date the same is filed with the city and remain in force and effect for at least twelve (12) months subsequent to the expiration of the permit term, and in addition, the bond will be conditioned that the permittee will promptly pay fines, penalties and other assessments imposed upon the permittee by reason of his or her breach of any of the terms, provisions and conditions of this article, and that the permittee will promptly restore the streets, sidewalks and other public property of the city which may be disturbed or damaged in permittee's operations, to their former condition; and that the permittee will promptly clear all premises of all equipment, letter, trash, waste, and other substances, and

will, within thirty (30) days after abandonment, grade, level and restore the property to the same surface condition, as practicable as is possible, as existed prior to commencing operation; and further that the permittee shall indemnify and hold harmless the city from any and all liability attributable to granting the permit.
If, after the completion of a producing well, permittee has complied with all of the provisions of this article, such as removing derrick and clearing the premises, he or she may apply to the oil and gas inspector to have the bond reduced to a sum of not less than $50,000 for the remainder of the time the well produces without reworking. During reworking operations, the amount of the bond shall be increased to the original amount.

2. In addition to the bond required in paragraph (1) of this section, the permittee shall obtain a bond in the principal sum of at least $2,000,000. The bond shall be executed by a reliable insurer licensed to do business in the state, as surety, and with applicant as principal, all persons concerned, conditioned that the permittee will comply with every applicable federal and state law, rule, regulation, standard or directive relating to the maintenance of the safe and beneficial physical, chemical and biological properties of any natural waters of the city; that the permittee shall obtain the necessary permits from the city and state with regard to any operations which have the potential of rendering such waters harmful or detrimental or injurious to the public health, safety and welfare; that the permittee shall bear all the costs necessary and incidental to the correction of any pollution to the waters caused by the permittee or permittee's agents, servants, employees, subcontractors or independent contractors; that the permittee shall pay all fines, penalties, assessments or judgments resulting directly or incidentally from the permittee's activities and which result in pollution of city waters; that the permittee shall indemnify and hold harmless the city from any and all liability resulting from the pollution of city waters.

   a) In lieu of the $2,000,000 bond, the permittee may provide a certificate of insurance, naming the city as additional insured and specifically stating the

coverage is in the amount of $2,000,000 and covers all perils as set forth in this section.

3. In addition to the bonds required in paragraphs (1) and (2) of this section, the permittee shall carry a policy or policies of standard comprehensive public liability insurance, including contractual liability covering bodily injuries and property damage, naming the permittee and the city, issued by an insurer authorized to do business within the state, the policy or policies in the aggregate shall provide for the following minimum coverage:

   a) Bodily injuries, $100,000 per person; $300,000 per accident.

   b) Property damage, $200,000.

Permittee shall file with the city certificates of the insurance as above stated, and shall obtain the written approval thereof of the oil and gas inspector who shall act thereon promptly after the date of such filing.

The insurance policy or policies shall not be cancelled without written notice to the oil and gas inspector at least ten (10) days prior to the effective date of such cancellation. In the event the policy or policies are cancelled, the permit granted shall immediately thereupon terminate without any action on the part of the oil and gas inspector, and permittee's rights to operate under the permit shall cease until permittee files additional insurance as provided herein.

If, after completion of a producing well, the permittee has complied with all of the provisions of this article, such as removing derricks, clearing premises, and the like, he or she may apply to the oil and gas inspector to have the insurance policy or policies reduced as follows: Bodily injuries, $50,000 per person; $100,000 per accident; and property damage, $50,000.

4-1206 FENCING

A. Fencing of drilling area. The entire drilling rig for any oil or gas well, together with its equipment, shall be enclosed by a fence not less than six (6) feet in height. The fence shall remain until either replaced by the fence required in section 4-1206(b), or until the land is restored according to section 4-1204(a)(9) of this article.

B. Fencing and screening of pumping units. Pumping units of oil or gas wells shall be surrounded or enclosed with a six (6) foot chain link fence. Within thirty (30) days of completion of the installation of the pumping unit and its required fence, a hedge row or such other means of screening the pumping unit and fence from public view shall be established by the pump owner.

4-1207 STORAGE OF OIL

It shall be unlawful to place or maintain any tank or tank battery for the storage of crude oil within the city limits.

4-1208 NOISE IMPACT

No activity shall be commenced or continued which will generate a noise level that exceeds 60 dbl measured at the tract line, for sustained length of time or at repeated intervals and all related activities not on the tract, such as transporting of oil and maintenance, should occur in such a manner as to minimize noise and obtrusiveness to the surrounding community.

4-1209 DISPOSAL OF SALT WATER

A. Every permittee under this article shall be responsible for the same disposal of salt water or other deleterious substances which he or she may bring to the surface of the earth and shall provide a plan for such disposal as required in section 4-1204(a)(5). Such disposal shall not result in pollution of the waters of the city and shall not result in any other environmental hazard, and shall incorporate the best available techniques and equipment.

B. In the event of any leakage or spillage of any pollutant or deleterious substance, whatever the cause thereof, the permittee shall cause the oil and gas inspector to be notified thereof promptly. If, in the judgment of the oil and gas inspector, such leakage or spillage represents a potential environmental hazard, he or she may issue whatever corrective orders he or she deems appropriate, and additionally may require the appropriate testing of the surface and subsurface for pollutant incursion, the cost of such test or tests to be borne by the permittee.

C. No person shall dispose of salt water or other deleterious substances within the city limits of the city.

D. No person shall inject any salt water or other deleterious substance in the annulus between the inside of the surface casing string and the next inside casing string.

E. No person shall use soil farming, or any other technique disposing of waste by integration into soil, for non-commercial or commercial purposes, within the city limits.

4-1210 HOURS OF OPERATION

Drilling operations on a parcel of land shall not take place between the hours of 8:00 p.m. and 8:00 a.m.; however, continuous auguring, fluid circulation or other sufficient techniques to prevent explosive conditions during the ceasing of drilling operations shall be employed.

4-1211 DURATION OF DRILLING OPERATIONS

All exploration and drilling operations shall be complete within one hundred eighty (180) days at any one well after the date of the issuance of the drilling permit, and the permit shall become void after that time.

4-1212 DRILLING OPERATIONS; EQUIPMENT

All drilling, re-entry and operations at any well performed under this article shall be conducted in accordance with the best practices of the reasonably prudent operator. All casing, valves, and blowout preventers, drilling fluid, tubing, bradenhead, christmas tree and well head connections shall be of a type and quality consistent with the best practices of such reasonably prudent operator. Setting and cementing casing and running drill system tests shall be performed in a manner and at a time consistent with the best practices of such reasonably prudent operator. Any permittee under this article shall observe and follow the recommendations or regulations of the American Petroleum Institute and the corporation commission, except in this instance that are specifically addressed by this article. A copy of all logs associated with the surface casing shall be filed with the oil and gas inspector.

4-1213 MOVING OF DRILLING RIG

It shall be unlawful and an offense for any person to move or cause to be moved the drilling rig from a well until the hole has been cased or properly plugged unless written permission to do so is obtained from the oil and gas inspector.

4-1214 FRACTURE AND ACIDIZING

In the completion of an oil and gas well where the acidizing or fracturing processes are used, no oil, gas or other deleterious

substances or pollutants shall be permitted to pollute any surface or subsurface fresh waters.

4-1215 SWABBING AND BAILING

In swabbing, bailing or purging a well, all deleterious substances removed from the bore hold shall be placed in appropriate tanks and no substances shall be permitted to pollute any surface or subsurface fresh waters.

4-1216 RUPTURE IN SURFACE CASING

In the event a rupture, break or opening occurs in the surface or production casing, the permittee or the operator or drilling contractor shall take immediate action to repair it, and shall report the incident to the oil and gas inspector promptly.

4-1217 DEPOSITING OIL PRODUCTS

No person shall deposit, drain or divert into or upon any public highway, street or alley, drainage ditch, storm drain, sewer, gutter, paving, creek, river, lake or lagoon, any oil or oily liquid with petroleum content or any mud, rotary mud, sand, water or salt water, or in any manner permit by seepage, overflow, deliberate release or otherwise, any of such substances to escape from any property owned, leased or controlled by such person and flow or be carried into or upon any public highway, street or alley, drainage ditch, storm drain, sewer, gutter, paving, creek, river, lake, or lagoon within the city.

4-1218 SAFETY PRECAUTIONS

Persons drilling, operating or maintaining any well shall use all necessary care and take all precautions which shall be reasonably necessary under the circumstances to protect the public. The provisions of this article shall be deemed to be the minimum requirements for the preservation of the public health, safety and welfare, and compliance with the terms hereof shall not be deemed to relieve any persons of any additional duty imposed by law.

4-1219 WATER FOR MUDS

In the event a fresh water supply well is drilled to provide water for drilling muds, upon the completion of operations for which such well is required, such well shall be plugged by cementing top to bottom, after notice of intention to do so is provided to the oil and gas inspector, who may supervise the operation.

4-1220 OIL AND GAS INSPECTOR

A. The Government Body shall employ a qualified person as an oil and gas inspector, whose duty it shall be to enforce the provisions of this article.

B. The oil and gas inspector shall have the authority to issue such orders or directives as are required to carry out the intent and purpose of this article and its particular provisions. Failure to abide by any such order or directive shall be a violation of this article.

C. The oil and gas inspector shall have the authority to go upon and inspect any premises covered by the terms of this article to ascertain whether this article and the applicable laws, rules, regulations, standards or directives of the state are being complied with. Failure to permit access to the oil and gas inspector shall be deemed a violation of this article.

D. The oil and gas inspector shall have the authority to request and receive any records, specified in this article, relating to the status or condition of any well or project or the appurtenances thereof within the city. Failure to provide any such requested material shall be deemed a violation of this article.

4-1221 SERVICE COMPANIES

Upon request of the oil and gas inspector, service companies or other persons shall furnish and file reports and records showing perforating, hydraulic fracturing, cementing, shooting, chemical treatment and all other service operations on any site covered by this article. Such furnished material shall remain confidential where such confidentiality is usually granted by the state. Failure to provide any such requested material shall be deemed a violation of this article.

4-1222 ACCUMULATION OF VAPOR

The oil and gas inspector shall have the authority to require the immediate shutting in or closing of any well if he or she finds that there exists, within a one hundred (100) foot radius of any well, any gas or gasoline vapor in a quantity sufficient to constitute, in his or her judgment, or in the judgment of the Leavenworth County Fire District #1 fire department inspector, a fire hazard. The well shall remain shut or closed in until the hazard and its cause are removed.

4-1223 INSPECTION OF PRESSURE LINES

The oil and gas inspector shall inspect all pressure lines in use at any

well or at any project to assure that tubing, fittings, equipment or connections are reasonably tight, safe and free from leaks.

4-1224 ORDER TO CEASE OPERATIONS

A. If the oil and gas inspector finds that, in his or her judgment, a hazard to life or nature resources exists, he or she shall order immediate rectification of the cause. If the permittee takes no immediate measure to reduce the hazard, or if the situation be so perilous as to constitute an imminent threat to safety, then in either of these events, he or she may order the prompt cessation of activity and, if necessary, the clearance of the premises.

B. The oil and gas inspector shall apply to the city administrator for a hearing upon such order, which hearing shall be held not longer than twenty four (24) hours after the issuance of the order by the oil and gas inspector. The city administrator shall determine if proper cause existed and, if not, shall order the permittee's activity to resume without delay. If the city administrator determines that proper cause did not exist for the order to cease activity to issue, then he or she shall make whatever ruling is proper to assure rectification of the cause of peril. Such ruling and compliance with it by the permittee of any liability for any violation of this article for any damage or injury caused thereby.

4-1225 APPEALS

Any permittee aggrieved by any order, directive, or ruling issued by the oil and gas inspector, or by any ruling by the city administrator, may appeal the same to the Governing Body which shall hear the matter at its next scheduled meeting. The lodging of such appeal shall not stay the enforcement of any of the provisions of this article. The council, upon hearing the matter, may issue whatever ruling or order is appropriate, provided that such ruling or order be keeping with the spirit and purpose of this article.

4-1226 CITY COUNCIL REVIEW OF PERMIT RECOMMENDATION

Upon the consideration of any application for a permit required by the terms of this article, the oil and gas inspector shall recommend approval or disapproval thereof to the mayor and Government Body, who shall review the matter at a regularly scheduled meeting, and thereupon uphold or reverse the recommendation with or without the addition of any conditions thereto.

4-1227 CONDUITS ON STREETS AND ALLEYS

A. No permittee shall make any excavations or construct any lines for the conveyance of fuel, water or minerals on, under or through the streets and alleys of the city without first having obtained a permit therefor upon application to the Government Body.

B. The Government Body shall prescribe the forms to be used for such application and the information to accompany it.

C. Each application for a permit under this section shall be accompanied by a non-refundable filing fee in an amount established by the Government Body.

D. The Government Body shall, within twenty (20) days of receipt of the properly executed application, either grant or deny the request.

E. The granting of any such permit shall not be construed to be the granting of a franchise.

F. For permits within ROWs for streets and sidewalks, refer to Chapter 14 for additional information.

4-1228 ANNUAL FEE FOR CONDUITS

A. The permittee, under section 4-1239 of this article, shall pay to the city an annual renewal and inspection fee in the amount established by the Government Body.

B. The Government Body shall appoint a representative who shall inspect such conduits to assure the public safety. No permit issued under section 4-1243 of this article shall be renewed if the conduit or any part thereof covered by such permit is in an unsafe condition.

4-1229 SURFACE CASING

A. Surface casing shall be installed to a depth of at least three hundred (300) feet below the surface of the earth or fifty (50) feet below any ground water, subject to approval by the oil and gas inspector. Surface pipe shall have a centralizer on the shoe joint, and centralizers within fifty (50) feet of the shoe joint, and

centralizer no more than two hundred (200) feet apart above the second centralizer.

B. Surface pipe shall be cemented by attempting to circulate good cement to surface by normal displacement practices. If cement cannot be circulated to surface due to washed-out hole or lost circulation, the existing cement shall not be overdisplaced and a plug shall be left in the bottom of the casing string to be drilled out once the surface is set. The remaining open hole behind the surface pipe shall be cemented by running a tubing string between the conductor string and the surface pipe until the top of the cement is tagged. The remaining uncemented annular space will then be cemented until good cement is circulated to the surface. No further drilling shall be accomplished until the cement has set for at least 24 hour or, in the alternative, until samples of the cement have passed independent laboratory tests satisfactory to the oil and gas inspector.

4-1230 ELECTRIC MOTORS

Only electric motors shall be used for operating plumping equipment.

4-1231 ABANDONMENT AND PLUGGING

Whenever any well is abandoned it shall be the obligation of the permittee and the operator of the well to set a two hundred (200) foot cement plug in the bottom of the surface casing, with the bottom of the plug one hundred (100) feet below the surface casing section; and to set fifty (50) foot cement plug in the top of the surface casing. No surface or conductor string of casing may be pulled or removed from a well. During initial abandonment operations, it will be the obligation of the permittee and operator to flood the well with mud-laden fluid weighing not less than nine pounds per gallons, and to circulate this mud until stabilized, and the well shall be kept filled to the top with mud-laden fluid of the weight herein specified, at all times; mud-laden fluid of the above specifications will be left in the well bore below and between cement plugs. Any additional provisions or precautionary measures prescribed by the state or the corporation commission of the state, in connection with the abandonment and plugging of a well, shall be complied with by the permittee.

4-1232 NATURAL GAS

Natural gas shall not be allowed to escape into the air or be burned off. An odorizer shall be attached to each producing gas well.

4-1233 LOCATION

A. Well Location. No permit shall be issued for the drilling of an original well or the re-entry of an abandoned well at any location which is (1) nearer than one thousand (1,000) feet of any permanent residence or commercial building; (2) closer than three hundred (300) feet of a public road right-of-way; (3) closer than three hundred (300) feet of a producing fresh water well; or (4) within a platted subdivision or within one thousand (1,000) feet of the boundary of a platted subdivision.

B. Access Road Location. The location of any access road necessary for the drilling of an original well or the re-entry of an abandoned well shall be subject to review by the oil and gas inspector.

C. Exceptions allowing well location closer than one thousand (1,000) feet from a permanent residence or commercial building may be granted at the discretion of the Government Body, only if written approvals and releases are obtained from the person(s), in the following enumerated paragraphs, having an interest in the permanent residences or commercial buildings being located 1,000 feet or less from the well location, and the approvals and releases are filed with the offices of the oil and gas inspector for the city and the county clerk of Leavenworth County. Approvals and releases shall be obtained from:

1. Any owner of the permanent residence or commercial building;

2. Any life tenant or remaindering of the permanent residence or commercial building;

3. Any lessee or tenant of the permanent residence or commercial building; and

4. Any mortgagee of the permanent residence or commercial building.

D. Exceptions allowing well locations closer than three hundred thirty (330) feet from a public road right-of-way may be granted at the discretion of the Government Body.

E. Exceptions shall not be granted allowing a well location to be closer than (1) three hundred (300) feet of a producing fresh

water well; (2) within a platted subdivision; or (3) one thousand (1,000) feet of the boundary of a platted subdivision.

F. All wells hereafter commenced or drilled within the city limits of the city shall be drilled as nearly as practicable on a location consisting of at least ten (10) acres, more or less. Provided, that the governing body of the city at the time of the granting of a permit as hereinbefore provided, may permit such variations as may be deemed necessary in the amount of acreage required, the location of the drill site, and the shape of the location, depending upon geographical factors, and topographical features of the land embraced by the location.

4-1234 PITS

Stell, mud, circulating, or reserve pits shall be used. Such pits and contents shall be removed from the premises and the drilling site within fifteen (15) days after completion of the well. Earthen pits will be allowed only as temporary emergency pits and/or as catch basins. Catch basin pits shall be used only for the purpose of catching any deleterious substance runoff and shall be no greater than three hundred twenty (320) cubic feet. Such catch basins will be equipped with a liquid level activated pump designed to keep fluids pumped out of such catch basin pit. All such earthen pits must be lined and approved in writing by the oil and gas inspector. Emergency pits shall be emptied as soon as the emergency is over and all such pits shall be emptied and then leveled within 15 days after completion of the well.

4-1235 SAVE THE CITY HARMLESS STATEMENT

The property user or lessee shall submit a written agreement to the city, holding and saving the city harmless from all claims, damages, expenses and losses arising out of the drilling or production of oil or gas from the leased premises. The city shall be named as an insured in the policy or policies of insurance required in section 4-1205(e) hereof.

4-1236 FACILITIES

All lease equipment shall be painted and maintained in a good state of appearance. A sign will be posted at the entrance to the drilling site stating the operator's name, the name and address of the resident agent for service of process, emergency telephone number and the city permit number before spudding the well. Within thirty (30) days after the completion of any producing oil or gas well, a sign shall be posted and maintained at the location showing the operator of the well, the

operator's emergency telephone number, name of farm, number of the well, legal description of the well, and identifying number of the permit issued by the city. Information supplied on the sign shall be kept current. The sign shall be no smaller than 2' x 2' and shall be no larger than 3' x 3'.

4-1237 PUBLIC ROADS; ACCESS

Adequate precaution will be taken by the driller and the lessor to prevent mud being tracked onto public roads and to assure access of emergency equipment to the well site at all times.

4-1238 FORMS

The city administrator and city clerk shall develop and make available to applicants a set of forms and guidelines to facilitate compliance with this article.

4-1239 ANNUAL FEE FOR PRODUCTION WELLS; RENEWAL OF INSURANCE

The holder of any permit on which there is a production well shall pay an annual fee of $400 and, at the same time, shall file documentation of insurance renewal with the city clerk as required by this article. All fees will be deposited in the general fund and used for expenses of inspection and other miscellaneous expenses incurred by the city, as described in section 4-1204(d).

4-1240 INFORMAL COMPLAINTS

If, upon information or inspection, it is found that a permittee is violating any portion of this article or causing damage or pollution to any surface or underground treatable water, the oil and gas inspector shall file a written administrative complaint with the city administrator, a copy of which shall be delivered or mailed to the permittee or his or her agent. If, upon subsequent inspection, it is determined that the permittee has taken the corrective actions specified, the complaint may be dismissed; otherwise, formal application will be made to the Government Body for an order revoking the permit, and for any other appropriate remedy; pending the outcome of the final determination of the Government Body on the formal application the oil and gas inspector shall, after an on site inspection, have the authority to shut down those operations where conditions appear obvious that surface or underground pollution is occurring.

4-1241 PENALTIES

It shall be unlawful and an offense for any person to violate or neglect to comply with any provisions hereof, irrespective of whether or not the

verbiage of each section hereof contains the specific language that such violation or neglect is unlawful and is an offense. Any person who shall violate any of the provisions of this article or any of the provisions of a drilling and operating permit issued pursuant hereto, or any condition of the bond filed by the permittee pursuant to this article, or who shall neglect to comply with the terms hereof, shall be fined a sum not more than $1,000.00 and/or imprisoned for one hundred eighty (180) days, and the violation of each separate provision of this article and of the permit, and of the bond, shall be a separate offense, and each day's violation of each separate provision thereof shall be considered a separate offense. In addition to the foregoing penalties, it is further provided that the Government Body, at any regular or special sessions or meetings thereof may, provided ten (10) days notice has been given to the permittee that revocation is to be considered at such meeting, revoke or suspend any permit issued under this article and under which drilling or producing operations are being conducted in the event the permittee thereof has violated any provision of the period, the bond, in this article. In the event the permit be revoked, the permittee may make application to the oil and gas inspection for the re-issuance of such permit, and the action of the city thereon shall be final. Any continuing offense shall be considered a public nuisance, the remedies for which, under law, shall be in addition to those hereinbefore enumerated.

4-1242 APPLICABILITY TO EXISTING CONDITIONS

Operating permits for producing wells in operation on the effective date of this article shall be issued by the oil and gas inspector following the payment of the annual operating fees applicable to that well, posting the required bonds and insurance. Failure to pay the applicable fees within thirty (30) days of receipt of notification will be considered a rejection of the permit by the operator, and will constitute a violation of this article. Council approval is not needed for permits issued to operators of wells in operation on or before the effective date of this article.

4-1243 SEVERABILITY

It is hereby declared to be the intention of the city that the several provisions of these regulations are severable, in accordance with the following rules:

A. If any court of competent jurisdiction shall adjudge any provision of these regulations to be invalid, such judgment shall not affect any other provisions of these regulations.

B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to a particular property or structure, such judgment shall not affect the application of the provisions to any other property or structure.

ARTICLE 13. BUILDING AND HOUSE NUMBERING

4-1301 DUTY OF OWNERS: NOTICE

It is hereby the duty of all persons owning or occupying buildings fronting on any public street, avenue or public grounds of the city, to cause the same to be numbered in conformity with the provisions of this article.

4-1302 METHOD OF NUMBERING GENERALLY

All streets of the city shall be so named and numbered as will best suit public safety and achieve an efficient manner of locating addresses for public travel and commerce.

4-1303 NORTH, SOUTH, EAST, WEST STREETS; DIVIDING LINE

A. It is hereby declared necessary to number the city, and for that purpose Main Street shall constitute the base for a grid of all streets running east and west, and Kansas Avenue shall constitute the base for a grid of all street running north and south. All streets shall be numbered according to a north-south and east-west grid map adopted as part of this article and to be kept on file in the office of the Community Development Superintendent.

B. All parts of streets running north or northerly from Kansas Avenue shall be designated respectively by the prefix "North" to the names of such streets, and all parts of streets running south or southerly from Kansas Avenue shall be designated respectively by the prefix "South" to the names of such streets.

C. All streets running north and south which do not intersect with Kansas Avenue shall be numbered according to the grid map and contain a prefix only when needed.

D. All parts of streets running east or easterly from Main Street shall be designated respectively by the prefix "East" to the names of such streets, and all parts of streets running west or westerly from Main Street shall be designated respectively by the prefix "West" to the names of such streets.

E. All streets running east and west which do not intersect with Main Street shall be numbered according to the grid map and contain a prefix only when needed.

4-1304 METHOD OF NUMBERING

A. East of Main Street. For all streets which run east and west, odd numbers shall be given to all buildings on the north side of the streets and avenues and even numbers shall be given to those on the south. The numbering shall commence with the number 100 at the first lot east of Main Street on the south side and increasing to the east and alternating on the north and south so that the odd numbers shall be on the north and even numbers on the south.

B. West of Main Street. For all streets which run east and west, odd numbers shall be given to all buildings on the south side of the streets and avenues and even numbers shall be given to those on the north. The numbering shall commence with the number 100 at the first lot west of Main Street on the north side and increasing to the west and alternating on the north and south so that odd numbers shall be on the south and even numbers on the north.

C. North of Kansas Avenue. For all streets which run north and south, odd numbers shall be given to all buildings on the west side of the streets and avenues, and even numbers shall be given to those on the east. The numbering shall commence with the number 100 at the first lot north of Kansas Avenue on the east side and increasing to the north and alternating to the east and west so that odd numbers shall be on the west and even numbers on the east.

D. South of Kansas Avenue. For all streets which run north and south, odd numbers shall be given to all buildings on the east side of the streets and avenues and even numbers shall be given to those on the west. The numbering shall commence with the number 100 at the first lot south of Kansas Avenue on the west side and increasing to the south and alternating to the east and west so that odd numbers shall be on the east and even numbers on the west.

4-1305 DUTY TO PLACE NUMBERS; MATERIALS; SIZE

All buildings facing streets, now or hereafter erected or relocated, shall be numbered as herein before provided by the owner or occupant at their expense. All such numbers (or letters) shall be of such kinds or materials which shall be visible from the street and shall not be less than four inches in length. All such numbers shall be conspicuously placed on, above, or by the side of the door on the front of each building fronting on or adjacent to any street, avenue, or public ground.

Where such numbers are not visible from the street, they shall also be placed on a marker at the drive leading to a building whose property fronts on or is adjacent to any street, avenue, or public ground.

4-1306 MASTER NUMBERING PLAN

The Community Development Superintendent, or such designee appointed by the city administrator, is authorized to prepare and maintain, in the appropriate office, a grid map of the city, showing the system of numbering buildings herein established. At the time a permit shall be issued for the construction or relocation of any building, a number shall be assigned to the applicant in accordance with such master plan. All such numbers shall be placed on such buildings before the occupancy permit is issued for that building. (For additional information reference Chapter 9 – Minimum Housing/Property Maintenance)

4-1307 UNLAWFUL ACTS; GENERAL PENALTY

Any person who shall place, affix, remove, destroy, carry away, or in any manner deface or disfigure any building or lot number placed or authorized by this article, except in conformity with the provisions thereof, shall be in violation of this article and shall be subject to a fine in the minimum amount of $150.00 and a maximum fine not to exceed $500.00.

CHAPTER 5. BUSINESS REGULATIONS

Article 1. General Regulations and Licenses
Article 2. Transient Vendors
Article 3. General Business License
Article 4. Temporary Special Events
Article 5. Valuable Property Dealers
Article 6. Automobile Salvage Yards
Article 7. Vehicle Tow Lots/Storage Facilities
Article 8. Vehicle Repair
Article 9. Bath Houses; Massage Establishments; Tattoo and/or Body Piercing Establishments
Article 10. Adult Retail Business
Article 11. Reserved
Article 12. Removal of Serial Numbers
Article 13. Pawnbrokers
Article 14. Food Services Regulations
Article 15. Arborist – Tree Trimming
Article 16. Home-based Business
Article 17. Child Care License

ARTICLE 1. GENERAL REGULATIONS AND LICENSES

5-101 LICENSES REQUIRED

Except as otherwise provided in this Article, no person, whether as principal, officer, agent, servant or employee or otherwise, shall:

A. Conduct, pursue, carry on or operate within the corporate limits of the City any callings, trades, professions, businesses or occupations specified in this Chapter without having first paid to the City Clerk an occupation tax, license tax or permit fee as prescribed in such Section and having first procured a license or permit to engage in and carry on such calling, trade, profession, business or occupation.

B. Fail to comply with all of the regulations provided in this Chapter.

5-102 LICENSE NOT TRANSFERABLE

No license issued under this Chapter shall be transferable or assignable, except by a resolution authorizing it passed by the Government Body, or as otherwise provided in this Code.

5-103 PERSONS REQUIRED TO CARRY LICENSES

All persons licensed under this Chapter not having a permanent location are required to carry their licenses with them, and all such persons shall present their licenses for inspection when requested to do so by any officer of the City.

5-104 LICENSE TAXES LEVIED; REGULATIONS; TERMS

License taxes are hereby levied and regulations imposed upon the respective callings, trades, professions, businesses or occupations conducted, pursued, carried on or operated within the corporate limits of the City as specified and prescribed in this Chapter

Except as otherwise provided in this Code, all licenses issued pursuant to the provisions of this Chapter shall expire and terminate on the last day of December of each year, without regard to the date of issuance thereof.

5-105 WHEN DUE AND PAYABLE

Except as otherwise provided in this Code, all original annual licenses shall be due and payable immediately upon the commencement of the business, calling, trade, occupation or profession for which they are issued, and all renewals thereof on the first business day of January in each year.

5-106 EXEMPTION OF 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. (K.S.A. 12-1617)

5-107 PENALTY

Any person, corporation, partnership, or association violating the provisions of this article shall, upon conviction thereof, be fined in any amount not to exceed $100.00 or be imprisoned not to exceed 30 days, or be both so fined and imprisoned. Each day during or on which a violation occurs or continues shall constitute a separate offense.

5-108 REVOCATION

Except as otherwise provided in this Code, any license issued under the terms and provisions of this Chapter shall be revoked by the City Clerk for the following reasons:

A. If a licensee has been obtained the license by submitting false information in the application;

B. If the licensee has violated any of the provisions of this Chapter or any rule or regulation regulating the conduct of the particular calling, trade, profession, business or occupation covered by such license;

C. If a licensee is ineligible to obtain a license under this Chapter;

D. For the nonpayment of any license fees required under this Chapter;

E. For permitting any gambling or any violation of the intoxicating liquor laws of the State or of Chapter IV of this Code upon the licensed premises;

F. For the conviction of the licensee in any court for the violation of any laws of this state or ordinances of any city regulating such calling, trade, profession, business or occupation; or

G. For conviction of the licensee in any court of any offense against the laws of the state or ordinances of any city involving moral turpitude. Where any calling, trade, profession, business or occupation licensed under this Chapter is governed by a specific Section of this Code containing an express provision for the revocation of such license, the terms of such specific Section of this Code containing an express provision for the revocation of such license shall supersede and take precedence over the revocation provisions contained in this Article. In case a license is revoked on any of the grounds set out above, no new license to carry on such calling, trade, profession, business or occupation shall be issued under the provisions of this chapter to the licensee for no less than six (6) months from the date that the revocation takes effect. The licensee shall be given an opportunity to be heard by the Governing Body after seven (7) business days' written notice.

5-109 LICENSES ISSUED; CONTENTS; CITY CLERK'S RECORDS

Except as otherwise provided in this Code, the City Clerk shall, upon receipt from the applicant for a license of the amount specified in the fee schedule, issue to such applicant a license, stating the kind or nature of the business to be carried on or transacted, to whom issued, the time when such license will expire, the amount paid, and the location, if any, of the applicant's place of business. The City Clerk

shall keep a record of all licenses issued, showing their nature, date of expiration, to whom issued and the location of the business. The City Clerk shall also keep a record of any and all bonding requirements which may be required for any particular license.

Payment for a Business License and issuance of a Business License does not constitute permission by the City to conduct an activity. The business owner must comply with all applicable federal, state or City regulations and obtain all required permits.

ARTICLE 2. TRANSIENT VENDORS

5-201 DEFINITIONS

For the purposes of this Article, the following words as used herein shall be considered to have the meanings herein ascribed thereto:

A. Established Place of Business is any business operated from a permanent building or structure within the City for which the required deposits provided by the City have been made and which place of business is open for business during regular business hours.

B. Ice Cream Vendor is any vendor who does not have an established place of business within the corporate limits of the City who sells or offers to sell to the general public ice cream from a motorized vehicle, defined as a motor driven vehicle possessing two or more wheels, operating on the streets or on property within the City owned by another.

C. Other Vendors Operating from a Motorized Vehicle is any vendor who does not have an established place of business within the corporate limits of the City who sells or offers to sell to the general public goods, wares, merchandise, or personal property of any nature whatsoever from a motorized vehicle, defined as a motor driven vehicle possessing two or more wheels, operating on the streets or on property within the City owned by another.

D. Peddler shall mean any person, whether a resident of the City or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, or conveyance, and further provided, that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this Article shall be deemed a peddler.

E. Residence shall mean and include every separate living unit occupied or residential purposes by one or more persons, contained within any type of building or structure.

F. Soliciting shall mean and include any one or more of the following activities:

1. Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services, of any kind, character or description whatever, for any kind of consideration whatever; or

2. Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or

3. Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

G. Solicitor or Canvasser shall mean any individual, whether resident of the City or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales or not. Such definition shall include any person, who, for himself, herself or for another person, hires, leases, uses, or occupies any building, structure, or portion thereof, or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.

H. Street salesman shall mean any person engaged in any manner in selling merchandise of any kind from a wagon or stand temporarily located on the public streets or sidewalks of this City as authorized by a permit.

I. Transient merchant, itinerant merchant or itinerant vendor are defined as any person, whether as owner, agent, consignee or employee, whether a resident of the City or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within such City, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, or public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the City, for the exhibition and sale of such goods, wares and

merchandise, either privately or at public auction. Such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this Article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

J. Transient Vendor is any person who does not have an established place of business within the corporate limits of the City who sells or offers to sell to the general public, goods, wares, merchandise, or personal property of any nature whatsoever from a conveyance, stand, table, or other means set up or located on the streets or sidewalks of the City or on property within the City owned by another.

5-202 CERTIFICATE OF REGISTRATION AND LICENSE

No transient vendor, merchant, solicitor, or peddler as defined in Section 5-201 of this article shall engage in such business within the within the corporate limits of the City without first obtaining a license therefore unless specifically excluded from the permit requirement under Section 5-203. Any applicant for a license under this Article shall file with the City Clerk a sworn application on a form furnished by the City Clerk, which shall give the following information:

A. Name and date of birth of applicant.

B. State sales tax number.

C. Credentials from the person, firm or corporation or association whom the applicant is employed by or represents.

D. Physical description of the applicant.

E. Period of time for which the certificate and license is applied.

F. Address of the applicant's present place of residence.

G. A brief description of the nature of the business and the goods to be sold.

H. Location and zoning of any structure, building or vehicle to be used for the activities defined herein.

I. Whether or not the applicant has ever been convicted of a crime involving moral turpitude or any felony conviction.

J. Submit a copy of a paid personal property tax receipt from the Leavenworth County Treasurer or another county treasurer in the State of Kansas for all goods or merchandise brought into Leavenworth County from outside the State of Kansas to be sold or disposed of in a place of business temporarily occupied for their sale.

5-203 EXCLUSIONS

The provisions of this Article shall not apply to:

A. Sales or displays at trade shows, expositions or conventions, fairs, festivals or shows operated primarily for amusement, entertainment, recreation or education.

B. Sales or displays at public sales or shows of crafts or items made by hand and sold, offered for sale, or displayed by the individual making such crafts or handmade items.

C. Persons soliciting for a charitable contribution, as long as the person soliciting charitable funds submits a letter to the City Clerk identifying the recipient of the funds, fund raising methods and the dates during which the funds will be collected.

D. Persons advertising or offering goods, wares, merchandise or services by the hanging of any flyer or handbill on any residence or business door provided that no contact or attempt at physical or verbal contact is made.

E. Persons advertising or offering goods, wares, merchandise or services by placing flyers or handbills on vehicles, however, in lieu of a permit, persons distributing handbills on vehicles located on private property must obtain prior permission of the property owner.

F. Federal, state, county or City census takers or political candidates or their agents.

G. Advertisements and solicitations delivered by the United States Post Office and newspapers filed and recorded with any recording officer as provided by law or any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

H. Persons distributing information for noncommercial purposes or proselytizing, poll-taking or other similar activity for noncommercial purposes.

I. Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business;

J. Fairs and convention center activities conducted primarily for amusement or entertainment;

K. Any general fair, auction, or bazaar sponsored by any church, religious, or non-profit organization;

L. Garage sales held on premises devoted to residential use;

M. Sales of agricultural goods raised or produced by the seller and sold at an approved Farmer's Market;

N. School sponsored bazaars and sales, and concessions at school athletic events; and,

O. Promotional trade or hobby shows conducted within structures which are zoned and site planned for commercial use pursuant to Chapter 17 of the City Code.

5-204 LICENSE REQUIRED

A transient vendor desiring to do business within the City shall apply to the City Clerk for a license authorizing such business. Applications for licenses shall be sworn and in writing and shall contain the following information:

A. Name, date of birth, a copy of the applicant’s state or federally issued photo identification card, and applicant's Kansas Sales Tax Certificate, if applicable, designating the city of Lansing as recipient of municipal sales taxes collected.

B. Address of applicant and address of location, if in a set location, where applicant intends to offer goods, wares, merchandise or personal property for sale.

C. A brief description of the nature of the business to be conducted and the goods to be sold, and if the goods are farm or orchard products, a statement whether they are produced or grown by applicant, and if not, the name and address of the producer or grower.

D. If applicant is employed, name and address of the employer, together with credentials establishing applicant's relationship to such employer.

E. Length of time for which the right to do business is desired.

F. If a vehicle is to be used, a description of the same, together with the state vehicle license number carried on such vehicle.

G. A statement as to whether or not the applicant has within two years prior to the date of the application been convicted of any crime, misdemeanor, or violation of any municipal ordinance regulating transient vendors, and if so, the nature of the offense and the punishment or penalty assessed therefor.

H. If doing business from a set location, the application shall be accompanied by the written permission of the owner, or tenant in possession of the location described in the application, from which or in front of which the application intends to offer goods, services, merchandise or personal property for sale.

5-205 LICENSING PROCEDURE

No license shall be issued to conduct business within the City to any applicant who has within two years preceding the date of such application been convicted of any crime or misdemeanor, other than a traffic offense, or of violating any municipal law regulating vendors. All applications for licenses hereunder shall be approved by the City Clerk. Upon receipt of an application, the City Clerk shall forthwith submit copies to the Chief of Police or his or her designated representative. In the absence of the City Clerk, the City employee then in charge of the business office of the City, shall investigate the qualifications of license applicants and approve or disapprove the issuance of licenses.

5-206 ISSUANCE OF LICENSE

Upon receipt of an application for certificate of registration and license, the City Clerk shall issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the date of issuance and length of time the license shall be operative, and the nature of the business involved. The City Clerk shall keep a permanent record of all such licenses issued. The solicitor shall carry the certificate at all times, and show it to any resident or officer of the City should they request to see it. The certificate may not be used as an endorsement of the City.

5-207 LICENSE FEES

A. Transient Vendor. A fee of $25 shall be charged for each licensee and shall be valid for a period of not more than three consecutive days; or $60 for a period of one week (7 days); or $125 for a period of one month.

B. Ice Cream Vendor. A fee of $75 shall be charged for each licensee and shall be valid to December 31st of that year. In addition the current fee required to run a background check will also be charged by the City Clerk.

C. Food Carts, Food Trucks, or Other Vendors Operating from a Motorized Vehicle. A fee of $75.00 shall be charged for each licensee and shall be valid to December 31st of that year. If vendor is selling food or beverages, the licensee must also obtain a Food Establishment license.

5-208 FEES FOR LICENSE; TRANSFERABILITY; EXHIBITION

The fees for the license required by this Article shall be as prescribed by Section 5-207. No license issued under the provisions of this Article shall be used by any person, other than the one to whom it was issued. Any person engaged in activities as described in Section 5-201 shall exhibit their licenses at the request of any citizen. No fee shall be required of one selling products of the farm or orchard actually produced by the seller.

5-209 PROHIBITED ACTS

A. No vendor shall sell or offer to sell to the general public goods, wares, merchandise, or personal property of any nature whatsoever without first obtaining a license to do so as required by this article.

B. Making any assertion, representation or statement or using any plan or scheme which misrepresents the purpose of the visit

C. Transient vendors may only conduct business from 9:00 a.m. to 8:00 p.m. Sales are prohibited during all other times.

D. The maximum speed at which the motorized vehicle may travel while selling or offering to sell goods to the general public shall not exceed 12 miles per hour.

E. No transient vendor shall make more than two stops in any one block.

F. Vendors may only solicit at the main entrance of a residence, and may not solicit to the same residence more than once in a 30 day period.

G. Sales are prohibited to persons standing in a City street.

H. Double parking is prohibited.

I. U-turns are prohibited.

J. Driving in a reverse direction is prohibited.

K. Loitering is prohibited.

L. Soliciting at residences or businesses that have a 'No Solicitors' or 'No Trespassers' sign is prohibited.

M. Vendors must leave a residence or business should the owner ask you to leave. Violators can be arrested and prosecuted for criminal trespassing.

N. Using the permit as an endorsement of the City or by any department or officer of the City.

5-210 REVOCATION OF LICENSE

A. The Chief of Police, his/or her designee and/or any Code Enforcement Officer may revoke any license issued under this Article, for any of the following causes:

1. Any violation of this Article.

2. Conducting the business as defined in Section 5-209 in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the City. Notice of the revocation of a license shall be in writing to the applicant and the City Clerk and set forth the grounds of revocation.

3. Fraud, misrepresentation or false statement contained in the application for license.

4. Fraud, misrepresentation or false statement made in the course of carrying on the business.

5. Unauthorized use of the public right-of-way for sale or display of merchandise, or for display of an advertising sign.

6. Violation of a site plan requirement for an existing land use or violation of the zoning ordinance.

7. Multiple complaints regarding aggressive behavior including persistence or rudeness.

If a license is revoked for any reason, no refunds will be issued for application or permitting fees.

B. Any person aggrieved by the action of the Chief of Police or City Clerk in the denial of an application or revocation of a license as provided in this Article, shall have the right of appeal to the Government Body. Such appeal shall be taken by filing with the City Clerk within fourteen (14) days after notice of revocation or denial of the license has been mailed to such applicant's last known address setting forth the grounds for appeal. The Government Body shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as provided herein for notice of hearing on revocation. The decision and order of the Government Body on such appeal shall be final and conclusive.

5-211 PENALTY

Any violation of the terms of this article is declared to be a violation of this code and any person convicted of such violation is punishable by a minimum fine of $150.00 and a maximum fine not to exceed $500.00 or by imprisonment in the Leavenworth County Jail for not to exceed 10 days, or by both such fine and imprisonment.

5-212 DISTURBING THE PEACE

No peddler, canvasser or solicitor, nor any person in his or her behalf, shall shout, make an outcry, blow a horn, ring a bell or 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 therefore 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 licensee proposes to sell; however, such regulations shall not apply to ice cream vendors selling from vehicles.

5-213 STRUCTURES

No person conducting activities pursuant to this Article shall erect or cause to be erected out of doors any temporary structure, awning, tent, or stand for the purpose of storing, selling, or displaying goods or services without prior approval of the Community Development Division.

5-214 IMPROVED SURFACES/PARKING

No person shall conduct activities pursuant to this Article on unimproved surfaces, or on a parking lot or aisleway area that constitutes a required parking area under the provisions of Chapter 7 of the Zoning Ordinance.

5-215 SETBACKS

Display of merchandise and parking of vehicles for the sale or display of merchandise shall be subject to the building setback requirements of the zoning district in which any activity subject to the provisions of this Article is being conducted.

5-216 SIGNS

Signs shall be limited to one sign per location and shall comply with the rules and regulations promulgated by the City of Lansing Zoning Ordinance. No sign shall be placed in City-owned right of way.

5-217 VEHICLES

No transient merchants shall sell products or services directly from any vehicle exceeding two (2) tons in rated load capacity.

5-218 USE OF STREET

No peddler shall have any exclusive right to any location in the public streets. No peddler shall be permitted to operate in any congested area where his or her operations might impede or inconvenience the public. For the purpose of this Article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

5-219 ENFORCEMENT

It shall be the duty of any police officer and/or Code Enforcement Officer to require any person engaged in the activities as defined in this Article, who is not known by such officer to be duly licensed, to produce his or her license and to enforce the provisions of this Article against any person found to be violating the same.

ARTICLE 3. GENERAL BUSINESS LICENSE

5-301 LICENSE REQUIRED

A. It shall be unlawful for any person, firm or corporation, either as principal or agent or employee, to conduct, pursue, carry on, or operate any calling, trade, profession, or occupation from a business located within the corporate limits of the City without first making an application to the City Clerk for a license therefore, and paying a license fee prescribed and procuring a license from the City Clerk whenever the procuring of the license is required by the City. The requirement for a City license shall also apply to any in-house business. This requirement shall not apply to independent sales representatives for multi-level or network marketing companies. This requirement shall not apply to those businesses required to have an occupational license through the Public Works Department.

B. It shall be unlawful for any person, firm or corporation, either as principal or agent or employee, to conduct, pursue, carryon on, or operate any calling, trade, profession, or occupation in the City without first meeting proper zoning classification. Upon receipt of a general business license application, the City Clerk's office shall forward the application to the Public Works Department for review. If the business is deemed to be located in a proper zoning classification, the application shall be returned, within five (5) business days to the City Clerk's office for issuance of a business license. In the event the business does not meet the current zoning requirements, the Public Works Department shall notify the applicant to cease all work and apply for proper zoning through the rezoning process.

C. Payment of fees does not constitute issuance of a general business license.

5-302 LICENSE FEES

All license fees shall be due and payable before the commencement of a trade, occupation, business, or profession for which license fees are required. No license shall be issued until the fee is paid. The amount of the fee for a General Non-Home Based Business License shall be $50.00 per year. The amount of the fee for a General Home Based Business License shall be $25.00 per year. These fees shall be prorated on a quarterly basis for new businesses.

5-303 RENEWAL

A. A license may be renewed by making application to the City Clerk on application forms provided for that purpose. Licenses shall expire on December 31 of each calendar year, and renewal applications for such licenses shall be submitted on or before December 1 of each calendar year.

B. Upon timely application, a license issued under the provisions of this article shall be renewed by issuance of a new license in the manner provided herein.

C. If the application for renewal of a license is not made during the time provided herein, the expiration of such license shall not be affected, and a new application shall be required.

D. A grace period of thirty days after the expiration of the license shall be allowed without incurring fines in order to submit a new application and fees for a general business license. If a new license is not applied for within thirty days after the expiration of the general business license, the penalty as prescribed in Section 5-305 shall apply.

5-304 APPLICATION TO EXISTING BUSINESSES

The provisions of this ordinance shall apply to:

A. All businesses required to be licensed as prescribed in Section 5-301 existing within the corporate limits of the City on the effective date of this code; and

B. All businesses required to be licensed as prescribed in Section 5-301 established within the corporate limits of the City after the effective date of this Code.

5-305 PENALTY

Any person, firm, corporation or partnership violating any provision of this article shall incur a penalty charge ten dollars ($10), and a separate offense shall be deemed to be committed on each day during or on which a violation shall continue.

ARTICLE 4. TEMPORARY SPECIAL EVENTS

5-401 TEMPORARY SPECIAL EVENTS: PURPOSE AND INTENT

The purpose and intent of this section is to provide for the temporary use of private property for special events in a manner consistent with its normal use and beneficial to the general welfare of the public. Furthermore, it is the intent of this section to protect nearby property owners, residents and businesses from special events which may be disruptive, obnoxious, unsafe or inappropriate given site conditions, traffic patterns, land use characteristics and the nature of the proposed use. Finally, it is the intent of this section to preserve the public health, safety and convenience.

5-402 SPECIAL EVENT DEFINED

The term "special event" shall mean a temporary, short-term use of land or structures, not otherwise included as a permitted or accessory use by these zoning regulations, for one or more of the following types of activities:

A. Type 1: Fundraising or non-commercial events for nonprofit religious, educational or community service organizations; including any structures in conjunction with the event.

B. Type 2: Promotional activities or devices intended to attract attention to a specific place, business, organization, event or district, such as outdoor entertainment or display booths.

C. Type 3: Outdoor commercial activities intended to sell, lease, rent or promote specific merchandise or services [such as a tent sale, farmers market or product demonstration] or indoor seasonal events which will draw additional visitors to a property [such as haunted houses], and including licensed transient merchants requiring use of a tent or structure.

D. Type 4: Christmas tree sales.

E. Type 5: Public events intended primarily for entertainment or amusement, such as concerts or festivals.

5-403 SPECIAL EVENTS NOT REQUIRING A PERMIT

Special events meeting the Type 1 definition are allowed without a Temporary Special Event Permit provided all of the following standards are met:

A. The special event is conducted entirely on private property owned or leased by the sponsoring organization as a permanent

facility, or the sponsoring organization has received written permission from the property owner for use of the property for the duration of the event.

B. Any structure used in conjunction with the special event shall meet all applicable yard setbacks, shall be subject to a valid building permit, shall meet uniform F Fire Code requirements, and shall be removed within 24 hours upon the cessation of the event.

C. Signs displayed in conjunction with use shall comply with City sign regulations and shall not be located on public right-of-way.

D. The duration and hours of operation of the special event shall be consistent with the intent of the event and the surrounding land uses, but in no case shall the duration exceed a limited period of time as specified in the application not to exceed thirty consecutive days and a maximum frequency for similar events of two (2) times per calendar year.

5-404 SPECIAL EVENTS SUBJECT TO AN ADMINISTRATIVE PERMIT

Special events in compliance with the following standards may be issued a Temporary Special Event Permit administratively by the City Clerk upon review by the Director of Public Works and/or his or her designee. Any applicant denied a Temporary Special Event Permit shall be notified in writing of the reasons for denial and of the opportunity to appeal the denial to the Government Body. No more than four (4) Temporary Special Event Permits per calendar year shall be issued administratively at any location. Type 4 events do not count against the permit limit.

A. Special events meeting the Type 2 or Type 3 definition, and Type 1 events not meeting the standards outlined in Section 5-403, may be permitted administratively by the City Clerk subject to prior review and approval by the Public Works Department, Code Enforcement Division, Police Department and Fire Department. No administrative Temporary Special Event Permit shall be issued <u>unless all of the following standards are met:</u>

1. An application and site plan indicating the proposed use and any temporary structures or displays are submitted, and a fee paid in accordance with Section 5-406.

2. The special event shall not cause undue traffic congestion or accident potential given anticipated attendance and specific location of event.

3. The activity shall not cause the overcrowding of parking facilities given anticipated attendance-and the possible reduction in the number of available spaces caused by the event itself. Permits shall not be issued for properties which do not provide parking spaces in excess of the number required in the zoning ordinance to support the principal use(s) on the property.

4. The special event shall not endanger the public health, safety or welfare given the nature of the activity, its location on the site, and its relationship to parking and access points.

5. The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.

6. Any structure used in conjunction with the special event shall meet all sight distance requirements in this Code, shall be the subject of a valid building permit, shall meet uniform fire code requirements, and shall be removed within 24 hours upon the cessation of the event.

7. Cars, trucks, vans and trailers may not be used for the sale of merchandise. Vehicles used for the storage of merchandise associated with an approved temporary use may only be located on site during the approved hours of operation of the special event.

8. The special event shall be conducted on private property [on which the Community Development Division has an approved site plan on file] where the property owner has granted the appropriate written permission.

9. The duration and hours of operation of the special event shall be consistent with the intent of the event and the surrounding land uses, but in no case shall the duration exceed a limited period of time as specified in the application not to exceed thirty days.

10. Signs displayed in conjunction with use shall comply with City sign regulations and shall not be located on public right-of-way. Signs for commercial activities shall only be displayed during hours of operation.

B. Special events meeting the Type 4 definition may be permitted administratively by the City Clerk subject to prior review and approval by the Public Works Department, Code Enforcement Division, Police Department and Fire Department. No more than one (1) Type 4 permit per calendar year shall be issued administratively at any location. No administrative permit shall be issued unless all of the following standards are met:

1. An application is submitted and a fee paid in accordance with Section 5-406.

2. A site plan is submitted indicating the location of the trees, aisles, parking and sales trailer or structure.

3. The location of the sales area shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces caused by the event itself. Permits shall not be issued for properties which do not provide parking spaces in excess of the number required in the zoning ordinance to support the principal use on the property.

4. Any structure used in conjunction with the Christmas tree sales shall meet all sight distance requirements of this Code, shall be the subject of a valid building permit, shall meet uniform fire code requirements, and shall be removed within 24 hours upon the cessation of the sale.

5. The sale shall be conducted on private property [upon which the Community Development Division has an approved site plan on file] in a commercial or industrial zoning district where the property owner has granted the appropriate written permission.

6. Christmas tree sales shall be permitted for no more than sixty (60) consecutive days and the permit will expire on December 31st of each calendar year.

7. Signs displayed in conjunction with use shall comply with City sign regulations and shall not be located on public right-of-way.

5-405 SPECIAL EVENTS SUBJECT TO GOVERNMENT BODY APPROVAL

Type 5 events and any special event not meeting the criteria of Section 5-404 may be granted a Temporary Special Event Permit by the Government Body. No temporary special event permit shall be issued unless all of the following standards are met:

1. An application and site plan indicating the proposed use and any temporary structures or displays are submitted, and a fee paid in accordance with Section 5-406.

2. The special event shall not cause undue traffic congestion or accident potential given anticipated attendance and specific location of event.

3. The activity shall not cause the overcrowding of parking facilities given anticipated attendance-and the possible reduction in the number of available spaces caused by the event itself. Permits shall not be issued for properties which do not provide parking spaces in excess of the number required in the zoning ordinance to support the principal use(s) on the property.

4. The special event shall not endanger the public health, safety or welfare given the nature of the activity, its location on the site, and its relationship to parking and access points.

5. The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.

6. Any structure used in conjunction with the special event shall meet all sight distance requirements in this Code, shall be the subject of a valid building permit, shall meet uniform fire code requirements, and shall be removed within 24 hours upon the cessation of the event.

7. Cars, trucks, vans and trailers may not be used for the sale of merchandise. Vehicles used for the storage of

merchandise associated with an approved temporary use may only be located on site during the approved hours of operation of the special event.

8. The special event shall be conducted on private property [on which the Community Development Division has an approved site plan on file] where the property owner has granted the appropriate written permission.

9. Signs displayed in conjunction with use shall comply with City sign regulations and shall not be located on public right-of-way. Signs for commercial activities shall only be displayed during hours of operation.

Such permit may be subject to such conditions and safeguards as the Government Body may deem necessary to protect the public health, safety and welfare. These conditions may include but shall not be limited to:

A. Restrictions on the hours of operation, duration of the event, size of the activity or other operational characteristic.

B. The posting of a performance bond to help ensure that the operation of the event and subsequent restoration of the site are conducted according to Government Body expectations.

C. The provision of traffic control or security personnel to increase the public safety and convenience.

D. Obtaining liability and personal injury insurance in such form and amount as the Government Body may find necessary to protect the safety and general welfare of the community.

5-406 APPLICATION AND FEE

A. No Temporary Special Event Permit shall be issued until an application has been submitted to the City Clerk and the appropriate fee paid. The application shall be made on the appropriate form provided by the City Clerk a minimum of ten (10) working days prior to the proposed event.

Incomplete applications shall not be processed or accepted for processing. An application shall be accompanied by the following items as applicable:

1. A letter from the applicant describing the proposed event, the hours of operation, the duration of the event, anticipated attendance, and any structures used in conjunction with the event.

2. A sketch plan showing to scale the location of the proposed activities and structures in relation to existing buildings, parking areas, streets and property lines as shown on the approved site plan. In no event shall structures or display areas be located any closer than 25 feet to public right-of-ways adjacent to the property.

3. A letter from the property owner or manager, if different from the applicant, providing permission for the special event to occur on the property.

4. A separate application will need to be made to the Community Development Division for any signs to be displayed in conjunction with the special event. In no event shall signs be displayed on the public right-of-way. Signs for commercial activities shall only be displayed during hours of operation.

B. Each application for a Temporary Special Event Permit shall be accompanied by an application fee. The fee for all applications subject to administrative review, including Type 1 events not meeting the requirements of Section 5-403, and the review fee for Type 4 applications shall be $50.00. The review fee for Type 5 applications and all applications subject to Governing Body review shall be $100.00.

C. The approved Temporary Special Event Permit issued shall be available on site for inspection for the duration of the event.

ARTICLE 5. VALUABLE PROPERTY DEALERS

See: Article 13. Pawnbrokers and Precious Metal Dealers

ARTICLE 6. AUTOMOBILE SALVAGE & JUNK YARDS

5-601 DEFINITIONS

For the purpose of this article, the following words shall mean:

A. Junk is any old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste or junked, dismantled, wrecked automobiles or parts thereof, iron, steel, and other old or scrap ferrous or non-ferrous material. (KSA 68-2203)

B. Salvage/Automobile Graveyard/Yard is any lot or establishment, exposed to the weather, upon which more than five (5) motor vehicles of any kind, incapable of being operated, which is maintained, used, or operated for storing, keeping, buying or selling automobile parts, wrecked, scrapped, ruined, dismantled or inoperative motor vehicles. (KSA 68-2203)

C. Junk Yard is an establishment which is maintained, operated, or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dump.

5-602 PERMIT REQUIRED

No person, firm, corporation, or partnership shall maintain or operate an automobile salvage yard or junk yard without first having obtained a permit. Application for a permit shall be made to the Community Development Division, and shall contain the name and address of the applicant, state sales tax identification number, and the location of the premises where the business is to be operated. An annual fee as set by a fee schedule shall be charged. In addition, prior to a permit being issued, the permittee shall have obtained a Conditional Use Permit which shall be subject to all City planning and zoning ordinances and regulations.

5-603 FENCE REQUIRED

A salvage or junk yard shall be entirely enclosed by a fence eight (8) feet in height, which shall be kept in good repair at all times, and shall be constructed of plank board so as to exclude such yard from public view.

5-604 ADVERTISEMENTS

The fence enclosing an automobile salvage or junk yard shall not be used for bill posting or other advertisement purposes, except that a space not larger than two (2) feet by eight (8) feet may be used for the advertisement of the business. Where such yard fronts on more than one street, the use of space for advertisements shall extend to each street on which the yard adjoins.

5-605 CONTENTS HEIGHT

The contents of an automobile salvage or junk yard shall not be placed or deposited to a height greater than the height of the fence surrounding it.

5-606 DEMOLISHING OR WRECKING CARS/JUNK

All work in connection with the crushing of vehicles or junk shall meet the following requirements;

A. The crushing or demolishing of vehicles and junk shall be permitted only on weekdays between the hours of 7 am and 6 pm.

B. Vehicles shall have all gasoline drained and tanks removed prior to the crushing process.

C. All components containing any fluids shall be thoroughly drained and or removed prior to the crushing process.

D. All refrigerants shall be removed and reclaimed in an approved manner prior to the crushing process.

E. All batteries shall be removed prior to the crushing process.

F. The crushing process shall take place only in an area designed and constructed to control and collect any fluids not previously drained from the material being crushed and any fluids leaking from the crushing equipment.

5-607 OPEN FIRES

No fires for the burning of rubbish, trash, automobiles, or any parts thereof, or other waste matters, shall be permitted.

5-608 RUBBISH AND WASTE MATTER

An automobile salvage yard shall, as far as practicable, be kept clear and clean of all rubbish or waste matter.

5-609 PURCHASES BY OPERATOR

No purchaser operating or maintaining an automobile salvage or junk

yard shall purchase any vehicles, parts or accessories, or junk, except between the hours of 7:00 a.m. and 7:00 p.m.

5-610 ACCESS TO CITY OFFICERS

All automobile salvage and junk yard operations, together with the books required, shall at all times be open for inspection to all officers of the City having police power, and the Code Enforcement Officer.

5-611 SERIAL NUMBERS

No purchaser shall knowingly buy, sell, receive, dispose of, conceal or have in his possession any motor vehicle, part or accessory from which the manufacturer's serial number or any other number or identification mark has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of the vehicle, part or accessory. Every person to whom is offered for sale any motor vehicle, part, or accessory from which has been removed, defaced, covered, altered or destroyed the manufacturer's serial number or identification mark shall immediately notify the chief of police.

5-612 PENALTY

Any person, firm, corporation or partnership violating any provision of this article shall be fined not less than FIVE HUNDRED DOLLARS ($500) nor more than ONE THOUSAND FIVE HUNDRED DOLLARS ($1500) and a separate offense shall be deemed to be committed on each day during or on which a violation shall continue.

ARTICLE 7. VEHICLE TOW LOTS / STORAGE FACILITIES

5-701 DEFINITIONS

For the purpose of this article, the following words shall mean:

A. VEHICLE TOW LOTS. Any lot or establishment exposed to the weather, upon which there are more than five (5) motor vehicles of any kind incapable of being operated, which is maintained, used or operated for storing, keeping wrecked, ruined, or inoperative motor vehicles.

5-702 PERMIT REQUIRE

No person shall maintain or operate a vehicle tow lot on any property within the City limits of Lansing, Kansas without first meeting all requirements for a conditional use permit as outlined in the zoning ordinance of the City.

5-703 GENERAL REQUIREMENTS

Every person, firm, corporation or partnership owning or operating any tow lot within the City limits of Lansing shall comply with all of the following requirements;

A. Lot surface shall consist of a minimum of 2 inches of crushed rock base treated with a state approved chemical to inhibit the growth of vegetation.

B. Every vehicle towed or stored in the lot shall have written on the windshield, in a medium capable of withstanding the elements, the date the vehicle was towed.

Every lot shall be entirely enclosed by a chain link fence six (6) feet in height. Barbed wire strands shall be allowed provided said strands are positioned vertically above the chain link fencing or sloped inward towards the interior of the tow lot at an angle of not more than 45˚ below the vertical.

5-704 ADVERTISEMENTS

The fence enclosing a vehicle tow lot shall not be used for bill posting or other advertisement purposes, except that a space not larger than two (2) feet by eight (8) feet may be used for the advertisement of the business. Where such yard fronts on more than one street, the use of space for advertisements shall extend to each street on which the yard adjoins.

5-705 STORAGE LIMITS

A. For any vehicle storage where a fee is charged on a per day basis, the maximum period of storage shall not exceed one-hundred twenty (120) days.
Under extreme circumstances where a vehicle cannot be removed before the 120 day time limit, a thirty (30) day extension may be approved by the Governing Body. Every request for extension of time must be received by the City Clerk at least thirty (30) days prior to conclusion of the 120 day limit.

B. For any vehicle storage where a fee is charged on a monthly basis or where no fee is charged, the maximum period of storage shall not exceed thirty (30) days unless the vehicles are stored in a garage or other building.

5-706 CRUSHING AND REMOVING STORED VEHICLES

All work in connection with the crushing of vehicles or junk shall meet the meet the following requirements;

A. The crushing of vehicles shall be permitted only on weekdays between the hours of 7 am and 6 pm.

B. Vehicles shall have all gasoline drained and tanks removed prior to the crushing process.

C. All components containing any fluids shall be thoroughly drained and or removed prior to the crushing process.

D. All refrigerants shall be removed and reclaimed in an approved manner prior to the crushing process. KDHE is specific on having these items removed.

E. All batteries shall be removed prior to the crushing process.

F. The crushing process shall take place only in an area designed and constructed to control and collect any fluids not previously drained from the material being crushed and any fluids leaking from the crushing equipment.

5-707 OPEN FIRE

No fires for the burning of rubbish, trash, automobiles, or any parts thereof, or other waste matters, shall be permitted.

5-708 ACCESS TO CITY OFFICERS

All automobile tow lots shall be available for inspection during normal business hours by any officer of the City having police power and code enforcement officers.

5-709 PENALTY

Any person, firm, corporation or partnership violating any provision of this article shall be fined not less than one hundred fifty ($150.00) nor more than five hundred ($500.00) dollars and a separate offense shall be deemed to be committed on each day during or on which a violation shall continue.

Any person, firm, partnership or corporation convicted of violating any provision of this article shall have the conditional use permit issued to said owner revoked by the Governing Body.

ARTICLE 8. VEHICLE REPAIR FACILITIES

5-801 DEFINITIONS

For the purpose of this article, the following shall mean, unless the context clearly indicates otherwise:

A. Vehicle Repair Facility**.** Any business establishment intended for repair and maintenance, including both mechanical or body work, of any vehicle. The repair facility shall include any building housing the repair functions, and associated parking area and grounds of the premises;

B. Vehicle means any automobile, truck, tractor, ATV, recreational vehicle or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time;

C. 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 or without a valid, current state registration from the State of Kansas.

5-802 PRESUMPTIONS

Any one of the following conditions in existence for a period exceeding sixty (60) days shall raise the rebuttable presumption that a vehicle is inoperable:

A. Absence of a current registration plate upon the vehicle;

B. Placement of the vehicle or parts thereof upon jacks, blocks, chains, or other supports;

C. Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon any street or highway;

D. Placement of the vehicle on the premises of vehicle repair facility with one or more flat tires.

5-803 GENERAL REQUIREMENTS

Every person, firm, corporation or partnership owning or operating any auto repair facility within the City limits of Lansing shall comply with all of the following requirements:

A. Unlawful storage. Except as provided in section 3(b), it shall be unlawful for any person or agent, either as owner, lessee, tenant,

or occupant of any vehicle repair facility to park, store, or deposit, or permit to be parked, stored, or deposited thereon, an inoperable vehicle unless the vehicle is enclosed in a garage or other building.

B. Storage Limits. The maximum period of storage shall not exceed sixty (60) days for any vehicle not enclosed in a garage or other building. Under extreme circumstances where a vehicle cannot be repaired before the 60 day time limit, a thirty (30) day extension may be approved by the code enforcement officer. Every request for extension of time must be in writing, and clearly and concisely state the reasons for support of the request for an extension be received by the Code Enforcement Officer, at least ten (10) days prior to conclusion of the 60 day limit. An extension of time form can be obtained from City hall.

C. Open Fires. No fires for the burning of rubbish, trash, automobiles, or any parts thereof, or other waste matters, shall be permitted.

D. Crushing and removing stored vehicles. No vehicles shall be permitted to be crushed on the premises of any vehicle repair facility.

5-804 COMPLIANCE INSPECTIONS

Each vehicle repair facility within the city of Lansing, may be inspected randomly for code compliance of all vehicles on the property. The Code Enforcement Officer, or other City official, may record the date of the inspection along with the make and license number of each vehicle on the property. This inspection, and recording of information, may be used to monitor the time each vehicle remains on the vehicle repair facility. In addition, this inspection will assure each vehicle is within City codes regarding license and being operational. After the inspection, a copy of the collected information may be provided to that vehicle repair facility.

5-805 PENALTY

Any person, firm, corporation or partnership violating any provision of this article shall be fined not less than one hundred fifty ($150.00) nor more than five hundred ($500.00) dollars and a separate offense shall be deemed to be committed on each day during or on which a violation shall continue.

ARTICLE 9. BATH HOUSES; MASSAGE ESTABLISHMENTS; TATTOO AND/OR BODY PIERCING ESTABLISHMENTS

5-901 DEFINITIONS

A. Bath House. The term "bath house," as used in this article, shall refer to the occupation of maintaining and operating for compensation any services of baths of all kinds, including all forms and methods of hydrotherapy.

B. Body Painting Studios. The term "body painting studios," as used in this article, shall refer to the occupation of maintaining, operating and offering any services for compensation of applying paint or other substance, whether transparent or non-transparent, to or on the human body when such body is wholly or partially nude, by any means of application, technique, or process.

C. Body Piercing. The term “body piercing” as used in this article, shall refer to the means of puncturing the skin of a person by aid of needles or other instruments designed or used to puncture the skin for the purpose of inserting jewelry or other objects in or through the human body, except puncturing the external part of the human ear which shall not be included in this definition.

D. Employee. The term "employee" shall refer to any person, other than masseurs or masseuses, who renders any service to a permittee under this article, who receives compensation from the permittee or patron.

E. Massage. Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.

F. Massage establishment. Any establishment having a place of business where any person, firm, partnership, association, or corporation engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in subsection (E) for compensation.

G. Masseur or masseuse. Any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.

H. Modeling studios. The term "modeling studios," as used in this article, shall refer to the occupation of maintaining, operating and offering any services for compensation of modeling for the purpose of reproducing the human body, wholly or partially in the nude, by means of photograph, painting, sketching, drawing or otherwise. To be included within the definition of modeling studios is the occupation or practices for compensation of offering one's body, wholly or partially in the nude, for the purpose of having designs of whatever nature applied thereto by whatever process or technique with any kind of substance whether it be transparent or non-transparent.

I. Off-Premise Massage Therapy. Any activities mentioned in subsection (E) performed outside of a licensed massage establishment as defined in subsection (D).

J. Patron. The term "patron" means any person over 18 years of age who utilizes or receives the services of any establishment subject to the provisions of this article and under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefore.

K. Recognized school. Any school or institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a resident course of study not less than 70 hours to be given in not more than three calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such.

L. Tattoo. The term “tattoo” means the indelible mar, figure, or decorative design introduced by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being.

M. Tattooing. The term “tattooing” refers to the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin so as to form indelible marks for cosmetic or figurative purposes.

5-902 PERMIT REQUIRED

No person, firm, partnership, association or corporation shall operate a bath house, massage establishment, body painting studio or modeling studio, as defined herein, without first having obtained a permit therefore issued by the City Clerk and approved by the Chief of Police and the Community Development Division of Public Works. A separate permit shall be required for each and every separate place of business conducted by any one permittee. Such permit shall be valid for a period of one year.

5-903 EMPLOYEE PERMIT REQUIRED

No person shall be employed as an attendant, masseur, masseuse, model or as an employee of any kind in any establishment subject to the provisions of this article, unless he or she has a valid employee's permit issued by the City pursuant to the provisions of this article. No massage therapist may provide off-premise massage therapy unless he or she has a valid employee's permit issued by the City pursuant to the provisions of this Article.

5-904 APPLICATION FOR BUSINESS PERMIT; FEES

A. Every applicant for a permit to maintain, operate or conduct any such establishment shall file an application with the City Clerk and pay an annual filing fee to the City Clerk based on the current fee schedule, which shall not be refundable or pro-rated.

B. The application for a permit to operate any such establishment shall set forth the exact nature of the services to be provided, the proposed place of business and facilities therefore, and the name, address, and telephone number of each applicant, including any stockholder holding more than 10% of the stock of the corporation, any partner, when a partnership is involved, and any manager.
In addition to the foregoing, any applicant for a permit shall furnish the following information:

1. Written proof that the applicant is at least 18 years old;

2. Two portrait photographs at least two inches by two inches, and fingerprints;

3. Business, occupation, or employment of the applicant for the three years immediately preceding the date of application;

4. The massage, bath house, modeling studio, and body painting studio business license history of the applicant; whether such person, in previously operating in this or another City or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;

5. Any criminal convictions, except minor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and the circumstances thereof;

6. Authorization for the City of Lansing, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

7. If the applicant is a corporation or limited liability company, a current certificate of registration issued by the Kansas Secretary of State.

5-905 APPLICATION FOR EMPLOYEE PERMITS; FEES

Any person employed to perform any services in a massage establishment, bath house, modeling studio, or body painting studio, or providing off-premise massage therapy as defined herein, shall file a written application with and pay an annual filing fee to the City Clerk of $50, which shall not be refundable or pro-rated.

The application for an employee permit shall contain the following:

A. Name, address, and telephone number;

B. Two portrait photographs at least two inches by two inches;

C. Applicant's weight, height, color of hair and eyes, and fingerprints;

D. Written evidence that the applicant is at least 18 years old;

E. Business, occupation, or employment of the applicant for the three years immediately preceding the date of application;

F. Whether such person has ever been convicted of any crime except minor traffic violations. (If any person mentioned in this subsection has been so convicted, a statement must be made

giving the place and court in which the conviction was obtained and the sentence imposed as a result of such conviction.)

G. The business name and position or function the applicant is being hired to perform within such establishment, if applicable;

H. Authorization for the City of Lansing, its agents, and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

5-906 EDUCATION REQUIREMENTS

Any person, including an applicant for a massage establishment permit, who engages or intends to engage in the practice of massage as herein defined, shall upon making application for a permit, supply the name and address of the recognized school attended, the date attended and a copy of the diploma or certificate of graduation awarded the applicant showing the applicant has successfully completed any statutory requirements of instruction in the theory, method, or practice of massage and has obtained and/or maintained any required licensure.

5-907 ISSUANCE OF BUSINESS PERMIT

After the filing of an application in the proper form, the City Clerk and/or their designee, the Chief of Police and/or their designee, and the Community Development Superintendent and/or their designee shall examine the application, and after such examination, shall issue a permit for a massage establishment, bath house, modeling studio or body painting studio, unless or more of the following applies:

A. The correct permit fee has not been tendered to the City, and, in the case of a check or bank draft, honored with payment upon presentation;

B. The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the City's building, zoning, and health regulations;

C. The applicant, if an individual, or any of the stockholders holding more than 10% of the stock of the corporation, any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, have been convicted of any crime which would make any person ineligible to receive a

permit hereunder, unless such conviction occurred at least five years prior to the date of the application;

D. The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the City in conjunction therewith;

E. The applicant has had a massage establishment, bath house, body painting studio or modeling studio as defined herein, or other similar permit or license, denied, revoked or suspended for any of the above causes by the City or any other state or local agency within five years prior to the date of the application;

F. The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, is not over the age of 18 years;

G. The manager or other person principally in charge of the operation of the business would be ineligible to receive a permit under the provisions of this article.
Any permit issued under the provisions of this article shall at all times be displayed by the permittee in an open and conspicuous place on the premises where the permitted business is conducted.

5-908 ISSUANCE OF EMPLOYEE PERMIT

The City Clerk shall issue an employee permit within 21 days following application, unless he or she finds that:

A. The applicant for the employee permit has been convicted of a felony; an offense involving sexual misconduct with children; obscenity, keeping or residing in a house of ill fame, solicitation of a lewd or unlawful act, prostitution, or pandering;

B. The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the permit application or in any document required by the City in conjunction therewith;

C. That the correct permit fee has not been tendered to the City, and in the case of a check or bank draft, honored with payment upon presentation; and

D. In the case of a masseur or masseuse that the applicant has not successfully completed a resident course of study or learning

from a recognized school as required under the provisions of this article.

5-909 REVOCATION OR SUSPENSION OF BUSINESS PERMIT

A. Any permit issued for a massage establishment, bath house, modeling studio or body painting studio may be revoked or suspended by the Governing Body after a public hearing before the Governing Body where it is found that any of the provisions of this article are violated or where the permittee or any employee of the permittee, including a masseur or masseuse, has been convicted of any offense found in section 5-908 and 5-909 herein and the permittee has actual or constructive knowledge of the violation or conviction, or in any case, where the permittee or licensee refuses to permit any duly authorized police officer or health inspector of the City to inspect the premises or the operations therein.

B. The Governing Body, before revoking or suspending any permit, shall give the permittee at least 10 days written notice of the charges against him or her and the opportunity for a public hearing before the Governing Body, at which time the permittee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

5-910 REVOCATION OF EMPLOYEE PERMIT

A. An employee permit issued by the City Clerk shall be revoked or suspended after a public hearing before the chief of police, or his or her designated representative, where it appears that the employee has been convicted of any offense enumerated in section 5-904.

B. The chief of police, before revoking or suspending any employee permit, shall give the employee at least 10 day's written notice of the examination into his or her conviction record and the opportunity for a public hearing before the chief of police or his or her designated representative, at which hearing the relevant facts regarding the occurrence of the conviction shall be determined.

5-911 FACILITIES

No permit to conduct a massage establishment, bath house, modeling studio or body painting studio shall be issued unless an inspection by the Community Development Division or authorized representative

reveals that the establishment complies with each of the following minimum requirements:

A. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the business' operation shall be maintained in a clean and sanitary condition. Towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth or any area within any permitted establishment which is fitted with a door capable of being locked; however, these requirements shall not apply to tanning booths.

B. Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

C. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels. The health inspector shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the chief of police. Nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof.

5-912 INSPECTIONS; IMMEDIATE RIGHT OF ENTRY

The Police Department and/or Community Development Division of the City may from time to time make an inspection of each permitted establishment in this City for the purposes of determining that the provisions of this article are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer immediate access to the premises or to hinder such officer in any

manner. Any failure on the part of any permittee or employee to grant immediate access to such inspector shall be grounds for the revocation or suspension of any business or employee permit.

5-913 OPERATION REGULATIONS

The operation of any bath house, massage establishment, modeling studio, or body painting studio shall be subject to the following regulations:

A. Such business shall be closed and operations shall cease between the hours of 10:00 p.m. and 6:00 a.m. each day;

B. It shall be unlawful for customers of opposite sex to receive treatment in the same room or the same quarters at the same time;

C. No alcoholic beverages or cereal malt beverages, nor the consumption thereof, shall be allowed, permitted or suffered to be done in or upon any premises permitted under the provisions of this article;

D. All operators permitted under the provisions of this article shall at all times be responsible for the conduct of business on their permitted premises and for any act or conduct of his or her or any of his or her employees which constitutes a violation of the provisions of this article. Any violation of the City, state or federal laws committed on the permitted premises by any such permittee or employee affecting the eligibility or suitability of such person to hold a license or permit may be grounds for suspension or revocation of same;

E. Every portion of a permitted establishment, including appliances and personnel shall be kept clean and operated in a sanitary condition;

F. All employees shall be clean and wear clean outer garments which use is restricted to the permitted establishment. Provisions for a separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing;

G. All employees, masseurs and masseuses must be modestly attired. Diaphanous, flimsy, transparent, form-fitting or tight clothing is prohibited. Clothing must cover the employees',

masseurs' or masseuses' chests at all times. Hemlines of skirts, dresses or other such attire may be no higher than the top of the knee;

H. The private parts of patrons must be covered by towels, cloths or undergarments when in the presence of an employee, masseur or masseuse. Any contact with a patron's genital area is strictly prohibited;

I. All permitted establishments, when applicable, shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in approved, sanitary manner; and

J. Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.

5-914 LIMITATIONS ON OFF-PREMISES MASSAGE AT RESIDENTIAL LOCATIONS

The operation of any Off-Premise Massage Therapy at residential locations shall be subject to the following regulations:

A. Massage Therapy performed at a patron’s residence is limited to the hours between 6:00 am and 10:00 pm.

B. No service shall be given which is clearly dangerous or harmful in the opinion of the Director of the County Department of Health to the safety or health of any person, after such notice in writing to the licensee from such director;

C. All businesses licensed under the provisions of this chapter shall at all times be responsible for the conduct of any Massage Therapist and any act which constitutes a violation of the provisions of this chapter; any violation of the City, state, or federal laws committed by any such licensee or Massage Therapist affecting the eligibility or suitability of such person to hold a license may be grounds for suspension or revocation of the Massage Therapist License or Massage Business License;

D. All Massage Therapists shall be clean and wear clean outer garments which use is restricted to the licensed Massage Business.

E. All Massage Therapists must be modestly attired; diaphanous, flimsy, transparent, form fitting, or tight clothing is prohibited;

clothing must cover the Massage Therapists' chests at all times; hemlines of skirts, dresses, or other such attire may be no higher than the top of the knee;

F. The private parts of patrons must be covered by towels, cloths, or undergarments when in the presence of a Massage Therapist; any contact with a patron's genital area is strictly prohibited;

5-915 LIMITATIONS ON OFF-PREMISE MASSAGE THERAPY AT BUSINESS LOCATIONS

The authority granted to a licensee for massage at a business location other than a massage establishment must be permitted by the owner or manager of such business. Massage Therapy at a business location other than a massage establishment is limited to the area above the patron's waist and patrons must remain fully clothed.

A. Massage Therapy performed at a business location is limited to the hours between 6:00 am and 10:00 pm.

B. No service shall be given which is clearly dangerous or harmful in the opinion of the Director of the County Department of Health to the safety or health of any person, after such notice in writing to the licensee from such director;

C. All businesses licensed under the provisions of this chapter shall at all times be responsible for the conduct of any Massage Therapist and any act which constitutes a violation of the provisions of this chapter; any violation of the City, state, or federal laws committed by any such licensee or Massage Therapist affecting the eligibility or suitability of such person to hold a license may be grounds for suspension or revocation of the Massage Therapist License or Massage Business License;

D. All Massage Therapists shall be clean and wear clean outer garments which use is restricted to the licensed Massage Business;

E. All Massage Therapists must be modestly attired; diaphanous, flimsy, transparent, form fitting, or tight clothing is prohibited; clothing must cover the Massage Therapists' chests at all times; hemlines of skirts, dresses, or other such attire may be no higher than the top of the knee.

5-916 SUPERVISION

A permittee shall have the premises supervised at all times while

massages are being performed (Any business rendering on-site massage services shall have one person who qualifies as a masseur or masseuse on the premises at all times while such massage services are being performed). The permittee shall personally supervise the business and shall not violate or permit others to violate, any applicable provision of this article. The violation of any such provision by any agent or employee of the permittee shall constitute a violation by the permittee.

5-917 EMPLOYEE AND PATRON REGISTERS

A. All operators permitted under the provisions of this article shall keep and maintain on their premises a current register of all their employees showing such employee's name, address and permit number. Such register shall be open to inspection at all reasonable times by any health inspector or members of the City's Police Department or Community Development Division.

B. Every person who engages in or conducts a permitted establishment shall keep a daily register, approved as to form by the police department, of all patrons, with names, addresses, and hours of arrival and, if applicable, the rooms or cubicles assigned. Said daily register shall at all times during business hours be subject to inspection by City health officials and by the Police Department and shall be kept on file for one year.

5-918 PERSONS UNDER AGE EIGHTEEN YEARS OLD PROHIBITED IN BATHHOUSE

No person shall permit any person under the age of 18 years to come or remain on the premises of any permitted business establishment, as masseur, employee or patron, unless such person is on the premises on lawful business or accompanied by a parent or legal guardian.

5-919 ADVERTISING

No establishment granted a permit under provisions of this article shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than those services as described in section 5-901, or that employees, masseurs or masseuses are dressed in any manner other than described in section 5-914, nor shall any establishment indicate in the text of such advertising that any service is available other than those services described in section 5-901.

5-920 TRANSFER OF PERMITS; OTHER LICENSES AND FEES

A. No massage business, bath house, modeling studio, body painting studio or employee permits are transferable, separate or divisible, and such authority as a permit confers shall be conferred only on the permittee named therein.

B. Any applications made, fees paid and permits obtained under the provisions of this article shall be in addition to and not in lieu of any other fees, permits or licenses required to be paid or obtained under any other ordinances of this City.

5-921 APPLICABILITY TO EXISTING BUSINESSES

A. The operators of any existing massage establishment, bath house, modeling studio or body painting studio are required to comply with all provisions of this article within 90 days of the effective date of Ordinance No. 212.

B. Applicants for a masseur or masseuse permit may substitute one years' continuous experience as a masseur or masseuse in lieu of the requirement of a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method and work of massage is taught. Such masseur or masseuse must obtain an affidavit attesting to such experience from the owner of the establishment where the continuous year of experience occurred.

5-922 EXCEPTIONS

The provisions of this article shall not apply to hospitals, nursing homes, sanitariums or persons holding an unrevoked certificate to practice the healing arts under the laws of State of Kansas, or persons working under the direction of any such persons or in any such establishment, nor shall this article apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by this state.

5-923 FURTHER REGULATIONS

The Chief of Police or the health inspector, may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with but to carry out, the intent of this article.

5-924 PENALTY

Any person, firm corporation or partnership violating any provision of this article shall be fined not less than one-hundred ($100) nor more than five-hundred ($500) dollars and a separate offense shall be

deemed to be committed during or each day on which a violation shall continue.

5-925 REGULATIONS FOR TATTOO AND/OR BODY PIERCING ESTABLISHMENTS

A. No person shall perform body piercing or tattooing on or to any person under 18 years of age without prior written and notarized consent of the parent or court appointed guardian of such person and the person giving such consent must be present during the body piercing or tattooing procedure. The written permission and a copy of the letters of guardianship when such permission is given or granted by a guardian, shall be retained by the person administering such body piercing or tattooing for a period of five years.

B. No person, including a permanent color technician and tattoo artist, shall perform tattooing, display a sign, or in any other way advertise or purport to be a permanent color technician and tattoo artist unless that person holds a valid license issued by the Kansas State Board of Cosmetology. No person shall perform body piercing, display a sign, or in any other way advertise or purport to be in the business of body piercing unless that person holds a valid license issued by the Kansas State Board of Cosmetology.

This does not prevent or affect the use of tattooing, permanent color technology or body piercing by a physician, a person under the control and supervision of a physician, a licensed dentist, a person under the control and supervision of a licensed dentist, an individual performing tattooing, permanent color technology or body piercing solely on such individual's body or any other person specifically permitted to use electrolysis or tattooing by law.

ARTICLE 10. ADULT RETAIL BUSINESS

5-1001 DEFINITIONS

For the purposes of this section and unless the context plainly requires otherwise, the following definitions are adopted:

A. The definition of "Adult Retail Business" includes but is not limited to any and all of the following specific adult businesses, as defined herein:

1. Businesses that offer merchandise for sale or rent.

B. "Adult Media Outlet" means a business engaging in the barter, rental or sale of items consisting of books, magazines, periodicals, other printed matter, pictures, slides, records, audiotapes, videotapes, compact discs, motion pictures, films or other media, if such business is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".

1. For purposes of this section, it shall be presumed that a "substantial or significant" portion of a business is devoted to the sale or rental of such items if any one or more of the following criteria are satisfied:

a) fifty percent or more of the sales, measured in dollars over any consecutive ninety-day period, is derived from such items;

b) fifty percent or more of the number of sales transactions, measured over any consecutive ninety-day period, is of such items;

c) fifty percent or more of the dollar value of all merchandise displayed at any time is attributable to such items;

d) fifty percent or more of all inventory consists of such items at any time;

e) fifty percent or more of the merchandise displayed for sale consists of such items at any time;

f) fifty percent or more of the stock in trade consists of such items at any time;

g) fifty percent or more of the floor area of the business (not including storerooms, stock areas, bath rooms, basements or any portion of the business not open to the public) is devoted to such items at any time. This presumption shall be rebuttable.

C. "Adult News Rack" means any coin- or card-operated device that offers for sale by dispensing printed material which is distinguished or characterized by its emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

D. "Adult Retail Business" means a business which offers for sale or rent instruments, devices, gifts or paraphernalia which are assigned or marketed in connection with specified sexual activities, clothing that graphically depicts specified anatomical areas or any of the materials sold or rented in an "adult media outlet" as defined above, if a substantial or significant portion of such items are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas." For purposes of this subsection, the presumptions relative to what constitutes a substantial or significant portion of a business set forth in the definition of "adult media outlet" shall apply hereto. In determining whether an item is "designed or marketed for use" in connection with specified sexual activities, the following guidelines may be considered:

1. expert testimony as to the principle use of the item;

2. evidence concerning the total business of a person or business establishment and the type of merchandise involved in the business;

3. national and local advertising concerning the use of the item;

4. evidence of advertising concerning the nature of the business establishment;

5. instructions, graphics or other material contained on the item itself or on the packaging material for the item;

6. the physical or structural characteristics of the item;

7. the manner in which the item displayed, including its proximity to other regulated merchandise or signage relating to items in a display area.

Any person may request an interpretive ruling from the Chief of Police, or his or her designee, as to whether a particular item is considered by the City to be "designed or marketed for use" in connection with specified sexual activities. An application for an interpretive ruling shall be made in writing on a form provided by the Chief of Police, and shall be accompanied by such other information as may reasonably be requested under the circumstances pertaining to the specific item about which a ruling is requested. The Chief of Police shall issue a written interpretive ruling within ten business days following submission of a completed application. The decision of the Chief of Police may be appealed to the Governing Body within fifteen days following the interpretive ruling by submitted a written notice of appeal to the City Clerk.

E. "Employee" means any and all persons, including managers, employees and independent contractors, who work in or at or render any services directly related to the operation of an adult retail business.

F. "Manager" means any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity at any adult retail business.

G. "Minor" means any person less than eighteen years of age.

H. "Operate" means to own, conduct or maintain the affairs of an adult business.

I. "Operator" means any person owning, operating, conducting or maintaining an adult business.

J. "Patron" means any person who enters an adult retail business without regard to whether a purchase is made from the adult business or compensation is paid to the adult business or any employee of the adult business for merchandise, or service, provided that the term patron

shall not include persons who enter an adult business for the sole purpose of providing service or merchandise to the adult business and who do not remain in the adult business after the purpose has been accomplished including, but not limited to, persons performing construction, repair or maintenance on the premises or delivering goods or merchandise to the adult business and any such similar activity.

K. "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, joint venture, government entity, or other entity or group of persons, however organized.

L. "Specified anatomical areas" mean:

1. Uncovered or exposed human genitals, pubic region or pubic hair, buttocks, female breast or breasts below a point immediately above the areola encircling the nipple, or any combination of the foregoing; or

2. Human male genitals in a discernibly erect state, even if completely and opaquely covered.

M. "Specified sexual activities" mean: sexual conduct, including actual or simulated acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female; or any sadomasochistic abuse or acts involving animals or any latent objects in an act of apparent sexual stimulation or gratification.

5-1002 UNLAWFUL OPERATIONS

It shall be unlawful for any person to operate or maintain an Adult Retail Business in the City unless the owner, operator or lessee thereof has obtained a license from the City, or to operate such business after such license has been revoked or suspended by the City.

It shall be unlawful for any employee, manager, operator or owner to knowingly perform any work or service directly related to the operation of an unlicensed Adult Retail Business.

5-1003 LICENSE REQUIRED FOR ADULT RETAIL BUSINESS

A. The failure to post an adult business license in the manner required herein shall be prima facie evidence that an adult retail business has not obtained such a license. In addition, it shall be prima facie evidence that any employee, manager or owner who performs any business, service or entertainment in an adult business in which an adult business license is not posted in the manner required herein had knowledge that such business is not licensed.

B. Any business that engages in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotapes, videotapes, compact discs, motion pictures, films or other media, if such business is not open to the public in general but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" shall be deemed to have consented to periodic entry into and inspection of the business premises by appropriate City officials and inspection by those officials of only those business records necessary for the limited purpose of determining whether such business enterprise is an "Adult Retail Business" as defined herein. This entry and inspection shall take place during hours when such business is open to the public, unless otherwise requested by the business, and shall not unreasonably interfere with the conduct of such business.

5-1004 LICENSE REQUIRED FOR MANAGERS, EMPLOYEES AND INDEPENDENT CONTRACTORS

It is unlawful for any person to work as an independent contractor, employee, or manager at an adult business without first obtaining a license to do so from the City, or to work as an independent contractor, employee or manager at an adult business after such person's license to do so has been revoked or suspended.

5-1005 LICENSE, CLASSIFICATION AND FEES

A. The license year for all fees required herein shall be from each January 1, through December 31. The application for a license shall be accomplished by payment in full of the fee stated herein, and no application shall be considered complete until such fee is paid.

B. All licenses shall be issued for a specific location and shall be nontransferable, and license fees shall be nonrefundable.

C. The classification of licenses and fees for each shall be as follows:

1. Adult business license fee is $500.00 per year;

2. Managers license fee is $50.00 per year;

3. Employee license fee is $20.00 per year;

4. Independent contractor license fee is $20.00.

5-1006 LICENSE LIMITED TO ONE IDENTIFIABLE TYPE OF ADULT USE

All adult retail business licenses shall be issued only for the one adult business use listed on the application. Any change in the type of adult use shall invalidate the adult retail business license and require the licensee to obtain a new license for the change in use. A separate license is required for each adult use.

5-1007 PROHIBITIONS

No person shall operate or maintain a sexually oriented massage shop, modeling studio, motion picture theater, or motion picture arcade booth within the City.

5-1008 SEXUALLY ORIENTED MEDIA STORE

Within any Adult Retail Business, no sexually oriented media store shall be allowed to operate, sell, rent or conduct business unless it prohibits the admittance of persons under the age of 18 into the place of business or provides a clear physical separation within the store between sexually oriented media and media which is not sexually oriented.

5-1009 LICENSE APPLICATIONS

A. Adult Retail Business License. All persons desiring to secure a license to operate an adult business as required herein shall make a verified application with the City Clerk. All applications shall be submitted in the name of the person who owns the adult business. The application shall be signed by the applicant. If the applicant is a corporation, the application shall be signed by its President. If the applicant is a partnership, the application shall be signed by a partner. In all other instances where the owner is not an individual, where applicable, the application shall be signed by an authorized representative of the owner. The City Clerk may require proof of authorization before accepting an application. All applications shall be submitted on a form

supplied by the City Clerk and shall require all of the following information:

1. The name, residence address, home telephone number, occupation, date, place of birth and social security number of the applicant.

2. The tax identification number and registered agent if the owner is required to have a tax identification number or registered agent.

3. The name of the adult retail business, a description of the type of adult business to be performed on the licensed premises, and the name of the owner of the premises where the adult business will be located.

4. The names, residence addresses, social security numbers and dates of births of all partners, if the applicant is a partnership or limited liability partnership; and if the applicant is a corporation or limited liability company, the same information for all corporate officers and directors and stockholders or members who own more than 25% interest in the corporation.

5. A statement from the applicant whether the applicant, or any corporate officer or director, or stockholder, partner or member who owns more than 25% interest in such entity in previously operating in this or another City, county or state, has had an adult business license of any type revoked or suspended, and if so, the reason for the suspension or revocation and the business activity subjected to the suspension or revocation.

6. A statement from the applicant, all partners or each corporate officer and director that each such person has not been convicted of, or released from confinement for conviction of, or diverted from prosecution on, any felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of, or diverted from prosecution on, a misdemeanor, or released from confinement for conviction of a misdemeanor, whichever event is later, within two (2) years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography

or related offenses, or controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Statutes or municipal ordinances.
The statement shall also indicate that the applicant, each partner or each corporate officer and director has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.

7. If the applicant is a corporation or limited liability company, a current certificate of registration issued by the Kansas Secretary of State.

8. A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this ordinance regulating adult businesses. Failure to provide the information and documentation required herein shall constitute an incomplete application. The City Clerk shall notify the applicant whether or not the application is complete within 10 working days of the date the application is received by the City Clerk.

B. Manager, Employee or Independent Contractor License. All persons desiring to secure a license to be a manager, employee or independent contractor shall make a verified application with the City Clerk. All applications shall be submitted in the name of the person proposing to be a manager, employee or independent contractor. All applications shall be submitted on a form supplied by the City Clerk and shall require all of the following information:

1. The applicant's name, home address, home telephone number, date and place of birth, social security number, and any stage names or nicknames used.

2. If applicable, the name and address of each adult retail business where the applicant intends to work as a manager, employee or independent contractor.

3. A statement from the applicant that the applicant has not been convicted of, or released from confinement for

conviction of, or diverted from prosecution on, any felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of, or diverted from prosecution on a misdemeanor, or released from confinement for conviction of a misdemeanor, whichever event is later, within two (2) years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses, or controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Statutes or municipal ordinances.
The statement shall also indicate that the applicant has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.

4. The applicant shall present to the City Clerk, who shall copy, documentation that the applicant has attained the age of 18 years at the time the application is submitted. Any of the following shall be accepted as documentation of age:

   a) A motor vehicle operator's license issued by any state, bearing the applicant’s photograph and date of birth;

   b) A state-issued identification card bearing the applicant's photograph and date of birth;

   c) An official and valid passport issued by the United States of America;

   d) An immigration card issued by the United States of America;

   e) Any other form of picture identification issued by a governmental entity that is deemed reliable by the City Clerk; or

f) Any other form of identification deemed reliable by the City Clerk.

Failure to provide the information required herein shall constitute an incomplete application. The City Clerk shall notify the applicant whether or not the application is complete within ten (10) working days of the date the application was received by the City Clerk.

C. Application Processing. Upon receipt of an application for an adult business, manager, employee or independent contractor, the City Clerk shall immediately transmit one copy of the application to the Chief of Police for investigation of the application. In addition, the City Clerk shall transmit a copy of the application to the Public Works Director. It shall be the duty of the Chief of Police to investigate such application to determine whether the information contained in the application is accurate and whether the application meets the requirements herein for issuance of the license for which the application is made. The Chief of Police shall report the results of the investigation to the City Clerk not later than ten (10) working days from the date the application is received by the City Clerk. It shall be the duty of the Public Works Director to determine whether the structure where the adult business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, and fire and property maintenance ordinances of the City. The Public Works Director shall report the results of their investigation to the City Clerk not later than ten (10) working days from the date the application is received by the City Clerk. Upon receipt of the reports from the Chief of Police and the Public Works Director, the City Clerk shall schedule the application for consideration by the Governing Body at the earliest meeting consistent with the notification requirements established by law, provided the license application for an adult business, manager, employee or independent contractor license shall be approved or disapproved within thirty (30) days from the date the application is received by the City Clerk. The applicant shall be notified in writing of the date when the Governing Body will consider the application and shall be afforded an opportunity to be heard at that meeting.

5-1010 EXAMINATION OF APPLICATION, ISSUANCE OF LICENSE, DISAPPROVAL

A. The Governing Body shall examine an application for an adult retail business license or a manager, employee or independent contractor license within thirty (30) days of the date such application was received by the City Clerk. After such examination, the Governing Body shall approve the issuance of a license only if the appropriate license fee has been paid, applicant is qualified, and all the applicable requirements set forth herein are met. No license shall be approved for any person ineligible pursuant to the provisions herein. All incomplete applications shall be denied.

B. The record of the Governing Body shall show the action taken on the application, and if the license is granted, the Governing Body shall direct the City Clerk to issue the proper license. The adult retail business license and all manager, employee and independent contractor licenses shall state that it is not transferable to other persons or entities and the calendar year for which it is issued.

C. If an application for a license is disapproved, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address and the notification shall state the basis for such disapproval.

5-1011 LICENSE-INELIGIBILITY AND DISQUALIFICATION

No person is eligible nor shall a license be issued to:

A. An applicant for an adult retail business license if one or more of the following conditions exist:

1. The premises for which an application for an adult business has been made is located within 1000 feet of any school, church, licensed child care center, public park, or hospital which uses are located within the City limits. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the premises from which the adult business would be operated to the nearest point on the property line of any school, church, licensed day care center, public park or hospital which uses are located within the City;

a) provided further, the list of protected uses set forth herein shall exclude streets, alleys and highway rights-of-way;

b) provided further, any school, church or licensed day care center located within commercially zoned property pursuant to a special use permit shall not be included as a protected use.

2. The premises for which an application for an adult business has been made is located within 1000 feet of any other adult business for which there is a license issued by the City. Measurements shall be made in a straight line, without regard to an intervening structures or objects from the premises from which an adult business would be operated to the nearest point on the property line of such other adult business located within the City; provided the list of protected uses set forth herein shall exclude streets, alleys and highway rights-of-way;

3. The applicant knowingly failed to supply all of the information requested on the application;

4. The applicant knowingly gave materially false, fraudulent or untruthful information on the application;

5. The applicant's proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the City, provided, that upon a showing that the premises meets said requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the Governing Body;

6. The applicant has been convicted, released from incarceration for conviction or diverted on any of the crimes set forth herein during the time period set forth herein;

7. The applicant has had an adult business license or comparable license revoked or suspended in this or any other City during the past five (5) years; or

B. An applicant for a manager, employee or independent contractor license if one or more of the following conditions exist:

1. The applicant has been convicted, released from incarceration for conviction or diverted on any of the

crimes set forth herein during the time period set forth herein;

2. The applicant knowingly failed to provide all of the information required on the application;

3. The applicant knowingly gave materially false, fraudulent or untruthful information on the application;

4. The applicant has had a similar license revoked or suspended in this or any other City during the past five (5) years.

5-1012 STANDARDS OF CONDUCT

The following standards of conduct shall be adhered to by all adult retail businesses, their employees and all managers, and patrons of adult retail businesses, while on or about the premises of the business:

A. Identification Cards. All persons or any manager, employee or independent contractor issued a license by the City Clerk under the provisions contained herein shall, at all times when working in an adult business, have in their possession a valid identification card issued by the City, bearing the permit number, the employee's physical description and a photograph of such employee. Such identification cards shall be laminated to prevent alteration.

B. Age Restriction. Only persons 18 years of age or older shall be permitted on the premises of any adult entertainment business.

C. Exterior Observation. The premises of all adult businesses will be so constructed as to insure that the interior of the premises is not observable from the exterior of the building. In addition, all windows will be covered to prevent viewing of the interior of the building from the outside and all doorways not constructed with an anteroom or foyer will be covered so as to prevent observation of the interior of the premises from the exterior of the building.

D. Exterior Display. No adult retail business will be conducted in any manner that permits the observation of any material or persons depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein, from any exterior source by display, decoration, sign, show window or other opening.

E. Nudity Prohibited. No manager, employee, independent contractor or patron in an adult business shall appear nude, unclothed, in less than opaque attire or in any fashion that exposes to view any specified anatomical area.

F. Closed Booths or Rooms Prohibited. The premises of all adult retail businesses shall be physically arranged in such manner that the entire interior portion of any booths, cubicles, rooms or stalls is visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever.

G. Hours of Operation. No adult retail business may be open or in use between the hours of 2:00 a.m. and 9:00 a.m. on any day other than a Sunday when the business may not be open between the hours of 2:00 a.m. and 11:00 a.m.

H. Lighting required. The premises of all Adult Retail Businesses shall be equipped with overhead lighting of every place to which customers are permitted access, at an illumination of not less than one foot-candle, as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in or on the premises.

I. Ventilation and sanitation requirements. The premises of all adult retail businesses shall be kept in a sanitary condition. Separate rest rooms for men and women shall at all times be maintained and kept in a sanitary condition.

J. Certain Acts Prohibited.

1. No manager, employee or patron shall perform any specified sexual activities as defined herein, wear or use any device or covering exposed to view which simulates any specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities or participate in any act of prostitution as prohibited by state law or municipal ordinance while on the premises of an adult business.

2. All dancing or other live entertainment.

3. No owner, employee, or patron of an adult retail business while on the premises of said business shall knowingly touch, fondle or caress any specified anatomical area of

another person, or knowingly permit another person to touch, fondle or caress any specified anatomical area of such owner, employee, or patron, whether such specified anatomical areas are clothed, unclothed, covered or exposed.

4. No owner, operator, manager or other person in charge of the premises of an adult retail business shall:

   a) permit alcoholic liquor or cereal malt beverages to be brought upon the premises unless authorized to do so by a properly issued and current drinking establishment or cereal malt beverage license;

   b) allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;

   c) allow or permit any person under the age of eighteen (18) to be in or upon the premises of an adult entertainment business;

   d) allow or permit any act of prostitution or patronizing prostitution on the premises, as prohibited by state law or municipal ordinance; or

   e) allow or permit a violation of this ordinance or any other City ordinance provision or state law.

The Building Inspector shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the City Clerk. Provided, however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof. The appropriate City official may recommend the issuance of a license contingent upon the compliance with any requirements in this section or other City ordinances.

5-1013 LICENSE - POSTING OR DISPLAY

A. Every person licensed as an adult retail business shall post such license in a conspicuous place and manner on the adult business premises.

B. Every person holding a manager, employee or independent contractor license shall post his or her license in his or her work area on the adult business premises so it shall be readily available for inspection by City authorities responsible for enforcement of this ordinance.

5-1014 MANAGER ON PREMISES

A. A manager shall be on duty at all adult retail businesses at all times the premises are open for business. The name of the manager on duty shall be prominently posted during business hours.

B. It shall be the responsibility of the manager to verify that any person who works within the premises possesses a current and valid license and that such licenses are prominently posted. It shall also be the responsibility of the manager to insure minors do not enter upon the premises of an adult retail business.

5-1015 INSPECTORS AND INSPECTIONS

All adult businesses shall permit representatives of the police department or any other City official acting in their official capacity to inspect the premises as necessary to insure the business is complying with all applicable regulations and laws.

5-1016 SUSPENSION, REVOCATION, OR NONRENEWAL – LICENSE

Whenever the City Clerk has information that:

A. The owner or operator of an adult retail business or a holder of a license has violated, or knowingly allowed or permitted the violation of, any of the provisions of this ordinance; or

B. There have been recurrent violations of provisions of this ordinance that have occurred under such circumstances, that the owner or operator of an adult business knew or should have known that such violations were committed; or

C. The adult retail business license or a license for a manager, employee, independent contractor license was knowingly obtained through false statements in the application for such license, or renewal thereof; or

D. The adult retail business license or the manager, employee or independent contractor licensee knowingly failed to make a complete disclosure of all information in the application for such license, or renewal thereof; or

E. The owner or operator, or any partner, or any corporate officer or director holding an adult retail business license has become disqualified from having a license by a conviction as provided herein; or

F. If the holder of a manager, employee or independent contractor license has become disqualified from having a license by a conviction as provided herein, then the City Clerk shall make this information known to the Governing Body, which, upon five (5) days written notice to the person holding the license, shall conduct a public hearing to determine whether the license should be suspended or revoked. Based on the evidence produced at the hearing, the Governing Body may take any of the following actions:

1. Suspend the license for up to ninety (90) days;

2. Revoke the license for the remainder of the license year; or

3. Place the license holder on administrative probation for a period of up to one year, on the condition that no further violations of the ordinance occur during the period of probation. If a violation does occur and after a hearing the violation is determined to have actually occurred, the license will be revoked for the remainder of the license year.

5-1017 RENEWAL

A. A license may be renewed by making application to the City Clerk on application forms provided for that purpose. Licenses shall expire on December 31 of each calendar year, and renewal applications for such licenses shall be submitted on or before December 1 of each calendar year.

B. Upon timely application and review as provided for a new license, a license issued under the provisions of this ordinance shall be renewed by issuance of a new license in the manner provided herein.

C. If the application for renewal of a license is not made during the time provided herein, the expiration of such license shall not be affected, and a new application shall be required.

5-1018 PENALTY

It shall be unlawful for any person to violate any of the provisions of this ordinance. Upon conviction thereof, such person shall be fined not less than $100.00 nor more than $500.00, or be punished by incarceration for up to six (6) months, or by both such fine and incarceration. Each day's violation of, or failure, refusal or neglect to comply with, any provision of this ordinance shall constitute a separate and distinct offense.

5-1019 REGULATIONS

The City Clerk shall have the power to promulgate regulations as may be necessary and feasible for the carrying out of the duties of his/her office and which are not inconsistent with the provisions of this ordinance.

5-1020 SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance, or the application thereof to any circumstances, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance.

5-1021 APPLICATION TO EXISTING BUSINESSES

A. The provisions of this ordinance shall apply to all adult businesses existing on the effective date of this code as well as to all adult businesses established after the effective date of this code.

B. Any adult business lawfully operating that does not comply with the provisions herein shall be deemed a nonconforming business. The nonconforming business will be permitted to continue for a period not to exceed six (6) months, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming businesses shall not be increased, enlarged, extended or altered except that the business may be changed to a conforming business. If two (2) or more adult businesses are within 1000 feet of one another and otherwise in a permissible location, the adult business which was first established and continually operating at a particular location is the conforming business and any later established business is nonconforming.

C. An adult retail business lawfully operating as a conforming business is not rendered nonconforming by the location, subsequent to the grant or renewal of the adult business license, of a school, church, licensed day care center, public park or hospital and within 1000 feet of the adult business. This provision applies only to the renewal of a valid license and does not apply when an application for a license is submitted after a license has expired or has been revoked.

D. Any nonconforming business may apply to the Governing Body for an extension of time beyond that date provided herein within which to terminate the nonconforming business or make the business conforming. No such extension of time shall be granted for a period longer than one (1) year after the termination date otherwise set forth herein and shall be granted only upon a showing of extreme hardship.

ARTICLE 11. RESERVED

ARTICLE 12. REMOVAL OF SERIAL NUMBERS

5-1201 SERIAL NUMBERS; REMOVING, ALTERING

No person shall destroy, remove, cover, conceal, alter, deface or cause to be destroyed, removed, covered, concealed, altered or defaced, the manufacturer's original number, or serial number or other distinguishing number or mark on any phonograph, radio or television receiver, combination thereof, radio device or accessory, outboard motor, piano or other article which bears a serial number attached by the manufacturer, with the intent to disguise such property when the person knows or has reason to know such property is stolen. Possession of any such articles shall be prima facie evidence of violation thereof.

5-1202 SALE OF ARTICLE AFTER REMOVAL OF SERIAL NUMBERS

No person shall sell, or offer for sale, any phonograph, radio or television receiver, combination thereof, radio device or accessory, outboard motor, piano or other article from which the manufacturer's original number, or serial number or other distinguishing number or mark has been removed or which has been destroyed, covered, concealed, altered or defaced, knowing or having reason to know such property to be stolen. The sale or offer for sale of any such articles shall be prima facie evidence of violation hereof.

5-1203 POSSESSION OF ARTICLE AFTER REMOVAL OF SERIAL NUMBERS

No person shall buy or in any manner receive, or have in his or her possession any article mentioned in this Article on which the manufacturer's original number, mark, serial number or other distinguishing number or mark has been destroyed, removed, covered, concealed, altered or defaced, with reason to believe the property to be stolen. Possession of any such articles shall be prima facie evidence of violation hereof.

5-1204 PENALTY, DISPOSITION OF PROPERTY

Any person who violates any of the provisions of this Article shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than $25 nor more than $500, or by imprisonment for a term not exceeding thirty (30) days, or by both fine and imprisonment. Property taken as evidence pending prosecution shall, after conviction, be retained by the police for such reasonable period of time as is necessary to locate the rightful

owner, and if such owner is not located after reasonable efforts, then the property shall be remarked and sold at public auction.

ARTICLE 13. PAWNBROKERS AND PRECIOUS METAL DEALERS

5-1301 DEFINITIONS

A. Pawnbroker: Any person who loans money on deposit or personal property or other valuable thing, other than intangible personal property, or who deals in the purchase of personal property on the condition of selling the same back again at a stipulated price. "Pawnbroker" does not include any person operating under the supervision of the state banking commissioner, credit union administrator or the consumer credit commissioner of this state.

B. Person: Any individual, firm, company, partnership, corporation, or association.

C. Precious Metal: Gold, silver, or platinum group metals or any used articles or other used personal property containing such metals, but shall not include coins purchased for their numismatic value rather than their metal content or ingots or other industrial residue or by-products composed of such metals purchased from manufacturing firms.

D. Precious Metal Dealer: Any person who engages in the business of purchasing precious metal for the purpose of reselling such metal in any form.

5-1302 LICENSING AND APPLICATION

No person shall engage or continue in business as a pawnbroker or precious metal dealer without first obtaining a license therefor.

A. Application for such license shall be in writing and shall state the full name and place of residence of the applicant; or if the applicant be a partnership, of each member thereof; or if a corporation or association, of each officer, shareholder or member thereof. The application shall include the address of the place(s) where the business is to be conducted, the hours of the day and days of the week during which the applicant proposes to engage in the business of pawnbroking or dealing in precious metals at each such place, and such other information as may be necessary to determine the applicant's qualifications for a license. Each applicant shall submit with his or her application:

1. A statement that he or she is the holder of a valid registration certificate issued by the Director of Revenue pursuant to K.S.A. 79-3608 for each place of business for which application for a license is made; and

2. A detailed inventory and description of all goods, wares, merchandise, precious metals or other property held in pledge or for sale at the time of the application at each place of business stated therein, indicating whether the same was received in pledge, purchased as secondhand merchandise, or precious metal purchased for resale.

3. The license application shall be in a form approved by the Attorney General. Each application shall be accompanied by a fee of $25.00 which shall be paid annually upon renewal of the license.

5-1303 QUALIFICATIONS

No license or any renewal thereof shall be granted to:

A. Any person who is not a citizen of the United States;

B. Any person who has not been an actual resident of the State of Kansas for at least two (2) years immediately preceding the date of his or her application;

C. Any person who has been convicted of or has pleaded guilty to a felony under the laws of this state, or any other state, of the United States, or shall have forfeited his or her bond to appear in court to answer charges for any such offense within the ten (10) years immediately prior to such person's application for a license;

D. Any person who has had his or her license revoked for cause under the provisions of this Article or any provision of state law relating to pawnbrokers;

E. Any person who is not at least twenty-one (21) years of age;

F. Any person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;

G. Any person who does not own the premises for which a license is sought, unless he or she has a written lease therefor for at least three-fourths (3/4) of the period for which the license is to be issued;

H. Any person whose spouse would be ineligible to receive a license hereunder for any reason other than age, citizenship, and residence requirements;

I. Any partnership, unless all of the partners shall be eligible to receive a license as an individual; and

J. A corporation, if any officer, manager, director or stockholder would be ineligible to receive a license as an individual.

5-1304 POSTING OF LICENSE

A license issued in accordance with Section 5-1302 shall be obtained for each place of business and such license shall be conspicuously posted in the place of business.

5-1305 CHANGE IN LOCATION OF PLACE OF BUSINESS; DUPLICATE LICENSE

Whenever a licensee shall change his or her place of business to another location within the City, he or she shall immediately give written notice to the City Clerk, who shall then issue a duplicate license which shall show, in addition, the change in location and the date thereof. The old license shall be returned to the Clerk as soon as the change in location has taken place.

5-1306 RECORD OF TRANSACTIONS

A. Every pawnbroker shall keep at his or her place of business a clean and legible register, and at the time of making a loan, shall enter in writing:

1. The date, duration, amount and charges of every loan made;

2. A full and accurate description of the property pledged; and

3. The name, age, residence, and driver's license or other personal identification number of the pledger.

B. Every precious metal dealer shall keep at his or her place of business a clean and legible register, and at the time of making a loan, shall enter in writing:

1. The date of the purchase;

2. A full and accurate description of each item purchased, including any identifying letters, numbers, or marks on the item; and

3. The name, age, residence and driver's license or other personal identification number of the seller.

The record required by this section shall be maintained by the pawnbroker or precious metal dealer at the place of business for not less than one year following the date of the transaction.

5-1307 REPORT OF PROPERTY PLEDGED OR PURCHASED; REQUIRED HOLDING PERIOD FOR PRECIOUS METAL

A. On or before Tuesday of each week, or at more frequent intervals if required by city ordinance or county resolution, every pawnbroker or precious metal dealer shall report the description of all property received in pledge or purchased as a pawnbroker or precious metal dealer during the preceding calendar week, in whatever quantity received. Such report shall include all property purchased as secondhand merchandise at wholesale, secondhand merchandise taken in for sale or possessed on consignment for sale and secondhand merchandise taken in trade. No such report need be made concerning property or merchandise acquired from another pawnbroker or precious metal dealer licensed in this state in a transaction involving the purchase or other acquisition from the other pawnbroker or precious metal dealer of the other pawnbroker's or dealer's stock in trade, or a substantial part thereof in bulk, where the other pawnbroker has made the reports required by this section with respect to such property or merchandise.

B. The report shall be submitted to the Chief of Police.

C. All reports made pursuant to this section shall comply with and be submitted in accordance with the terms of any

applicable city ordinances or county resolutions requiring such reporting.

D. Every precious metal dealer shall retain in the dealer's possession for a period of 10 days all precious metal purchased as a precious metal dealer, and such metal shall remain in the condition in which it was purchased. The ten-day period shall commence on the date that the appropriate police chief or sheriff receives the report of its acquisition in compliance with this section. If the police chief or sheriff has probable cause to believe that any precious metal reported by a dealer has been stolen, the police chief or sheriff may give written notice to the dealer to retain such metal for an additional period of 15 days. Upon such notice, the dealer shall retain such metal in an unaltered condition for the additional fifteen-day period unless the police chief or sheriff notifies the dealer in writing that the waiting period is terminated at an earlier time.

E. Reports made pursuant to this section shall be available for inspection only by law enforcement officers and county and district attorneys and their employees, for law enforcement purposes.

5-1308 LOANS SECURED BY PLEDGED GOODS

Every loan made by a pawnbroker or precious metal dealer for which goods are received in pledge as security shall be evidenced by a written contract, in ink, a copy of which shall be furnished to the borrower. The loan contract shall set forth the loan period, which shall be one (1) month, the date on which the loan is due and payable and the charges, and it shall clearly inform the borrower of his right to redeem the pledge during the redemption period of two (2) months after due date. Except as otherwise provided herein, the holder of any such contract shall be presumed to be the person entitled to redeem the pledge, and the pawnbroker shall deliver the pledge to the person presenting the contract, upon payment of the principal and charges.

Every pawnbroker shall retain in his possession, after the date on which the loan became due and payable, every article pledged to him for a redemption period of two (2) months. During such period, the borrower may redeem the pledged articles, upon payment of the principal and charges. It shall be unlawful for any pawnbroker to sell or transfer title or possession of any pledged property until the

expiration of such period of redemption.

If any pledged article is not redeemed within such redemption period, the pawnbroker shall become vested with all right, title and interest of the pledger, or his assigns, to such pledged article, to hold and dispose of as his own property. Any other provision of law relating to the foreclosure and sale of pledges shall not be applicable to any pledge, the title to which is transferred in accordance with this section.

5-1309 LOANS; INTEREST CHARGES, AMOUNTS, TERMS

A. No pawnbroker or precious metal dealer shall contract for, charge or receive directly or indirectly on or in connection with any transaction charges, whether for interest, storage, insurance, service fee, handling, compensation, consideration or expense which in the aggregate are greater than the charges provided and authorized by K.S.A. 16-719. Any other provisions of law relating to interest, storage and such charges shall not be applicable to any pawnbroker transaction made in accordance with K.S.A. 16-719.

B. Whenever any loan is made by a pawnbroker or precious metal dealer for which goods are received in pledge:

1. A charge may be added in an amount not to exceed 10% per month or 120% per annum of the amount advanced to the borrower; and

2. The amount of the loan shall not exceed $5,000.00.

C. The term of any loan made shall be one month. Loans may be extended or renewed by the payment of the charges herein provided monthly. The charges authorized herein shall be deemed to be earned at the time the loan is made and shall not be subject to a refund. No insurance charges or any other charges of any nature whatsoever shall be permitted.

5-1310 RECEIPTS

Every pawnbroker or precious metal dealer shall give to any person negotiating or leaving property with him a plainly written or printed ticket, having upon it a full and perfect copy of all the entries required by this Article to be kept in the register. No charge shall be made for such copy.

5-1311 INSPECTION OF REGISTER AND ARTICLES

The licensee's register shall, at all times, be kept open to the inspection of the Chief of Police or officers designated by him. Upon request of the Chief of Police, or other officers designated by him, the licensee must show and exhibit to such officers for inspection any article or articles purchased, taken or reviewed by him, and books, accounts, records, files, safes, and vaults as provided by K.S.A. 16-712. Officers shall have access during regular business hours to the place of business of any licenses for the purpose of periodically inspecting property pledged or purchased in the transaction of business of the licensee and records relating to those transactions to determine if the licensee is complying with the provisions of this Article.

5-1312 ABSOLUTE PURCHASE: REGISTRY AND INSPECTION

Every pawnbroker or precious metal dealer shall, in the absolute purchase of any personal property, enter the same in the register in the same manner as property received on pledge, and shall, for five (5) days after such purchase, keep the same at his or her place of business subject to inspection by the Chief of Police or other Police Officers, as fully and to the same extent as goods received on pledge.

5-1313 TRANSACTIONS IN PRECIOUS METALS

A precious metal dealer shall require of every person from whom the dealer purchases precious metal for resale:

A. Proof of identification; and

B. A signed statement saying that the seller is the legal owner of the precious metal or is an agent of the legal owner who is authorized to sell such metal and stating when, where, and in what manner such metal was acquired by the seller.

5-1314 STOLEN PROPERTY

When converted or stolen property has been pawned or sold to a precious metal dealer and the pawnbroker or dealer refuses to redeliver such property to the rightful owner upon demand and presentation of a bill of sale or other proper evidence of ownership by the owner, and legal action by the rightful owner to recover the property becomes necessary, the court may assess the pawnbroker or dealer for reasonable attorneys' fees incurred by the rightful owner if the court finds that the pawnbroker or dealer wrongfully withheld the converted or stolen property

5-1315 PURCHASES PROHIBITED

No pawnbroker or precious metal dealer or any person employed by or acting for him shall purchase, take or receive any article of property, of or from any intoxicated person, or any stolen property, or property which, from any cause, he may have reason to believe or suspect cannot be lawfully sold by the person offering it. It shall be unlawful for any pawnbroker or precious metal dealer or any person in any other kind of business which includes the purchasing of used personal property to purchase from any person, under the age of 18 years, any goods, wares, or merchandise of any kind or description.

5-1316 PENALTY

The violation of any provision of this Article shall be a class B misdemeanor.

ARTICLE 14. FOOD SERVICES REGULATIONS

5-1401 SEE KANSAS FOOD CODE: APPENDIX B

ARTICLE 15. ARBORIST – TREE TRIMMING

5-1501 LICENSE REQUIRED

No person shall engage in the business of cutting, trimming, pruning, removing, spraying or otherwise treating trees, within the City without first procuring a license therefor from the City Clerk. The application for such license shall specify the types of service for which the applicant desires to be licensed. Nothing contained in this Article shall be construed to prevent the owner or occupant from performing work on his or her own property.

5-1502 LICENSE

Every such license shall show upon its face the types of service in which the licensee therein named is licensed and authorized to render and perform.

5-1503 INSURANCE REQUIREMENT

No license shall be effective or be issued until the applicant or licensee shall present to the City Clerk a satisfactory public liability insurance policy covering all operations of such applicant or licensee in such business in the City in the sum of at least $50,000 per occurrence bodily injury liability insurance and at least $50,000 per occurrence, $100,000 aggregate limit property damage liability insurance. Should any policy be canceled, the City shall be notified of such cancellation within 10 days after such cancellation is effective.

A provision requiring such notice shall be incorporated in such policy. In the event any such policy at any time fails, in the opinion of the Director of Parks and Recreation or his or her designee, to comply with the provisions hereof or to afford reasonably satisfactory protection to the persons intended to be protected, such failure shall be grounds for revocation of any such license, or in the discretion of the Director of Parks and Recreation or his or her designee, grounds for the suspension thereof until the insurance required hereby be so furnished. It shall be unlawful for any person to engage in the business defined herein while his or her license is for any reason suspended or revoked.

5-1504 LICENSE FEE

The initial fee for every licensee to engage in this business shall be $60 for twelve (12) months, or $30 if the licensee is certified by the Kansas Arborist Association. The issuance of such license shall entitle and authorize the licensee to engage in only such types of service as

shown on the face of such license. It shall be unlawful and a ground for revocation of such license, for the licensee to engage in any or other different types of service constituting all or any part or parts of such business. Renewal of such license shall be based on the current fee schedule per twelve months. The initial fee for a license limited to dead tree removal from private property shall be $30 for twelve months, and $15 for renewal. Effective date of initial licenses shall be the first day of operation within the City.

5-1505 RULES AND REGULATIONS

The Director of Parks and Recreation or his or her designee may recommend for adoption reasonable rules and regulations governing those aspects of the conduct of the business defined in 5-1501 hereof and of any and all parts thereof, directly affecting the public health and safety and requiring the use of such safety appliances, apparatus and equipment as are reasonably necessary for the protection of the workmen engaged therein, and the public and private property and it shall be unlawful for any licensee hereunder to violate or fail, neglect or refuse to comply with any such rules or regulations. Such rules and regulations shall be adopted, amended and repealed by majority vote of the Government Body and shall be effective when filed with the City Clerk.

5-1506 NAME AND ADDRESS DISPLAYED

All automobiles, trucks, trailers or other vehicles operated by any licensee for the transportation of the equipment used by him or her in such business and all self-propelled, draw or tow equipment used by any licensee in such business shall have the name and address of such licensee displayed on both sides thereof in plain and legible figures and letters not less than three inches in height which shall be kept in such condition as to permit the same to be readily distinguished and read at a distance of at least sixty (60) feet. It shall be unlawful and a ground for revocation of his or her license for any licensee to operate any such vehicle or cause any such equipment to be operated or drawn or towed upon the streets, alleys or any public ways or places within the City unless or without the same being so displayed thereon.

ARTICLE 16. HOME-BASED BUSINESS

See Zoning Ordinance

ARTICLE 17. CHILD CARE LICENSE

See Zoning Ordinance

CHAPTER 6. ELECTIONS

Article 1. City Elections
Article 2. Board, Commission, or Advisory Group Appointments
Article 3. Wards

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 and be governed by the provisions of Charter Ordinance No. 1-2016 set out in Appendix C of this code. (K.S.A. 25-2101 *et seq.*)

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. (K.S.A. 25-2111, 25-206)

6-103 QUALIFICATIONS OF ELECTIVE OFFICERS

All officers elected shall be qualified electors of the City, and the removal from the City of any officer shall occasion a vacancy in such office. No person shall be eligible to any elective office unless he or she shall have been a resident of the City at least six months prior to the time of his or her election.

6-104 CITY OFFICERS; GENERAL ELECTION

City elections for Mayor and Council shall be non-partisan. The general election of City officers, when required, will be held on the Tuesday following the first Monday in November.

6-105 COUNCILMEMBERS ELECTIONS; TERMS

A Mayor shall be elected from the city at large, who shall hold office for four years and until a successor is elected and qualified. In cases of a vacancy occurring by reason of resignation, death, removal from office or when the mayor no longer resides in the City, the President of the Council will fill the vacancy until the next election for that position. The Mayor of the City shall receive such compensation as may be fixed by ordinance. In case of a vacancy occurring by reason of resignation, death, removal from office or when a Council Member no longer resides in the ward in which the Council Member has been elected, the mayor, by and with the consent of the remaining council members may appoint some suitable elector residing in such ward to fill the vacancy until the next election for that Council position. The Mayor may appoint

such other officers as are created by statute and/or ordinance, who shall hold their offices for a period of four years, unless sooner removed by the Mayor and Council. All officers of the City shall receive such compensation as may be fixed by ordinance.

6-106 COMMENCEMENT OF TERMS OF OFFICE; OATH OF OFFICE

A. The term of office for newly elected City officials shall commence on the second Monday in January of the year following the date of the election.

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.

6-107 ELECTION OF GOVERNING BODY

A. There shall be a primary election of City officers on the Tuesday preceding by five weeks the first Tuesday in August of every year that such City has a City election, except that a primary election shall only be held if needed to reduce the number of candidates for each office in the general election to no more than three candidates. No primary election of City officers shall be held unless by holding such primary two or more persons will be eliminated as candidates for office. In the event there are not more than three times the number of candidates as there are officers to be elected, the names of the candidates for such office shall not appear on the primary election ballots, and there shall be no primary election for such office, but the names of such candidates shall be placed on the general City election ballot. (K.S.A. 25-2108a??) The Mayor and members of the Governing Body shall hold their offices for a term of four years.

B. Candidates for the office of Mayor shall be at least 21 years of age on the date of the election and shall be a resident and qualified elector of and within the City. An election for the office of Mayor shall be conducted on the Tuesday following the first Monday in November every four (4) years, and the person so elected shall take office on the second Monday in January of the year following the date of the election. Candidates for Council Member shall be at least 18 years of age on the date of the election and shall be a resident and qualified elector of the Ward from which they stand for election. Should any person be

elected to the office of Mayor and thereafter move his or her place of domicile to outside the limits of the City, then such person shall cease to be Mayor and a vacancy shall be deemed to exist and said vacancy shall be filled as herein provided. In the event that any person elected to the Council should change their place of domicile to outside the Ward from which they were elected then a vacancy shall be deemed to exist for such position of Council Member and said vacancy shall be filled as herein provided.

C. In the event that a vacancy in the office of a Council Member should occur by reason of resignation, with or without acceptance by the Mayor, death, removal from office for cause, or change of residency to outside the Ward from which said Council Member was elected, the vacancy shall be filled in the following manner, if a clear successor cannot be produced by procedure set forth in Chapter 1 Section 1-201 of the City Code

1. In the event that the vacancy occurs more than 60 days prior to the filing deadline for the next regular Governing Body election, the City Clerk shall, within 10 days of the occurrence of the vacancy, cause notice of such vacancy to be published twice in the City's official newspaper after the vacancy occurs. The notice of the vacancy shall be in substantially the following form:

   "A vacancy exists in the position of Council Member from Ward No. ___. A special election will be held to elect a successor to fill the vacancy. Candidates for the position of Council Member must be at least 18 years of age on the date of the election and a resident and qualified elector of the Ward from which they stand for election. Anyone wishing to be a candidate for the remaining term which expires _____, 20____ should contact the City Clerk and obtain a Statement of Candidacy. In order to be a candidate, the Statement of Candidacy together with a filing fee of $20.00, or in lieu of such filing fee a petition signed by 50 qualified electors of the Ward or by at least one percent of the number of ballots cast in the Ward in the last general City election, whichever is less, must be filed with the County Clerk by _____, 20____. The City Clerk shall, within five days of the occurrence of the vacancy, notify the Election Commissioner that a special election will need to be held within the City and shall

obtain from the Election Commissioner a date for such election consistent with the time provided in Subparagraph 2 hereof.
Any person desiring to be a candidate must file the Statement of Candidacy and pay the filing fee or submit the proper petition by 5:00 p.m. on the 20th day following the first publication notice in the official City newspaper.

2. The City shall hold a special election for the purpose of electing a Council Member from among those persons who has properly filed a Statement of Candidacy as hereinbefore set forth. Such special election shall be held not less than 60 days nor more than 70 days following the date upon which such vacancy occurred. Only qualified electors within the Ward in which the vacancy occurred shall be entitled to vote. The candidate receiving the greatest number of votes upon certification of the results by the County Election Officer shall assume the position of Council Member at the first regular meeting of the Governing Body following certification of the election.

3. Failure to follow the precise procedure provided herein shall not invalidate the results of any election held hereunder.

4. In the event that the vacancy occurs less than 60 days prior to the filing deadline for the next regular Governing Body election, the vacancy shall not be filled prior to the next regular Governing Body election and the candidate receiving the greatest number of votes for the vacancy position at the next regular City Council election shall fill the vacancy for the remaining term.

5. If at any time there are more than two vacancies existing in the office of Council Member or in the event no person files a Statement of Candidacy as provided herein to fill the vacancy council position, the Mayor, upon the advice and consent of a majority of the remaining Council Members, shall appoint a suitable resident and qualified elector of the Ward in which said vacancy occurs to complete the unexpired term of office.

D. In the event of a vacancy occurring in any appointive office, the Mayor shall, by and with the consent of the Governing Body, appoint a person to fill the vacancy. Such appointment shall be

made within 60 days of the occurrence of such vacancy and the person so appointed shall serve for the remainder of the unexpired term. Any person so appointed shall meet the requirements of this ordinance applicable to such position.

E. No person shall hold or occupy more than one office of the City whether elective or appointive, at the same time.

F. In the event that a vacancy in the office of the Mayor should occur because of death, resignation, removal from office for cause, or change of residency to outside the limits of the City, then, if the President of the Council has not executed a non-candidacy statement as hereinafter set forth, he or she shall become the Mayor until his or her successor is elected as hereinafter provided. If the President of the Council has executed a non-candidacy statement, then the most senior Council Member (determined by most recent continuous time in office) who has not executed a non-candidacy statement shall serve as Mayor until his or her successor is elected. In the event there is not one Council Member who is the most senior then the Council shall choose the Mayor from among the most senior Council Members who have not executed non-candidacy statements. A successor to the Mayor shall be selected in the following manner, if the above guidelines do not produce a clear successor:

1. In the event that the vacancy occurs more than 60 days prior to the filing deadline for the next regular City Council election, the City Clerk shall, within 10 days of the occurrence of the vacancy, cause notice of such vacancy to be published twice in the City's official newspaper after the vacancy occurs. The notice of the vacancy shall be in substantially the following form:

   "A vacancy exists in the position of Mayor. A special election will be held to elect a successor to fill the vacancy. Candidates for the position of Mayor must be at least 21 years of age on the date of the election and a resident and qualified elector of the city of Lansing. Anyone wishing to be a candidate for the remaining term expiring _____, 20____ should contact the City Clerk and obtain a Statement of Candidacy. In order to be a candidate, the Statement of Candidacy together with a filing fee of $20.00 or in lieu of such filing fee, a petition

signed by 50 qualified electors of the City or by at least one percent of the number of ballots cast in the City in the last general City election, whichever is less, must be filed with the County Clerk by _____, 20____. The City Clerk shall, within five days of the occurrence of the vacancy, notify the Election Commissioner that a special election will need to be held within the city and shall obtain from the Election Commissioner a date for such election consistent with the time provided in (iii) hereof."

2. Any person desiring to be a candidate must file the Statement of Candidacy and pay the filing fee or submit the proper petition by 5:00 p.m. on the 20th day following the first publication notice in the official City newspaper.

3. The City shall hold a special election for the purpose of electing a Mayor from among those persons who have properly filed a Statement of Candidacy as hereinbefore set forth. Such special election shall be held not less than 60 days nor more than 70 days following the date upon which such vacancy occurred. Only qualified electors of the City shall be entitled to vote. The candidate receiving the greatest number of votes upon certification of the results by the County Election Officer shall assume the position of Mayor at the first regular meeting of the Governing Body following certification of the election.

4. Failure to follow the precise procedure provided herein shall not invalidate the results of any election held hereunder.

5. In the event that the vacancy occurs less than 60 days prior to the filing deadline for the next regular City election at which a Mayor would be elected, the procedure provided herein shall not apply and the candidate receiving the greatest number of votes for the position of Mayor at such regular City election shall succeed to the office of Mayor. The non-candidacy statement shall be in substantially the following form: "The undersigned Council Member of the City of Lansing hereby states that I will not be a candidate for the position of Mayor to fill the unexpired term caused by the vacancy in office of the Mayor occurring more than 60 days prior to the filing deadline for the next regular City election at which the Mayor would be elected." or if such vacancy has occurred

within 60 days of such filing deadline, “I will not be a candidate for the position of Mayor in the next regular city election at which a mayor would be chosen.” “I agree not to file a Statement of Candidacy for such position and further agree that any such statement filed by me or on my behalf shall be void and of no force or effect and that the Election Commissioner shall not include my name on any list of candidates for the position of Mayor at any election conducted under the provisions of the Lansing City Code, Chapter 6, Article 1, Section 6-107, Subsection (F).”

6-108 RECALL

The recall of elected City officers shall be handled as provided by K.S.A. 25-4318 et seq.

ARTICLE 2. BOARD, COMMISSION, OR ADVISORY GROUP APPOINTMENTS

6-201 MAYORAL APPOINTMENTS; CITY COUNCIL APPROVAL; TIME LIMITS; OTHER REQUIREMENTS.

Any appointment to any board, commission, advisory group or other body made by the Mayor which is subject to the approval of the City Council must be acted upon by the City Council within 45 days of the appointment by the Mayor or the appointment shall be deemed approved. The City Council shall approve such appointment unless the City Council makes a specific finding by the passage of a resolution that the person is either unqualified to hold the office or is not fit to hold the office or position.

6-202 REMOVAL OF COMMITTEE, COMMISSION, OR BOARD MEMBER

The Governing Body is the only authority that can remove a committee, commission, or board member from a board with the recommendation of the majority of the committee, commission, or board.

ARTICLE 3. WARDS

6-301 DIVISION OF CITY INTO WARDS AND PRECINCTS

The City of Lansing, Kansas, a City of the second class, shall be divided into four Wards, and precincts when necessary for election purposes, (see attached Ward Boundary Map), pursuant to the provisions of K.S.A. 14-103 and K.S.A. 14-207.

CHAPTER 7. FIRE

Article 1. Fire
Article 2. Fire Code
Article 3. Open Burning
Article 4. Fire Insurance Proceeds Funds
Article 5. Fireworks
Article 6. Blasting

ARTICLE 1. FIRE

7-101 ESTABLISHMENT OF FIRE DISTRICT NO. 1

Pursuant to the provisions of the laws of the State of Kansas and the laws of the City of Lansing, Kansas, and pursuant to the provisions of the Fire District Interlocal Agreement of November 6, 2003 between the City of Lansing, Leavenworth County, Delaware Township and High Prairie Township, there is hereby established within the City of Lansing, Kansas "Leavenworth County Fire District No. 1" with such responsibilities and duties as are established by law and contract.

7-102 CHIEF; POWERS; PENALTY FOR OBSTRUCTION

The Fire Chief shall have power and is hereby authorized to call assistance from any and all citizens who shall be present at the time of any fire or other emergency, in the operation of any portion or part of the fire apparatus of the City. All persons who shall refuse to follow the directions so given or shall disobey the orders of the Chief, or shall obstruct or hinder any person in his or her efforts while working under the instructions of the Chief, shall be guilty of a class C misdemeanor, punishable with a fine up to $500.00 and/or jail not to exceed one month.

7-103 POWERS OF OTHER EMPLOYEES

The Fire Chief and members of the fire department and Public Works Department Community Development Division employees shall have the powers of a police officer in performing their duties under this chapter. When requested to do so the Fire Chief and the Chief of Police are authorized to assign such available police officers as necessary to assist the fire department or public works in enforcing the provisions of this chapter.

7-104 PRIORITY TRAFFIC SIGNAL CONTROL SYSTEMS; PENALTY

The activation of any priority traffic signal controllers for emergency vehicles within the City Limits of Lansing is prohibited unless

authorized in writing by the Chief of Police. A violation of this ordinance is a Class C violation and may result in up to one month in jail and/or a fine of up to $500.

ARTICLE 2. FIRE CODE

7-201 ADOPTION OF THE INTERNATIONAL FIRE CODE

There is hereby adopted by the City of Lansing, Kansas, 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 International Fire Code, and all appendices thereto, being particularly the 2003 edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended. Not less than one copy of such Code and Standards shall be filed in the Office of the City Clerk of the City of Lansing, Kansas, and the same are hereby adopted and incorporated as if fully 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 of Lansing, Kansas

7-202 AUTHORITY TO ISSUE NOTICE TO APPEAR

Pursuant to the authority of Charter Ordinance No. 1-2016 (allows City employees to issue NTA), employees of the City of Lansing Public Works Department Community Development Division, and City of Lansing Law Enforcement Officers, shall have the authority to issue a Notice to Appear for alleged violations of the International Fire Code, and amendments thereto, as adopted and amended by law.

7-203 DUTIES REGARDING FIRE PREVENTION

A. The International Fire Code shall be enforced by Leavenworth County Fire District No. 1 personnel duly appointed and designated by the Chief of the Fire Department, City of Lansing Public Works Department, Community Development Division employees, and City of Lansing Law Enforcement Officers. Additionally, any fire related deficiency or violation noted that relates to the currently adopted building codes shall be forwarded to the Lansing Public Works Department Community Development Division.

B. The Chief of the department may detail or designate such members of the department as fire inspectors as from time to time may be necessary. When such designation is made, the Chief shall select such fire inspectors through an examination to determine their fitness for the position. The examination shall be open to members of the fire department.

C. The Chief is authorized to order an operation or use stopped or the evacuation of any premises, building, vehicle or property or portion thereof which has or is a fire hazard or a danger to life, welfare and safety of a person or the public.

D. Orders and notices issued or served as provided by this Code shall be complied with by the owner, operator, occupant or other person responsible for the condition or violation to which the order or notice pertains. In cases of extreme danger to persons or property, immediate compliance is required. If immediate compliance cannot be accomplished, then vacancy of the premises, building, vehicle or property or portion thereof may be required by the Fire Chief, Public Works Director, Community Development Superintendent or Police Chief.

7-204 DEFINITIONS

Wherever the word "jurisdiction" is used in the International Fire Code, it is City of Lansing, Kansas.

7-205 MINIMUM STANDARDS

This article, including the International Fire Code, as amended, shall constitute the minimum standards for the governing conditions hazardous to life and property from fire, hazardous materials or explosion.

7-206 AMENDMENTS TO THE INTERNATIONAL FIRE CODE

The International Fire Code, Edition 2003, is amended and changed to read as follows:

Section 101.1 shall be amended to read as follows:

Section 101.1 Title. These regulations shall be known as the Fire Code of City of Lansing, hereinafter referred to as “this code.”

Section 105.1.1 shall be amended to read as follows:

Section 105.1.1 Permits required. Permits required by this code, shall be obtained from the City of Lansing, Community Development Office. Permit fees, if any, shall be paid prior to issuance of the permit. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the City code official. However, Seasonal Fireworks Display permits shall be obtained from the Fire Chief or his designee at the Fire District No. 1 office.

Section 105.6 shall be amended by deleting the following subsections:

Section 105.6.12 Cutting and welding

Section 105.6.13 Dry cleaning plants

Section 105.6.23 High-piled storage

Section 105.6.26 Lumber-yards and woodworking plants

Section 105.6.31 Open Burning

Section 105.6.33 Open flames and candles

Section 105.6.35 Places of assembly

Section 105.6.39 Refrigeration equipment

Section 105.6.40 Repair garages and motor fuel-dispensing facilities

Section 105.6.46 Waste handling

Section 105.6.47 Wood products

Section 105.6 shall be amended by adding the following subsection:

Section 105.6.48 Cut natural or resin bearing tree. An operational permit is required to store, use or display any cut natural or resin bearings tree in a public building.

Subsection 107.6 shall be amended to add the following:

107.6 Overcrowding. Additionally, the chief, or his or her designee, may request the City of Lansing Department of Public Works Community Development employees, or the City of Lansing Law Enforcement Officers to issue a Notice to Appear, pursuant to Charter Ordinance No. 1-2016 (NTA), in the City of Lansing Municipal Court for alleged violations of the 2003 International Fire Code

Section 109.3 shall be amended to read as follows:

Section 109.3 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do

work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than $500 dollars or by imprisonment not exceeding 30 days, or both such fine and imprisonment. Each day that a violation continues after due notice (see 104.5 and 109.2.1) has been served shall be deemed a separate offense.

Section 111.2 shall be amended to add the following:

A copy of any violation or notice shall be provided to the office of the Community Development Superintendent.

Section 111.4 shall be amended to read as follows:

Section 111.4 Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than $100 dollars or more than $500 dollars.

Section 304.3.3 shall be amended to read as follows:

Section 304.3.3 Capacity exceeding 1.5 cubic yards. Dumpsters and containers with a capacity of 1.5 cubic yards (40.5 cubic feet) (1.15 m3) or more shall not be stored in buildings or placed within 10 feet (3m) of combustible walls, openings or combustible roof eave lines.

Section 307.2.1 shall be amended by adding the following subsection:

Section 307.2.1.1 Any recreational fire after sundown except for those in approved fire rings as provided in Section 305-B will require an approved permit from the Fire Chief or his designated employee.

Section 308.3.1 Open-flame cooking devices.

Exceptions:

1. Single Family Residence

2. Duplexes, one story in height

3. Multi-family dwelling units, one story in height

4. Buildings, balconies, and/or decks adequately protected by automatic sprinkler systems

Those fires conducted by City of Lansing or school district functions.
Section 308.1.1 Liquefied-petroleum-gas-fueled cooking devices.

Exceptions:

1. Single Family Residence

2. Duplexes, one story in height

3. Multi-family dwelling units, one story in height

Section 506.2 shall be amended to read as follows:

Section 506.2 Key box maintenance. The operator of the building shall immediately notify the fire code official and provide the new key when a lock is changed or re-keyed. The key to such lock shall be secured in the key box. The key box shall also be maintained in working order by the operator/owner/occupant of the building.

Section 508.2.1 shall be amended to read as follows:

Section 508.2.1 Private Fire Service Mains. Private fire service mains and appurtenances shall be installed in accordance with Nation Fire Protection Association current edition 24, and shall comply with American Water Works Association standards adopted by Lan-Del Water, Consolidated Water District #1, or Consolidated Water District #8, whichever has jurisdiction.

Section 508.5.5 Clear space around hydrants shall be amended to read as follows:

Section 508.5.5 Clear space around hydrants. A 3-foot (914mm) clear space shall be maintained around the circumference of fire hydrants except as otherwise required or approved. The hydrant will also be readily visible for fire department access from public roadway.

Section 804.1 shall be amended to add the following:

Section 804.1.4 Permit. All natural cut trees in all occupancies other than R-4 apartment house individual units and R-3 occupancies shall be required to obtain a permit as required by Section 105.6.48.

Section 903.3 NFPA 13R sprinkler systems shall be amended by adding the following subsections:

Section 903.3.8 Dry system air supply: The compressed air supply shall be from a source available at all times. The compressor will be hard wired into the electrical system and there will be no on-off switch for the compressor.

Section 905. shall be amended to read as follows:

905.3.4.1.1 Hose Requirements. Hose may be eliminated from the hose cabinet upon written permission of the Fire Chief.

905.5.3.1 Hose Requirements. Hose may be eliminated from the hose cabinet upon written permission of the Fire Chief.

Section 907.2 shall be amended to read as follows:

907.2.1 shall be amended by deleting the following, “having an occupant load of 300 or more.”

907.2.1 shall be amended by deleting the Exception

907.2.2 shall be amended by deleting the following, “having an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.”

907.2.2 shall be amended by deleting the Exception.

907.2.3 shall be amended by deleting Exception 1 and 2.

907.2.4 shall be amended by deleting the following,” that are two or more stories in height and have an occupant load of 500 or more above or below the lowest level of discharge.”

907.2.4 shall be amended by deleting the Exception.

907.2.7 shall be amended by deleting the following,” other than covered mall buildings complying with Section 402 of the *International Building Code*, having an occupant load of 500 or

more persons or more than 100 persons above or below the lowest level of exit discharge."

907.2.7 shall be amended by deleting the Exception.

907.2.8.1 shall be amended by deleting Exception 1 and 2.

907.4.1 shall be amended by deleting the Exception.

Section 1004.2 shall be amended to read as follows:

1004.2.1 Overcrowding. A person shall not permit overcrowding or admittance of any person beyond the approved occupant load. The Code Official, upon finding overcrowded conditions or obstruction in aisles, passageways or other means of egress, or upon finding any condition which constitutes a hazard to life and safety, shall cause the occupancy, performance, presentation, spectacle or entertainment to be stopped until such a condition or obstruction is corrected and the addition of any further occupants prohibited until the approved occupant load is reestablished.

Section 1409 Fire Alarm Reporting shall be amended by adding the following subsection;

Section 1409.2 Temporary address: The address shall be placed on the building during construction, re-model or demolition. The numbers shall be at least 4" in height and of a contrasting color to the background. The address shall be clearly visible from the public roadway.

Section 3204.3.1.1 Geographical limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited within the entire City limits of the City of Lansing.

Section 3404.1 General shall be amended by adding the following subsection:

Section 3404.1.1 The storage of LP-gas in quantities 300 gallon, or greater, water capacity shall be prohibited in any residentially zoned area within the limits of the City of Lansing, where the transmission system of a franchised natural gas supplier is accessible.

Section 3404.2.13.1.3 shall be amended to read as follows:

Section 3404.2.13.1.3 Out of service for 1 year. Underground tanks that have been out of service for a period of 1 year shall be removed from the ground in accordance with Section 3404.2.14.

Section 3404.2.13.1.4 Tanks abandoned in place: shall be amended by adding the following subsection:

Section 3404.2.13.1.5. Tanks abandoned in place. Monitoring, maintenance, and abandonment of underground storage tanks shall comply in all respects to pertinent regulations of KDHE and EPA.

ARTICLE 3. OPEN BURNING

7-301 BURNING WITHIN FIRE LIMITS

It shall be unlawful for any person to burn trash, lumber, leaves, straw or any other combustible material in any street, alley or lot within the fire limits of the City without a permit issued by Leavenworth County Fire District No. 1. Only clean waste, as described below, will be allowed to burn. The burning of tires, oil, plywood, treated lumber, painted wood, grass clippings, piled leaves, and other similar combustibles is specifically prohibited.

7-302 BURNING ON PAVED STREETS, GUTTERS OR BOULEVARDS

It shall be unlawful for any person to start fire to any papers, weeds, brush, grass, leaves or other combustible material on any paved street, alley, parking area, gutter or boulevard in the City.

7-303 REGULATION, BURNING CLEAN WASTE

It shall be unlawful for any person to start fire to any paper, weeds, brush, grass, leaves or other combustible material or to make any fire of any description in the open air within the City before sunrise or after sunset or 7:00 p.m., whichever occurs first. Every fire shall be carefully supervised at all times and the person in charge of supervising the fire shall see that proper equipment is readily available to control the fire. No burning material or embers shall be permitted to be scattered or blown about by the wind. Every fire shall be wholly extinguished and made safe no later than sunset or 7:00 p.m., whichever occurs first, and before the person starting or maintaining the fire shall leave the place where such fire was started and maintained.

A. Clean waste shall mean brush, trees, dimensional lumber, and standing grass.

B. Only material generated from the site may be burned on site. No materials may be brought in from off site.

7-304 TRASH BURNING: FIRE CHIEF MAY PROHIBIT

The chief of the fire department may prohibit any and all bonfires and rubbish fires when, in the opinion of the Chief or his representative, conditions exist that make burning said materials detrimental to public safety and property, or atmospheric conditions or local circumstances make such fires hazardous.

7-305 APPROVED TRASH BURNERS

A. Nothing in this article shall allow the burning of trash and rubbish. Trash burners are prohibited within the City limits.

B. An approved burn ring as used herein shall be one built of brick, cement, stone or metal, constructed in a manner to securely confine burning material and not be greater than 48” in diameter. These will be used for recreational purpose only and will not require a permit. They will also be allowed to burn after dark as long as it is attended by a resident of the property over 18 years of age, except when the Fire Chief or his designee, or Leavenworth County has issued a county-wide ban on open burning.

7-306 NOT PROHIBITED

Nothing in this article shall prohibit the chief of the fire department from burning or causing to be burned dry grass or weeds from vacant lots anywhere within the limits of the City when, in his or her opinion, the same is a hazard to other property.

Nothing in this article shall prohibit the burning of standing grass, standing weeds, brush, trees, or crop residue in agricultural fields within the City Limits providing that a valid burn permit has been issued.

7-307 ACCUMULATION COMBUSTIBLE TRASH

No person or persons shall allow remaining longer than 36 hours or overnight, in any alley, or on any sidewalk or premises, within 30 feet of any building, empty boxes, barrels, rubbish, trash, waste paper, excelsior or other like combustible materials.

7-308 HANDLING OF ASHES

No person shall be allowed to place ashes within any building in any box, barrel or other wooden vessel or upon any wooden vessel or floor.

7-309 HANDLING OILY WASTE, RAGS

No person shall keep or permit to be kept on the premises any oily waste or oily rags, unless at all times when not actually in use such oily waste and oily rags be kept in a metal can with self-closing cover and riveted joints, standing on metal legs which raise the bottom of the container at least five inches above the floor.

7-310 OWNER, OCCUPANT PERMIT INSPECTION

All owners or occupants of buildings and real property within the City Limits are required to permit the chief of the fire department, or his or

her designee, to inspect their buildings and/or property to see if the provisions of this article are complied with, and it is hereby made the duty of the chief of the fire department or his/her designee to make such inspection before a permit to burn is issued or whenever and wherever the chief may suspect a violation of this article.

7-311 PENALTY

Any person, firm or corporation violating any of the provisions of this article shall, upon conviction thereof be fined of not more than $500 dollars or by imprisonment not exceeding 30 days, or both such fine and imprisonment. Each day that a violation continues is deemed a separate offense.

ARTICLE 4. FIRE INSURANCE PROCEEDS FUND

7-401 SCOPE AND APPLICATION

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

7-402 LIEN CREATED

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

7-403 SAME; ENCUMBRANCES

Prior to final settlement on any claim covered by section 7-402, the insurer or insurers shall contact the county treasurer, Leavenworth 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, Leavenworth County, Kansas.

7-404 SAME; PRO RATA BASIS

Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.

7-405 PROCEDURE

A. When final settlement on a covered claim has been agreed to or arrived at between the named insured or insurers 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 fifteen (15) percent of the covered claim payment, whichever is less, 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 insurers, 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 insurers, whereupon the chief building inspector shall contact the named insured or insurers by registered mail, notifying them that said insurance proceeds have been received by the City and apprise them of the procedures to be followed under this article.

7-406 FUND CREATED; DEPOSIT OF MONEYS

The City Treasurer is hereby authorized and shall create a fund to be known as the "Fire Insurance Proceeds Fund." All moneys received by the City Treasurer as provided for by this article shall be placed in said fund and deposited in an interest-bearing account.

7-407 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 or she intends to initiate proceedings under K.S.A. 12-1750 et seq., as amended.

D. If the chief building inspector has determined that proceedings under K.S.A. 12-1750 et seq., as amended shall be initiated, he or she will do so immediately but no later than 30 days after receipt of the moneys by the City Treasurer.

E. Upon notification to the City Treasurer by the chief building inspector that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the City Treasurer shall return all such moneys received, plus accrued interest, to the insured or insurers 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.

7-408 REMOVAL OF STRUCTURE; EXCESS MONEYS

If the chief building inspector has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured.

7-409 SAME; DISPOSITION OF FUNDS

If the chief building inspector, with regard to a building or other structure damaged by fire, explosion or windstorm, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the City Treasurer under the authority of section 7-405(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 7-405(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.

7-410 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.

7-411 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.

ARTICLE 5. FIREWORKS

7-501 DEFINITIONS

A. Fire Hazard shall mean any arrangement of materials and/or heat sources that presents potential for harm, such as personal injury or ignition of combustibles.

B. Fireworks shall have the same meaning as defined in the International Fire Code Section 3302 of the most recent edition adopted by the City of Lansing.

C. Sky Lanterns shall mean miniature, unmanned air balloon that relies on an open flame as a heat source to heat the air inside the lantern with the intention of causing it to lift into the atmosphere. Typically made of rice paper or flame resistant paper, it has a fuel cell in the opening.

D. Sky Rocket shall mean a rocket designed to explode high in the air as a signal or firework.

7-502 STORAGE, SALE, HANDLING

Fireworks to be sold shall be stored in a room set aside for the storage of fireworks only. Over the entrance to this room shall be posted a sign reading, "Fireworks--No Smoking--Keep Open Flames Away." The storage room shall not be within 100 feet of any type of flammable materials and/or goods.

7-503 ADDITIONAL REGULATIONS; STORAGE, SALE

Rules and regulations regulating storage and sale shall be as follows:

A. Fireworks shall not be sold or kept for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable substances are kept in unbroken containers, unless in a separate and distinct section or department of the store.

B. No fireworks shall be sold from any other structure other than a three sided building with a roof, which building shall be constructed so as not to grant immediate and unrestricted access to the interior thereof by customers. Said building may be a permanent or temporary structure. If permanent the building must meet all building code requirements, and must pass a safety inspection by the City Inspector prior to the retail sale of fireworks. If temporary, the building must pass a safety

inspection by the City Inspector prior to the retail sale of fireworks.

C. Fireworks shall not be stored, kept, sold or discharged within 150 feet of any gasoline pump, or where 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.

7-504 FIRE EXTINGUISHERS REQUIRED

Two ABC certified fire extinguishers with a minimum rating of 2A, and one certified water extinguisher with at least a 20 pound rating must be provided and kept in close proximity to the stock of fireworks in all buildings where fireworks are sold.

7-505 RETAIL SALES

Rules and regulations relating to Retail sale of fireworks in the City shall be as follows:

A. Where and When Permitted.

1. No person shall sell or store fireworks in within the City without first obtaining a permit from the City Clerk's Office as provided for in Section 7-505 (B).

2. Fireworks shall not be offered for sale to individuals at retail before the 1st day of July and after the 4th day of July, and no sales shall occur at retail other than between the hours of 9:00 a.m. and 9:00 p.m.

3. Fireworks for retail sale will not be allowed to be stored within the City limits of Lansing before June 30th or after July 5th of any given year. Any fireworks stored or located within the city of Lansing before June 30th or after July 5th will be subject to the penalties prescribed in Section 7-513.

4. Fireworks stands or empty temporary storage units shall not be erected prior to June 25th and shall be removed in their entirety by 5:00 p.m. on July 5th.

B. Licenses. Every person before selling or offering for sale fireworks in the City shall make application to the City Clerk for a license to sell same. The application shall be approved by the Public Works Director or his/her designated representative and the Fire Chief before the license shall be issued. The license fee shall be in the amount of $500.00 per year. The licensee shall

post a sign provided by the City designating the days and hours for discharging fireworks, prohibited fireworks, fine for non-compliance, and a statement that debris must be cleaned up no later than Noon the day after discharge. In addition to the application, the applicant must provide:

1. A copy of their Tax Clearance Letter from the Kansas Department of Revenue showing they are current on taxes;

2. A complete list of firework items on the premises for sale; and

3. A copy of the Distributors license with number issued by Kansas State Fire Marshall.

C. No retail stand shall be open for the sale of any fireworks unless there is at least one adult over the age of 18 years present on the premises at all times during the hours of operation.

7-506 RETAILERS, REGULATIONS

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, and all fireworks kept for sale on front counters, must remain in original packages, except where an attendant is on constant duty at all times at counters where such fireworks are on display. 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. Signs reading, "Fireworks For Sale--No Smoking Allowed," shall be displayed in the section of the store set aside for the sale of fireworks,

7-507 APPROVED FIREWORKS

The sale, distribution, use, manufacture and possession of only those articles of fireworks labeled and classified as U.S. Department of Transportation (DOT) or Interstate Commerce Commission (ICC) Class C Fireworks, except bottle rockets and sky rockets are hereby approved within the City. The sale, distribution, use, manufacture, possession, lighting and/or release of sky lanterns, bottle rockets, sky rockets or like materials shall be prohibited within the City at all times.

7-508 PERMIT REQUIRED; EXHIBITIONS; SPECIAL EVENTS

Fireworks to be used for exhibition purposes at fairs and celebrations or special events may be fired which otherwise are prohibited provided the individual, organization or business has been issued a Fireworks Permit by Leavenworth County Fire District No. 1. An applicant for a permit must meet all permitting requirements of Chapter 5, Article 4 for Temporary Special Events Permits of the Lansing City Code. In addition, to the permitting requirements stated in Chapter 5, Article 4 of the Lansing City Code an individual, organization or business must have someone supervising the handling of fireworks who is experienced, and must comply with the current State of Kansas Fire Marshall requirements and the International Fire Code requirements as specifically stated, but not limited to, Chapter 33 of said code. In addition, the public attending such exhibition or special event must be kept at a safe distance. Fireworks held in storage for such exhibition or special event must be kept in a closed box until they are removed for firing.

7-509 DISCHARGE OF FIREWORKS

The discharge of fireworks within the City is hereby prohibited except as provided by the following: Fireworks may be discharged within the City from the 1st day of July through the 4th day of July between the hours of 12:00 p.m. and 10:00 p.m., except that on the 4th day of July fireworks may be discharged within the City from the hours of 12:00 p.m. until 11:00 p.m. only.

Unless the fire chief of the Leavenworth County Fire District No. 1 shall make a report with the City Clerk stating that due to weather and/or other conditions that a fire hazard exists in the City and upon presentation to the governing body, and the approval thereof, and notice is given no later than the 26th day of June by publication in a newspaper of general circulation in Leavenworth County, Kansas that an emergency exists with respect to the discharge of fireworks. Such notice shall have the effect of prohibiting the discharge of fireworks within the City from the 1st day of July through the 4th day of July.

No discharge of fireworks shall be allowed within 150 feet of a storage area for fireworks as well as 150 feet of the fireworks stands.

It is the responsibility of the person(s) discharging fireworks to remove all fireworks debris from private and public property no later than 12:00 p.m. (noon) on the day following the discharge of fireworks.

Any person violating any provision of this section shall, upon

conviction, be punished by a fine of not less than $50.00 and not more than $100.00 for each offense.

7-510 INSURANCE

All retailers are required to provide the City Clerk a copy of a liability insurance policy in an amount not less than $100,000 per person, $500,000 for injury or death for more than one person, and $100,000 coverage for damage to property and shall name the City as an additional insured party. The copy of the insurance policy shall be provided to the City Clerk prior to the issuance of a permit for the purposes of retail sales of fireworks

7-511 ENFORCEMENT

This article shall be enforced by the Police Department of the City or by the Chief of the Leavenworth County Fire District No. 1 and or his/her designee.

7-512 PENALTY

A. Any person violating any of the provisions of this article shall upon conviction thereof (other than those in section 7-510) be fined an amount of not less than $500 nor more than $1,500 dollars, or by imprisonment for a period not exceeding 90 days, or by both such fine and imprisonment. Each violation of the ordinance shall constitute a separate offense. Each day during or on which a violation occurs or continues shall constitute a separate offense

B. In addition, any violations of the provisions of this article which result in a conviction in the municipal court of the City or any state court within Kansas shall bar the person so convicted from obtaining City permits and licenses relating to fireworks for a period of two years from the date of the conviction.

ARTICLE 6. BLASTING REGULATIONS

SCOPE
Possession and use of explosive materials as defined by this Chapter for subsurface blasting shall be in accordance with this article.

7-601 DEFINITIONS

A. "Applicant" shall mean the person applying for the blasting permit and the party responsible for compliance with this article.

B. "Blast site" shall mean the area in which explosive materials are being or have been loaded and which includes all holes loaded or to be loaded for the same blast and a distance of 50 feet (15 240 mm) in all directions.

C. "Blasting agent" shall mean a material or mixture consisting of fuel and oxidizer, intended for blasting provided that the finished product as mixed for use or shipment, cannot be detonated by means of a No. 8 test detonator when unconfined. Blasting agents are labeled and placarded as Class 1.5 material by U.S. Department of Transportation.

D. "Blasting expert" shall mean a professional engineer licensed in the State of Kansas with blasting experience, or a consultant whose primary business involves blasting operations and blasting analysis.

E. "Chief" shall mean the fire chief of Fire District 1.

F. "Division of Fire Prevention" shall mean the fire prevention division of the Leavenworth County Fire District 1.

G. "Explosive" shall mean a chemical compound, mixture or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, igniters and display fireworks, (1.3G (Class B, Special.)).

The term "explosive" includes any material determined to be within the scope of USC Title 18: Chapter 40 and also includes any material classified as an explosive other than consumer fireworks, 1.4G (Class C, Common) by the hazardous materials regulations of Department of Transportation 49 CFR.

H. "Explosive materials" shall mean explosives, blasting agents, and detonators.

I. "NFPA" shall mean the National Fire Protection Association current edition.

J. "Owner" shall mean persons having vested or contingent interest in the property in question and their duly authorized agents or attorneys.

K. "Person" shall mean a natural person, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or agent of any of the aforesaid.

L. "Property" for the purposes of this article shall mean real property; land.

M. "Public Works Director" shall mean the Director of the City of Lansing Public Works Department.

N. "Structure" shall mean a combination of materials or piece of work built or composed of parts joined together in some definite manner for occupancy, use or ornamentation. The term "structure" shall include everything that is built or constructed and affixed to the real property. The term "structure" shall not include utility lines, and accessory apparatus.

O. "Utility lines" shall mean an electric, cable, fiber optic line, water line, sanitary sewer line, pipeline or other type of conduit used to transport or transmit electricity, gases, liquids, and telecommunications lines.

7-602 PERMITS REQUIRED

A permit application to use or possess explosive materials subject to regulation under this article shall be made to the Lansing Public Works Department. The Director of Public Works or his or her designated representative may approve the issuance of the permit only after inspection and review by Fire District No. 1 (Fire Department) and/or Public Works and the Fire Department has made recommendations pertinent to the issuance of the permit. The Director of Public Works or his or her designated representative shall have seven days after receipt of a completed application to review the application, including all supporting documentation, and recommendations from the Fire

Department and to issue or deny a permit. The process to apply for a permit shall be as follows:

A. For blasting operations occurring at a distance greater than 1,500 feet of any structure or utility line:

1. The application for a permit shall be accompanied by a Blasting Plan for the blasting operation. The Blasting Plan shall contain the following information:

a) The name of the contractor conducting the blasting operation, and

b) The names of all responsible on-site personnel with copies of their permits to blast explosives issued by the State of Kansas Fire Marshal.

2. The applicant shall maintain and provide proof of liability insurance coverage for the purpose of payment of damages to persons or property which arise from, or are caused by, the blasting operations. The policy or policies shall provide for the following minimum coverage:

a) Liability insurance to cover injuries or damages to persons or property which might result from blasting operations:

(I) General Aggregate (or a combination of general liability insurance and an umbrella policy insuring the blasting operations): $5,000,000

(II) Each Occurrence: $2,000,000

b) Automobile Liability Insurance Combined Single Limit: $1,000,000

c) Workers Compensation: Statutory Coverage

3. The applicant shall pay an application fee of $500.00.

B. For blasting operations occurring at a distance equal to or less than 1,500 feet and greater than 500 feet of any structure or utility line:

1. The application for a permit shall be accompanied by a Blasting Plan for the blasting operation. The Blasting Plan shall contain the following information:

   a) Name of the contractor conducting the blasting operation,

   b) Names of all responsible on-site personnel with copies of their permits to blast explosives from the Kansas State Fire Marshal.

   c) Scale drawing which accurately allows dimensions and all distances relative to the application to be calculated for the following:

      (I) Distances to all structures, to the extent such data is available, within 1500 feet of the blast site;

      (II) Distances from structures to the explosive storage magazines.

      (III) Drill patterns, delay periods, and decking.

      (IV) Type and amount of explosive to be used at each location.

   d) Evidence of the notice required by this article, sent by United States mail, to owners of property and/or utility lines located within 1500 feet of the blast site. The required evidence shall include a copy of the written notification and a list of names and addresses of those notified. Said written notification shall contain the following information:

      (I) Notice of intent to blast;

      (II) Name of the blasting contractor;

      (III) Estimated duration of blasting operations and the general location of the blast site, with a copy of the map included with the notice;

      (IV) Name of the insurance agency providing the blasting contractor's liability insurance

coverage and the agency's contact information; and

(V) The date, time, and location of the informational meeting with property owners and/or utility company representatives.

e) Proof that the seismology equipment to be used at the blasting site has been calibrated and certified within one year of the proposed blasting.

2. The applicant shall maintain and provide proof of liability insurance coverage for the purpose of payment of damages to persons or property which arise from, or are caused by, the blasting operations. The policy or policies shall provide for the following minimum coverage:

a) Liability insurance to cover injuries or damages to persons or property which might result from blasting operations:

(I) General Aggregate (or a combination of general liability insurance and an umbrella policy insuring the blasting operations): $5,000,000

(II) Each Occurrence: $2,000,000

b) Automobile Liability Insurance Combined Single Limit: $1,000,000

c) Workers Compensation: Statutory Coverage

3. The applicant shall pay an application fee of $500.00.

C. For blasting operations occurring at a distance equal to or less than 500 feet of any structure or utility line:

No blasting shall occur within 100 feet of any structure or utility line unless the owner(s) of the structure(s) and/or utility line(s) consent in writing, and the blasting conforms to the limits recommended by the U.S. Bureau of Mines Table of Scaled Distances.

1. The application for a permit shall be accompanied by a Blasting Plan for the blasting operation. The Blasting Plan shall contain the following information:

   a) The name of the contractor conducting the blasting operation,

   b) The names of all responsible on-site personnel with copies of the blasters certificates,

   c) Scale drawing that accurately allows dimensions and all distances relative to the application to be calculated for the following:

      (I) Distances to all structures, to the extent such data is available, within 1500 feet of the blast site.

      (II) Distances from structures to the explosive storage magazines.

      (III) Designation of proposed pre-blast surveyed structures within 500 feet of the blast site.

      (IV) Drill patterns, delay periods, and decking.

      (V) Type and amount of explosive to be used at each location.

   d) Name of the independent firm, approved by the Lansing Public Works Department Community Development Division and reporting directly to the Public Works Director, which shall conduct the seismographic monitoring of blasts occurring within 500 feet of any structure or utility line.

   e) Proof that the seismology equipment to be used at the blasting site has been calibrated and certified within one year of the proposed blasting.

   f) Evidence of the notification required by this article, sent by U.S. mail, to owners of property and utility lines located within 1500 feet of the blast site. The required evidence shall include a copy of the written notification and a list of names and addresses of

those notified. Said written notification shall contain the following information:

(I) Notice of intent to blast;

(II) Name of the blasting contractor;

(III) Estimated duration of blasting operations and the general location of the blast site, with a copy of the map included with the notice;

(IV) Name of the insurance agency providing the blasting contractor's liability insurance coverage and the agency's contact information; and

(V) The date, time, and location of the informational meeting with property owners and/or utility company representatives.

g) Evidence of the notification required by this article, sent by certified mail, return receipt requested, not less than 15 days before blasting commences to owners of property and utility lines located within 500 feet of the blast site. The required evidence shall include a copy of the written notification and a list of names and addresses of those notified. Said written notification shall contain the following information and/or statements:

(I) Notice of intent to blast;

(II) Name of blasting contractor;

(III) Estimated duration of blasting operations and the general location of the blast site, with a copy of the map included with the notice;

(IV) Name of the insurance agency providing the blasting contractor's liability insurance coverage and the agency's contact information;

(V) The date, time, and location of the informational meeting with owners of property

located within 500 feet of the blast site and/or with representatives of utility companies with utility lines located within 500 feet of the blast site;

(VI) Name of the company performing the pre-blast surveys;

(VII) Contact information for the company performing the pre-blast surveys;

(VIII) An offer to permit representatives of notified utility companies to be present during blasting operations;

(IX) A statement advising the utility company or companies that if it fails within ten (10) days of receipt of the notice to object to the intent to blast, or to request additional time to review the plans, any objections are deemed waived; and

(X) A statement advising the utility company or companies that the utility company is responsible for identifying the need for, and requesting, a pre-blast survey of utility company structures.

h) A copy of a pre-blast survey log which contains a list of properties with structures and/or utility lines eligible for pre-blast surveys, and a list of properties with structures and/or utility lines which received pre-blast surveys.

i) The name, address, and telephone number of the qualified blasting expert who shall review and analyze the blasting plan, including the items listed below, anytime blasting occurs within 500 feet of any structure or utility line. The qualified blasting expert shall be experienced in blasting operations. The blasting expert shall be approved by, and report to, the Director of Public Works, and the Fire Chief. Said blasting expert shall be independent of the blasting contractor and shall be compensated by the

applicant. The blasting expert shall provide the Director of Public Works, and the Fire Chief with proof of general liability insurance in an amount consistent with industry standards. The blasting expert shall review and analyze the following:

(I) Pre-blast survey records to confirm the pre-blast surveys were performed in accordance with this article;

(II) The notice of the informational meeting for property and utility line owners, to verify it was sent in accordance with this article;

(III) Proposed location and time of the blast(s);

(IV) Credentials of the certified blaster designated to be in charge of the blasting operation;

(V) Type of material to be blasted;

(VI) Number of proposed holes to be bored and the spacing thereof;

(VII) Proposed diameter of, and proposed depth of, holes;

(VIII) Type and amount of explosives to be used;

(IX) Amount of explosives per delay of 8 milliseconds or greater;

(X) Proposed method of firing and proposed type of circuit to be used;

(XI) Verification that no blasting shall occur within one hundred (100) feet of any structure or utility line, unless a written consent from the owner(s) of the structure or utility line is on file with the Director of Public Works, and the Fire Chief, and the planned blasting conforms with the limits recommended by the U.S. Bureau of Mines Table of Scaled Distances (NFPA 495);

(XII) Whether or not mats or other precautions will be used;

(XIII) Type of proposed detonators and delay periods;

(XIV) Type and height of proposed stemming;

(XV) Proposed locations of seismology equipment during blasting operations and verification of the equipment's calibration / certification within one year of the proposed blasts;

(XVI) Verification of notice to utility companies; and

(XVII) Subsurface analysis of the site.

j) Upon completion of the review and analysis required by Section 8-603(C)(1)(i), the blasting expert shall provide a written statement to the Director of Public Works, and the Fire Chief certifying that the proposed blasting operation does or does not meet the City Code.

k) The applicant shall offer pre-blast surveys to residents or owners of structures and utility lines located within 500 feet of the blasting site. The pre-blast surveys shall conform to the requirements of this article. The pre-blast surveys shall be completed before the initiation of blasting may occur, unless permission to conduct a pre-blast survey has been denied or contact with the owner or occupant of the structure or utility line could not be made after due diligence on the part of the pre-blast survey company representative to make such contact.

2. The applicant shall maintain and provide proof of liability insurance coverage for the purpose of payment of damages to persons or property which arise from, or are caused by, the blasting operations. The policy or policies shall provide for the following minimum coverage:

a) Liability insurance to cover injuries or damages to persons or property which might result from blasting operations:

(I) General Aggregate (or a combination of general liability insurance and an umbrella policy insuring the blasting operations): $5,000,000

(II) Each Occurrence: $2,000,000

b) Automobile Liability Insurance Combined Single Limit: $1,000,000

c) Workers Compensation: Statutory Coverage

(I) The applicant shall pay an application fee of $500.00.

7-603 PRE-BLAST SURVEYS OF STRUCTURES WITHIN 500 FEET OF THE BLAST SITE

A. Pre-blast surveys offered: Pre-blast surveys shall be offered to the owners and/or occupants of structures and utility lines located within 500 feet of the blast site. The pre-blast surveys shall be conducted by a firm regularly engaged in performing pre-blast surveys and which is independent of the blasting contractor. The pre-blast surveyor shall promptly conduct a pre-blast survey of the identified structures unless permission for a survey has been denied by the owner or occupant of the structure, or after due diligence on the part of the surveyor, contact with the owner or occupant of the structure could not be made. The surveyor shall promptly conduct a pre-blast survey of utility company structures if a utility company representative requests one from the surveyor.

B. Written Reports: The surveyor shall examine the interior and/or exterior of the structure, documenting through the use of photography or videotaping equipment, any existing damage and other physical factors that could reasonably be affected by the blasting operation. In the event a claim of damage is made, a written report of the surveyor's pre-blast survey or examination of the structure shall be prepared. All photographs shall be identified by number. The written report shall be signed by an

authorized representative of the company or firm that performed the pre-blast surveys.

C. Copies of Pre-blast Surveys: Copies of the pre-blast survey shall be made available to the Public Works Department Community Development Division and the Fire Chief and may be provided to the blasting contractor. Upon request, the applicant shall provide to the owner of the structure making the request, a copy of the pre-blast survey of the requesting party's surveyed structure. No person other than the owner or occupant of the surveyed structure shall receive a copy of the pre-blast survey of the structure, unless otherwise provided by law. The applicant may charge the owner or occupant requesting the copy the actual cost of reproducing the pre-blast survey.

D. Initiation of Blasting Operations: Before the initiation of blasting operations, the pre-blast surveys shall be completed, unless permission to conduct a pre-blast survey has been denied or contact with the owner or occupant of the structure could not be made after due diligence on the part of the surveyor to make such contact. The applicant shall submit to the Public Works Department and the Fire Chief a copy of a pre-blast survey log which contains a list of properties and/or utility lines eligible for pre-blast surveys, and which shows a list of properties and/or utility lines which received pre-blast surveys. Blasting may commence if the pre-blast surveys are completed, or permission to conduct a pre-blast survey has been denied, and the ten (10) day period in which a utility company that has utility lines within 500 feet of the proposed blasting site has to object to the intent to blast or to request additional time to review the plans, has expired.

7-604 PERMIT – EXPIRATION AND REISSUING

A. Expiration: Permits shall expire thirty (30) days after the date of issuance.

B. Reissuing Permits: Permits may be reissued if they have expired or have been terminated, subject to such provisions of inspection, reporting, and amendments contained in this ordinance as the Public Works Department and the Fire Chief deems necessary.

If a permit is reissued, the applicant shall notify in writing the

owners of property within 1500 feet of the blast site of the new permit period if the time period contained in the original written notification expires. The notice to owners of property within 1500 feet of the blast site shall be by regular U.S. mail. If a permit is reissued, the applicant shall notify in writing the owners of property within 500 feet of the blast site of the new permit period if the time period contained in the original written notification expires. The notice to owners of property within 500 feet of the blast site shall be by certified mail, return receipt requested. The notification to owners of properties within 500 feet of the blast site that the permit is reissued shall also state that the owner of the structure may request a second pre-blast survey if the structure underwent an improvement, construction or remodeling project requiring a building permit after the initial pre-blast survey was completed.

7-605 REVOCATION OF PERMITS

The public works director, fire chief, or their designated representative is authorized to revoke a permit issued under the provisions of this article when it is found by inspection or otherwise that:

A. There has been a false statement or representation as to a material fact in the application or construction documents on which the permit or approval was based.

B. The permit is used for a location or establishment other than that for which it was issued.

C. The permit is used for a condition or activity other than that listed in the permit.

D. Conditions and limitations set forth in the permit have been violated.

E. There have been any false statements or misrepresentations as to the material fact in the application for permit or plans submitted or a condition of the permit.

F. The permit is used by a different person or firm than the name for which it was issued.

G. The permittee failed, refused or neglected to comply with orders or notices duly served in accordance with the provisions of this chapter within the time provided therein.

H. The permit was issued in error or in violation of any ordinance, regulation, or the Code of the City of Lansing, Kansas, as amended.

The Chief and or Director, or his or her designee, may delay reissuing a permit that has been revoked pursuant to this article until such time as the chief, director or the designee deems appropriate taking into account the nature and severity of the conduct which caused the permit to be revoked.

7-606 BLASTING OPERATIONS

A. Use and Handling

1. Distance from structures: There shall be no blasting within one hundred feet of any structure or utility line unless the owner of the structure(s) and/or utility line(s) consent in writing, and the blasting conforms to the limits recommended by the U.S. Bureau of Mines Table of Scaled Distances.

2. General: Blasting operations shall be conducted only by approved, competent operators familiar with the required safety precautions and the hazards involved. Blasting operations shall be performed in accordance with the instructions of the manufacturer of the explosive materials being used.

3. Blasting in close proximity: When blasting is done in close proximity to a structure, railway or highway, or any other installation, precautions shall be taken to minimize earth vibrations and air blast effects. Blasting mats or other protective means shall be used to prevent fragments from being thrown.

4. Restricted hours: Blasting operations shall only be conducted during daylight hours.

5. Personnel: Persons in charge of blasting shall possess a valid permit to blast explosives issued by the Kansas State Fire Marshal, shall not be under the influence of alcohol or drugs which impair sensory or motor skills, shall be at least 21 years of age, and shall demonstrate knowledge of all safety precautions related to the storage, handling or

use of explosives or explosive materials. Persons 18 years of age or older are allowed to use and handle explosive materials under the direct supervision of a person who possesses a valid permit to blast explosives issued by the Kansas State Fire Marshal.

6. Open flames and lights: Smoking, matches, flame-producing devices, open flames, fire arms and firearms cartridges shall not be permitted inside of or within the blast site.

7. Blasting safeguards: Before a blast is fired, the person in charge shall make certain that surplus explosive materials are in a safe place, that persons and equipment are at a safe distance or under sufficient cover, and that a loud warning signal reasonably calculated to be heard by individuals not less than 100 feet of the blast site has been sounded.

8. Electric detonator precautions: Precautions shall be taken to prevent accidental discharge of electric detonators from currents induced by radar and radio transmitters, lightning, adjacent power lines, dust and snow storms, or other sources of extraneous electricity.

9. Non-electric detonator precautions: Precautions shall be taken to prevent accidental initiation of non-electric detonators from stray currents induced by lightning or static electricity.

10. Non-sparking tools: Tools used for the opening and closing of packages of explosive materials, other than metal slitters for opening paper, plastic or fiberboard containers, shall be made of non-sparking materials.

11. Disposal of packaging: Empty containers and paper and fiber packaging materials that previously contained explosive materials shall be disposed of or reused in an appropriate manner.

12. Abandonment: Explosive materials shall not be abandoned.

13. Transportation: Explosive materials shall be transported in accordance with Chapter 7 of the Code of the City of Lansing, Kansas, and amendments thereto.

14. Blast Records: A record of each blast shall be kept and retained by the applicant for at least five (5) years and shall be available for inspection upon request by the Public Works Department Community Development Division or the Fire Chief or owners of property within 500 feet of the blast site or as provided by law. These records shall contain the following minimum data:

    a) Name of blasting contractor

    b) Pre-blast survey records

    c) Location and time of blast

    d) Name of certified blaster in charge

    e) Type of material blasted

    f) Number of holes bored and spacing

    g) Diameter and depth of holes

    h) Type and amount of explosives

    i) Amount of explosives per delay of 8 milliseconds or greater

    j) Method of firing and type of circuit

    k) Identification, direction, and distance, in feet, from the nearest blast hole to the nearest building or structure outside the permit area

    l) Whether or not mats or other precautions were used

    m) Type of detonators and delay periods

    n) Type and height of stemming

    o) Seismograph and air blast records of each shot

15. Post-blast survey of structure: If during the course of the blasting operation, a complaint is made, or a claim of damage is stated, the applicant shall, with the owner's consent, have the surveyor conduct a post-blast inspection of the structure in question. The surveyor, blasting contractor, and/or insurance agency representative shall investigate each complaint or claim thoroughly using where appropriate the surveyor's written report to compare pre-existing damages with those being claimed.

16. Other regulations: Blasting operations shall be conducted in accordance with federal, state and local regulations.

B. Ground Vibration and Air blasts

1. Maximum peak particle velocity: The maximum peak particle velocity at the nearest structure or utility line shall not exceed one inch per second in any one of three mutually perpendicular directions, unless the property or utility line owner(s) consents in writing.

2. Ground vibration: Regardless of the distance to nearby structures and utility lines, the blasting operations shall be carried out in such a manner that they will not cause fly rock damage or damage from exceeding air blast or ground vibration limits.

3. Seismographic monitoring: Seismographic monitoring of blasts occurring within 500 feet of any structure or utility line shall be provided by a firm independent of the blasting contractor, approved by the Fire Prevention Division, reporting directly to the Fire Marshal and compensated by the applicant. The seismograph monitoring site shall be located between the nearest structure or utility line and the blast site. Seismographic monitoring of blasts occurring at a distance greater than 500 feet of any structure or utility line shall be provided by the blasting contractor or by a firm engaged by the blasting contractor.

4. Calibration/certification of seismology equipment: All seismology equipment used on the job site, by either the applicant or a third party independent firm shall have been calibrated and certified within the year preceding the blasting operations.

5. Air blasts: Air blasts at the location of any structure shall not exceed the maximum limits specified in Table 11.2 of N.F.P.A. 495.

C. Notice of New Storage Site: When a new explosive material storage location, including a temporary jobsite, is established, the applicant shall notify 48 hours in advance, not including Saturdays, Sundays the City of Lansing Public Works Department, the Lansing Police Department, and Leavenworth county Fire District 1 of the type, quantity and location of explosive materials at the site.

1. The Fire Chief is authorized to limit the quantity of explosive materials allowed at any location.

2. The Fire Chief is authorized to remove, or cause to be removed or disposed of in an approved manner, at the expense of the applicant, explosives and explosive materials stored, possessed, or used in violation of this article.

3. Storage of explosive materials shall comply with Chapter 7 of the Code of the City of Lansing, Kansas, and amendments thereto.

4. The applicant shall possess a valid permit to store explosives from the Kansas State Fire Marshal's Office for the storage site.

D. Posting Notification: The applicant shall cause to be posted in a conspicuous location, accessible to the public, a weather protected copy of the site map, a copy of the permit to use or possess explosive materials issued by the Division of Fire Prevention, and copies of the permits to blast explosives issued by the Kansas State Fire Marshal's office for all on-site personnel responsible for blasting operations.

7-607 INSPECTION AND ENFORCEMENT

The Leavenworth County Fire District 1 and the Public Works Department shall enforce this article under the supervision of the Fire Chief and Public Works Director. The Public Works Department and Fire District No. 1 shall adhere to the provisions concerning inspections, enforcement, and appeals procedures adopted in Chapter

7 and Chapter 1 of the Code of the City of Lansing, Kansas and amendments thereto.

7-608 SEVERABILITY

If any provision, clause, sentence or paragraph of this Article or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

7-609 EFFECTIVE DATES

This article shall take effect on and after the adoption of this code by the City.

Appendix to Article 6

Application Checklist for Permit to Conduct Blasting Operations

PROJECT NAME / LOCATION:

_____

_____

	DESCRIPTION OF DOCUMENT / INFORMATION
	Proof of Liability Insurance: Liability insurance to cover injuries or damages to persons or property which might result from blasting operations: **$5,000,000**: General aggregate or a combination of general liability insurance and an umbrella policy insuring the blasting operations; **$2,000,000**: Each Occurrence **$1,000,000**: Automobile combined, single limit **Statutory Amount**: Workers Compensation Insurance
	Copies of Permits to Blast Explosives for all persons responsible for blasting operations on site

Insurance Agency Name:	
Insurance Agency Address:	
Insurance Agency Telephone No.:	
Insurance Expiration Dates:	
Certificates of Insurance on file with Public Works? (Y/N)	

Blasting Plan:

Name of blasting contractor:	
Names of responsible on-site personnel with copies of permits to blast explosives:	
Permit to Store Explosives from Kansas State Fire Marshal's office	
Scale drawing with: *Distances to structures within 1500 feet of blast site *Distances to structures / explosive storage magazines *Designation of proposed pre-blast survey structures within 500 feet of blast site	
Name of Seismographic Monitoring Firm:	
Proof of certification / calibration of seismology equipment	
Evidence of Notification (including copy of notice) to property and utility line owners located within 1500 of blast site	
Evidence of notification sent certified mail return receipt requested (including copy of notice) to owners of property and utility lines within 500 feet of blast site.	

	Copy of pre-blast survey log:	
	Name, Address, Telephone number of blasting expert	
	Proof of insurance for blasting expert:	
	Blasting Expert's certification concerning applicant's blasting operation:	
	Applicant's Information:	
	Name of Person Applying for Permit:	
	Address of Person Applying for Permit:	
	Telephone Nos. of Person Applying for Permit:	
	Applicant's Signature:	
	Application Fee of $500.00	

CHAPTER 8. HEALTH AND WELFARE

Article 1. General
Article 2. Food Service Regulations
Article 3. Nuisances
Article 4. Stormwater Pollution Prevention
Article 5. Swimming Pool Discharge Regulation

ARTICLE 1. GENERAL

8-101 HEALTH DEPARTMENT DESIGNATED
The Governing Body hereby designates as its official health department the Leavenworth County Health Department.

8-102 SCOPE OF AUTHORITY
The Leavenworth County Health Department shall exercise within the corporate limits of the City all powers, functions and duties invested in it by the statutes of the State of Kansas.

8-103 POLLUTION OF STREAMS
No person shall throw, place or deposit in any stream, creek, lake or pond within the City limits any matter or thing liable to impede, impair or pollute the water therein, or to build, place, throw or deposit on or along the banks thereof, any structure or any matter or thing of any description liable to smother or diminish existing vegetation, or to decay and produce any noxious gases or effluvia likely to pollute or obstruct any of such waters.

8-104 STAGNANT WATER
No owner or occupant of any lot, tract or parcel of land within the City limits shall remove any earth or soil from such lot, tract or parcel of land so as to cause water to collect therein and become stagnant, unclean, offensive and injurious to the individual or public health.

8-105 SLAUGHTERHOUSES AND PACKING HOUSES
No person shall keep or maintain a slaughterhouse or packing house within the City limits in such manner as to be injurious to the health of the inhabitants of the City or in an unclean and filthy condition

8-106 COMMERCIAL POULTRY HOUSES
No person owning or occupying any rooms, buildings or any place where fowl, birds or game are dressed, cleaned or kept alive or dead

shall allow such rooms or buildings to become nauseous, filthy or unhealthful nor shall they neglect to thoroughly cleanse and purify the same at least every twenty-four (24) hours. All live poultry shall be kept within the building.

8-107 DUMPING MANURE

No person shall dump any manure, except for fertilizing purposes, or other refuse matter on any public or private grounds within the limits of this City without first securing permission from the Public Works Department to do so.

8-108 SPITTING

No person shall expectorate on or in any public building or upon the floor or any part of any public conveyance or upon any sidewalk abutting on any public street.

8-109 DUMPING SEWAGE PROHIBITED

It shall be unlawful for any person, firm or corporation to cause or permit any sewage to be deposited, dumped, discharged or drained on the surface of the ground or about any public right-of-way or ditch within the City. For the purpose of this section, sewage is defined as any substance that contains any of the waste products or other discharges from the bodies of human beings or animals, or chemical or other wastes from domestic, manufacturing or other forms of industry. Such definition shall include but not be limited to the discharge from laundry operations, both domestic and institutional.

8-110 PENALTY

Except as otherwise provided, any person who shall be convicted in the municipal court of violating any provisions of this chapter, unless a penalty is otherwise stated, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars or by imprisonment of not more than six months or both such fine and imprisonment. Each day that any violation to this article occurs shall constitute a separate offense and shall be punishable hereinafter as a separate violation.

ARTICLE 2. FOOD SERVICE REGULATIONS

See also Chapter V, Business Regulations

8-201 ADOPTION OF THE KANSAS FOOD CODE

The City of Lansing adopts by reference the regulations adopted by the Secretary of the Kansas Department of Health and Environment and known as the “Kansas Food Code”, K.A.R. 28-36-101 et. Seq. One copy of said Kansas Food Code shall be on file in the office of the City Clerk and shall be marked or stamped "Official Copy as Adopted by the Code of the City of Lansing", to be opened to inspections and available to the public at all reasonable hours. (See appendix A – K.A.R. 28-36-101 et. seq. and appendix B – Kansas Food Code.)

8-202 SAME; LICENSES AND REGULATION OF FOOD SERVICE ESTABLISHMENTS

The inspection of food service establishments, the issuance, suspension, and revocation of licenses to operate food service establishments, the prohibiting of the sale of unsound or mislabeled food or drink, and the enforcement shall be regulated in accordance with the “Kansas Food Code.”

8-203 ENFORCEMENT OF KANSAS FOOD CODE

Section 1-201.10(B) of the Kansas Food Code is hereby amended to read as follows:

“Regulatory Authority” means the state enforcement body or authorized representative having jurisdiction over the food establishment, to include the City of Lansing, specifically the Community and Economic Development Department and its designated representatives and shall have the authority as stated under Charter Ordinance 1-2016.

8-204 SAME; AMENDMENT, PENALTIES

The "Kansas Food Code" is amended to add: Any person, firm, partnership or corporation convicted of violating any provisions of this article for which another penalty is not specifically provided is guilty of a public offense and punishable by a fine of not more than $500 or by imprisonment not to exceed six months or by both such fine and imprisonment. Each person, firm, partnership, or corporation is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this ordinance is committed, continued, or permitted by any such person, firm, partnership, or corporation and shall be punished accordingly.

8-205 SAME; FOOD SERVICE LICENSE REQUIRED

No food service establishment shall be operated within the City, or its police jurisdiction, except those issued a license to operate. An application for a City of Lansing Food Establishment License shall be made to the City Clerk and shall include a copy of the Kansas Department of Health and Environment Food Services Establishment Inspection Report. No license shall be issued until the above documentation has been provided and final approval has been received from the Public Works Department. When any food service establishment fails to qualify as provided in the “Kansas Food Code” the Regulatory Authority as stated in 8-203 is authorized to suspend, revoke or deny the license of the food service establishment, or take any other action as stated in the Kansas Food Code. This article shall also apply to temporary food service establishments. Any City of Lansing Food Establishment License issued under this article shall be non-transferable.

8-206 SAME; LICENSE FEE

Each owner or operator of a food or drink establishment operating within the City shall pay an annual food service license fee of $50 payable to the City of Lansing. This fee shall be in addition to any other State or County licensing fees or costs.

8-207 SAME; LICENSE RENEWAL

The food service license required in section 8-205 must be renewed by the licensee, and the food service license fee paid, prior to the beginning of each calendar year.

8-208 SAME; TRAINING REQUIRED

Every employee of a food or drink establishment operating in the City shall be certified as having successfully attended a food service training school. The employee's completion must be evidenced by official documents.

ARTICLE 3. NUISANCES

8-301 PURPOSE

The purpose of this article is to promote the health, safety and welfare of the residents of the City of Lansing, Kansas and to protect neighborhoods against physical, visual and economic deterioration. To that end, the City intends this act to prohibit nuisances that:

A. Contribute to or cause injury or endangerment to the health, safety or welfare of others;

B. Are contrary to community standards of decency;

C. Are offensive to the senses;

D. Obstruct the free use of property so as to essentially interfere with the comfortable and quiet enjoyment of life and property by the public; or

E. Damage or contribute to the deterioration of property or improvements in the community.

8-302 ENFORCEMENT PROVISIONS

The Code Enforcement Officers of the City of Lansing Public Works Department, the Lansing Police Department, and the Leavenworth Department of Health and the authorized representatives of such departments shall be responsible for the enforcement of all provisions of this article and shall have the authority granted them under Charter Ordinance 1-2016.

8-303 INSPECTION OF PROPERTY; RIGHT OF ENTRY; VIOLATION

A. All officers and/or authorized agents or representatives charged with the enforcement of this article are hereby authorized and directed to make inspections to determine the condition of residential property located within the City and shall be allowed access and entry upon any such private property for said purpose, in order that he or she may perform his/her duty of safeguarding the welfare and safety of the general public and in order that he/she may ascertain that property as set forth in this article is properly maintained.

B. Any officer or employee of the City charged with the enforcement of this article shall not, in the discharge of his/her duties; thereby render him/her liable personally.

C. It shall be a violation of this article to deny an officer or authorized agent of the City 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 or while abating the nuisance.

8-304 VIOLATIONS NOT EXCLUSIVE

Violations of this article are in addition to any other violation enumerated within the ordinances of the Code of the City of Lansing. This article in no way limits the penalties, actions or abatement procedures which may be taken by the City for a violation of this article which is also a violation of any other ordinance of the City or statute of the State of Kansas.

8-305 DEFINITIONS

As used in this title, the terms shall have the following meanings:

A. Absence of an effective registration plate means where a registration plate is completely missing from the vehicle or otherwise invalid or where a vehicle is (1) parked or stored in the City so that it is visible from a public or private street, or adjacent property and (2) the license plate of such vehicle is screened from view by an adjacent structure or vegetation, or by a cover, tarp or similar object, the vehicle shall be deemed to be an inoperable vehicle subject to the provisions of the chapter.

B. City means Lansing, Leavenworth County, Kansas.

C. Control measures means any chemical, structural, physical procedures or processes designed to eradicate, minimize, prevent or otherwise limit the reproduction and/or infestation of insects and rodents detrimental to public health.

D. Director of Public Works means the director of the department of public works of the city of Lansing, or his/her authorized representative.

E. Dwelling means any building, manufactured home or mobile home which is wholly or partly used or intended to be used for living or sleeping by human occupants.

F. Health officer means a code enforcement officer of the City of Lansing Community and Economic Development Department, Law enforcement officer for the City of Lansing, or an officer of the Leavenworth County Health Department.

G. Human excreta means the body discharge (both feces and urine) of humans.

H. Inoperable means: A condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purposes for which it was originally constructed, or

1. The absence of a current valid registration plate upon such vehicle permitting that vehicle to be operated on the public streets and highways of the State of Kansas, unless the vehicle has a non-highway vehicle title issued solely because the vehicle was not manufactured for street use, or

2. The absence of one or more of the parts of the vehicle necessary for the lawful operation of the vehicle on the public streets and highways, unless the vehicle has a non-highway title issued solely because the vehicle was manufactured for street use, or

3. The placement of the vehicle or parts thereof upon jacks, blocks, chains or other supports.

I. Insects means the classes Insects and Arachnida of the phylum Arthropoda including flies, mosquitoes, fleas, lice, cockroaches, bedbugs, plant bugs, mites, ticks, spiders, and scorpions.

J. Junk means the storage of all old appliances, equipment, or parts thereof, all old iron or other scrap metal, automobile tires, cardboard, old lumber, old wood and mattresses, which items are not being used for their

intended purposes, and does not include orderly stacked firewood.

K. Junk vehicle means any vehicle which is wrecked, scrapped, ruined, partially dismantled, inoperative, abandoned and/or without a valid automobile license tag.

L. Litter means and includes all waste material, including but not limited to disposable packages or containers.

M. Manure means the body discharge of all animals except humans.

N. Nuisance means any condition which is injurious to health, or is a potential health hazard, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by a majority of persons subjected to the condition, such condition being no less a nuisance because the extent of the annoyance or damage inflicted is unequal. To include, but not limited to the following: all dead animals not removed within 24 hours after death; any place or structure that emits or causes any offensive disagreeable or nauseous odors; all stagnant ponds or pools of water; 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 City; any alarm response calls over five in any calendar year.

O. Owner means any person who is a holder of any legal or equitable interest in the premises, property or lot, and alone or jointly or severally with others,

1. Has record legal title to any dwelling or dwelling unit with or without accompanying actual possession thereof; or

2. Has charge, care or control of any dwelling or dwelling unit and if the case permits, may include all persons who have an interest in a structure and any who are in possession or control thereof as owner or agent of the owner, contract purchaser, or as

executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner; or

3. Collects rent for a dwelling unit on behalf of or in place of the owner.

Any such person representing the owner shall be bound to comply with the provisions of this chapter to the same extent as if he/she were the owner, and upon failure to comply therewith shall be subject to the same penalties hereinafter set out.

P. Parking means the temporary location for not more than 72 consecutive hours of motor vehicles (except for inoperable vehicles), boats, trailers and unoccupied recreational vehicles.

Q. Person means a natural person or a legal entity such as, but not limited to, an individual, firm, association, joint stock company, syndicate, partnership, or corporation.

R. Premises means a lot, plot or parcel of land including structures located thereon.

S. Property means any real property within the City which is not a street or highway.

T. Refuse means all waste materials such as trash, debris, garbage, tree trimmings, grass cuttings, dead animals and solid industrial wastes but shall not include human or animal excrements.

U. Residential bulky waste means items of solid waste normally produced by persons in their dwellings or on their dwelling premises that are too large or too heavy to be placed in a thirty- to thirty-five-gallon container and includes household appliances, furniture, plumbing fixtures, playground equipment, yard appliances and equipment and similar materials but does not include vehicle major component parts, hazardous waste, demolition and construction waste or tree waste.

V. Residential district means that land area, including public and private streets, that is contained within one of the

zoning districts defined by the Lansing Zoning Ordinance as a residential zoning district. This definition shall include those sections of public and private streets that abut residentially zoned land on both sides.

W. Rodents mean the so-called domestic rats, *Rattus norvegicus*, and *Rattus rattus*, and domestic mice, *Mus musculus* and wild native rodents associated with the transmission of disease or causing nuisance to man or other animals.

X. Salvage material means materials of some value that are obtained from the disassembly of various kinds of machinery, mechanical appliance, and/or the demolition of buildings or structures.

Y. Solid waste collector means any governmental agency or any person collecting, transporting and disposing of a solid waste, subject to the conditions of this chapter.

Z. Storage means the keeping outside of an enclosed building for more than 72 consecutive hours.

AA. Street or highway means the entire width between property lines of every way publicly maintained and/or when any part thereof is open to the use of the public for purposes of vehicular traffic. Where the word highway or the word street is used in this title, it means street, avenue, boulevard, thoroughfare, trafficway, alley and any other public way for vehicular travel by whatever name unless the context clearly indicates otherwise.

BB. Tree waste means all tree or shrub waste including tree stumps, but does not include leaves, tree trimmings or branches tied in bundles not more than four feet in length and not more than eighteen inches in diameter placed beside the solid waste storage containers, vegetation pruning's or wood chips placed in such container, fireplace wood or other wood fuel.

CC. Vehicle means any automobile, truck, tractor, farm machinery, motorcycle, motorized bicycle or other device designed of used for transportation of persons or property

which, as originally built, contained an engine, regardless of whether it contains an engine at any other time.

DD. Visible means that the shape of a vehicle is recognizable as a vehicle even if it is covered.

EE. Weeds are those plants defined as noxious weeds in K.S.A. 2-1314 and amendments thereto and as otherwise defined in this Article.

8-306 NOTICE OF VIOLATIONS; ABATEMENT; IMMEDIATE HAZARD

A. Whenever an officer, authorized to enforce violations of the provisions of this article, determines that there has been a violation of any provisions of this article, unless other notice requirements are set forth by the Code of the City of Lansing, he/she shall give notice of such alleged violation to the person or persons responsible therefore, as herein provided. Such notice shall:

1. Be in writing;

2. Particularize the violations alleged to exist or have been committed;

3. Provide a reasonable time for correction of the violation particularized;

4. Be addressed to and served upon the owner and/or occupant of the premises. Notice shall be deemed properly served upon such owner, operator, or occupant, if a copy thereof is served upon him/her personally, or if such notice cannot be personally served, a copy is sent by return receipt delivery, as defined in K.S.A. 60-303(c), to his/her last known address. If the notice is returned with an endorsement showing refusal to accept delivery then the notice may be sent by first-class mail addressed to the party to be served. If mailed, service shall be considered obtained three days after the mailing by first-class mail, postage prepaid, which shall be evidenced by a certificate of service. Mere failure to claim return receipt delivery is not refusal of service within the meaning of this

subsection. If notice of violation cannot be served, service may be obtained by notice of publication by at least one publication in the official newspaper of the City of Lansing. Such publication shall contain the conditions and reason of said notice.

B. As used in this section, a reasonable time for correction shall be a period of not more than ten days from the individual's receipt of the notice or publication of such notice in the official newspaper of the City of Lansing. In the discretion of the officer authorized to enforce this article, the time allowed for correction of the violation may be extended for a period of not more than thirty days upon receipt of a request for such extension of time by the individual receiving the notice of violation.

C. In the event the responsible person fails to abate within the time frame prescribed, the City may abate the problem. In that event, the cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located and a $25 administrative fee shall be charged. The City Clerk shall, at the time of certifying other taxes to the County Clerk, certify the costs as provided in this section. The County Clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the City as other City taxes are collected and paid.

D. The officer authorized to enforce this article, shall give notice to the owner of the premises by return receipt delivery of the costs of abatement of the nuisance. The notice shall state that payment of the cost is due and payable within 30 (thirty) days following mailing of the notice.

E. Immediate Hazard. When, in the opinion of the officer authorized to enforce violations of the provisions of this article, there is a nuisance that constitutes an immediate hazard requiring immediate action to protect the public health and safety, such officer may take those actions or abatement as are needed without delay, and such action may, under the preceding circumstance be taken without prior notice to the owners or possessors of said premises, property or lot that is or harbors the nuisance. Costs and

fees for abatement will still be assessed and collected as stated in subsection (c) of 8-306.

8-307 INSECTS, RODENTS, AND OTHER VERMIN

A. Every occupant of a structure shall be responsible for the extermination of any insects or rodents, other vermin therein or on the premises. Wherever two or more occupants are in the same building, the owner or operator of the building shall be responsible for such extermination. If the infestation is caused primarily by improper housekeeping, it shall be the joint responsibility of the owner and occupants to effect such extermination.

B. All real property shall be maintained free of conditions that encourage or permit any unnecessary breeding of insects that are annoying or dangerous to residents of the City. Exterior windows and doors of all structures shall be screened in a manner adequate to exclude insects.

8-308 NUISANCE LIGHTING PROHIBITED

A. No person shall install, maintain and/or use an outdoor visible light or other source of illumination, which is on private property and produces glare or direct illumination across a property line in a residential area of such intensity that it creates a nuisance or unreasonably interferes with the use or enjoyment of adjacent property.

B. Outside lights must be made up of a light source and reflector so that, acting together, the light beam is controlled and not directed across a property line.

C. This section shall not apply to street lights or lights installed, maintained and used in connection with the use and operation of any outdoor stadium; amphitheater, or athletic field which is open to the public.

8-309 UNAUTHORIZED PARKING IN RESIDENTIAL DISTRICTS

A. It is unlawful for any person to:

1. Park a motor vehicle on any street or alley for the primary purpose of washing, greasing or repairing

such vehicle except when repairs are necessitated by an emergency.

2. For any person or operator to park a motor vehicle on any portion of the required front yard of any lot within the City.

3. For any person or operator to park a motor vehicle on any portion of the unpaved side yard of any lot within the City.

4. For any person or operator to park a motor vehicle on an unpaved surface.

5. Citations may be issued for violations of subsections (1) through (4) of this section, without the necessity of allowing the person or operator time to correct these violations.

6. Citations may be served for violations of subsections (1) through (4) of this section, by conspicuously affixing the citation to such vehicle.

7. In any proceedings for a violation of this section, the registration plate displayed upon the motor vehicle shall constitute in evidence a prima facia presumption that the owner of such motor vehicle was the person who parked or placed such motor vehicle at the place where the violation occurred.

B. Every person convicted of a violation of any provisions of this section, upon conviction, shall be fined in an amount of not more than five hundred dollars.

8-310 OUTDOOR STORAGE PROHIBITED

A. No owner or occupant of any structure or real property shall store, use or maintain on the exterior of said structure or real property, interior furniture which is so dilapidated or deteriorated as to be a potential accident hazard, a harborage for insects, rodents or vermin, or which emits offensive odors.

B. No owner or occupant of any structure or real property shall store salvage or junk in the City or on vacant lots,

including abandoned or not in actual use iceboxes, or refrigerators.

The owner and/or occupant shall keep premises free of litter, refuse, salvage material and junk; provided, that building materials to be used within ninety days for construction on the premises, if properly authorized by a current building permit, may be kept if stored at least eighteen inches off the ground and not closer than forty-eight inches to a wall or fence, provided the health officer may approve a lesser distance.

8-311 WEEDS AND NOXIOUS WEEDS

It is declared a public nuisance and unlawful for any person or owner of real property or premises to allow the following to occur on his/her/its property.

A. Rank grass, weeds, noxious weeds as defined by K.S.A. 2-1314, and shall include, but shall not be limited by, any noxious weeds as defined by Leavenworth County, and to also include brush and woody vines, indigenous grasses which may attain such large growth as to become a fire menace to adjacent improved property, weeds which bear or may bear seed of a downy or wingy nature, weeds located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to public health, safety or welfare, or other vegetation over twelve inches in height upon any platted lot or piece of land or upon the streets and alleys in and/or adjoining upon any such platted lot or piece of land within the City. It is unlawful for the owner of any such lot or piece of land to permit rank grass, weeds or other vegetation in excess of twelve inches in height to exist and remain on said owner's land or upon the streets and alleys in front of and abutting upon any such platted lot or piece of land owned by said owner.

B. Upon a determination by any officer authorized to enforce the provisions of this article, that a nuisance such as is described in subsection (a) of this section exists and such nuisance has not been abated following a notice of violation pursuant to Section 8-306, such officer shall notify public works to abate such nuisance.

8-312 INOPERABLE OR ABANDONED VEHICLES

No person shall park, store, leave or permit the parking, storing or leaving of any vehicle, which is in an abandoned, wrecked, dismantled, inoperable, junked, or partially dismantled condition upon any private property within the City. The presence of an abandoned, wrecked, dismantled, inoperable, rusted, junked or partially dismantled vehicle, or parts thereof, on private property is declared a public nuisance, which may be abated as such, in accordance with the provisions of this chapter.

A. Any one (1) of the following conditions in existence for a period exceeding twenty (20) days shall be deemed prima facie evidence that a vehicle is inoperable:

1. The absence of current registration plate upon the vehicle and current motor vehicle insurance;

2. The placement of the vehicle or parts thereof upon jacks, blocks, chains or other supports;

3. The absence or condition of disrepair of one (1) or more parts of the vehicle necessary for the lawful operation of the vehicle upon the streets and highways;

4. Placement of the vehicle on any public or private property with one or more flat tires;

5. The placement of materials or property within the vehicle which would preclude the lawful operation of the vehicle upon the streets or highways.

B. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a business enterprise, lawfully licensed by the City and properly operated in an appropriate business zone, pursuant to the zoning laws of the City.

8-313 ABANDONED VEHICLES; AUTHORITY TO REMOVE

A person shall not use the public highway to abandon vehicles or use the highway to leave vehicles unattended in such a manner as to interfere with public highway operations. When a person leaves a motor vehicle on a public highway or other property open to use by the public, the City of Lansing having jurisdiction of such highway or other

property open to use by the public may, after 48 hours or when the motor vehicle interferes with public highway operations, remove and impound the motor vehicle. (K.S.A. 8-1102)

8-314 ABANDONED VEHICLE; NOTICE

Any motor vehicle which has been impounded as provided in this section for 30 days or more shall be disposed of in the following manner:

A. If such motor vehicle has displayed thereon a registration plate issued by the division of vehicles and has been registered with the division, the City shall request verification from the division of vehicles of the last registered owner and any lien holders, if any. Such verification request shall be submitted to the division of vehicles not more than 30 days after the City took possession of the vehicle. The City shall mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the 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 state that if the owner or lien holder does not claim such motor vehicle and pay the removal and storage charges incurred by the City on it within 15 days from the date of the mailing of the notice that it will be sold at public auction to the highest bidder for cash. The notice shall be mailed within 10 days after receipt of verification of the last owner and any lien holders, if any, as provided in this subsection.

B. After 15 days from date of mailing notice, the City shall publish a notice once a week for two consecutive weeks in the City's official newspaper, which notice shall describe the motor vehicle by name of maker, model, serial number, and owner, if known, and stating that it has been impounded by the City and that it will be sold at public auction to the highest bidder for cash if the owner thereof does not claim it within 10 days of the date of the second publication of the notice and pay the removal and storage charges, and publication costs incurred by the City. If the motor vehicle does not display a registration plate issued by the division of vehicles and is not registered with the division, the City after 30 days from the date of

impoundment, shall request verification from the division of vehicles of the last registered owner and any lien holders, if any. Such verification request shall be submitted to the division of vehicles no more than 30 days after the City took possession of the vehicle. The City shall mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the 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 state that if the owner or lien holder does not claim such motor vehicle and pay the removal and storage charges incurred by the City on it within 15 days from the date of the mailing of the notice, it will be sold at public auction to the highest bidder for cash. The notice shall be mailed within 10 days after receipt of verification of the last owner and any lien holders, if any, as provided in this subsection. After 15 days from the date of mailing notice, the City shall publish a notice in the City's official newspaper, which notice shall describe the motor vehicle by name of maker, model, color and serial number and shall state that it has been impounded by the City and will be sold at public auction to the highest bidder for cash, if the owner thereof does not claim it within 10 days of the date of the second publication of the notice and pay the removal and storage charges incurred by the City. (K.S.A. 8-1102)

8-315 SAME: SOLD AT AUCTION

A. When the City has complied with the provisions of this section with respect to an abandoned motor vehicle and the owner thereof does not claim it within the time stated in the notice and pay the removal and storage charges and publication costs incurred by the City on such motor vehicle, the City may sell the motor vehicle at public auction to the highest bidder for cash.

B. After any sale pursuant to this section, the City or its designated agent may file proof thereof with the Division of Vehicles. Thereupon, said division shall issue a certificate of title to the purchaser of such motor vehicle. All moneys derived from the sale of the motor vehicles pursuant to this article, after payment of the expenses of the sale, shall be

paid into the fund of the City, which is used by it for the construction or maintenance of highways.
(K.S.A. 8-1102)

8-316 SAME; ON PRIVATE PROPERTY

A. Any person who shall abandon and leave any vehicle on any real property, other than public property or property open to use by the public, within the City of Lansing, which is not owned or leased by such person or by the owner or lessee of such vehicle, shall be guilty of a criminal trespass. Upon request of the owner or occupant of such real property, the City or its designated agent may remove and dispose of such vehicle in the manner provided in this article, except that the provisions that a motor vehicle be abandoned for a period of time in excess of forty-eight (48) hours prior to its removal shall not be applicable to abandoned vehicles which are subject to the provisions of this section.

B. Any person removing such vehicle from the real property at the request of the City shall have a promissory lien on such vehicle for the costs incurred in removing towing and storing such vehicle.
(K.S.A. 8-1102)

8-317 RETURN OF IMPOUNDED MOTOR VEHICLE; REQUIREMENTS

Any person attempting to recover a motor vehicle impounded under this article shall show proof of valid registration and ownership of the motor vehicle to the City before obtaining the motor vehicle. In addition, the City may require payment of all reasonable costs associated with the impoundment of the motor vehicle, including transportation and storage fees, prior to release of the motor vehicle.
(K.S.A. 8-1102)

8-318 SALVAGE DEALERS; SCREENING

The provisions of section 8-312 shall not apply to any person conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength, and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this section shall be construed as to authorize the maintenance of a public nuisance.

8-319 OTHER NUISANCES UNLAWFUL

It shall be unlawful for any person to maintain or permit any nuisance within the City. Said nuisance shall include, but is not limited to, the following:

A. All dead animals not removed within 24 hours of death;

B. Any place or structure or substance which emits or causes any offensive disagreeable or nauseous odors;

C. All stagnant ponds or pools of water;

D. 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 City.

8-320 PENALTIES

Except as otherwise provided, any person who shall be convicted in the municipal court of violating any provisions of this article, shall be deemed guilty of a misdemeanor and shall be punished by a fine or not more than five hundred dollars or by imprisonment of not more than six months or both such fine and imprisonment. Each day that any violation to this article occurs, it shall constitute a separate offense and shall be punishable hereinafter as a separate violation. Provided, however, that if upon trial of any person found guilty of a misdemeanor hereinunder it shall appear to the court that the nuisance complained of as proscribed in this chapter is continuing, the court shall enter such order as it shall deem appropriate to cause the nuisance to be abated. Costs of abatement are separate and apart from any fine ordered by the court.

8-321 HABITUAL VIOLATOR

A. A property is classified as a “Chronic Nuisance” property when a second citation for any property maintenance code/nuisance violation is issued, or a second abatement of same is made on the same property in a calendar year. The property will then be placed on a “Chronic Nuisance” list with the Department of Public Works, Community Development Division.

B. The fee for the first remediation will be the cost, plus a $100.00 administrative charge.

C. For any further remediation(s) and/or citations at a “Chronic Nuisance” property within a two-year period, in

addition to the cost for remediation, the administrative charge will be $150.00 for the second offense, with the administrative charge increasing by an additional $100.00 for each subsequent offense.

D. Once on the “Chronic Nuisance” list, an annual $300.00 monitoring fee will be charged to the property owner on January 1 of each subsequent year until the property is maintained for one calendar year (January 1 – December 31) without further enforcement action by the City.

E. Additional fines may be charged by the court.

Any person found guilty of violation of this Article shall be fined a minimum of $200.00 and a maximum of $500.00 for each habitual violator citation. The Municipal Judge shall have no authority to suspend the minimum fine or any portion thereof. A person cited for violation of this Section shall be required to appear in municipal court. In addition thereto, the Municipal Judge shall have the authority to sentence the individual to up to six (6) months in jail. It shall be a defense to an alleged violation of this Section for the defendant to have been adjudged not guilty, or the charge dismissed.

ARTICLE 4. STORMWATER POLLUTION PREVENTION

8-401 GENERAL PROVISIONS

A. Purposes:
The purpose and objectives of this Article are as follows:

1. To maintain and improve the quality of water impacted by the storm drainage system within the City of Lansing.

2. To prevent the discharge of contaminated stormwater runoff and illicit discharges from industrial, commercial, residential, and construction sites into the storm drainage system within the City of Lansing.

3. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the storm drainage system.

4. To encourage recycling of used motor oil and safe disposal of other hazardous consumer products.

5. To facilitate compliance with state and federal standards and permits by owners of construction sites within the City.

6. To enable the City to comply with all federal and state laws and regulations applicable to the National Pollutant Discharge Elimination System (NPDES) permitting requirements for stormwater discharges.

B. Administration:
Except as otherwise provided herein, the Director of Public Works shall administer, implement, and enforce the provisions of this Article.

C. Abbreviations:

The following abbreviations when used in this Article shall have the designated meanings:

BMP -	Best Management Practices
CFR -	Code of Federal Regulations
EPA -	U.S. Environmental Protection Agency
HHW -	Household Hazardous Waste
KDHE-	Kansas Department of Health and Environment
MS4 -	Municipal Separate Storm Sewer System
NPDES-	National Pollutant Discharge Elimination System
SWP3-	Stormwater Pollution Prevention Plan

D. Definitions:

Unless a provision explicitly states otherwise, the following terms and phrases as used in this Article, shall have the meanings hereinafter designated.

Best Management Practices (BMP's) here refers to management practices and methods to control pollutants in stormwater. BMP's are of two types: "source controls" (nonstructural) and "treatment controls" (structural). Source controls are practices that prevent pollution by reducing potential pollutants at their source, before they come into contact with stormwater. Treatment controls remove pollutants from stormwater. The selection, application and maintenance of BMP's must be sufficient to prevent or reduce the likelihood of pollutants entering the storm drainage system. Specific BMP's may be imposed by the City and are discussed further in Section 8-402 (E).

City means the City of Lansing, Kansas

Clearing means any activity that removes all or a substantial part of the vegetative surface cover.

Commercial means pertaining to any business, trade, industry, or other activity engaged in for profit.

Construction Activity means activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 1 acre or more, as well as

those of less than one acre when the Director of Public Works determines that resulting potential or actual erosion and sedimentation may adversely impact streets, storm sewers, drainage ways or adjacent property. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Construction Site means any location where construction activity occurs.

Contaminated means containing harmful quantities of pollutants.

Contractor means any person or firm performing or managing construction work at a construction site, including any construction manager, general contractor or subcontractor. Also includes, but is not limited to, earthwork, paving, building, plumbing, mechanical, electrical or landscaping contractors, and material suppliers delivering materials to the site.

Director means the person appointed to the position of Public Works Director by the City of Lansing, Kansas.

Discharge means any addition or release of any pollutant, stormwater or any other substance whatsoever into storm drainage system.

Discharger means any person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any owner of a construction site or industrial facility.

Domestic Sewage means sewage originating primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, baths, showers and sinks.

Drainage Way means any surface channel that conveys surface runoff throughout the site.

Earthwork means the disturbance of soils on a site associated with clearing, grading, or excavation activities.

Environmental Protection Agency (EPA) means the United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of the EPA or such successor agency.

Erosion Control means a measure that prevents erosion.

Erosion and Sediment Control Plan means a set of plans prepared by or under the direction of a Kansas licensed professional engineer indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

Facility means any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

Fertilizer means a substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers.

Fire Protection Water means any water, and any substances or materials contained therein, used by any person to control or extinguish a fire, or to inspect or test fire equipment.

Garbage means putrescible animal and vegetable waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.

Grading means excavation or fill of soil, rock or other material, including the resulting conditions thereof.

Groundwater means any water residing below the surface of the ground or percolating into or out of the ground

Harmful Quantity means the amount of any substance that the Director determines will cause an adverse impact to

storm drainage system or will contribute to the failure of the City to meet the water quality based requirements of the NPDES permit for discharges from the MS4.

Hazardous Materials means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Hazardous Substance means any substance listed in Table 302.4 of 40 CFR Part 302.

Hazardous Waste means any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.

Household Hazardous Waste (HHW) means any material generated in a household (including single and multiple residences) that would be classified as hazardous pursuant to K.A.R. 28-29-1100 (b) (1).

Illegal Discharge see illicit discharge below.

Illicit Discharge means any discharge to the storm drainage system that is prohibited under this Article.

Illicit Connections means an illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed,

permitted, or approved by an authorized enforcement agency or,

2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the authorized enforcement agency

Industrial Activity means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

Industrial Waste (or commercial waste) means any wastes produced as a by-product of any industrial, institutional or commercial process or operation, other than domestic sewage.

Mechanical Fluid means any fluid used in the operation and maintenance of machinery, vehicles and any other equipment, including lubricants, antifreeze, petroleum products, oil and fuel.

Mobile Commercial Cosmetic Cleaning (or mobile washing) means power washing, steam cleaning, and any other method of mobile cosmetic cleaning, of vehicles and/or exterior surfaces, engaged in for commercial purposes or related to a commercial activity.

Municipal Separate Storm Sewer System (MS4) means the system of conveyances, including roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins and ponds owned and operated by the City and designed or used for collecting or conveying stormwater, and not used for collecting or conveying sanitary sewage.

NPDES means the National Pollutant Discharge Elimination System.

NPDES Permit means a permit issued by EPA that authorizes the discharge of pollutants to Waters of the

United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Storm Water Discharge means any discharge to the storm drain system that is not composed entirely of storm water.

Notice of Violation means a written notice detailing any violations of this Article and any action expected of the violators.

Oil means any kind of oil in any form, including, but not limited to: petroleum, fuel oil, crude oil, synthetic oil, motor oil, cooking oil, grease, sludge, oil refuse, and oil mixed with waste.

Owner means the person who owns a facility, part of a facility, or land.

Perimeter Control means a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, Joint Stock Company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities.

Pesticide means a substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest.

Pet Waste (or Animal Waste) means excrement and other waste from domestic animals.

Petroleum Product means a product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel or lubricant in a motor vehicle or aircraft, including motor oil, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel.

Phasing means clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

Pollutant means anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, inks, toners, and solvents; oil, antifreeze, fuel, and other automotive fluids; non-hazardous liquid and solid wastes; yard wastes, refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, that same cause or contribute to pollution; floatables, pesticides, herbicides, and fertilizers; hazardous materials and wastes; sewage, fecal coli form and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Pollution means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animal life, plant life, property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Potable Water means water that has been treated to drinking water standards and is safe for human consumption.

Premises means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Private Drainage System means all privately or publicly owned ground, surfaces, structures or systems, excluding the MS4, that contribute to or convey stormwater, including but not limited to, roofs, gutters, downspouts, lawns, driveways, pavement, roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins, ponds, draws, swales, streams and any ground surface.

Public Improvement Plans means engineering drawings subject to approval by the City Engineer for the construction of public improvements.

Qualified Person means a person who possesses the required certification, license; or who possesses appropriate competence, skills, and ability as demonstrated by sufficient education, training, and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements and generally accepted industry standards for such activity, and demonstrates such, to the satisfaction of the Director of Public Works, in the performance of duties of a Qualified Person as set forth in this article.

Release means to dump, spill, leak, pump, pour, emit, empty, inject, leach, dispose or otherwise introduce into the storm drainage system.

Rubbish means non-putrescible solid waste, excluding ashes, that consist of: (A) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (B) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

Sanitary Sewage means the domestic sewage and/or industrial waste that is discharged into the City sanitary sewer system and passes through the sanitary sewer system to the City sewage treatment plant for treatment.

Sanitary Sewer means the system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the City sewage treatment plant (and to which stormwater, surface water, and groundwater are not intentionally admitted).

Sediment means soil (or mud) that has been disturbed or eroded and transported naturally by water, wind or gravity, or mechanically by any person.

Sediment Control means measures that prevent eroded sediment from leaving the site.

Septic Tank Waste means any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and aerated tanks.

Shall means mandatory; may mean discretionary.

Site means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity. Also, a parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

Site Development Permit means a permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

Small Quantity Generator Waste means any hazardous waste generated within the limits prescribed for small quantity generators in K.A.R. 28-31-260.

Solid Waste means any garbage, rubbish, refuse and other discarded material, including solid, liquid, semi-solid, or contained gaseous material, resulting from industrial, municipal, commercial, construction, mining or agricultural operations, and residential, community and institutional activities.

Stabilization means the use of practices that prevent exposed soil from eroding.

Start of Construction means the first land-disturbing activity associated with a development, including but not limited to preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of

temporary forms; and installation of accessory buildings such as garages.

State means The State of Kansas.

Storm Drainage System means all surfaces, structures and systems that contribute to or convey stormwater, including private drainage systems, the MS4, surface water, groundwater, Waters of the State and Waters of the United States.

Stormwater means runoff resulting from precipitation.

Stormwater Pollution Prevention Plan (SWP3) means a document that describes the Best Management Practices to be implemented at a site, to prevent or reduce the discharge of pollutants.

Subdivision Development includes activities associated with the platting of any parcel of land into one or more lots and includes all construction activity taking place thereon.

Surface Water means water bodies and any water temporarily residing on the surface of the ground, including oceans, lakes, reservoirs, rivers, ponds, streams, puddles, channelized flow and runoff.

Uncontaminated means not containing harmful quantities of pollutants.

Used Oil (or Used Motor Oil) means any oil that as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties.

Utility Agency means private utility companies, City departments or contractors working for private utility companies or City departments, engaged in the construction or maintenance of utility distribution lines and services, including water, sanitary sewer, storm sewer, electric, gas, telephone, television and communication services.

Watercourse means any natural or improved lake, pond, stream, river, creek, ditch, channel, canal, conduit, gutter,

culvert, drain, gully, swale or wash in which waters flow continuously or intermittently

Waterway means a channel that directs surface runoff to a watercourse or to the public storm drain.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Waters of the State (or water) means any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, inside the territorial limits of the State, and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the State or inside the jurisdiction of the State.

Water Quality Standard means the designation of a body or segment of surface water in the State for desirable uses and the narrative and numerical criteria deemed by State or Federal regulatory standards to be necessary to protect those uses.

Waters of the United States means all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and the flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of “waters of the United States” at 40 CFR Section 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act.

Wetland means any area that is inundated or saturated by surface or groundwater at a frequency and duration

sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Yard Waste means leaves, grass clippings, tree limbs, brush, soil, rocks or debris that result from landscaping, gardening, yard maintenance or land clearing operations.

8-402 PROHIBITIONS AND REQUIREMENTS

A. Prohibitions

1. No *person* shall *release* or cause to be released into the *storm drainage system* any *discharge* that is not composed entirely of *uncontaminated stormwater*, except as allowed in Section 8-402(B). Common stormwater contaminants include trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste and sediment.

2. Notwithstanding the provisions of Section 8-402(B), any discharge shall be prohibited by this Section if the discharge in question has been determined by the Director to be a source of pollutants to the storm drainage system.

3. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

4. No person shall connect a line conveying sanitary sewage, domestic sewage or industrial waste, to the storm drainage system, or allow such a connection to continue.

5. No person shall connect a line, or maintain a previously established line conveying stormwater, groundwater, or any other substance directly to

public lines or structures, or directly onto streets or curbs.

6. No person shall maliciously destroy or interfere with BMP's implemented pursuant to this Article.

B. Exemptions
The following non-stormwater discharges are deemed acceptable and not a violation of this Section

1. A discharge authorized by an NPDES permit other than the NPDES permit for discharges from the MS4;

2. Uncontaminated waterline flushing and other infrequent discharges from potable water sources;

3. Infrequent uncontaminated discharge from landscape irrigation or lawn watering;

4. Discharge from the occasional non-commercial washing of vehicles on properties zoned A-1, R-1, R-2, R-3, R-4, or R-5.

5. A discharge of swimming pool water in compliance with Chapter 8 Article 5.

6. Uncontaminated discharge from foundation, footing or crawl space drains and their associated sump pumps and air conditioning condensation drains;

7. Uncontaminated groundwater, including rising groundwater, groundwater infiltration into storm drains, pumped groundwater and springs;

8. Diverted stream flows and natural riparian habitat or wetland flows;

9. A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials.

C. Requirements Applicable to Certain Dischargers.
Allowed releases in terms of this section refer to surface releases on private property. Physical connections to

storm sewer pipes and structures are still strictly prohibited.

1. Private Drainage System Maintenance. The owner of any private drainage system shall maintain the system to prevent or reduce the discharge of pollutants. This maintenance shall include, but is not limited to, sediment removal, bank erosion repairs, maintenance of vegetative cover, and removal of debris from pipes and structures.

2. Minimization of Irrigation Runoff. A discharge of irrigation water that is of sufficient quantity to cause a concentrated flow in the storm drainage system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from a site.

3. Cleaning of Paved Surfaces Required. The owner of any paved parking lot, street or drive shall clean the pavement as required to prevent the buildup and discharge of pollutants. The visible buildup of mechanical fluid, waste materials, sediment or debris is a violation of this ordinance. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this Article. This section does not apply to pollutants discharged from construction activities, which are regulated by Section 8-403.

4. Mobile commercial cosmetic cleaning operations shall not discharge to the storm drainage system in violation of this Article.

5. Maintenance of Equipment. Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants. Vehicles, machinery and equipment must be maintained to reduce leaking fluids.

6. Materials Storage. In addition to other requirements of this Code, materials shall be stored to prevent the potential release of pollutants. The uncovered,

outdoor storage of unsealed containers of hazardous substances is prohibited.

7. Pet Waste. Pet waste shall be disposed of as solid waste or sanitary sewage in a timely manner, to prevent discharge to the storm drainage system.

8. Pesticides, Herbicides and Fertilizers. Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws. Excessive application shall be considered a violation of this Article.

9. Prohibition on Use of Pesticides and Fungicides Banned from Manufacture. Use of any pesticide, herbicide or fungicide, the manufacture of which has been either voluntarily discontinued or prohibited by the Environmental Protection Agency, or any Federal, State or City regulation is prohibited.

10. Open Drainage Channel Maintenance. Every person owning or occupying property through which an open drainage channel passes shall keep and maintain that part of the drainage channel within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, divert. or retard the flow of water through the drainage channel as determined by the Director of Public Works. In addition, the owner or occupant shall maintain existing privately owned structures adjacent to a drainage channel, so that such structures will not become a hazard to the use, function, or physical integrity of the drainage channel.

D. Release and Hazardous Release Reporting and Cleanup. Any person responsible for a known or suspected release of materials which are resulting in or may result in illegal discharges to the storm drainage system shall take all necessary steps to ensure the discovery, containment, abatement and cleanup of such release. In the event of such a release of a hazardous material, said person shall comply with all state, federal, and local laws requiring reporting, cleanup, containment, and any other appropriate

remedial action in response to the release. In the event of such a release of non-hazardous materials, said person shall notify the Director no later than 4:30 p.m. of the next business day. In the event of a discharge of a hazardous material, said person shall immediately notify the Director and Police Department

E. Adoption and Imposition of Best Management Practices. The City hereby adopts the most recent edition, as may be amended from time to time, of the Mid-America Regional Council and American Public Works Association Manual of Best Management Practices for Stormwater Quality. Where specific BMP's are required, every person undertaking such activity or operation, or owning or operating such facility shall implement and maintain these BMP's at their own expense.

8-403 STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES

A. General Requirements for Construction Sites.

1. The owner of a site of construction activity shall be responsible for compliance with all the requirements of Section 8-403(A).

2. Waste Disposal. Solid waste, industrial waste, yard waste and any other pollutants or waste on any construction site shall be controlled through the use of Best Management Practices. Waste or recycling containers shall be provided and maintained by the owner or contractor on construction sites where there is the potential for release of waste. Uncontained waste that may blow, wash or otherwise be released from the site is prohibited.

3. Ready-mixed concrete, or any materials resulting from the cleaning of vehicles or equipment containing or used in transporting or applying ready-mixed concrete, shall be contained on construction sites for proper disposal. Release of these materials is prohibited.

4. Erosion and Sediment Control. Best Management Practices shall be implemented to prevent the

release of sediment from construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. Excessive sediment tracked onto public streets shall be removed immediately if the sediment presents a traffic hazard or public safety concern as determined by the Director of Public Works or the Police Chief.

5. Upon completion of permitted construction activity on any site, the property owner and subsequent property owners will be responsible for continued compliance with the requirements of Section 8-403(A), in the course of maintenance, reconstruction or any other construction activity on the site.

6. Permits.

   a) No person shall be granted a site development permit for land-disturbing activity that would require the uncovering of 43,560 or more square feet (1 acre or more) without the approval of an Erosion and Sediment Control Plan and a Stormwater Pollution Prevention Plan by the Lansing Department of Public Works.

   b) No site development permit is required for the following activities:

      (I) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

      (II) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

   c) Each application shall bear the name(s) and address(es) of the owner or developer of the site and of any licensed technical professional or consulting firm retained by the applicant together with the name of the applicant's

principal contact at such firm and shall be accompanied by a filing fee of $50.

d) Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan and that personnel knowledgeable about erosion and sediment control best management practices shall be on site on all days when construction or grading activity takes place.

e) The applicant will be required to file with the City of Lansing a faithful performance and maintenance bond, letter of credit, or other improvement security acceptable to the Director of Public Works in an amount deemed sufficient by the Director of Public Works to cover all costs of construction, inspection, and maintenance of temporary and permanent sediment control improvements during construction, and the cost to correct failure of permanent sediment control measures installed on the site for a period of two years following final completion of site work as determined by the Director of Public Works.

f) A permit and sediment control measures may be required for sites of less than one acre when the Director of Public Works determines that potential or actual erosion and sedimentation may adversely impact streets, storm sewers, drainage ways, or adjacent property.

7. <u>Review and Approval.</u>

a) The Lansing Public Works Department will review each application for a site development permit to determine its conformance with the provisions of this regulation. The review will be undertaken as

promptly as reasonably practical, and no later than 30 days after receiving an application the Lansing Public Works Department shall, in writing:

(I) Approve the permit application;

(II) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or

(III) Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.

b) Failure of the Lansing Public Works Department to act on an original or revised application within 30 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed and in accordance with an approved general NPDES permit unless such time is extended by agreement between the applicant and the Lansing Public Works Department. Pending preparation and approval of a revised plan, development activities may be allowed to proceed in accordance with conditions established by the Lansing Public Works Department.

c) Denial of a permit maybe appealed to the Governing Body within 5 days of the notice of denial.

B. Construction Sites Requiring an Approved SWP3.
This section applies to all construction sites excluding subdivision developments. Where construction on a site will disturb soil or remove vegetation on one (1) or more acres of land during the life of the construction project, and/or sites less than one (1) acre when the Director of

Public Works determines that potential or actual erosion and sedimentation may adversely impact streets, storm sewers, drainage ways, or adjacent property, an approved Erosion and Sediment Control Plan and Stormwater Pollution Prevention Plan (SWP3) for the project must be provided and implemented by the construction site owner as follows

1. The area disturbed shall be assumed to include the entire property area unless all applicable plans specifically exclude certain areas from disturbance.

2. The SWP3 must be provided by the owner and submitted to the City for approval. Two copies of the SWP3 shall be submitted to the Department of Public Works. For sites subject to plan review by the Planning Office, the plan will not be released for construction until an approved SWP3 has been obtained.

3. The preparation and implementation of the SWP3 must comply with Section 8-403(D).

4. The Director will review the SWP3 submitted for the site and will return either a letter of SWP3 approval or a request for revisions within 14 days of submission of the SWP3. Construction activity, including any soil disturbance or removal of vegetation, shall not commence on the site until the Director has issued a letter of SWP3 approval.

5. The owner bears the responsibility for implementation of the SWP3 and notification of all contractors and utility agencies on the site.

C. Subdivision Developments Requiring an Approved SWP3. Where construction of a subdivision development will disturb soil or remove vegetation on one (1) or more acres of land during the life of the development project, approved Stormwater Pollution Prevention Plans (SWP3's) for the project must be provided and implemented by the subdivision owner as follows:

1. The area disturbed shall be assumed to include the entire platted area.

2. SWP3's must be provided by the subdivision owner and included in Public Improvement Plans submitted to the City Engineer for the development.

3. The preparation and implementation of all SWP3's must comply with Section 8-403(D).

4. SWP3's must be provided for all phases of development, including sanitary sewer construction, storm drainage system construction, waterline, street and sidewalk construction, general grading and the construction of individual homes. The subdivision owner will not be required to provide an SWP3 for the activities of utility agencies within the subdivision. Utility construction is addressed in Section 8-403(E).

5. Approval of Public Improvement Plans by the City Engineer will constitute approval by the Director of the included SWP3. Construction activity, including any soil disturbance or removal of vegetation, shall not commence until the Public Improvement Plans are approved for the development.

6. The subdivision owner shall provide a copy of the approved SWP3's to all utility agencies prior to their working within the subdivision.

7. The subdivision owner bears the responsibility for implementation of the approved SWP3's for all construction activity within the development, excluding construction under the control of subsequent owners of individual lots and construction managed by utility agencies.

    a) Individual Lot or Lots. The permittee who transfers ownership of a lot or a portion of the overall permitted area and the new owner or operator of the lot or parcel shall complete an Individual Lot Certificate (ILC) form for each lot, lots or parcels sold or incorporate into the

contract for sale requirements equal to those indicated on the ILC form. The ILC or statements in the contract for sale do not constitute a transfer of the Authorization to discharge. The agreement is between the new owner or operator of the lot or parcel and the permittee to implement the SWP3 plan and the conditions of the general NPDES permit cooperatively.

8. The subsequent owner of an individual lot bears the responsibility for continued implementation of the approved SWP3's for all construction activity within or related to the individual lot, excluding construction managed by utility agencies.

D. Stormwater Pollution Prevention Plans.
Preparation and implementation of Stormwater Pollution Prevention Plans for construction activity shall comply with the following:

1. Preparation

a) The SWP3 shall be prepared under the direction of a Kansas Licensed Professional Engineer.

b) The SWP3 shall provide the name, address and phone number of the project owner for purposes of correspondence and enforcement.

c) The SWP3 shall identify existing natural resources such as streams, forest cover and other established vegetative cover.

d) The SWP3 shall specify and provide detail for all BMP's necessary to meet the requirements of this Article, including any applicable BMP's that have been adopted and imposed by the City.

e) The SWP3 shall specify when each BMP will be installed, and for how long it will be

maintained within the construction sequence. Multiple plans may be required for major phases of construction such as rough grading, building construction and final grading.

f) The SWP3 shall delineate all anticipated disturbed areas and specify the vegetative cover that must be established in those areas to achieve final stabilization.

2. Implementation

a) BMP's shall be installed and maintained by qualified persons. The owner or their representative shall be able to provide upon the Director's request a copy of the SWP3 on site within one hour during construction activity, or within the next business day for periods of inactivity, and shall be prepared to respond to unforeseen maintenance of specific BMP's.

b) The owner shall provide for a qualified person pursuant to 8-401 (D) to inspect all BMP's at least once per week and within the next business day after a rainfall of one half inch or more as measured at the site or generally reported in the Lansing area and shall prepare an inspection report specifying all deficiencies and recommending corrections Copies of all inspection reports must be provided to the Lansing Public Works Office within two days of a rainfall event and within two days of date of weekly inspection.

c) Based on inspections performed by the owner's designated qualified person or by authorized City personnel, modifications to the SWP3 will be necessary if at any time the specified BMP's do not meet the objectives of this Article. In this case, the owner shall meet with authorized City personnel to determine the appropriate modifications. All modifications shall be completed within seven

(7) days of the referenced inspection, and shall be recorded on the owner's copy of the SWP3, unless the Director of Public Works determines immediate modification is necessary, in which case the modification shall be undertaken and completed immediately.

E. Requirements for Utility Construction.

1. Utility agencies shall be responsible for compliance with the requirements of Section 8-403(E).

2. Utility agencies shall develop and implement Best Management Practices (BMP's) to prevent the discharge of pollutants on any site of utility construction within the City. In addition, the City may adopt and impose BMP's on utility construction activity.

3. Utility agencies shall implement BMP's to prevent the release of sediment from utility construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. Excessive sediment tracked onto public streets shall be removed immediately if the sediment presents a traffic hazard or public safety concern as determined by the Director of Public Works or the Chief of Police.

4. Prior to entering a construction site or subdivision development, utility agencies shall have obtained from the owner a copy of any SWP3's for the project. Any disturbance to BMP's resulting from utility construction shall be repaired immediately by the utility company in compliance with the SWP3.

F. Erosion and Sediment Control Plan

1. The Erosion and Sediment Control Plan shall be prepared by a Kansas licensed professional engineer and shall include the following:

a) A natural resources map identifying soils, forest cover, and resources protected under other chapters of this code. This map should be at a scale no smaller than 1"=100'.

b) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent erosion control measures including vegetation.

c) All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.

d) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.

2. Modifications to the plan shall be processed and approved or disapproved in the same manner as Section 403(A) of this regulation, may be authorized by the Public Works Director or his designee by written authorization to the permittee, and shall include:

a) Major amendments of the Erosion and Sediment Control Plan submitted to the Lansing Public Works Department.

b) Field modifications of a minor nature.

8-404 ENFORCEMENT

A. Submissions from the General Public.
Members of the General Public may submit information pertaining to this Article to the City of Lansing, Department of Public Works. The Director will consider such submissions as they pertain to the implementation and enforcement of this Article and will provide written or verbal response to the person submitting the information.

B. Enforcement Personnel Authorized.
The following personnel employed by the City shall have the power to issue Notices of Violations and implement other enforcement actions under this Article as provided by Charter Ordinance No. 1-2016 of the City of Lansing:

1. All authorized personnel under the supervision of the Director of Public Works.

2. All Law enforcement officers of the Lansing Police Department

3. All health officers that are authorized representatives of the Director Leavenworth County Health Department.

C. Right of Entry and Sampling.

1. Whenever the Director has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Article, the Director or his/her designee shall have the right to enter the premises at any reasonable time to determine if the discharger is complying with all requirements of this article. In the event that the owner or occupant refuses entry after a request to enter has been made, the City is hereby empowered to seek assistance from a court of competent jurisdiction in obtaining such entry.

2. The Director or his/her designee shall have the right to set up on the property of any discharger to the

storm drainage system such devices that are necessary to conduct sampling of discharges.

3. Lansing Public Works Department or the Department’s designee shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.

4. Lansing Public Works Department or the Department’s designee has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Lansing Public Works Department and shall not be replaced. The costs of clearing such access shall be borne by the facility operator.

6. Unreasonable delays in allowing Lansing Public Works Department access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

D. Notice of Violation

1. Whenever an authorized enforcement person determines that a person has violated a prohibition or failed to meet a requirement of this Article, the

enforcement person will order compliance by written Notice of Violation to the responsible person.

2. The Notice of Violation shall identify:

   a) The name of the responsible person

   b) The date and location of the violation

   c) A description of the violation

   d) Actions that must be taken by the responsible person to remedy the violation

   e) The deadline within which the required actions must be completed

   f) Enforcement actions that may be taken by the City

3. Any person receiving a Notice of Violation may appeal the Notice to the Governing Body of Lansing. The written appeal must be received by the City Clerk within 5 days of the Notice date. A hearing on the appeal will be scheduled before the Governing Body. The decision of the Governing Body shall be final.

E. Action without Prior Notice. Imminent Danger
Any person who violates a prohibition or fails to meet a requirement of this Article will be subject, without prior notice, to one or more of the enforcement actions identified in 8-404 (F), when attempts to contact the person have failed, of if action has not been taken with expedience commensurate with the danger by the person, and the enforcement actions are necessary to stop an actual or threatened discharge which presents or may present imminent danger to the environment, or to the health or welfare of persons, or to the storm drainage system.

F. Enforcement Actions.
Any person who fails to comply with or appeal a Notice of Violation, or fails to comply with an appeal decision of the

Governing Body, will be subject to one or more of the following enforcement actions:

1. Stop Work Order. The Director may issue a Stop Work Order to the owner and contractors on a construction site, by posting the order at the construction site and distributing the order to all City departments whose decisions may affect any activity at the site. Unless express written exception is made, the Stop Work Order shall prohibit any further construction activity at the site and shall bar any further inspection or approval necessary to commence or continue construction or to assume occupancy at the site. A Notice of Violation shall accompany the Stop Work Order, and shall define the compliance requirements.

2. Abatement of an Illicit Connection. The Director may order City representatives to terminate an illicit connection to the MS4. Any expense related to such abatement by City representatives shall be fully reimbursed by the property owner.

3. Abatement of a Violation on Private Property. When a property owner is not available, not able or not willing to correct a violation, the Director of Public Works may order City representatives to enter private property to take any and all measures necessary to abate the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow City representatives to enter upon the premises for these purposes. Any expense related to such abatement by City representatives shall be fully reimbursed by the property owner.

4. Recovery of Costs. Within 30 days after abatement by City representatives, the Director shall notify the property owner of the costs of abatement, including administrative costs, and the deadline for payment. The property owner may protest the assessment before the Governing Body. The written protest must be received by the City Clerk within 15 days of the date of the notification. A hearing on the matter

will be scheduled before the Governing Body. The decision of the Governing Body shall be final. If the amount due is not paid within the protest period or within 10 days of the decision of the Governing Body, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the County Clerk so that the Clerk may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the Treasurer shall include the amount of the assessment on the bill for taxes levied against the parcel of land.

5. Termination of Utility Services. After lawful notice to the customer and property owner concerning the proposed disconnection, the Director shall have the authority to order the disconnection of City sanitary sewer and/or sanitation services, upon a finding by the Director that the disconnection of utility services will remove a violation of this Article that poses a public health hazard or environmental hazard.

6. Performance Bonds. Where necessary for the reasonable implementation of this Article, the Director may, by written notice, order any owner of a construction site or subdivision development to file a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance with this Article. The City may deny approval of any building permit, subdivision plat, site development plan, or any other City permit or approval necessary to commence or continue construction or to assume occupancy, until such a performance bond has been filed. The owner may protest the amount of the performance bond before the Governing Body. The written protest must be received by the City Clerk within 15 days of the date of the notification. A hearing on the matter will be scheduled before the Governing Body. The decision of the Governing Body shall be final.

7. Criminal Prosecution. Any person who violates or continues to violate a prohibition or requirement of this Article shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to criminal penalties.

G. Criminal Penalties.
The violation of any provision of this Article shall be deemed a municipal offense. Any person violating this Article shall, upon an adjudication of guilt or a plea of no contest, be fined a minimum of $250.00 to a maximum of $1,500.00. Each separate day on which a violation is committed or continues shall constitute a separate offense. The municipal court judge shall have no authority to suspend all or a portion of the minimum fine.

H. Other Legal Action.
Notwithstanding any other remedies or procedures available to the City, if any person discharges into the storm drainage system in a manner that is contrary to the provisions of this Article, the City Attorney may commence an action for appropriate legal and equitable relief including damages and costs in the District Court of Leavenworth County. The City Attorney may seek a preliminary or permanent injunction or both which restrains or compels the activities on the part of the discharger.

8-405 SEVERABILITY

If any provision of this Article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall remain in full force and effect.

ARTICLE 5. SWIMMING POOL DISCHARGE REGULATION

8-501 APPLICABILITY AND ENFORCEMENT

This Article provides for the regulation of swimming pool discharge from any indoor pool, outdoor pool, residential pool, or non-residential pool with a full volume equal to or greater than 5,000 gallons. It shall be unlawful for any person to discharge in noncompliance with the provisions of this article, and the Code of the City of Lansing, Kansas, and amendments thereto.

8-502 DEFINITIONS

The following words used in this Article shall be deemed to mean and be construed as follows, unless the context specifically indicates otherwise:

A. City shall mean the City of Lansing, Kansas.

B. Discharge for the purposes of this ordinance, shall refer to the transfer of any substance from the swimming pool system to the sanitary sewer system or storm drainage system. Typical substances discharged for swimming pools include but are not limited to water, chemicals, detergents, filtering agents and debris.

C. Sanitary Sewer System shall mean a sewer that carries wastewater and to which storm, surface and ground waters are not intentionally admitted.

D. Sewer shall mean a pipe or conduit for carrying wastewater or storm water.

E. Shall is mandatory; may is permissive.

F. Storm Drainage System shall mean swales, gutters, inlets, pipes, sewers, ditches, channels and streams that carry storm and surface water, but exclude wastewater and industrial wastes. The surface of the ground in any location shall be considered part of the storm drainage system.

All other definitions shall reference the provisions of this article

8-503 DISCHARGE TO THE SANITARY SEWER SYSTEM

Filter backwash lines and any other pipelines that discharge through the filtering

system shall be connected to the sanitary sewer system. Connections to the sanitary sewer system for discharge of filter backwash purposes shall comply with the following:

A. Discharge to the sanitary sewer system shall not exceed a rate of 50 gallons per minute. If the capacity of the pumping system exceeds this rate, secondary pumps, wet wells, reduced pipe size or other alternatives shall be installed to comply with the 50 gallon per minute maximum discharge rate.
Hydraulic calculations for chosen alternatives shall be submitted with permit applications.

B. Connections to the sanitary sewer system shall be installed with a Hub Drain for Swimming Pool Discharge.

8-504 DISCHARGE TO THE STORM DRAINAGE SYSTEM

Pipelines that discharge indirectly to the storm drainage system may be installed, provided that they bypass the filtering system and are released to the storm drainage system. Release to the storm drainage system shall comply with the following:

A. Swimming Pools. Swimming pool water excluding filter backwash, may be discharged to the storm drainage system provided that it does not contain harmful quantities of chlorine, acid or other chemicals and has less than 1 PPM chlorine, and is released on a lawn outside of street right-of-way and drainage easements in order for the water to be filtered prior to release into the stormwater drainage system, and is released at a rate no greater than 100 GPM. If these provisions are met, discharge to the storm water drainage system is allowed.

B. For swimming pools with a full volume equal to or greater than 30,000 gallons, discharge to the ground surface is not allowed unless the discharge enters a drainage channel in a platted drainage easement prior to leaving the property.

C. For swimming pools with a full volume less than 30,000 gallons, discharge to the ground surface is not allowed unless prior to leaving the property the discharge enters either:

1. A drainage channel in a platted drainage easement, or

2. The public street right-of-way.

D. Swimming pool discharge by means of a physical connection to storm sewer system pipes or structures is not allowed.

E. In no case shall swimming pool discharge be allowed to flow across adjacent property unless confined to a storm drainage easement.

8-505 REQUIRED INSPECTIONS AND ENFORCEMENT

A. No work or discharge shall proceed prior to a City inspection. All installations shall be permitted and inspected pursuant to City Code. The owner shall notify the appropriate City inspector at least 24 hours prior to the start of any work. Construction sequencing shall yield to inspection schedules. Any subsurface work that has been buried prior to inspection shall be excavated as directed by the inspector.

B. Swimming pool system components and connections to the sanitary sewer system shall be permitted and inspected by the Department of Public Works.

C. Release to the storm drainage system shall be permitted and inspected by the Department of Public Works.

D. Notice of Violation.

1. Whenever an authorized enforcement person determines that a person has violated a prohibition or failed to meet a requirement of this Article, the enforcement person will order compliance by written Notice of Violation to the responsible person.

2. The Notice of Violation shall identify:

a) The name of the responsible person

b) The date and location of the violation

c) A description of the violation

d) Actions that must be taken by the responsible person to remedy the violation

e) The deadline within which the required actions must be completed

f) Enforcement actions that may be taken by the City

3. Any person receiving a Notice of Violation may appeal the Notice to the Governing Body of Lansing. The written appeal must be received by the City Clerk within 5 days of the Notice date. A hearing on the appeal will be scheduled before the Governing Body. The decision of the Governing Body shall be final.

E. Action without Prior Notice. Imminent Danger
Any person who violates a prohibition or fails to meet a requirement of this Article will be subject, without prior notice, to one or more of the enforcement actions identified in 8-505(F), when attempts to contact the person have failed, or if action has not been taken with expedience commensurate with the danger by the person, and the enforcement actions are necessary to stop an actual or threatened discharge which presents or may present imminent danger to the environment, or to the health or welfare of persons, or to the storm drainage system.

F. Enforcement Actions.
Any person who fails to comply with or appeal a Notice of Violation, or fails to comply with an appeal decision of the Governing Body, will be subject to one or more of the following enforcement actions:

1. Stop Work Order. The Director may issue a Stop Work Order to the owner and contractors on a construction site, by posting the order at the construction site and distributing the order to all City departments whose decisions may affect any activity at the site. Unless express written exception

is made, the Stop Work Order shall prohibit any further construction activity at the site and shall bar any further inspection or approval necessary to commence or continue construction or to assume occupancy at the site. A Notice of Violation shall accompany the Stop Work Order, and shall define the compliance requirements.

2. Abatement of an Illicit Connection. The Director may order City representatives to terminate an illicit connection to the MS4. Any expense related to such abatement by City representatives shall be fully reimbursed by the property owner.

3. Abatement of a Violation on Private Property. When a property owner is not available, not able or not willing to correct a violation, the Director of Public Works may order City representatives to enter private property to take any and all measures necessary to abate the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow City representatives to enter upon the premises for these purposes. Any expense related to such abatement by City representatives shall be fully reimbursed by the property owner.

4. Recovery of Costs. Within 30 days after abatement by City representatives, the Director shall notify the property owner of the costs of abatement, including administrative costs, and the deadline for payment. The property owner may protest the assessment before the Governing Body. The written protest must be received by the City Clerk within 15 days of the date of the notification. A hearing on the matter will be scheduled before the Governing Body. The decision of the Governing Body shall be final. If the amount due is not paid within the protest period or within 10 days of the decision of the Governing Body, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be

turned over to the County Clerk so that the Clerk may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the Treasurer shall include the amount of the assessment on the bill for taxes levied against the parcel of land.

5. Performance Bonds. Where necessary for the reasonable implementation of this Article, the Director may, by written notice, order any owner of a construction site or subdivision development to file a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance with this Article. The City may deny approval of any building permit, subdivision plat, site development plan, or any other City permit or approval necessary to commence or continue construction or to assume occupancy, until such a performance bond has been filed. The owner may protest the amount of the performance bond before the Governing Body. The written protest must be received by the City Clerk within 15 days of the date of the notification. A hearing on the matter will be scheduled before the Governing Body. The decision of the Governing Body shall be final.

6. Criminal Prosecution. Any person who violates or continues to violate a prohibition or requirement of this Article shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to criminal penalties.

G. Criminal Penalties.

The violation of any provision of this Article shall be deemed a municipal offense. Any person violating this Article shall, upon an adjudication of guilt or a plea of no contest, be fined a minimum of $250.00 to a maximum of $1,500.00. Each separate day on which a violation is committed or continues shall constitute a separate offense. The municipal court judge shall have no authority to suspend all or a portion of the minimum fine.

H. Other Legal Action.
Notwithstanding any other remedies or procedures available to the City, if any person discharges into the storm drainage system in a manner that is contrary to the provisions of this Article, the City Attorney may commence an action for appropriate legal and equitable relief including damages and costs in the District Court of Leavenworth County. The City Attorney may seek a preliminary or permanent injunction or both which restrains or compels the activities on the part of the discharger.

8-506 SEVERABILITY

If any provision of this Article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall remain in full force and effect.

CHAPTER 9. MINIMUM HOUSING / PROPERTY MAINTENANCE

Article 1. Administration & Enforcement
Article 2. International Property Maintenance Code
Article 3. Environmental Requirements
Article 4. Environmental Enforcement
Article 5. Minimum Housing Standards- General Premise Conditions
Article 6. Exterior Structure Conditions
Article 7. Interior Structure Conditions
Article 8. Responsibilities of Persons- General

ARTICLE 1. ADMINISTRATION AND ENFORCEMENT

9-101 TITLE

These regulations shall be known as the International Property Maintenance Code 2003, and the Minimum Housing Code of the city of Lansing, Kansas hereinafter referred to as "this code."

9-102 SCOPE

This code shall apply to residential structures and premises currently existing, both owner occupied and those structures used as rental property for human habitation, to nonresidential structures, and to residential and non-residential lands, and to vacant lots.

A. Residential structures shall mean any building or structure or part thereof used or occupied for human habitation or intended to be so used, and includes any appurtenances belonging thereto or usually enjoyed therewith.

B. Residential land shall mean real property upon which residential structures are situated.

C. Nonresidential structures shall mean any structure which is used for other than residential purposes, or a part of such structure.

D. Nonresidential land shall mean real property upon which nonresidential structures are situated.

E. A vacant lot shall mean any real property upon which there is situated no residential or nonresidential structures.

9-103 INTENT

This code shall be enforced to insure public health, safety, and welfare

insofar as they are affected by the maintenance of structures and premises.

9-104 OTHER REGULATIONS

The provisions in this code shall not be construed to prevent the enforcement of other ordinances or regulations, which prescribe standards other than, are provided herein. However, due to the general age of the majority of dwellings for which this ordinance was developed, the minimum housing standards, not the International Residential Code, is the primary focus of the Property Maintenance Code and should be the primary focus for its enforcement. This shall not prevent referring to the most recently adopted edition of the International Residential Code or the International Existing Building Code when circumstances arise dealing with safety issues for the occupants or the general public.

9-105 APPLICATION OF BUILDING CODE

Any repairs or alterations to a structure, or change of use herein, which may be caused directly or indirectly by the enforcement of this code shall be done in accordance with the procedures and provisions of the building code.

9-106 EXISTING REMEDIES

The provisions in this code shall not be deemed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any buildings which are deemed to be dangerous, unsafe, and/or unsanitary.

9-107 VALIDITY

If any section, subsection, paragraph, sentence, clause, or phase of this code shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this code which shall continue in full force and effect, and to this end the provisions of this code are hereby declared to be severable.

9-108 SAVING CLAUSE

This code shall not affect violations of any other ordinance, code, or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes, or regulations in effect at the time the violation was committed.

9-109 EXISTING STRUCTURES

As provided in Section 9-102, this code establishes minimum requirements for the initial and continued occupancy and use of all

structures and premises and does not replace or modify requirements otherwise established by ordinance which may be additional or more stringent for the construction, repair, alteration, or use of structures, equipment, or facilities.

9-110 PUBLIC OFFICER

The City Building Official shall be delegated the duty and responsibility as code official to exercise the powers prescribed by this code and for the enforcement thereof. The code official may appoint other City representatives under his or her authority, as authorized, and fix their duties as he or she deems necessary to carry out the purpose of this code, and may delegate any of his or her functions or powers to such representatives.

9-111 RELIEF FROM PERSONAL LIABILITY

Any code official, officer, or employee who acts in good faith and without malice in the discharge of duties of enforcement of this code is relieved of all personal liability for any damage that may accrue to persons or property as a result of such acts or alleged failure to act. Further, the code official shall not be held liable for any costs in any action, suit, or proceeding that may be instituted by the code official in the enforcement of this code. In any of these actions, the official or employee shall be defended or represented by the jurisdiction's attorney-at-law until the final termination of the proceedings.

9-112 OFFICIAL RECORDS

An official record shall be kept of all business and activities of the department specified in the provisions of this code, and all such records shall be open to public inspection at all appropriate times and under reasonable regulations established by the code official to maintain the integrity and security of such records.

9-113 DUTIES AND POWERS OF CODE OFFICIAL

A. The code official shall enforce all the provisions of this code relative to the maintenance of structures and premises, except as may otherwise be specifically provided for by other regulations.

B. The code official shall issue all necessary notices and orders to abate illegal or unsafe conditions to insure compliance with the code requirements for the safety, health, and general welfare of the public.

C. In order to safeguard the safety, health, and welfare of the public, the code official is authorized to enter upon any premises at a reasonable time as defined in this code. The code official is also authorized entry into any structure pursuant to permission of the occupant or issuance of a warrant for the purpose of making inspections and performing duties under this code.

D. If any owner, occupant, or other person in charge of a structure subject to the provisions of this code refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to any part of the structure or premises where inspection authorized by this code is sought, the administrative authority may seek, in a court of law, an order that such owner, occupant, or other person in charge cease and desist with such interference.

E. The code official or the code official's authorized representative shall disclose proper credentials of their respective office for the purpose of inspecting any and all buildings and premises in the performance of duties under this code.

F. Inspection of premises, the issuance of notices and orders and enforcement thereof, shall be the responsibility of the code official so charged by the jurisdiction. The code official shall make a reasonable effort to arrange for the coordination of inspection so as to minimize the number of visits by inspectors, and to confer with the other departments for the purpose of eliminating conflicting orders before any are issued. A department shall not, however, delay the issuance of any emergency orders which it determines must be issued.

G. The code official shall have the authority as may be necessary in the interest of public safety, health, and general welfare, to adopt procedures for interpreting and implementing the provisions of this code to secure the intent thereof; but such rules shall not have the effect of waiving requirements specifically provided in this code or violating accepted engineering practice involving public safety.

9-114 UNLAWFUL ACTS

It shall be unlawful for any person, firm, or corporation to erect, construct, alter, extend, repair, remove, demolish, use, or occupy any structure or equipment regulated by this code, or cause same to be done, contrary to or in conflict with or in violation of any of the provisions of this code.

9-115 PENALTIES

Any person, firm, or corporation who shall violate any provision of this code shall, upon conviction thereof, be subject to a fine of not less than $150.00 or more than $1,500.00, or imprisonment for a term not to exceed 60 days, or both, and shall be ordered to correct the violation or make restitution for the correction of the violation thereof, at the discretion of the court. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.

9-116 PROSECUTION

In case any violation order is not promptly complied with, the code official may request the jurisdiction's legal representative to institute an appropriate action or proceeding at law to exact the penalty provided in Section 9-115. Also, the code official may ask the legal representative to proceed at law or in equity against the person responsible for the violation for the purpose of ordering that person:

A. To restrain, correct, or remove the violation or refrain from any further execution of work;

B. To restrain or correct the erection, installation, or alteration of such structure;

C. To require the removal of work in violation, or;

D. To prevent the occupation or use of the structure, or part thereof erected, constructed, installed, or altered in violation of a plan or specification under which an approval, permit, or certificate was issued.

9-117 ENFORCEMENT PROCEDURES

Enforcement procedures may be initiated in the following ways:

A. When a petition is filed with the code official by any resident of the City charging that any premises or structure is in violation of the property maintenance code; or

B. The code official may initiate a preliminary investigation; or

C. A majority of the members present for a City Council meeting may direct the code official to investigate a premises and/or structure which is alleged to be in violation of the property maintenance code.

D. If a preliminary investigation of a potential code violation, discloses a basis for further action, the code official shall issue the owner of record, or current occupant, a courtesy notice for first time offenders, a written complaint and notice to appear for repeat offenders, of the items in violation. A minimum of 48 hours from date of notice shall be given for initial response to the City with a minimum of 10 days given for corrections, or additional time as may be determined by the code official. The code official shall make an inspection at the end of the prescribed time period. If the corrections are satisfactory, the case shall be closed. If the work is not completed, the code official shall issue a written complaint and notice to appear before the municipal court.

E. If the owner fails to comply with the court's directive, the penalty under Section 9-115 shall be imposed. The costs of such repairs, alterations, improvements, or the vacating, closing, removing, or demolition ordered by the code official or court shall be assessed against the lot or parcel of land on which the structure was located. If such assessment is not paid by the time certified, a lien shall be placed against the property in the manner prescribed by law and shall include all necessary attorney fees. The City Clerk shall, at the time of certifying other City taxes, certify the unpaid portion of the aforesaid cost and the county clerk shall extend the same on the tax rolls of the county against the lot or parcel of land.

F. The enforcement officer shall have the authority to immediately issue a written citation and notice to appear in court for repeat offender without further notification.

9-118 DEFINITIONS

Unless otherwise expressly stated, the following terms shall, for the purpose of this code, have the meanings indicated in this article.

Interchangeability. Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.

Terms Defined in Other Codes. Where terms are not defined in this code and are defined in the building, residential, electrical, plumbing, and/or mechanical codes, they shall have the same meanings ascribed to them as in those codes.

Terms Not Defined. Where terms are not defined under the provisions of this code or under the provisions of the building, residential, electrical, plumbing, and/or mechanical codes, they shall have the meaning as the context herein may imply or shall have ascribed to them their ordinarily accepted meaning.

9-119 APPLIED MEANING OF WORDS AND TERMS

Accessory Structure. A subordinate building which serves as a function clearly incidental to or customarily found in connection with and located on the same lot as that of the main building. Customary accessory buildings include garages, carports, and small storage sheds.

Approved. Approved, as applied to a material, device, or method of construction, shall mean approved by the code official under the provisions of this code, or approved by other authority designated by law to give approval in the matter in question.

Basement. Any floor level below the first story in a building, except that a floor level in the building having only one floor level shall be classified as a basement unless such floor level qualifies as first story.

Building Code. Any law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of any premises or dwelling unit.

Building Official. Person or those persons designated under the International Building Code and the International Residential Code as adopted and amended from time to time who is charged with the administration and enforcement of this ordinance, or his or her duly authorized representative.

Central Heating. The heating system permanently installed and adjusted so as to provide the distribution of heat to all habitable rooms, bathrooms, and water closet compartments from a source outside of these rooms.

Code Official. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

Condemn. To adjudge unfit for use or occupancy.

Condemnation. The act of judicially condemning.

Dwelling. Any building or portion thereof which contains one or more dwelling units, including mobile homes and manufactured homes, but not including motels, hotels, rooming or boarding houses, institutions, or convalescent or nursing homes. Whenever the words "multi-family dwelling," "residence building," "dwelling unit," "rooming house," "rooming unit," or "premises" are used in this code, they shall be construed as though they were followed by the words, “or any part thereof."

Dwelling, Single Family. A building designed exclusively to contain 1 dwelling unit. This definition shall include townhouses, each as a separate dwelling unit and classified as single-family attached dwelling.

Dwelling, Two Family. A building designed exclusively to contain two dwelling units. A two-family dwelling is a duplex.

Dwelling, Multiple Family. A building designed exclusively to contain three or more dwelling units, but not including townhouses.

Dormitory. A space in a building where group sleeping accommodations are provided for persons not members of the same family group in one room, or in a series of closely associated rooms.

Dwelling Unit. A building or portion of a building which is exclusively arranged, occupied, or intended to be occupied as living quarters for one family; a separate, independent living quarter consisting of one or more connected rooms with permanently installed bathroom and kitchen facilities.

Enforcement Officer. The official designated herein or otherwise charged with the responsibilities of administering this code, or the official's authorized representative.

Establishment. Any structure or premises used as a business or for conducting business.

Exterior Property Areas. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

Extermination. The control and elimination of insects, rats, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poison spraying, fumigating, trapping, or by any other approved pest elimination methods.

Family. Any number of people occupying a single dwelling unit living together as a single housekeeping unit, related by blood, marriage, or formal adoption plus not more than two additional people not so related, except that foster children shall be considered as formally adopted. A family may also include up to but not more than three unrelated people living together in one single dwelling unit. Any grouping of unrelated people in excess of three shall not be considered a family.

Garbage. The animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

Habitable Space. Space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

Hotel. Any building containing six or more guest rooms intended or designed for occupancy for sleeping purposes by guests on a compensation basis.

Infestation. The presence, within or contiguous to, a structure or premises of insects, rats, vermin, or other pests.

Junk/Inoperable Vehicle. Any motorized vehicle which is without a currently valid license plate or plates and is in either a rusted, inoperable, wrecked, discharged, dismantled, partly dismantled, inoperative, or abandoned, or unable to perform the function or purpose for which it was originally assembled.

Land. Except where specifically limited or where the context would require limitation, the use of the term land or real property shall refer to residential land, nonresidential land, and vacant lots.

Landlord. The owner, lessor, or sublessor of the dwelling unit, or the building of which it is a part.

Let for Occupancy or Let. To permit possession or occupancy of a dwelling, dwelling unit, building, or structure by a person who shall be legal owner or not be the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

Maintenance. Conformance of a building and its facilities to the code under which the building was constructed.

Motel. A hotel as defined in this code.

Occupant. Any person (including owner or operator) living and sleeping in a dwelling unit or having actual possession of said dwelling or rooming unit.

Openable Area. That part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

Operator. Any person who has charge, care, or control of a structure or premises which are let or offered for occupancy.

Owner. Any person, agent, firm or corporation having a legal or equitable interest in the property.

Person. A natural person, his heirs, executors, administrators, or assigns, and also includes a firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

Petition. A formal request addressed to a person or body of persons in authority.

Plumbing. The practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances.

Plumbing Fixture. A receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises, and demands a supply of water there from, or discharges used water, liquid-borne waste materials, or sewage either directly or indirectly to the drainage system of the premises, or which requires both a water supply connection and a discharge to the drainage system of the premises.

Premises. A lot, together with all improvements thereon.

Public Nuisance. Includes the following:

A. The physical condition, or use of any premises regarded as a public nuisance at common law; or

B. Any physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations, and unsafe fences or structures; or

C. Any premises which have inadequate or unsanitary sewerage or plumbing facilities; or

D. Any premises where overcrowding a room with occupants exists; or

E. Any premises which has insufficient ventilation of illumination; or

F. Any premises designated as unsafe for human habitation or use; or

G. Any premises which are manifestly capable of being a fire hazard, or are manifestly unsafe or unsecured as to endanger life, limb, or property; or

H. Any premises from which the plumbing, heating, and/or facilities required by this code have been removed, or from which utilities have been disconnected, destroyed, removed, or rendered ineffective, or the required precautions against trespassers have not been provided; or

I. Any premises which are unsanitary, or which are littered with rubbish or garbage, or which have an uncontrolled growth of weeds; or

J. Any structure or building that is: in a state of dilapidation, deterioration, or decay; faulty construction; overcrowded, open, vacant or abandoned; damaged by fire to the extent as not to provide shelter; in danger of collapse or failure; and dangerous to anyone on or near the premises

K. Any structure, roof or associated construction for which a building permit is required and is not obtained prior to commencement of construction.

Reasonable Times. The hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, except holidays.

Renovation. A building and its facilities made to conform to present day minimum standards of sanitation, fire, and life safety.

Residence Building. A building in which sleeping accommodations or sleeping accommodations and cooking facilities as a unit are provided, except when classified as an institution under the building code.

Rooming House. Any residence, building, or any part thereof, which contains one or more rooming units, in which space is let by the owner or operator to more than five persons who are not members of the family.

Rooming Unit. 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.

Rubbish. Non-putrescible solid wastes consisting of combustible and/or noncombustible waste materials from dwelling units, commercial, industrial, institutional, or agricultural establishments, including yard wastes and items commonly referred to as "trash."

A. Bulky Rubbish: Items either too large or too heavy to be loaded in solid waste collection vehicles with safety and convenience by solid waste collectors, with the equipment available therefore, including but not limited to appliances, furniture, large auto parts, and trees.

B. Commercial Rubbish: Rubbish resulting from commercial, industrial, institutional, or agricultural activities.

C. Residential Rubbish: Rubbish resulting from the maintenance and operation of dwelling units.

Storage. The uninterrupted placement of materials for a period exceeding 48 hours.

Structure. That which is built or constructed, including without limitation because of enumeration, buildings for any occupancy or use whatsoever, fences, signs, billboards, fire escapes, chute escapes, railings, water tanks, towers, open grade steps, sidewalks or stairways, tents, or anything erected and framed of component parts which is fastened, anchored, or rests on a permanent foundation or on the ground.

Supplied. Installed, furnished, or provided by the owner or operator.

Tenant. A person entitled under a rental agreement or lease, or under any agreement, written or oral, embodying the terms and conditions of the use and occupancy of a dwelling unit and premise.

Trash. (See Rubbish.)

Vacant. Unoccupied for residential or commercial use.

Vacant Land. Any real property on which there is situated no structure.

Ventilation. The process of supplying and removing air by natural or mechanical means to or from any space.

A. Mechanical: Ventilation by power-driven devices.

B. Natural: Ventilation by opening to outer air through windows, skylights, doors, louvers, or stacks without wind-driven devices.

Workmanlike. Whenever the words "workmanlike state of maintenance and repair" are used in this code, they shall mean that such maintenance and repair shall be made in a reasonably skillful manner.

Yard. An open, unoccupied space on the same lot with a building, extending along the entire length of street, or rear or interior lot line.

Yard Wastes. All forms of botanical waste, including but not limited to grass clippings, leaves, and tree trimmings.

ARTICLE 2. PROPERTY MAINTENANCE CODE

9-201 INTERNATIONAL PROPERTY MAINTENANCE CODE INCORPORATED

The International Property Maintenance Code, 2003 Edition, published by the International Code Council, is hereby adopted by reference as if it were fully set out in this article, except for those portions that are hereinafter deleted, modified or amended.

9-202 SAME

Not less than three (3) copies of the 2003 International Property Maintenance Code, marked or stamped in the manner provided by K.S.A. 12-3010, with all sections or portions thereof intended to be omitted clearly marked and showing portions that are amended and to which shall be attached a copy of amendments, shall be filed with the City Clerk and shall be open to inspection and available to the public at reasonable business hours. Official copies of such Code shall be supplied at the cost of the City to the officials and agencies in the manner listed and set forth in K.S.A.12-3010. Subsequent references to the "International Property Maintenance Code" or "Standard Code" shall mean the "International Property Maintenance Code, 2003 Edition", as adopted herein.

9-203 SEVERABILITY

If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

9-204 AMENDMENTS TO INTERNATIONAL PROPERTY MAINTENANCE CODE

The International Property Maintenance Code, 2003 Edition is amended or changed as follows. The amendment of any section shall not serve to amend or repeal any other discretely numbered provision of the code, whether or not such provision is considered a section or subsection, unless that section or subsection is specifically referenced in the ordinance.

The International Property Maintenance Code and the indicated subsections are hereby **amended** to read as follows:

Section 106 of the International Property Maintenance Code is deleted in its entirety.

Section 108 of the International Property Maintenance Code and the indicated subsections are hereby amended to read as follows:

108.1 General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

108.1.1 Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is reasonably possible.

108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

108.1.3 Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

108.1.4 Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

108.2 Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon

failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

108.3 Notice. Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in Section 107.2.

108.4 Placarding. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word “Condemned” and a statement of the penalties provided for occupying the premises, operating the equipment, or removing the placard.

108.4.1 Placard removal. The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

108.5 Prohibited occupancy. Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premise or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premise or operate placarded equipment shall be liable for the penalties provided by this code.

108.6 Declaration. Any building declared a substandard building under this Code shall be made to comply with one of the following:

A. The building shall be repaired in accordance with the Current Building Code or other current Code applicable to the type of substandard conditions requiring repair; or

B. The building shall be demolished at the option of the building owner; or

C. If the building does not constitute an immediate danger to the life, limb, property or safety of the public, it may be vacated, secured and maintained in accordance with Article 5 of this code. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or of the occupants, it shall be ordered to be vacated.

Section 111 of the International Property Maintenance Code is hereby amended to read as follows:

111.0 Appeal Committee. The governing body shall serve as the appeal body for any appeals sought pursuant to the International Property Maintenance Code. The term “board of appeals” shall mean the Governing Body.

111.1 Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

111.2 Enforcement of the order of the Building Official; compliance. After any order of the Building Official made pursuant to this Code becomes final, no person to whom any such order is directed shall fail, neglect, or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a public offense. Every day during on or which a violation occurs or continues shall constitute a separate offense.

111.2.1 Chairman. The Chairman of the board shall be the mayor and the vice chairman shall be the Council President.

111.2.2 Recovery of cost of repair or demolition; repayment of repair and demolition fund. All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the treasurer of this jurisdiction.

111.2.3 Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

111.3 Notice of meeting. The board shall meet upon notice from the chairman, within 30 days of the filing of an appeal, or at stated periodic meetings.

111.4 Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than a majority of committee members.

111.4.1 Procedure. The board shall adopt and make available to the public the procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

111.5 Postponed hearing. When the required majority of the board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

111.6 Board decision. The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of a required quorum.

111.6.1 Records and copies. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

111.6.2 Administration. The code official shall take immediate action in accordance with the decision of the board.

111.7 Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law

following the filing of the decision in the office of the chief administrative officer.

Section 202 of the International Property Maintenance Code is hereby amended by adding the following definitions:

Building Official shall mean the Community Development Superintendent or his/her authorized representatives charged with the enforcement of this Code.

Electrical Code is the National Electrical Code as adopted by this jurisdiction**.**

Substandard Building is any building, or portion thereof, which is determined to be an unsafe building in accordance with this Article or any other ordinance of the Lansing City Code.

Section 302.4 of the International Property Maintenance Code is hereby deleted.

Section 302.8 of the International Property Maintenance Code is hereby deleted.

Section 303 of the International Property Maintenance Code is deleted in its entirety.

Section 304 of the International Property Maintenance Code and the indicated subsections are hereby amended to read as follows:

304.1 General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.2 Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future

rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

304.3 Premises identification. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).

304.4 Structural members. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

304.5 Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

304.6 Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

304.8 Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.9 Overhand extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay

or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

304.11 Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.12 Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

304.13 Window, skylight and door frames. Every window, skylight, door, and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing. All glazing materials shall be maintained free from cracks and holes.

304.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable.

304.14 Insect screens. Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

304.15 Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to

swelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

304.16 Basement hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

304.17 Guards for basement windows. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

304.18 Building security. Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

304.18.1 Doors. Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a lock throw of not less than 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

304.18.2 Windows. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking device.

304.18.3 Basement hatchways. Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

Section 307 of the International Property Maintenance Code and its indicated subsections are hereby amended to read as follows:

307.1 Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

307.2 Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner.

307.3 Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner.

Section 402 of the International Property Maintenance Code and its indicated subsections are hereby amended to read as follows:

402.1 Habitable spaces. Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exceptions:

A. Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m2). The exterior glazing area shall be based on the total floor area being served.

B. In lieu of required exterior glazed openings for natural light, approved artificial lighting may be used.

402.2 Common halls and stairways. Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m2) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated

at all times the building space served by the means of egress is occupied with a minimum of 1 foot-candle (11 lux) at floors, landings and treads.

402.3 Other spaces. All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

Section 602 of the International Property Maintenance Code and its indicated subsections are hereby amended to read as follows:

602.1 Facilities required. Heating facilities shall be provided in structures as required by this section.

602.2 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions:

A. Processing, storage and operation areas that require cooling or special temperature conditions.

B. Areas in which persons are primarily engaged in vigorous physical activities.

602.5 Room temperature measurement. The required room temperatures shall be measured 3 feet (914mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

Section 605 of the International Property Maintenance Code and indicated subsections are hereby amended to read as follows:

605.1 Installation. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

605.2 Receptacles. Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle~~.~~

605.3 Luminaries. Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric luminary.

Section 702 of the International Property Maintenance Code and indicated subsections are hereby amended to read as follows:

702.1 General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the International Fire Code.

702.2 Aisles. The required width of aisles in accordance with the International Fire Code shall be unobstructed.

702.3 Locked doors. All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the International Building Code.

702.4 Emergency escape openings. Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal

operation of the escape and rescue opening. Basements used as sleeping rooms shall comply with the International Residential Code as adopted by the City of Lansing.

9-205 SUPPLEMENTAL TO EXISTING CODES.

The provisions of this Code shall not be construed to impair or limit the force and effect of any other applicable ordinance, code or statute excepting those hereby expressly repealed. This Code shall be construed to be consistent with other applicable law to the maximum extent possible. In the event of clear conflict between the provisions of this Code and other applicable law, the more restrictive shall apply.

ARTICLE 3. ENVIRONMENTAL REQUIREMENT

9-301 SCOPE

The provisions of this article shall govern the minimum conditions for maintenance of exterior property, premises, and structures. Premises shall comply with the conditions herein prescribed insofar as they are applicable.

9-302 RESPONSIBILITY

The owner of the premises shall maintain such structures and premises in compliance with these requirements. A person shall not occupy as owner-occupant or let to another, for occupancy or use, premises which do not comply with the requirements of this article.

9-303 VACANT STRUCTURES AND LAND

All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure, and sanitary condition as provided herein, so as not to cause a blighting problem or adversely affect the public health or safety.

9-304 SANITATION

All exterior property areas and premises shall be maintained in a clean, safe, and sanitary condition, free from any accumulation of rubbish or garbage.

9-305 CONTAINERS

The operator or occupant of every establishment or dwelling producing garbage, vegetable wastes, rubbish, trash or other decaying material or other type of refuse shall provide, and at all times cause to be used, leak proof containers, provided with tight-fitting covers for the storage of such materials until removed from the premises for disposal. Residential containers shall not have a capacity of more than 30 gallons and shall not exceed 65 pounds in weight when full. Plastic bags of not less than 1.5 mil of thickness may be substituted for plastic trash containers when refuse is stored in an enclosed structure on the occupant's premises, except on the date for collection. All plastic bags shall be securely closed when placed at curbside.

9-306 TRASH

A. <u>One and Two-Family Residential</u>. Each and every owner, tenant, housekeeper, or other person occupying any one or two-family dwelling within the City of Lansing shall provide and renew when necessary, a sufficient number of trash containers, with tight-fitting covers in accordance with Section 9-305. Such trash

containers shall be placed at the curb no earlier than 6:00 p.m. the evening preceding the day on which the trash is anticipated to be collected by the regular trash collection service subscribed to by the occupant or owner. If plastic bags are used in place of containers in accordance with Section 9-305, said bags shall be placed at the curb no earlier than 6:00 p.m. the evening proceeding the day on which the trash is anticipated to be collected by the regular trash collection service.

B. Multi-Family. Each multi-family complex consisting of more than two dwelling units shall provide and renew when necessary sufficient trash dumpsters of rigid construction with tight-fitting covers to adequately contain the refuse and waste produced at such location. Such containers shall be screened as set forth in the City of Lansing Zoning Ordinance.

C. Commercial and Industrial. Each and every business and industry shall provide and renew when necessary sufficient trash containers of rigid construction with tight-fitting covers to adequately contain the refuse and waste produced at such location and such containers shall be kept closed except when depositing and removing materials. Such containers shall be screened in accordance with the requirements set forth in the City of Lansing Zoning Ordinance.

9-307 GRADING AND DRAINAGE

All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon. Surface water shall not be discharged in a manner that creates a nuisance to owners or occupants of adjacent property. All detention and retention storm water basins shall be maintained by the owner, developer, custodian, or other person responsible for the property. Such maintenance shall include but not be limited to:

A. The cleaning of storm sewers and other drainage appurtenances serving the said basin so that the said installations function as designed; and

B. The removal of any garbage, rubbish, silt, topsoil, or other foreign material which creates an unsanitary condition or prevents or impedes the leaching action of the said basin.

9-308 LOADING/PARKING/DRIVEWAY AREAS

All loading, parking and driveway areas, shall be paved with bituminous, asphalt concrete or Portland cement concrete, and shall be

free from dirt and other litter and kept in good repair. When lighted for nighttime use, lights shall not be permitted to cast directly upon dwellings nearby.

9-309 INSECT AND RAT/VERMIN CONTROL

An owner of any structure or property shall be responsible for the extermination of insects, rats, vermin, or other pests, in all areas of the premises.

9-310 MOSQUITO CONTROL

An owner of property shall be responsible for the prevention, control, and treatment of mosquitoes. Prevention and control mean that all areas of a property and particularly bodies of water shall be treated so as not to allow the breeding of mosquitoes. Treatment shall consist of the application of chemicals approved and tested for the use intended to an infected area which will exterminate the mosquito egg, larva, or adult stage of the insect. Treatment shall not endanger the general health, safety, and welfare of the general public.

9-311 PROPERTY MAINTENANCE

Property owners or designated agents in control of property shall maintain the sidewalks adjacent to public right-of-way as required for safety and welfare of the general public. Other hard surfaces, walkways, and driveways on private property shall be the responsibility of the homes associations and/or the individual property owner. Steps, walks, driveways, parking spaces, and similar paved areas shall be maintained so as to afford safe passage under normal use and weather conditions. Any holes or other hazards that may exist shall be filled, or necessary repairs or replacement carried out. All off-street parking facilities shall be kept free of debris including, but not limited to, trash, gravel, mud, blowing paper, etc.

9-312 PUBLIC AREAS

Grass, landscaping, and trees located within subdivision traffic control islands shall be the maintenance responsibility of the homes associations. Monuments, landscaping, trees, fountains, and lighting located on private property at the entrance to residential subdivisions and/or commercial property shall be the responsibility of the homes association and/or the individual property owner.

9-313 WEEDS AND GRASS

All areas shall be kept free from uncontrolled growth of weeds, grass, or plants which are noxious or detrimental to the public health and welfare. Weeds, grass, or plants shall be deemed uncontrolled growth if by their placement or growth they create a dangerous situation to the

public or if they exceed 12 inches in height in any platted area or within 100 feet of any platted area, developed area, or any public street or right-of-way. A property owner is responsible for property maintenance for his or her property and the public right-of-way to the center line of the street.

9-314 STORAGE AREAS

All existing open storage areas shall be completely obscured from surrounding property by a solid screen up to 6 (six) feet in height, as required by the code official.

9-315 EXHAUST VENTS

A person shall not construct, maintain, or operate pipes, ducts, conductors, fans, or blowers discharging gases, steam, vapor, hot air, grease, smoke, odors, or other gaseous or particulate wastes so as to discharge directly upon abutting or adjacent public and private property.

9-316 ACCESSORY STRUCTURES

All accessory structures, including detached garages, fences, and walls, shall be maintained per this code.

9-317 MOTOR VEHICLES

Inoperative vehicles which are junked, wrecked, dismantled, inoperative, discarded, unregistered, unlicensed, or abandoned in and upon property within the City shall be prohibited.

9-318 MOTOR VEHICLE REPAIR

Repair of occupant owned vehicles within residential areas shall only be allowed between the hours of 8:00 a.m. and 10:00 p.m. Nothing in this section shall supersede the enforcement of the City's public nuisance or disturbing the peace ordinance.

9-319 OPEN FIRES

Open fires shall be prohibited except as specifically approved by the fire official.
(For additional information refer to Chapter 7).

9-320 BUSH AND LAWN TRIMMINGS

No grass trimmings shall be blown or deposited on any public street, sidewalk, or in drainage ways or banks of drainage ways. Each and every owner, tenant, or occupant of any dwelling or other building in the City shall place lawn trimmings, bush/tree trimmings, and other yard wastes in suitable containers or tied in bundles. The containers and bundles shall not be placed at the street curb prior to 6:00 p.m. of

the preceding day on which the trash is scheduled to be collected. All trimmings prior to collection shall be placed behind the front building line or front line of the house, whichever is greater.

9-321 DUMPING, STORAGE OF REFUSE, EQUIPMENT, ETC

No person shall dump, deposit, or store on any property whether owned, dedicated to public use or upon the property of any person, nor to allow to fall or be washed upon any street or upon any property of any other person, dirt, earth, building materials, debris, refuse, cans, garbage, or grass clippings. Also, no person shall dump, deposit, or store on any property whether dedicated to public use, property of any person or their own property junked or otherwise inoperative equipment, vehicles, machinery or appliances. Operable farm equipment or implements which are used in the agricultural areas are excluded.

9-322 MUD

No soil, gravel, or debris shall be allowed to be deposited onto any street, easement, right-of-way, gutter, waterway, or in drainage ways or banks of drainage ways.

9-323 COMPOST

All compost materials shall be placed in containers designed or constructed for same; be located in rear yards only; be a maximum height of 4 (four) feet and be located a minimum of 10 (ten) feet from any property line. Such containers shall be designed or be constructed to prevent rodent infestation. All compost areas shall be visually screened from adjoining property view.

9-324 TREES AND SHRUBBERY

All trees and shrubbery shall be maintained free of disease and/or decay. In the event that death occurs in any tree, shrub, or other plant material, the owner of the premises shall without delay remove same. Upon notice from the code official, the owner shall remove dead or dying tree(s) or other plant material so specified within 30 days from legal notice as required by this code.
(For additional information refer to Chapter 14, Section 14-917)

ARTICLE 4. ENVIRONMENTAL ENFORCEMENT PROCEDURES

9-401 PREMISES VIOLATIONS

Persons violating the provisions of Article 3 shall be given notice of a violation by the code official and that notice shall be sent by certified mail to the owner and/or occupant. Conditions as cited are to be corrected within ten (10) days (except in the case of Section 9-324, where 30 days are provided) after the mailing date. If the correction is not made within the prescribed time period, the Code Enforcement Officer shall at his/her discretion, issue a citation for non compliance or the City shall initiate action to correct the nuisance, and the violator shall pay the City for the actual cost of the correction in an amount determined by the City. If such cost is not paid within ten days following the City's abatement of nuisance, the cost will be assessed and charged against the lot or parcel of ground on which the nuisance was located, and the City shall, at the time of certifying other special assessments to the County Clerk, certify the aforesaid cost to be collected by the County Treasurer and paid to the City. Liability for such cost shall be separate from and in addition to any criminal penalties. If a citation is issued, the fine for a violation shall be in accordance with Section 9-115. Each day shall constitute a new violation. The notice for an inoperative vehicle shall be sent to the person in possession or the owner of real property on which such inoperable vehicle is located. If the violation is not corrected within ten days, the vehicle shall be removed by the City at the property owner's cost. No application for approval of rezoning, preliminary plat, preliminary plan, final plat, or final plan will be considered by the Planning Commission until such time that the owner of the property pays all outstanding debts as charged by the City for property maintenance on such land. No application for approval of a building permit will be approved until such time that the owner of the property pays all outstanding debts as charged by the City for property maintenance on such lot. The City will determine such costs. The City will notify the county when the costs are paid directly to the City.

9-402 MOSQUITO CONTROL VIOLATIONS

Notice of a violation shall be made by the code official in person or by telephone and then documented by mail. The property owner shall make corrections to the satisfaction of the code official within three days of the written notice of violation. If the correction is not made within this time period, the City shall initiate action to correct the matter, and the property owner shall pay the City for actual and administrative costs in an amount determined by the City. If the cost is not paid within ten days following the postmarked date of billing sent to the owner,

charges will be assessed against the property causing the nuisance in the manner prescribed in Section 9-115.

ARTICLE 5. MINIMUM HOUSING STANDARDS – GENERAL PREMISES CONDITIONS

9-501 PESTS

All dwelling units and premises shall be maintained free of vermin and/or infectious insects including, but not limited to, fleas, cockroaches, and ants.

9-502 GARBAGE/REFUSE/TRASH CONTAINERS

All garbage, refuse, and trash containers shall not have a capacity of more than 30 gallons, shall not exceed 65 pounds in weight when full and shall be stored in accordance with Chapter 16 of this code. Multiple unit premises utilizing dumpsters for garbage, refuse, and/or trash collection shall provide an area that is serviceable and screened from view in accordance with Chapter 16 of this code.

9-503 TRASH/DEBRIS

All premises shall be kept free and clear of trash, debris, and weeds including, but not limited to, unsightly vegetation, junk, garbage, rodent harborages, stagnant water, combustible materials (except those in acceptable containers), and similar items.

9-504 SEWAGE DISPOSAL

All dwelling units shall be connected to an approved sanitary sewer system and be serviceable and maintained in a satisfactory condition to prevent health hazards.
(For additional information refer to Chapter 16).

9-505 TELEPHONE

Telephone service shall be made available to each premise.

9-506 FIREPLACES

Fireplaces shall be maintained in a safe condition including, but not limited to, chimneys, fireboxes, fireproof grouting where required.

9-507 STRUCTURAL REQUIREMENTS

A. General. Buildings or structures may be of any types of construction permitted by the Building Code. Roofs, Floors, Walls, Foundations and all other structural components shall be capable of resisting any and all forces and loads to which they may be subjected. Every building shall be weather protected so as to provide shelter for the occupants against the elements and to exclude dampness. All wood shall be protected against termite damage and decay as provided in the Building Code.

B. Exits Dwelling Units of Guest Rooms shall have access directly to the outside or to a public corridor. Sleeping Rooms below the fourth story shall have at least one operable window or exterior door approved for emergency escape or rescue. The units shall be operable from the inside to provide a full clear opening without the use of separate tools.

9-508 SANITATION

A. Dwelling units, lodging houses and congregate residences shall be provided with a bathroom equipped with facilities consisting of a water closet, lavatory, and either a bathtub or shower.

B. Commercial properties, where both sexes are accommodated, shall contain at least two separate toilet facilities which are identified for male or female use, each of which contains at least one water closet. Additional water closets shall be provided on each floor for each sex at the rate of one for every additional 10 guests, or portion thereof.

C. Kitchen. Each dwelling unit shall be provided with a kitchen. Every kitchen shall be provided with a sink. Wooden sinks or sinks of similarly absorbent material shall not be permitted.

D. Fixtures. All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system. All plumbing fixtures shall be connected to an approved system of water supply and provided with hot and cold running water necessary for its normal operation. All plumbing fixtures shall be of an industry approved nonabsorbent material.

E. Room Separations. Every water closet, bathtub or shower required by this code shall be installed in a room which will afford privacy to the occupant.

F. Installation and Maintenance. All sanitary facilities shall be installed and maintained in a safe and sanitary condition and in accordance with the applicable requirements of the Plumbing Code.

9-509 MECHANICAL REQUIREMENTS

A. Heating. Dwelling units, guest rooms, and congregate residences shall be provided with heating facilities capable of maintaining a room temperature of 68° F at a point 3 feet above the floor in all habitable rooms. Such facilities shall be installed

and maintained in a safe condition and in accordance with the most recent adopted edition of the building code, mechanical code, and all other applicable laws. Unvented fuel-burning heaters are not permitted.

B. Electrical. All electrical equipment, wiring, and appliances shall be of an approved type and installed and maintained in a safe manner and in accordance with the most recent adopted edition of the National Electrical Code. Every habitable room shall contain at least two electrical convenience outlets or one convenience outlet and one electric light fixture. Every water closet compartment, bathroom, laundry room, furnace room, and public hallway shall contain at least one electric light fixture. All electrical fixtures shall be serviceable and maintained in a safe condition and shall be adequate for the load requirements of the expected occupancy.

9-510 SPACE AND OCCUPANCY STANDARDS

A. Room Dimensions.

1. Ceiling Heights. Habitable space shall have a ceiling height of not less than 7 feet. Kitchens, halls, bathrooms, and toilet compartments may have a ceiling height of not less than 7 feet, measured to the lowest projection from the ceiling. No portion of the room measuring less than 5 feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof.

2. Floor Area. Dwelling units and rooming houses shall have at least 1 room which shall have not less than 120 square feet of floor area. Other habitable rooms, except kitchens, shall have an area of not less than 70 square feet. Where more than 2 persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of 50 square feet for each occupant in excess of 2. No habitable room other than a kitchen shall be less than 7 feet in any dimension. Each water closet shall be located in a clear space not less than 30 inches in width and a clear space in front of the water closet of not less than 24 inches shall be provided.

B. Light. Guest rooms and habitable rooms within a dwelling unit or congregate residence shall be provided natural light by means of

exterior glazed opening with an area not less than 10 square feet.

C. Ventilation. Guest rooms and habitable rooms within a dwelling or congregate resident shall be provided with natural ventilation by means of openable exterior openings with an area of not less than 5 square feet. In lieu of required exterior openings for natural ventilation, a mechanical ventilating system may be provided. Such system shall be capable of providing two air changes per hour in all guest rooms, dormitories, habitable rooms, and public corridors. Bathrooms, water closet compartments, laundry rooms, and similar rooms, shall be provided natural ventilation by means of openable exterior windows of not less than 1½ square feet or a mechanical ventilation system connected directly to the outside.

9-511 PUBLIC NUISANCES

All dwelling units and premises shall be maintained in such a manner so as not to become a public nuisance as defined in Article 1 of this chapter.

ARTICLE 6. EXTERIOR STRUCTURE CONDITIONS

9-601 GENERAL

The exterior of a structure shall be maintained structurally sound and sanitary so as not to pose a threat to the health and safety of the occupants and so as to protect the occupants from the environment.

9-602 STRUCTURAL MEMBERS

All supporting structural members of all structures shall be kept structurally sound, free of deterioration, and maintained capable of safely bearing the dead and live loads imposed upon them including, but not limited to, foundation, flooring surface and supports, walls, partitions, vertical supports, roofs, and ceilings.

9-603 EXTERIOR SURFACES (FOUNDATIONS, WALLS, AND ROOFS)

Every foundation, exterior wall, roof, and all other exterior surfaces shall be maintained in a workmanlike state of maintenance and repair and shall be kept in such condition as to exclude rats.

9-604 FOUNDATION WALLS

All foundation walls shall be maintained so as to carry the safe design and operating dead and live loads and shall be maintained plumb and free from open cracks and breaks, so as not to be detrimental to public safety and welfare.

9-605 EXTERIOR WALLS

Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building. All exterior surface materials, including wood, or composition siding, shall be maintained weatherproof and shall be properly surface coated when required to prevent deterioration. Brick, stucco, and/or stone shall be maintained in a weatherproof condition and shall be free from loose materials, including mortar joints.

9-606 WALL SURFACES

Wall surfaces, other than brick, stucco, or stone, shall be treated to prevent deterioration in a manner that creates a harmonious and uniform appearance. Aggregate wall areas (complete sides or sections) shall be similarly treated with like substances (i.e., paint or stain) to create a cohesive look. Such treatment shall give the wall section a uniform appearance in color and at no time shall portions of wall surfaces be allowed to deteriorate or treated with dissimilar substances, creating a patchwork appearance. If deterioration in surface materials exists in excess of 25% of the gross wall area per

wall it will constitute a public nuisance. The only exceptions to this requirement is when a wall surface is being primed prior to final application of wall surface treatment or trim work that may be a different color to provide contrast.

9-607 ROOFS

The roof shall be structurally sound, tight, and not have defects which might admit rain, and roof drainage shall be adequate to prevent rain water from causing dampness in the walls or interior portion of the building.

9-608 DECORATIVE FEATURES

All cornices, entablatures, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with the proper anchorage, and in a safe condition, and be treated in a similar manner as wall surfaces.

9-609 OVERHANG EXTENSIONS

All canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts, and similar overhang extensions shall be maintained in good repair and be properly anchored and kept in a safe and sound condition. They shall be protected from the elements and against decay and rust by the periodic application of a weather-coating material such as paint or other protective treatment.

9-610 CHIMNEYS

All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe, sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials such as paint or similar surface treatment.

9-611 STAIRS AND PORCHES

Every stair, porch, balcony, and all appurtenances attached thereto shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected and shall be kept in sound condition and good repair. Every flight of stairs, which is more than 4 carries of the foot, shall have handrails which shall be located as required by the building code, and every portion of a stair, porch, landing, and balcony which is more than 30 inches above grade shall have guardrails. Every handrail and guardrail shall be firmly fastened and capable of bearing imposed loads and shall be maintained in a good, safe condition.

9-612 WINDOW AND DOOR FRAMES

Every window, door, and frame shall be constructed and maintained in such relation to the adjacent wall construction so as to exclude rain as completely as possible, and to substantially exclude wind from entering the dwelling or structure.

9-613 WEATHERTIGHT

Every window and exterior door shall be fitted reasonably in its frame and be weather tight. Weather stripping shall be used to exclude wind or rain from entering the dwelling or structure and shall be kept in sound condition and good repair.

9-614 GLAZING

Every window sash shall be fully supplied with approved glazing materials which are without open cracks and holes.

9-615 OPENABLE WINDOWS.

Every window, other than a fixed window, shall be capable of being easily opened and shall be held in position by window hardware.

9-616 INSECT SCREENS

Every door and window or other outside opening required or used for ventilation purposes shall be supplied with approved insect screening, and every swinging screen door shall have a self-closing device in good working condition, except that such screens shall not be required for areas on a floor above the fifth floor and screen doors shall not be required on non-residential structures or structures where the doors are required to swing out as required in the building code.

9-617 DOOR HARDWARE

Every exterior door, door hinge, and door latch shall be maintained in good condition. Door locks in dwelling units shall be in good repair and capable of tightly securing the door.

9-618 BASEMENT HATCHWAYS

Every basement shall be so constructed and maintained as to prevent the entrance of rats, rain, and surface water into the structure.

9-619 GUARDS FOR BASEMENT WINDOWS

Every basement window which is openable shall be supplied with rat-proof shields, or storm windows or other material affording protection against the entry of snakes, vermin, insects or other pests.

9-620 OTHER APPURTENANCES

Guttering, downspouts, splash blocks, fences, pools, hot tubs, decks, walls, tennis courts and similar appurtenances shall be maintained in a serviceable, sanitary and safe condition.

ARTICLE 7. INTERIOR STRUCTURE CONDITIONS

9-701 GENERAL

The interior of a structure and its equipment shall be maintained structurally sound and in a sanitary condition so as not to pose a threat to the health and safety of the occupants, and to protect the occupants from the environment.

9-702 STRUCTURAL MEMBERS

The supporting structural members of every building shall be maintained structurally sound, not showing any evidence of deterioration which would render them incapable of carrying the imposed loads. In every existing building used for business, industrial, mercantile or storage occupancy, in which heavy loads or concentrations occur or in which machinery is introduced, the owner or occupant shall cause the weight that each floor will sustain to be calculated by a registered architect or engineer and filed with the building official, and after such acceptance by the building official, posted on each floor in a conspicuous place.

9-703 INTERIOR SURFACES

Floors, walls, including windows and doors, ceilings, and other interior surfaces shall be maintained in good, clean, and sanitary condition. Peeling paint, cracked or loose plaster, decayed wood, and other defective surface conditions shall be eliminated.

9-704 LEAD BASED PAINT

Lead based paint with a lead content of more than 0.5 percent shall not be applied to any interior or exterior surface of a dwelling unit or child care facility, including fences and outbuildings at these locations.

9-705 BATHROOM AND KITCHEN

Every toilet, bathroom, and kitchen floor surface shall be constructed and maintained so as to be substantially impervious to water, except when carpeting is used, and so as to permit such floor to be easily kept in a clean and sanitary condition. All dwelling units, lodging houses, and congregate residences shall be provided with a bathroom equipped with facilities consisting of a water closet, lavatory, and either a bathtub or shower. Each dwelling unit shall be provided with a kitchen which includes a kitchen sink. Every water closet, bathtub, or shower required by this code shall be installed in a room which will afford privacy to the occupant.

9-706 FREE FROM DAMPNESS

Every building, basement, and crawl space shall be maintained reasonably free from dampness to prevent conditions conducive to decay or deterioration of the structure.

9-707 SANITATION

The interior of every structure shall be maintained in a clean and sanitary condition free from any accumulation of rubbish, refuse, or garbage. Rubbish, garbage, and other refuse shall be properly kept inside temporary storage facilities as required under Section 9-306.

9-708 STORAGE

Garbage or refuse shall not be allowed to accumulate or be stored in public halls or stairways.

9-709 INSECT AND RAT HARBORAGE

All structures shall be kept free from insect and rat infestation, and where insects or rats are found, they shall be promptly exterminated by acceptable processes which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

9-710 EXIT DOORS

Every door available as an exit shall be capable of being opened easily from the inside.

9-711 STAIRS, PORCHES, AND RAILINGS

Stairs and other exit facilities shall be adequate for safety as provided in the building code. Every flight of stairs, which is more than 3 risers high, shall have handrails which shall be located as required by the building code, and every open portion of a stair, porch, landing, and balcony which is more than 30 inches above the floor or grade below shall have guardrails. Every handrail and guardrail shall be firmly fastened and capable of bearing normally imposed loads and shall be maintained in good condition.

9-712 EXIT FACILITIES

All exterior stairs and railings and other exit facilities of every structure shall be maintained in sound condition and good repair by replacing treads and risers that evidence excessive wear or are broken, warped, or loose. Every inside stair shall be constructed and maintained as to be safe to use and capable of supporting the anticipated loads.

9-713 SMOKE DETECTORS

Smoke detectors, installed and operable, shall be required and maintained on each floor of single or multiple dwelling units and in exit corridors of multiple rental unit premises. Battery powered smoke detectors may be utilized.

9-714 PREMISES EGRESS

Adequate means of egress shall be maintained in a safe manner, i.e. clear and uninterrupted from storage and material clutter.

9-715 PLUMBING FIXTURES

All plumbing fixtures shall be serviceable and maintained in a clean and sanitary condition. All plumbing fixtures shall be connected to an approved system of water supply and provided with hot and cold running water necessary for its normal operation.

9-716 HOUSEHOLD APPLIANCES (BUILT-INS)

All built-in household appliances shall be serviceable and maintained in a sanitary condition.

9-717 SECURITY

Door and window locks shall be in place or installed and be serviceable.

9-718 UTILITIES

Adequate gas and/or electrical, water, and sewer service shall be provided and maintained to each premises.

9-719 FIRE EXTINGUISHERS

At least one operable fire extinguisher for each dwelling unit shall be provided and maintained and shall be located in the kitchen area.

ARTICLE 8. RESPONSIBILITIES OF PERSONS - GENERAL

9-801 SCOPE

The provisions of this article shall govern the responsibilities of persons for the maintenance of structures, the equipment and premises thereof.

9-802 SANITARY CONDITION

A. CLEANLINESS. Every occupant of a structure or part thereof shall keep that part of the structure or premises thereof which that occupant occupies, controls, or uses in a clean and sanitary condition. Every owner of a dwelling containing two or more dwelling units shall maintain, in a clean and sanitary condition, the shared or public areas of the dwelling and premises thereof.

B. DISPOSAL OF RUBBISH. Every occupant of a structure or part thereof shall dispose of all rubbish in a clean and sanitary manner by placing it in rubbish/trash containers equipped with tight fitting covers as required by this code.

C. DISPOSAL OF GARBAGE. Every occupant of a structure or part thereof shall dispose of garbage in a clean and sanitary manner by placing it in garbage containers equipped with tight fitting covers as required by this code.

D. GARBAGE STORAGE FACILITIES. Every dwelling unit shall be supplied with an approved garbage disposal facility, which may be any adequate mechanical garbage disposal unit (mechanical sink grinder), for the use of the occupants of each dwelling unit, or an approved outside garbage container as required in Section 9-205. Such facilities shall be sufficient to meet the needs of the occupants.

E. RUBBISH STORAGE FACILITIES. Every dwelling unit shall be supplied with approved containers and tight fitting covers for storage of rubbish, and the owner, operator, or agent in control of such dwelling shall be responsible for the removal of such rubbish.

F. FOOD PREPARATION. All spaces used or intended to be used for food preparation shall contain suitable space and equipment to store, prepare, and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage when necessary.

G. SUPPLIED FIXTURES AND EQUIPMENT. The owner or occupant of a structure or part thereof shall keep the supplied equipment and fixtures therein clean and sanitary, and shall be responsible for the exercise of reasonable care in their proper use and operation.

H. FURNISHED BY OCCUPANT. The equipment and fixtures furnished by the occupant of a structure shall be properly installed, and shall be maintained in good working condition, kept clean and sanitary, and free of defects, leaks, or obstructions.

I. REGISTRATION OF AGENTS. Nonresident owners of rental residential property within the City of Lansing shall designate an agent who shall either reside within the City or metropolitan area, and shall be authorized to accept service of notice under the provisions of this chapter. It shall be the owner's responsibility to register said agent with the City.

9-803 EXTERMINATION

A. OWNER. The owner of any structure shall be responsible for pest extermination (see Section 9-709) within the structure at all times.

B. CONTINUED RAT/VERMIN INFESTATION. Continuing or repeated (three or more) incidents of rat/vermin infestation determined from the official records as provided in Section 9-112 of this code shall require the installation of rat and vermin proof walls. The rat and vermin proof walls shall be installed in accordance with the building code.

9-804 NON-DISCRIMINATION STATEMENT

In accordance with various state and federal civil rights legislation, the city of Lansing does not discriminate against individuals regardless of race, ethnicity, color, religion, gender, national origin, age, marital status, medical condition, or disability.

CHAPTER 10. MUNICIPAL COURT

Article 1. General Provisions

ARTICLE 1. GENERAL PROVISIONS

10-101 MUNICIPAL COURT ESTABLISHED

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

10-102 SAME; PRACTICE AND PROCEDURE

The Code for Municipal Courts, as set forth in K.S.A. 12-4101 et seq., 12-4201 et seq., 12-4301 et seq., 12-4401 et seq., 12-4501 et seq., 12-4601 et seq. and 12-4701 et seq. and all acts amendatory or supplemental thereto shall govern the practice and procedure in all cases in the Municipal Court.

10-103 OFFICERS

The officers of the Municipal Court of this City shall be the Municipal Judge, Clerk(s) of the Municipal Court, the Chief of Police, and the Police Officers of the City.

10-104 MUNICIPAL JUDGE; APPOINTMENT; QUALIFICATIONS; POWER

The Mayor shall appoint, by and with the consent of the Governing Body, a Municipal Judge of the Municipal Court. The Municipal Judge shall hold an initial term of office of not to exceed one year and until his or her successor is appointed and qualified. If the Municipal Judge is reappointed he or she shall hold the office for a term of one year and until his or her successor is appointed and qualified. The Municipal Judge shall be a citizen of the United States; a graduate of a high school or secondary school or the equivalent thereof; a resident of Leavenworth County, Kansas and an attorney licensed by the State of Kansas. The Municipal Judge shall have such powers and duties as set forth in the Kansas Code for Municipal Courts and as specifically stated in K.S.A. 12-4106.
(K.S.A. 14-201; 12-4105 and 12-4106)

10-105 MUNCIPAL JUDGE; ABSENCE

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 at the same rate and payable in the same manner as the compensation of the regular Municipal Judge on a prorated basis.
(K.S.A. 12-4107)

10-106 MUNICIPAL JUDGE; VACANCY IN OFFICE

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.
(K.S.A. 12-4105; 12-4107 and 14-201)

10-107 SAME; SALARY

The Municipal Judge shall receive semi-monthly salary of $500.00 and shall only be modified by ordinance.
(K.S.A. 12-4105)

10-108 COURT COSTS

Pursuant to Charter Ordinance No, 1-2004 whenever any person is convicted of a violation of any provisions of this Code, the offender shall be assessed costs for the administration of their case in Municipal Court. The court costs for each offense designated an ordinance traffic infraction shall be $50.00, $5.00 of which is designated to be paid to the Police Department Equipment Reserve Fund, court costs on any other offense shall be $90.00, $5.00 of which is designated to be paid to the Police Department Equipment Reserve Fund, and when applicable, $100.00 for supervised probation; and $10.00 for fingerprinting performed pursuant to K.S.A. 12-4517 for anyone convicted of conduct comparable to a class A or B misdemeanor or assault. Additional court costs and fees may be assessed by the Municipal Court for service of process, for transcripts and depositions, for expenses incurred in issuing or serving a warrant, failure of defendant to pay court costs and fine or failure to appear. A fee in the amount of $100.00 shall be assessed against a defendant in each case in which the Municipal Court Judge appoints counsel for said defendant. The Municipal Court Judge shall assess costs of $55.00 per day for jail time served for which the City incurs costs. The Judge of the Municipal Court shall assess all State imposed fees as required by statute. In the event the Municipal Court utilizes the service of a contracting agent for debts owed the court, the cost of collection shall be paid by the defendant as additional court costs pursuant to K.S.A. 12-4119.
(K.S.A. 12-4112; 12-4117)

10-109 COURT; TIME, PLACE

The City shall provide at the expense of the City a suitable courtroom for the Municipal Court, together with all necessary supplies and records. Municipal Court shall be held on the second and fourth Wednesday of the month and the third Friday of the month unless otherwise designated by the Municipal Court Judge. Municipal Court shall be held at 800 First Terrace, Lansing, Kansas 66043. (K.S.A. 12-4109)

CHAPTER 11. POLICE

Article. 1 General Provisions

ARTICLE 1. GENERAL PROVISIONS

11-101 CHIEF OF POLICE; APPOINTMENT

The City Administrator shall appoint the Chief of Police pursuant to Charter Ordinance 1-2016 and the City of Lansing Employee Handbook.

11-102 POLICE CHIEF: POWERS; DUTIES

The Chief of Police shall be responsible for the general management and control of the Police Department subject to supervisory control by the City Administrator, and shall administer the Police Department in a manner consistent with the ordinances of the City, the laws and Constitution of the state of Kansas and the United States Constitution. The Chief of Police shall be subject to the employment conditions set forth in the Lansing Police Policy Manual, the City of Lansing Employee Handbook and Charter Ordinance 1-2016.

11-103 VACANCY IN OFFICE OF CHIEF OF POLICE

If a vacancy shall occur in the office of Chief of Police, the City Administrator shall appoint a supervising officer of the Police Department who shall perform all duties and be vested with all authority herein given to the Chief of Police. Such supervising officer's authority shall immediately cease when the office of Chief of Police is filled in the manner provided in 11-101.

11-104 POWERS AND DUTIES OF MEMBERS

The members of the department, when on duty, shall devote their time and attention to the discharge of their respective duties consistent with the ordinances of the City, the laws and Constitution of the state of Kansas and the United States Constitution and the Lansing Police Policy Manual and City of Lansing Employee Handbook as amended from time to time.

11-105 RESERVE POLICE FORCE

A. A Reserve Police Force is hereby established for the City, for better and more efficient police protection of the City.

B. The City Administrator shall appoint members of the Reserve Police Force. Those members of the Reserve Police Force shall hold their office at the pleasure of the Chief of Police.

C. The Reserve Police Force shall be under the general supervision of the Chief of Police and shall not draw any compensation and/or other benefits for their services.

D. The Chief of Police shall formulate all necessary rules of the Reserve Police Force relating to training, conduct and duties to be performed by the Reserve Police Force and as stated in the Lansing Police Policy Manual and the City of Lansing Employee Handbook as amended from time to time.

11-106 NEGLECT OF DUTY

Any member of the Police Department who shall neglect or refuse to perform the duties required of him or her by this Code or other ordinances of the City, or who, while in the discharge of his or her official duty, shall be guilty of any fraud, exertion, oppression, favoritism, partiality or willful cruelty, or of taking or receiving directly or indirectly any bribe, or of unnecessary, unreasonable and malicious trespass upon private premises, shall be subject to the provisions of Sections 1-106 and 1-107 regarding scope and general penalties of this Code and, pending trial, shall be suspended from duty by the City Administrator. Upon conviction from the court, the Officer shall be immediately dismissed from the Department as required by law.

11-107 REWARD MONIES; DISPOSITION

All monies due to, or received by the Chief of Police or any law enforcement personnel on account of any reward accruing to him or her in consequence of any action in the line of duty shall be deposited in the City's general fund.

11-108 ALL PERSONS TO AID ON DEMAND

Whenever any additional Police Force is necessary to quell any riotous or disorderly conduct, or to secure any person accused of crime, or violation of the law or ordinances of the City, any member of the department is hereby authorized to call on any inhabitant or other person in the City for assistance.

CHAPTER 12. PUBLIC OFFENSES

ARTICLE 1. UNIFORM OFFENSE CODE
ARTICLE 2. LOCAL REGULATIONS
ARTICLE 3. NOISE
ARTICLE 4. DRUGS AND DRUG PARAPHERNALIA

ARTICLE 1. UNIFORM OFFENSE CODE

12-101 INCORPORATING UNIFORM PUBLIC OFFENSE CODE

There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Lansing, Kansas, that certain code known as the "Uniform Public Offense Code," 33rd Edition of 2016, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas. One official copy of said Uniform Public Offense Code shall be marked or stamped "official Copy as Adopted by Ordinance No. 970," and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

ARTICLE 2. LOCAL REGULATIONS

12-201 DISTURBANCE OF RELIGIOUS ASSEMBLIES

Disturbance of religious assemblies is the disturbing of any congregation or assembly met for religious worship by making a noise or by rude and indecent behavior within their place of worship or so near the same as to disturb the order and solemnity of the meeting. Disturbance of religious assemblies is a Class C violation.

12-202 LOITERING; STREETS, PUBLIC PLACES

Loitering in streets and other public places is the loitering on the public streets, school buildings or school grounds or any other public place or place accessible to the public without being engaged in some business demanding the person's presence upon such street, school building, school grounds or at such public place or place accessible to the public or habitually lurking in a public place or a place accessible to the public without being engaged in some legal business.
Loitering in streets and other public places is a Class C violation.

12-203 OBSCENITY; BUILDING OR STRUCTURE

It shall be unlawful for any person to write or inscribe any obscene or vulgar picture, design or words at or on any place open to public view. Violation of this section is a Class C violation.

12-204 OBSCENE ADVERTISING MATTER

It shall be unlawful for any person to post or paste or cause to be posted or pasted, any obscene pictures or other obscene advertising matter, on any billboard or sign of any kind in the City.
Violation of this section is a Class C violation.

12-205 CURFEW

A. Persons under 16. It shall be unlawful for any person under 16 years of age to be or to remain upon any street or alley or other public place, including but not limited to any motor vehicle, in the City between the hours of 10:30 p.m. and 6:00 a.m., unless accompanied by a parent, guardian or a person of the age of 21 years or more with parental or guardian approval, or unless such person is engaged in some business or occupation which such person may lawfully engage in making it necessary to be in such places after 10:30 p.m.

B. Persons over 16. It shall be unlawful for any person over 16 years of age and under 18 years of age to be or to remain upon

any street or alley or other public place, including but not limited to any motor vehicle, in the City, between the hours of 12:30 a.m. and 6:00 a.m., unless accompanied by a parent, guardian or a person of the age of 21 years or more with parental or guardian approval, or unless such person is engaged in some business or occupation which such person may lawfully engage in making it necessary to be in such places after 12:30 a.m., or unless any person specified in this subsection is attending, with the consent of a parent or guardian, an approved school function that would extend beyond the curfew deadline specified in this subsection.

C. Penalty. A violation of the provisions of this section shall subject the offender's parent or guardian to a fine not to exceed $25 for each offense.

12-206 CRIMINAL LITTERING

Criminal littering is recklessly depositing or causing to be deposited any object or substance into, upon 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 or water, except by direction of some public officer or employee authorized by law or ordinance to direct or permit such acts; or

B. Any private property without the consent of the owner or occupant of such property.

C. Criminal littering is an unclassified misdemeanor punishable:

1. Upon a first conviction, a fine shall be imposed of no less than $250 nor more than $1,000;

2. Upon a second or subsequent conviction, a fine shall be imposed of no less than $1,000 nor more than $2,000. (K.S.A. 21-5815)

D. Except this ordinance does not apply if the littering occurs from a motor vehicle onto or upon any highway, road or street. (See K.S.A. 8-15, 103 or Article 14 Section 126.3 of the Standard Traffic Ordinance for Kansas Cities as adopted and amended by the City of Lansing.)

12-207 FALSE ALARM

A. It shall be unlawful for a property owner, lessee or any person occupying or otherwise on any premises within the City of Lansing, to make or cause to be made, a false fire or security alarm, directly or indirectly to any Fire Department or emergency response agency responding to alarms within the City, when the false alarm is caused by faulty detection or alarm equipment or by the negligence of said property owner, lessee or person.

B. Penalty:

1. A third false alarm in any one calendar year shall be subject to a fine not to exceed fifty dollars ($50.00).

2. A fourth false alarm in any one calendar year shall be subject to a fine not to exceed one hundred dollars ($100.00).

3. A fifth and subsequent false alarms in any one calendar year shall be subject to a fine not to exceed two hundred dollars ($200.00).

4. Each violation shall constitute a separate offense.

C. Remedies: In addition to the above stated penalties, the City may institute an action in equity to prevent, restrain, correct, abate or enjoin such violation. (See also K.S.A. 21-6207)

12-208 USE OF FORCE IN RESISTING ARREST

A person is not authorized to use force to resist arrest which he or she knows is being made either by a law enforcement officer or by a private person summoned and directed by a law enforcement officer to make the arrest, even if the person arrested believes that the arrest is unlawful. (K.S.A 21-5229)

12-209 AIDING OR ABETTING

Any person who aids and/or abets another person who has been charged or who has been convicted of violating any ordinance of this City shall be guilty of a misdemeanor. Aiding and/or abetting is defined as knowingly assisting in the attempt or commission of a violation of any City ordinance.

12-210 URINATING OR DEFECATING IN PUBLIC

A. No person shall urinate, defecate or otherwise discard or dispose of human wastes or excretions on or in any public street,

sidewalk, alley, park, parkway, parking lot, building, right-of-way, easement or other public place or on any private property exposed to the public view, except in a toilet or urinal receptacle within a permanent or temporary structure or enclosure of a restroom, bathroom, locker room or another toilet facility.

B. It shall be an affirmative defense to a charge under this section that the person charged, by reason of illness, infection, disease or other physical infirmity, is unable to control his or her excretory functions, unless such loss of control is due to the voluntary ingestion of alcohol, illegal drugs or other intoxicants, depressants or hallucinogens.

C. Any person convicted of a violation of this chapter shall be punished for that violation by a fine of not less than $50.00, but not more than $500.00 or by imprisonment of not more than 180 days or by both such fine and imprisonment.

12-211 SELLING, GIVING OR FURNISHING CIGARETTES OR TOBACCO PRODUCTS TO A PERSON UNDER 21 YEARS OF AGE

A. It shall be unlawful for any person to:

1. Sell, furnish or distribute to any person under the age of 21 years any cigarettes, electronic cigarettes, or tobacco products; or

2. Buy any cigarettes, electronic cigarettes, or tobacco products for any person under 21 years of age.

B. It shall be a defense to a prosecution under subsection (a) of this section if:

1. The defendant is a licensed retail dealer, or employee thereof, or a person authorized by law to distribute samples;

2. The defendant sold, furnished or distributed the cigarettes, electronic cigarettes, or tobacco products to the person under 21 years of age with reasonable cause to believe the person was of legal age to purchase or receive cigarettes, electronic cigarettes or tobacco products; and

3. To purchase or receive the cigarettes, electronic cigarettes, or tobacco products, the person under 21 years

of age exhibited to the defendant a driver's license, Kansas non driver's identification card or other official or apparently official document containing a photograph of the person and purporting to establish that the person was of legal age to purchase or receive cigarettes, electronic cigarettes, or tobacco products.

C. It shall be a defense to a prosecution under subsection (a) of this section if:

1. The defendant engages in the lawful sale, furnishing or distribution of cigarettes, electronic cigarettes, or tobacco products by mail; and

2. The defendant sold, furnished or distributed the cigarettes, electronic cigarettes, or tobacco products to the person by mail only after the person had provided to the defendant an unsworn declaration, conforming to K.S.A. 53-601, that the person was 21 or more years of age.

D. For purposes of this section, the person who violates this section shall be the individual directly selling, furnishing or distributing the cigarettes, electronic cigarettes, or tobacco products to any person under 21 years of age, or the retail dealer who has actual knowledge of such selling, furnishing or distributing by such individual or both.

E. **Electronic cigarette** means a device that delivers nicotine or other substances to the person inhaling from the device, including but not limited to any electronic cigarette, cigar, pipe, or hookah, including any component, part, or accessory of such a device, whether or not sold separately. Electronic cigarette shall not include any products that have been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

F. As used in this section, **sale** means any transfer of title or possession or both, exchange, barter, distribution or gift of cigarettes or tobacco products, with or without consideration.

G. It is unlawful for any person who is a retail dealer to fail to post and maintain in a conspicuous place in the dealer's

establishment the following notice: “BY LAW, CIGARETTES AND TOBACCO PRODUCTS MAY BE SOLD ONLY TO PERSONS 21 YEARS OF AGE AND OLDER.”

H. Violation of this section is a class B violation punishable by a minimum fine of $200.

12-212 GENERAL PENALTIES AND VIOLATIONS

A. CLASSES OF VIOLATIONS AND CONFINEMENT

1. For the purpose of sentencing, the following classes of violations and the punishment and the terms of confinement authorized for each class are established:

   a) Class A, the sentence for which shall be a definite term of confinement in the City or county jail which shall be fixed by the court and shall not exceed one year;

   b) Class B, the sentence for which shall be a definite term of confinement in the City or county jail which shall be fixed by the court and shall not exceed six months;

   c) Class C, the sentence for which shall be a definite term of confinement in the City or county jail which shall be fixed by the court and shall not exceed one month;

   d) Unclassified violations, which shall include all offenses declared to be violations without specification as to class, the sentence for which shall be in accordance with the sentence specified in the section that defines the offense; if no penalty is provided in such law, the sentence shall be the same penalty as provided herein for a Class C violation.

2. Upon conviction of a violation a person may be punished by a fine, as provided in section 12-211(B) of this article instead of or in addition to confinement, as provided in this section.

3. In addition to or in lieu of any other sentence authorized by law, whenever there is evidence that the act constituting the violation was substantially related to the possession, use or ingestion of cereal malt beverages or alcoholic liquor by such person, the court may order such person to attend and satisfactorily complete an alcohol or drug education or training program certified by the administrative judge of the judicial district or licensed by the secretary of social and rehabilitation services.

B. FINES

1. A person convicted of a violation may, in addition to or instead of the confinement authorized by law, be sentenced to pay a fine which shall be fixed by the court as follows:

   a) Class A violation, a sum not exceeding $2,500.

   b) Class B violation, a sum not exceeding $1,000.

   c) Class C violation, a sum not exceeding $500.

   d) Unclassified violation, any sum authorized by the section that defines the offense. If no penalty is provided in such law, the fine shall not exceed the fine provided herein for a Class C violation

2. As an alternative to any of the above fines, the fine imposed may be fixed at any greater sum not exceeding double the pecuniary gain derived from the crime by the offender.

ARTICLE 3. NOISE

12-301 LOUD AND UNNECESSARY NOISE PROHIBITED

A. It is unlawful for any person to make, continue, or allow to be made or continued, any excessive, unnecessary, unusual or loud noise which creates a nuisance or injures or endangers the comfort, repose, health or safety of others, or which interferes with the use or enjoyment of property of any person of reasonable sensibilities residing in or occupying the area unless the making and continuing of such noise is necessary for the protection and preservation of property or the health and safety of some individual.

B. The following acts, which enumeration shall not be deemed to be exclusive, are hereby declared to be noise nuisances in violation of this section and are unlawful:

1. The playing or permitting or causing the playing of any radio, radio receiving set, television, phonograph, “boom box,” loudspeaker, drum, juke box, nickelodeon, musical instrument, sound amplifier or similar device which produces, reproduces, or amplifies sound when done in such a manner or with such volume, intensity, or with continued duration so as to annoy, to distress, or to disturb the quiet, comfort, or vicinity or hearing thereof. This subsection shall not apply to persons who have written authorization for an event which includes use of such a device, or to the police or public authorities who are using such a device in the performance of their duties.

2. Motor Vehicles. The use of any motor vehicle, motorcycle, bus or other vehicle so out of repair or in such a manner as to create loud or unnecessary grating, grinding, rattling, or other noise which shall annoy, distress, or disturb the quiet, comfort, or repose of any person of reasonable sensibilities within the vicinity.

3. Peddlers, Hawker, Etc. The raucous shouting, whistling, yelling, singing, hooting, or crying of peddlers, hawkers, vendors before eight a.m. or after ten p.m.

4. Construction. The erection, including construction, excavation, demolition, alteration, or repair work, or the

permitting or causing thereof, of any building or other structure, or the operation or the permitting or causing the operation of any tools, or equipment used in construction, excavation, drilling, demolition, alteration or repair work:

a) Other than between the hours of six a.m. and ten p.m.;

b) This subsection shall not apply in cases of extreme and urgent necessity in the interest of public safety and convenience.

5. Loading and Unloading. The creation of loud, excessive and unreasonable noise in connection with loading or unloading any vehicle, in the opening and destruction of bales, boxes, crates and containers or in the handling of ash, trash and garbage cans, either in the loading or unloading, or the creation by improper loading of excessive and unreasonable noise by the transportation of any materials over and along streets.

6. Animals. The owning, keeping or harboring of any animal that continuously, repeatedly, or persistently for thirty (30) minutes or more, without provocation by the complainant, howls, barks or emits audible sounds which shall annoy, distress, or disturb the quiet, comfort, or repose of any person of reasonable sensibilities within the vicinity.

C. It shall be a defense to charges filed pursuant to Section 12-301 that such noise levels did not exceed those set forth in Section 12-303. Such measurements shall be taken in accordance with the provisions of Section 12-302 pertaining to noise levels. It shall be the burden of the individual charged to present evidence of decibel readings obtained from properly calibrated testing equipment operated by an individual trained to operate such equipment. Such evidence shall be submitted to the City Attorney's Office no later than seven days prior to the trial date of any complaint. Failure to submit such evidence to the City Attorney's office will waive any such defense.

12-302 CLASSIFICATION AND MEASUREMENT OF NOISE

For the purposes of determining and classifying any noise from a fixed, stationary source as loud, unusual or unnecessary as declared to be

unlawful and prohibited by Section 12-301 herein, the following test measurements and requirements may be applied:

A. Noise occurring within the jurisdiction of the City shall be measured at a distance of at least twenty-five feet from a noise source if located within the public right-of-way, and if the noise source is located on private property or property other than the public right-of-way, at least twenty-five feet from the property line of the property on which the noise source is located.

B. The noise shall be measured on the “A” weighing scale on sound level meter of standard design and quality and having characteristics established by the American National Standards Institute.

12-303 EXCESSIVE NOISE LEVELS

A. A noise measured or registered as provided herein from any source not exempted by this chapter at a level which is equal to or in excess of the db(A) established for the time period and zones listed below or that exceeds the background level by five db(A), whichever is greater, is declared to be excessive, unusual, loud and unnecessary, for the purposes of Section 12-301:

AREA	**6:00 a.m. - 10:00 p.m.**	**10:00 p.m. - 6:00 a.m.**
Residential	60 dB(A)	55 dB(A)
Commercial	70 dB(A)	65 dB(A)
Industrial	80 dB(A)	75 dB(A)

Background noise means noise from all sources other than that under specific consideration, including traffic operating on public thoroughfares, and is established by measuring the noise level over a fifteen-minute period of time.

B. For purposes of this section, the aforementioned zones shall be defined as follows:

1. Residential Area - property zoned R-1, R-2, R-3, R-4, R-5 and R-6, or property upon which a legal non-conforming residential use is operating.

2. Commercial Area - property zoned B-1, B-2 and B-3, or property operating under a special use permit for a commercial use.

3. Industrial Area - property zoned I-1,and I-2.

C. Adjacent Zones. When a noise source can be measured from more than one zone, the permissible sound level of the more restrictive zone shall govern.

12-304 EXCEPTIONS

The following activities, as long as they are conducted in daytime hours as a normal function of a permitted use and the equipment is maintained in proper working condition, are excepted from the provisions of this chapter:

A. Lawn and yard maintenance;

B. Repair of personal use vehicles;

C. Home repair of place of residence.

12-305 EXEMPTIONS

The following shall not be considered loud and unnecessary noise for purposes of this ordinance:

A. Sound from law enforcement motor vehicles and other Emergency Motor Vehicles including, but not limited to, snow-clearing equipment.

B. Sound from vehicles or equipment belonging to the City, state, county, federal government, school or other governmental agencies or utilities engaged in preparing for or remedying a potentially hazardous situation.

C. Sound that a person is making or causing to be made when said person has received and maintains a valid license or permit which specifically allows sound levels in excess of those set forth in this ordinance from any department, board, commission or Governing Body of the City authorized to issue such license or permit.

12-306 APPLICATION

To receive written authorization for the use of sound amplification equipment as authorized by Section 12-301(b)(1) or to apply for a

permit or license to allow sound levels in excess of those set forth in this ordinance authorized by Section 12-305(c), a person must complete and file an application for such authorization with the City Clerk's Office, on a form approved by the City. The applicant must provide the following information:

A. The type of proposed event or activity;

B. The number of participants for the proposed event or activity;

C. The location, including street address of the area to be utilized for the activity;

D. The date or dates and specific times for the activity;

E. The plans for sound control and sound amplification, including the number, location and power of amplifiers and speakers, mufflers etc;

F. The name, address and phone number of the party responsible for the event or activity.

12-307 REVIEW PROCESS

A. In determining if written authorization should be granted as allowed by Sections 12-301(b)(1) and 12-305(c) of the Code of the City of Lansing, the following factors are to be considered by the City Administrator or his designee:

1. The volume of the noise;

2. The volume of the existing background noise, if any;

3. The zoning of the area within which the noise emanates, as well as where the noise can be heard;

4. The time of the day or night the noise occurs;

5. The duration of the noise:

B. No authorization may be issued for noise levels in excess of 100 db(A).

12-308 APPEAL

Any person denied written authorization for the use of sound amplification devices, a permit or license for sound levels in excess of

those set forth in this ordinance shall have a right of appeal from the denial to the Lansing Governing Body by filing a written request therefore with the City Clerk. The notice of appeal must be filed with the City Clerk within ten days of the denial of such application and shall be heard at the next regularly scheduled Governing Body meeting. The Governing Body's decision may be appealed to the First Judicial District Court.

12-309 ENFORCEMENT

In addition, the following personnel employed by the City shall have the power to enforce the provisions of this section:

A. Law Enforcement Officers;

B. Code Enforcement Officers.

12-310 PENALTY

Any person who violates any of the provisions of this section within the corporate limits of the City is guilty of an unclassified misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars or be imprisoned in jail for a period not to exceed one month, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

ARTICLE 4. DRUGS AND DRUG PARAPHERNALIA

12-401 DEFINITIONS

For the purposes of this Article, the following words and phrases shall be defined as follows:

A. Board means the Kansas Board of Pharmacy.

B. Controlled Substance means any drug, substance, or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113 and subsequent amendments and modifications to these sections.

C. Controlled substance analog means a substance that is intended for human consumption and:

The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto;

Which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto; or

With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.

Controlled substance analog does not include:

A controlled substance;

A substance for which there is an approved new drug application; or

A substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of

the federal food, drug, and cosmetic act (21 U.S.C. Sec 355) to the extent conduct with respect to the substance is permitted by the exemption.

D. Distribute means the actual, constructive or attempted transfer from one person to another of some item, whether or not there is an agency relationship. Distribute shall include, but is not limited to, sale, offer for sale, or any act that causes some item to be transferred from one person to another. It does not include acts of administering, dispensing, or prescribing a controlled substance as authorized by the Pharmacy Act of the state of Kansas, the Uniform Controlled Substances Act, or otherwise authorized by law.

E. Drug Paraphernalia means all equipment and materials of any kind which are used, or primarily intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of K.S.A. 21-5701 Crimes Involving Controlled Substances, *et. seq.*, and amendments thereto. Drug paraphernalia shall include, but not be limited to, the items listed in K.S.A. 21-5701 and its subsections, and amendments thereto. "Drug paraphernalia" shall include, but is not limited to:

1. Kits used or intended for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived;

2. Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

3. Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance;

4. Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

5. Scales and balances used or intended for use in weighing or measuring controlled substances;

6. Diluents and adulterants, including, but not limited to, quinine hydrochloride, mannitol, mannite, dextrose and lactose, which are used or intended for use in cutting controlled substances;

7. Separation gins and sifters used or intended for use in removing twigs and seeds from or otherwise cleaning or refining marijuana;

8. Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances;

9. Capsules, balloons, envelopes, bags and other containers used or intended for use in packaging small quantities of controlled substances;

10. Containers and other objects used or intended for use in storing or concealing controlled substances;

11. Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body;

12. Objects used or primarily intended or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, hashish oil, phencyclidine (PCP), methamphetamine or amphetamine into the human body, such as:

    a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

    b) Water pipes, bongs or smoking pipes designed to draw smoke through water or another cooling device;

    c) Carburetion pipes, glass or other heat resistant tubes or any other device used or intended to be used, designed to be used to cause vaporization of a controlled substance for inhalation;

d) Smoking and carburetion masks;

e) Roach clips, objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

f) Miniature cocaine spoons and cocaine vials;

g) Chamber smoking pipes;

h) Carburetor smoking pipes;

i) Electric smoking pipes;

j) Air-driven smoking pipes;

k) Chillums;

l) Bongs;

m) Ice pipes or chillers;

n) Any smoking pipe manufactured to disguise its intended purpose;

o) Wired cigarette papers; or

p) Cocaine freebase kits.

"Drug paraphernalia" shall not include any products, chemicals, or materials described in subsection (a) of K.S.A. 2012 Supp. 21-5709, and amendments thereto.

F. Immediate precursor means a substance which the board has found to be and by rule and regulation designates as being the principle compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

G. Isomer means all enantiomers and diastereomers.

H. Marijuana means all parts of all varieties of the plant *Cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture,

salt, derivative, or preparation of the plant, its seeds, or resin. "Marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt or derivative mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake of the sterilized seed of the plant which is incapable of germination. Marijuana shall be interpreted to mean any alternate spellings including, but not limited to, Marihuana.

I. Person means individual, corporation, government, or government subdivision or agency, business trust, estate, trust, partnership, association or any other legal entity.

J. Possession means having joint or exclusive control over an item with knowledge of and intent to have such control or knowingly keeping some item in a place where the person has some measure of access and right of control.

K. Simulated Controlled Substance means any product which identifies itself by a common name or slang term associated with a controlled substance and which indicates on its label or accompanying promotional material that the product simulates the effect of a controlled substance.

L. Tetrahydrocannabinol means any material, compound, mixture, or preparation which contains any quantity of the synthetic equivalent of the substances contained in the plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers, Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers, Delta 3,4 cis or trans tetrahydrocannabinol, and their optical isomers. Compounds of these structures are covered, regardless of numerical designations of atomic positions, as are their salts, isomers, and salts of isomers.

12-402 POSSESSION OF MARIJUANA AND THC, UNLAWFUL

Except as authorized by the Kansas Law it shall be unlawful for any person to possess any of the following controlled substance or controlled substance analogs there of: (1) any hallucinogenic drug

designated in K.S.A. 65-4105(d) to include marijuana or tetrahydrocannabinol.(See K.S.A 21-5706(b)(3)).

12-403 POSSESSION OF DRUG PARAPHERNALIA AND SIMULATED CONTROLLED SUBSTANCES

A. Except as authorized by Kansas Law, it shall be unlawful for any person to use or possess with the intent to use:

1. Any simulated controlled substance. (See K.S.A. 21-5713)

2. Any drug paraphernalia to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance. (See K.S.A. 21-5709)

B. No person shall deliver, possess with intent to deliver or cause to be delivered any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance.

C. In determining whether an object is drug paraphernalia, the finder of fact shall consider, in addition to all other logically relevant factors, the following: Statements of the owner or person in control of an object concerning its use;

1. Prior convictions, if any, of an owner or person in control of the object under any state or federal law relating to any controlled substance;

2. The proximity of the object, in time and space, to a direct violation of K.S.A.21-5701 through 21-5717 and amendments thereto;

3. The proximity of the object to controlled substances;

4. The existence of any residue of controlled substances on the object;

5. Direct or circumstantial evidence of the intent of an owner or person in control of an object, to deliver it to a person the owner or person in control of an object knows, or should reasonably know, intends to use the object to facilitate a violation of K.S.A.21-5701 through 21-5717, and amendments thereto. The innocence of an owner or

person in control of the object as to a direct violation of K.S.A.21-5701 through 21-5717 shall not prevent a finding that the object is intended for use as drug paraphernalia;

6. Oral or written instructions provided with the object concerning its use;

7. Descriptive materials accompanying the object which explain or depict its use;

8. National and local advertising concerning the object's use;

9. The manner in which the object is displayed for sale;

10. Whether the owner or person in control of the object is a legitimate supplier of similar or related items to the community, such as a distributor or dealer of tobacco products;

11. Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;

12. The existence and scope of legitimate uses for the object in the community;

13. Expert testimony concerning the object's use;

14. Any evidence that alleged paraphernalia can or has been used to store a controlled substance or to introduce a controlled substance into the human body as opposed to any legitimate use for the alleged paraphernalia; or

15. Advertising of the item in magazines or other means which specifically glorify, encourage or espouse the illegal use, manufacture, distribution or cultivation of controlled substances.

C. The fact that an item has not yet been used or did not contain a controlled substance at the time of the seizure is not a defense to a charge that the item was possessed with the intention for use as drug paraphernalia. (See K.S.A. 21-5711)

12-404 PENALTIES

A. Violation of 12-402 is a class A nonperson misdemeanor. The sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the court and shall not exceed one year, and/or a fine not to exceed $2,500, unless the substance involved is marijuana, as designated in K.S.A. 65-4105(d), and amendments thereto, then it is a:

1. Class B nonperson misdemeanor, except as provided in section A(2), the sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the court and shall not exceed six months, and/or a fine not to exceed $1,000;

2. Class A nonperson misdemeanor if that person has one prior conviction under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution or a substantially similar offense. The sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the court and shall not exceed one year, and/or a fine not to exceed $2,500.

It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance or controlled substance analog. (see K.S.A. 21-5706)

B. Violation of 12-403 is a Class A nonperson misdemeanor. The sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the court and shall not exceed one year, and/or a fine not to exceed $2,500.

C. If the court finds substantial and compelling reasons to do so, the court may suspend all or part of the fine established by this section on such conditions as the court directs. In making the determination regarding whether suspension of all or part of the fine is within the interests of justice, the court shall consider, but is not limited to, the following factors.

1. The financial status of the defendant.

2. The amount of controlled substance or contraband possessed.

3. The lack of criminal history of the defendant.

4. Any drug treatment program voluntarily completed by the defendant before sentencing but subsequent to being charged under this article.

5. The defendant's level of cooperation with law enforcement including the truthful identification of the source of the controlled substance or contraband possessed by the defendant.

D. Any person under the age of 21 who is convicted of a charge alleging a violation of Section 12-402 or 12-403 of this Article shall be required by the Court to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by the statute for such evaluation. If the judge finds the person is indigent, the fee may be waived. Any person convicted of a violation of any other provision of this Article may be required by the Court submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by the statute for such evaluation. If the judge finds the person is indigent, the fee may be waived. The Court may require the offender to attend and successfully complete a drug abuse education, counseling or treatment program. Any drug abuse evaluation, counseling or treatment ordered under this section for a violation of Section 12-402 or 12-403 of this Article shall be substantially equivalent to the United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration's Brief Counseling for Marijuana Dependence.

E. Any person who is diverted on a charge alleging a violation of Section 12-402 or 12-403 of this Article shall be required by the prosecutor to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A 8-1008, and amendments

thereto, and to pay a fee not to exceed the fee established by the statute for such evaluation. Any person diverted on a charge alleging a violation of any other provision of this Article may be required by the prosecutor to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by the statute for such evaluation. Based upon the results of such evaluation, the offender may be required to attend a drug abuse education, counseling or treatment program as a condition of such diversion agreement. Any drug evaluation, counseling or treatment ordered under this section for a violation of Section 12-402 or 12-403 of this Article shall be substantially equivalent to the United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration's Brief Counseling for Marijuana Dependence.

F. The Municipal Judge shall order any person convicted of a charge alleging a violation of Section 12-402 or 12-403 of this Article to pay the laboratory analysis fees specified in K.S.A. 28-176, and amendments thereto, as additional costs in the case provided that forensic laboratory services are rendered or administered in conjunction with the case. Any diversion agreement for a charge alleging a violation of Section 12-402 or 12-403 shall also contain a provision requiring the defendant to pay such laboratory analysis fees provided that forensic laboratory services are rendered in conjunction with the case.

CHAPTER 13. PARKS/PUBLIC PROPERTY

Article 1. Park Regulations
Article 2. Disposition of Property
Article 3. Parks and Recreation Advisory Board
Article 4. Community Library
(Tree Board; also see Chapter 14)

ARTICLE 1. PARK REGULATIONS

13-101 PARKS DESIGNATED

The public parks of the City are hereby designated as follows:

Lost 80 Park,1122 East Mary Street;
City Park, 400 N. 2nd Street;
Willow Park, 127 W. Gilman Road;
Highland Playground, 217 Highland;
Kelly Grove Park, 320 East Gilman Road;
Woodland Gazebo, 150 Woodland;
Kenneth W. Bernard Park, 15650 Gilman Road

The parks shall include any lake, pond, pool, stream or body of water of any nature or description whatsoever located in or upon such park.

13-102 DRIVING IN PUBLIC PARKS

No person shall drive or park any motor vehicle except on a street, driveway or parking lot or to park or leave any such vehicle at any place other than one established for public parking in any public park or on public grounds; provided, that nothing in this section shall restrict the use of City or contract vehicles in performing maintenance or other purposes approved by the director of parks and recreation. For purposes of this section, "motor vehicle" means and includes every vehicle, except wheelchairs, which is self-propelled, including motorized bicycles which may be propelled by either human power or helper motor, or by both.

13-103 ANIMALS IN PARK

Unless specifically designated, no person shall ride, lead or permit any livestock in any City park. No person shall allow domestic animals to run at large in any public park of the City, except on a leash or in designated off leash areas, and under care of the owner or such other person having charge of the animal.

13-104 INJURING PARK PROPERTY

A. It shall be unlawful for any person to willfully and without authority cut, pull, pluck or otherwise injure any flowers, flowering plants, shrubs or trees growing in or around any public park or other public grounds within the City, or to willfully bring or permit to be brought in or around any public park or other public grounds within the City any dogs, either loose or on a leash, or any other animals which, while in or around any public park or other public grounds, may injure in any manner whatsoever flowers, flowering plants, shrubs or trees growing in or around any public park or other public grounds or to willfully and without authority tear down, remove, cut or otherwise injure or destroy any stand, bench, seat or other property situated upon a park or public grounds.

B. It shall be unlawful for any person to destroy, mutilate, deface, injure or remove any property of any kind in or from any public park of the City. This shall include tramping, painting, staining, writing, printing, stamping or marking upon, breaking, upsetting, cutting, carving or chopping upon, severing, pulling or tearing up, or in any other way or manner injuring, mutilating, defacing, destroying, moving or carrying away structures, fixtures, tables, benches, chairs, seats, field markings, prepared fields, or any swimming pool or any other property in, upon or about any public park.

13-105 LITTERING PARKS

It shall be unlawful for any person to leave or deposit any filth, slops, offal, garbage, sewerage, refuse, vegetable or animal matter or any other thing that is detrimental to the public health, or any sweepings, rags, excrement, compost, waste paper, paper containers, excelsior, straw, hay, shavings, barrels, boxes, wooden crates, lumber, stable manure, ashes, vegetables or litter of any kind except the same be placed in receptacles provided for that purpose.

13-106 PUBLIC SPEECHES

It shall be unlawful for any person to make a public address or deliver a sermon or preach, exhort, or lecture in or upon any public park or grounds in the City without first having obtained a permit from the City Clerk to do so.

13-107 PARK HOURS

The Governing Body shall cause signs to be posted in appropriate

places indicating the open hours of any City park. Except for any program being sponsored by the City in which the Governing Body may set the hour or closing or opening, all of the public parks in the City shall be closed for any and all use between the hours of 10:00 p.m. and 6:00 a.m., with the following exceptions:

A. Kenneth W. Bernard Park shall be closed for any and all use between the hours of 10:00 p.m. and 8:00 a.m.

B. Kelly Grove Park shall shall be closed for any and all use between dusk and dawn.

C. Parks may be temporarily closed or opening hours may be extended temporarily in case of emergency, adverse weather conditions, or unusual circumstances as determined and ordered by the Parks and Recreation Director.

13-108 VIOLATION OF PARK HOURS

It shall be unlawful for any person to be in any City park or to use the park except during the hours that the park is open as set forth in Section 13-107 where the Governing Body pursuant to Section 13-107 has determined special hours for any park, and such special hours have been posted in appropriate places in such park, it shall be unlawful for any person to be in such park or use the park except during the hours that the park has been posted as being open.

13-109 PARK AMENITIES

Park amenities to include playgrounds and shelters are available for public use unless a special event permit is granted by the Council in accordance with Section 13-118. This shall exclude sports fields which may be reserved based on availability.

13-110 HUNTING AND TRAPPING ANIMALS WITHIN PARKS PROHIBITED

A. No person shall maintain or engage any trap designed for the purpose of capturing any animal within any park, recreation or open space area owned by the City of Lansing.

B. No person shall hunt any animal within any park, recreation or open space area owned by the City of

Lansing. “Hunt” means take, in any manner, any animal. “Take” means shoot, wound, kill or capture.

C. Nothing herein shall prevent any authorized health official, law enforcement official, or City official authorized by the City Administrator from carrying out duties imposed by law in relation to the control of diseased animals, disease carriers or injured animals.

D. Any person violating this provision of this section shall upon conviction thereof, be punished by a fine of not less than $100.00.

13-111 FIREWORKS PROHIBITED; EXCEPTIONS

It shall be unlawful for any person to shoot, fire, discharge or use or cause to be shot, fired, discharged or used, fireworks of any nature or kind in or upon the public park of the City. The Governing Body for the public display of fireworks may grant special permission when the individual or group sponsoring the display has adequately provided for the supervision of such display.
(For additional information regarding Fireworks regulations, see Chapter 7.)

13-112 FIRES

It shall be unlawful to build or start any fires in any public park of the City, except within containers designed and intended for such purposes and City staff performing duties to maintain City parks.

13-113 BILL POSTING

It shall be unlawful for any person to affix to, post, place or inscribe upon or cause to be affixed, posted, placed or inscribed upon, any handbill, poster, card, sign or device upon or against any fence, utility pole, structure, tree or property within any public park of the City.

13-114 ALCOHOLIC LIQUOR OR CEREAL MALT BEVERAGES

It shall be unlawful for any person to dispense, convey or consume or cause to be dispensed, conveyed or consumed any alcoholic liquor or cereal malt beverages in any public park of the City. Special permission may be granted by the Governing Body for the consumption of cereal malt beverages or wine at special events when the individual or group sponsoring the special event has adequately provided for the supervision of the event and made such arrangements as are necessary to prevent consumption by persons under age.

(For additional information regarding Alcoholic Beverages on City Property, See Chapter 3.)

13-115 SALE OF MERCHANDISE; PERMIT

With the exception of fundraising conducted by non-profit organizations and approved by the City Administrator, no person shall sell, dispense or convey or cause to be sold, dispensed or conveyed or erect or place or cause to be erected or placed a stand, building, structure, wagon, tent, vehicle, car, trailer or any other thing for the purpose of selling, dispensing or conveying merchandise, refreshments, service, food, beverages, sports goods and supplies, or articles or service of any kind in or upon the public park of the City unless such person has been issued a City-issued Temporary Event Permit.

13-116 ORDINANCES APPLY

All laws of the City shall apply to the public parks of the City unless otherwise provided herein or elsewhere in the code.

13-117 CODE CONFLICT

In the event that various sections of the City Code conflict with one another, the stricter provision shall be applicable.

13-118 SPECIAL EVENTS ON PARK PROPERTY

All requests for exceptions to the regulations set forth in this Article shall be referred to the Governing Body for approval or disapproval. An application for a special event must be in writing on a form provided by the City Clerk, and accompanied by proof of liability insurance in the amount of $1,000,000.00 and such other information as may reasonably be requested under the circumstances pertaining to the event requested. Applications must be submitted to the City Clerk at least thirty (30) days prior to the intended event date.

Such permit may be subject to such conditions and safeguards as the Government Body may deem necessary to protect the public health, safety and welfare. These conditions may include but shall not be limited to:

A. Restrictions on the hours of operation, duration of the event, size of the activity or other operational characteristic.

B. The posting of a performance bond to help ensure that the operation of the event and subsequent restoration of the

site are conducted according to Government Body expectations.

C. The provision of traffic control or security personnel to increase the public safety and convenience.

D. Obtaining liability and personal injury insurance in such form and amount as the Government Body may find necessary to protect the safety and general welfare of the community.

13-119 SWIMMING

No person may swim or enter the water for any reason in any bodies of water in the Lansing park system except for any areas designated for such activity.

13-120 BOATS

No person may operate or use any type of boat or other vessel in any bodies of water in the Lansing park system. This includes, but is not limited to boats, canoes, kayaks, rafts, inflatables, and paddle boards.

13-121 REMOTE CONTRAL AIRCRAFT

No person may fly any remote controlled or self-propelled aircraft, including, but not limited to, radio controlled or control line model airplanes, drones, helicopters, and gliders, in Lansing Parks. Special permission for events may be granted through the special event application process.

13-122 PARKING

No vehicle shall be parked or permitted to remain in city park parking lots or the Activity Center parking lot overnight.

13-123 VIOLATION; PENALTY

Any person violating the provisions of this chapter is guilty of a public offense, and upon conviction thereof shall be fined in a sum of not less than $50 or more than $100.

13-124 ENFORCEMENT

The Lansing Police Department shall enforce the provisions set forth in this section of the code.

ARTICLE 2. DISPOSITION OF PROPERTY

13-201 APPLICABILITY OF ARTICLE

This chapter relates to and embraces all lost, stolen, strayed, abandoned, unclaimed, or confiscated property which of itself is not contraband or the possession of which is not unlawful, which is now or may hereafter come into the possession of the authorized officers of the City.

13-202 CUSTODY; RECLAMATION BY OWNER WITHIN THIRTY DAYS

All personal property of the character described in Section 13-201, shall be delivered to the custody of the Chief of Police who shall retain the possession of such property for a period of at least thirty days, except as elsewhere herein provided, unless the owner or person entitled to possession of such property shall sooner claim such property and establish his ownership and right to possession thereof.

13-203 NOTICE OF INTENT TO DISPOSE OF PROPERTY; AUTHORIZED DISPOSITION OF PROPERTY; ETC.

If the owner or person entitled to possession of property as described in this chapter shall fail to claim such property within thirty days, then at such time or at any time thereafter, the Chief of Police may cause a notice to be published in the official City paper, setting forth a detailed description of such property and stating that unless the same be claimed within ten (10) days, such property will be disposed of according to provisions of Section 13-206; provided, that if such property be livestock, the value of which is less than the cost of keeping the same for the periods described in this section, such property shall be advertised immediately and disposed of after a three (3) days' notice given as herein provided.

13-204 FAILURE OF OWNER TO CLAIM BEFORE SALE

If the owner or person entitled to possession of property advertised under the preceding section shall fail to claim the same within the prescribed time, the property shall be disposed of as provided in Section 13-206.

13-205 COSTS TO BE PAID BY OWNER IF PROPERTY CLAIMED AFTER PUBLICATION

If the owner or person entitled to possession of property as described in this chapter shall claim such property after publication as provided in Section 13-203, the owner or person entitled to possession shall pay

the actual cost of publication, together with the actual cost of keeping such property during its custody.

13-206 DISPOSAL OF PROPERTY

All property not claimed after notification as provided in Section 13-203 shall be disposed in the manner dictated by resolution of the Governing Body, including:

A. Disposal by public auction to the highest bidder for cash, with the proceeds to be paid to the General Fund; or

B. Disposal by donation to a charity designated in said resolution; or

C. Disposal by any other lawful means.

13-207 TITLE TO PROPERTY

Any purchaser or donee of property under this article shall acquire good and perfect title thereto.

ARTICLE 3. PARKS & RECREATION ADVISORY BOARD

13-301 PARKS AND RECREATION ADVISORY BOARD

The Parks and Recreation Advisory Board (PRAB) is to serve as an advisory board to the Governing Body of the City of Lansing on the conduct of parks and recreational activities; sets the membership at fourteen (14); provides for the qualifications of the members; provides for the officers of the board; and establishes the powers and duties of the board.

13-302 DEFINITIONS:

For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future. Words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

A. "City" is the City of Lansing, Kansas.

B. "Governing Body" is the Governing Body of the City of Lansing.

C. "Director" is a person so designated and in charge of the Parks and Recreation Department.

D. "Park" is a park, playground, facility, or any other area in the City owned or leased by the City, and devoted to active or passive recreation, including all planted expressways, parkways, trails, triangles and traffic circles maintained by the City, except the parkway strips between curb or gutter and sidewalks, or, if none, the front property line along the several streets and highways of the City.

E. “Program” is any organized parks and recreation activity funded by the City and operated under the auspices of the Parks and Recreation Advisory Board.

F. “PRAB Manual” is the compilation of the rules, regulations, reports, policies, procedures and other writings as described and called for in Section 13-304: Powers and Duties.

13-303 ESTABLISHMENT OF PARKS AND RECREATION BOARD

The Parks and Recreation Advisory Board (PRAB) will consist of fourteen (14) voting members and the Parks and Recreation Director as a non-voting advisor. Three (3) of the voting members shall be

members of the Governing Body. One (1) member will be a representative of Unified School District (USD) #469. The other voting members will be community volunteers residing in Lansing USD #469 who will be appointed by the Mayor with approval from the City Council. Appointments will be made in the following manner:

A. Members shall be appointed by the Mayor with approval from the City Council.

B. Governing Body Representatives will be appointed by the Mayor and approved by the City Council and shall serve until the end of their elected term or until replaced by another Governing Body member approved by the City Council.

C. Members shall serve without compensation.

D. Parks and Recreation Director is an employee of the City and shall serve until the termination of his or her employment and the position shall be filled by a newly hired Director or a duly-authorized designee approved by the Governing Body.

E. The Lansing School District USD #469 representative shall be a resident of USD #469 and a community volunteer or district employee appointed by the Lansing School Board and approved by the Governing Body for a term of two (2) years. In the event the Lansing School Board chooses not to appoint a representative to the PRAB, the Governing Body will make such appointment of a community volunteer for a two (2) year term.

F. The remaining community volunteers will be recommended by the PRAB and appointed by the Mayor with approval of the Governing Body to a term of two (2) years.

G. In the event any member does not complete his or her term, the PRAB will recommend a replacement for Governing Body approval to fulfill the unexpired term.

H. A Chairperson and Vice-chairperson of the PRAB will be elected by a majority of the PRAB members at its first meeting of each calendar year. The Chairperson and Vice-chairperson will serve one year terms and may be elected to no more than two (2) consecutive terms. The Chairperson, Vice-chairperson, and Secretary respective duties will be as follows:

1. Chairperson -The Chairperson shall preside over meetings and shall be entitled to vote upon each issue. In the event a question over procedure arises, the City of Lansing Code of Procedure, January 5, 2006, shall govern the proceedings

2. Vice-Chairperson - The Vice-Chairperson shall assist the Chairperson in directing the affairs of the Advisory Board. In the absence of the Chairperson, the Vice-Chairperson shall assume all duties of the Chairperson.

3. Secretary - The Secretary will be an employee of the City and shall keep minutes of all meetings and provide administrative support to the PRAB as needed.

I. The Director of Parks and Recreation shall be an ex-officio member of the Board, with the responsibility to participate in discussions but without the right to vote.

J. Absence from three consecutive meetings without formal consent of the Board shall be deemed to constitute the removal of that member.

13-304 POWERS AND DUTIES

The Parks and Recreation Advisory Board shall have the following powers and perform the following duties:

A. It shall act principally in an advisory capacity to the City staff and the Governing Body in all matters pertaining to parks and recreation; shall acquaint itself with and make a continuous study and review of the complete parks and recreation services of the City; and shall advise staff and the Governing Body from time to time as to the present and future maintenance, operation, planning, acquisition, development, enlargement, and use policies of the City's park and recreation services.

B. It shall study and encourage the development of parks and recreation areas and study and encourage the development of wholesome recreation for all residents of the City of Lansing and the patrons of USD #469.

C. It shall advise the Parks and Recreation Director on problems of development and/or maintenance of recreation areas, facilities, programs, and improved recreational services.

D. It shall recommend the adoption of standards, areas, facilities, programs and financial support.

E. The members of the Board shall study and review the Lansing Comprehensive Plan for parks and recreation and become familiar with such plan and its relation to existing and proposed facilities and shall become aware of and participate in any revision or updating thereof.

F. It shall advise and recommend to the Parks and Recreation Director on the development of the 5-year capital improvement program updated annually and, when in its opinion the need exists for additional park and recreational facilities, grounds, or premises, it shall make appropriate recommendations to the Governing Body. It shall also recommend the acquisition of additional parks, park and recreational equipment and supplies. It shall make any other recommendations to the Governing Body regarding park and recreation matters that it considers advisable.

G. It shall develop, for Governing Body review, rules and regulations and policies governing the use of park and recreational facilities and programs. Such rules, regulations, and policies shall be outlined in the PRAB Policies and Procedures Manual.

H. It may solicit for the City, gifts, revenues, bequests, or endowments of money or property as donations or grants from persons, firms or corporations, subject to the approval and acceptance by the Governing Body.

I. It may recommend to the Governing Body amendments to or changes in this Article.

J. PRAB, through its Chairperson, shall provide approved minutes of all meetings to the Governing Body.

K. PRAB'S authority shall not extend to the direction, supervision, employment, or termination of employees of the Parks and Recreation Department. No supervisory power of the Board is created or should be implied.

L. The PRAB shall develop and recommend written policies and procedures for the Parks and Recreation Director to follow in the conduct of all recreational activities, which policies and

procedures shall be subject to approval by the Governing Body and outlined in the PRAB Policies and Procedures Manual.

M. The PRAB will assist in the development of the proposed budget for the Parks and Recreation Department. However, the Board is not authorized to add, delete, or change in any way the budget as prepared by the Parks and Recreation staff and approved by the Governing Body.

N. PRAB will develop for Governing Body approval, a set of governing rules of procedure for its meetings and operation and outlined in the PRAB Policies and Procedures Manual.

O. PRAB shall not have the power to obligate the City for any funds or expenditures or incur any debt on behalf of the City.

13-305 MEETINGS, RULES AND REGULATIONS

The PRAB shall meet at such times and places as it shall agree upon or upon call by the Governing Body. The Board shall elect a chair and vice chair at its first meeting of each calendar year. The Governing Body must approve any bylaws or other rules and regulations relating to its meetings and proceedings. The Board shall keep minutes of its meetings and provide a copy thereof to the City Clerk. A majority of the members appointed to the PRAB shall constitute a quorum for the transaction of the business of the committee.

ARTICLE 4. LANSING COMMUNITY LIBRARY

13-401 REVIEW

This section will be reviewed by the Lansing Community Library Board (LCLB) and revisions submitted for Governing Body consideration as often as necessary to ensure efficient and effective operation of the library. A review of the complete document will be conducted by the LCLB prior to its February meeting each year. The agenda will include a discussion on the need to continue the policies in accordance with the latest revised document or to recommend additional changes.

13-402 ORGANIZATION

This organization shall be called the "Lansing Community Library" existing by virtue of the provisions of KSA 12-1218 et seq., with powers and duties as provided in KSA 12-1225 et seq. of the laws of the State of Kansas. The Lansing Community Library Board (LCLB) will consist of eight (8) voting members and a non-voting advisor, the Library Director. The seven voting members will be community volunteers residing in Lansing USD #469, who will be appointed by the Mayor with approval from the City Council, and shall be appointed for a term of four (4) years. In addition to the seven (7) appointed community volunteer members of the LCLB, the Mayor shall be an ex–officio voting member of the LCLB. The Library Director is an employee of the City and shall serve until the termination of his/her employment.

The Chairperson, Vice-Chairperson, and Secretary of the Board will be elected by a majority of the Board members at their May meeting each year. The Chairperson, Vice-Chairperson, and Secretary will serve one year terms and may be re-elected to consecutive terms with no limit on number of terms. The Library Director will serve as a non-voting advisor. .

The Board may establish any ad hoc committee needed for temporary functions and may accept volunteers from the community to serve on these committees. These committees may only make recommendations within the parameters designated by the Board. The Library Director shall not serve on these committees but shall act in an advisory role.

A record shall be kept of their proceedings.

13-403 POWERS AND DUTIES

The Lansing Community Library Board shall have the following powers and perform the following duties:

A. The LCLB shall act principally in an advisory capacity to the City staff and the Governing Body in matters pertaining to the library program. The Board shall also advise the Governing Body of any grant opportunities for development of the City's library system or programs and the Library Director shall secure the Governing Body's approval for any grant applications.

B. Establish policies and procedures to govern library activities. Board members will not make major policy changes without approval of the Governing Body.

C. Identify and recommend to the Governing Body replacements for Board members who resign from the Board, have excessive absences from meetings, or who desire not to serve past their current terms. Excessive absence is defined as three (3) successive non-work related absences or four (4) non-work related absences in a calendar year.

D. Submit to the City Attorney for legal review and Governing Body approval all ideas or proposals for producing income.

E. Provide names and phone numbers of LCLB members for contact by public on library information.

F. Propose an annual prioritized budget and capital improvements list for improvement of current facilities and equipment or acquisition of new facilities or equipment. The Library Director shall have all budgeting and purchasing responsibility for the Board. The Library Advisory Board shall have no autonomous budget. LCLB members shall not obligate the City to the expenditure of funds. All library activities will be financially self-sufficient unless otherwise approved by the Governing Body.

G. Recruit volunteers to help manage their individual activity.

H. All powers and duties prescribed herein are delegated to the LCLB as a unit and all action hereunder shall be of the LLB acting as a whole. No action of an individual member is authorized except through the LCLB.

13-404 MEETINGS

Regular meetings shall be held ten months out of the year from January to June and August to November, on the fourth Tuesday of such months beginning at 6:30 p.m., unless otherwise ordered by the Board. Special meetings may be called by the Chairperson of the

Board, or by the Chairperson upon the written request of a majority of the Board members. Written notice stating the time and place of any special meeting and the purpose for which the meeting was called shall, unless waived, be given to each member of the Board at least two (2) days in advance of such meeting, and no business other than that stated in the notice shall be transacted at such special meeting. If a Board member is absent from two consecutive meetings, the Board may vote to remove that Board Member from the Board. Five (5) Board Members shall constitute a quorum for the transaction of business. In the absence of the Chairperson of the Board and the Vice Chairperson, the members present shall elect a temporary Chairperson. Changes to the day, time, or location will be published on the door or bulletin board at the Lansing Community Library, in the window of the Library, and on the official Library website. All meetings shall be open to the public in accordance with the Kansas Open Meetings Act (K.S.A. 75-4317 et seq)

13-405 REMOVAL OF MATERIALS

It shall be unlawful for any person to take from the Lansing Community Library or any premises thereof any book, record, magazine, picture, map, pamphlet, DVD, VHS, CD, game, computer, or other public or personal property belonging to or under the control of the Lansing Community Library except with the permission of the Library Director or person or persons in charge thereof, and in compliance with the rules of the library. It shall be unlawful for any person to retain and thus unlawfully convert such book, record, magazine, picture, map, pamphlet, DVD, VHS, CD, game, computer, or other public or personal property in his or her possession or keep the same out of the library for a longer period of time than designated for each material on the circulation receipt.

13-406 PENALTIES

Any person violating this Article or any rule or regulation authorized by this Article shall upon conviction thereof be punished by a fine of not less than $0.10 nor more than the replacement cost of materials plus an additional $25 administrative fee.

CHAPTER 14. STREETS, SIDEWALKS AND RIGHT-OF-WAY

Article 1. General Provisions
Article 2. Sidewalks
Article 3. Sidewalk Construction and Repair
Article 4. Streets
Article 5. Reserved
Article 6. Temporary Use of Right-of-Way
Article 7. Use of Right-of-Way
Article 8. Use of Right-of-Way by Franchisees
Article 9. Trees and Shrubs
Article 10. Technical Specifications & Design Criteria for Public & Private Improvement Projects
Article 11. Requirements for Traffic Impact Study

ARTICLE 1. GENERAL PROVISIONS

14-101 REMOVING PORTIONS OF SIDEWALKS AND/OR IMPROVED TRAILS; ACCUMULATIONS

No person shall loosen or remove any plank, brick, block, or support from any sidewalk or crosswalk or any curbing or gutter. This Section shall not apply to persons making repairs on any such sidewalk, gutter, curb, or crosswalk, or any person temporarily removing the same on account of building operations providing that they have obtained the appropriate permit for work in the right-of-way from the Lansing Public Works Department. No owner or occupant of any lot or parcel of ground shall permit earth or other substances to accumulate on the sidewalk along such property.

14-102 ANIMALS AND MOTOR VEHICLES ON SIDEWALKS AND/OR IMPROVED TRAILS

No person shall allow any animal or motorized vehicle other than single occupant devices designed to transport handicapped individuals to be ridden or driven upon any sidewalk.

14-103 HEDGE FENCES

No person owning or controlling any hedge fence, tree, or other landscaping bordering on any street or sidewalk in this City shall permit the same to overhang and obstruct any sidewalk; or to obstruct traffic on the street, safe site distance, or traffic control devices.

14-104 SIDEWALK HAZARDS

No owner of any property having a sidewalk adjacent thereto shall permit any plank, brick, stone or segment of such sidewalk to be raised above the established level of such sidewalk more than one-half (1/2) inch, in any manner which might catch the foot of a pedestrian, or to permit any holes or depressions to occur in the sidewalk in which a pedestrian might step or catch their foot in a manner to cause injury. For additional information, See 14-210

14-105 Reserved

14-106 Reserved

14-107 GUTTER DRAINAGE: OBSTRUCTIONS; CHANGES

No person shall place anything in any street or alley, the effect of which is or might be to interfere with the free flow of water along the drains or gutters placed in such streets or alleys for the purpose of conducting water from one place to another along such street or alley. Only new material of a type approved by the Public Works Department shall be used for entrance pipes. Installation and/or repair of driveway entrances require a permit from the Public Works Department for the portion in the street right-of-way.

No person shall in any way change or interfere with the drainage of any street, curb, gutter, or alley, except in the instance of driveway installation or repair and with the appropriate permit from the Public Works Department.

14-108 CHANGE IN STREET OR ALLEY GRADE

No person shall in any way change or interfere with the grade of any street or alley without the approval of the Governing Body, and without the appropriate permit from the Public Works Department for work in right-of-way.

14-109 DRIVING ON UNFINISHED CONSTRUCTION

No person shall walk upon, drive or ride over or across any pavement in course of construction before the same has been opened for public travel or upon any uncompleted grading or sidewalk construction that has not been opened for travel.

14-110 INTERFERENCE WITH PROTECTIVE DEVICES AROUND CONSTRUCTION

No person shall remove, throw down, run over or interfere with any barricades, lights lanterns, signals, signs, cones, channelizers, or any

traffic control device,markers, or construction fence placed to guard and protect any grading, paving, sidewalk or other construction work.

14-111 STANDARDS FOR CURB CUTS

A. More than one curb cut shall not be permitted on lots where narrow dimension on the abutting public right-of-way is less than 100 feet.

B. The curb cuts on corner lots shall be at least 50 feet from the intersection of the right-of-way line of the adjacent streets extended.

C. The Governing Body may waive the provisions of this Section.

D. Width of curb cuts shall be in accordance with the most current edition of the Lansing Technical Specifications and Design Guidelines.

14-112 REMOVAL OF SNOW OR ICE FROM PUBLIC SIDEWALKS

A. It shall be the responsibility of the property owner of record or the occupant of property immediately adjacent to a public sidewalk on public right-of-way to remove from the sidewalk any snow or ice which accumulates on such sidewalk or obstructs such sidewalk within twenty-four (24) hours after the storm ceases. Where the ice accumulated is of such character as to make removal thereof impossible, the sprinkling or placement of sand and de-icer thereon within the time specified for removal in such a manner as to make such sidewalk safe for travel of pedestrians shall be deemed compliance with the provisions of this section.

B. In the case of any property owner of record or occupant refusing or neglecting to comply with the provisions of subsection (a) for a period of forty-eight (48) hours, and after a verified inspection of a public complaint of such non-compliance, inspection personnel of the Code Enforcement Department shall notify the occupant of the violation(s) and if the occupant is not the property owner of record, the Department shall deliver or mail a written notice of violation to the property owner of record ordering the prompt removal of the snow or ice. Failure to remove the snow or ice within twenty-four (24) hours after notice of violation has been delivered to the occupant, or if unoccupied, 48 hours after the notice of violation has been mailed to the property owner of

record may result in the citation of the property owner of record or occupant pursuant to subsection (C).

C. Violation of the provisions of this ordinance shall be considered a municipal offense and upon an adjudication of guilty, the violator shall be fined $20.00. Each day of a continuing violation, beginning with the day after the storm ceases, shall be deemed a separate offense.

14-113 MAINTENANCE OF DESIGNATED SIDEWALKS

The City of Lansing shall be responsible for all future maintenance, including snow and ice removal, of certain portions of the City Trail System, and certain portions of sidewalks identified in the most currently adopted City of Lansing Snow and Ice Removal Operation Plan.

ARTICLE 2. SIDEWALKS

14-201 APPLICATION FOR, COMMERCIAL AND INDUSTRIAL BUILDING OR LAND USE PERMITS

(All uses not specified in Sec. 14-202.) Any person hereinafter applying for a building or land use permit for any structure or purpose, including any residential use of a density four-plex or greater, and including the major remodeling of any structure, which shall be defined as remodeling costing twenty-five percent (25%) or more of the appraised value of said structure, for use other than single family or two-family occupancy, shall, as a condition thereof, be required to construct a sidewalk along any public street or streets adjacent to the parcel of land associated with such building or land use building permits. In lieu of construction of the sidewalk, and at the discretion of the Governing Body, the person applying for a building or land use permit may contribute to the Capital Improvements Sidewalk Fund an equivalent amount per linear foot, based on sidewalk type and current construction cost estimate as set forth in a schedule updated annually by the Public Works Department, of the required sidewalk along the entire street frontage of said tract or building lot. Such contribution shall take the form of cash or certified check, and shall be nonrefundable.

14-202 SINGLE FAMILY AND TWO-FAMILY, DWELLING REQUIREMENT

Where sidewalks are required on tracts or other locations as identified on the engineering plans for the subdivision, any person hereinafter applying for a building permit for any structure for single family or two-family occupancy shall, as a condition thereof, be required to construct sidewalks adjacent to such parcels of property. Where sidewalks were not identified as a requirement on the engineering plans of the subdivision, and were not previously installed on lots, tracts, or other locations, any person hereinafter applying for a building permit for any single family or two-family structure shall, as a condition thereof, contribute to the Capital Reserve Sidewalk Fund an equivalent amount per linear foot, based on sidewalk type and current construction cost estimate as set forth in a schedule updated annually by the Public Works Department,, of the required sidewalk along the entire street frontage of said lot, tract, or other location. Such contribution shall take the form of cash or certified check, and shall be nonrefundable.

14-203 REVOCATION OF PERMITS

In the event any person shall fail to provide sidewalks as set forth in this chapter, prior to the occupancy of such building, no certificate of occupancy shall be issued.

14-204 SIDEWALKS ACROSS PARK LAND AND VACANT LOTS IN NEW SUBDIVISIONS

A. All sidewalks crossing property donated to the city for use as a park shall have the sidewalk(s) across said property constructed by the developer before such time as the final acceptance of the subdivision streets and release of any maintenance bond.

B. In order to provide continuous sidewalks throughout a development, all sidewalks across vacant lots within the development shall be constructed across said lots by the developer before such time as the final acceptance of the subdivision streets and release of the maintenance bond.

14-205 PETITIONS

When a petition, signed by not less than 10 citizens owning real estate in a ward of the city and abutting the proposed sidewalk, is filed with the city clerk, requesting construction of said sidewalk, the governing body may in its discretion, by a resolution, order such sidewalk constructed as herein provided. (K.S.A. 12-1803) Sidewalk construction shall be financed in accordance with K.S.A. 12-1809 through 12-1811.

14-206 RIGHT OF LANDOWNER

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 after submitting plans which are in compliance with the Technical Specifications and Design Criteria for the City of Lansing, and which meet such other requirements as would have to be met if the sidewalk were constructed or reconstructed by the city, and upon obtaining the required permit from the Public Works Department, to construct or reconstruct a sidewalk on public right-of-way adjacent to his/her property without any petition or a condemning resolution by the governing body.

14-207 RAMPS FOR HANDICAPPED PERSONS

In the course of all new sidewalk construction, ramps for handicapped persons shall be constructed in accordance with the most current edition of the Technical Specifications and Design Criteria for the City at all street crossings, and other crossings that would otherwise interfere with accessibility. Curbs at ramp locations must provide a gradual transition from gutter line to back of curb, not exceeding one inch in height. If the street curb has not been constructed to receive the

sidewalk ramp, the sidewalk constructor shall remove a section of the curb and reconstruct as required.

14-208 PERSONS OWNING LAND ON WHICH SIDEWALK IS CONSTRUCTED ARE RESPONSIBLE FOR MAINTENANCE

All persons owning land adjacent to public right-of-way or easement upon which there is presently constructed or will be constructed in the future a sidewalk, are deemed and held responsible for the repair of the sidewalks and the cleanliness and the removal of snow and ice and other debris therefrom.

14-209 NOTICE TO REPAIR

Whenever the director of public works or his/her authorized representative shall find that such public sidewalks are in need of repair or otherwise a safety hazard, the director of public works shall issue notice to the owner of the property adjacent to the sidewalk, informing the owner of the required repair or maintenance of the sidewalk and the maximum time period of which the owner will be allowed to make such repairs, not to exceed 60 days (except as provided for in Section 14-116).

14-210 FAILURE TO COMPLY WITH NOTICE; REPAIRS BY CITY

If the owner fails to comply with the requirements of the notice within the time specified in the notice, then the public works department shall proceed to have such repairs made by city forces performing such work, or the governing body may contract with such competent person, company, or corporation for the performance of such work. The actual construction cost of performing such work shall be reported to the city clerk by the director of public works.

14-211 COSTS; ASSESSMENT TO LANDOWNER

An account of the cost of repairs shall be kept and reported to the governing body. The city shall by ordinance levy a special assessment against the lot or parcel of land abutting on the sidewalk so repaired for the cost of repairs, and if the abutting property owner does not pay the assessment within 30 days, upon the city clerk mailing to the owner or his or her designated agent, if known, a printed or written notice of the amount of such repairs, the full amount shall be certified by the city clerk to the county clerk to be put on the tax roles for collection like other taxes. The cost of such construction 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.

14-212 CONDEMNATION AND RECONSTRUCTION

When any sidewalk, in the opinion of the governing body, becomes inadequate or unsafe for the travel thereon, the governing body shall adopt a resolution condemning such walk and providing for the construction of a new walk in place of the walk condemned. (K.S.A. 12-1804)

14-213 NOTICES TO LANDOWNERS

The resolution of condemnation and providing for the construction or reconstruction of a sidewalk shall give the owner of the abutting property not less than 30 days nor more than 60 days after its publication in which to construct or cause to be constructed or reconstructed the sidewalk at his or her own expense. Such resolution shall be published once in the official city newspaper. It shall be the duty of the City Clerk to serve a written or printed notice to construct or reconstruct as contemplated by K.S.A. 12-1805 or cause such a notice to be served on the owner or authorized agent for the owner of the property in front of which or adjacent to which the new sidewalks have been ordered constructed or sidewalks have been ordered reconstructed or repaired under Section 14-208 of this Article. The notice shall be served on a nonresident property owner by publication in the City's official newspaper, when the address of the owner or agent is unknown to the City Clerk. If the property owner does not construct the sidewalk within the time specified, the governing body shall cause the work to be done by contract and cost assessed to the abutting property owner. (K.S.A. 12-1805, 1809:1811)

14-214 COSTS; ASSESSMENT TO LANDOWNER

An account of the cost of construction shall be kept and reported to the governing body. The city shall by ordinance levy a special assessment against the lot or parcel of land abutting on the sidewalk so repaired for the cost of repairs, and if the abutting property owner does not pay the assessment within 30 days, upon the city clerk mailing to the owner or his or her designated agent, if known, a printed or written notice of the amount of such repairs, the full amount shall be certified by the city clerk to the county clerk to be put on the tax roles for collection like other taxes. The cost of such construction 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.

14-215 REPAIR/REPLACEMENT BY CITY AT LARGE

The Governing Body may, at its discretion, undertake at city at large

expense, the repair or replacement of sidewalks that have deteriorated or need replacement for causes not attributable to actions or neglect of the property owner.

14-216 OBSTRUCTING SIDEWALKS AND/OR IMPROVED TRAILS

It shall be unlawful for any person to build or construct any step or other obstruction, whether temporary or permanent, or to store, leave, or allow to be left, any implements, tools, merchandise, goods, containers, benches, display or show cases, on any sidewalks or other public ways in the city, or to obstruct the same longer than necessary for loading or unloading any such article or object.

14-217 SAME; EXCEPTION

The Public Works Director 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.

14-218 SIDEWALKS AND/OR IMPROVED TRAILS COVERED WITH EARTH

No lot or piece of land abutting on any sidewalk shall be allowed to become or remain in such condition that earth or other substance therefrom shall accumulate on the sidewalk, and it shall be the duty of the owner of such lot or piece of land to place the same in such condition as to prevent the accumulation of such earth or other substance on such sidewalk.

14-219 EQUIPMENT/VEHICLES ON SIDEWALKS AND/OR IMPROVED TRAILS

It shall be unlawful to drive or park automobiles, trucks, recreational vehicles, or construction equipment across or on sidewalks without first obtaining a permit from the city Public Works Department, as provided for in Section 14-217, and complying with permit conditions for protection of the sidewalk.

14-220 VIOLATIONS; PENALTIES

Any person violating the provisions of this chapter is guilty of a public offense, and upon conviction thereof shall be fined in a sum of not less than $20 or more than $100. Each day such violation occurs shall be considered a distinct and separate offense.

14-221 FAILURE TO PAY COSTS PRIOR TO TIME OF CERTIFICATION; ACTION

In the event such expenses and costs are not paid prior to the time of certification to the county clerk, the costs and expenses shall be so certified to the county clerk and collected as other taxes. If the amount thereof is in excess of $50, interest at current rate of prime per year from the date the expense is paid by the city through December 31st, next succeeding, shall also be certified to the county clerk for collection.

14-222 APPEALS

All requests for appeals relating to sidewalks and sidewalk construction shall be referred to the Governing Body.

ARTICLE 3. SIDEWALK CONSTRUCTION AND REPAIR

14-301 SIDEWALK DESIGN AND CONSTRUCTION STANDARDS

All sidewalks constructed or reconstructed upon public right-of-way or sidewalk easements within the city shall be in accordance with the sidewalk design standards and specifications as set forth the most current edition of the Technical Specifications and Design Criteria for the city.

14-302 PLAN APPROVAL

Any person proposing to construct, replace, repair, or modify a sidewalk adjacent to or upon any public right-of-way or easement shall apply to the city Public Works Department for approval of a permit for the location, dimensions, design, and construction methods and materials of such sidewalk. The application shall be a development plan submitted and shall contain such detailed drawings and specifications as the Public Works Director may require. If the Public Works Director finds that any such sidewalk will conform to the standards as set in the Technical Specifications and Design Criteria for the City of Lansing, he/she shall issue his/her approval. The property owner acting under this Article must satisfy the Public Works Director of his or her competency to construct such sidewalk or may contract with a properly bonded contractor approved by the Public Works Director. (K.S.A. 12-1806) No additional plan approval shall be required when a detailed sidewalk plan has been approved as part of a building plan or when the governing body has approved a plat or plan of the sidewalks.

14-303 SUPERVISION AND INSPECTION

All sidewalk construction, reconstruction or repair on City rights-of-way, easements, or property within the City limits shall be done with the approval of and under the supervision of the Public Works Director or his or her representative and according to plans approved by the Public Works Director, and in accordance with the most recent edition of the Technical Specifications and Design Criteria of the City. The contractor shall not commence placing concrete until such time as inspection has been made by the Public Works Director or his/her authorized representative and form locations and grades, slopes and subgrade have been approved for placing of concrete.

14-304 CONSTRUCTION: BONDS, PERMITS

No person, firm or corporation may construct, modify, reconstruct or repair any sidewalk or part thereof without first obtaining a special

permit for the same from the Public Works Department. All sidewalk construction, modification, reconstruction and/or repair must comply with the Technical Specifications and Design Criteria for Public Improvement Projects, City of Lansing, Kansas.

14-305 SIDEWALK CONTRACTORS' BONDS

Any person who shall contract to build sidewalks for the City shall give a good and sufficient surety bond in the amount of the total contract price that he or she will construct the same according to specifications and in a manner acceptable to the Governing Body or its authorized agent and maintain the same in good condition under ordinary conditions for a period of one (1) year from the completion of the work.

14-306 ESTABLISHMENT OF SIDEWALK GRADES

All sidewalk grades shall be established by the Public Works Director or his/her designee prior to the time of construction. Ten (10) days notice shall be given to the Public Works Director or his/her designee when sidewalk grade has not been established previously, prior to commencing construction.

14-307 SAME

All sidewalks constructed or reconstructed in this City shall be constructed on the established grade approved by the Director of Public Works or his/her designee.
(K.S.A. 12-1802, 1807)

14-308 CONFORMITY TO CONNECTING SIDEWALK

All sidewalks hereafter constructed or reconstructed shall as nearly as possible conform to the grade of the connecting permanent sidewalk.

14-309 NONCONFORMING WORK

Any sidewalk, which shall not be constructed as provided in this Article, may be torn out and reconstructed and the cost thereof assessed as provided in Section 14-211 of this Article.

14-310 VIOLATIONS; PENALTIES

Any person violating the provisions of this chapter is guilty of a public offense, and upon conviction thereof shall be fined in a sum of not less than $20.00 or more than $100.00. Each day such violation occurs shall be considered a distinct and separate offense.

ARTICLE 4. STREETS

14-401 CUTTING PUBLIC STREETS/EXCAVATIONS; PERMIT

No person, firm or corporation excepting the city, shall cut any pavement, or make any excavation in any street easement or right-of-way, alley or other public grounds in the city for any purpose, without first obtaining a permit from the public works department, authorizing the same.

14-402 SAME; PERMIT FEES

The applicant for a permit shall pay the public works department an inspection fee in accordance with the most current established fee schedule for each excavation and/or cut. In the case of an activity that is continuous across an intersection(s), the fee shall be $25.00 for each block. A completed application form with construction plans and traffic control plans certified by the applicant to be in accordance with the Manual on Uniform Traffic Control Devices for the work shall be provided to the public works department for processing. In the case of cuts and/or excavations in right-of-way for emergency repairs, the applicant may receive a permit number by calling the public works department, and shall submit a completed permit application form and pay an emergency permit fee in accordance with the most current established fee schedule within one business day of beginning the repair. All requirements except submittal of construction plans and traffic control plan shall apply to emergency permits. The permit fee may be waived for work done exclusively by the direct employees of a utility company with whom the City of Lansing has a franchise agreement.

14-403 BOND REQUIRED

All applications for permits required under section 14-201 of this article shall be accompanied by a good and sufficient corporate surety bond in the amount of $10,000, executed to the city by the applicant for the permit, and conditioned that the principal on such bond will hold the city harmless from any damage to persons or property resulting from or in any way growing out of any opening resulting from, or in any way growing out of any opening or excavation made by the principal, his or her agent, servants or employees under the permit; and providing further, that the principal shall pay any and all loss or damage occasioned by himself, herself, his or her agents, servants or employees, and will comply with all ordinances of the city; providing, however, no bond shall be required of any utility which has a franchise

agreement with the City and has on file with the Finance Director a Certificate of Liability Insurance in the amount of $1,000,000, provided the work will be performed by employees of the utility. The applicant may, in lieu of posting surety bond, deposit a cash bond with the Director of Public Works in the sum of $5,000. At such time as the director of public works is satisfied that the applicant has complied with the ordinances and regulations of the city, the corporate bond may be terminated or the cash bond may be returned, upon proper application by the permit holder. In addition to bonds, the applicants must provide a Certificate of Liability Insurance in the amount of $1,000,000.

14-404 REPLACEMENT AND REPAIRS COST

If streets, pavements, sidewalks, or curb and gutter have been damaged by any person operating under a permit issued under the provisions of this article, the permit holder shall repair or replace the same in accordance with the Technical Specifications and Design Criteria for Public and Private Improvement Projects at his or her own expense, and shall be liable on his or her bond for the satisfactory repair of same. If the total amount of the bond is inadequate to make satisfactory repairs or pay damages, which may have been sustained, the permit holder shall be liable for any additional amount required to make the repairs or pay damages. The permit holder shall under no circumstances be considered as an agent of the city. All work or repairs shall be done under the supervision of the director of public works or their authorized representative. If repairs are not made, or are unsatisfactorily made, within 30 days following written notification thereof by the public works department to the permit holder, the City may complete the work or cause the work to be completed in a satisfactory manner and charge the costs to the permit holder. The permit holder shall also be subject to punishment under the criminal provisions of this article.

14-405 DUTY IN GUARDING EXCAVATIONS AND OTHER WORK OBSTRUCTING STREETS, RIGHTS OF WAY, SIDEWALKS, OR ALLEYS

Any person, firm or corporation making excavations in any of the streets, rights-of-way, alleys or public grounds of the city shall at all times during the work, maintain the proper barricades, warning signs, delineation, safety-guards and lights in accordance with the Manual on Uniform Traffic Control Devices for the protection of the traveling public. Prior to closure of any street, the applicant shall notify the Lansing Police Department, director of public works, and the Leavenworth County Emergency Dispatch Center. The applicant shall

notify the same parties immediately upon re-opening of the street. All fills made in excavations shall be securely backfilled in accordance with the most recent edition of the Technical Specifications and Design Criteria for Public and Private Improvement Projects and the excavation shall be properly shored so as to prevent caving or injury and damage to adjoining premises. Open unattended excavations shall at all times be secured by safety fencing. The party making the excavation and his or her bondsman shall at all times be liable to the city for damages arising by reason of any neglect or carelessness, in any respect, concerning the excavation.

14-406 Reserved

14-407 Reserved

14-408 Reserved

14-409 DEPOSITING OF MATERIAL IN CURBS, GUTTERS AND STREETS; EXCEPTIONS

No person, firm or corporation shall cause or permit the curbs and gutters in the city to be filled with any material which tends to restrict or divert the flow of water therein except that the director of public works or his or her duly authorized representative may upon request grant written permission for an exception thereto. No person, firm, or corporation shall place or distribute grass clippings, leaves, yard debris, snow, ice, or any other debris or substance in the curbs and gutters or streets

14-410 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 director of public works by evidence of the appropriate permit.

14-411 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.

14-412 FUEL PUMPS, DISTANCE FROM STREET

Any gasoline or oil pump or other device for the dispensation of motor fuel, devices for the inflation of pneumatic tires, devices for filling radiators of motor vehicles and all equipment for the lubrication of

motor vehicles shall be no closer than 15 feet from any public street, highway, right-of-way or any other public property.

14-413 BUILDING MATERIALS IN STREET

Any person, firm or corporation desiring to use the sidewalk or any part of the street for the temporary deposit of building material during the construction or repair of any building, or during the temporary use of any sidewalk while excavating any cellar, shall apply to the governing body for permission for such use. Upon such an application, the governing body may grant permission to use the street and/or sidewalk temporarily for the purpose to be named. Not more than 1/3 of the width of the street shall be used, and in case the sidewalk is obstructed, a temporary walkway shall be provided around such obstruction, and the gutter shall be kept open for flow of water. No person shall use or temporarily appropriate any sidewalk or street or any material part thereof without the consent of the governing body. Upon the completion of any building, the material in the street shall be removed within 10 days. Any such obstruction shall be protected by traffic control signing in accordance with the Manual on Uniform Traffic Control Devices, and shall be adequately lighted from 1/2 hour after sunset to 1/2 hour before sunrise to give warning to the drivers of vehicles.
(K.S.A. 12-1630)

14-414 YARD DEBRIS; GRASS CLIPPINGS IN STREET; PROHIBITION

No person, firm, or corporation shall place or distribute leaves, grass clippings, yard debris, snow, or ice in the street.

14-415 DANGEROUS OBJECTS IN STREET

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.

14-416 HARMFUL 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 or caustic substances, or any liquids or fluids of any kind 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.

14-417 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 in the discharge of their duties.

14-418 BURNING IN STREETS

It shall be unlawful for any person to make or cause to be made any fire upon any of the paved streets, alleys, or street intersections within the city.

14-419 THROWING IN STREETS

It shall be unlawful to throw or bat any ball, stone, or other hard substance into, on or across any street or alley or at or against any building or vehicle.

14-420 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 having a tight box so constructed as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alleys.

14-421 PENALTIES

Any person, firm or corporation, without first complying with the provisions of this article, shall upon conviction, be deemed guilty of a violation of this code and shall be fined in a sum not exceeding $500.00. Each day of a continuing violation shall constitute a new and separate offense.

ARTICLE 5. RESERVED

ARTICLE 6. TEMPORARY USE OF RIGHT-OF-WAY

14-601 PURPOSE

The purpose of this Article is to regulate activities and the placement of materials or devices upon the public rights-of-way to assure public access to and safe use of all public rights-of-way.

14-602 NOTICE

Notice is hereby given that the City has the right to make immediate use of the entire public right-of-way for street, sidewalk, utility and drainage purposes and for the installation, inspection, maintenance, and removal of the same. The City will generally not compensate an adjoining landowner for damage to plants, underground sprinklers and other private improvements located upon the public right-of-way, resulting from the installation, inspection, maintenance or removal of streets, sidewalks, utilities or drainage ways.

14-603 PROHIBITED USES OF RIGHT-OF-WAY

It shall be unlawful to do any of the following without a right-of-way use permit as provided in this Article:

A. Place any table, rack, machine or other device for the storage or display of merchandise upon the public right-of-way.

B. Leave or allow to be left any implements, tools, boxes, merchandise or goods on any of the sidewalks of this City longer than is necessary for loading and unloading.

C. Intentionally obstruct traffic on any street, sidewalk, or other right-of-way of this City.

D. Continue to obstruct traffic on any street, sidewalk or other right-of-way of this City after having been ordered by a police officer to end such obstruction.

For the purposes of this section, “obstruct traffic” means to walk, stand, sit, lie, or place an object in a manner as to: block lawful passage by another person or vehicle, or to require another person or driver to take evasive action to avoid physical contact, or to block the entrance of any private or public building or establishment from any public street or sidewalk.”

14-604 EXCEPTIONS

A. This article shall not apply to newsstands, news racks, and other devices for the distribution or sale of newspapers, pamphlets and handbills.

B. This article shall not apply to activities for which the City has issued a separate permit.

C. This article does not apply to the construction or maintenance of sidewalks and driveways upon the public right-of-ways. The City separately regulates such sidewalks and driveways. However, this article does apply to the activities carried on upon such sidewalks and driveways.

D. The restrictions of this section pertaining to obstruction of traffic do not apply to the following:

1. Acts authorized as an exercise of one's constitutional right to picket, or to legally protest, but only to the extent that such rights would be impermissibly restricted by operation of this section.

2. Utilizing a wheelchair, walker or other similar device to move about the sidewalk, street or right-of-way as a result of a disability.

3. Sitting or lying on a street, sidewalk or right-of-way due to a medical emergency.

4. Patronizing or operating a commercial establishment lawfully conducted on the sidewalk pursuant to this code.

5. Attending a parade, festival, performance, rally, demonstration or other similar event lawfully conducted on a public sidewalk, street or right-of-way.

6. Sitting on a chair or bench located on the public sidewalk supplied by a public agency or abutting property owner, or waiting for public or private transportation at a bus stop.

14-605 APPLICATION FOR PERMIT

An applicant for a right-of-way use permit shall:

A. File a written application on a form to be determined by the Director of Public Works that includes the following information: the date or dates for which the permit is sought; the name of the applicant; the location of the encroachment or obstruction; the type of encroachment or obstruction; and such other information as the Director of Public Works may deem necessary. The form shall be made available to the public at the Public Works office.

B. The application shall be filed with the City Clerk at least two (2) weeks before the first date for which the permit is sought.

C. If the applicant is not the owner or tenant of the land adjoining the right-of-way sought to be used; the permit must be accompanied by a written statement from such owner or tenant consenting to such use of the adjoining right-of-way.

D. Pay an application fee in the amount of $100.00.

14-606 ISSUANCE OF PERMIT

A. All applications for a right-of-way use permit shall be forwarded to the Director of Public Works or designee for approval. The Director of Public Works or designee shall issue such a permit upon a finding that in view of the location or area proposed to be used and the type of encroachment or obstruction proposed to be carried on, the proposed encroachment or obstruction does not constitute a traffic hazard or destroy or impair use of the right-of-way or land by the public, or serves a purpose that otherwise cannot be accomplished and it is a temporary obstruction of the right-of-way.

B. All applications must be accompanied by a traffic control plan in compliance with the Manual on Uniform Traffic Control Devices, most current edition that provides adequate protection for and from the use applied for.

C. The Director of Public Works or his or her designee may impose conditions on the issuance of the permit if failure by the permittee to comply with the conditions would constitute a safety or traffic hazard or would destroy or impair use of the right-of-way by the public.

D. The Director of Public Works or his or her designee may condition the issuance of a permit upon the applicant providing

proof that the applicant has obtained general liability insurance for which the permit is being issued. The minimum policy limits shall be $1,000,000.00, unless the Director of Public Works or his or her designee determines that higher or lower limits are warranted by the particular circumstances. A surety bond in the amount of $10,000 or a cash bond in the amount of $5,000 shall also be provided to the city prior to the permit being issued. At the city's discretion, the required insurance coverage may be reduced commensurate with the potential risk to the public.

E. The applicant shall be responsible for the cost of any conditions placed on the permit, for restoration of any damage resulting from activities associated with the permitted use, and for providing traffic control by qualified person in accordance with the traffic control plan (14-606 (B)).

F. Any application for a right-of-way use permit not granted, conditionally granted or denied within eight (8) business days after the date such application was filed with the City Clerk shall be presumed to have been denied.

14-607 DISPLAY OF PERMIT

Any person making use of the right-of-way under the authority of a right-of-way use permit shall at all times when so making use of the public right-of-way, either:

A. Prominently display the permit at the site where the public right-of-way is being used pursuant to the permit; or,

B. Have the permit in his or her possession at the site where the public right-of-way is being used and display the same to any officer or employee of the City upon demand.

14-608 REVOCATION OF PERMIT

The Director of Public Works or designee, the Chief of Police or the Codes Enforcement Officer, may suspend or revoke a permit issued under this Article if:

A. The permittee fails to meet the conditions imposed on the issuance of the permit;

B. The permittee violates any provision of this Code or other ordinance of the City governing the activities permitted by the permit; or,

C. The permit was obtained by fraud or misrepresentation.

14-609 HAZARDS PROHIBITED

Notwithstanding that a permit may have been issued for the private use of the public right-of-way pursuant to this Article, no person shall make any use of the public right-of-way that constitutes an immediate hazard requiring immediate action to protect the public.

14-610 PENALTIES

A. Any person who violates the requirements of this Article shall, upon conviction, be fined not less than $20.00 nor more than $500.00, or be imprisoned for not less than one (1) day nor more than three (3) months, or be both so fined and imprisoned. Each day that a person violates the requirements of this Article shall constitute a separate offense.

B. The violation of any condition imposed on the issuance of a permit shall constitute a violation of this Article.

14-611 APPEAL

Any person may appeal to the Governing Body from the denial, suspension or revocation of a right-of-way use permit or the conditions imposed on the issuance of a permit by the Director of Public Works or designee. Notice of such appeal must be given in writing to the City Clerk within fifteen (15) day of the denial, suspension, revocation or conditional issuance of the permit.

ARTICLE 7. USE OF RIGHT-OF-WAY

14-701 DEFINITION OF RIGHT-OF-WAY

For purposes of this article, Right-of-Way shall mean present and future streets, alleys, right-of-way and public easements, including easements and right-of-way dedicated in plats or other instruments to the City.

14-702 WRITTEN PERMISSION OF THE CITY REQUIRED

No person, firm, corporation, association, utility, or entity, shall enter upon the right-of-way of the City, or in any manner establish a physical presence on, upon, in or over the right-of-way of the City, for the purpose of installing, construction, maintaining or operating lines, conduits, wires, fiber optic wires, cables, pipes, pipelines, poles, towers, vaults or appliances, or related facilities or appurtenances thereto, or for the purpose of constructing or modifying an entrance, or for placement of any private object or facility without an approved permit from the Public Works Department. The permission of the City may be granted by a franchise agreement pursuant to the provisions of K.S.A. 12-2001 *et seq*. to operate in the rights-of-way, but a permit from the Public Works Department is required for any disturbance in or obstruction of the rights-of-way by the utility.

A. LAWN WATERING SYSTEMS IN RIGHTS-OF-WAY

No person, firm or corporation may construct any part of a lawn watering system in the public street right-of-way without first obtaining a special permit for the same from the Lansing Public Works Department. Lawn watering systems in the right-of-way are for personal convenience, and may be removed or disrupted without notice at any time by the city or by a public utility in the performance of its work, and any costs associated with such removal or disruption including water loss, repair, and replacement shall be solely the responsibility of the owner of the watering system. Lawn watering systems constructed in the right-of-way shall include a branch valve placed at the right-of-way line and adjacent to the driveway that shall isolate the portion of the system in the right-of-way from the rest of the system.

B. ENTRANCE PERMITS

No person, firm or corporation may construct, modify, or reconstruct any part of an entrance to a public street without first obtaining a special permit for the same from the Public Works

Department. All entrance construction, modification, and/or reconstruction must comply with the Technical Specifications and Design Criteria for Public Improvement Projects, City of Lansing, Kansas.

C. OTHER PRIVATE IMPROVEMENTS IN RIGHTS-OF-WAY
No person, firm or corporation may construct, plant, or otherwise place any private improvement, including shrubs and trees, in the public right-of-way without first obtaining a permit for the same from the Public Works Department. Private improvements in public rights-of-way are for personal convenience, and may be removed or destroyed without notice at any time by the city or by a public utility in the performance of its work, and any costs associated with such removal or disruption shall be solely the responsibility of the owner of the private improvement. Private improvements may not be placed in public rights-of-way if they impair traffic or pedestrian safety, emergency services, or routine street and utility maintenance.

14-703 COMPLIANCE WITH, MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES

Any person, firm, corporation, association, utility, or entity entering upon the right-of-way of the City, or in any manner establishing a physical presence on the right-of-way of the City, for the purpose of installing, constructing, maintaining or operating lines, conduits, wires, fiber optic wires, cables, pipes, pipelines, poles, towers, vaults or appliances, or related facilities or appurtenances thereto, shall comply with the provisions of Standards and Guides for Traffic Controls for Street and Highway Construction, Maintenance, Utility, and Incident Management Operations Part VI of the Manual of Uniform Traffic Control Devices (MUTCD), published by the U.S. Department of Transportation, Federal Highway Administration, most current edition.

14-704 PENALTY PROVISION

Any person, firm, corporation, association, utility, or entity, or agent, contractor or subcontractor thereof, violating any provision of this article, shall be guilty of a municipal offense, and shall upon conviction be subject to a minimum fine of $150.00 and a maximum fine of $500.00. Each day of violation shall constitute a separate and distinct offense.

14-705 PERMIT, FEES

The applicant for a permit under this section shall pay the public works

department a fee in accordance with the most current established fee schedule adopted by the Governing Body for each desired temporary activity within city-owned rights of ways.

ARTICLE 8. USE OF RIGHT-OF-WAY BY FRANCHISEES

14-801 APPLICABILITY

This article shall apply to those franchisees of the City of Lansing, Kansas that have no right-of-way use provisions in their franchise ordinances with the City of Lansing or have right-of-way use provisions in their franchise ordinances that are less stringent than those contained in this article.

14-802 USE OF RIGHT-OF-WAY

In the use of the right-of-way under this Ordinance, the franchisee shall be subject to all rules, regulations, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power and are subject to all applicable laws, orders, rules and regulations adopted by the governmental bodies now or hereafter having jurisdiction. In addition, the franchisee shall be subject to all rules, regulations, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City relating to permits (except that a permit fee will not be charged when the direct employees of the franchisee are doing all the work involved), sidewalk and pavement cuts, utility location, construction coordination, beautification, tree care, and other requirements on the use of the right-of-way and shall comply with the following:

A. The franchisee’s use of right-of-way shall in all matters be subordinate to the City's use of the right-of-way for any public purposes. The franchisee shall coordinate the placement of its facilities in a manner, which minimizes adverse impact on public improvements, as reasonably determined by the City. Where placement is not otherwise regulated, the facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted by such public improvement.

B. All earth, materials, sidewalks, paving, crossings, utilities, public improvements or improvements of any kind injured, damaged or removed by the franchisee in its activities under this Ordinance and its Franchise Ordinance shall be fully repaired or replaced within a reasonable time by the franchisee at its sole expense and to the reasonable satisfaction of the City and the franchisee.

C. The franchisee shall keep and maintain accurate records and as-built drawings depicting the accurate location of all facilities constructed, reconstructed, or relocated in the right-of-way after

the date hereof and provide the above information to the City upon request. Where such information is available electronically, upon request from the City, franchisee agrees to provide such information in an electronic format. City agrees to use information obtained pursuant to this subsection only to locate utility facilities in connection with municipal projects and further agrees not to disclose such information to anyone other than City employees requiring such information to locate utility facilities in connection with municipal projects, except as required by law. Franchisee and the City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of the Investor-owned utility and agree that pursuant to the Kansas Open Records Act, K.S.A. 45-215 et seq., as amended, such information does not constitute public records subject to K.S.A. 45-218, as amended. In the event that the City is required by law to disclose such information, the City shall provide the franchisee advance notice of its intended disclosure of such information and shall take such action as may be reasonably required to cooperate with the franchisee to safeguard such information.

The franchisee agrees to indemnify and hold the City harmless from any and all penalties or costs, including attorney's fees, arising from the actions of the franchisee, or of the City at the written request of the franchisee, in seeking to safeguard the confidentiality of information provided by the franchisee to the City under this section.

In the event such information is required by force of law to be publicly disclosed, the franchisee shall have no further obligation under this section to provide the City with such information. Such facilities shall be horizontally and vertically located at least every 100 feet and at any other alignment change.

All points of facilities shall be horizontally located from street centerline or section or quarter section lines or corners. Vertical locations or all points of facilities shall consist of elevations in either City datum or United States Geological Survey datum.

D. Except in cases of an emergency, a minimum of fourteen (14) days prior to construction, reconstruction or relocation of any facilities in the right-of-way, the franchisee shall submit to the City Engineer, or her or his designee, for approval, plans and specifications of the proposed installation. Such approval shall not be unreasonably withheld, delayed or conditioned. City

review shall only concern matters related to the interests of the City as set forth in this Ordinance.

E. The franchisee shall cooperate promptly and fully with the City and take all measures necessary to provide accurate and complete information regarding the nature and locations, both horizontal and vertical, of its facilities located within right-of-way when requested by the City or its authorized agents for a public project. Such location and identification shall be at the sole expense of the franchisee, without expense to the City, its employees, agents, or authorized contractors. The franchisee shall designate an agent to provide the City with timely information when required by this subsection.

F. As reasonably necessary, the franchisee shall relocate or adjust any facilities located in the right-of-way for a public project within a reasonable time. Such relocation or adjustment shall be performed by the franchisee at its sole expense, without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules and regulations of the City not inconsistent with this Ordinance pertaining to such.

G. It shall be the sole responsibility of the franchisee to take adequate measures to protect and defend its facilities in the right-of-way from harm and damage. If the franchisee fails to accurately or timely locate facilities when requested, the franchisee has no claim for costs or damages against the City and its authorized contractors or any other party authorized to be in the right-of-way, except to the extent such harm or damage is caused by such party's negligent or intentional conduct. City and its authorized contractors agree to take reasonable precautionary measures, including, but not limited to, calling for utility locations and observing marker posts, when working near franchisee facilities.

H. Except in the event of an emergency, the franchisee shall notify the City not less than ten (10) days in advance of any construction, reconstruction, repair or relocation of facilities, which would require any street closure that reduces traffic flow to less than two lanes of moving traffic. The City shall follow its policies in the grant or denial of such authority, which shall not be unreasonably delayed. Except in the event of an emergency, no such closure shall take place without such notice and prior

authorization from the City.
In addition, all work performed in the traveled way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected. For all work within the right-of-way, the franchisee shall erect and maintain signs and other devices as required by City ordinances, regulations and rules.

I. All technical standards governing construction, reconstruction, installation, operation, testing use, maintenance, and dismantling of the facilities in the right-of-way shall be in accordance with applicable present and future federal, state and City law and regulations.

14-803 COMPLIANCE WITH STREET TREE ORDINANCE

The franchisee shall comply with the provisions of Chapter 14, Article 9, and any other applicable ordinance or regulation of the Code of the City of Lansing, Kansas and amendments thereto, in the care, pruning, trimming, and removing of trees located in or on the City right-of-way.

14-804 LOCATION OF UNDERGROUND EQUIPMENT AND FACILITIES

Franchisee's equipment shall be placed underground as required by Franchise Agreements, City ordinances, including Subdivision Regulations, the Code of the City of Lansing, and amendments thereto. Where underground construction is made, the equipment and any necessary trenching shall be installed and maintained or provided by the franchisee in accordance with the ordinances of the City including but not limited to the Lansing Technical Specifications and Design Guidelines for Public Improvement Projects without expense to the City.

14-805 SEVERABILITY

If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

14-806 PENALTY PROVISION

Any person, firm, corporation, association, utility, or entity, or agent, contractor or subcontractor thereof, violating any provision of this article, shall be guilty of a municipal offense, and shall upon conviction be subject to a minimum fine of $150.00 and a maximum fine of

$500.00. Each day of violation shall constitute a separate and distinct offense.

ARTICLE 9. TREES AND SHRUBS

14-901 DEFINITIONS

A. Street Trees shall mean trees, shrubs, bushes, and all other woody vegetation on or above land lying within the rights-of-way of the city.

B. Park Trees shall mean trees, shrubs, bushes, and all other woody vegetation in public parks and all areas owned by the city, or to which the public has free access as a park.

14-902 CITY TREE BOARD; ESTABLISHMENT

There is hereby created and established a City Tree Board for the City of Lansing. The City Tree Board shall consist of seven members of the Lansing community, which shall mean community volunteers residing in Lansing USD #469, who shall be appointed by the Mayor with the approval of the City Council.

14-903 TERM OF OFFICE

The term of the seven persons to be appointed by the Mayor shall be three years except that the term of three of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term.

14-904 COMPENSATION

Members of the board shall serve without compensation.

14-905 DUTIES AND RESPONSIBILITIES

It shall be the responsibility of the board to develop, administer, and update annually a written plan for the care, preservation, pruning, planting, or replanting of trees and shrubs in parks, along streets, and in other public areas. Such plan will be presented to the Governing Body for acceptance and approval. It shall be the duty of the board to promote trees in the community and to advise staff and residents on issues concerning trees. The board, when requested by the Governing Body, shall consider, investigate, make findings of fact, report and recommend upon any special matter or question coming within the scope of its work.

14-906 OPERATION

The board shall choose its own officers, make its own rules and

regulations, and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

14-907 TREE SPECIES TO BE PLANTED

The city tree board develops and maintains a list of desirable trees for planting along streets in three size classes based on mature height: small (under 20 feet), medium (20 to 40 feet) and large (over 40 feet). Desirable trees placed on the list shall have root systems unlikely to damage streets, curbs, and sidewalks.

14-908 REVIEW BY GOVERNING BODY

The Governing Body shall have the right to review the conduct, acts, and decisions of the city tree board. Any person may appeal any ruling or order of the city tree board to the Governing Body which may hear the matter and make final decisions.

14-909 SPACING

The spacing of street trees will be in accordance with the three species size classes listed in section 14-907, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect or commercial landscape designer.

14-910 DISTANCE FROM CURB AND SIDEWALK

In areas where sidewalks exist, trees listed in the list of desirable trees and otherwise in compliance with this article may be planted by property owners two feet back of the property line or right-of-way line. It is the property owner's responsibility to establish where the property line lies.

14-911 PERMIT REQUIRED FOR PLANTING TREES IN STREET RIGHTS-OF-WAY, ALLEYS, PUBLIC EASEMENTS

No person or firm unless acting under contract with the City may plant a tree in the street right-of-way or an alley or other public easement without first obtaining a permit for the work from the Public Works Department.
(14-702 (C))

14-912 DISTANCE FROM STREET CORNERS AND FIRE HYDRANTS

No street tree shall be planted within 35 feet of any street corner, measured from the point of nearest intersection curbs or curb lines, and in no case shall such tree infringe upon the intersection site

triangle as set forth in the Lansing Technical Specifications. No street tree shall be planted within 10 feet of any fire hydrant.

14-913 UTILITIES

No street trees other than those species listed as small trees in section 14-907 may be planted under or within 10 feet of any overhead utility wire.

14-914 PUBLIC TREE CARE

The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all street rights-of-way, alleys, avenues and lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such 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. This section does not prohibit the planting of trees by adjacent property owners providing that the selection and location of said trees is in accordance with sections 14-907 through 14-913.

14-915 TREE TOPPING

It shall be unlawful as a normal practice for any person to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted form this article at the determination of the city tree board. Where public safety concerns call for the expeditious pruning, trimming, or removal of trees, city crews or their designees may proceed without a city tree board determination.

14-916 PRUNING, CORNER CLEARANCE

Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches or that such branches shall not interfere with visibility of any traffic control device or sign or sight triangle at intersections and shall not severely obstruct the light from any street lamp, and so that there shall be a clear space of 14 feet above the street surface or 10 feet above the sidewalk surface. Said 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 streetlight. The electric utility company in compliance with state laws and regulations and with any applicable franchise agreements shall maintain tree limbs that grow near high voltage electrical conductors clear or such conductors, and shall provide their most current tree trimming policy to the City Tree Board.

14-917 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY

The city shall have the right to cause the removal at the property owner's expense of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitutes a potential threat to other trees within the city. The city Code Enforcement Officer shall notify in writing the owners of such trees, or notice to remove may be served as per 14-921 The decision of the Code Enforcement Officer may be appealed to the Governing Body.

14-918 REMOVAL OF STUMPS

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall be six inches below adjoining grade.

14-919 ARBORISTS LICENSE AND BOND

It shall be unlawful for any person to engage in the business or occupation of cutting, trimming, pruning, treating, or removing street or park trees within the City without first applying for and procuring a license. Please refer to Chapter 5 Article15 for licensing requirements and procedures. No license shall be required of any public service company including electric utilities and their agents and contractors or city employees doing such work in the pursuit of their public service endeavors.

14-920 INTERFERENCE WITH CITY WORK CREWS

It shall be unlawful for any person to prevent, delay, or interfere with city work crews, or any designated city agent, while engaging in and about the planting, surveying, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this article.

14-921 NOTICE SERVED

Notice shall be served by a police officer and/or code enforcement

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 Public Works Director and/or his authorized designee shall notify the owner by mailing a notice by certified mail to the owner's last known address.

14-922 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 Public Works Director and/or his authorized designee 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.

14-923 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 disposed of. These materials must be disposed of in a manner that is appropriate based upon the affliction that is present in the tree in order to reduce the spread of disease. This may include burning, chipping, burying, or disposal at a landfill. An appropriate burn permit is required to burn the material on the premises.

14-924 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 14-914 of this article, or to remove any dead tree as mentioned herein, which is located within or above 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.

14-925 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 14-916:917, 918, and 922 and the county clerk shall extend the same on the tax roll of the county against said 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.

14-926 PENALTY PROVISION

Any person, firm, corporation, association, utility, or entity, or agent, contractor or subcontractor thereof, violating any provision of this article, shall be guilty of a municipal offense, and shall upon conviction be subject to a minimum fine of $150.00 and a maximum fine of $500.00. Each day of violation shall constitute a separate and distinct offense.

ARTICLE 10. TECHNICAL SPECIFICATIONS AND DESIGN CRITERIA FORPUBLIC AND PRIVATE IMPROVEMENT PROJECTS

14-1001 INCORPORATING TECHNICAL SPECIFICATIONS AND DESIGN CRITERIA FOR PUBLIC IMPROVEMENT PROJECTS

There is hereby incorporated by reference for the purpose of regulating public improvements within the corporate limits of the City of Lansing, Kansas, that certain code known as the "Technical Specifications and Design Criteria for Public Improvement Projects, City of Lansing, Kansas" save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by the Governing Body. No fewer than three copies of said code shall be marked or stamped "Official City Copy as Incorporated by Ordinance No. ____" and to which shall be attached a copy of this ordinance, and filed with the City Clerk and Public Works Director to be open to inspection and available to the public during all business hours.

14-1002 ENFORCEMENT

The Technical Specifications and Design Criteria for Public Improvement Projects, City of Lansing, Kansas shall be enforced by the Director of Public Works and/or their authorized representative.

14-1003 AMENDMENTS

The amendments to the Technical Specifications and Design Criteria for Public Improvement Projects, City of Lansing, Kansas, adopted by reference in section 14-1001 shall be placed with official copies in the office of the City Clerk. All reference to section and chapter numbers in this text shall be construed as if followed by the words, "Technical Specifications and Design Criteria for Public Improvement Projects, City of Lansing, Kansas", unless clearly indicated to the contrary.

14-1004 SUPERSEDINGS

If any chapter, article, section, subsection, sentence, portion or part of the Code of the City of Lansing, to include the subdivision regulation and zoning ordinances, shall in any way be determined to be in conflict with the Technical Specifications and Design Criteria for Public Improvement Projects, City of Lansing, Kansas, as adopted and incorporated herein by reference, then, and in that event, the Technical Specifications and Design Criteria for Public Improvements Projects, City of Lansing, Kansas, as incorporated by reference and adopted herein, and any amendments thereto, shall supersede and control any such other article found to be in violation or in conflict with the

Technical Specifications and Design Criteria for Public Improvement Projects, City of Lansing, Kansas.

ARTICLE 11. REQUIREMENTS FOR TRAFFIC IMPACT STUDY

14-1101 TRAFFIC IMPACT DATA: WHEN REQUIRED

Collection of traffic impact data is required for all nonresidential new developments or redevelopments and all residential developments of eleven (11) or more lots or dwelling units.

14-1102 MINIMUM TRAFFIC IMPACT DATA REQUIREMENTS

Traffic data collected shall include the following minimum seven (7) items:

A. Identify the specific development plan under study and any existing development on and/or approved plans for the site (land use types and intensities and the arrangement of buildings, parking and access). Also, identify land uses (including types and the arrangement of buildings, parking and access) on property abutting the proposed development site, including property across public streets.

B. Identify the land uses shown in the Lansing Comprehensive Plan for the proposed development site under study, as well as the ultimate arterial and collector street network in the vicinity of the site (at least the first arterial or collector street in each direction around the site).

C. Identify the functional classification of the public street(s) bordering the site and those streets on which access for the development is proposed. The functional classification is shown on the KDOT Functional Classification Map, and/or as adopted as a part of the Lansing Comprehensive Plan.

D. Identify allowable access to the development site as defined by criteria included in the Lansing Technical Specifications and Design Criteria for arterial and collector streets in Lansing. This list includes, but is not limited to: Main Street, Desoto Road, Ida Street, West Mary Street, 4-H Road, and the K-7 Highway Corridor study and shall include any adopted access management plans.

E. Document current public street characteristics adjacent to the site, including the nearest arterial and collector streets [number and type of lanes, speed limits or 85th percentile speeds, and sight distances along the public street(s) from the proposed access(es)].

F. Compare proposed access with AASHTO established design criteria (driveway spacing, alignment with other streets and driveways, city driveway standards, and minimum sight distances.) Assess the feasibility of access connections to abutting properties, including shared access with the public street system.

G. Estimate the number of trips generated by existing and proposed development on the site for a typical weekday and weekday peak hours using the latest edition of Trip Generation published by the Institute of Transportation Engineers. Local trip generation characteristics may be used if deemed to be properly collected and consistent with the subject development application. The Public Works Director shall make such determination. Calculate the net difference in trips between existing and proposed uses. If the development site already has an approved plan, also estimate the number of trips that would be generated by the approved land uses. If the development application is proposing a land use DIFFERENT THAN indicated in Lansing Comprehensive Plan, also estimate the number of trips that would be generated by the land use indicated in said Lansing Comprehensive Plan.

14-1103 ADDITIONAL STUDIES: WHEN REQUIRED

When a development generates 100 or more trips in a peak hour, additional analysis may be required including such items as trip distribution, expansion of the study area, and/or other appropriate and pertinent transportation information necessary to provide a comprehensive impact study.

14-1104 TRAFFIC IMPACT STUDY: WHEN MANDATED BY PEAK HOUR DATA

A traffic impact study shall be required and completed for developments that generate 100 or more trips in a peak hour. A traffic impact study shall be prepared by a qualified and experienced professional who has specific training in traffic and transportation engineering related to preparing such studies for land development.

CHAPTER 15. TRAFFIC

Article 1. Standard Traffic Ordinances
Article 2. Impoundment of Motor Vehicles
Article 3. Local Traffic Regulations
Article 4. Emergency Snow Routes
(See also Chapter 14 Streets, Sidewalks and Right of Way)

ARTICLE 1. STANDARD TRAFFIC ORDINANCES

15-101 INCORPORATING STANDARD TRAFFIC ORDINANCE

There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Lansing, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2016, 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. One official copy of said Standard Traffic Ordinance shall be marked or stamped "Official Copy as Adopted by Ordinance No. 969," 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 ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge and all administrative departments of the City charged with enforcement of the ordinance shall be supplied, at the cost of the City, such number of office copies of such Standard Traffic Ordinance similarly marked as may be deemed expedient.

15-102 OMISSIONS, CHANGES, ADDITIONS AND DELETIONS TO THE STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES

Article 1: Section 1 of said Standard Traffic Ordinance, relating to definitions, is hereby amended to add as follows:

<u>Motorized Mini Bikes</u>. Any motorized mini bike not more than 51 inches in length, 14 inches in width and 30 inches in height, by the manufacturer's specifications which may be propelled by either gasoline or electric power and having a seat designed to be straddled by the operator, except a motorized bicycle and electric-assisted bicycle.

(All other definitions not modified, deleted or changed shall remain in effect.)

Article 4: Section 17 of said Standard Traffic Ordinance is hereby changed to read as follows:

Display of Unauthorized Signs, Signals or Markings.

(a) No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

(b) No person shall place or maintain nor shall any public authority permit upon any highway any official traffic control device bearing thereon any commercial advertising, except for business signs included as part of official motorist service panels or roadside area information panels approved by the secretary of transportation.

(c) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(d) Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the governing body is hereby empowered to remove the same or cause it to be removed without notice.

(e) Traffic regulations on Private Property. Whenever the person in possession or control of any private property used by the public for purposes of vehicular traffic by permission of the owner shall cause to be posted at each entrance thereto a permanently lettered clearly legible sign with the following legend:

“TRAFFIC REGULATIONS OF THE CITY OF LANSING ENFORCED ON THIS PROPERTY. SPEED LIMIT 10 MPH.” (OR AS POSTED.)

Then such private property shall thereafter be deemed to be under the traffic regulations of the city as provided by law.

Article 7: Section 33 of said Standard Traffic Ordinance is hereby changed to read as follows:

Maximum Speed Limits.

(a) Except as provided in subsection (b) and except when a special hazard exists that requires lower speed for compliance with K.S.A. 8-1557, and amendments thereto, the limits specified in this subsection or established as hereinafter authorized by law shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of such maximum limits:

1. All vehicles 20 miles per hour in any business district;

2. All vehicles 20 miles per hour in any park;

3. All vehicles 20 miles per hour in any posted school zone or any public thoroughfare on or across which children pass going to and from school during school days, from 7:00 a.m. to 8:00 a.m. and 2:45 p.m. to 3:45 p.m. on the following designated school zone areas: Ida Street from Brookridge Street to 416 Ida Street.; Bittersweet Street from West May Street to Ida Street; West May Street from 200 ft west of Bittersweet Street to 200 ft east of West Kay Street.

4. All vehicles 20 miles per hour in any residential district and on other streets within the city, if said limits were set prior to 1994. All speed limits set after 1994 shall be 30 miles an hour in any residential district or other streets within the city except where modified by engineering and traffic investigation as provided hereafter in subsection (c) of this section.

The maximum speed limit established by or pursuant to this paragraph shall be of force and effect regardless of whether signs are posted giving notice thereof and notwithstanding any signs giving notice of minimum speed limit in excess of the limits established by or pursuant to this paragraph shall not be of any force or effect, subject to the following exception.

Whenever the Public Works Director shall determine upon the basis of an engineering and traffic investigation that any speed limit herein set forth is greater or less than is reasonable or safe under the conditions found to exist, the Public Works Director shall determine and declare a reasonable and safe speed limit consistent with applicable state and local statutes which shall be effective at all times or during daytime or nighttime or at such other times as may be determined when appropriate signs giving notice thereof are erected pursuant to Governing Body action and K.S.A. 8-1560 and 8-2002.

(b) No person shall drive a school bus to or from school or interschool or intra school functions or activities at a speed greater than 45 miles per hour on any roadway having dirt, sand or gravel surface, and in no event shall a school bus be driven to and from school or activities in excess of 55 miles per hour, notwithstanding any maximum speed limit in excess thereof. The provisions of this subsection shall also apply to buses used for the transportation of students enrolled in community junior colleges or area vocation schools when such buses are transporting students to or from school functions or activities.

(c) Speed limits on certain streets within the City of Lansing. The governing body having determined upon the basis of an engineering and traffic investigation that the speed limit permitted under state law and Section 33 of the "Standard Traffic Ordinance" is greater or less than is reasonable under the conditions found to exist upon the city, the governing body hereby determines and declares that the reasonable and safe speed limit on the portion of the streets is as listed below. The Public Works Director is hereby directed to cause to have erected appropriate signs giving notice of such speed limit along the streets maintained by the city.

STREET	PORTION CONTROLLED	APPLICABLE SPEED LIMIT
147th Street	4-H Road to South City Limits	40 mph
155th Street	South to City Limits	25 mph
4-H Road	Within City Limits	40 mph
Centre Drive	4-H Road to West Mary	25 mph
Centre Drive	West Mary to East Kansas	25 mph
Clearview Drive	Stone Lane to Rock Creek Drive	20 mph
DeSoto Road	West Eisenhower to 4-H Road	35 mph
East Eisenhower Rd	North Main to North 8th Street	35 mph
East Gilman Rd	South Main to East City Limits	35 mph
East Mary Street	US Highway 73 to ½ mile east of US Highway 73	20 mph
East Mary Street	½ mile east of US Highway 73 to City Limits	35 mph
Granite Street	Clearview Drive to Ridge Drive	20 mph
Hickory Trail	North of 4-H Road	25 mph
Ida Street	Entire Road	25 mph
Main Street	South City Limits to Rock Creek Loop	65 mph
Main Street	Rock Creek Loop to Gilman Road	50 mph
Main Street	Gilman Road to Olive Street	50 mph
Main Street	Olive Street to Eisenhower Road	40 mph
Maple Lane	Hickory Trail to South Valley Drive	25 mph

McIntyre Road	South Main to 4-H Road	35 mph
McIntyre Road	South Main to East City Limits	25 mph
Ridge Drive	147th Street to Granite Street	20 mph
Sherwood Forest	Entire Subdivision	30 mph
Stone Lane	Clearview Drive to Ridge Drive	20 mph
West Eisenhower Road	New Lawrence to West City Limits	50 mph
West Eisenhower Road	New Lawrence to North Main	40 mph
West Gilman Road	Entire Road	25 mph
West Mary Street	Entire Road	35 mph

Article 14: Section 114.1 of said Standard Traffic Ordinance is hereby changed to read as follows:

Unlawful Operation of All-Terrain Vehicle

A. Except as provided in subsection (b), (d) (e), and (f), it shall be unlawful for any person to operate an all-terrain vehicle:

1. on any interstate highway, federal highway or state highway; or

2. or on any city street, alley, public parking lot, right-of-way or upon property owned by the City of Lansing.

B. Notwithstanding the provisions of subsection (a), all-terrain vehicles owned and operated by a county noxious weed department, or all-terrain vehicles owned and operated by persons contracting with a county noxious weed department or the Kansas Department of Transportation may be allowed to operate such all-terrain vehicles upon the right-of-way of any federal highway or state highway for the purpose of eradicating noxious weeds and such all-terrain vehicles may be operated incidentally upon such federal highway or state highway.

C. No all-terrain vehicle shall be operated on any public highway, street or road between sunset and sunrise unless equipped with lights as required by law for motorcycles.

D. Notwithstanding the provisions of subsection (a), all-terrain vehicles owned and operated by a county noxious weed department, or all-terrain vehicles owned and operated by persons contracting with a county noxious weed department or the Kansas Department of Transportation may be allowed to operate such all-terrain vehicles upon the right-of-way of any federal highway or state highway for the purpose of eradicating noxious weeds and such all-terrain vehicles

may be operated incidentally upon such federal highway or state highway and within the corporate limits of the city as required in the fulfillment of its eradication duties.

E. Notwithstanding the provisions of subsection (a), all-terrain vehicles owned and operated by the City of Lansing, Kansas, or all-terrain vehicles owned and operated by persons contracting with the City of Lansing, Kansas may be allowed to operate such all-terrain vehicles upon and within the corporate limits of the city as required in the performance of its duties.

F. Notwithstanding the provisions of subsection (a), all-terrain vehicles owned and operated by those agencies providing emergency and first-responder services for the City of Lansing, Kansas may be allowed to operate such all-terrain vehicles upon and within the corporate limits of the city as required in the performance their duties.

G. Any person operating an all-terrain vehicle pursuant to (b), (d), (e) and (f) shall be subject to all of the duties applicable to a driver of a vehicle imposed by law. (K.S.A. Supp. 8-15,100)

Article. 14: Section 114.2 of said Standard Traffic Ordinance is hereby changed to read as follows:

Unlawful Operation of a Micro Utility Truck.

A. It shall be unlawful for any person to operate a micro utility truck:

1. On any interstate highway, federal highway, or state highway; or

2. Within the corporate limits of any city unless authorized by such city.

B. No micro utility trucks may be operated on any public highway, street, or road unless such vehicle complies with the equipment requirements under the provisions of Article 17 of Chapter 8 of the Kansas Statutes Annotated.

C. The provisions of subsection (a), shall not prohibit a micro utility truck from crossing a federal or state highway.

D. Notwithstanding the provisions of subsection (a), micro utility trucks owned and operated by a county noxious weed department, or micro utility trucks owned and operated by persons contracting with a county noxious weed department or the Kansas Department of Transportation

may be allowed to operate such micro utility trucks upon the right-of-way of any federal highway or state highway for the purpose of eradicating noxious weeds and such micro utility trucks may be operated incidentally upon such federal highway or state highway and within the corporate limits of the city as required in the fulfillment of its eradication duties.

E. Notwithstanding the provisions of subsection (a), micro utility trucks owned and operated by the City of Lansing, Kansas, or micro utility trucks owned and operated by persons contracting with the City of Lansing, Kansas may be allowed to operate such micro utility trucks upon and within the corporate limits of the city as required in the performance of its duties.

F. Notwithstanding the provisions of subsection (a), micro utility trucks owned and operated by those agencies providing emergency and first-responder services for the City of Lansing, Kansas may be allowed to operate such micro utility trucks upon and within the corporate limits of the city as required in the performance their duties.

G. Any person operating a micro utility truck pursuant to (d), (e) and (f) shall be subject to all of the duties applicable to a driver of a vehicle imposed by law. (K.S.A. Supp. 8-15,106)

Article 14: Sec. 114.5 of said Standard Traffic Ordinance is hereby changed to read as follows:

<u>Unlawful Operation of a Work-Site Utility Vehicle</u>.

A. It shall be unlawful for any person to operate a work-site utility vehicle:

1. On any interstate highway, federal highway, or state highway; or

2. Within the corporate limits of any city unless authorized by such city.

B. No work-site utility vehicle shall be operated on any public highway, street, or road between sunset and sunrise unless equipped with lights as required by law for motorcycles.

C. Notwithstanding the provisions of subsection (a), work-site utility vehicles owned and operated by a county noxious weed department, or work-site utility vehicles owned and operated by persons contracting with a county noxious weed department or the Kansas Department of Transportation may be allowed to operate such work-site utility

vehicles upon the right-of-way of any federal highway or state highway for the purpose of eradicating noxious weeds and such work-site utility vehicles may be operated incidentally upon such federal highway or state highway and within the corporate limits of the city as required in the fulfillment of its eradication duties.

D. Notwithstanding the provisions of subsection (a), work-site utility vehicles owned and operated by the City of Lansing, Kansas, or work-site utility vehicles owned and operated by persons contracting with the City of Lansing, Kansas may be allowed to operate such work-site utility vehicles upon and within the corporate limits of the city as required in the performance of its duties.

E. Notwithstanding the provisions of subsection (a), work-site utility vehicles owned and operated by those agencies providing emergency and first-responder services for the City of Lansing, Kansas may be allowed to operate such work-site utility vehicles upon and within the corporate limits of the city as required in the performance of their duties.

F. Any person operating a work-site utility vehicle pursuant to (c), (d) and (e) shall be subject to all of the duties applicable to a driver of a vehicle imposed by law. (K.S.A. Supp. 8-15,109

Article 14: Sec. 114.6 of said Standard Traffic Ordinance is hereby added to read as follows:

Unlawful Operation of a Motorized Mini Bike.

It shall be unlawful for any person to operate, or for the owner to permit the operation of, a motorized mini bike upon a street, highway, public parking lot, or property owned by the City of Lansing.

Article 14: Sec. 126.3 of said Standard Traffic Ordinance is hereby added to read as follows:

Littering**.**

A. No person shall throw, place or drop litter or allow litter to be thrown, placed or dropped from a motor vehicle onto or upon any highway, road or street. The driver of the vehicle may be cited for any litter thrown, placed or dropped from the motor vehicle, unless any other person in the motor vehicle admits to or is identified as having committed the act.

B. “Litter” means rubbish, refuse, waste material, garbage, trash or debris of whatever kind or description and includes improperly discarded paper, metal, plastic or glass.

C. This section shall be part of and supplemental to the uniform act regulating traffic on highways. (K.S.A. 8-15, 102)

Article 17: Section 181.1 of said Standard Traffic Ordinance is hereby changed to read as follows:

<u>One-way glass and sun screening devices on vehicles registered out of state; requirements, exceptions; penalties</u>.

A. No motor vehicle required to be registered in another state and which is operated on the streets and highways of the City of Lansing shall be equipped with one-way glass or any sun screening device, as defined in Section 1, and used in conjunction with windshields, side wings, or front side windows, the side windows behind the driver, rear windows that do not meet the following requirements:

1. A sun screening device when used in conjunction with the windshield shall be nonreflective and shall not be red, yellow or amber in color. A sun screening device shall be used only along the top of the windshield and shall not extend downward beyond the AS1 line which is clearly defined and marked;

2. a sun screening device when used in conjunction with the side wing or side windows located at the immediate right and left of the driver, the side windows immediately behind the driver and the rear most window shall be nonreflective; and

3. the total light transmission shall not be less than 19% when a sun screening device is used in conjunction with other existing sun screening devices

B. Subsection (a)(3) shall not apply to a window of a law enforcement motor vehicle this is clearly identified as such by words or other symbols on the outside of the vehicle.

C. This section shall not prohibit labels, stickers or other informational signs that are required or permitted by state law.

D. Any person convicted of violating the provisions of this section shall by guilty of traffic offense and shall by fined in an amount not to exceed $500.00.

Article 19: Section 194 of said Standard Traffic Ordinance is hereby changed to read as follows:

Driving While License Canceled, Suspended or Revoked; Penalty.

A.

1. Any person who drives a motor vehicle on any street or highway at a time when such person's privilege so to do is canceled, suspended or revoked or while such person's privilege to obtain a driver's license is suspended or revoked pursuant to K.S.A 8-252a and amendments thereto, shall upon a first conviction be punished by imprisonment for not more than six months or fined not to exceed $1,000.00, or both such fine and imprisonment. On a second conviction of a violation of this section such person shall be punished by imprisonment for not more than one year or fined not to exceed $2,500, or both such fine and imprisonment.

2. No person shall be convicted under this section if such person was entitled at the time of arrest under K.S.A. 8-257 and amendments thereto, to the return of such person's driver's license.

3. Except as otherwise provided by subsection (D), every person convicted under this section shall be sentenced to at least five days' imprisonment and fined at least $100 and upon a second conviction shall not be eligible for parole until completion of five days' imprisonment.

4. If a person:

   a) is convicted of a violation of this section, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for a violation of K.S.A. 8-2,144 or K.S.A. 8-1567 or K.S.A. 8-1025, and amendments thereto, or any ordinance of any city or resolution of any county or a law of another state, which ordinance or law prohibits the acts prohibited by those statutes; and

b) is or has been also convicted of a violation of K.S.A. 8-2,144 or K.S.A. 8-1567 K.S.A. 8-1025, and amendments thereto, or of a municipal ordinance or law of another state, which ordinance or law prohibits the acts prohibited by that statute, committed while the person's privilege to drive or privilege to obtain a driver's license was so suspended or revoked, the person shall not be eligible for suspension of sentence, probation or parole until the person has served at least 90 days' imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.

B. For the purposes of determining whether a conviction is a first or second conviction in sentencing under this section, conviction includes a conviction of a violation of any ordinance of any city or resolution of any county or a law of any state which is in substantial conformity with this section. (K.S.A. Supp. 8-262)

Article 19: Section 195.1 of said Standard Traffic Ordinance relating to Operation of a Motor Vehicle When a Habitual Violator is hereby declared to be and is omitted and deleted.

15-103 TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES

A. An ordinance traffic infraction is a violation of any section of this ordinance that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118.

B. All traffic violations which are included within this ordinance and which are not ordinance traffic infractions, as defined in subsection (a) of this section, shall be considered traffic offenses.

15-104 PENALTIES FOR SCHEDULED FINES

(See Article 20: Section 201 of the Standard Traffic Ordinances)

ARTICLE 2. IMPOUNDMENT OF VEHICLES

(Moved to 8-314:319)

ARTICLE 3. LOCAL TRAFFIC REGULATIONS.

(See also Chapter 14 Streets, Sidewalks and Right of Way)

15-301 GARAGE KEEPERS TO REPORT DAMAGED VEHICLES

The person in charge of any garage or repair shop to which is brought any vehicle which shows evidence of having been involved in a serious accident or struck by any bullet shall report to the Police Department immediately after such motor vehicle is received, giving the engine number and the name and address of the owner or operator of such vehicle.

15-302 MAIN TRAFFICWAYS (Eligibility for bond funding)

The following are designated as main traffic ways in the City, all in accordance with K.S.A. 12-685 et seq.:

A. Ida Street between DeSoto Road and U.S. Highway 73 (State Highway 7)

B. 147th Street between Dempsey and 4-H Road and DeSoto Road from intersection with 4-H Road and proceeding northerly through its intersection with Eisenhower Road

C. Mary Street between DeSoto Road and Kansas Highway 5

D. McIntyre Road from 1/2 mile East of K-7/US-73 Highway and 147th Street

E. 4-H Road from K-7/US-73 Highway to 147th Street (DeSoto Road)

F. West Mary Street (a/k/a US Highway 73 and Kansas Highway 7), beginning at its intersection with Main Street and proceeding in a westerly direction through its intersection with De Soto Road.

G. Main Street from the beginning at its southern point of the City limits of Lansing and proceeding in a northerly direction to Main Street's termination at the northern City limits of Lansing.

H. DeSoto Road from 4-H Road to Eisenhower Road

I. 147th Street from Dempsey Road to 4-H Road

15-303 TRUCKS; DEFINED

Whereas the City is empowered by K.S.A 8-1912 to prohibit the operation of trucks on designated streets. The following words and phrases, when used in section 15-303:308, shall have the meanings respectively ascribed to them:

A. Truck shall mean every motor vehicle designed and used or maintained primarily for the transportation of property and rated with a GVWR greater than 9,200 pounds.

B. Truck-tractor shall mean every motor vehicle designed and used primarily for drawing other vehicles or trailers.

15-304 SAME; TRUCK ROUTES

The following shall be designed as routes for trucks and truck tractors:

A. US-73/K-7 from the south City limits to the north City limits.

B. K-5 from the south City limits to north City limits.

C. Eisenhower Road, from K-5 to US-73/K-7.

D. East Mary Street from US-73/K-7 to the east City limits.

15-305 SAME; EXCEPTIONS FOR DELIVERY

Truck and truck tractor traffic is prohibited from all streets within the corporation limits of the City, excepting those streets listed in section 15-304. If it becomes necessary to collect or deliver merchandise or household goods within the City, or if it is necessary to transport machinery and goods from industrial and production sites this shall be done only by the most direct route between the proscribed truck route and the delivery point, industrial site, or production site. All other deviations from the proscribed truck routes are unlawful and prohibited.

15-306 PARKING CERTAIN VEHICLES IN DISTRICTS ALLOWING RESIDENTIAL STRUCTURES
(See also Chapter 14 Streets, Sidewalks and Right of Way)

A. No person shall stand or park any vehicle with a gross vehicle weight rating (GVWR) of more than 9,200 pounds on any street or alley or on any public property within districts allowing residential structures except under the provisions contained in sub-section (C).

B. No person shall park a recreational vehicle to include, but not limited to, camper, van, boat, four-wheeler, a trailer or other operable vehicle on any street, alley or right of way within the City limits of Lansing for a period exceeding seven (7) consecutive days. Slight movement of the vehicle within the same residential area shall not restart the counting of the time period of seven (7) consecutive days.

C. Notwithstanding subsection (A), a person may stand or park the following vehicles on private property within any district allowing residential structures subject to the following restrictions:

1. Any vehicle with a gross vehicle weight rating (GVWR) of not more than 9,200 pounds;

2. Any vehicle for which the Governing Body has issued a special permit; or

3. Any vehicle while loading or unloading such vehicle or while the vehicle is being used in the performance of a service to, or upon, property in the block where the vehicle is parked, subject to all other provisions regulating parking.

4. No more than three (3) recreational vehicles as defined in subsection (B) shall be allowed to be parked on private property, and viewable from the street, at any one time.

D. No person shall stand or park any vehicle in any residential district between the hours of 8:00 p.m. and 8:00 a.m. with an auxiliary motor, air conditioner, or any refrigeration unit in operation.

15-307 SIGNS

The Director of Public Works shall cause appropriate signs to be installed at the entrances of all streets designated as truck routes.

15-308 PENALTIES

Any person, firm or corporation violating the provisions of 15-301:307 is guilty of a public offense, and upon conviction thereof, shall be fined a sum of not less than twenty-five dollars ($25.00), nor more than one hundred dollars ($100.00).

15-309 PARKING RESTRICTIONS DURING SNOW AND/OR ICE EVENTS

Whenever snow has accumulated on the street to such a depth that snow removal operations will be required, or when ice has

accumulated on the street to such an extent that ice removal operations will be required, and where signs are posted with the legend "No Parking During Snow", it shall be unlawful to park a vehicle on the designated part of the street until snow or ice has been removed. The chief of police, during a traffic emergency, is empowered to waive or suspend enforcement of parking restrictions.

15-310 SAME; CITATIONS

Vehicles found parked in a "No Parking During Snow" zone whenever snow has accumulated to such a depth that snow removal operations will be required, or when ice has accumulated on the street to such an extent that ice removal operations will be required, a police officer may issue a citation for improper parking.

15-311 SAME; REMOVAL OF VEHICLES

In an instance when a traffic emergency has been declared, as provided for in Section 15-401, all vehicles parked in "No Parking During Snow" zones must be removed within one hour after notice of traffic emergency has been given. Any vehicle parked in a "No Parking During Snow" zone after such period of time may be removed upon a police officer's request to the nearest garage or other place of safety. The vehicle shall not be returned to the owner until the towing and storage charges are paid by or for the owner.

15-312 SAME; ESTABLISHMENT OF "NO PARKING DURING SNOW" ZONES AND POSTING OF SIGNS

A. The Public Works Department (hereinafter referred to as the Department) is authorized to post signs restricting parking during snow and ice events in Cul-de-sacs or other specific areas where the Department has experienced repeated difficulty safely performing snow and ice removal operations due to parked vehicles. The sign legend shall be "No Parking During Snow", and shall be enforceable as noted in Sections 15-311 and 15-312. Parking may be resumed when snow and/or ice has been removed.

B. After a full winter season of compliance with no observed violations, and at such time as the Department determines that parking is unlikely to interfere with snow and ice removal operations in the future, the Department is authorized to remove the signs.

15-313 SAME; PENALTIES

Violation of the provisions of this article or failure to comply with any of its requirements shall constitute a violation of this code. Any person who violates these sections or fails to comply with any of their requirements shall, upon conviction thereof, be fined not less than $25 or more than $100.00, unless specifically stated otherwise within this article.

ARTICLE 4. SNOW EMERGENCY ROUTES

15-401 DECLARATION OF TRAFFIC EMERGENCY

A. Whenever snow has accumulated or there is a possibility that snow will accumulate to such a depth that snow removal operations will be required, the mayor, the City Administrator or in their absence, the chief of police may declare a traffic emergency and until such traffic emergency is terminated it shall be unlawful:

1. To park a vehicle on any street designated an emergency snow route.

2. To operate a motor vehicle on any emergency snow route in such manner or condition that such motor vehicle stalls and is unable to proceed by reason of the fact that the driving wheels are not equipped with tire chains or adequate all weather tires.

3. The chief of police, during a traffic emergency, is empowered to waive or suspend enforcement of parking restrictions.

15-402 SAME; NOTICE

Upon declaring a traffic emergency the mayor, the City Administrator, or chief of police shall forthwith cause appropriate notice thereof to be given through the local press, radio, and other media. The traffic emergency shall be terminated by notice given substantially in the same manner as the traffic emergency was declared.

15-403 SAME; REMOVAL OF VEHICLES

All vehicles parked on emergency snow routes must be removed within one hour after notice of traffic emergency had been given. Any vehicle parked on an emergency snow route after such period of time may be removed by a police officer to the nearest garage or other place of safety and the vehicle may not be recovered until the towing and storage charges are paid by or for the owner.

15-404 SAME; ESTABLISHMENT OF ROUTES AND POSTING OF SIGNS

A. The following streets are hereby established as emergency snow routes within the City:

East Eisenhower from 7-73 Highway to North 8th.

North 7th Street from East Eisenhower to Connie Street.
Connie Street from North 7th Street to 7-73 Highway.
Emile Street from 7-73 Highway to North 2nd Street.
North 2nd Street from Emile Street to American Avenue.
American Avenue and E. Fairlane from North 2nd Street to 7-73.
East Kansas Avenue from 7-73 Highway to South 2nd Street.
South 2nd Street from East Kansas Avenue to East Mary Street.
All of East Mary Street.
South 2nd Street from East Mary Street to East Olive Street.
East Olive Street from South 2nd Street to 7-73 Highway.
First Terrace south from East Olive Street to Lansing Lane.
Lansing Lane from First Terrace to 7-73 Highway.
Fawn Valley from First Terrace to Hithergreen Drive.
Hithergreen Drive from Fawn Valley to Hillbrook Drive.
Hillbrook Drive from Hithergreen Drive to East Mary.
All of East Gilman Road.
All of Industrial Street.
139th St.
Nottingham Drive from 139th Street to Robin Road.
Robin Road from Nottingham Drive 139th Street.
All of West McIntyre Road.
All of 147th Street.
All of Rock Creek Loop.
West Gilman Road from 7-73 Highway to Willow Drive.
Willow Drive from West Gilman Road to Southfork Road.
Southfork Road from Willow Drive to Cottonwood Drive.
All of Cottonwood Drive.
All of DeSoto Road and 147th Street.
4-H Road from Desoto Road to 7-73 Highway.
Southfork Street from 4-H Road to Ash Lane.
Ash Lane from Southfork Street to Wyndham Drive.
All of Wyndham Drive.
All of South Valley Drive.
West Olive Street from South Valley Drive to South Bittersweet Lane.
South Bittersweet Lane from West Olive Street south to Maple Lane.
Maple Lane from Hickory Trail to South Valley Drive
Hickory Trail from Maple Lane to 4-H Road.
All of West Mary St.
All of Ida St.
South Ethel Lane from Ida Street to Brookmeadow Road.
Brookmeadow Road from South Ethel Lane to Bittersweet.

Bittersweet from Mary St. to Ida Street.
Continental from Ida Street to Englewood Street.
Englewood from Continental to Brookridge.
Brookridge from Englewood to Ida.
All of Valley Drive.
All of Carriage Crossing.
All of Brookwood Street.
Hillcrest Street from Englewood Street to Holiday Drive.
All of Holiday Drive.
Fairlane from 7-73 Highway to Holiday Drive.
All of Woodland Road.
Karen Lane from Woodland Road to Valley Drive.
All of Oakmont Drive.
Pebble Beach Drive from Oakmont Drive to Eisenhower Road.
Progress Drive
Mount Calvary Drive

15-405 SAME; PENALTIES

Violation of the provisions of this article or failure to comply with any of its requirements shall constitute a violation of this code. Any person, who violates these sections or fails to comply with any of their requirements, shall upon conviction thereof, be fined not less than $25 or more than $100.

CHAPTER 16. UTILITIES

Article 1. Solid Waste
Article 2. Sewers
Article 3. Sewer Service
Article 4. Sewer Use Regulations
Article 5. Swimming Pool Discharge Regulation

ARTICLE 1. SOLID WASTE

16-101 DISPOSAL OF REFUSE CODE

There is hereby adopted by the City of Lansing, Kansas, the following rules and regulations for the collection and disposal of refuse in the City, including contracts for such services, charges therefore and providing penalties for violations thereof.

16-102 DEFINITIONS

A. Commercial Wastes - All solid wastes emanating from establishments engaged in business and waste from institutions. This category includes but is not limited to solid wastes originating in stores, markets, office buildings, restaurants, shopping centers, theaters, churches and schools, and shall also include all structures which consist of more than two (2) dwelling units.

B. Construction and Demolition Wastes - Building materials and rubble resulting from construction, remodeling, repair or demolition operations on houses, commercial buildings or other structures and pavement.

C. Garbage - The animal and vegetable wastes resulting from the handling, processing, storage, packaging, preparation, sale, cooking and serving of meat, produce and other foods.

D. Hazardous Wastes - Material determined to be hazardous waste as specified by KDHE regulations.

E. Household Residential Wastes - All normal solid wastes emanating from homes, apartments, and mobile homes which are occupied as residences. Household residential wastes shall include garbage, waste paper, cans, bottles, boxes and other

normal household refuse and shall also include grass clippings, leaves, brush and tree limbs when the waste is contained as set forth in section 16-111 of this article or securely bagged or bundled into bales or bundles not more than 42 inches in length and weighing not more than 65 pounds and otherwise shaped in such a manner to allow the easy handling by one person.

F. Industrial Wastes - Solid wastes resulting from manufacturing and industrial processes and liquid wastes resulting from manufacturing or industrial processes, which are not suitable for discharge to a sanitary sewer or treatment in the City sewage treatment plant.

G. Nuisance - Anything which:

1. Is injurious to health or is offensive to the senses or any obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property, or

2. Adversely effects an entire community or neighborhood or any substantial number of persons even though the extent of the annoyance or damage inflicted upon individuals may be unequal, and

3. Is caused by or is a result of the mingling or disposal of solid waste.

H. Person - Any person, firm, partnership, association, corporation, company, or organization of any kind, or a governmental body or agency.

I. Premises - A lot, plot, or parcel of land including the buildings or structure thereon.

J. Refuse - The putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, and also bakery, and market waste from the handling and storage for sale of bakery goods or produce as well as all putrescible and non-putrescible wastes consisting of miscellaneous materials including among other things, paper, tin cans, glass, crockery, fabric, coffee grounds, utensils, pliable cartons, boxes, excelsior, packing, sweepings of dust and direct, grass trimmings, leaves, wood, non-pliable cratings, boxes or cartons, barrels, wood shavings, metal shavings, shrubbery and

tree trimmings, discarded furniture, bedding, tires, metals, junk, rock, concrete, masonry, ashes, clinkers and other discarded materials, provided that trash shall not include any materials resulting from building excavation, demolition or remodeling work, or any construction work nor shall it include stumps, tree trunks, tree trimmings and limbs resulting from operations of professional tree trimmers, or the tree trimmings resulting from the cutting down, or the topping of any tree, regardless of who performs the work nor shall it include refuse resulting from tornado, cyclone, extreme wind storms, ice storms, flood or other act of God, or the burning of any buildings.

K. Wastes - Any and all commercial wastes, construction and demolition wastes, hazardous wastes, household residential wastes and industrial wastes.

L. Sanitary Landfill - The method of disposing of refuse by depositing the same in an open natural ditch or excavation and compacting the refuse in place and covering the same with sufficient earth, also compacted, to eliminate as far as practicable, unsightliness and the escape of offensive odors.

M. Contractor - A person with whom the City of Lansing has a contract to collect and dispose of refuse.

N. Permit Trash Hauler - Any person duly licensed by the City of Lansing to collect and dispose of his or her own trash.

O. Storage Container - The container in which refuse is to be placed by the occupant of any premises.

P. Sanitation Officer - Shall be the Code Enforcement Officer or his or her representative authorized by the Governing Body of the City.

The Governing Body of the City may, by ordinance, limit or extend these definitions and may give interpretations to words and phrases used in this article.

16-103 DISPOSAL OF HAZARDOUS WASTE

The City may classify certain wastes as Hazardous Wastes which shall require special handling and shall be disposed of only in a manner acceptable to the City and which will meet all local, state and federal regulations.

16-104 COLLECTION OF SOLID WASTES

The City is hereby granted the exclusive control over the refuse and wastes within the City. The City shall provide for the collection of all household residential wastes, commercial wastes, and certain industrial wastes, and refuse within the City, provided however, that the City may provide the collection service by contracting with or licensing a person or persons as deemed to be in the best interest of the City.

16-105 CONTRACTS

The Governing Body of the City shall have the right to enter into a contract with any responsible person providing that the contractor shall collect and dispose of all refuse within the City, and the terms of the contract to be arranged and determined by the Governing Body of the City and the contract to be awarded to a responsible person after proper negotiation or after receiving bids, whichever, in the judgment of the Governing Body, shall seem proper, provided that the contract for the collection and disposal of refuse as herein defined shall in no way conflict with the terms and conditions of this article. Contracts entered into by the City for the collection and disposal of refuse and wastes prior to the effective date of this article or now in force are hereby confirmed, ratified and validated.

16-106 CONTRACT IN WRITING

Such contract shall be in writing, signed by the mayor and attested by the City Clerk, in duplicate and when duly executed, one copy thereof shall be filed with the City Clerk. The contract shall include in its terms by reference, the provisions of this article. The contract shall require the contractor to maintain an office, equipped with telephone and an employee in charge, to answer all calls, and complaints; and shall require the contractor to promptly attend to all complaints concerning his or her duties under the contract; shall provide for the removal and disposal of all refuse and wastes, and fix the fee, approved by the Governing Body of the City, to be charged therefore.

16-107 BOND OF CONTRACTOR

The contractor shall execute a bond or letter of credit in the City to be approved by the Governing Body, in the sum of $30,000 with surety by a responsible surety company, conditioned upon the faithful performance of all of the terms of the contract that save the City harmless from any loss or damage on account of the contractor's conduct of business.

16-108 CANCELLATION OF CONTRACT

The Governing Body shall reserve the right, at any time after due notice, and opportunity to be heard has been given said contractor, to cancel and revoke the contract, for failure to comply with its terms.

16-109 ENTER PRIVATE PREMISES

Solid waste collectors employed by the City or operating under contract with the City are hereby authorized to enter in and upon private property for the purpose of collecting refuse and waste therefrom as required by this article.

16-110 FREQUENCY OF COLLECTION

Refuse and wastes in residential areas shall be collected not less than once weekly. All commercial solid waste shall be collected at intervals as may be fixed by the sanitation officer, but in no event, less than weekly.

16-111 DUTY OF OWNER OR OCCUPANT

Every owner or occupant of a dwelling or commercial establishment shall keep at his or her own expense his or her premises in a clean and sanitary condition and free from any accumulations of garbage, rubbish, trash, or other type of refuse, and each owner or occupant of any such premises shall dispose at his or her own expense of all garbage and trash and other refuse in a clean and sanitary manner by placing such refuse in an approved storage container at times and places hereinafter described; provided that refuse may be burned at times and places and in a manner prescribed in sections 16-113:114 of this article.

16-112 RESIDENTIAL, COMMERCIAL AND IMPROPER CONTAINERS

The City's designated contractor will provide to the owner or tenant residing in any single family residence and duplex within the City of Lansing, Kansas, a garbage and refuse container, and a separate container for approved, designated recyclables. Said containers shall be used by each resident for deposit of ordinarily accumulated refuse at such residence during the intervals between collections made by the City's contractor. Each numbered container will be assigned to that residence and remain at that residence unless removed by the City or its contractor. Additional refuse containers may be obtained from the City's contractor at an additional cost to the residence. Except for tree trimmings, yard waste, or bulky items such as furniture or appliances, it shall be unlawful for any garbage or refuse to be placed out for collection that is not contained within a container issued by the City's contractor or accompanied by a special tag that can be purchased from

City Hall. Any garbage or refuse accompanied by a special tag will only be picked up if placed in a plastic bag sized 33 gallons or less. Additional or overflow recyclables may be placed in a cardboard box or plastic waste container that is clearly marked “Recycling”. Notwithstanding the foregoing, during the week following Christmas Day and Independence Day, residents may place up to six (6) extra bags, not to exceed 35 gallons in capacity or 45 lbs.(per bag) in weight, of refuse, for pickup as part of the regular refuse collection. All yard waste must be set out either in a separate plastic waste container that is clearly marked “Yard Waste”, biodegradable paper bags, or in bundles not exceeding four feet (4’) in length and eighteen inches (18”) in diameter and tied with biodegradable twine or string only, not to exceed 65 lbs in weight. Residents are limited to a combined total of six (6) bags or bundles per week for the months of March through August, and twelve (12) bags or bundles per week for the months of September through November. During the two weeks following Christmas Day, residents may place up to two (2) Christmas trees out as part of the yard waste program. Christmas trees must be cut in half.

Exceptions to using the contractor’s containers may be granted to senior citizens or physically disabled individuals. These individuals are responsible for contacting City staff to receive exemption. Senior citizens and physically disabled individuals are limited to four (4) 13-gallon plastic bags per collection day. Such exceptions require nonetheless that said 13-gallon plastic bags shall be stored in an enclosed structure on the premises except on the date for collection. All plastic refuse bags used under this ordinance and placed on the curb shall be securely closed and sealed.

Containers for commercial wastes shall be equipped with tight fitting lids and shall be of such size and construction as shall be suitable for the type of refuse generated by the establishment as shall be determined by the sanitation officer. Refuse and/or wastes placed in an improper container shall not be collected.

16-113 LOCATION OF CONTAINERS

All refuse and waste containers shall be stored upon private property; provided that on the scheduled day for refuse and waste collection refuse and waste may temporarily be stored on public property next to streets along the parking; however, in no event shall such waste containers block or obstruct a sidewalk. The permanent storage of refuse and waste containers is prohibited in front yards of residences. A front yard shall be defined as that space extending across the front

of a lot between the side yard lines and being the minimum horizontal distance between the street line and the main building or any projection thereof other than steps, unenclosed balconies and unenclosed porches; provided that on the designated refuse collection day the occupant may temporarily store refuse next to the street curb line in front of the occupants dwelling. That in the event the occupant does not desire to temporarily store refuse at the street curb line for collection purposes the occupant may, temporarily for collection purposes, store refuse at some other location on his or her property easily accessible, and may be charged for the collection of refuse at a point other than the curb line. Commercial and industrial refuse containers shall be located generally at the rear of the occupants' premises near the improved alley; however other locations for storage and collection may be approved by the sanitation officer. The collection of commercial refuse shall not occur before 6:00 a.m. and shall not occur later than 7:00 p.m. on scheduled collection days. Occupants of any premises in the City which have refuse to be collected shall provide or cause to be kept or provided suitable receptacles for the deposit and collection of refuse at a place readily accessible for removal and emptying at hours and days specified by the sanitation officer, and all containers shall be kept and located in such a manner as to not to create a nuisance to other citizens or create an obstruction to persons using public streets and alleys. All containers shall be maintained in a clean and sanitary manner by the person or persons in possession of the premises which said container or containers serve.

16-114 BURYING AND BURNING

Refuse and wastes may be placed in the same storage container, but all refuse shall be drained and wrapped before placing said refuse in the container as herein provided. It shall be unlawful for any person to bury any refuse and/or wastes as herein defined on public or private property without first having obtained a permit from the sanitation officer. No refuse or other wastes described herein as refuse shall be burned at any time except in an incinerator or other appliance constructed specifically for such purposes and approved by the Leavenworth County Fire District #1, and equipped with a flue, chimney, or smokestack which will carry the smoke and odors therefrom above surrounding rooftops.

16-115 FIRES ON PUBLIC AND PRIVATE PROPERTY

It shall be unlawful for any person to kindle or maintain any bonfire or any rubbish fire or authorize any such fire to be kindled or maintained

on or in any public sidewalk, street, alley, road or other public ground except in authorized fireplaces in park locations, unless permission from the Leavenworth County Fire District No. 1 shall have first been obtained. No person shall kindle or maintain any bonfire, rubbish fire or trash fire nor permit any such fire to be kindled or maintained on any private property within the established fire limits of the City except in an incinerator property and safely constructed within a structure and approved by the Leavenworth County Fire District No. 1. No person shall kindle or maintain nor permit to be kindled or maintained outside the established fire limits and within the City any bonfire, rubbish fire or trash fire unless such fire shall be contained in an incinerator constructed and located in accordance with requirements of the Leavenworth County Fire District No. 1.

16-116 CHARGES FOR COLLECTION AND DISPOSAL

The City in providing the service of collecting and disposing of all refuse and wastes accumulated within the City for the purpose of preventing unsanitary, unsightly, hazardous, unhealthful and dangerous conditions caused by the accumulation of garbage and trash shall from time to time by ordinance establish and collect a service charge or fee to defray the cost and maintenance of service and administration thereof, and to pay to any person contracting with the City for the collection and disposal of refuse, the fees and charges provided by the contract for the collections and disposal thereof. Such service charges and fees shall be computed, based and charged to the owners or occupants of dwelling units or commercial establishments as nearly as practicable upon the basis of volume or time expended in the collection and disposal and administration thereof.

16-117 COLLECTION AND BILLING

All fees and charges provided by ordinance shall be collected by the Finance Department of the City, and such charges shall be sent to all owners or occupants of premises serviced by the City's contract for collection of solid waste on or about the first of each month for the services rendered in the preceding month. All charges shall be due by the 25th of the month. All charges not paid in full by the 25th of the month shall incur a penalty charge of 10 percent of the amount outstanding. Any statement not paid within 60 days of the 25th of the month for the preceding month's service shall be held delinquent and may be forwarded to a third party collection agency or may constitute a lien upon the real estate served by the service. The Governing Body annually at the first regular meeting in August, or at other times as they shall determine, shall, by ordinance, levy and assess the charges

and/or penalties, against each lot or parcel of ground served as a special assessment, which shall constitute a lien upon the property for the amount of such delinquent fees. A certified copy of the ordinance shall be filed with the County Clerk for the amounts of the respective assessments against the respective parcels of land as they appear on the current assessment roll. The lien created shall attach upon recordation of the office of the County Clerk of a certified copy of the ordinance. The assessment shall be collected at the same time and in the same manner as ordinary County ad valorem property taxes are collected and be subject to the same penalties and same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the collection, levy and enforcement of County ad valorem property taxes shall be applicable to such assessment. The Finance Director may forward delinquent accounts to an approved third party collection agency in lieu of levying and assessing the charges and/or penalties against each lot or parcel of ground served as a special assessment. All delinquent accounts forwarded for collection will be subject to a collection fee not to exceed 38% of the delinquent balance.

16-118 TERMINATION, NOTICE AND HEARING

A. A delinquency and termination notice shall be issued by the Finance Director within 10 days after the delinquency occurs and mailed to the customer (and a copy also mailed to the occupants of the premises served if the occupant is not the customer) at the last known address as shown on the records of the City. The customer and occupants shall be responsible for advising the Finance Director of current addresses. The notice shall indicate:

1. The amount due, plus penalty and interest,

2. The type of service and the date on which such service will be terminated if the amount due is not paid (to be 15 days from the date of notice),

3. The customer's right to a hearing before an officer designated by the City, designating the officer and the place of such hearing, if requested, and

4. That such hearing must be requested in writing, filed with the Finance Director, at least three working days (Saturdays, Sundays and holidays excluded) before the date for termination. Upon receipt of a request for such

hearing, the Finance Director shall immediately advise the customer of the date and time of the hearing. All requests for a hearing must be made within 60 days of any rate increase.

B. The customer, and the City, may present such evidence as is pertinent to the issue, may be represented by counsel, may examine and cross-examine witnesses, but formal rules of evidence shall not be followed.

C. If the officer before whom the hearing is held shall find service should not be terminated, he or she shall so order and advise the director of utilities. If the officer finds service should be terminated, he or she shall so order and service shall be terminated three days from the date of this order, and the customer shall be notified in person, posting notice on the premises or by mail, unless such order is made at the hearing in the presence of the customer. Extension of the termination date, up to 10 days from the order, may be granted by the hearing officer for good cause shown.

D. Hearings may be conducted by any of the following officers: the Finance Director or their designee, two or more councilmembers designated by the Mayor, or such other hearing officer as may be appointed by the mayor.

16-119 UNLAWFUL TO COLLECT OR HAUL REFUSE OR WASTES

It shall be unlawful for any person to collect or haul over City streets in the City any refuse or wastes unless such person shall have a contract with the City, provided that this section shall not apply to departments of the City government of the City, provided further that nothing in this section shall be construed to prevent a person from hauling or disposing of his or her own refuse accumulated at his or her residence, in such a manner as not to endanger the public health or safety, not to create a nuisance to the inhabitants of the City and not to litter the streets and alleys of the City and after having obtained a permit from the City sanitation officer to so haul and dispose of his or her own trash.

16-120 DISPOSITION OF REFUSE AND WASTES

All solid waste shall be disposed of at a site approved by the City and holding a valid permit (after June 30, 1976) from the State Board of Health. Such disposal site shall be operated in a manner consistent

with regulations adopted by the Governing Body of the City, and standards fixed by the state and federal government.

16-121 PERMIT AND APPLICATION REQUIRED

No person, whether acting individually or privately for himself, herself, or his or her business, and no person, firm or corporation shall engage in the business of collecting, transporting, processing or disposing of refuse of wastes within the corporate limits of the City, without first obtaining a permit from the City. A permit issued to a person, firm or corporation shall cover all employees of said person, firm, or corporation. Each applicant for a permit shall file an application with the City Clerk on forms to be approved by the sanitation officer. Such application shall show:

A. The number of vehicles to be operated,

B. The make, model and identification number of each vehicle,

C. The precise location of processing or disposal facilities,

D. Boundaries of the collection area, and

E. Such other information as the sanitation officer may require.

16-122 NONTRANSFERABILITY OF PERMIT

All permits issued as provided in this article are nontransferable; provided however, that one vehicle may be substituted for another by filing the description and identification number with the City Clerk; and provided further that additional vehicles may be added by filing a property application, insurance and permit fee.

16-123 PERMIT FEE, INSURANCE AND TERM

Each application for a permit shall be accompanied by a fee as set forth in the fee schedule adopted by the Governing Body and a copy of their US KDOT certification for each vehicle. All application fees shall be refunded if the application or a permit is denied.

A. No permit shall be issued to any person as provided in section 16-120 until the applicants shall have filed certificates of insurance written by a company licensed to do business in Kansas providing public liability insurance covering all operations and all vehicles operated by applicant. Such policies shall provide not less than $100,000 for any injury to or death of any one person and $300,000 for the injury or death of any number of persons in any one accident and with property coverage of not

less than $25,000 for any one accident. The certificate of insurance shall provide that it cannot be canceled until 10 days after written notice of such cancellation has been filed with the City Clerk.

B. Businesses desiring a permit to haul only their own refuse and wastes from their own residence or business may apply for waiver of the insurance requirements provided herein, and the City Clerk may issue a waiver of the insurance requirement upon applicant signing a sworn affidavit that said applicant will be engaged only in the collecting, transporting, processing or disposing of the refuse of his or her business.

All permits issued under this article shall expire on December 31 of each year. A permit may be renewed for a period of one year upon payment of the annual license fee and a filing of a certificate of insurance.

16-124 DISPLAY AND REVOCATION OF PERMIT

All vehicles operating under a permit issued under this article shall display the permit number on each side of the vehicle in a color which contrasts with the color of the vehicle. Such number shall be clearly legible and shall be not less than three inches in height.
A permit issued under this article may be revoked for the violation of any terms of this article or regulations of the sanitation officer; provided, however, that no permit shall be revoked until the holder of such permit has been given notice in writing of the violation and given a reasonable opportunity to comply with the provisions of this article or regulations issued by the sanitation officer.

16-125 COLLECTION EQUIPMENT

All refuse and wastes shall be collected and transported in a watertight vehicle or container and shall be fully enclosed or securely covered. All vehicles, and containers used for collecting and transporting said refuse shall be maintained in a safe, clean, sanitary condition and shall be operated in such a manner as to prevent spillage or leaking therefrom. The Lansing Police Department and its authorized officers are hereby authorized to enforce any violations concerning collection equipment.

16-126 OWNERSHIP OF REFUSE

Ownership of refuse and waste materials, when placed in the containers by the occupants or owners of premises upon which refuse

accumulated, shall be vested in the City, and shall thereafter be subject to the exclusive control of the City, its employees or contractors.

16-127 CONSTRUCTION AND DEMOLITION OPERATION

Nothing elsewhere contained in this article shall be construed as prohibiting construction contractors, tree surgeons, roofers, and other private contractors, whose operations result in the accumulation of refuse, from hauling and disposing of accumulations of trash and rubbish resulting from their own operations, provided they shall at all times comply with the regulations and provisions of this article.

16-128 UNUSUAL SITUATIONS

In situations which are not contemplated or considered by the terms and conditions of this article, the sanitation officer shall have the power and the authority to grant special rights and privileges on a temporary basis for the collection, hauling and disposal of trash and garbage where such special privileges are required in order to maintain the health and sanitation of the City and its inhabitants or such right and privilege is required to avoid the creation of a public nuisance.

16-129 CLEANLINESS OF STREETS, ALLEY AND PUBLIC PLACE

It shall be unlawful for any person to throw, place, deposit or allow to accumulate, leave or cause to be thrown, placed, deposited or left upon any sidewalk, gutter, street, alley, thoroughfare, park, other public grounds, or any City-owned property, any garbage, trash, cast-off machinery, abandoned automobile bodies, tires, junk, filth, dirt, or letter of any kind except by depositing the same in containers provided specifically for such purposes.

16-130 PROHIBITED PRACTICES

It shall be unlawful for any person to:

A. Deposit refuse and/or waste in any container other than that owned or leased by him or her under his or her control without written consent of such owner and/or with the intent of avoiding payment of charges for collecting, transporting, and disposing of said refuse and/or wastes.

B. Interfere in any manner with employees of the City or its contractor in the collection of refuse and/or wastes.

C. Dispose of refuse and/or wastes in an unapproved site.

D. Allow refuse, household residential wastes, industrial wastes or commercial wastes to accumulate creating a nuisance, as defined herein.

E. Store refuse and/or waste in an unapproved container.

F. It shall be unlawful for any person to enter upon any City approved disposal site for the purpose of scavenging or removing any refuse and/or waste or portion of refuse and/or waste deposited at any of said sites; provided this shall not apply to any salvaging operation approved by the sanitation officer.

G. Handle refuse and/or waste in any manner to create a nuisance.

16-131 RESIDENTIAL REFUSE COLLECTION; SERVICE CHARGE

A. A monthly service assessment of $16.69 for each residential unit.

B. Senior citizens age 65 or older, who are responsible for bill payment, shall be eligible to pay a reduced monthly service assessment of $13.69.

C. Residents desiring an additional container from the City's contractor shall be assessed an additional monthly service charge of $5.00 per container.

16-132 ADDITIONAL RULES AND REGULATIONS, PENALTY

Additional rules and regulations not inconsistent with the terms and provisions of the article may be promulgated and enforced by any authorized City officers with the prior approval of the Governing Body of the City. Any person violating any of the provisions of this article shall be guilty of a violation of this code and upon conviction shall be punished by a fine of not less than $500 nor more than $1500, and each day of failure to comply with such provisions of this article shall constitute a separate offense.

ARTICLE 2. SEWERS

16-201 DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

A. "Person" shall mean any individual, firm, institution, company, association, society, corporation, or group.

B. "Shall" is mandatory; "May" is permissive.

C. "Sewer" shall mean a pipe or conduit for carrying sewage.

D. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

E. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.

F. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

G. "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.

H. "Sewage Works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

I. "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

J. "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

K. "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

L. "Storm Drain" shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

M. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

N. "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers.

O. "Biochemical Oxygen Demand or (BOD)" shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under laboratory procedure in five (5) days at twenty degrees centigrade, expressed in milligrams per liter (mg/L) as established in the 19th edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, American Water Works Association and the Water Environment Federation.

P. "Suspended Solids TSS" 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. "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

R. "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

S. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

T. "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

U. "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or if quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation.

V. "Director" shall mean the Wastewater Utility Director of the City of Lansing, or his or her authorized deputy, agent, or representative.

W. "Toxic" shall mean a substance which causes a deleterious or poisoned condition in biological organisms utilized for wastewater treatment, human beings, fish, wildlife, or any other living organisms, plant or animal.

X. "Domestic sewage" shall mean any waste originating primarily from kitchen, bathroom, and laundry sources, including waste from food preparation, dish washing, garbage-grinding, toilets, baths, showers and sinks.

Y. "Commercial waste treatment facility" shall mean a facility serving and owned by an industrial or commercial enterprise or group, or a combination thereof, for the purpose of treating primarily domestic sewage by physical, chemical, or biological methods and includes slaughter houses with an average slaughter rate of 50 animals or less per week.

Z. "Industrial waste treatment facility" shall mean a facility serving an industrial or commercial enterprise group, or a combination thereof, for the purpose of treating sewage or process-generated wastewater other than domestic sewage by physical, chemical, or biological means or by combination of those methods. Industrial waste treatment facility includes municipally-owned electricity generating facilities and water treatment plants.

AA. Inflow shall mean the water discharged into a sanitary sewer collection system and service connections from such sources as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, around manhole covers or through holes in covers, cross connections from storm and combined sewer systems, catch basins, storm waters, surface runoff, street wash waters or drainage.

BB. Infiltration shall mean the water entering a sewer pipe, including service connections, from the ground. Defective pipes, pipe joints, connections or manhole walls are a few of the common locations where infiltration may occur.

CC. Surcharge shall mean a charge applicable to users of the POTW. Any user who is found to discharge waste having a biochemical oxygen demand (BOD) that exceeds three hundred mg/L and/or suspended solids that exceed three hundred mg/L will be subject to a surcharge. Surcharges shall be calculated according to the formula in Ordinance No. 834.

16-202 PROHIBITIONS, VIOLATIONS AND PENALTIES

A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Lansing, or in any area under the jurisdiction of the City of Lansing, any human or animal excrement, garbage, or other objectionable waste.

B. It shall be unlawful to discharge to any natural outlet within the City of Lansing, or in any area under the jurisdiction of the City of Lansing, any sewage or other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

D. The owner of all houses, buildings, or properties used for human employment, recreation, or other purposes, situated within the City of Lansing 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, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line.

E. No person shall intentionally discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

F. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as

combined sewers or storm sewers, or to a natural outlet approved by the Director of Public Works and/or Wastewater Utility Director. Industrial cooling water or unpolluted process waters may be discharged on approval of the Director of Public Works and/or Wastewater Utility Director.

G. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

2. Cleaning, stripping or paint solvents.

3. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/1 as CN in the wastes as discharged to the public sewer.

4. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

5. Solid or viscous substances in quantities or such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to: ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing's, entrails, disposable dishes, cups, and milk containers, either whole or ground by garbage grinders.

H. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Wastewater Utility Director that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving

stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Director will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

1. Any liquid or vapor having a temperature higher than one hundred fifty (150)° F (65° C).

2. Any water or wastes containing fats, wax grease or oils, whether emulsified or not, in excess of one hundred (100) mg/1 or containing substances which may solidify or become viscous at temperatures between thirty-two (32)° and one hundred fifty (150)° F (0° and 65° C).

3. Any sewage grinder pumps garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Director.

4. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions, whether neutralized or not.

5. Any waters or wastes containing Arsenic, Cadmium, Chromium, Copper, Lead, Mercury, Molybdenum, Nickel, Potassium, Selenium, Silver, Zinc, PCBs, Nitrogen, and Phosphorous, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement to such a degree that any such substance received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Director for such materials. The Director may set limitations based upon water quality of the receiving stream, treatment plant efficiency, inhibition of treatment plant processes and impact of sludge processing land application and groundwater impacts.

   All industrial and commercial facilities using silver in

manufacturing or as part of a process operation, including but not limited to the development and/or printing of photographic pictures or x-rays, precious metal plating, or any operation where silver is reasonably expected to be found in the facilities wastewater, shall not discharge silver bearing wastewater to the public sewer without first treating the wastewater to remove the silver or subjecting the wastewater to a silver recovery process.

6. Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Director as necessary, after treatment of the composite sewage, to meet the requirements of State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Director in compliance with applicable State or Federal regulations.

8. Any waters or wastes having a pH in excess of 10.5.

9. Materials which exert or cause:

    a) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).

    b) Excessive discoloration (such as, but not limited to, dye wastes, paint pigments, and tanning solutions).

    c) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

    d) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

10. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to

treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

11. Any waters or wastes having (1) a 5-day BOD greater than 300 parts per million by weight, or (2) containing more than 300 parts per million by weight of suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the City, shall be subject to the review of the Director. Where necessary in the opinion of the Director, the owner shall provide, at his expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 300 parts per million by weight, or, (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Director and no construction of such facilities shall be commenced until said approvals are obtained in writing.

12. Any waste considered toxic and or hazardous and/or defined as toxic or hazardous by the Kansas Department of Health and Environment and/or the Environmental Protection Agency and/or having toxic effects on the wastewater treatment processes and/or land application of wastewater sludge's and the receiving ground waters at the wastewater sludge application sites.

    Any user which discharges any toxic pollutant which causes an increase in the cost of managing the effluent or sludge from the City's treatment works, or any user which discharges any substance which singly or by interaction with the substances causes identifiable increases in the cost of operation, maintenance, or replacement of the treatment works, shall pay for such increased cost. The charge to each such user shall be as determined by the Director and approved by the City Council.

I. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section

4 of this Article, and which in the judgment of the Director, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the Director may:

1. Reject the wastes,

2. Require pretreatment to an acceptable condition for discharge to the public sewers,

3. Require control over the quantities and rates of discharge,

4. Require any user which discharges any toxic pollutant or other substance which causes an increase in the cost of managing the effluent or waste sludge land application from the City's treatment works, or any user which discharges any substance which singularly or by interaction with the substances causes identifiable increases in the cost of operation, maintenance, or replacement of the works, to pay for such increased cost of operation or remediation of treatment plant or land application sites. The charges associated with the cost recovery to such user shall be determined by the Wastewater Utility Director.

   If the Wastewater Utility Director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the requirements of all applicable codes, ordinances and laws.

J. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Wastewater Utility Director, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Wastewater Utility Director, and shall be located as to be readily and easily accessible for cleaning and inspection.

K. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

L. When required by the Director, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Director. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

M. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property.

N. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, by the industrial concern.

16-203 PRIVATE SEWAGE DISPOSAL SYSTEM

A. Where a public sanitary sewer is not available under the provisions of Section 16-202(d), the building sewer shall be connected to a domestic wastewater disposal system complying with the provisions set forth in the latest Leavenworth County Sanitary Code

B. Before commencement of construction of a domestic sewage disposal system, the owner shall first obtain a written permit issued by the Leavenworth County Director of Planning or

authorized agent. The application for such permit shall be made on a form furnished by the Leavenworth County Planning and Zoning Department, which shall be supplemented by all information as deemed necessary by the Leavenworth County Director of Planning and City of Lansing Wastewater Utility Director. A domestic sewage impact fee shall be paid to the City of Lansing as set forth in Section 16-204(J)(1), in addition to all fees required by the County Planning and Zoning Department.

C. A permit for a domestic sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Leavenworth County Director of Planning or authorized agent, and the Lansing City Inspector. They shall be allowed to inspect the work at any state of construction, and in any event, the applicant for the permit shall notify the Director of Planning or authorized agent when the work is ready for final inspection, and before any underground portions are covered.

D. The type, capacities, location, and layout of a domestic sewage disposal system shall comply with all requirements of the Leavenworth County Sanitary Code.

E. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Section 16-203(d), a direct connection shall be made, within ninety (90) days, to the public sewer in compliance with this ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material approved by the Director.

F. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City of Lansing.

G. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Leavenworth County Health Officer.

16-204 CONDITIONS OF CONSTRUCTION

A. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Wastewater Utility Director.

B. Connection to a public sewer shall require a building sewer permit. The owner or his agent desiring to make a connection shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Director. A permit and inspection fee shall be paid to the City at the time the application is filed.

C. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

D. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

E. Existing building sewers may be used in connection with new buildings only when they are found, on examination and tested by the Director, to meet all requirements of this ordinance.

F. The size, slope, alignment, and materials of construction of a building sewer; and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench; shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City. All such connections shall be made gastight and watertight.

G. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer in accordance with the most recently adopted plumbing code.

H. No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building

drain which in turn is connected directly or indirectly to a public sanitary sewer.

I. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner in accordance with the latest City of Lansing public works technical specifications. In addition, a proper permit from public works is required prior to any work to be performed within any City-owned or public right of way.

J. Connection Fees:
All fees contemplated under this section shall be in accordance with the latest fee schedule adopted by the Governing Body.

1. A sewage impact fee of $400.00 shall be charged for each installation of any domestic sewage disposal system, and any commercial or industrial waste treatment facility within the area of jurisdiction of the City of Lansing, Kansas. Said fee shall be collected before any work is commenced.

16-205 FURTHER PROHIBITIONS

A. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

B. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Director. Industrial cooling water or unpolluted process waters may be discharged on approval of the Wastewater Utility Director and/or the Public Works Director, to a storm sewer, combined sewer, or natural outlet.

C. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

2. Cleaning, stripping or paint solvents

3. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/1 as CN in the wastes as discharged to the public sewer.

4. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

5. Solid or viscous substances in quantities or such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to: ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing's, entrails, disposable dishes, cups, and milk containers, either whole or ground by garbage grinders.

6. Any waste considered toxic and or hazardous and/or defined as toxic or hazardous by the Kansas Department of Health and Environment and/or the Environmental Protection Agency and/or having toxic effects on the wastewater treatment processes and/or land application of wastewater sludge's and the receiving ground waters at the wastewater sludge application sites.

7. Any user which discharges any toxic pollutant which causes an increase in the cost of managing the effluent or sludge from the City's treatment works, or any user which discharges any substance which singly or by interaction with the substances causes identifiable increases in the cost of operation, maintenance, or replacement of the treatment works, shall pay for such increased cost. The charge to each such user shall be as determined by the Wastewater Utility Director and approved by the City Council.

D. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 4 of this Article, and which in the judgment of the Director, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the Director may:

1. Reject the wastes,

2. Require pretreatment to an acceptable condition for discharge to the public sewers,

3. Require control over the quantities and rates of discharge,

4. Require any user which discharges any toxic pollutant or other substance which causes an increase in the cost of managing the effluent or waste sludge land application from the City's treatment works, or any user which discharges any substance which singularly or by interaction with the substances causes identifiable increases in the cost of operation, maintenance, or replacement of the works, to pay for such increased cost of operation or remediation of treatment plant or land application sites. The charges associated with the cost recovery to such user shall be determined by the Wastewater Utility Director.

   If the Director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the requirements of all applicable codes, ordinances and laws.

E. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Director, and shall be located as to be readily and easily accessible for cleaning and inspection.

F. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

G. When required by the Director, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Director. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

H. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property.

I. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, by the industrial concern.

16-206 ACCESS

A. The Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the

provisions of this ordinance. The Director or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

B. While performing the necessary work on private properties referred to in this article the Director or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 16-205(h).

C. The Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

16-207 USER CHARGE RATES

A. The rates set out in Section 16-207(e) shall be applied to each residential customer receiving sewage service for the purpose of operation, maintenance, replacement, revenue bond retirement, general improvement, modification and billing for the City of Lansing sewage collection and treatment system and shall be based on the average of metered water use for the months of December, January, February, and March. The rate so determined shall be applied to the subsequent twelve month period and shall be revised annually. New service customers with no historical water use record shall pay the base charge until a water use history is established.

B. The rates set out in subsection (e) shall be applied to each commercial customer receiving sewage service for the purpose of operation and maintenance, revenue bond retirement, and billing for the City of Lansing sewage collection and treatment system and the billing shall be for actual water use each month.

C. The City of Lansing shall conduct an "in-house" review of the user charge system at least every two years and revise user charge rates as necessary to ensure the system generates adequate revenues to pay the costs of operation, maintenance, and replacement costs among users. An independent review shall be conducted at least every five years.

D. The City of Lansing shall establish an account designated for the specific purpose of insuring replacement needs over the useful life of the treatment works (equipment replacement account). Deposits to this account shall be made at least annually from the operation, maintenance, and replacement revenue in the amount of fifty thousand dollars ($50,000). At such time as an adequate reserve is established in the account, the City may elect to modify this annual deposit, after consultation with the Kansas Department of Health and Environment.

E. The residential and commercial user charge rates shall be in accordance with the latest fee schedule adopted by the Governing Body.

16-208 CAPACITY UTILIZATION

The City of Lansing and the Lansing Correctional Facility shall enter into negotiations to determine an acceptable solution set by agreement approved by the Governing Body if the Lansing Correctional Facility generates sewage flows, over an extended period of time, in excess of its purchased treatment capacity.

16-209 VIOLATIONS & PENALTIES

A. Any person found to be in violation of any provision of this ordinance shall be served by the City with notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

B. Any person who shall continue any violation beyond the time limit provided for in Section 16-209(a), shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding One Hundred Dollars ($100) for each violation. Each 24-hour period in which any such violation shall continue shall be deemed a separate offense.

C. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

D. Monthly Charges. Charges for sewer service shall be made each month of the calendar year. All bills are due on or before the close of business on the twenty-fifth day of the month following the month for which charges are made. The billing date shall be the 1st day of each month. Past due bills shall accrue a late charge of ten percent a month.

E. Delinquency and Hearing. On a quarterly basis, the Finance Director shall compile a list of all customers who are at least two (2) months delinquent in their sewer bill payments. The Finance Director shall prepare a delinquency notice for each delinquent account, and mail such notice to the customer (and the property owner, if known and different from the customer) at the address shown in the records of the City. Property owners who rent or lease to customers of the City's sewer utility shall be responsible for advising the Finance Director of their current addresses in writing. The notice shall indicate: (1) the amount due, plus accumulated late charges; (2) the customer's right to a hearing before an officer designated by the City, if requested; and (3) that such hearing shall be requested in writing, filed with the Finance Director within five (5) working days after the mailing date of the delinquency notice. Upon receiving a request for such hearing the Finance Director shall advise the applicant of the date and time of the hearing. At the hearing, the customer and the City may present such evidence as is pertinent to the issue, may be represented by counsel, may examine and cross-examine witnesses, but formal rules of evidence shall not be followed. If the hearing officer determines that there is a delinquency, he may impose a delinquency charge in an amount not to exceed fifty dollars ($50) Hearings may be conducted by any officer appointed by the Mayor and confirmed by the City Council. Lien. In the event that charges for sewer service are not

paid, the Finance Director shall prepare an ordinance annually by the first council meeting in August listing delinquent accounts and property descriptions. Upon adoption by the City council and publication, this ordinance shall constitute a lien upon the real estate for which such service is supplied. There shall be a $50.00 penalty assessed against any delinquent account certified to the Leavenworth County Clerk for assessment to the property tax rolls. The Finance Director is hereby authorized and directed to file a sworn statement showing such delinquency in the office of the County Clerk of Leavenworth County, Kansas. The filing of such statement shall be deemed notice of the lien of such charges for such service. The Finance Director may forward delinquent accounts to an approved third party collection agency in lieu of levying and assessing the charges and/or penalties against each lot or parcel of ground served as a special assessment. All delinquent accounts forwarded for collection will be subject to a collection fee not to exceed 38% of the delinquent balance.

Person Responsible for Payment. The rates and charges herein established shall be collected from the customers of the City of Lansing, Kansas sewer utility system.

ARTICLE 3. SEWER SERVICE

16-301 DEFINITIONS

As used in this Article the following words shall have the following meanings:

A. Outside Sewer Connection shall mean any sewer connection for premises located outside the City limits that discharges into, or connects with sewers that discharge into the sewers of the City.

B. Inside Sewer Connection shall mean any sewer connection for premises located inside the City limits that discharges water or connects with sewers that discharge into the sewers of the City.

16-302 PERMIT REQUIRED

No person shall make a sewer connection without first obtaining a permit therefore. The permit required by this Section shall be issued by the Building Inspector. All applications for permits required by this Section shall be made in writing to the Building Inspector and shall contain a legal description of the premises for which such connection is to be made.

16-303 NUMBER PER BUILDING

Only one (1) permit required by this Article shall be issued for each building.

16-304 SAME; FEE

No permit required by Section 16-302 of this Article shall be issued until there has been paid to the City the appropriate fee.

16-305 OUT OF CITY CONNECTION

Acceptance of sewerage from areas outside the City will be made only in cases where approval has been granted by the City Council and:

A. In conformance with laws governing County benefit districts; or

B. Where the entire cost of sewers serving industrial establishments or subdivisions is paid by individuals, corporations, or others; or

C. Where isolated property borders existing City sewers and where the isolated property owner makes payment to the

City for the sewer connection in accordance with Section 16-204 of this Article.

16-306 SAME; CONSTRUCTION STANDARDS

All sewers and appurtenances, including house connections, shall be constructed in accordance with designs, sizes, materials, plans, specifications and construction supervision approved by the City. Ref.: See Plumbing Code, Section 5-601 et seq.

16-307 SAME; INSPECTIONS

All building and sewer lines for which a permit has been issued for an outside sewer connection shall be subject to the inspection of the Building Inspector at any time and shall likewise be subject to the same inspection as buildings within the City. The applicant under each permit shall pay for such inspection as provided by the building ordinances of the City.

16-308 SAME; OWNERSHIP

Sewer lines constructed in areas outside the City which contribute to the City sewerage system shall become the property of the City when, and if, the areas in which the lines are located are annexed to the City and the City's ownership and responsibility therefore shall be on the same basis as if the lines were originally constructed within the City. The City will not, however, accept responsibility for the indebtedness incurred in the original construction of the sewer lines except to the extent required by law.

16-309 SEWER CONNECTIONS REQUIRED

All persons and property owners owning buildings within the City which are within two hundred (200) feet of the property line shall make such connections with the sewer system of the City as may be necessary in the judgment of the health officer for the protection of the health of the public, for the purpose of disposing of all substances from any such building affecting the public health, which may be lawfully and properly disposed of by means of such sewer. The costs of all connections with the sewerage disposal system of the City shall be borne by the consumer.

16-310 SAME; FAILURE TO COMPLY

If any person shall fail, neglect or refuse to so connect any building with the sewer system of the City as provided for in Section 16-309 of this Article for more than ten (10) days after being notified in writing by the health officer to do so, the Councilmembers shall cause such premises and buildings to be connected with the sewer system. The

Councilmembers are hereby authorized to advertise for bids for the construction and making of sewer connections pursuant to the preceding Section, to contract therefore with the lowest responsible bidder or bidders, to cause such premises to be connected with the sewer system, and to assess the costs and expenses thereof against the property and premises so connected. Such assessment shall be made in the same manner as other special assessments are made.

16-311 SERVICE CHARGE; NONPAYMENT

In the event of the failure to pay sewer connection service charges when due, the City shall have the right to disconnect the sewer service connection until all back charges and penalties are paid.

The penalties for late payment of sewer connection service charge shall be the same as the penalty for failure to pay for sewer service when due.

16-312 SAME; WHEN CONNECTION DISCONTINUED

In the event sewer service is discontinued for sixty (60) days for failure to pay sewer connection service charge, or in the event the user of such sewer connection is not a sewer utility patron and is in default of payment for such service for sixty (60) days, then the City may dig up and plug such sewer connection. Service in such case shall be restored only upon payment of the cost of disconnecting such sewer plus twenty-five percent (25%) of such cost for penalty and any accrued delinquency charges.

The sewer connection service charge shall apply to all outside sewer connections now in use, as well as those hereafter made.

16-313 DISPOSITION OF CONNECTIONS

All funds collected for permits and for sewer services under this Article and other ordinances shall be deposited with the Finance Director and credited to the general fund.

ARTICLE 4. SEWER USE REGULATIONS

16-401 DIRECTOR'S RESPONSIBILITIES

The admission to the sanitary sewer collection system of any wastes having any of the following shall be subject to the review and approval of the Director:

A. A BOD demand of greater than three hundred (300) mg/L, or

B. A suspended solid greater than three hundred (300) mg/L, or

C. Containing any quantity of substances having the characteristics described in Section 16-202 of this Article, or

D. Having an average flow greater than two percent (2%) of the average sewage flow of the City.

16-402 USER'S RESPONSIBILITIES

The owner shall provide at his or her own expense and shall maintain in satisfactory and effective operation such preliminary treatment as may be necessary to:

A. Reduce the BOD to three hundred (300) mg/L, or

B. Reduce or remove objectionable characteristics or constituents to acceptable levels, or

C. Control the quantities and rates of discharge of such waste. Plans, specifications and any other pertinent information shall be reviewed by the Director and the state regulatory agency. Any user’s treatment facility shall conform to all local and state requirements and regulations. If the waste discharge is not amenable to treatment or may have a deleterious effect on the POTW or receiving waters or which otherwise creates a hazard to life or constitutes a public nuisance, the Director may refuse to allow the waste into the sanitary sewer collection system.

ARTICLE 5. SWIMMING POOL DISCHARGE REGULATION

16-501 APPLICABILITY AND ENFORCEMENT

For additional specific information regarding the discharge of swimming pools and other related water features see Chapter 8, Article 5.

CHAPTER 17. ZONING AND PLANNING

Article 1. Zoning Regulations
Article 2. Subdivision Regulations
Article 3. Flood Damage Prevention

ARTICLE 1. ZONING REGULATIONS

17-101 ZONING REGULATIONS INCORPORATED

There are hereby incorporated by reference as if set out fully herein, the zoning regulations adopted by the Governing Body of the City of Lansing, Kansas, as prepared by Bucher, Willis and Ratliff, consulting engineers, and Lansing City officials, and consisting of Ordinance Nos. 389, and 735, and entitled, "Zoning Ordinance of the City of Lansing, Kansas." No fewer than three copies of the zoning regulations marked "Official Copy of the Zoning Ordinance of the City of Lansing, 2003" 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.

17-102 DISTRICT MAP

There is further herein incorporated by reference, and adopted, an official map defining the boundaries of zones and showing the district boundaries and the classification of such districts, which map shall be marked "Official Copy as Incorporated by the Lansing City Code" and shall be filed with the City Clerk to be open for inspection and available to the public at all reasonable business hours.

ARTICLE 2. SUBDIVISION REGULATIONS

17-201 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 Lansing, Kansas and certain surrounding areas as described therein, as adopted by the Governing Body of the City of Lansing, Kansas, and prepared by Bucher, Willis, and Ratliff, consulting engineers, and Lansing City officials and consisting of Ordinance Nos. 389, 409, 410, 411, 417, 418, 502, 503, 504, 506, 548, 578, and 579. No fewer than three copies of the subdivision regulations marked "Official Copy as adopted by Ordinance No. ___: 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 3. FLOOD DAMAGE PREVENTION

17-301 STATUTORY AUTHORIZATION

A. The following floodplain management regulations as written were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on August 26, 2014.

1. The legislature of the State of Kansas has, in K.S.A. 12 741, et seq., and specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Governing Body of Lansing, Kansas, does ordain as follows:

a) The special flood hazard areas of the City of Lansing, Kansas are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

b) These flood losses are caused by 1) the cumulative effect of development in any delineated flood plain causing increases in flood heights and velocities, 2) the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others which are inadequately elevated or otherwise unprotected from flood damages.

c) The Flood Insurance Study (FIS) that is the basis of this ordinance uses a standard engineering method of analyzing flood hazards which consists of a series of interrelated steps.

(I) Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this article is

representative of large floods which are characteristic of what can be expected to occur on the particular streams subject to this article. It is in the general order of a flood which could be expected to have a one percent chance of occurrence in any one year as delineated on the Federal Insurance Administration's FIS.

(II) Calculation of water surface profiles that are based upon a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.

(III) Computation of the floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.

(IV) Delineation of floodway encroachment lines within which no development is permitted which would cause any increase in flood height.

(V) Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines but which still is subject to inundation by the base flood.

17-302 PURPOSE; OBJECTIVES

A. It is the purpose of this article to promote the public health, safety and general welfare; to minimize public and private losses described in section 17-301; to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) and K.A.R. 5-44-4 by applying the provisions of this ordinance to:

1. Restrict or prohibit uses which are dangerous to health, safety and property in times of flooding or cause undue increases in flood heights or velocities.

2. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.

3. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

4. Control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters.

5. Control filling, grading, dredging and other development which may increase erosion or flood damage.

6. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

B. The objectives of this article are to:

1. Protect human life and health.

2. Minimize expenditure of public money for costly flood control projects.

3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

4. Minimize prolonged business interruptions.

5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood plains.

6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas and

7. Insure that potential home buyers are notified that property is in a flood area.

17-303 DEFINITIONS

Unless specifically defined below, words or phrases used in this article

shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

A. **"100-year Flood"** *see "base flood.*

B. **"Accessory Structure"** means the same as *"appurtenant structure.*

C. **"Actuarial Rates"** *see "risk premium rates.*

D. **"Administrator"** means the Federal Insurance Administrator.

E. **"Agency"** means the Federal Emergency Management Agency (FEMA).

F. **"Agricultural Commodities"** means agricultural products and livestock.

G. **"Agricultural Structure"** means any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.

H. **"Appeal"** means a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

I. **"Appurtenant Structure"** means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

J. **"Area of Shallow Flooding"** means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

K. **"Area of Special Flood Hazard"** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

L. **"Base Flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.

M. **"Basement"** means any area of the structure having its floor subgrade (below ground level) on all sides.

N. **"Building"** *see "structure."*

O. **“Chief Engineer”** means the chief engineer of the division of water resources, Kansas Department of Agriculture.

P. **"Chief Executive Officer" or "Chief Elected Official"** means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

Q. **“Compensatory Storage”** means an artificially excavated, hydrologically equivalent volume of storage within the SFHA used to balance the loss of natural storage capacity when encroachments are placed within the floodplain.

R. **"Community"** means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

S. **"Development"** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Development does not include:

a) Maintenance of existing buildings or facilities, such as re-roofing, re-siding, or resurfacing of roads when there is no increase in the building footprint, ground, or road surface elevation;

b) Gardening, tilling, plowing, or similar agricultural practices that do not involve filling, grading, terracing of land, or construction of levees; or

c) Erection of a storage shed, accessory building, fence, or playground equipment that:

1. Has a footprint of less than 80 square feet;

2. Is not located in a floodway or within 10 feet of a property line, and

3. Is properly anchored to withstand surface water flows.

T. **"Elevated Building"** means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

U. **"Eligible Community" or "Participating Community"** means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

V. **"Existing Construction"** means for the purposes of determining rates, structures for which the *"start of construction"* commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. *"existing construction"* may also be referred to as *"existing structures."*

W. **"Existing Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

X. **"Expansion to an Existing Manufactured Home Park or Subdivision"** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Y. **"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by

some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

Z. **"Flood Boundary and Floodway Map (FBFM)"** means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

AA. **"Flood Elevation Determination"** means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

BB. **"Flood Elevation Study"** means an examination, evaluation and determination of flood hazards.

CC. **"Flood Fringe"** means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

DD. **"Flood Hazard Boundary Map (FHBM)"** means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

EE. **“Flood Hazard Map”** means the document adopted by the Governing Body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

FF. **"Flood Insurance Rate Map (FIRM)"** means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

GG. **"Flood Insurance Study (FIS)"** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

HH. **"Floodplain" or "Flood-prone Area"** means any land area susceptible to being inundated by water from any source *(see "flooding").*

II. **"Floodplain Management"** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency

preparedness plans, flood control works, and floodplain management regulations.

JJ. **"Floodplain Management Regulations"** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof that provide standards for the purpose of flood damage prevention and reduction.

KK. **"Floodproofing"** means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

LL. **"Floodway" or "Regulatory Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

MM. **"Floodway Encroachment Lines"** means the lines marking the limits of floodways on Federal, State and local floodplain maps.

NN. **"Freeboard"** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. *"Freeboard"* tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

OO. **"Functionally Dependent Use"** means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

PP. **"Highest Adjacent Grade"** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

QQ. **"Historic Structure"** means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

RR. **"Lowest Floor"** means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this ordinance.

SS. **"Manufactured Home"** means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *"manufactured home"* **does not include** a *"recreational vehicle."*

TT. **"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

UU. **"Map"** means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

VV. **"Market Value" or "Fair Market Value"** means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

WW. **"Mean Sea Level"** means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

XX. **"Natural Grade"** means surface topography of the earth prior to changes made by human activity such as, but not limited to, grading, terracing, or filling.

YY. **"New Construction"** means, for the purposes of determining insurance rates, structures for which the *"start of construction"* commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *"new construction"* means structures for which the *"start of construction"* commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

ZZ. **"New Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

AAA. **"(NFIP)"** means the National Flood Insurance Program (NFIP).

BBB. **"Participating Community"** also known as an *"eligible community,"* means a community in which the Administrator has authorized the sale of flood insurance.

CCC. **"Permit"** means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

DDD. **"Person"** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

EEE. **"Principally Above Ground"** means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

FFF. **“Reasonably Safe From Flooding”** means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

GGG. **"Recreational Vehicle"** means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently able to be towed by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

HHH. **"Remedy A Violation"** means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

III. **"Risk Premium Rates"** means those rates established by the Administrator pursuant to individual community studies and investigations, which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. *"Risk premium rates"* include provisions for operating costs and allowances.

JJJ. **"Special Flood Hazard Area"** *see "area of special flood hazard."*

KKK. **"Special Hazard Area"** means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.

LLL. **"Start of Construction"** includes substantial-improvements, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days

of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the *actual start of construction* means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

MMM. **"State Coordinating Agency"** means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

NNN. **"Structure"** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *"Structure"* for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

OOO. **"Substantial-Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood related damage sustained by a structure on two separate occasions during a continuous 10 year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 20 percent of the market value of the structure before the damage occurred.

PPP. **"Substantial-Improvements"** means any reconstruction, rehabilitation, or other improvement of a structure, the cost of which equals or exceeds 40 percent of the market value of the structure before “start of construction” of the improvement; or any addition to a building that occurs outside the footprint of the building. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”. When the combined total of improvements or repairs made to the structure in the previous 10 years equals or exceeds 40 percent of the structure’s market value, that structure is considered a substantial improvement.

QQQ. **"Temporary Structure"** means a structure permitted in a district for a period not to exceed 180 days and is required to be removed upon the expiration of the permit period. Temporary structures may include recreational vehicles, temporary construction offices, or temporary business facilities used until permanent facilities can be constructed, but at no time shall it include manufactured homes used as residences.

RRR. **"Variance"** means a grant of relief by the community from the terms of a floodplain management regulation. <u>Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community</u>.

SSS. **"Violation"** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

TTT. **"Water Surface Elevation"** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

17-304 APPLICATION OF THE ARTICLE

This article shall apply to all lands within the jurisdiction of the City of Lansing, Kansas identified as numbered and unnumbered A Zones, AE, AO, and AH Zones, on the Index Map dated July 16, 2015, of the Flood Insurance Rate Map (FIRM), and any future revisions thereto. In all areas covered by this article, no development , and no fill or excavation shall be permitted except through the issuance of a floodplain development permit, granted by the Lansing, Kansas, City Council or its duly designated representative under such safeguards and restrictions as the City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in sections 17-312:314.

17-305 FLOOD INSURANCE STUDY INCORPORATED

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) through a scientific and engineering report entitled "The Flood Insurance Study for the City of Lansing, Kansas," revised July 16, 2015, (or as amended) with accompanying Flood Insurance Rate Maps as numbered and unnumbered A Zones, AE, AO, and AH Zones, and within the Zoning Districts FW and FF established in section 17-311 of this article. In all areas covered by this article no development and no fill or excavation shall be permitted except upon a permit to develop granted by the City or its duly designated representative under such safeguards and restrictions as the City or the designated representative may reasonably impose for the promotion and maintenance of the general welfare and health of the inhabitants of the community and where specifically noted in sections 17-312:314.

17-306 SCOPE OF THE ARTICLE

A. No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this article and other applicable regulations.

B. This article is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

C. In the interpretation and application of this article, all provisions shall be considered as minimum requirements; liberally construed in favor of the Governing Body; and deemed neither to

limit nor repeal any other powers granted under the Kansas statutes.

D. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside the areas of the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damages. This article shall not create a liability on the part of the City of Lansing, Kansas, or any officer or employee thereof, for any flood damages that result from reliance on this article or any administrative decision lawfully made there under.

E. If any section; clause; provision; or portion of this article is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this article shall not be affected thereby.

17-307 FLOODPLAIN ADMINISTRATOR

The Director of Public Works is hereby appointed to administer and implement the provisions of this article.

17-308 SAME; DUTIES

Duties of the enforcement officer shall include, but not be limited to:

A. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this article have been satisfied.

B. Review all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.

C. Notify adjacent communities and the Division of Water Resources, Kansas State Board of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

D. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Require verification by a Kansas licensed land surveyor or Kansas licensed professional engineer and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures that are on any ownership tract, or on a tract that is adjacent to a tract that lies within or partially within the mapped area of special flood hazard.

F. Require verification by a Kansas licensed land surveyor or Kansas licensed professional engineer and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.

G. When floodproofing is utilized for a particular structure the enforcement officer shall obtain certification from a Kansas registered professional engineer or architect.

H. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the enforcement officer shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

I. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.

J. Issue floodplain development permits for all approved applications.

K. When floodproofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a Kansas registered professional engineer or architect.

L. When base flood elevation data has not been provided in accordance with section 17-305, then the enforcement officer shall obtain, review and reasonably utilize any base flood

elevation data available from a federal, state or other source, in order to administer the provisions of section 17-311.

M. All records pertaining to the provisions of this article shall be maintained in the office of the Director of Public Works and shall be open for public inspection.

17-309 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

A. The boundaries of the floodway and floodway fringe overlay districts shall be determined by scaling distances on the Flood Insurance Rate Map or Floodway Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the enforcement official shall make the necessary interpretation, taking into consideration any technical data developed by a Kansas licensed land surveyor or Kansas licensed professional engineer and provided by the applicant. The enforcement official shall base his determination on what is in his/her opinion the best current available data. In such cases where the interpretation is contested, the board of zoning appeals will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his or her case to the board and to submit his or her own technical evidence, if he or she so desires.

B. In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall be deemed a limitation or repeal of any other powers granted by state statutes.

C. No development within known flood hazard areas of this community shall be located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations.

17-310 PERMIT; APPLICATION

A. No person, firm, or corporation shall initiate any development on an ownership tract, or is on an ownership tract that is adjacent to a tract, that lies within or partially within the mapped area of special flood hazard for substantial improvement or cause the

same to be done without first obtaining a separate permit for floodplain development.

B. A floodplain development permit shall be required in conformance with the provisions of this article.

C. Application for a floodplain development permit shall be made to the enforcement officer on forms furnished by him or her and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, excavation, storage of materials; drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1. Description of the land on which the proposed work is to be done by lot, block tract and house and street address, or similar description that will readily identify and definitely locate the proposed structure or work.

2. The use or occupancy for which the proposed work is intended.

3. Generation of the 500-year flood elevation when development involves a critical facility.

4. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures and relationship to base flood elevation.

5. Elevation in relation to mean sea level to which any non-residential structure shall be floodproofed.

6. Signature by the permittee or his or her authorized agent (who may be required to submit evidence to indicate such authority).

7. Such other information as reasonably may be required by the enforcement officer.

8. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

9. Identify and describe the work to be covered by the floodplain development permit.

10. Indicate the assessed value of the structure and the fair market value of the improvement.

11. Specify whether the development is located in designated flood fringe or floodway.

12. Provide engineering analysis to determine if there is any impact on the regulatory flood elevations anywhere in the community as a result of the development.

13. Volumetric calculations demonstrating compensatory storage have been provided, if included in flood elevation analysis.

14. The above plans and specifications must be certified by a Kansas licensed engineer or land surveyor if the proposed development is in, near or adjacent to regulatory flood districts.

D. A fee as determined by the Lansing City Council may be charged for a floodplain development permit.

17-311 ESTABLISHMENT OF ZONING DISTRICTS

The mapped flood plain areas within the jurisdiction of this article are hereby divided into two following districts: a floodway overlay district (FW) and a floodway fringe overly district (FF) identified in the Flood Insurance Study (and accompanying map(s)). Within these districts all uses not meeting the standards of this article and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones, AE, AO, and AH Zones, as identified on the official FIRM and identified in the Flood Insurance Study provided by the Federal Emergency Management Agency.

17-312 STANDARDS FOR THE FLOODWAY OVERLAY DISTRICT AND THE FLOODWAY FRINGE OVERLAY DISTRICT

A. No permit for development shall be granted for new construction, substantial improvements and other improvements including the placement of manufactured homes within any numbered and unnumbered A Zones, AE, AO, and AH Zones, unless the conditions of this section are satisfied.

B. All areas identified as unnumbered A Zones on the FIRM are subject to inundation of the 1% chance (100-year) flood;

however, the water surface elevation was not provided. The unnumbered A Zones shall be subject to all development provisions of this article. If Flood Insurance Study data is not available the community shall utilize any base flood elevation or floodway data currently available from federal, state or other sources.

C. Any development, including fill, new construction, substantial improvements, or other types of encroachment, is prohibited within a floodway.

D. Compensatory Storage Required for Earthwork involving fill. Fill within the area of special flood hazard shall result in no net loss of natural floodplain storage. The volume of the loss of floodwater storage due to filling in the special flood hazard area shall be off-set by providing an equal volume of flood storage by excavation or other compensatory measures at or adjacent to the development site. This compensatory storage requirement does not apply to small temporary structures (such as above ground swimming pools) where such projects are located on small lots with existing buildings and where the site does not have sufficient space to provide compensatory storage.

E. All new construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes, and other developments shall require:

1. Design of anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

2. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.

3. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to

prevent water from entering or accumulating within the components during conditions of flooding.

4. All utility and sanitary facilities are elevated or flood proofed up to the regulatory flood protection elevation.

5. No development, including landfill, may be permitted within any numbered or unnumbered A zones and AE zones on the City's FIRM unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevation of the 100-year flood at any point within the community, as certified by a Kansas Licensed Professional Engineer.

6. For All New Construction: A residential or a non-residential building, including manufactured housing, shall be constructed on a foundation that meets one or more of the following requirements:

    a. The lowest floor, including basement, of the building or building addition, shall be at or above the base flood elevation.

    b. When fill is used for the building pad, it shall be placed in layers no greater than 1 foot deep before compacting and should extend beyond the foundation walls at a slope no greater than 3:1. When fill is used, the top layer shall be above the BFE.

    c. No fill shall be placed within 10 feet of the property line. The prohibition of fill within 10 feet of a property line can be waived by a structural engineer’s certification that an alternative method will protect the building from damage due to erosion, scour, and other hydrological forces.

    d. Fill shall not adversely affect the flow or surface drainage from or onto neighboring properties.

7. Storage of material and equipment.

    a. Storage of materials or equipment that, in the time of flooding, could become buoyant and pose an

obstruction to flow in the identified floodway areas, or could be injurious to human, animal, or plant life is prohibited.

b. Storage of other materials or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the areas within the time available after flood warning.

8. Subdivision proposals and other proposed new development including manufactured home parks or subdivisions be required to assure that

a. All such proposals are consistent with the need to minimize flood damage.

b. All public utilities and facilities such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage.

c. Adequate drainage is provided so as to reduce exposure to flood hazards.

d. All proposals for development including proposals for manufactured home parks and subdivision include the base flood elevation data.

e. All proposals for development must comply with the City's Stormwater Detention requirements.

9. Agricultural Structures: Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-flood proofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale, or manufacturing use included in the structure; a variance has been granted from the floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

10. Accessory Structures: Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-flood proofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

11. Critical Facilities:

    a) All new or substantially improved critical nonresidential facilities including, but not limited, to governmental buildings, police stations, fire stations, hospitals, orphanages, penal institutions, communication centers, water and sewer pumping stations, water and sewer treatment facilities, transportation maintenance facilities, places of public assembly, emergency aviation facilities, and schools shall be elevated at least 3 feet above the .2 percent annual chance flood event, also referred to as the 500-year flood level.

    Critical facilities are those which: are critical to the community's public health and safety; are essential to the orderly functioning of a community; store, or produce highly volatile, toxic or water-reactive materials; or house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include: jails or other detention facilities, hospitals, schools, police stations, fire and emergency services stations, nursing homes, water plants, wastewater treatment facilities, and fuel storage facilities.

    Critical facilities shall be elevated at least 3 feet above the 500-year flood elevation or to the highest known historical flood elevation (if records are available), whichever is greater. If no data exists establishing a 500-year flood elevation or the highest known historical flood elevation, the applicant shall provide a hydrologic and hydraulic

engineering analysis that generates 500-year flood elevation data.

Critical facilities shall only be constructed in the 500-year floodplain if they are placed on engineered fill and/or if the lowest floor (including basement) is at least 1 foot above the 500-year flood elevation. A critical facility shall have at least one access drive or road constructed to connect to land higher than the 500-year flood elevation and this drive or road shall be capable of supporting a 4,000 pound vehicle. The top of the drive or road shall be at least 3 feet above the 500-year flood elevation.

A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator as set forth in section 17-308.

No critical facilities shall be constructed in any designated floodway.

12. Hazardous Materials: All hazardous material storage and handling sites shall be located out of the special flood hazard area.

13. Cumulative Improvement: A structure may be improved within the building footprint (remodeled) without conforming to current requirements for elevation so long as the cumulative value of all work done within the last five calendar years does not exceed fifty (50) percent of the structure's current market value. If the cumulative value of the improvement exceeds forty (40) percent of the structure's current market value, the structure must be brought into compliance with Article 4, Section B(1) which requires elevation of residential structures to three (3) feet above the base flood elevation or the elevation/floodproofing of non-residential structures to three (3) feet above the base flood elevation. Any addition to a building that occurs outside the footprint of the building is subject to current requirements for elevation.

14. Recreational vehicles: Recreational vehicles may be placed on sites within unnumbered A zones on the community's FIRM or FHBM either:

a. Be on the site for fewer than 180 consecutive days, *or*

b. Be fully licensed and ready for highway use*; *or*

c. Meet the permitting, elevating, and the anchoring requirements for manufactured homes of this ordinance.

*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

17-313 FLOODWAY FRINGE OVERLAY DISTRICT (Including AO and AH Zone)

A. Permitted Uses. Any use permitted in section 17-313 shall be permitted in the floodway fringe overlay district. No use shall be permitted in the district unless the standards of section 17-312 are met.

B. Standards for the Floodway Fringe Overlay District.

1. Require new construction or substantial improvements of residential structures to have the lowest floor, including basements elevated to at least three feet above the base flood (100-year flood) elevation, as certified by a Kansas licensed land surveyor or Kansas licensed professional engineer. Such certification shall be provided to the floodplain administrator as set forth in section 17-308.

2. All electrical wiring, heating, ventilation, air-conditioning equipment, and other service facilities shall be located at least 3 feet above the base flood elevation. All outdoor electrical meters shall be installed at least 3 feet above the base flood elevation.

3. Require new construction or substantial improvements of nonresidential structures to have the lowest floor, including basements, elevated to at least three feet above the base flood (100-year flood) elevation or together with the

attendant utility and sanitary facilities, be flood proofed to at least 3 feet above the base flood elevation so that all areas of the building (including mechanical and utility equipment) below the required elevation are watertight with walls substantially impermeable to the passage of water, and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. The elevation of the lowest floor shall be certified by a licensed land surveyor. Such certification shall be provided to the floodplain administrator as set forth in section 17-308. Each new residential site shall have direct access to a walkway, driveway, or street whose surface elevation is at least 3 feet above the base flood elevation and such escape route shall lead directly out of the floodplain area.

4. Require, for all new construction, or substantial improvement, that fully enclosed areas below the base flood elevation used solely for parking of vehicles, building access, or storage in an area other than a basement, and that areas subject to flooding shall be limited to 400 square feet and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect and meet or exceed the following minimum criteria:

   a. The structure must provide one square inch of venting for every square foot of enclosed area;

   b. The structure must provide at least two vents located on different sides of the structure, with one being located on the upstream side of the structure, if possible;

   c. The bottom of required vents must be no higher than one foot above grade;

   d. The required vents must be freely open with no human interventions required and be equipped with screens, louvers, valves, or other coverings or

devices provided that they permit automatic entry and exit of floodwaters;

e. These flood vent opening requirements must be certified by a Kansas Licensed Engineer or Architect.

f. The area below the base flood elevation must be unfinished and constructed of flood-resistant materials the same as are defined by FEMA. Sheetrock or drywall used for fire protection is permitted in unfinished areas;

g. All ductwork, heating, ventilation, and air conditioning systems, electrical and hot water heaters included as part of the structure must be elevated a minimum of 3' above the base flood elevation;

h. All of the above required features must be shown on the plan submitted for the floodplain development permit (and, if applicable, the building permit);

i. An elevation certificate must document the venting features included in a structure and be filed with the floodplain administrator before the structure is occupied.

5. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

6. Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

7. Manufactured (Mobile) Homes.

a. All manufactured (mobile) homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured (mobile) homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frames ties to ground anchors are used, the following

specific requirements (or their equivalent) shall be met:

(I) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional tie per side at intermediate locations and manufactured (mobile) homes less than 50 feet long require one additional tie per side;

(II) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long require four additional ties per side;

(III) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

(IV) Any additions to the manufactured home are similarly anchored.

b. Require that manufactured homes that are to placed or substantially improved on sites in an existing manufactured home park within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM and not subject to the provisions of 7-313(7)(c) of this ordinance, be elevated so the lowest floor of the manufactured home is at least 3 feet above the base flood elevation (BFE) and be securely anchored to an adequately anchored foundation system in accordance with the provisions of section 17-313(7)(a). The elevation of the lowest floor shall be certified by a Kansas licensed land surveyor or Kansas licensed professional engineer.

c. In an existing mobile home park or subdivision or whenever a manufactured home has incurred substantial damage as the result of a flood, the replacement manufactured home shall be elevated on a permanent foundation so the lowest floor of the manufactured home is at least 3 feet above the base flood elevation (BFE) and securely attached to the adequately anchored permanent foundation

system to resist flotation, collapse, and lateral movement as certified by a Kansas licensed architect or engineer. The elevation of the lowest floor shall be certified by a Kansas licensed land surveyor or Kansas licensed professional engineer.

8. Located within the areas of special flood hazard established in section 17-305 are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:

   a. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as three feet above the depth number specified in feet on the community's FIRM. The elevation of the lowest floor shall be certified by a Kansas licensed land surveyor or Kansas licensed professional engineer.

   b. All new construction located in the area behind a flood levee shall be elevated a minimum of 3 feet above the lowest adjacent grade.

   c. All new construction and substantial improvements of nonresidential structures shall:

      (I) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as three feet above the depth number specified in feet on the community's FIRM as certified by a Kansas licensed land surveyor or Kansas licensed professional engineer; or

      (II) Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads

and effects of buoyancy. Such certification shall be provided by a Kansas licensed engineer or licensed architect to the official as set forth in section 17-308.

d. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

e. All new construction located in the area behind a flood levee shall be elevated a minimum of 3 feet above the lowest adjacent grade.

17-314 FLOODWAY OVER DISTRICT

D. Permitted Uses. Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the floodway district to the extent that they are not prohibited by any other ordinance. Any development, including fill, new construction, substantial improvements, or other types of encroachment is prohibited within a floodway."

17-315 VARIANCES PROCEDURES

A. The board of zoning appeals shall hear and decide appeals and requests for variances from the requirements of this article.

B. The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the enforcement officer in the enforcement or administration of this article.

C. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

D. In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article, and:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

12. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (1-4 above) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

E. CONDITIONS FOR APPROVING VARIANCES FOR AGRICULTURAL STRUCTURES:

Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in section 17-315(A):(D) of this ordinance.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-flood proofed:

1. All agricultural structures considered for a variance from the floodplain management regulations of this ordinance shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farm houses, cannot be considered agricultural structures.

2. Use of the varied structures must be limited to agricultural purposes in Zone A only as identified on the community's Flood Insurance Rate Map (FIRM).

3. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with section 17-312(E)(3) of this ordinance.

4. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with section 17-312(E)(1) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.

5. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood

conditions in accordance with section 17-312(E)(4) of this ordinance.

6. The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with section 17-313(B)(4) of this ordinance.

7. The agricultural structures must comply with the floodplain management floodway encroachment provisions of section 17-312 of this ordinance. No variances may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the one percent annual chance flood event, also referred to as the 100-year flood.

8. Major equipment, machinery, or other contents must be protected from any flood damage.

9. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the agricultural structures.

10. A community shall notify the applicant in writing over the signature of a community official that: (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

11. Wet-floodproofing construction techniques must be reviewed and approved by the community and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

F. CONDITIONS FOR APPROVING VARIANCES FOR ACCESSORY STRUCTURES:
Any variance granted for an accessory structure shall be decided individually based on a case by case analysis of the building's

unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in section 17-315(A):(D) of this ordinance.

In order to minimize flood damages during the one percent annual chance flood event, also referred to as the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-flood proofed:

1. Use of the accessory structures must be solely for parking and limited storage purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).

2. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with section 17-312 (E)(3) of this ordinance.

3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with section 17-312(c)(1) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.

4. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with section 17-312(E)(4) of this ordinance.

5. The accessory structures must meet all NFIP opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with section 17-313(B)(4) of this ordinance.

6. The accessory structures must comply with the floodplain management floodway encroachment provisions of section 17-312 of this ordinance. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.

7. Equipment, machinery, or other contents must be protected from any flood damage.

8. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.

9. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

10. Wet-floodproofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

G. CONDITIONS FOR APPROVING VARIANCES FOR TEMPORARY STRUCTURES:
Any variance granted for a temporary structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Article 5, Sections D and E of this ordinance.

1. A temporary structure may be considered for location within the one percent annual chance flood event, also referred to as the 100-year floodplain only when all of the following criteria are met:

   a. Use of the temporary structure is unique to the land to be developed and cannot be located outside of the floodplain nor meet the NFIP design standards;

b. Denial of the temporary structure permit will create an undue hardship on the property owner;

c. Community has adopted up-to-date NFIP and building regulations to direct placement and removal of the temporary structure; and,

d. Community has sufficient staff to monitor the placement, use, and removal of the temporary structure throughout the duration of the permit.

2. Once all of the above conditions are met, an application for a special use permit must be made to the Lansing City Council. The Lansing City Council shall consider all applications for special use permits for a temporary structure based on the following criteria:

a. The placement of any temporary structure within the special flood hazard areas as shown on the community's adopted FEMA/NFIP map shall require an approved special use permit. The special use permit shall be valid for a period not to exceed 180 days.

b. Special use permits applications, for a temporary structure to be located in special flood hazard areas, shall conform to the standard public hearing process prior to any community action on the permit request.

c. An emergency plan for the removal of the temporary structure that includes specific removal criteria and time frames from the agency or firm responsible for providing the manpower, equipment, and the relocation and disconnection of all utilities shall be required as part of the special use permit application for the placement of any temporary structure.

d. On or before the expiration of the end of the 180 day special use permit period, the temporary structure shall be removed from the site. All utilities, including water, sewer, communication, and electrical services shall be disconnected.

e. To ensure the continuous mobility of the temporary structure for the duration of the permit, the

temporary structure shall retain its wheels and tires, licenses, and towing appurtenance on the structures at all times.

f. Under emergency flooding conditions, the temporary structure shall be removed immediately or as directed by the community and as specified in the emergency removal plan.

g. Location of any temporary structure within the regulatory floodway requires the provision of a "no-rise" certificate by a registered professional engineer.

h. Violation of or non-compliance with any of the stated conditions of the special use permit during the term thereof, shall make the permit subject to revocation by resolution of the Governing Body of the community. Issuance of permit revocation notice shall be made to the landowner, the occupant of the land, and to the general public.

i. Any deviation from the approved site plan shall be deemed a violation of the special use permit approval and the uses allowed shall automatically be revoked. The subsequent use of the land shall be as it was prior to the special permit approval. In event of any violation, all permitted special uses shall be deemed a violation of this ordinance and shall be illegal, non-conforming uses and shall be summarily removed and abated.

j. If the temporary structure is to be returned to its previously occupied site, the process for issuing a special use permit must be repeated in full. Any subsequent permit shall be valid for 180 days only.

3. Upon consideration of the factors listed above and the purposes of this article, the board of zoning appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

H. Conditions for variances:

1. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

2. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

3. Variances shall only be issued upon (A) a showing of good and sufficient cause, (B) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (C) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

4. A community shall notify the applicant in writing over the signature of a community official that: (a) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

5. The enforcement officer shall maintain the records of all appeal actions and report any variances to FEMA upon request.

17-316 NON-CONFORMING USE

A. A structure or the use of a structure or premises which was lawful before the passage or amendment of this article but which is not in conformity with the provisions of this article may be continued subject to the following conditions:

1. No such use or substantial improvement of that use shall be expanded, changed, enlarged, or altered in a way which increases its non-conformity.

2. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as non-conforming uses.

3. If such structure, use, or utility service is discontinued for six (6) consecutive months, any future use of the building shall conform to this ordinance.

4. If any non-conforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 40 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this article. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, or local inventory of historic places upon determination.

17-317 AMENDMENTS

The regulations, restrictions, and boundaries set forth in this article may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster

Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days notice of the time and place of such hearing shall be published in the official City newspaper. The regulations of this article are in compliance with the National Flood Insurance Program Regulations.

17-318 PENALTIES FOR VIOLATION

Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500 or imprisoned for not more than 180 days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Governing Body or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

17-319 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this article is considered

reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by manmade or natural cases, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside floodway and floodway fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damages. This article shall not create liability on the part of the City or any office or employee thereof for any flood damages that may result from reliance on this article or any administrative decision lawfully made thereunder.