OLATHE MUNICIPAL CODE

A CODIFICATION OF THE GENERAL ORDINANCES

OF THE CITY OF

OLATHE, KANSAS

PUBLISHED BY

THE OFFICE OF THE CITY CLERK

OLATHE, KANSAS

PREFACE

The Olathe Municipal Code, originally published by Book Publishing Company in 1971, has been kept current by regular supplementation by the Office of the City Clerk. Ordinances are compiled, edited and indexed on a monthly basis.

The code is organized by subject matter under an expandable three-factor decimal numbering system which is designed to facilitate supplementation without disturbing the numbering of existing provisions. Each section number designates, in sequence, the numbers of the title, chapter, and section. Thus, Section 10.12.050 is Section .050, located in Chapter 12 of Title 10. In most instances, sections are numbered by tens (.010, .020, .030, etc.), leaving nine vacant positions between original sections to accommodate future provisions. Similarly, chapters and titles are numbered to provide for internal expansion.

In parentheses following each section is a legislative history identifying the specific sources for the provisions of that section.

Footnotes referring to applicable statutory provisions are located throughout the text. A subject-matter index locates specific code provisions by individual section numbers.

The November 2016 revision includes amendments to the Index, Charter Ordinance Tables (Charter Ordinances 77 and 78 will be added when effective), Ordinance Disposition Tables, Title 1 pertaining to General Provisions, Title 5 pertaining Business Licenses and Regulations, Title 8 pertaining to Animals, Title 10 pertaining to Vehicles and Traffic, Title 18 pertaining to the Unified Development Ordinance and Charter Ordinances.

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CO 2	Repealed 4-21-70
CO 3	Recurbing, reguttering, resurfacing, repaving, including necessary drainage facilities, of the streets or alleys
CO 4	Repealed 7-15-69
CO 5	Repealed 4-21-70
CO 6	Enlarging, repairing, extending and improving of the system of the waterworks
CO 7	Fire and police department retirement systems
CO 8	Consideration of ordinances at public meetings and final passage thereof
CO 9	Repealed 8-19-86
CO 10	Repealed 12-22-81
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CO 12	Repealed 10-2-84
CO 13	Repealed 5-21-86
CO 14	Demand deposits of public moneys and certain duties of the City Treasurer
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CO 19	Repealed 9-4-90
CO 20	Repealed 3-17-87
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CO 22	Repealed 8-15-89
CO 23	Obtaining surety bonds for city officers and employees
CO 24	Limitation of tax levies in any one year and the aggregate city wide tax levy
CO 25	Service of uniform notices to appear and complaints filed with the Olathe Municipal Court
CO 26	Definitions for combined water works and sewage disposal systems for cities under 80,000 population and the rates and charges; use of revenues; collections and liens
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CO 28	Repealed 8-2-16
CO 29	Elections and tenure of commissioners, qualifications and vacancies, and duties of the mayor
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CO 31	Defeated by Election 8-2-88
CO 32	Repealed 4-21-15
CO 33	Delay in payment of special assessments for public improvements in undeveloped areas
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CO 35	Licensing of plumbers
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CO 38	Repealed 4-21-15
CO 39	Repeals Charter Ordinance No. 37 and provides substitute and additional provisions for the improvement of sidewalks
CO 40	Defeated by Election
CO 41	Repealed 8-20-02
CO 42	Exempts the city of Olathe from retailers' sales tax for construction services
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CO 46	Defeated by Election 8-2-94
CO 47	Defeated by Election 11-8-94
CO 48	Repealed 2-5-03
CO 49	Exempts the city from provisions regarding voter registration
CO 50	Repealed 12-21-04
CO 51	Amends Section Two of Charter Ordinance 25 regarding notices to appear and complaints filed with the Municipal Court
CO 52	Witdrawn/Failed 8-3-98
CO 53	Defeated by Election 11-3-98
CO 54	Transportation Improvements Excise Tax
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CO 57	Protested/Withdrawn
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CO 60	Repealed Charter Ordinances 58 and 59 and was itself repealed 3-3-15.
CO 61	Repealed 8-2-16
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CO 63	Repealed 8-19-08
CO 64	Defeated by Election 3-9-04
CO 65	Repealed 3-3-15
CO 66	Repealed 10-18-05
CO 67	Exempts the city from provisions related to costs associated with the Municipal Court.
CO 68	Repeals Charter Ordinance No. 66 pertaining to allowing the sale of alcoholic liquor on Sunday.
CO 69	Exempts the city from provisions regarding local alcoholic liquor fund; distribution of moneys; and providing substitute and additional provisions.
CO 70	Exempts the city from provisions regarding the Transient Guest Tax and repeals Charter Ordinances 63.

CO 71	Exempts the city from provisions relating to work performed by the city and collection of costs.
CO 72	Exempts the city from provisions regarding the designation of an official newspaper.
CO 73	Exempts the city from provisions relating to Record of Transaction for Pawnbroker Loans and Purchasing of Precious Metals.
CO 74	Exempts the city from K.S.A. 13-1024a relating to borrowing of money and the issuance of bonds and repeals Charter Ordinances No. 60 and 65.
CO 75	Exempts the city from provisions pertaining to limitations on certain tax levies repeals Charter Ordinances No. 32 and 38 (Olathe Public Library).
CO 76	Recodifies the existing form of government of the city as the Modified Mayor-Council-Manager form, exempting the city from K.S.A. 12-104a, 25-2108a, 25-2110a, and 25-2113; providing substitute and additional provisions concerning the existing Modified Mayor-Council-Manager form of government, elections and governing body vacancies; also repealing Charter Ordinances 11, 28, 61, and 62.
CO 77	Exempts the city from all provisions of K.S.A. 12-4207 and provides for substitute and additional provisions on the same subjects by ordinary ordinance and repeals Charter Ordinances Nos. 25 and 51.
CO 78	Repeals Charter Ordinance No. 67 and further exempts the city from K.S.A. 12-4112 and provides substitute and additional provisions pertaining to assessment of fees and costs associated with the Municipal Court.

ORDINANCE DISPOSITION TABLES

1523-A	Water and sewage department (13.24)
1725-A	Not codified
1975-A	Not codified
1-C	Amends prior code § 4-207, residential wiring (Repealed by 67)
2-C	Repeals prior code § 4-407, plumbing
3-C	Not codified
4-C	Not codified
5-C	Not codified
6-C	Not codified
7-C	Not codified
8-C	Amends housing code (Repealed by 69)
9-C	Plumbing fees (15.16)
10-C	Not codified
11-C	Not codified
12-C	Not codified
13-C	Not codified
14-C	Not codified
15-C	Not codified
16-C	Not codified
17-C	Amends Ord. 1897-A, § 4
18-C	Amends Ord. 1898-A, § 4
19-C	Not codified
20-C	Not codified
21-C	Not codified
22-C	Not codified
23-C	Not codified
24-C	Not codified
25-C	Not codified
26-C	Adds prior code § 9-211 -- 9-214, sidewalks; repeals § 9-201, 9-202, 9-203 and 9-204 (12.12)
27-C	Not codified
28-C	Not codified
29-C	Not codified
30-C	Not codified
31-C	Offenses against law officers (Repealed by 239)
32-C	Human Relations Commission (Repealed by 507)
33-C	Not codified
34-C	Not codified
35-C	Not codified
36-C	(Not codified))
37-C	Not codified
38-C	Not codified
39-C	Not codified
40-C	Not codified
41-C	Not codified
42-C	Not codified
43-C	Housing authority (2.52)
44-C	Not codified
45-C	Repeals Ord. 1787-A
46-C	Not codified
47-C	Not codified
48-C	Not codified
49-C	Not codified
50-C	Fishing licenses and regulations (Repealed by 410)
51-C	Not codified
52-C	Not codified
53-C	Amends Ch. 9 § 515, boating hours
54-C	Amends Ch. 9 § 536, fishing regulations
55-C	Not codified
56-C	Not codified
57-C	Not codified
58-C	Not codified
59-C	Not codified
60-C	Not codified
61-C	Not codified
62-C	Amends prior code § 1-901 -- 1-923, police court (2.16)
63-C	Establishes Northview Grade School, school zone
64-C	Not codified
65-C	Not codified
66-C	Housing code (Repealed by 69)
67-C	Civil disobedience (9.40)
68-C	Not codified
69-C	Not codified
70-C	Not codified
71-C	Not codified
72-C	Not codified
73-C	Not codified
74-C	Not codified
75-C	Not codified
76-C	Not codified
77-C	Not codified
78-C	Not codified
79-C	Bombs (Repealed by 720)
80-C	Not codified
81-C	Not codified
82-C	Not codified
83-C	Not codified
84-C	Not codified
85-C	Not codified
86-C	Not codified
87-C	Not codified
88-C	Not codified
89-C	Not codified
90-C	Not codified
91-C	Not codified
92-C	Not codified
93-C	Not codified
94-C	Repeals 1-832 -- 1-854, airport regulations
95-C	Not codified
96-C	Not codified
97-C	Not codified
98-C	Fires (16.12)
99-C	Not codified
100-C	Not codified
101-C	Not codified
102-C	Amends Ord. 43-C, housing authority (2.52)

103-C	Not codified
104-C	Not codified
105-C	Not codified
106-C	Not codified
107-C	Not codified
108-C	Not codified
109-C	Not codified
110-C	Not codified
111-C	Not codified
112-C	Not codified
113-C	Not codified
114-C	Not codified
115-C	Not codified
116-C	Not codified
117-C	Not codified
117-Ca	Not codified
118-C	Not codified
119-C	Not codified
120-C	Not codified
121-C	Trespass during emergencies (9.40)
122-C	Amends § 9-301, repeals § 9-302, streets (Repealed by 601)
123-C	Not codified
124-C	Not codified
125-C	Housing discrimination (Repealed by 507)
126-C	Not codified
127-C	Not codified
128-C	Not codified
129-C	Not codified
130-C	Not codified
131-C	Not codified
132-C	Not codified
133-C	Not codified
134-C	Not codified
135-C	Not codified
136-C	Not codified
137-C	Not codified
138-C	Not codified
139-C	Not codified
140-C	Not codified
141-C	Not codified
142-C	Not codified
143-C	Not codified
144-C	Not codified
145-C	False information (Repealed by 239)
146-C	Not codified
147-C	Fire code, replaces § 4-102, building code (15.04)
148-C	Water distribution mains (Repealed by 376-C)
149-C	Not codified
150-C	Not codified
151-C	Not codified
152-C	Not codified
153-C	Not codified
154-C	Not codified
155-C	Not codified
156-C	Replaces § 6-404, fireworks (Repealed by 50)
157-C	Not codified
158-C	Not codified
159-C	Not codified
160-C	Not codified
161-C	Not codified
162-C	Not codified
163-C	Not codified
164-C	Not codified
165-C	Not codified
166-C	Not codified
167-C	Not codified
168-C	Not codified
169-C	Not codified
170-C	Not codified
171-C	Amends § 4-209 and adds § 4-209a and 4-209b (Repealed by 67)
172-C	Amends building code (Repealed by 556)
173-C	Not codified
174-C	Not codified
175-C	Not codified
176-C	Not codified
177-C	Classified Service, repeals Ch. 1, Art. 3 (Repealed by 81-21)
178-C	Not codified
179-C	Not codified
180-C	Not codified
181-C	Not codified
182-C	Not codified
183-C	Not codified
184-C	Not codified
185-C	Not codified
186-C	Not codified
187-C	Not codified
188-C	Not codified
189-C	Not codified
190-C	Not codified
191-C	Not codified
192-C	Not codified
193-C	Not codified
194-C	Not codified
195-C	Amends § 7-301, 7-303, 7-304, 7-310 and 7-307, repeals § 7-305 and 7-318, garbage (6.04)
196-C	Traffic controls (Repealed by 272-C)
197-C	Replaces § 8-307, firearms (Repealed by 239)
198-C	Not codified
199-C	Not codified
200-C	Not codified
201-C	Street system 1968 map (10.08)
202-C	Not codified
203-C	Not codified
204-C	Not codified
205-C	Not codified
206-C	Parks and Recreation Advisory Board repeals § 1-811 -- 1-822 (2.40)

207-C	Not codified
208-C	Corporate limits and boundaries (Special)
209-C	Not codified
210-C	Not codified
211-C	Not codified
212-C	Traffic (Repealed by 540)
213-C	Not codified
214-C	Not codified
215-C	Not codified
216-C	Amends § 1-802 and 1-803, planning
217-C	Parking (10.12)
218-C	Not codified
219-C	Not codified
220-C	Parking (10.12)
221-C	Not codified
222-C	Not codified
223-C	Not codified
224-C	Not codified
225-C	Not codified
226-C	Not codified
227-C	Not codified
228-C	Not codified
229-C	Not codified
230-C	Not codified
231-C	Not codified
232-C	Not codified
233-C	Not codified
234-C	Not codified
235-C	Not codified
236-C	Not codified
237-C	Amends § 8-203, offense (Repealed by 239)
238-C	Not codified
239-C	Not codified
240-C	Amends § 9-502, swimming (Repealed by 274)
241-C	Not codified
242-C	Not codified
243-C	Parking (10.12)
244-C	Amends § 6-404, fireworks (Repealed by 50)
245-C	Trespass (9.32)
246-C	Not codified
247-C	Not codified
248-C	Not codified
249-C	Not codified
250-C	Not codified
251-C	Not codified
252-C	Not codified
253-C	Not codified
254-C	Not codified
255-C	Not codified
256-C	Not codified
257-C	Not codified
258-C	Not codified
259-C	Not codified
260-C	Not codified
261-C	Not codified
262-C	Not codified
263-C	Not codified
264-C	Not codified
265-C	Not codified
266-C	Not codified
267-C	Not codified
268-C	Repeals prior code § 10-201, careless driving
269-C	Amends prior code § 2-112, dogs (Repealed by 354-C)
270-C	Not codified
271-C	Not codified
272-C	Repeals Ord. 196-C, traffic controls
273-C	Not codified
274-C	Not codified
275-C	Not codified
276-C	Amends prior code § 7-301, 7-303, 7-304 and 7-305, health and sanitation; repeals § 1, 2 and 3 of Ord. 195-C (6-04)
277-C	Not codified
278-C	Adds prior code § 1-1101 -- 1-1104, public building commission (2.48)
279-C	Not codified
280-C	Not codified
281-C	Not codified
282-C	Not codified
283-C	Not codified
284-C	Not codified
285-C	Not codified
286-C	Not codified
287-C	Not codified
288-C	Not codified
289-C	Not codified
290-C	Signs (Repealed by 297-C)
291-C	(Not codified))
292-C	Ward boundaries (Special)
293-C	Not codified
294-C	Not codified
295-C	Not codified
296-C	Not codified
297-C	Signs; repeals Ord. 290-C (Repealed by 81-139)
298-C	Not codified
299-C	Not codified
300-C	Not codified
301-C	Amends prior code § 11-114, water service lines (13.04)
302-C	Not codified
303-C	Not codified
304-C	Not codified
305-C	Not codified
306-C	Not codified
307-C	Not codified
308-C	Not codified
309-C	Not codified
310-C	Not codified
311-C	Amends prior code § 7-305, garbage (6.04)

312-C	Not codified
313-C	Official newspaper (Special)
314-C	Not codified
315-C	Not codified
316-C	Not codified
317-C	Not codified
318-C	Not codified
319-C	Parking (10.12)
320-C	Not codified
321-C	Not codified
322-C	Not codified
323-C	Not codified
324-C	Not codified
325-C	Not codified
326-C	Adds prior code § 10-103, traffic (10-04)
327-C	Sewer district and assessments
328-C	Replaces prior code § 4-902 and 4-908, building moving (15.40)
329-C	Not codified
330-C	Parking (10.12)
331-C	Not codified
332-C	Not codified
333-C	Not codified
334-C	Replaces prior code § 11-203 and 11-204, and adds prior code § 11-207, water rates (Repealed by 501 and 517)
335-C	Not codified
336-C	Not codified
337-C	Not codified
338-C	Not codified
339-C	Not codified
340-C	Not codified
341-C	Adds prior code § 11-301 -- 11-306 water main extension (Repealed by 474)
342-C	Not codified
343-C	Not codified
344-C	Not codified
345-C	Amends prior code § 9-506 and 9-507, boating (Repealed by 410)
346-C	Not codified
347-C	Mobile homes; repeals Ord. 1616-A (15.52)
348-C	Traffic (10.12)
349-C	Replaces prior code § 10-404, 10-407 and 10-414, parking (Repealed by 81-109)
350-C	Not codified
351-C	Not codified
352-C	Not codified
353-C	Not codified
354-C	Replaces prior code Art. 1, Ch. 2, animal-control regulations (Repealed by 409)
355-C	Not codified
356-C	Not codified
357-C	Not codified
358-C	Not codified
359-C	Not codified
360-C	Not codified
361-C	Replaces prior code § 9-530 and 9-532, cabin sites; repeals prior code § 9-531 (12.20)
362-C	Not codified
363-C	Not codified
364-C	Not codified
365-C	Repeals Ord. 348-C § 5, turns
366-C	Not codified
367-C	Not codified
368-C	Not codified
369-C	Not codified
370-C	Replaces parts of § 7 and 8 of, and adds paragraph to Ord. 346-C, zoning (Repealed by 81-23)
371-C	Not codified
372-C	Not codified
373-C	Not codified
374-C	Not codified
375-C	Not codified
376-C	Repeals Ord. 148-C, waterline extension
377-C	Not codified
378-C	Not codified
379-C	Not codified
380-C	Not codified
381-C	Not codified
382-C	Not codified
383-C	Not codified
384-C	Not codified
385-C	Replaces § 14, 15, 16, 17 and 28 of Ord. 346-C, zoning (Repealed by 81-23)
386-C	Replaces Ord. 212-C § 26, liquor (Repealed by 12)
387-C	Not codified
388-C	Not codified
389-C	Not codified
390-C	Not codified
391-C	Not codified
392-C	Amends § 10-202, speed limit
393-C	Not codified
394-C	Not codified
395-C	Not codified
396-C	Replaces prior code § 1-502, idle funds (3.12)
397-C	Not codified
398-C	Not codified
399-C	Not codified
400-C	Not codified
401-C	Not codified
402-C	Not codified
403-C	Not codified
404-C	Not codified
405-C	Not codified
406-C	Not codified
407-C	Not codified
408-C	Not codified

409-C	Not codified
410-C	Not codified
411-C	Replaces § 8 of Ord. 346-C, zoning (Repealed by 81-23)
412-C	Amends prior code § 1-924, failure to appear (Repealed by 539-C)
413-C	Not codified
414-C	Not codified
415-C	Not codified
416-C	Not codified
417-C	Plats and subdivisions (18.04, 18.08, 18.12, 18.16, 18.20, 18.24, 18.28, 18.32)
418-C	Not codified
419-C	Not codified
420-C	Not codified
421-C	Not codified
422-C	Not codified
423-C	Replaces prior code § 1-902, municipal judge (2.16)
424-C	Not codified
425-C	Not codified
426-C	Not codified
427-C	Not codified
428-C	Not codified
429-C	Not codified
430-C	Not codified
431-C	Not codified
432-C	Not codified
433-C	Not codified
434-C	Replaces Ord. 346-C § 33, zoning (Repealed by 81-23)
435-C	Not codified
436-C	Not codified
437-C	Not codified
438-C	Not codified
439-C	Not codified
440-C	Not codified
441-C	Not codified
442-C	Not codified
443-C	Not codified
444-C	Not codified
445-C	Not codified
446-C	Not codified
447-C	Not codified
448-C	Not codified
449-C	Not codified
450-C	Not codified
451-C	Not codified
452-C	Not codified
453-C	Not codified
454-C	Not codified
455-C	Not codified
456-C	Not codified
457-C	Not codified
458-C	Not codified
459-C	Not codified
460-C	Not codified
461-C	Not codified
462-C	Not codified
463-C	Not codified
464-C	Not codified
465-C	Designates official newspaper (1.12)
466-C	Not codified
467-C	Not codified
468-C	Not codified
469-C	Not codified
470-C	Not codified
471-C	Not codified
472-C	Not codified
473-C	Not codified
474-C	Not codified
475-C	Not codified
476-C	Not codified
477-C	Amends § 1-108, meeting date
478-C	Not codified
479-C	Building code, repeals prior code Ch. 4, Articles 104-109 (Repealed by 556)
480-C	Replaces § 4-202, electrical code (Repealed by 733)
481-C	Amends § 4-1201 and 4-1202, housing code (Repealed by 920)
482-C	Fire prevention code (16.04)
483-C	Replaces § 11-122 and 11-203, sewer and water service charges (13.12)
484-C	Not codified
485-C	Not codified
486-C	Not codified
487-C	Not codified
488-C	Not codified
489-C	Not codified
490-C	Not codified
491-C	Not codified
492-C	Not codified
493-C	Not codified
494-C	Not codified
495-C	Not codified
496-C	Not codified
497-C	Not codified
498-C	Not codified
499-C	Not codified
500-C	Not codified
501-C	Not codified
502-C	Not codified
503-C	Not codified
504-C	Not codified
505-C	Not codified
506-C	Amends § 10-414, overtime parking (Repealed by 81-109)
507-C	Amends § 7-310, sanitary landfill (6.04)
508-C	Not codified
509-C	Not codified
510-C	Not codified
511-C	Not codified
512-C	Not codified
513-C	Not codified
514-C	Not codified

515-C	Not codified
516-C	Not codified
517-C	Not codified
518-C	Not codified
519-C	Not codified
520-C	Not codified
521-C	Not codified
522-C	Not codified
523-C	Not codified
524-C	Not codified
525-C	Repeals and replaces prior code § 10-502 -- 10-505, bicycle licenses (Repealed by 80-80)
526-C	Repeals and replaces prior code § 8-308, concealed weapons (9.16)
527-C	Repeals and replaces prior code § 5-502, taxicab licenses (5.24)
528-C	Not codified
529-C	Not codified
530-C	Not codified
531-C	Not codified
532-C	Not codified
533-C	Not codified
534-C	Not codified
535-C	Not codified
536-C	Prohibited parking (10.12)
537-C	Not codified
538-C	Not codified
539-C	Offenses; repeals prior code § 3-108, 8-201, 8-302 and 8-504, and Ord. 412-C (9.32)
540-C	Amends prior code § 2-103, 2-104 and 2-109, dogs (Repealed by 409)
541-C	Racing on highways (Repealed by 61)
542-C	Giving cereal malt beverages to minors (5.12)
543-C	Adds prior code § 5-107 -- 5-121, solicitors and canvassers; repeals prior code § 5-103 (Repealed by 81-129)
544-C	Peddlers (5.32)
1	Code adoption (1.01)
2	General penalty (1.16)
3	Not codified
4	Not codified
5	Not codified
6	Not codified
7	Not codified
8	Amends Ord. 347-C § 6, mobile homes (15.52)
9	Not codified
10	Not codified
11	Not codified
12	Amends § 10.04.010, 10.04.020 and 10.04.030, traffic; repeals § 10.04.040 and 10.04.050 (Repealed by 540)
13	Not codified
14	Official newspaper (1.12)
15	Not codified
16	Not codified
17	Amends § 2.16.020, municipal judge (Repealed by 346)
18	Not codified
19	Not codified
20	Not codified
21	Not codified
22	Not codified
23	Not codified
24	Not codified
25	Not codified
26	Not codified
27	Amends § 12.20.140, fishing, and adds § 12.20.170, boating (Repealed by 410)
28	Not codified
29	Not codified
30	Repair and maintenance of railroad crossings (10.20)
31	Not codified
32	Not codified
33	Not codified
34	Not codified
35	Not codified
36	Not codified
37	Not codified
38	Not codified
39	Not codified
40	Amends § 15.16.060, plumbing code (Repealed by 68)
41	Amends § 12.24.030, 12.24.060, 12.24.070 and 12.24.080, cemeteries (Repealed by 83-10)
42	Not codified
43	Not codified
44	Not codified
45	Not codified
46	Not codified
47	Not codified
48	Repeals (e) of § 15.52.060
49	Amends § 13.08.010 and 13.12.030, water and sewer rates (13.12)
50	Renumbers § 9.28.060 to 9.28.040, fireworks; repeals § 9.28.040 and 9.28.050 (Repealed by 720)
51	Adds § 9.28.050 -- 9.28.180, fireworks (Repealed by 720)
52	Not codified
53	Not codified
54	Use of public parks (Repealed by 410)
55	Authorizes payment of condemnation awards (Special)
56	Not codified
57	Not codified
58	Not codified
59	Not codified
60	Not codified
61	Repeals § 9.32.200

62	Adds § 5.08.100 and 5.08.110, public consumption of alcoholic beverages (5.08)
63	Not codified
64	Not codified
65	Not codified
66	Amends § 15.04.020, 15.04.030 and 15.04.040, building code (Repealed by 556)
67	Amends § 15.08.020 and 15.08.030, and amends and renumbers § 15.08.180 to 15.08.050, electrical code; amends § 15.12.010 electricians; repeals § 15.08.050 - 15.08.130 (Repealed by 581 and 733)
68	Amends § 15.16.020, 15.16.030 and 15.16.040, and adds § 15.16.050 and 15.16.060, plumbing code; repeals § 15.16.050, 15.16.120 and 15.20.030 (Repealed by 575)
69	Amends § 15.28.010 and 15.28.030, repeals and replaces § 15.28.020, housing code; repeals § 15.28.040 - 15.28.070 (Repealed by 920)
70	Amends § 16.04.010, fire prevention code (16.04)
71	Amends § 16.08.010, fire zones (Repealed by 947)
72	Adopts Uniform Mechanical Code, 1970 Edition (Repealed by 563 and 564)
73	Amends § 19.04.020, 19.06.420, 19.14.020, 19.16.020, 19.18.020, 19.20.020, 19.22.020, 19.28.030, 19.32.030, 19.38.010, 19.40.010, 19.44.010, 19.54.030 and 19.64.070, zoning (Repealed by 81-23)
74	Amends § 15.52.040 and 15.52.050, mobile homes (15.52)
75	Amends § 6.04.030, garbage
76	Not codified
77	Not codified
78	Uniform fire Code (16.04)
79	Electrical code violations; amends § 15.12.050, electrical licensing (Repealed by 733)
80	Building code violations; amends § 15.04.020, building code adoption (Repealed by 566)
81	Repeals § 15.16.060, plumbing materials
82	Not codified
83	Not codified
84	Not codified
85	Not codified
86	Not codified
87	Not codified
88	Not codified
89	Not codified
90	Off-street parking facility improvement notes (Special)
91	Not codified
92	Uniform Mechanical Code licensing requirements (Repealed by 563 and 564)
93	Not codified
94	Amends § 13.04.010, 13.04.060 and 13.04.140, water service; repeals § 13.04.030 and 13.04.090
95	Not codified
96	Not codified
97	Not codified
98	Not codified
99	Not codified
100	Not codified
101	Not codified
102	Not codified
103	Not codified
104	Not codified
105	Adds § 13.12.070, water hydrant metering (Repealed by 898)
106	Amends § 10.08.010 and 10.08.020, street map
107	Amends § 19.24.020, 19.56.020, 19.64.020 and 19.64.040, zoning (Repealed by 81-23)
108	Sanitary sewer hookup fees (13.20)
109	Amends § 15.40.010 and 15.40.020, moving buildings; repeals § 15.40.030, 15.40.040 and 15.40.050
110	Parking violation responsibility (Repealed by 81-109)
111	Inoperable vehicles (6.16)
112	Not codified
113	Not codified
114	Criminal trespass (9.48)
115	Not codified
116	Not codified
117	Not codified
118	Not codified
119	Not codified
120	Not codified
121	Not codified
122	Not codified
123	Not codified
124	Amends standard traffic ordinance
125	Not codified
126	Adds § 12.20.180, 12.20.190, 12.20.200 and 12.20.210, and amends § 12.20.120 and 12.20.130, cabin sites (Repealed by 410)
127	Not codified
128	Not codified
129	Not codified
130	Bond for mechanical work (Repealed by 563 and 564)

131	Amends § 15.32.010, 15.32.020 and 15.32.030, water conditioning contractor
132	Not codified
133	Amends traffic ordinance § 148, spilling loads; repeals Ord. 124 (10.04)
134	Not codified
135	Not codified
136	Not codified
137	Curb, gutter and driveway construction (12.06)
138	Not codified
139	Not codified
140	Not codified
141	Not codified
142	Amends § 15.12.030, 15.12.100 and 15.12.120, residential wiremen (Repealed by 581)
143	Amends Ord. 137 § 3, bridging curbs and interfering with gutters (12.32)
144	Not codified
145	Olathe Public Swimming Pool (Repealed by 410)
146	Adds § 15.16.060 and amends § 15.16.050, plumbing code (Repealed by 575)
147	Repeals § 19.58.030
148	Amends § 19.36.030, 19.38.030 19.40.020, height and area regulations (Repealed by 81-23)
149	Not codified
150	Not codified
151	Not codified
152	Not codified
153	Not codified
154	Not codified
155	Not codified
156	Not codified
157	Not codified
158	Not codified
159	Not codified
160	Not codified
161	Not codified
162	Amends § 15.04.020, building codes (Repealed by 556)
163	Not codified
164	Not codified
165	Not codified
166	Not codified
167	Not codified
168	Not codified
169	Not codified
170	Not codified
171	Not codified
172	Not codified
173	Not codified
174	Adopts U.S.A. standard specifications for making buildings and facilities accessible to and usable by the physically handicapped (15.06)
175	Not codified
176	Not codified
177	Not codified
178	Not codified
179	Amends § 15.16.050, plumbing code (Repealed by 575)
180	Not codified
181	Not codified
182	Not codified
183	Amends § 10.04.010, 10.04.020, 10.04.030 and 10.04.040, traffic (Repealed by 540)
184	Amends § 13.08.010, sewer service charges and § 13.12.020, water rates (Repealed by 501 and 517)
185	Not codified
186	Not codified
187	Not codified
188	Not codified
189	Not codified
190	Not codified
191	Not codified
192	Not codified
193	Not codified
194	Truck operation on Chestnut Street (10.24)
195	Amends Ord. 194, truck operation on Chestnut Street (10.24)
196	Not codified
197	Not codified
198	Not codified
199	Not codified
200	Not codified
201	Not codified
202	School zones; repeals prior code § 10.208, 10.209 and 10.210 (10.28)
203	Amends § 1 of Ord. 169, alley vacation (Special)
204	Not codified
205	Not codified
206	Not codified
207	Arrest authority of police (2.56)
208	Amends § 3 of Ord. 202, school zones (Repealed by 502)
209	Not codified
210	Not codified
211	Not codified
212	Not codified
213	Not codified
214	Amends § 10.12.100, 10.12.110, 10.12.120, 10.12.160, 10.12.180, 10.12.190 and 10.12.200, parking (Repealed by 81-109)
215	Repeals § 5.20.010, 5.20.020 and 5.20.030
216	Not codified
217	Not codified

218	Amends § 15.04.020 and 15.04.030, building code (Repealed by 556)
219	Amends § 15.56.010 and 15.56.050, mechanical code (Repealed by 563 and 564)
220	Amends § 15.16.020 and 15.16.030, plumbing code (Repealed by 575)
221	Amends § 16.04.010, fire code
222	Amends § 15.28.010, 15.28.020 and 15.28.030, housing code (Repealed by 920)
223	Not codified
224	Amends § 6.04.010, 6.04.020, 6.04.030, 6.04.040, 6.04.050, 6.04.060, 6.04.070, 6.04.080, 6.04.090, 6.04.100, 6.04.110, 6.04.120, 6.04.130, 6.04.140 and 6.04.150, garbage and refuse
225	Not codified
226	Not codified
227	Not codified
228	Not codified
229	Vehicles in park (Repealed by 764)
230	Not codified
231	Not codified
232	Not codified
233	Not codified
234	Not codified
235	Not codified
236	Not codified
237	Not codified
238	Not codified
239	Adopts Public Offense Code; repeals § 2.16.090, 5.12.050, 5.20.010, 8.04.130, 8.08.020, 9.04.030, 9.04.050, 9.08.010, 9.08.030, 9.08.040, 9.08.080, 9.12.020, 9.12.040, 9.12.060, 9.16.010, 9.16.020, 9.20.020, 9.20.040 9.20.070, 9.20.080, 9.30.040, 9.32.010, 9.32.030, 9.32.050, 9.32.060, 9.32.070, 9.32.090, 9.32.100, 9.32.110, 9.44.010, 9.44.020, 9.44.030, 9.44.040, 9.48.010, 12.24.160, 16.12.050, 16.12.090, 19.20.060
240	Not codified
241	Not codified
242	Not codified
243	Vehicles in Lake Olathe
244	Not codified
245	Not codified
246	Not codified
247	Not codified
248	Not codified
249	Adds § 15.28.040, housing code (Repealed by 920)
250	Not codified
251	Not codified
252	Not codified
253	Not codified
254	Not codified
255	Not codified
256	Not codified
257	Not codified
258	Not codified
259	Amends § 10.12.150, parking (Repealed by 81-109)
260	Amends § 12.20.020(a) and 12.20.030, city lakes; repeals § 12.20.080 (Repealed by 410)
261	Amends § 12.20.010, boat license (Repealed by 410)
262	Not codified
263	Not codified
264	Not codified
265	Not codified
266	Not codified
267	Not codified
268	Not codified
269	Not codified
270	Repeals § 9.48.020
271	Not codified
272	Not codified
273	Not codified
274	Swimming and wading in public lakes; repeals prior code § 9-502, 9-503, 9-504 and 9-505 and Ord. 240-C (Repealed by 342)
275	Not codified
276	Not codified
277	Not codified
278	Not codified
279	Not codified
280	Amends § 6.04.080, solid waste service charge (Repealed by 599)
281	Reduces sanitation service charges for senior citizens (6.04)
282	Adopts 1974 editions of the Uniform Building Code and Uniform Fire Code (Repealed by 556)
283	Amends § 10.04.010, 10.04.020 and 10.04.030 and § 168 of the standard traffic ordinance (Repealed by 540)
284	Amends § 10.28.010, school zones (Repealed by 502)
285	Not codified
286	Not codified
287	Not codified
288	Not codified
289	Not codified
290	Amends § 4 of Ord. 281, reduced sanitation service charges for senior citizens (Repealed by 599)
291	Amends § 13.04.100, 13.04.130 and 13.04.140, water service
292	Not codified
293	Not codified

294	Not codified
295	Amends § 1 of Ord. 292, alley vacation (Special)
296	Alley vacation (Repealed by 349)
297	Not codified
298	Not codified
299	Not codified
300	Not codified
301	Prohibits parking on Dennis Avenue (10.12)
302	Not codified
303	Not codified
304	Not codified
305	Not codified
306	Not codified
307	Not codified
308	Not codified
309	Prohibits parking on Dennis Avenue (10.12)
310	Not codified
311	Not codified
312	Amends Ord. 239 § 1, adopting Standard Public Offense Code, and amends § 30a of said code (9.01)
313	Parking prohibited on certain streets (10.12)
314	Not codified
315	Not codified
316	Not codified
317	Corporate limits and boundaries described (Repealed by 397)
318	Parking prohibited on certain road (10.12)
319	Not codified
320	Not codified
321	Not codified
322	Not codified
323	Not codified
324	Not codified
325	Parking prohibited on certain street (10.12)
326	Not codified
327	Not codified
328	Not codified
329	Not codified
330	Not codified
331	Not codified
332	Not codified
333	Not codified
334	Parking prohibited on certain street (10.12)
335	Not codified
336	Regulates construction of certain sanitary sewer lines (13-06) (Repealed by Ord. 89-41)
337	Not codified
338	Not codified
339	Dangerous buildings; repeals § 15.36.010
340	Not codified
341	Not codified
342	Amends § 12.20.005, city lakes swimming and wading regulations; repeals Ord. 274 § 1 -- 5 (Repealed by 410)
343	Parking prohibited on certain streets (10.12)
344	Parking prohibited on certain streets (10.12)
345	Amends Ord. 339 § 4(B), dangerous building repair or removal resolution (15.36)
346	Amends § 2.16.020, municipal judge appointment; repeals Ord. 17 (2.16)
347	Not codified
348	Amends § 10.24.010, truck traffic prohibited on designated streets; repeals Ord. 194 § 1 and Ord. 195 § 1 (10.24)
349	Alley vacation; repeals Ord. 296 (Special)
350	Not codified
351	Not codified
352	Parking (Repealed by 364)
353	Not codified
354	Not codified
355	Not codified
356	Not codified
357	Sewers (13.07)
358	Not codified
359	Not codified
360	Not codified
361	Not codified
362	Not codified
363	Not codified
364	Not codified
365	Not codified
366	Not codified
367	Not codified
368	Not codified
369	Not codified
370	Not codified
371	Not codified
372	Amends § 15.04.040, building permit fees (Repealed by 556)
373	Not codified
374	Not codified
375	Not codified
376	Not codified
377	Not codified
378	Not codified
379	Not codified
380	Not codified
381	Not codified
382	Amends § 12.12.080, sidewalks; repeals § 3 of Ord. 26-C
383	Not codified
384	Not codified

385	Not codified
386	Not codified
387	Not codified
388	Not codified
389	Not codified
390	Not codified
391	Amends § 15.08.020 and 15.08.030, electrical code (Repealed by 733)
392	Adds § 5.12.071, transportation of cereal malt beverages
393	Not codified
394	Not codified
395	Not codified
396	Not codified
397	Not codified
398	Wards (Repealed by 81-130)
399	Not codified
400	Not codified
401	Not codified
402	Moratorium on recreational activities at Lake Olathe (Repealed by 609)
403	Not codified
404	Not codified
405	Not codified
406	Not codified
407	Not codified
408	Not codified
409	Amends § 8.04.010, 8.04.020, 8.04.030, 8.04.040, 8.04.050, 8.04.060, 8.04.070, 8.04.080, 8.04.090, 8.04.110, 8.04.120, 8.04.130 and 8.04.140; adds § 8.04.035 and 8.04.085, and changes title of Ch. 8.04, animal control; adds § 9.01.016 and 9.01.017, Standard Public Offense Code; repeals § 35 and 76 of the Standard Public Offense Code, Ords. 354-C and 540-C, § 8.04.100, 8.04.150, 8.04.160 and 8.04.170, and Ch. 8.08
410	Adds Ch. 12.21, parks and recreational areas; amends § 2 of Ord. 402, moratorium on recreational activities at Lake Olathe, and § 2 of Ord. 419, allowing unmotorized boats on Lake Olathe; repeals Chs. 12.20, 12.28 and 12.32
411	Not codified
412	Amends § 5, 9, 15, 16, 20 and 22 of Ord. 390, industrial revenue bond issuance (Special)
413	Not codified
414	Not codified
415	Not codified
416	Not codified
417	Not codified
418	Emergency medical services (2.60)
419	Allows unmotorized boats on Lake Olathe (Repealed by 609)
420	Not codified
421	Prohibits parking on portion of Parking Lot No. 7 (Repealed by 541)
422	Not codified
423	Not codified
424	Not codified
425	Not codified
426	Not codified
427	Not codified
428	Not codified
429	Not codified
430	Not codified
431	Not codified
432	Not codified
433	Not codified
434	Not codified
435	Not codified
436	Not codified
437	Not codified
438	Not codified
439	Not codified
440	Adds Ch. 6.09, weeds; repeals Ch. 6.08
441	Not codified
442	Not codified
443	Not codified
444	Adds Ch. 13.09, alternative sewerage systems (Repealed by 82-14)
445	Not codified
446	Not codified
447	Not codified
448	Not codified
449	Not codified
450	Not codified
451	Amends § 12.08.080, 12.08.090 and 12.08.100, excavation permits
452	Not codified
453	Not codified
454	Adds § 16.04.011, fire code amendment; repeals § 16.12.060 and 16.12.070, and § 27.112 of the fire code
455	Not codified
456	Not codified
457	Not codified
458	Not codified
459	Amends § 8.04.080, biting animals or animals at large; repeals § 10 of Ord. 409
460	Adds § 10.04.031, 10.04.032, 10.04.033, 10.04.034; amends § 10.04.010, 10.04.020 and 10.04.040, standard traffic ordinance (Repealed by 540)
461	Not codified
462	Not codified
463	Amends § 9.28.120, fireworks (Repealed by 720)

464	Adds § 5.05.006, 5.05.020, 5.05.030, 5.05.040, 5.05.050, 5.05.051 and 5.05.060; repeals § 5.04.040 and 5.04.050, business licenses
465	Amends § 19.36.010 and 19.38.010, use regulations (Repealed by 81-23)
466	Not codified
467	Not codified
468	Not codified
469	Not codified
470	Not codified
471	Not codified
472	Not codified
473	Not codified
474	Adds § 13.17.010, 13.17.020, 13.17.030, 13.17.040, 13.17.050, 13.17.060, 13.17.070 and 13.17.080, water main extensions; repeals Ch. 13.16 and Ord. 341-C
475	Adds § 16.04.200; Amends § 16.04.010, 16.04.020, 16.04.030, 16.04.040, 16.04.050, 16.04.060, 16.04.070, 16.04.080, 16.04.090 and 16.04.100; repeals § 16.12.060 and 16.12.070, fire prevention (Repealed by 484)
476	Not codified
477	Not codified
478	Not codified
479	Not codified
480	Not codified
481	Not codified
482	Not codified
483	Not codified
484	Adds § 16.04.100 and 16.04.200; amends § 16.04.010, 16.04.020, 16.04.030, 16.04.040, 16.04.050, 16.04.060, 16.04.070, 16.04.080 and 16.04.090; repeals § 16.12.060 and 16.12.070 and Ord. 475, fire prevention (Repealed by 549 and 707)
485	Not codified
486	Not codified
487	Not codified
488	Not codified
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499	Not codified
500	Not codified
501	Amends § 13.08.010, 13.08.030, 13.12.020, 13.12.030 and 13.12.040; repeals § 13.12.010 and Ords. 184 and 334-C, sewers (Repealed by 517)
502	School zones; repeals Ords. 284 and 208, school zones (Repealed by 632)
503	Not codified
504	Not codified
505	Not codified
506	Not codified
507	Adds § 2.44.110, 2.44.120 and 2.44.130; amends § 2.44.010, 2.44.020, 2.44.030, 2.44.040, 2.44.050, 2.44.070, 2.44.080, 2.44.090 and 2.44.100, human rights commission; repeals Ords. 32-C and 125-C
508	Not codified
509	Not codified
510	Not codified
511	Amends § 13.12.020, water use rates; repeals § 3 of Ord. 501 (Repealed by 520)
512	Not codified
513	Not codified
514	Not codified
515	Not codified
516	Rezone (Special)
517	Adds § 13.08.011, amends § 13.08.010, 13.08.030, 13.12.030 and 13.12.040, water and sewer charges; repeals § 13.12.010 and Ords. 184, 334-C, and 501
518	Adds § 13.12.025, Rural Water District 5 rate amendment (Repealed by 82-137)
519	Adds § 13.12.021, Rural Water District 1 rate amendment (Repealed by 82-137)
520	Adds § 13.12.022, Rural Water District 2 rate amendment; repeals Ord. 511 (Repealed by 82-137)
521	Adds § 13.12.027, Rural Water District 7 rate amendment (Repealed by 82-137)
522	Adds § 13.12.023, Rural Water District 3 rate amendment (Repealed by 82-137)
523	Adds § 15.04.031, Board of Appeals bylaws adoption (Repealed by 556)
524	Not codified
525	Not codified
526	Not codified
527	Not codified
528	Not codified
529	Adds § 5.17.010, 5.17.020, 5.17.030 and 5.17.040, nude entertainment at private clubs (5.17)
530	Adds § 5.12.110 and 5.12.120, nude entertainment at places serving cereal malt beverages;

531	Adds § 5.36.010, 5.36.020, 5.36.030, 5.36.040, 5.36.050, 5.36.060, 5.36.070, 5.36.080, 5.36.090, 5.36.100, 5.36.110, 5.36.120, 5.36.130, 5.36.140, 5.36.150, 5.36.160, 5.36.170, 5.36.180, 5.36.190. 5.36.200, 5.36.210, 5.36.220, 5.36.230, 5.36.240 and 5.36.250, massage establishments
532	Adds § 9.32.200 and 9.32.210, obscenity (Repealed by 555)
533	Not codified
534	Not codified
535	Not codified
536	Suits and claims (Repealed by 612)
537	Not codified
538	Not codified
539	Amends § 12.24.070, cemetery; repeals Ord. 41 § 3 (Repealed by 83-10)
540	Adds § 10.04.035, 10.04.306 and 10.04.037; repeals and replaces § 10.04.010, 10.04.020, 10.04.031, 10.40.032, 10.04.033, 10.04.034 and 10.04.040, standard traffic ordinance; repeals Ord. 460 (Repealed by 924)
541	Not codified
542	Not codified
543	Not codified
544	Not codified
545	Not codified
546	Not codified
547	Not codified
548	Not codified
549	Adds § 16.04.110, repeals and replaces § 16.04.010, 16.04.030, 16.04.070 and 16.04.080, Uniform Fire Code; repeals Ord. 484 (Repealed by 707)
550	Amends § 9.28.060, fireworks; repeals Ord. 51 § 2 (Repealed by 720)
551	Amends § 15.12.130, 15.20.130 and 15.56.130, bonds
552	Amends § 12.21.030 and 12.21.040, fees at city lakes and swimming pool (Repealed by 80-112)
553	Not codified
554	Not codified
555	Adds § 9.32.200 and 9.32.210, obscenity; repeals Ord. 532
556	Adds Ch. 15.05, uniform building code; repeals Ch. 15.04 and Ords. 80, 218, 282 and 372 (Repealed by 918)
557	Not codified
558	Not codified
559	Not codified
560	Not codified
561	Not codified
562	Not codified
563	Adds § 15.57, uniform mechanical code; repeals Ch. 15.56 and Ords. 72, 92, 130 and 219 (Repealed by 915)
564	Adds Ch. 15.58, mechanical contractors; repeals Ch. 15.56 and Ords. 72, 92, 130 and 219 (Repealed by 914)
565	Not codified
566	Not codified
567	Not codified
568	Not codified
569	Not codified
570	Not codified
571	Not codified
572	Not codified
573	Not codified
574	Not codified
575	Adds Ch. 15.17, uniform plumbing code; repeals Ch. 15.16 and Ords. 68 and 220 (Repealed by 919)
576	Not codified
577	Not codified
578	Not codified
579	Not codified
580	Not codified
581	Adds Ch. 15.13, electricians; repeals Ch. 15.12 and Ords. 67, 142 and 1489-A (Repealed by 917)
582	Not codified
583	Not codified
584	Not codified
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598	Not codified
599	Amends § 6.04.040, 6.04.050, 6.04.060, 6.04.080, and 6.04.100, solid waste disposal; repeals Ord. 280 and § 4, 5, 6, 8, and 10 of Ord. 224
600	Not codified
601	Amends § 12.04.010, street width standards; repeals Ord. 122-C
602	Not codified
603	Not codified
604	Not codified
605	Not codified
606	Not codified
607	Not codified
608	Not codified

609	Amends § 12.21.060, boating licenses; repeals Ords. 402 and 419 and § 7 of Ord. 410
610	Not codified
611	Not codified
612	Adds Ch. 3.40, suits and claims; repeals Ord. 536
613	Not codified
614	Not codified
615	Not codified
616	Amends § 13.04.130, water service charges; repeals § 2 of Ord. 291
617	Not codified
618	Not codified
619	Not codified
620	Not codified
621	Not codified
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629	Not codified
630	Not codified
631	Not codified
632	Amends § 10.28.010, school zones; repeals Ord. 502 (Repealed by 717)
633	Not codified
634	Not codified
635	Not codified
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704	Not codified
705	Not codified
706	Not codified
707	Adds § 16.04.120 -- 16.04.150; amends § 16.04.010 -- 16.04.130;. repeals and replaces § 16.04.040 -- 16.04.110, Uniform Fire Code; repeals Ords. 484 and 549 (Repealed by 937)
708	Repeals Ch. 15.20
709	Not codified
709-A	Not codified
710	Not codified
711	Not codified
712	Not codified
713	Not codified
714	Not codified
715	Not codified

716	Adds § 9.32.220, urination in public
717	Amends § 10.28.010, school zones; repeals Ord. 632 (Repealed by 82-132),
718	Adds § 10.28.020, school zones (Repealed by 81-07)
719	Not codified
720	Repeals Ch. 9.28 and Ords. 51 and 550
721	Repeals § 16.04.120 and § 12 of Ord. 707
722	Not codified
723	Not codified
724	Not codified
725	Not codified
726	Not codified
727	Not codified
728	Not codified
729	Not codified
730	Not codified
731	Not codified
732	Not codified
733	Adds Ch. 15.10, electrical code; repeals Ch. 15.08 and Ords. 67, 79 and 39l
734	Not codified
735	Not codified
736	Amends § 10.12.080, parking prohibited on certain streets
737	Repeals and amends § 15.05.020 and 15.05.030, uniform building code (Repealed by 918)
738	Not codified
739	Amends § 6.04.080, solid waste collection charge, repeals § 4 of Ord. 599
740	Not codified
741	Amends § 10.12.080, parking prohibited on certain streets
742	Not codified
743	Adds § 5.12.130 and 5.12.140, cereal malt beverage establishment closing hours
744	Adds § 5.08.120 and 5.08.130, possession of alcoholic beverages in open containers
745	Adds § 5.12.035, premises inspection for cereal malt beverage establishment licensing
746	Amends § 10.12.080, parking prohibited on certain streets
747	Not codified
748	Not codified
749	Repeals and amends § 10.12.090 -- 10.12.260, parking meters (Repealed by 8l-109)
750	Not codified
751	Not codified
752	Not codified
753	Not codified
754	Adds § 12.21.235, fishing by nonresidents
755	Not codified
756	Not codified
757	Not codified
758	Not codified
759	Repeals and amends § 12.06.010, 12.06.090 and 12.06.100, curb, gutter and driveway construction
760	Not codified
761	Not codified
762	Not codified
763	Not codified
764	Adds § 12.21.272 and 12.21.278, motor vehicles in parks and recreational areas; repeals and amends § 12.21.110 boating license; and repeals § 10.32.010 -- 10.32.030, 10.36.010 and 10.36.020
765	Adds § 12.16.070, penalty for violation of tree and shrub provisions
766	Repeals and amends § 10.12.060, arrest warrant issued for certain parking violations
767	Not codified
768	Not codified
769	Not codified
770	Not codified
771	Not codified
772	Not codified
773	Not codified
774	Not codified
775	Not codified
776	Not codified
777	Approves Johnson and Wyandotte Mutual Aid compact for law enforcement participation (2.28)
778	Not codified
779	Not codified
780	Not codified
781	Not codified
782	Not codified
783	Not codified
784	Not codified
785	Not codified
786	Adds Ch. 19.49, floodplain zoning (Repealed by 81-23)
787	Not codified
788	Not codified
789	Not codified
790	Not codified
791	Not codified
792	Not codified
793	Not codified
794	Not codified
795	Not codified
796	Not codified

797	Adds § 10.12.055, two-hour parking zones in Municipal Parking Lot No. 7
798	Not codified
799	Repeals and replaces § 9.32.140, petty larceny
800	Not codified
801	Not codified
802	Not codified
803	Not codified
804	Amends § 13.17.050 and 13.17.060, water main extension fund
805	Amends § 6.04.080, 13.04.130, and 13.08.020; adds § 13.24.060, utility and service charges
806	Not codified
807	Amends § 6.16.080; adds § 6.16.084, inoperable vehicles
808	Not codified
809	Not codified
810	Adds § 15.05.051, Uniform Building Code (Repealed by 918)
811	Amends § 15.10.060, National Electrical Code
812	Amends § 19.32.010, zoning (Repealed by 81-23)
813	Amends § 19.30.010, zoning (Repealed by 81-23)
814	Not codified
815	Not codified
816	Not codified
817	Adds Ch. 5.40, private police
818	Senior citizens taxi coupon rates
819	Amends § 5.24.010 -- 5.24.050; adds § 5.24.060 -- 5.24.160, taxi services (Repealed by 80-69)
820	Not codified
821	Not codified
822	Amends § 5.12.010 -- 5.12.040 and 5.12.060; adds § 5.12.050, 5.12.105, cereal malt beverage
823	Not codified
824	Amends § 8.04.010, 8.04.060, 8.04.070, 8.04.085, 8.04.090, and 8.04.130; adds § 8.04.062 and 8.04.064, animals
825	Not codified
826	Not codified
827	Not codified
828	Not codified
829	Amends § 6.04.010 -- 6.04.030, 6.04.080, 6.04.085, and 6.04.090, collection and disposal of solid waste
830	Not codified
831	Not codified
832	Not codified
833	Not codified
834	Not codified
835	Not codified
836	Not codified
837	Amends § 10.12.040, parking
838	Amends § 15.05.040, building permits (Repealed by 918)
839	Not codified
840	Not codified
841	Not codified
842	Not codified
843	Not codified
844	Not codified
845	Not codified
846	Not codified
847	Amends § 10.12.080, parking
848	Amends § 10.12.080, parking
849	Not codified
850	Not codified
851	Not codified
852	Not codified
853	Not codified
854	Not codified
855	Not codified
856	Not codified
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878	Not codified
879	Not codified
880	Not codified
881	Repeals and replaces § 5.16.010, business licenses
882	Repeals and replaces § 5.12.040, business licenses
883	Amends § 5.08.070, business licenses
884	Not codified
885	Not codified
886	Not codified
887	Not codified
888	Not codified
889	Not codified
890	Not codified
891	Not codified
892	Not codified

893	Not codified
894	Amends § 10.28.010, traffic (Repealed by 82-132)
895	Not codified
896	Not codified
897	Not codified
898	Repeals and replaces § 13.12.070, water
899	Not codified
900	Not codified
901	Not codified
902	Not codified
903	Not codified
904	Not codified
905	Not codified
906	Not codified
907	Not codified
908	Not codified
909	Adds § 10.20.120, railway train blocking traffic
910	Not codified
911	Not codified
912	Amends § 15.10.060, electrical code
913	Repeals Ch. 15.24
914	Repeals and replaces Ch. 15.58, mechanical contractors
915	Repeals and replaces Ch. 15.57, mechanical code
916	Adds Ch. 15.08, building code standards
917	Repeals and replaces Ch. 15.13, electricians
918	Repeals and replaces Ch. 15.05, building code
919	Repeals and replaces Ch. 15.17, plumbing code
920	Repeals and replaces Ch. 15.28, housing code
921	Not codified
922	Not codified
923	Not codified
924	Repeals and replaces § 10.04.010 -- 10.04.037 and 10.04.040; adds § 10.04.039 and 10.04.042; repeals Ord. 540; traffic
925	Not codified
926	Not codified
927	Not codified
928	Not codified
929	Not codified
930	Not codified
931	Not codified
932	Adds § 12.06.105, curb variances
933	Not codified
934	Not codified
935	Not codified
936	Not codified
937	Repeals and replaces Ch. 16.04, fire code
938	Not codified
939	Not codified
940	Not codified
941	Repeals and replaces § 2.44.010, 2.44.020, 2.44.030, 2.44.040, 2.44.050, 2.44.110 and 2.44.120, Human Relations Commission
942	Not codified
943	Amends § 6.04.080, garbage
944	Not codified
945	Not codified
946	Not codified
947	Repeals Ch. 16.08
948	Adds § 16.04.075, fire code
949	Not codified
950	Adds § 9.32.230, drug paraphernalia
951	Not codified
952	Not codified
953	Not codified
954	Not codified
80-01	Not codified
80-02	Not codified
80-03	Amends § 13.04.140, water service connection
80-04	Not codified
80-05	Not codified
80-06	Not codified
80-07	Not codified
80-08	Amends § 12.24.070, cemetery charges (Repealed by 83-10)
80-09	Not codified
80-10	Not codified
80-11	Not codified
80-12	Not codified
80-13	Not codified
80-14	Not codified
80-15	Not codified
80-16	Amends § 10.12.160, parking meter tokens (Repealed by 81-109)
80-17	Not codified
80-18	Not codified
80-19	Not codified
80-20	Not codified
80-21	Not codified
80-22	Adds § 10.12.051, 10.12.052, 10.12.053 and 10.12.054, parking lots
80-23	Not codified
80-24	Not codified
80-25	Not codified
80-26	Not codified
80-27	Not codified
80-28	Not codified
80-29	Not codified
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80-43	Not codified
80-44	Not codified
80-45	Not codified
80-46	Not codified
80-47	Adds § 6.09.050; repeals and replaces § 6.09.010, 6.09.020, 6.09.030 and 6.09.040; weeds
80-48	Adds Ch. 6.06, environmental quality (Repealed by 80-59)
80-49	Not codified
80-50	Not codified
80-51	Not codified
80-52	Not codified
80-53	Not codified)
80-54	Not codified
80-55	Not codified
80-56	Not codified
80-57	Not codified
80-58	Amends § 13.08.010, 13.12.030, 13.12.045 and 13.12.050, water rates
80-59	Adds Ch. 6.06, environmental quality
80-60	Not codified
80-61	Not codified
80-62	Not codified
80-63	Amends § 10.12.053, parking zones
80-64	Not codified
80-65	Not codified
80-66	Not codified
80-67	Not codified
80-68	Not codified
80-69	Repeals and replaces Ch. 5.24, taxicabs and buses
80-70	Not codified
80-71	Not codified
80-72	Not codified
80-73	Amends § 12.21.060, 12.21.080, boating licenses
80-74	Not codified
80-75	Not codified
80-76	Not codified
80-77	Not codified
80-78	Not codified
80-79	Not codified
80-80	Repeals Ch. 10-16
80-81	Not codified
80-82	Not codified
80-83	Not codified
80-84	Not codified
80-85	Not codified
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80-100	Not codified
80-101	Not codified
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80-107	Not codified
80-108	Not codified
80-109	Not codified
80-110	Not codified
80-111	Not codified
80-112	Repeals and adds § 12.21.030, swimming pool fees; repeals § 12.21.040
80-113	Not codified
80-114	Not codified
80-115	Not codified
80-116	Not codified
80-117	Not codified
80-118	Amends § 10.12.080, parking prohibited on certain streets
80-119	Not codified
80-120	Not codified
80-121	Not codified
81-01	Amends § 6.04.080, solid waste collection service charge
81-02	Not codified
81-03	Not codified
81-04	Adds Ch. 2.62, Energy Advisory Board
81-05	Not codified
81-06	Adds Ch. 15.60, underground utilities
81-07	Amends § 10.28.010, school zones; repeals § 10.28.020 (Repealed by 82-132)
81-08	Amends § 10.04.034, speed limits
81-09	Not codified
81-10	Not codified
81-11	Not codified
81-12	Not codified
81-13	Not codified
81-14	Not codified
81-15	Not codified
81-16	Adds Ch. 2.64, Mahaffie Farmstead Advisory Board
81-17	Not codified
81-18	Amends § 18.04.150, subdivisions

81-19	Not codified
81-20	Not codified
81-21	Repeals and adds Ch. 2.24, municipal organization and personnel service
81-22	Not codified
81-23	Repeals and replaces Title 19, zoning (19.04 -- 19.66)
81-24	Not codified
81-25	Not codified
81-26	Not codified
81-27	Not codified
81-28	Not codified
81-29	Not codified
81-30	Not codified
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81-34	Not codified
81-35	Not codified
81-36	Not codified
81-37	Not codified
81-38	Not codified
81-39	Not codified
81-40	Amends § 12.24.070, cemetery charges (Repealed by 83-10)
81-41	Not codified
81-42	Not codified
81-43	Not codified
81-44	Not codified
81-45	Not codified
81-46	Not codified
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81-74	Not codified
81-75	Not codified
81-76	Not codified
81-77	Not codified
81-78	Not codified
81-79	Not codified
81-80	Amends § 10.12.080, parking prohibited on certain streets
81-81	Not codified
81-82	Not codified
81-83	Not codified
81-84	Not codified
81-85	Not codified
81-86	Not codified
81-87	Repeals and replaces § 12.21.130, duck hunting and blinds - prohibited; and repeals § 12.21.140 and 12.21.150
81-88	Amends § 13.12.050, tank hauling rates
81-89	Not codified
81-90	Not codified
81-91	Not codified
81-92	Not codified
81-93	Not codified
81-94	Not codified
81-95	Not codified
81-96	Not codified
81-97	Not codified
81-98	Not codified
81-99	Amends § 2.48.020, composition, qualifications and terms of the Public Building Commission
81-100	Not codified
81-101	Not codified
81-102	Not codified
81-103	Not codified
81-104	Not codified
81-105	Not codified
81-106	Adds Ch. 5.42, pawnbrokers and precious metal dealers
81-107	Not codified
81-108	Amends § 10.12.053, parking zones
81-109	Repeals § 10.12.090, 10.12.100, 10.12.110, 10.12.120, 10.12.130, 10.12.140, 10.12.150, 10.12.160, 10.12.170, 10.12.180, 10.12.190, 10.12.200, 10.12.210, 10.12.220, 10.12.230, 10.12.240, 10.12.250, and 10.12.260
81-110	Not codified
81-111	Not codified
81-112	Not codified
81-113	Not codified
81-114	Not codified
81-115	Not codified
81-116	Not codified
81-117	Not codified
81-118	Not codified
81-119	Not codified
81-120	Not codified

81-121	Not codified
81-122	Not codified
81-123	Amends § 13.08.010, 13.12.030, and 13.12.045, wastewater charges and water rates (Repealed by 82-137, 82-138)
81-124	Not codified
81-125	Not codified
81-126	Not codified
81-127	Not codified
81-128	Not codified
81-129	Repeals and replaces Ch. 5.28, solicitors and peddlers
81-130	Repeals and replaces Ch. 1.08, wards
81-131	Not codified
81-132	Not codified
81-133	Not codified
81-134	Not codified
81-135	Not codified
81-136	Not codified
81-137	Not codified
81-138	Not codified
81-139	Repeals Ch. 15.44, signs and canopies
81-140	Not codified
81-141	Not codified
81-142	Not codified
81-143	Not codified
81-144	Not codified
81-145	Not codified
81-146	Not codified
81-147	Not codified
81-148	Not codified
81-149	Not codified
81-150	Not codified
81-151	Not codified
81-152	Not codified
81-153	Amends § 10.12.080, parking prohibited on certain streets
81-154	Not codified
81-155	Not codified
81-156	Not codified
81-157	Not codified
81-158	Not codified
81-159	Not codified
81-160	Not codified
81-161	Not codified
81-162	Amends § 19.52.050, zoning
81-163	Amends § 19.58.040, zoning
81-164	Amends § 19.18.020(6), 19.20.020(7), 19.26.030(5), 19.28.030(5), 19.30.030(5), 19.32.030(5), 19.36.030(5), 19.38.030(5), and 19.40.020(5); repeals § 19.56.040, zoning
81-165	Amends § 19.42.010, zoning
81-166	Not codified
81-167	Amends § 19.32.020, zoning
81-168	Amends § 19.38.020, zoning
81-169	Adds § 19.40.030, zoning
81-170	Amends § 19.52.070, zoning
81-171	Not codified
81-172	Not codified
81-173	Not codified
81-174	Not codified
81-175	Not codified
81-176	Not codified
81-177	Not codified
81-178	Not codified
81-179	Amends § 19.14.010, zoning
81-180	Amends § 19.44.020, zoning
81-181	Not codified
81-182	Not codified
81-183	Amends § 19.28.020, 19.30.020 and 19.32.020, zoning
81-184	Amends § 19.52.020, zoning
81-185	Amends § 19.52.180, zoning
81-186	Amends § 10.12.053, parking
81-187	Amends § 6.04.080, solid waste service charge
81-188	Amends § 5.24.080, taxis
81-189	Not codified
81-190	Not codified
81-191	Not codified
81-192	Amends § 19.58.050, zoning
81-193	Not codified
81-194	Not codified
81-195	Not codified
82-01	Not codified
82-02	Not codified
82-03	Not codified
82-04	Not codified
82-05	Not codified
82-06	Not codified
82-07	Not codified
82-08	Not codified
82-09	Amends § 2 of Ord. 644, rezone (Special)
82-10	Amends § 1 of Ord. 81-29, bridge reconstruction (Special)
82-11	Repeals Ord. 818, coupon rates for senior citizens
82-12	Adds § 15.17.115, private sewage systems
82-13	Repeals Ch. 13.28
82-14	Repeals Ch. 13.09
82-15	Not codified
82-16	Not codified
82-17	Not codified
82-18	Not codified
82-19	Not codified
82-20	Not codified
82-21	Amends § 19.62.030, zoning
82-22	Amends § 19.42.010, zoning
82-23	Not codified
82-24	Not codified
82-25	Not codified
82-26	Not codified
82-27	Not codified

82-28	Not codified
82-29	Not codified
82-30	Not codified
82-31	Not codified
82-32	Not codified
82-33	Not codified
82-34	Not codified
82-35	Not codified
82-36	Amends § 15.17.115, private sewage disposal systems
82-37	Not codified
82-38	Not codified
82-39	Not codified
82-40	Not codified
82-41	Not codified
82-42	Not codified
82-43	Not codified
82-44	Not codified
82-45	Adds § 9.32.230, zoning
82-46	Not codified
82-47	Not codified
82-48	Not codified
82-49	Not codified
82-50	Not codified
82-51	Not codified
82-52	Not codified
82-53	Not codified
82-54	Amends § 12.21.060, Lake Olathe boating license
82-55	Adds Title 17, stormwater management
82-56	Not codified
82-57	Not codified
82-58	Not codified
82-59	Not codified
82-60	Not codified
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82-64	Not codified
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82-66	Not codified
82-67	Not codified
82-68	Not codified
82-69	Adds § 10.04.051, modification of standard traffic ordinance
82-70	Amends § 10.12.080, parking prohibitions
82-71	Not codified
82-72	Amends § 2.32.020, planning commission qualifications
82-73	Not codified
82-74	Not codified
82-75	Not codified
82-76	Not codified
82-77	Not codified
82-78	Not codified
82-79	Not codified
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82-83	Not codified
82-84	Not codified
82-85	Not codified
82-86	Not codified
82-87	Not codified
82-88	Not codified
82-89	Not codified
82-89-A	Not codified
82-90	Not codified
82-91	Not codified
82-92	Not codified
82-93	Not codified
82-94	Not codified
82-95	Not codified
82-96	Not codified
82-97	Not codified
82-98	Not codified
82-99	Not codified
82-100	Not codified
82-101	Not codified
82-102	Amends § 13.12.045, water rates (Repealed by 82-137)
82-103	Adds § 19.06.054 and 19.06.074, zoning definitions (19.06)
82-104	Not codified
82-105	Amends § 19.30.010, zoning
82-106	Not codified
82-107	Amends § 15.08.010 and 15.08.020, building code standards
82-108	Amends § 15.28.010 and 15.28.020, housing code
82-109	Adds § 10.04.015, amendment to standard traffic ordinance
82-110	Adds § 10.04.052, amendment to standard traffic ordinance
82-111	Amends § 15.17.020 and 15.17.030, plumbing code
82-112	Amends § 15.57.010 and 15.57.020, mechanical code
82-113	Amends § 15.05.020, 15.05.030, 15.05.050 and 15.05.080, uniform building code
82-114	Amends § 15.10.020, 15.10.030, 15.10.040, 15.10.050, 15.10.060, and 15.10.070, electrical code
82-115	Amends § 6.04.050, garbage and refuse permits
82-116	Not codified
82-117	Not codified
82-118	Not codified
82-119	Not codified
82-120	Amends § 15.60.030, underground utilities
82-121	Not codified
82-122	Not codified
82-123	Not codified
82-124	Not codified

82-125	Not codified
82-126	Not codified
82-127	Not codified
82-128	Not codified
82-129	Adds Ch. 16.06, uniform fire code standards
82-130	Not codified
82-131	Not codified
82-132	Repeals and replaces § 10.28.010, school zones
82-133	Repeals and replaces § 12.24.060, cemetery lot purchase prices (Repealed by 83-10)
82-134	Repeals and replaces § 16.04.010 and 16.04.020, uniform fire code
82-135	Not codified
82-136	Not codified
82-137	Repeals and replaces § 13.12.030, 13.12.040 and 13.12.045, water rates
82-138	Repeals and replaces § 13.08.010, wastewater charges
82-139	Not codified
82-140	Not codified
82-141	Not codified
82-142	Not codified
82-143	Not codified
82-144	Not codified
83-01	Not codified
83-02	Not codified
83-03	Not codified
83-04	Adds Ch. 9.03, automatic alarm systems
83-05	Not codified
83-06	Not codified
83-07	Amends § 10.12.080, parking prohibited
83-08	Not codified
83-09	Amends § 17.02.040 and 17.10.020, stormwater management
83-10	Repeals and replaces Ch. 12.24, city cemetery
83-11	Not codified
83-12	Not codified
83-13	Adds Ch. 10.30, handicapped parking zones
83-14	Amends § 12.21.020 and 12.21.030, swimming
83-15	Not codified
83-16	Not codified
83-17	Not codified
83-18	Not codified
83-19	Not codified
83-20	Not codified
83-21	Not codified
83-22	Not codified
83-23	Not codified
83-24	Not codified
83-25	Not codified
83-26	Not codified
83-27	Not codified
83-28	Not codified
83-29	Not codified
83-30	Not codified
83-31	Not codified
83-32	Not codified
83-33	Not codified
83-34	Not codified
83-35	Repeals and replaces § 12.21.230, fishing by nonresidents
83-36	Adds § 12.24.065 and amends § 12.24.060, cemetery
83-37	Not codified
83-38	Not codified
83-39	Not codified
83-40	Not codified
83-41	Not codified
83-42	Not codified
83-43	Not codified
83-44	Not codified
83-45	Not codified
83-46	Repeals Ch. 8.04 and adds Ch. 8.01, control and protection of animals
83-47	Repeals and replaces Ch. 15.05, building code
83-48	Not codified
83-49	Not codified
83-50	Repeals and replaces Title 19, zoning
83-51	Not codified
83-52	Not codified
83-53	Not codified
83-54	Not codified
83-55	Not codified
83-56	Not codified
83-57	Not codified
83-58	Not codified
83-59	Not codified
83-60	Not codified
83-61	Not codified
83-62	Not codified
83-63	Not codified
83-64	Not codified
83-65	Not codified
83-66	Not codified
83-67	Not codified
83-68	Not codified
83-69	Not codified
83-70	Not codified
83-71	Not codified
83-72	Not codified
83-73	Not codified
83-74	Not codified
83-75	Repeals Chs. 9.01, 9.04, 9.08, 9.12, 9.16, 9.20, 9.24 and 9.32; and adds Chs. 9.01, 9.02, 9.03, 9.04, 9.05, 9.06, 9.07, 9.08, 9.09, 9.10, 9.11, 9.12, 9.13, 9.14, 9.15, 9.16, 9.17, 9.18, 9.19, 9.20 and 9.21, Olathe public offense code

83-76	Not codified
83-77	Amends § 10.12.080, prohibited parking
83-78	Not codified
83-79	Not codified
83-80	Not codified
83-81	Not codified
83-82	Not codified
83-83	Not codified
83-84	Not codified
83-85	Not codified
83-86	Repeals and replaces Ch. 10.24, truck traffic
83-87	Amends § 2.60.040, emergency medical services
83-88	Amends § 6.04.080, service charge for the collection and disposal of solid waste
83-89	Amends § 12.21.030, swimming fees
83-90	Amends § 15.10.060, permits and inspection
83-91	Amends § 15.13.130, license fee
83-92	Amends § 15.17.100, plumbing permits
83-93	Amends § 15.57.070, mechanical permit
83-94	Amends § 15.58.130, annual license fees for mechanical contractors
83-95	Not codified
83-96	Amends § 10.01.010 thru 10.01.110 and adds § 10.01.120 and 10.01.130, standard traffic ordinance for Kansas cities
83-97	Not codified
83-98	Not codified
83-99	Not codified
83-100	Not codified
83-101	Not codified
83-102	Not codified
83-103	Adds Ch. 3.02, service charge for dishonored instruments
83-104	Not codified
83-105	Not codified
83-106	Not codified
83-107	Not codified
83-108	Not codified
83-109	Not codified
83-110	Not codified
83-111	Amends § 13.12.030, 13.12.040, 13.12.045, 13.12.050 and 13.12.070, water service rates
83-112	Amends § 13.08.010, wastewater rates
83-113	Not codified
83-114	Not codified
83-115	Not codified
83-116	Not codified
83-117	Amends § 13.24.060, utility service charges
83-118	Not codified
83-119	Not codified
83-120	Not codified
83-121	Not codified
83-122	Amends § 19.38.010, permitted uses in C-3 zones; and 14.48.010, industrial and commercial zones
83-123	Not codified
83-124	Not codified)
83-125	Not codified)
83-126	Not codified
83-127	Amends § 10.01.060, speed restrictions
83-128	Amends § 10.28.010, school zones
83-129	Not codified
84-01	Not codified
84-02	Not codified
84-03	Not codified
84-04	Amends § 19.56.020, monument signs
84-05	Not codified
84-06	Adds Ch. 9.42, charges of public safety service
84-07	Adds Ch. 2.66, open public records
84-08	Not codified
84-09	Not codified
84-10	Not codified
84-11	Not codified
84-12	Not codified
84-13	Not codified
84-14	Repeals and replaces Ch. 15.40, moving buildings
84-15	Not codified
84-16	Not codified
84-17	Not codified
84-18	Not codified
84-19	Amends § 5.28.020 and 5.28.030 and adds § 5.28.045, solicitor and peddler registration
84-20	Amends § 5.42.030, 5.42.090 and 5.42.070, license
84-21	Not codified
84-22	Not codified
84-23	Not codified
84-24	Not codified
84-25	Not codified
84-26	Not codified
84-27	Not codified
84-28	Not codified
84-29	Amends § 15.05.050, uniform building code fees
84-30	Not codified
84-31	Not codified
84-32	Amends § 19.48.010, standard special uses
84-33	Not codified
84-34	Not codified
84-35	Not codified
84-36	Not codified
84-37	Not codified
84-38	Not codified

84-39	Not codified
84-40	Not codified
84-41	Not codified
84-42	Not codified
84-43	Not codified
84-44	Not codified
84-45	Adds Ch. 10.29, school bus loading zones
84-46	Adds Ch. 9.25, automatic alarm systems
84-47	Not codified
84-48	Not codified
84-49	Not codified
84-50	Not codified
84-51	Not codified
84-52	Not codified
84-53	Not codified
84-54	Not codified
84-55	Not codified
84-56	Not codified
84-57	Not codified
84-58	Not codified
84-59	Not codified
84-60	Not codified
84-61	Amends § 19.42.010, satellite antennae sales
84-62	Not codified
84-63	Not codified
84-64	Not codified
84-65	Not codified
84-66	Not codified
84-67	Not codified
84-68	Not codified
84-69	Not codified
84-70	Not codified
84-71	Not codified
84-72	Not codified
84-73	Repeals and replaces Ch. 2.16, municipal court
84-74	Not codified
84-75	Not codified
84-76	Not codified
84-77	Not codified
84-78	Not codified
84-79	Not codified
84-80	Not codified
84-81	Not codified
84-82	Not codified
84-83	Not codified
84-84	Not codified
84-85	Not codified
84-86	Not codified
84-87	Not codified
84-88	Not codified
84-89	Not codified
84-90	Not codified
84-91	Not codified
84-92	Not codified
84-93	Not codified
84-94	Not codified
84-95	Not codified
84-96	Not codified
84-97	Not codified
84-98	Not codified
84-99	Not codified
84-100	Not codified
84-101	Amends § 19.08.040, 19.66.030.020, 19.66.050.020, adds § 19.66.052.010 19.66.052.020, 19.66.052.030, 19.66.052.040, 19.66.061 and 19.66.062, requirement of and review of development/site plans
84-102	Not codified
84-103	Not codified
84-104	Amends § 2.66.020, custodians
84-105	Adds Title 14, sewer use regulations
84-106	Not codified
84-107	Not codified
84-108	Not codified
84-109	Not codified
84-110	Not codified
84-111	Amends § 10.12.080, prohibition of parking on certain streets
84-112	Not codified
84-113	Not codified
84-114	Not codified
84-115	Not codified
84-116	Not codified
84-117	Not codified
84-118	Not codified
84-119	Not codified
84-120	Not codified
84-121	Not codified
84-122	Not codified
84-123	Not codified
84-124	Not codified
84-125	Not codified
84-126	Not codified
84-127	Not codified
84-128	Not codified
84-129	Not codified
84-130	Not codified
84-131	Not codified
84-132	Not codified
84-133	Not codified
84-134	Not codified
84-135	Not codified
84-136	Not codified
84-137	Not codified
84-138	Not codified
84-139	Not codified
84-140	Not codified
84-141	Amends § 10.12.080, prohibited of parking on certain streets
84-142	Not codified
84-143	Not codified

84-144	Amends § 13.12.030, 13.12.045, 13.12.050 and 13.12.070, water service rates
84-145	Not codified
84-146	Not codified
84-147	Not codified
84-148	Not codified
84-149	Not codified
84-150	Not codified
84-151	Not codified
84-152	Not codified
84-153	Not codified
84-154	Amends § 13.08.010, wastewater rates
84-155	Not codified
84-156	Not codified
84-157	Not codified
84-158	Amends § 19.60.020 and 19.60.040, parking standards
84-159	Not codified
85-01	Not codified
85-02	Not codified
85-03	Not codified
85-04	Not codified
85-05	Not codified
85-06	Not codified
85-07	Not codified
85-08	Not codified
85-09	Not codified
85-10	Not codified
85-11	Amends § 19.42.030, 19.44.030, and 19.46.030, paving of deferred parking areas in industrial districts
85-12	Amends § 10.01.060, speed limit restrictions
85-13	Adds Ch. 6.18, noise control
85-14	Not codified
85-15	Not codified
85-16	Not codified
85-17	Amends § 19.56.120, sign regulations for C-2 and C-3 districts
85-18	Amends § 19.56, theater sign regulations
85-19	Not codified
85-20	Not codified
85-21	Not codified
85-22	Not codified
85-23	Not codified
85-24	Repeals § 12.24.065, cemetery monument foundations
85-25	Amends § 15.10.020, 15.10.030, 15.10.040, 15.10.050, & 15.10.060, electrical code
85-26	Not codified
85-27	Not codified
85-28	Not codified
85-29	Amends § 19.38.020, performance standards in the C-3 district
85-30	Adds § 2.44.041, Disabled Persons Advisory Board
85-31	Not codified
85-32	Not codified
85-33	Not codified
85-34	Amends § 19.48.010, standard special uses
85-35	Not codified
85-36	Amends § 19.36.010 and 19.38.010, permitted uses
85-37	Amends § 19.66.052.010, preliminary development plans
85-38	Not codified
85-39	Not codified
85-40	Not codified
85-41	Not codified
85-42	Not codified
85-43	Not codified
85-44	Not Codified
85-45	Not Codified
85-46	Not Codified
85-47	Not codified
85-48	Not codified
85-49	Not codified
85-50	Not codified
85-51	Not codified
85-52	Not codified
85-53	Not codified
85-54	Not codified
85-55	Not codified
85-56	Not codified
85-57	Not codified
85-58	Not codified
85-59	Not codified
85-60	Not codified
85-61	Not codified
85-62	Not codified
85-63	Not codified
85-64	Not codified
85-65	Amends § 12.21.050, 12.21.060 and 12.21.080, licenses for boating on city lakes
85-66	Not codified
85-67	Not codified
85-68	Not codified
85-69	Not codified
85-70	Not codified
85-71	Not codified
85-72	Not codified
85-73	Not codified
85-74	Amends § 19.52.050 nonconforming characteristics of use
85-75	Amends § 19.56.110 monument signs in C-1 district
87-76	Amends § 19.42.010, permitted uses in M-1 district
85-77	Not codified
85-78	Not codified
85-79	Not codified
85-80	Not codified

85-81 Amends § 19.36.010 & 19.38.010, permitted uses in C-2 and C-3
85-82 Not codified
85-83 Amends § 5.24.140, 5.24.150, 5.24.160, and 5.24.170, certification of taxicab drivers
85-84 Not codified
85-85 Not codified
85-86 Not codified
85-87 Not codified
85-88 Not codified
85-89 Not codified
85-90 Not codified
85-90A Not codified
85-91 Not codified
85-92 Not codified
85-93 Not codified
85-94 Not codified
85-95 Not codified
85-96 Not codified
85-97 Not codified
85-98 Not codified
85-99 Amends § 19.60.030, improvement of parking areas
85-100 Amends § 10.08.010, 1984 major street system map
85-101 Amends § 19.08.040, general development requirements
85-102 Amends § 19.32.010, permitted uses in C-0 district
85-103 Not codified
85-104 Not codified
85-105 Amends § 10.12.080, prohibition of parking
85-106 Not codified
85-107 Amends § 19.56.120, signs
85-108 Not codified
85-109 Not codified
85-110 Not codified
85-111 Amends § 19.60.020, mixed use parking in C-3
85-112 Amends § 19.66.052.010(b), development plans
85-113 Not codified
85-114 Not codified
85-115 Not codified
85-116 Not codified
85-117 Not codified
85-117-A Not codified
85-118 Not codified
85-119 Not codified
85-120 Not codified
85-121 Adds Ch. 2.68, creating a Sister Cities Committee
85-122 Not codified
85-123 Not codified
85-124 Not codified
85-125 Not codified
85-126 Amends § 2.48.020, composition, qualifications and terms of office of the Public Building Commission
85-127 Not codified
85-128 Amends § 19.48.010, standard special uses
85-129 Amends § 19.60.030, parking area improvements
85-130 Not codified
85-131 Not codified
85-132 Not codified
85-133 Not codified
85-134 Not codified
85-135 Not codified
85-136 Not codified
85-137 Not codified
85-138 Not codified
85-139 Not codified
85-140 Rezone
85-141 Rezone
85-142 Adds § 5.08.140 and 5.08.150, standards of conduct, employment and prohibited practices of clubs licensed to sell and serve alcoholic liquor
85-143 Amends Ch. 5.12, cereal malt beverage regulations
85-144 Amends Ch. 10.01, standard traffic ordinance for Kansas cities
85-145 Adds. § 10.12.090 through 10.12.104, parking regulation in central business district and incorporating a central business district parking plan
85-146 Amends § 10.28.010, school zones for Tomahawk Elementary School
85-147 Not codified
85-148 Not codified
85-149 Amends § 10.01.030 and 10.01.040, Standard Traffic Ordinance
85-150 Not codified
85-151 Amends § 13.08.010, wastewater usage rates
85-152 Amends § 13.12.030, 13.12.045, 13.12.050, and 12.12.070, establishment of water service rates
85-153 Not codified
85-154 Not codified
85-155 Not codified
85-156 Amends § 19.48.010, standard special uses
85-157 Not codified
85-158 Not codified
85-159 Not codified
85-160 Not codified
85-161 Not codified
85-162 Not codified
85-163 Not codified
85-164 Not codified
86-01 Not codified
86-02 Not codified

86-03	Not codified
86-04	Not codified
86-05	Not codified
86-06	Not codified
86-07	Adds Ch. 13.26, establishment of systems development charge
86-08	Not codified
86-09	Amends § 19.56, signs
86-10	Not codified
86-11	Amends § 10.01.070, removal of vehicles
86-12	Not codified
86-13	Not codified
86-14	Not codified
86-15	Repeals and replaces Ch. 13.04, utility service regulations
86-16	Not codified
86-17	Not codified
86-18	Not codified
86-19	Not codified
86-20	Not codified
86-21	Not codified
86-22	Not codified
86-23	Not codified
86-24	Not codified
86-25	Not codified
86-26	Not codified
86-27	Not codified
86-28	Not codified
86-29	Not codified
86-30	Not codified
86-31	Not codified
86-32	Amends § 10.12.080, parking prohibited on certain streets
86-33	Establishes 2-hour parking zone
86-34	Not codified
86-35	Not codified
86-36	Not codified
86-37	Not codified
86-38	Not codified
86-39	Not codified
86-40	Amends § 10.12.087, 2-hour parking along and adjacent to certain streets
86-41	Not codified
86-42	Not codified
86-43	Not codified
86-44	Not codified
86-45	Not codified
86-46	Not codified
86-47	Amends § 10.12.080, prohibition of parking
86-48	Not codified
86-49	Not codified
86-50	Not codified
86-51	Not codified
86-52	Not codified
86-53	Not codified
86-54	Not codified
86-55	Amends § 12.06.100 and 12.06.105, design standards for driveway approaches and variances from such standards
86-56	Not codified
86-57	Not codified
86-58	Amends § 10.24.020, prohibition of truck traffic on certain streets
86-59	Not codified
86-60	Amends § 16.04.010, 16.04.020, 16.04.060, 16.04.075, and 16.04.100, uniform fire code
86-61	Amends § 16.06.010 and 16.06.020, uniform fire code standards
86-62	Adds § 16.08.010 and 16.08.020, National Fire Protection Association 101 Life Safety Code
86-63	Not codified
86-64	Not codified
86-65	Not codified
86-66	Not codified
86-67	Not codified
86-68	Not codified
86-69	Not codified
86-70	Not codified
86-71	Amends § 10.12.087, 2-hr. parking
86-72	Amends § 10.12.053, parking zones
86-73	Not codified
86-74	Amends § 19.56.060, subdivision markers
86-75	Not codified
86-76	Not codified
86-77	Not codified
86-78	Not codified
86-79	Not codified
86-80	Not codified
86-81	Not codified
86-82	Amends § 10.12.053, parking zones
86-83	Amends § 10.12.087, 2-hr. parking
86-84	Not codified
86-85	Not codified
86-86	Not codified
86-87	Not codified
86-88	Not codified
86-89	Not codified
86-90	Not codified
86-91	Not codified
86-92	Not codified
86-93	Not codified
86-94	Not codified
86-95	Amends § 19.08.040, general development requirements
86-96	Amends Ch. 10.08, street map
86-97	Not codified
86-98	Not codified
86-99	Not codified
86-100	Not codified
86-101	Not codified
86-102	Not codified

86-103	Not codified
86-104	Amends § 19.56, signs
86-105	Repeals and replaces Ch. 5.24, taxicabs and limousines
86-106	Amends § 10.12.087, 2-hr. parking
86-107	Amends § 1.08.010, 1.08.020, and 1.08.040, wards
86-108	Not codified
86-109	Not codified
86-110	Not codified
86-111	Not codified
86-112	Not codified
86-113	Not codified
86-114	Not codified
86-115	Not codified
86-116	Amends § 10.12.080, parking prohibited on certain streets
86-117	Not codified
86-118	Not codified
86-119	Not codified
86-120	Not codified
86-121	Amends § 10.12.080, parking prohibited on certain streets
86-122	Not codified
86-123	Not codified
86-124	Not codified
86-125	Not codified
86-126	Amends § 15.57.010 and 15.57.020, uniform mechanical code
86-127	Amends 15.28.010 and 15.28.020, uniform housing code
86-128	Amends § 15.17.020, 15.17.030, 15.17.110 and 15.17.115, uniform plumbing code
86-129	Amends § 15.08.010 and 15.08.020, uniform building code standards
86-130	Amends § 15.05.020, 15.05.030, 15.05.100, 15.05.220; and repeals 15.05.130, 15.05,140, 15.05,150, 15.05.160, 15.05.200 and 15.05.210, uniform building code
86-131	Not codified
86-132	Not codified
86-133	Not codified
86-134	Not codified
86-135	Not codified
86-136	Not codified
86-137	Not codified
86-138	Not codified
86-139	Not codified
86-140	Not codified
86-141	Adds Ch. 3.20, capital improvements fund
86-142	Not codified
86-143	Not codified
87-01	Not codified
87-02	Not codified
87-03	Amends § 19.16.020, 19.18.020, 19.20.020, 19.22.020, 19.24.030, 19.26.030, height and area regulations; 19.32.020, 19.34.020, 19.36.020, 19.38.030, 19.42.020, 19.44.020, 19.46.020; performance standards
87-04	Not codified
87-05	Not codified
87-06	Not codified
87-07	Not codified
87-08	Amends § 19.60.020, parking standards
87-09	Adds § 3.20.020, 3.20.030, 3.20.040, 3.20.050, and 3.20.060, procedure for funding the capital improvements fund
87-10	Not codified
87-11	Not codified
87-12	Not codified
87-13	Not codified
87-14	Not codified
87-15	Not codified
87-16	Not codified
87-17	Not codified
87-18	Not codified
87-19	Not codified
87-20	Not codified
87-21	Not codified
87-22	Not codified
87-23	Not codified
87-24	Not codified
87-25	Not codified
87-26	Not codified
87-27	Not codified
87-28	Not codified
87-29	Not codified
87-30	Amends § 1.01.050, 1.01.160, 2.16.010, 2.20.010, 2.32.030, 2.44.041, 2.48.020, 2.62.020, 2.62.040, 2.62.060, 2.62.070, 2.62.100, 2.62.110, 2.62.120, 2.64.030, 2.64.070, 2.66.010, 2.66.030, 2.66.050, 2.68.020, 2.68.030, 3.40.060, 5.42.040, 6.04.050, 6.16.010, 6.18.030, 6.18.130, 9.01.010, 13.04.080, 13.17.030, 14.12.040, 15.52.020, 15.52.060, 15.52.100, and 15.52.110, changing the words of commission, commissioners, or city commission to governing body
87-31	Not codified
87-32	Not codified
87-33	Not codified
87-34	Not codified
87-35	Not codified
87-36	Not codified
87-37	Not codified
87-38	Amends § 5.12.090, sale of cereal malt beverages

87-39	Not codified
87-40	Amends § 12.21.010, 12.21.020, and 12.21.030, swimming regulations and fees
87-41	Amends § 12.24.060, charges for opening graves
87-42	Not codified
87-43	Not codified
87-44	Not codified
87-45	Amends § 10.12.080, parking prohibited on certain streets
87-46	Amends § 19.48.010, standard special uses
87-47	Not codified
87-48	Not codified
87-49	Not codified
87-50	Amends § 10.28.010, school zone
87-51	Amends § 10.12.053, parking zones in municipal parking lot
87-52	Not codified
87-53	Not codified
87-54	Repeals § 19.60.040, parking lot dimensions
87-55	Not codified
87-56	Amends § 19.66.040.020, 19.66.052.030, 19.66.062 and 19.66.170, changing the term city commission to governing body
87-57	Not codified
87-58	Not codified
87-59	Not codified
87-60	Not codified
87-61	Not codified
87-62	Not codified
87-63	Not codified
87-64	Not codified
87-65	Amends § 10.01.072, parking in alleys
87-66	Not codified
87-67	Not codified
87-68	Not codified
87-69	Not codified
87-70	Not codified
87-71	Not codified
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87-119	Not codified
87-120	Not codified
87-121	Not codified
87-122	Not codified
87-123	Amends § 10.24.020, prohibition of truck traffic on designated streets
87-124	Not codified
87-125	Not codified
87-126	Not codified
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87-134	Not codified
87-135	Amends § 10.24.020, prohibition of truck traffic on designated streets
87-136	Adds Ch. 2.04, conflicts of interest
87-137	Not codified
87-138	Amends § 10.12.080, parking prohibited on certain streets
87-139	Adds Title 7, liquor laws
87-140	Amends § 10.01.070, removal of vehicles
87-141	Not codified
87-142	Not codified

87-143	Not codified
87-144	Not codified
87-145	Not codified
87-146	Not codified
87-147	Not codified
87-148	Repeals § 10.24.010, designated truck routes
87-149	Amends § 9.04.070, 9.04.100, 9.05.050, 9.07.020, 9.07.050, 9.07,270, 9.10.030, 9.12.010, 9.13.010, 9.13.030; and adds § 9.13.035, 9.17.030; public offense code
87-150	Not codified
87-151	Adds § 12.21.255, sale of food and drinks in public parks
87-152	Amends § 5.28.080, ice cream vendors
87-153	Not codified
87-154	Not codified
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87-166	Not codified
87-167	Not codified
87-168	Amends § 1.08.020, 1.08.030, 1.08.040, and 1.08.050, definition of wards
87-169	Repeals § 15.52.080, structural quality of mobile homes
87-170	Adds Ch. 15.53, inspection of mobile homes
87-171	Amends § 15.40.030, applications and fees for moving buildings
87-172	Not codified
87-173	Repeals and replaces Title 8, animals
87-174	Not codified
87-175	Not codified
88-01	Amends § 19.56.050, signs permitted in all districts
88-02	Not codified
88-03	Not codified
88-04	Not codified
88-05	Amends § 10.24.020, prohibition of truck traffic on designated streets
88-06	Not codified
88-07	Not codified
88-08	Not codified
88-09	Not codified
88-10	Amends § 5.24.040, insurance requirements for taxi cabs and limousine services
88-11	Amends § 10.24.020, truck traffic prohibited on designated streets
88-12	Not codified
88-13	Not codified
88-14	Not codified
88-15	Not codified
88-16	Amends Chs. 19.06, 19.12, 19.16, 19.18, 19.20, 19.22, and 19.50, zoning
88-17	Not codified
88-18	Adds Ch. 2.70, Audit Committee
88-19	Not codified
88-20	Not codified
88-21	Not codified
88-22	Not codified
88-23	Not codified
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88-85 Not codified
88-86 Not codified
88-87 Not codified
88-88 Amends § 19.50.020, uses designated
88-89 Not codified
88-90 Not codified
88-91 Not codified
88-92 Not codified
88-93 Amends Ch. 13.04, water service regulations
88-94 Not codified
88-95 Not codified
88-96 Not codified
88-97 Not codified
88-98 Not codified
88-99 Not codified
88-100 Amends § 12.21.255, sale of food and drink in public parks
88-101 Not codified
88-102 Not codified
88-103 Not codified
88-104 Not codified
88-105 Not codified
88-106 Not codified
88-107 Not codified
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88-110 Not codified
88-111 Not codified
88-112 Adds Ch. 2.72, Community Image Committee
88-112A Not codified
88-113 Not codified
88-114 Not codified
88-115 Not codified
88-116 Not codified
88-117 Not codified
88-118 Not codified
88-119 Not codified
88-120 Amends § 8.02.020, 8.06.010, 8.10.100, 8.12.010, 8.12.030, and 8.12.040, animal control
88-121 Amends § 7.02.040, 7.02.050, 7.02.070; and adds 7.02.045, 7.02.055, general provisions; and Ch. 7.03, retail liquor stores
88-122 Adds § 7.12.152, 7.12.155, 7.12.157, and amends § 7.12.170, cereal malt beverages
88-123 Amends § 9.06.020, 9.06.030, 9.07,010, 9.07.040, 9.13.010, 9.14.080, and adds § 9.13.033, public offense code
88-124 Amends § 10.01.052 and adds § 10.01.053, 10.01.055, 10.01.058, standard traffic ordinance
88-125 Not codified
88-126 Not codified
88-127 Not codified
88-128 Not codified
88-129 Not codified
88-130 Not codified
88-131 Not codified
88-132 Not codified
88-133 Not codified
88-134 Not codified
88-135 Amends § 10.12.080, prohibition of parking on certain streets
88-136 Not codified
88-137 Not codified
88-138 Not codified
88-139 Not codified
88-140 Not codified
88-141 Not codified
88-142 Not codified
88-143 Not codified
88-144 Not codified
88-145 Not codified
88-146 Amends § 19.56.100, sign regulations
88-147 Not codified
88-147a Not codified
88-148 Amends § 19.54.090, 19.54.100, 19.54.110, 19.54.130, and 19.54.160, floodplain zoning
88-149 Not codified
88-150 Not codified
88-151 Not codified
88-152 Not codified
88-153 Not codified
88-154 Not codified
88-155 Adds Ch. 3.50, procurement policies
88-156 Not codified
88-157 Not codified
88-158 Not codified
88-159 Not codified
88-160 Amends § 10.28.010, school zones
88-161 Not codified
88-162 Not codified

88-163	Not codified
88-164	Not codified
88-165	Not codified
88-166	Not codified
88-167	Not codified
88-168	Not codified
88-169	Amends § 15.05.050, building permit fees
89-01	Not codified
89-02	Not codified
89-03	Not codified
89-04	Not codified
89-05	Not codified
89-06	Amends § 13.08.010, wastewater rates and repeals § 13.08.011, state grant repayment charge
89-07	Amends § 13.12.030, 13.12.045, 13.12.050, and 13.12.070, water service rates
89-08	Not codified
89-09	Not codified
89-10	Not codified
89-11	Amends Ord. 88-57, amendment to the Geary and Riley County single family mortgage credit certificate program
89-12	Not codified
89-13	Not codified
89-14	Not codified
89-15	Not codified
89-16	Not codified
89-17	Not codified
89-18	Not codified
89-19	Not codified
89-20	Not codified
89-21	Not codified
89-22	Adds Ch. 12.22, swimming pool regulations and repeals § 12.21.030
89-23	Not codified
89-24	Not codified
89-25	Not codified
89-26	Not codified
89-27	Not codified
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89-31	Not codified
89-32	Amends § 12.24.060, charges for opening graves
89-33	Not codified
89-34	Not codified
89-35	Not codified
89-36	Not codified
89-37	Not codified
89-38	Not codified
89-39	Not codified
89-40	Not codified
89-41	Repeals Ord. 336, construction of sanitary service lines
89-42	Not codified
89-43	Amends Ord. 872, § 2 and repeals § 3, franchise fee
89-44	Not codified
89-45	Not codified
89-46	Not codified
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89-66	Not codified
89-67	Adds § 15.05.212 and 15.05.214, uniform building code pertaining to group homes
89-68	Adds Ch. 16.14, recovery of expenses incurred in emergency actions in response to releases or threatened releases of hazardous material
89-69	Not codified
89-70	Not codified
89-71	Not codified
89-72	Not codified
89-73	Not codified
89-74	Not codified
89-75	Not codified
89-76	Not codified
89-77	Not codified
89-78	Not codified
89-79	Amends § 10.24.020, truck traffic prohibited on certain streets
89-80	Not codified
89-81	Not codified
89-82	Repeals and replaces Ch. 5.40, registration of private police
89-83	Not codified
89-84	Not codified
89-85	Not codified
89-86	Not codified
89-87	Adds Ch. 3.30, park excise tax
89-88	Not codified
89-89	Not codified
89-90	Amends § 13.12.030, 12.13.045, 12.23.050, and 13.13.070. water service rates

89-91	Amends § 13.08.010, wastewater rates
89-92	Amends § 13.26.050, systems development charge
89-93	Adds Ch. 2.74, Board of Code Review
89-94	Repeals and replaces Ch. 15.13, electricians
89-95	Adds Ch. 15.20, plumbers
89-96	Repeals and replaces Ch. 15.58, mechanical contractors
89-97	Adds § 15.05.035, 15.10.035, 15.28.025, 16.04.035, and amends 15.17.110, 15.57.030, and 17.16.010, Board of Code Review as the Board of Appeals
89-98	Adds Ch. 3.60, risk management policy
89-99	Not codified
89-100	Not codified
89-101	Not codified
89-102	Not codified
89-103	Not codified
89-104	Not codified
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89-124	Not codified
89-125	Not codified
89-126	Not codified
89-127	Not codified
89-128	Amends § 12.21.050 and 12.21.060, boating licenses and fees
89-129	Amends § 12.21.220 and 12.21.230, fishing licenses and fees
89-130	Amends § 12.22.120, fees charged for use of public swimming pools
89-131	Amends § 15.05.050, building permit fees
89-132	Amends § 19.48.020, 19.64.030, and 19.66.020, zoning
89-133	Amends § 18.28.010, filing fees
89-134	Not codified
89-135	Not codified
89-136	Not codified
89-137	Not codified
89-138	Not codified
89-139	Not codified
89-140	Not codified
89-141	Not codified
89-142	Not codified
89-143	Not codified
89-144	Not codified
89-145	Amends § 10.12.052, 10.12.053, parking
89-146	Amends § 16.04.060, and adds § 16.04.078, 16.04.092, open burning, blasting, and hazardous material permits (Repealed by Ord. 90-36)
89-147	Amends § 10.01.010, 10.01.040, 10.01.052, 10.01.060, and repeals § 10.01.030, 10.01.053, 10.01.055, 10.01.066, 10.01.072, 10.01.074, 10.01.076, 10.01.086, 10.01.088, 10.01.089, 10.01.094, 10.01.120, 10.01.150, 10.01.160, 10.01.180
89-148	Amends § 8.06.060, license fees of dogs and cats
89-149	Amends § 9.25.010, 9.25.020, and adds § 9.25.040, automatic alarm system
89-150	Amends § 7.02.040, 7.02.045, 7.02.050, 7.02.055, 7.02.060, 7.02.070; adds § 7.02.075; and repeals 7.02.090, 7.12.150, 7.12.152, 7.12.155, 7.12.157, 7.12.160, 7.12.170, 7.12.180, 7.12.190; cereal malt beverage
89-151	Amends § 9.05.050, 9.08.010, 9.13.040, 9.13.090, 9.13.100, 9.17.010, 9.17.030, 9.20.010, 9.20.020, 9.20.030, 9.20.040; adds § 9.05.110, 9.20.025; and repeals § 9.17.020; public offense code
89-152	Adds § 12.21.245, watercraft, requiring certain persons to wear lifesaving devices
90-01	Not codified
90-02	Not codified
90-03	Not codified
90-04	Not codified
90-05	Not codified
90-05A	Not codified
90-06	Not codified
90-07	Not codified
90-08	Not codified
90-09	Amends § 15.10.020, 15.10.030, 15.10.040, and 15.10.050, electrical code
90-10	Not codified
90-11	Not codified
90-12	Not codified
90-13	Amends § 10.12.080, parking prohibited on certain streets

90-14	Adds Ch. 13.28, stormwater infiltration and inflow control
90-15	Amends § 6.04.080, service charge for solid waste collection and disposal
90-16	Amends § 6.04.100, sanitary landfill
90-17	Not codified
90-18	Not codified
90-19	Not codified
90-20	Not codified
90-21	Repeals and replaces Ch. 6.06, environmental quality; and repeals Chs. 6.12 and 6.16
90-22	Repeals and replaces Ch. 6.09, Weeds
90-23	Not codified
90-24	Not codified
90-25	Not codified
90-26	Not codified
90-27	Not codified
90-28	Not codified
90-29	Not codified
90-30	Amends § 15.05.020, 15.05.030, 15.04.220; adds § 15.05.200; and repeals § 15.05.212 and 15.05.214; uniform building code
90-31	Amends § 15.08.010 and 15.08.020, uniform building code standards
90-32	Amends § 15.57.010 and 15.57.020, uniform mechanical code
90-33	Amends § 15.17.020, 15.17.030, and 15.17.115, uniform plumbing code
90-34	Amends § 15.28.101 and 15.28.020, uniform housing code
90-35	Adds Ch. 15.01, CABO one and two family dwelling code
90-36	Repeals Chs. 16.04, 16.06, and 16.08, and adds Ch. 16.05, fire codes
90-37	Not codified
90-38	Not codified
90-39	Not codified
90-40	Not codified
90-41	Not codified
90-42	Not codified
90-43	Not codified
90-44	Not codified
90-45	Not codified
90-46	Not codified
90-47	Amends § 10.28.010, speed limits in school zones
90-48	Not codified
90-49	Not codified
90-50	Not codified
90-51	Not codified
90-52	Not codified
90-53	Not codified
90-54	Not codified
90-55	Not codified
90-56	Not codified
90-57	Amends § 10.12.053, parking zones
90-58	Not codified
90-59	Amends § 13.12.030, 13.12.045, 13.12.050, and 13.12.070, water service rates
90-60	Amends § 13.08.010, wastewater charges
90-61	Not codified
90-62	Not codified
90-63	Not codified
90-64	Not codified
90-65	Adds Ch. 15.02, correcting damage to public facilities
90-66	Not codified
90-67	Not codified
90-68	Not codified
90-69	Not codified
90-70	Amends § 1.08.030 and 1.08.050, definitions of wards
90-71	Not codified
90-72	Not codified
90-73	Not codified
90-74	Not codified
90-75	Not codified
90-76	Not codified
90-77	Not codified
90-78	Not codified
90-79	Amends § 12.21.255, sale of food and drink in public parks
90-80	Not codified
90-81	Not codified
90-82	Not codified
90-83	Not codified
90-84	Not codified
90-85	Not codified
90-86	Not codified
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90-95	Not codified
90-96	Not codified
90-97	Not codified
90-98	Not codified
90-99	Not codified
90-100	Not codified
90-101	Amends § 10.24.020, prohibition of truck traffic
90-102	Adds Ch. 5.44, towing of vehicles
90-103	Not codified
90-104	Not codified
90-105	Not codified
90-106	Amends § 5.44.020 and 5.44.090, towing of vehicles
90-107	Not codified
90-108	Not codified
90-109	Not codified

90-110	Not codified
90-111	Not codified
90-112	Not codified
90-113	Not codified
90-114	Not codified
90-115	Amends § 19.56.030, zoning
90-116	Not codified
90-117	Not codified
90-118	Adds Ch. 3.70, storm water management fee
91-01	Not codified
91-02	Not codified
91-03	Not codified
91-04	Not codified
91-05	Not codified
91-06	Adds § 10.08.015, designates Pflumm Rd. between 119th St. and the southern city limits a minor arterial street
91-07	Amends § 12.22.120, fees charged for the public use of swimming pools
91-08	Amends § 3.60.130, protection of officers and employees of the city and repeals chapter 3.40, suits and claims against officers and employees
91-09	Not codified
91-10	Not codified
91-11	Not codified
91-12	Not codified
91-13	Not codified
91-14	Not codified
91-15	Not codified
91-16	Not codified
91-17	Not codified
91-18	Not codified
91-19	Not codified
91-20	Amends § 13.12.030, 13.12.045, 13.12.050 and 13.12.070, water service rates
91-21	Amends § 13.08.010, wastewater rates
91-22	Not codified
91-23	Not codified
91-24	Not codified
91-25	Not codified
91-26	Not codified
91-27	Not codified
91-28	Adds § 2.44.042 to Ch. 2.44, Senior Citizens Advisory Board
91-29	Not codified
91-30	Not codified
91-31	Not codified
91-32	Not codified
91-33	Not codified
91-34	Not codified
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91-36	Not codified
91-37	Not codified
91-38	Not codified
91-39	Not codified
91-40	Not codified
91-41	Not codified
91-42	Amends § 2.44.030 to Ch. 2.44, Human Relations Commission
91-43	Not codified
91-44	Amends § 2.44.042 to Ch. 2.44, Senior Citizens Advisory Board
91-45	Not codified
91-46	Not codified
91-47	Not codified
91-48	Not codified
91-49	Not codified
91-50	Not codified
91-51	Not codified
91-52	Not codified
91-53	Not codified
91-54	Not codified
91-55	Amends Ch. 19.54, Floodplain Zoning and adoption of the flood insurance rate map and study
91-56	Not codified
91-57	Not codified
91-58	Adds Ch. 2.14, Employee Severance Agreements
91-59	Not codified
91-60	Amends § 2.72.020, 2.72.030, 2.72.050, 2.72.090 and 2.72.120 of Ch. 2.72, Community Image Committee
91-61	Not codified
91-62	Not codified
91-63	Not codified
91-64	Amends § 12.24.050 and 12.24.060 of Ch. 12.24, Charges for Opening Graves
91-65	Amends § 12.22.120 of Ch. 12.22, Charges for Public Use of City Swimming Pools
91-66	Not codified
91-67	Not codified
91-68	Not codified
91-69	Not codified
91-70	Not codified
91-71	Not codified
91-72	Not codified
91-73	Not codified
91-74	Not codified
91-75	Not codified
91-76	Amends § 13.12.030, 13.12.045, 13.12.050 and 13.12.070 of Ch. 13.12, Water Service Rates
91-77	Amends § 13.08.010 of Ch. 13.08, Wastewater Rates
91-78	Amends § 12.21.060 of Ch. 12.21, Fees for Boating on Lake Olathe
91-79	Repeals § 2.44.042 of Ch. 2.44, Senior Citizens Advisory Committee and Ord. No. 91-44
92-01	Not codified

92-02	Not codified
92-03	Not codified
92-04	Not codified
92-05	Amends § 10.28.010 and § 10.01.060 of Title 10, Vehicles and Traffic
92-06	Not codified
92-07	Amends § 5.36.040 and § 5.36.050 of Chap. 5.36, Massage Establishments
92-08	Not codified
92-09	Not codified
92-10	Not codified
92-11	Not codified
92-12	Not codified
92-13	Not codified
92-13	Not codified
92-14	Not codified
92-15	Not codified
92-16	Not codified
92-17	Not codified
92-18	Not codified
92-19	Amends § 8.12.010, 8.12.030, and 8.12.050 of Chap. 8.12, Impoundment, Redemption, and Adoption, of Title 8, Animals
92-20	Not codified
92-21	Not codified
92-22	Repeals existing Title 14, Sewer Use Regulations and adopts new Title 14, Sewer Use Regulations
92-23	Not codified
92-24	Not codified
92-25	Not codified
92-26	Not codified
92-27	Not codified
92-28	Amends § 12.21.110, Boating--License Terms of Chap. 12.21, Parks and Recreational Areas
92-29	Not codified
92-30	Not codified
92-31	Amends § 3.60.100, Insurance Coverages of Chap. 3.60, Risk Management Policy
92-32	Not codified
92-33	Amends OMC pertaining to preservation and conservation of trees. <u>DIED FOR LACK OF SECOND</u>
92-34	Not codified
92-35	Not codified
92-36	Not codified
92-37	Amends § 2.44.010, Declaration of Policy, 2.44.020, Definitions, 2.44.040, Power and Duties, 2.44.050, Complaint--Filing, Service and Investigation, 2.44.070, Unlawful Employment Practices, 2.44.080, Unlawful Discrimination Practices, 2.44.090, Unlawful Housing Practices, 2.44.100, Affirmative Action Programs for City Personnel, 2.44.130, Construction, of Chap. 2.44 Human Relations Commission. Adds § 2.44.011, Purpose, 2.44.051, Investigation--Procedure Following Probable Cause Findings, 2.44.052, Hearings, 2.44.060, Rehearing Procedure, 2.44.061, Enforcement of Order, 2.44.062, Judicial Review, 2.44.091, Discriminatory Housing Practices Complaint Procedures, 2.44.092, Subpoenas, 2.44.093, Civil Actions for Alleged Discriminatory Housing Practices, of Chap. 2.44 Human Relations Commission
92-38	Not codified
92-39	Not codified
92-40	Not codified
92-41	Not codified
92-42	Not codified
92-43	Not codified
92-44	Not codified
92-45	Not codified
92-46	Not codified
92-47	Not codified
92-48	Not codified
92-49	Not codified
92-50	Not codified
92-51	Not codified
92-52	Repeals Title 18 and 19 and Chapter 15.60 and adopting a new Title 18, Unified Development Ordinance
92-53	Not codified
92-54	Not codified
92-55	Amends § 5.44.010, 5.44.020, 5.44.030, 5.44.040, 5.44.060, 5.44.070 and 5.44.090, Towing of Vehicles
92-56	Not codified
92-57	Not codified
92-58	Not codified
92-59	Not codified
92-60	Not codified
92-61	Not codified
92-62	Not codified
92-63	Repeals § 15.13.110, 15.20.110 and 15.58.110, Electricians, Plumbers, and Mechanical Contractors Bonds
92-64	Not codified
92-65	Amends § 13.12.030, 13.12.045, 13.12.050 and 13.12.070, Establishment of Water Service Rates
92-66	Amends § 13.08.010, Establishment of Wastewater Rates
92-67	Not codified
92-68	Not codified
92-69	Not codified

92-70	Amends § 6.04.080, Service Charges for Collection and Disposal of Solid Waste
93-01	Amends § 2.72.020, 2.72.030 and 2.72.050, Membership of the Community Image Committee
93-02	Not codified
93-03	Not codified
93-04	Not codified
93-05	Not codified
93-06	Not codified
93-07	Amends § 2.44.020, Definitions, 2.44.090, Unlawful Housing Practices, 2.44.091 Discriminatory Housing Practices Complaint Procedure, adding § 2.44.094, Intimidation or Interference
93-08	Amends § 10.01.010, Adoption of the Standard Traffic Ordinance for Kansas Cities, 1992 Edition, 10.01.084, Equipment for Motorcycle Operator or Rider, 10.01.170, Penalties, repeals § 10.01.052
93-09	Amends § 9.01.110, Public Offense Code, 9.02.010, Criminal Intent, 9.04.030, Battery, adds § 9.04.120, Violation of Protection from Abuse Order, Amends § 9.05.020, Lewd and Lascivious Behavior, repeals § 9.05.030 Enticement of a child, 9.05.050 Sexual Exploitation of a Child, amends § 9.05.090, Criminal Sodomy, 9.05.100, Sexual Battery, 9.06.010, Endangering a Child, 9.06.020, Furnishing Alcohol to a Minor, 9.06.030, Furnishing Cereal Malt Beverage to a Minor, 9.06.040, Contribution to a Child's Misconduct, 9.07.060, Criminal Deprivation of Property, 9.07.090, Criminal Trespass, 9.07.140, Tampering with a Landmark, 9.07.170, Criminal Use of a Financial Card, 9.08.010, Perjury, 9.08.020, Compounding a Crime, 9.08.150, False Impersonation, adds § 9.10.040, Denial of Civil Rights, amends § 9.11.090, Giving a False Alarm, 9.11.100, Criminal Desecration, 9.11.120, Harassment by Telephone, repeals § 9.11.130, Desecration of Flags, 9.11.140, Desecrating a Cemetery, adds § 9.11.160, Stalking, amends § 9.12.010, Criminal Use of Weapons, 9.12.020, Criminal Disposal of Firearms, 9.12.030, Criminal Possession of Firearms, adds § 9.12.052, Seizure of Weapon, 9.12.055, Unlawful Aiding, Abetting, amends § 9.12.110, Criminal Disposal of Explosives, 9.12.120, Criminal Possession of Explosives, 9.12.160, Unlawful Failure to Report a Wound, 9.13.020, Prohibition of Sex Bookstores, Coin-Operated Motion Picture Devices Showing Sex Movies and Eating or Drinking Establishments Featuring Nude Dancers or Similar Entertainment, 9.13.033, Material or Performance Harmful to Minors, 9.14.020, Unlawful Dog Fighting, 9.14.090, Trains Blocking Crossings, 9.19.010, Criminal Identification, 9.20.030, Provisions of Diversion Agreement; Waiver of Certain Rights; Effect of Failure to Fulfill or Accept Agreement; Duties of City Attorney and Division of Vehicles, repeals § 9.42.010, Bank Escort Service Availability, 9.42.020, Application, 9.42.030, Bank Escort Charges, 9.42.040, Bank Escort Effective Date, 9.48.010, Criminal Tresspass.
93-10	Amends § 12.22.120, Swimming Pool Fees
93-11	Not codified
93-12	Not codified
93-13	Not codified
93-14	Amends § 5.42.180, Interest and Charges on Pawnbroker Transactions - Applicability of Other Loans - Maximum Charges - Terms of Loans
93-15	Amends § 3.70.060, Rate Sunset for the Stormwater Management Fee
93-16	Not codified
93-17	Not codified
93-18	Not codified
93-19	Adds § 12.22.115, False Statement on Municipal Swimming Pool Permit Applications
93-20	Not codified
92-21	Amends § 15.05.020, Adoption of the Uniform Building Code, 15.05.030, Marked Copies on File, 15.05.060, Certificates of Occupancy, repeals § 15.05.070, Notice Prohibiting Occupancy, 15.05.080, Exit Facilities, 15.05.090, Light, Ventilation and Sanitation, 15.05.100, Allowable Floor Area, 15.05.120, Special Design, 15.05.200, One and Two Family Dwelling Code Adopted, adds § 15.05.210, Accessibility, 15.05.212, Stairways, 15.05.214, Outdoor Swimming Pools

93-22	Repeals Chapter 15.06, Standards to Make Buildings Usable by the Physically Handicapped
93-23	Amends § 15.48.020, Fences Required Around Swimming Pools
93-24	Amends § 15.08.010, Adoption of the Uniform Building Code, 15.08.020, Marked Copies of the Code on File
93-25	Amends § 15.01.010 Adoption of the CABO One and Two Family Dwelling Code, 15.01.020, Marked Copies of the Code on File, 15.01.050, Permit Fees, 15.01.060, Certificates of Occupancy, 15.01.070, Prohibition of Occupancy, adds § 15.01.071, Guardrails, 15.01.072, Smoke Detectors, 15.01.073, Repeal of Section M-1704-Gas Piping Materials, 15.01.074, Shutoff Valves, 15.01.075, Test Pressure, 15.01.076, Protection of Potable Water Supply, 15.01.077, Electrical Standards
93-26	Amends § 15.57.010, Adoption of the Mechanical Code, 15.57.020, Marked Copies of the Code on File, 15.57.080, Civil Actions
93-27	Amends § 15.17.020, Adoption of the Uniform Plumbing Code, 15.17.030, Marked Copies of the Code on File, 15.17.080, Permits Required, 15.17.090, Application for Permits and Issuance, 15.17.100, Cost of Permits, 15.17.110, Board of Appeals, adds § 15.17.116, Cross-Connection Control, 15.17.117, Materials, 15.17.118, Minimum Plumbing Facilities
93-28	Amends § 15.28.010, Adoption of the Housing Code, 15.28.020, Marked Copies of the Code on File
93-29	Amends § 15.10.020, Adoption of the National Electrical Code, 15.10.030, Marked Copies of the Code on File, 15.10.035, Board of Appeals, adds § 15.10.070, Dwelling Unit Receptacle Outlets
93-30	Amends § 16.05.010, Adoption of the Uniform Fire Code, 16.05.020, Marked Copies of the Code on File, 16.05.050, Open Burning Regulations, 16.05.060, Appendices I-A, I-B, III-D, IV-A and IV-C Deleted, adds § 16.05.062, Blasting Permits, 16.05.064, Hazardous Materials, amends § 16.05.090, Establishment of Explosive Storage Limits, adds § 16.05.092, Access Road Signs
93-31	Amends § 16.12.010, Fire Inspections
93-32	Amends 16.14.020, Authority to Cleanup or Abate the Effects of any Emergency Action Relating to Unlawfully Released Hazardous Material
93-33	Not codified
93-34	Not codified
93-35	Not codified
93-36	Not codified
93-37	Not codified
93-38	Not codified
93-39	Not codified
93-40	Not codified
93-41	Not codified
93-42	Not codified
93-43	Not codified
93-44	Not codified
93-45	Not codified
93-46	Not codified
93-47	Not codified
93-48	Not codified
93-49	Not codified
93-50	Not codified
93-51	Not codified
93-52	Not codified
93-53	Not codified
93-54	Not codified
93-55	Not codified
93-56	Amends § 9.07.130, Littering
93-57	Not codified
93-58	Not codified
93-59	Not codified
93-60	Not codified
93-61	Not codified
93-62	Not codified
93-63	Not codified
93-64	Adds § 9.07.280, Unlawful Juvenile Activity
93-65	Adds § 10.01.052, Amends Section 30 of the Standard Traffic Ordinance Relating to Driving Under the Influence of Intoxicating Liquor or Drugs, 10.01.075, Amends Section 106 of the Standard Traffic Ordinance Relating to Transportation of Alcoholic Liquor or Cereal Malt Beverage
93-66	Not codified
93-67	Not codified
93-68	Not codified
93-69	Not codified
93-70	Not codified
93-71	Not codified
93-72	Not codified
93-73	Not codified
93-74	Not codified
93-75	Not codified
93-76	Not codified

93-77	Amends § 10.24.020, Prohibition of Truck Traffic on Designated Streets
93-78	Not codified
93-79	Not codified
93-80	Not codified
93-81	Not codified
93-82	Not codified
93-83	Not codified
93-84	Not codified
93-85	Not codified
93-86	Repeals Title 18, UDO and Adopts New Title 18, UDO
93-87	Not codified
93-88	Adds Ch. 3.90, Tourism and Convention Promotion Fund
93-89	Not codified
93-90	Not codified
93-91	Not codified
93-92	Not codified
93-93	Not codified
93-94	Not codified
93-95	Not codified
93-96	Not codified
93-97	Not codified
93-98	Not codified
93-99	Not codified
93-100	Not codified
93-101	Repeals § 10.08.015, Designation of Pflumm Road as a Minor Arterial
93-102	Not codified
93-103	Amends § 13.12.030, 13.12.045 and 13.12.050, Water Service Rates
93-104	Amends § 13.08.010, Wastewater Rates
93-105	Amends § 6.04.080, Service Charges for Collection and Disposal of Solid Waste
93-106	Adds Ch. 3.25, Recreation Enterprise Fund
93-107	Adds Ch. 3.23, Personal Computer Replacement Reserve Fund
93-108	Not codified
93-109	Not codified
93-110	Amends § 10.12.052 and 10.12.053, Parking
93-111	Amends § 10.01.060, Speed Limit Restrictions
94-01	Not codified
94-02	Not codified
94-03	Not codified
94-04	Repeals Ch. 9.25, Automatic Alarm Systems and adds Ch. 9.25 Alarm Systems
94-05	Amends § 6.06.030, Definitions
94-06	Not codified (Ord. Failed)
94-07	Not codified
94-08	Repeals Ch. 9.12, Offenses Against the Public Safety and adds Ch. 9.12, Offenses Against the Public Safety
94-09	Adds § 6.09.105, Annual Notice of Weed Removal
94-10	Adds Ch. 2.76, Cable Television Advisory Committee
94-11	Amends § 12.22.120, Fees
94-12	Not codified
94-13	Not codified
94-14	Not codified
94-15	Amends § 10.01.070, Removal of Vehicles
94-16	Not codified
94-17	Not codified
94-18	Not codified
94-19	Not codified
94-20	Not codified
94-21	Not codified
94-22	Not codified
94-23	Not codified
94-24	Not codified
94-25	Repeals Ch. 2.70, Audit Committee and Adds Ch. 2.70 Audit Committee
94-26	Not codified
94-27	Not codified
94-28	Not codified
94-29	Not codified
94-30	Not codified
94-31	Not codified
94-32	Not codified
94-33	Not codified
94-34	Not codified
94-35	Not codified
94-36	Not codified
94-37	Not codified
94-38	Not codified
94-39	Amends UDO adopted by reference in Title 18
94-40	Not codified
94-41	Not codified
94-42	Not codified
94-43	Not codified
94-44	Not codified
94-45	Not codified
94-46	Amends § 10.24.020, Prohibition of Truck Traffic on Designated Streets
94-47	Not codified
94-48	Not codified
94-49	Not codified
94-50	Not codified
94-51	Not codified
94-52	Not codified
94-53	Not codified
94-54	Adds § 3.50.095, Recycled Paper Product Preference
94-55	Not codified
94-56	Not codified
94-57	Not codified
94-58	Not codified
94-59	Not codified

94-60	Adds § 6.06.045, Unlawful Outdoor Illumination
94-61	Not codified
94-62	Not codified
94-63	Not codified
94-64	Not codified
94-65	Not codified
94-66	Not codified
94-67	Not codified
94-68	Not codified
94-69	Not codified
94-70	Not codified
94-71	Adds Ch. 13.30, Upper Cedar Creek Sanitary Sewer Buy-In Connection Fee
94-72	Not codified
94-73	Not codified
94-74	Not codified
94-75	Not codified
94-76	Not codified
94-77	Not codified
94-78	Not codified
94-79	Not codified
94-80	Not codified
94-81	Amends § 13.12.030, 13.12.045, 13.12.050, 13.12.070, Water Service Rates
94-82	Amends § 13.08.010, 13.08.011, 13.08.030, 13.08.040, 13.08.050, Wastewater Rates
94-83	Not codified
94-84	Not codified
94-85	Not codified
94-86	Amends § 13.26.050, Systems Development Charge
94-87	Repeals Ch. 6.04, Garbage and Refuse and adds Ch. 6.04 Solid Waste Collection and Disposal
94-88	Repeals Ch. 5.04 and 5.05 and add 5.05, Special Event Permits
94-89	Amends 9.11.160, Stalking; 9.12.030, Criminal Disposal of Firearms; 9.12.040, Criminal Possession of a Firearm; 9.12.140, Criminal Disposal of Explosives; 9.12.200, Criminal Use of Explosives
94-90	Not codified
94-91	Adds § Definitions for Water Service Rates
94-92	Not codified
94-93	Not codified
94-94	Not codified
94-95	Not codified
94-96	Not codified
94-97	Not codified
94-98	Not codified
95-01	Not codified
95-02	Not codified
95-03	Not codified
95-04	Not codified
95-05	Not codified
95-06	Adds § 6.04.115, Recycling Haulers Permit
95-07	Not codified
95-08	Adds Ch. 2.78, Citizens Police Advisory Council
95-09	Not codified
95-10	Not codified
95-11	Not codified
95-12	Not codified
95-13	Not codified
95-14	Not codified
95-15	Repeals Ch. 3.50 and adds Ch. 3.50, Procurement Policies
95-16	Not codified
95-17	Adds Ch. 2.16, Olathe Municipal Court Alcohol and Drug Safety Action Program and Funds (Ch. 2.16 already exists as Municipal Court. This ordinance has been codified as Ch. 2.18 by direction of legal staff and is being revised)
95-18	Adds Ch. 13.05, Water and Sanitary Sewer Service Line Connection Regulations
95-19	Not codified
95-20	Not codified
95-21	Amends § 12.12.120, Swimming Pool Regulations, Fees
95-22	Amends § 12.21.220, Resident Fishing License or Permit--Fees--State License Required
95-23	Not codified
95-24	Adds § 10.01.064, Section 69. Pedestrians Soliciting Rides or Business
95-25	Not codified
95-26	Amends § 15.17.115, Private Sewage Disposal Systems
95-27	Adds Ch. 15.18, Environmental Sanitary Code
95-28	Not codified
95-29	Not codified
95-30	Not codified
95-31	Not codified
95-32	Not codified
95-33	Not codified
95-34	Not codified
95-35	Not codified
95-36	Not codified
95-37	Not codified
95-38	Not codified
95-39	Not codified
95-40	Not codified
95-41	Not codified
95-42	Not codified
95-43	Not codified
95-44	Not codified

95-45	Not codified
95-46	Not codified
95-47	Amends § 8.10.100, Animals Biting or Scratching Persons Report--Impoundment and Examination
95-48	Amends § 9.19.010, Criminal Identification
95-49	Amends Sections in Title 6 (Not yet codified. Revisions in progress by legal staff)
95-50	Adds § 9.11.145, Loud Sound Amplification Systems Prohibited
95-51	Not codified
95-52	Not codified
95-53	Not codified
95-54	Not codified
95-55	Not codified
95-56	Not codified
95-57	Not codified
95-58	Not codified
95-59	Not codified
95-60	Not codified
95-61	Not codified
95-62	Not codified
95-63	Not codified
95-64	Not codified
95-65	Not codified
95-66	Not codified
95-67	Not codified
95-68	Not codified
95-69	Not codified
95-70	Not codified
95-71	Not codified
95-72	Not codified
95-73	Not codified
95-74	Not codified
95-75	Not codified
95-76	Amends UDO adopted by reference in Title 18
95-77	Not codified
95-78	Not codified
95-79	Amends Section 13.04.103, Late Payment Penalty
95-80	Not codified
95-81	Amends Section 3.70.010, Imposition of Fee for Stormwater Management; 3.70.030, Late Payment Penalty; 3.70.040, Accounts to be Established; 3.70.060, Rate Sunset
95-82	Not codified
95-83	Not codified
95-84	Not codified
95-85	Not codified
95-86	Not codified
95-87	Not codified
95-88	Adds § 15.01.078, Construction Requirements for Decks
95-89	Not codified
95-90	Not codified
95-91	Not codified
95-92	Not codified
95-93	Amends § 6.04.090, Service Charges
95-94	Not codified
95-95	Not codified
95-96	Not codified
95-97	Amends § 10.28.010, Adds School Zones
95-98	Not codified
95-99	Amends § 15.05.050, Permit Fees for the Uniform Building Code; 15.10.040, Permit Fees for the National Electricl Code; 15.17.100, Permit Fees for the Uniform Plumbing Code; 15.57.070, Permit Fees for the Uniform Mechanical Code
95-100	Amends § 13.12.030, Rates Within the City; 13.12.045, Water Rates; 13.12.070, Purchase of Water from Water Hydrants - Procedures; 13.24.060, Utility Service Charges; 13.26.040, Meters
95-101	Amends § 13.08.011, Wastewater Rates
96-01	Not codified
96-02	Not codified
96-03	Not codified
96-04	Not codified
96-05	Not codified
96-06	Not codified
96-07	Not codified
96-08	Amends Section 12.24.060, Opening Graves--Charges
96-09	Amends Section 10.01.010, Incorporating Standard Traffic Ordinance; 10.01.052, Section 30. Driving Under the Influence of Intoxicating Liquor or Drugs; Penalties; 10.01.060, Section 33 Amended. Speed Limitation Restrictions; & Repeals § 10.01.064, Section 69. Pedestrians Soliciting Rides or Business; 10.01.075, Section 106. Transportation of Alcoholic Liquor or Cereal Malt Beverages
96-10	Amends Section 7.12.070, License--Disqualification
96-11	Not codified
96-12	Not codified
96-13	Not codified
96-14	Not codified
96-15	Not codified
96-16	Not codified
96-17	Not codified
96-18	Reconsidered and renumbered as 96-24
96-19	Not codified
96-20	Not codified
96-21	Not codified

96-22	Not codified
96-23	Not codified
96-24	Adds Section 9.06.050, Tattoos and Body Piercing
96-25	Not codified
96-26	Not codified
96-27	Not codified
96-28	Not codified
96-29	Not codified
96-30	Not codified
96-31	Not codified
96-32	Not codified
96-33	Repeals Ch. 2.08 and adds new Ch. 2.08 Emergency Operations Plan
96-34	Not codified
96-35	Not codified
96-36	Not codified
96-37	Not codified
96-38	Not codified
96-39	Not codified
96-40	Not codified
96-41	Not codified
96-42	Not codified
96-43	Not codified
96-44	Not codified
96-45	Not codified
96-46	Not codified
96-47	Not codified
96-48	Not codified
96-49	Not codified
96-50	Not codified
96-51	Not codified
96-52	Not codified
96-53	Not codified
96-54	Not codified
96-55	Not codified
96-56	Not codified
96-57	Not codified
96-58	Repeals Ch. 5.24 and adds new Ch. 5.24 Taxicabs
96-59	Not codified
96-60	Not codified
96-61	Not codified
96-62	Not codified
96-63	Not codified
96-64	Not codified
96-65	Not codified
96-66	Not codified
96-67	Not codified
96-68	Amends § 10.12.052, Definitions; and § 10.12.053, Parking Zones
96-69	Not codified
96-70	Not codified
96-71	Not codified
96-72	Not codified
96-73	Not codified
96-74	Adds Ch. 3.100 Fire Insurance Proceeds Fund
96-75	Repeals Ch. 5.36 and adds new Ch. 5.36 Massage Therapy
96-76	Not codified
96-77	Not codified
96-78	Not codified
96-79	Not codified
96-80	Not codified
96-81	Not codified
96-82	Adds Sec. 9.06.050 Purchase or Possession of Cigarettes or Tobacco Products by a Minor & Adds Sec. 9.06.060 Selling, Giving or Furnishing Cigarettes or Tobacco Products to a Minor & Amends Sec. 2.56.010 Arrest Authority of Police (Sec. 9.06.050 already exists as Tattoos and Body Piercing. Sec. 9.06.050 & 9.06.060 of Ord. 96-82 have been codified as 9.06.060 & 9.06.070 by direction of legal staff and is being revised)
96-83	Not codified
96-84	Amends Sec. 6.04.040 Collection of Solid Waste & Amends Sec. 6.04.115 Special Residential Recycling Program (to be codified in July `97)
96-85	Not codified
96-86	Not codified
96-87	Adds Ch. 3.30 Park Excise Tax
96-88	Not codified
96-89	Not codified
96-90	Not codified
96-91	Amends Sec. 6.04.090 Service Charges for Collection and Disposal of Solid Waste
96-92	Not codified
96-93	Not codified
96-94	Not codified
96-95	Not codified
96-96	Not codified
96-97	Not codified
96-98	Not codified
96-99	Not codified
96-100	Amends Sec. 5.24.070 Designation of Taxicabs
96-101	Not codified
96-102	Not codified
96-103	Not codified
96-104	Not codified
96-105	Not codified
96-106	Amends Sec. 13.12.030, 13.12.045, 13.12.050 and 13.12.070 Water Service Rates and Purchase of Water from Hydrant Meters
96-107	Amends Sec. 13.08.011 Wastewater Charges Imposed for Connection and Usage of Public Sewerage System
96-108	Amends Sec. 13.26.050 Establishment of Systems Development Charge

97-01	Not codified
97-02	Not codified
97-03	Not codified
97-04	Not codified
97-05	Not codified
97-06	Not codified
97-07	Not codified
97-08	Not codified
97-09	Not codified
97-10	Not codified
97-11	Amends Sec. 9.18.010 Classifications of Public Offenses and Terms of Confinement and Fees
97-12	Not codified
97-13	Not codified
97-14	Adds Sec. 10.01.075 Amending Sec. 87 of the Standard Traffic Ordinance, Accessible Parking; Adds Sec. 10.01.095 Amending Sec. 182 of the Standard Traffic Ordinance, Child Passenger Safety Restraining System
97-15	Not codified
97-16	Not codified
97-17	Not codified
97-18	Not codified
97-19	Not codified
97-20	Adds Sec. 13.24.070 Utility Bill Round-Up Program
97-21	Not codified
97-22	Not coodified
97-23	Repeals Ch. 15.01 and adds Ch. 15.01 Adopting 1995 CABO and Repeals Ch. 18.27 Decks
97-24	Adds Ch. 15.38 Building and Property Maintenance
97-25	Adds Ch. 2.78 Property Maintenance Appeals Board (Ch. 2.78 already exists as Citizens Police Advisory Committee. Property Maintenance Appeals Board has been codifed as Ch. 2.80 by direction of legal staff and is being revised)
97-26	Not codified
97-27	Amends UDO adopted by reference in Title 18
97-28	Not codified
97-29	Not codified
97-30	Not codified
97-31	Not codified
97-32	Not codified
97-33	Not codified
97-34	Not codified
97-35	Not codified
97-36	Not codified
97-37	Not codified
97-38	Not codified
97-39	Not codified
97-40	Not codified
97-41	Not codified
97-42	Not codified
97-43	Amends sections in Ch. 12.22 pertaining to city's swimming pool identification system
97-44	Adds Ch. 15.54 Severe Storm Safety Measures for Mobile and Modular Homes and Subdivisions
97-45	Amends Sec. 8.10.100 Animals Biting or Scratching Persons Report – Impoundment and Examination
97-46	Not codified
97-47	Not codified
97-48	Not codified
97-49	Not codified
97-50	Not codified
97-51	Adopts new Title 7 Liquor Laws
97-52	Not codified
97-53	Not codified
97-54	Not codified
97-55	Not codified
97-56	Not codified
97-57	Not codified
97-58	Not codified
97-59	Not codified
97-60	Not codified
97-61	Not codified
97-62	Not codified
97-63	Not codified
97-64	Not codified
97-65	Not codified
97-66	Not codified
97-67	Not codified
97-68	Not codified
97-69	Not codified
97-70	Amends Sec. 7.18.010 Penalty for Violating Provision of Title 7 (Liquor Laws)
97-71	Not codified
97-72	Not codified
97-73	Not codified
97-74	Not codified
97-75	Not codified
97-76	Not codified
97-77	Not codified
97-78	Not codified
97-79	Not codified
97-80	Not codified
97-81	Not codified
97-82	Not codified
97-83	Not codified
97-84	Not codified
97-85	Not codified
97-86	Not codified
97-87	Adds Ch. 3.21 Central Garage Fund
97-88	Adds Ch. 3.22 Central Purchasing Fund
97-89	Adds Ch. 3.24 Information Technology Services Fund
97-90	Not codified
97-91	Not codified

97-92	Not codified
97-93	Not codified
97-94	Not codified
97-95	Not codified
97-96	Amends sections in Ch. 3.100 Fire Insurance Proceeds Fune
97-97	Adopts new Ch. 6.09 Weeds
97-98	Not codified
97-99	Not codified
97-100	Not codified
97-101	Adds Ch. 10.10 Main Trafficways and Main Trafficway Connections
97-102	Not codified
97-103	Amends Sec. 5.44.020 and Sec. 5.44.040 regarding Towing of Vehicles
97-104	Not codified
97-105	Not codified
97-106	Not codified
97-107	Not codified
97-108	Not codified
97-109	Not codified
97-110	Not codified
97-111	Not codified
97-112	Adds Sec. 10.10.020 Main Trafficway Connections
97-113	Not codified
97-114	Not codified
97-115	Not codified
97-116	Not codified
97-117	Not codified
97-118	Amends sections of Title 8 Animals
97-119	Amends sections of Ch. 5.24 Taxicabs
97-120	Not codified
97-121	Not codified
97-122	Not codified
97-123	Not codified
97-124	Not codified
97-125	Not codified
97-126	Not codified
97-127	Not codified
97-128	Not codified
97-129	Not codified
97-130	Not codified
97-131	Not codified
97-132	Not codified
97-133	Amends Sec. 10.28.010 School Zones
97-134	Amends Sections in Ch. 10.12 Parking
97-135	Amends Sections in Ch. 3.60 Risk Management Policy
97-136	Not codified
97-137	Not codified
97-138	Amends Sec. 10.10.02 Main Trafficway Connections
97-139	Not codified
97-140	Amends UDO adopted by reference in Title 18
97-141	Amends Sec. 6.04.090 Service Charges for Solid Waste
97-142	Amends Sec. 3.70.060 Rate Sunset
97-143	Not codified
97-144	Not codified
98-01	Not codified
98-02	Not codified
98-03	Not codified
98-04	Not codified
98-05	Not codified
98-06	Not codified
98-07	Not codified
98-08	Not codified
98-09	Not codified
98-10	Not codified
98-11	Not codified
98-12	Not codified
98-13	Not codified
98-14	Not codified
98-15	Not codified
98-16	Not codified
98-17	Amends Sec. 10.10.020 Main Trafficway Connections
98-18	Not codified
98-19	Not codified
98-20	Not codified
98-21	Not codified
98-22	Not codified
98-23	Not codified
98-24	Not codified
98-25	Amends Sec. 12.21.020 Swimming and Wading in City Lakes Prohibited
98-26	Not codified
98-27	Not codified
98-28	Not codified
98-29	Not codified
98-30	Not codified
98-31	Not codified
98-32	Not codified
98-33	Not codified
98-34	Not codified
98-35	Not codified
98-36	Not codified
98-37	Not codified
98-38	Not codified
98-39	Not codified
98-40	Not codified
98-41	Not codified
98-42	Not codified
98-43	Not codified
98-44	Not codified
98-45	Not codified
98-46	Not codified
98-47	Not codified
98-48	Not codified
98-49	Not codified
98-50	Not codified
98-51	Amends Sec. 3.100.050
98-52	Not codified

98-53	Not codified
98-54	Not codified
98-55	Not codified
98-56	Not codified
98-57	Not codified
98-58	Not codified
98-59	Not codified
98-60	Repeals & Adopts Title 18, UDO
98-61	Not codified
98-62	Not codified
98-63	Not codified
98-64	Not codified
98-65	Not codified
98-66	Not codified
98-67	Not codified
98-68	Not codified
98-69	Not codified
98-70	Not codified
98-71	Not codified
98-72	Not codified
98-73	Not codified
98-74	Adopts New Ch. 15.05 Building Code
98-75	Amends Sections in 15.10 Electrical Code
98-76	Amends Sections in Ch. 15.28 Housing Code
98-77	Amends Sec. 15.01.085 and Adds Sec. 15.01.089 of CABO One & Two Family Dwelling Code
98-78	Adopts New Ch. 15.57 Mechanical Code
98-79	Adopts New Ch. 15.17 Plumbing Code
98-80	Repeals Ch. 15.08 Building Code Standards
98-81	Amends Sec. 15.48.020 of Swimming Pools
98-82	Amends, Adds and Repeals Sections of 16.05 Fire Code
98-83	Not codified
98-84	Not codified
98-85	Not codified
98-86	Not codified
98-87	Not codified
98-88	Adopts New Ch. 5.28 Solicitation, Peddling and Canvassing
98-89	Not codified
98-90	Not codified
98-91	Not codified
98-92	Not codified
98-93	Not codified
98-94	Not codified
98-95	Not codified
98-96	Not codified
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98-98	Not codified
98-99	Not codified
98-100	Not codified
98-101	Not codified
98-102	Not codified
98-103	Not codified
98-104	Not codified
98-105	Amends Sec. 6.04.090 pertaining to service charges for solid waste
98-106	Adds Ch. 3.35 Transportation Improvements Excise Tax
98-107	Not codified
98-108	Not codified
98-109	Not codified
98-110	Not codified
98-111	Not codified
98-112	Not codified
98-113	Not codified
98-114	Not codified
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98-116	Not codified
98-117	Not codified
98-118	Not codified
98-119	Not codified
98-120	Not codified
98-121	Not codified
98-122	Not codified
98-123	Not codified
98-124	Not codified
99-01	Not codified
99-02	Not codified
99-03	Not codified
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99-15	Not codified
99-16	Not codified
99-17	Not codified
99-18	Not codified
99-19	Not codified
99-20	Not codified
99-21	Not codified
99-22	Not codified
99-23	Not codified
99-24	Amends Sec. 9.01.110, General Definitions; Amends Sec. 9.04.020, Assault of a Law Enforcement Officer; Amends Sec. 9.04.040, Battery Against a Law Enforcement Officer; Repeals Sec. 9.04.060, Terroristic Threat; Amends Sec. 9.04.120, Violation of a Protective Order; Adds Sec. 9.04.130, Criminal Defamation; Repeals Sec. 9.05.040, Indecent Solicitation of a Child;

	Amends Sec. 9.05.070, Promoting Prostitution; Amends Sec. 9.06.020, Furnishing Alcohol to a Minor; Amends Sec. 9.06.030, Furnishing Cereal malt Beverage to a Minor; Amends Sec. 9.06.040, Contributing to a Child's Misconduct or Deprivation; Amends Sec. 9.06.050, Tattoos and Body Piercing; Amends Sec. 9.06.060, Purchase or Possession of Cigarettes or Tobacco by a Minor; Adds. 9.06.070, Selling, Giving or Furnishing Cigarettes or Tobacco Products to a Minor; Amends 9.07.020, Prima Facie Evidence of Intent to Permanently Deprive Owner or Lessor of Possession, Use or Benefit of Property; Amends Sec. 9.07.040, Theft of Services; Amends Sec. 9.07.080, Criminal Damage to Property; Amends Sec. 9.07.090, Criminal Trespass; Adds Sec. 9.07.095, Trespass on Railroad Property; Amends Sec. 9.07.160, Unlawful Hunting; Amends Sec. 9.07.180, Unlawful Manufacture or Disposal of Tokens; Amends Sec. 9.07.240, Unlawful Throwing of Objects; Adds Sec. 9.07.290, Computer Trespass/Computer Password Disclosure; Repeals Sec. 9.08.010, Perjury; Amends 9.08.060, Escape from Custody; Amends Sec. 9.08.080, Interference with the Administration of Justice; Repeals Sec. 9.08.170, Dealing in False Identification; Amends 9.10.040, Denial of Civil Rights; Amends Sec. 9.11.030 Remaining at an Unlawful Assembly; Repeals Sec. 9.11.050, Incitement to riot; Repeals Sec. 9.11.145, Loud Sound Amplification Systems Prohibited; Repeals Sec. 9.11.160, Stalking; Adds 9.11.170, Picketing of Funerals or Religious Events; Amends Sec. 9.12.020, Criminal Use of Weapons; Amends Sec. 9.12.030, Criminal Disposal of Firearms; Amends Sec. 9.12.110, Confiscation and Disposition of Weapons; Repeals Sec. 9.12.140, Criminal Disposal of Explosives; Repeals Sec. 9.12.150, Criminal Possession of Explosives; Repeals 9.12.200, Criminal Use of Explosives; Adds Sec. 9.12.210, Drawing a Weapon Upon Another; Adds Section 9.12.220, Sending or Placing a Hoax or Facsimile Explosive Device; Repeals Sec. 9.13.090, Dealing in Gambling Devices; Amends Sec. 9.17.010, Possession of Marijuana; Controlled Substance; Penalties; Adds Sec. 9.17.040, Inhalation of Certain Elements
99-25	Amends Sec. 10.01.010 Adopting the 1998 Edition of the Standard Traffic Ordinance for Kansas Cities; Amends Sec. 10.01.020, Applicability; Amends Sec. 10.01.052, Driving Under the Influence of Intoxicating Liquor or Drugs; Adds Sec. 10.01.059, Speed Limitations; Basic Rule; Amends Sec. 10.01.060, Maximum Speed Limits; Amends Sec. 10.01.070, Removal of Vehicles; Adds Sec. 10.01.078, Coasters, Roller Skates and Similar Devices Restricted; Amends Sec. 10.01.084, Equipment for Motorcycle Operator or Rider; Adds Sec. 10.01.094, Child Passenger Safety Restraining System; Repeals Sec. 10.01.095, Child Passenger Safety Restraining System; Amends Sec. 10.01.100, Driver's License; Adds Sec. 10.01.190, Loud Sound Amplification Systems Prohibited; Adds Sec. 10.01.195, Vehicle Height, Weight, Length and Width Restrictions; Adds Sec. 10.01.200, Exception for Rubber Tired Earth Scrapers; Adds Sec. 10.01.205, Gross Weight Limits on Bridges
99-26	Not codified
99-27	Not codified
99-28	Not codified
99-29	Not codified
99-30	Not codified
99-31	Not codified
99-32	Not codified
99-33	Not codified
99-34	Amends Ch. 18.08, Administration and Ch. 18.12, Applications and Procedures
99-35	Not codified
99-36	Not codified
99-37	Not codified
99-38	Not codified
99-39	Not codified
99-40	Not codified
99-41	Not codified
99-42	Not codified
99-43	Not codified
99-44	Not codified
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99-46	Not codified
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99-48	Not codified
99-49	Not codified
99-50	Not codified
99-60	Not codified
99-61	Not codified
99-62	Not codified
99-63	Not codified
99-64	Not codified
99-65	Not codified
99-66	Not codified
99-67	Amends Sec. 15.01.087, Sec. 312.1 Amended of the CABO One and Two Family Dwelling Code; Amends Sec. 15.01.700, Construction Requirements for Decks
99-68	Not codified
99-69	Not codified
99-70	Not codified
99-71	Not codified
99-72	Not codified
99-73	Not codified
99-74	Not codified
99-75	Not codified
99-76	Not codified
99-77	Not codified
99-78	Not codified
99-79	Not codified
99-80	Not codified
99-81	Not codified
99-82	Not codified
99-83	Not codified
99-84	Not codified
99-85	Not codified
99-86	Not codified
99-87	Not codified
99-88	Not codified
99-89	Not codified
99-90	Not codified
99-91	Not codified
99-92	Amends Sec. 6.04.090, Service Charges, regarding solid waste
99-93	Amends Sec. 3.70.010, Imposition of Fee for Stormwater Management; and Sec. 3.70.060, Rate Sunset
99-94	Amends Sec. 3.35.030, Levy and Payment of Tax, regarding the Transportation Improvements Excise Tax
99-95	Amends Sec. 10.28.010, Established, regarding school zones
99-96	Ameds Sections in Ch. 13.12, Water Service Rates
99-97	Amends Sec. 13.08.011, Wastewater Rates
99-98	Not codified
99-99	Repeals Sec. 5.28.050, Placing Handbills In or Upon Vehicles
99-100	Not codified
99-101	Not codified
99-102	Not codified
99-103	Not codified
99-104	Not codified
99-105	Not codified
99-106	Amends Sec. 10.01.075, Accessible Parking; Amends Sec. 10.01.090, Spilling Loads on Highways Prohibited; Adding Sec. 10.01.020 Driving While License is Canceled, Suspended, or Revoked; Adding Sec. 10.01.060, Motor Vehicle Liability Insurance
99-107	Not codified
99-108	Not codified
99-109	Not codified
99-110	Not codified
99-111	Not codified
99-112	Not codified
99-113	Not codified
99-114	Not codified
99-115	Not codified
99-116	Not codified
99-117	Not codified
99-118	Not codified
99-119	Repeals Ch. 3.50, Procurement Policies and Adds New Ch. 3.50, Procurement Polices
99-120	Not codified
99-121	Not codified
99-122	Not codified
99-123	Not codified
99-124	Not codified
99-125	Not codified
99-126	Not codified
99-127	Not codified
99-128	Not codified
99-129	Not codified
00-01	Not codified
00-02	Not codified
00-03	Not codified
00-04	Not codified
00-05	Not codified
00-06	Adds Chapter 2.82, Olathe Public Art and Culture Commission
00-07	Not codified
00-08	Adds Chapter 3.95, Parks Sales Tax Fund
00-09	Not codified
00-10	Not codified
00-11	Not codified
00-12	Amends Sec. 10.24.020, Specified Truck Traffic Prohibited on Designated Streets
00-13	Amends Sec. 10.28.010, School Zones
00-14	Adds Sec. 2.82.015, Purpose, regarding Olathe Public Art and Culture Commission
00-15	Not codified
00-16	Not codified

00-17	Not codified
00-18	Not codified
00-19	Not codified
00-20	Not codified
00-21	Not codified
00-22	Adds Chapter 10.25, Commercial Vehicle Safety Act
00-23	Not codified
00-24	Not codified
00-25	Not codified
00-26	Not codified
00-27	Not codified
00-28	Not codified
00-29	Not codified
00-30	Not codified
00-31	Not codified
00-32	Not codified
00-33	Not codified
00-34	Not codified
00-35	Not codified
00-36	Not codified
00-37	Not codified
00-38	Not codified
00-39	Not codified
00-40	Not codified
00-41	Amends Sec. 13.12.040, Rates Outside City
00-42	Not codified
00-43	Not codified
00-44	Amends Sec. 7.02.090, Purchase or Consumption of Alcoholic Beverage by Minor; Penalty
00-45	Amends Sec. 9.07.060, Criminal Deprivation of Property and adds Sec. 9.08.190, Possession of False Identification Documents
00-46	Amends and adds sections in Chapter 10.12, Parking
00-47	Amends sections in Chapter 10.08, Street Map
00-48	Not codified
00-49	Not codified
00-50	Not codified
00-51	Not codified
00-52	Not codified
00-53	Not codified
00-54	Not codified
00-55	Not codified
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00-57	Not codified
00-58	Not codified
00-59	Not codified
00-60	Not codified
00-61	Not codified
00-62	Not codified
00-63	Amends Sec. 1.16.010, Penalty for Violations
00-64	Not codified
00-65	Not codified
00-66	Not codified
00-67	Not codified
00-68	Not codified
00-69	Not codified
00-70	Not codified
00-71	Not codified
00-72	Not codified
00-73	Not codified
00-74	Not codified
00-75	Not codified
00-76	Not codified
00-77	Not codified
00-78	Not codified
00-79	Amends sections in Chapter 2.66, Open Public Records
00-80	Not codified
00-81	Not codified
00-82	Not codified
00-83	Not codified
00-84	Not codified
00-85	Not codified
00-86	Not codified
00-87	Not codified
00-88	Not codified
00-89	Amends sections in Chapter 6.18, Noise Control
00-90	Not codified
00-91	Not codified
00-92	Not codified
00-93	Not codified
00-94	Not codified
00-95	Not codified
00-96	Not codified
00-97	Not codified
00-98	Not codified
00-99	Not codified
00-100	Not codified
00-101	Not codified
00-102	Adds and amends sections in Title 9, Public Offense Code
00-103	Not codified
00-104	Not codified
00-105	Not codified
00-106	Not codified
00-107	Not codified
00-108	Not codified
00-109	Not codified
00-110	Not codified
00-111	Not codified
00-112	Amends Sec. 3.35.030, Levy and Payment of Tax
00-113	Amends Sec. 6.04.090, Service Charges
00-114	Amends Sec. 13.12.030, 13.12.045, 13.12.050, and 13.12.070, pertaining to water consumer charges
00-115	Amends Sec. 13.08.011, Wasterwater Rates
00-116	Not codified

00-117	Not codified
00-118	Amends Sec. 3.02.020 and 3.02.030 pertaining to service charge for dishonored instruments
00-119	Amends Sec. 8.08.015, 8.12.010, and 8.14.025 pertaining to Animals
00-120	Amends Sec. 9.16.020, 9.16.030 and 9.16.040 pertaining to police monitors, permits and communications
00-121	Amends Sec. 9.25.050, False Alarms
00-122	Amends Sec. 16.05.050, Open Burning and Commercial Barbecue Pits and 16.05.062, Explosives Permits
00-123	Amends Sec. 12.24.040, 12.24.050, and 12.24.060 pertaining to cemetery lots, purchase and opening graves
00-124	Amends Ch. 13.04 pertaining to Water Service Regulations
00-125	Not codified
01-01	Not codified
01-02	Not codified
01-03	Not codified
01-04	Not codified
01-05	Not codified
01-06	Not codified
01-07	Not codified
01-08	Adds Ch. 3.96, Golf Course Fund
01-09	Not codified
01-10	Not codified
01-11	Not codified
01-12	Not codified
01-13	Not codified
01-14	Not codified
01-15	Not codified
01-16	Not codified
01-17	Amends Sec. 12.22.120 pertaining to Swimming Pool Fees
01-18	Repeals and adds Ch. 2.40, Olathe Parks and Recreation Leadership Advisory Board
01-19	Not codified
01-20	Not codified
01-21	Not codified
01-22	Not codified
01-23	Not codified
01-24	Not codified
01-25	Not codified
01-26	Not codified
01-27	Not codified
01-28	Not codified
01-29	Not codified
01-30	Not codified
01-31	Not codified
01-32	Not codified
01-33	Not codified
01-34	Not codified
01-35	Adds Ch. 3.97, Fire Levy Fund
01-36	Not codified
01-37	Not codified
01-38	Not codified
01-39	Adds Ch. 5.50, Adult Businesses
01-40	Amends Section 18.46.020 pertaining to adult business establishments
01-41	Adds Ch. 5.10, Wharehouse Entertainment Clubs
01-42	Adds Ch. 5.15, Teen Entertainment Clubs
01-43	Not codified
01-44	Not codified
01-45	Not codified
01-46	Not codified
01-47	Not codified
01-48	Not codified
01-49	Not codified
01-50	Not codified
01-51	Not codified
01-52	Not codified
01-53	Not codified
01-54	Amends Sec. 7.02.040 and 7.02.050, pertaining to consumption and possession on public property
01-55	Not codified
01-56	Amends Sec. 7.02.090, Purchase or Consumption of Alcoholic Beverage by Minor
01-57	Amends Sec. 10.01.052, Driving Under the Influence of Intoxicating Liquor or Drugs
01-58	Not codified
01-59	Not codified
01-60	Not codified
01-61	Not codified
01-62	Not codified
01-63	Not codified
01-64	Amends Sec. 7.02.010, Liquor Laws, Definitions
01-65	Not codified
01-66	Not codified
01-67	Not codified
01-68	Not codified
01-69	Not codified
01-70	Not codified
01-71	Not codified
01-72	Not codified
01-73	Not codified
01-74	Repeals and Adds Ch. 15.01, International Residential Code for One and Two-Family Dwellings
01-75	Repeals and Adds Ch. 15.05, International Building Code
01-76	Amends, Repeals and Adds sections in Ch. 15.10, Electrical Code
01-77	Amends, Repeals and Adds sections in Ch. 15.17, Plumbing Code
01-78	Amends, Repeals and Adds sections in Ch. 15.57, Mechanical Code

01-79	Adds Ch. 15.59, International Fuel Gas Code
01-80	Amends, Repeals and Adds sections in Ch. 16.05, Fire Codes
01-81	Amends, Repeals and Adds sections in Ch. 15.28, International Property Maintenance Code
01-82	Amends Sec. 15.48.020 pertaining to fence requirements for swimming pools
01-83	Amends sections of Ch. 2.74 pertaining to the Board of Code Review
01-84	Not codified
01-85	Not codified
01-86	Amends Sec. 15.01.090 pertaining to Emergency Escape and Rescue of the International Residential Code
01-87	Not codified
01-88	Not codified
01-89	Repeals Standard Traffic Ordinance and Adds new Ch. 10.01, Olathe Traffic Ordinance
01-90	Not codified
01-91	Not codified
01-92	Not codified
01-93	Adds Sec. 9.07.310 pertaining to Failing to Pay for Motor Fuel
01-94	Not codified
01-95	Not codified
01-96	Amends sections in Ch. 3.70 pertaining to Stormwater Management
01-97	Not codified
01-98	Not codified
01-99	Not codified
01-100	Not codified
01-101	Amends Sec. 14.08.120 pertaining to Prohibited Waste Discharge
01-102	Not codified
01-103	Not codified
01-104	Not codified
01-105	Amends Sec. 3.35.030 pertaining to Levy and Payment of Tax for the Transportation Improvements Excise Tax
01-106	Not codified
01-107	Amends Sec. 13.08.011 pertaining to Wastewater Rates
01-108	Amends Sections in Ch. 13.12 pertaining to Water Service Rates
01-109	Amends Sections in Ch. 6.04 pertaining to Solid Waste
01-110	Not codified
01-111	Not codified
01-112	Repeals Ch. 15.13, Electricians
01-113	Repeals Ch. 15.20, Plumbers
01-114	Repeals Ch. 15.58, Mechanical Contractors
01-115	Adds Ch. 15.60, Contractor Licensing and Permits
01-116	Not codified
01-117	Not codified
01-118	Not Codified
01-119	Adds 18.53, North Ridgeview Road Corridor Overlay District.
01-120	Not Codified
01-121	Not Codified
02-01	Not Codified
02-02	Not Codified
02-03	Not Codified
02-04	Not Codified
02-05	Not Codified
02-06	Not Codified
02-07	Not Codified
02-08	Not Codified
02-09	Not Codified
02-10	Not Codified
02-11	Not Codified
02-12	Not Codified
02-13	Not Codified
02-14	Not Codified
02-15	Not Codified
02-16	Not Codified
02-17	Not Codified
02-18	Not Codified
02-19	Not Codified
02-20	Not Codified
02-21	Amends Sec. 12.22.120 pertaining to Swimming Pool Fees
02-22	Not Codified
02-23	Not Codified
02-24	Not Codified
02-25	Not Codified
02-26	Not Codified
02-27	Not Codified
02-28	Adds Ch. 2.18, Olathe Municipal Court Alcohol and Drug Safety Action Program
02-29	Amends Sec. 5.42.240 pertaining to Employee Registration for pawnbrokers
02-30	Not Codified
02-31	Not Codified
02-32	Not Codified
02-33	Not Codified
02-34	Not Codified
02-35	Not Codified
02-36	Not Codified
02-37	Not Codified
02-38	Not Codified
02-39	Not Codified
02-40	Not Codified
02-41	Not Codified
02-42	Not Codified
02-43	Not Codified
02-44	Not Codified
02-45	Not Codified

02-46	Not Codified
02-47	Not Codified
02-48	Not Codified
02-49	Not Codified
02-50	Not Codified
02-51	Not Codified
02-52	Amends Sections in Ch. 3.35, pertaining to the Transportation Improvements Excise Tax
02-53	Adds Chapter 9.50 pertaining to Ethnic Intimidation or Bias Crimes
02-54	Repeals & Adopts Title 18, UDO
02-55	Not Codified
02-56	Not Codified
02-57	Not Codified
02-58	Adds Section 15.01.085, Ventilation of Bathrooms
02-59	Not Codified
02-60	Not Codified
02-61	Not Codified
02-62	Not Codified
02-63	Not Codified
02-64	Not Codified
02-65	Not Codified
02-66	Not Codified
02-67	Not Codified
02-68	Not Codified
02-69	Not Codified
02-70	Not Codified
02-71	Not Codified
02-72	Not Codified
02-73	Not Codified
02-74	Not Codified
02-75	Not Codified
02-76	Not Codified
02-77	Not Codified
02-78	Not Codified
02-79	Not Codified
02-80	Not Codified
02-81	Not Codified
02-82	Not Codified
02-83	Not Codified
02-83A	Not Codified
02-84	Not Codified
02-85	Not Codified
02-86	Repeals Ch. 5.42 and adds new Ch. 5.42 pertaining to Pawnbrokers and Precious Metal Dealers
02-87	Repeals Ch. 5.36 and adds new Ch. 5.36 pertaining to Massage Therapy
02-88	Not Codified
02-89	Not Codified
02-90	Not Codified
02-91	Not Codified
02-92	Not Codified
02-93	Not Codified
02-94	Not Codified
02-95	Not Codified
02-96	Not Codified
02-97	Amends Ch. 3.70 pertaining to Stormwater Management Fee Rate and Sunset Date
02-98	Not Codified
02-99	Not Codified
02-100	Not Codified
02-101	Not Codified
02-102	Not Codified
02-103	Adds Sec. 9.14.110 pertaining to Urban Deer Management
02-104	Not Codified
02-105	Amends Sec. 12.08.090 pertaining to Excavation – Permit – Application – Bond for residential driveways
02-106	Amends Ch. 10.12 pertaining to Parking
02-107	Not Codified
02-108	Not Codified
02-109	Not Codified
02-110	Not Codified
02-111	Not Codified
02-112	Not Codified
02-113	Amends Sec. 1.08.020, 1.08.030, 1.08.040 and 1.08.050 pertaining to Wards
02-114	Not Codified
02-115	Not Codified
02-116	Not Codified
02-117	Amends Sec. 2.60.040 pertaining to Rates and Emergency Medical Services
02-118	Amends Ch. 2.66 pertaining to Open Public Records
02-119	Amends Ch. 3.02 pertaining to Service Charge for Dishonored Instruments
02-120	Amends Ch. 3.70 pertaining to Stormwater Management Fee
02-121	Amends Ch. 5.10 pertaining to Warehouse Entertainment Clubs
02-122	Amends Ch. 5.15 pertaining to Teen Entertainment Clubs
02-123	Amends Ch. 5.24 pertaining to Taxicabs
02-124	Amends Ch. 5.36 pertaining to Massage Therapy
02-125	Amends Ch. 5.40 pertaining to Registration of Private Police
02-126	Amends Ch. 5.42 pertaining to Pawnbrokers and Precious Metal Dealers
02-127	Amends Ch. 5.44 pertaining to Towing of Vehicles
02-128	Amends Ch. 5.50 pertaining to Adult Business
02-129	Amends Ch. 6.04 pertaining to Solid Waste
02-130	Amends Ch. 7.06 pertaining to Drinking Establishments

02-131	Amends Ch. 7.08 pertaining to Private Clubs
02-132	Amends Ch. 7.10 pertaining to Caterers
02-133	Amends Ch. 7.12 pertaining to Temporary Permits
02-134	Amends Ch. 7.14 pertaining to Cereal Malt Beverages
02-135	Amends Ch. 8.06 pertaining to Licenses
02-136	Amends Ch. 8.12 pertaining to Impoundment, Redemption and Adoption
02-137	Amends Ch. 9.16 pertaining to Law Enforcement Communications Security
02-138	Amends Ch. 9.25 pertaining to Alarm Systems
02-139	Amends Ch. 12.21 pertaining to Parks and Recreational Areas
02-140	Amends Ch. 12.22 pertaining to Swimming Pool Regulations
02-141	Amends Ch. 12.24 pertaining to City Cemetery
02-142	Amends Ch. 13.04 pertaining to Water Service Regulations
02-143	Amends Ch. 13.05 pertaining to Water and Sanitary Sewer Service Line Connection Regulations
02-144	Amends Ch. 13.08 pertaining to Sewers
02-145	Amends Ch. 13.12 pertaining to Water Service Rates
02-146	Amends Ch. 13.24 pertaining to Water and Sewage Department
02-147	Amends Ch. 13.26 pertaining to Systems Development Charge
02-148	Amends Ch. 15.32 pertaining to Water Conditioning Control
02-149	Amends Ch. 15.40 pertaining to Moving Buildings
02-150	Amends Ch. 15.52 pertaining to Mobile Homes
02-151	Amends Ch. 15.53 pertaining to Inspection of Mobile Homes
02-152	Amends Ch. 16.05 pertaining to Fire Codes
02-153	Not Codified
03-01	Not Codified
03-02	Not Codified
03-03	Not Codified
03-04	Not Codified
03-05	Amends Ch. 2.40 pertaining to Olathe Parks and Recreation Leadership Advisory Board
03-06	Not Codified
03-07	Not Codified
03-08	Not Codified
03-09	Not Codified
03-10	Not Codified
03-11	Not Codified
03-12	Not Codified
03-13	Not Codified
03-14	Not Codified
03-15	Not Codified
03-16	Not Codified
03-17	Adds Ch. 13.32 pertaining to Water Wells
03-18	Amends Sec. 10.01.030 pertaining to Driving Under the Influence of Intoxicating Liquor or Drugs
03-19	Not Codified
03-20	Not Codified
03-21	Not Codified
03-22	Not Codified
03-23	Not Codified
03-24	Not Codified
03-25	Amends Ch. 10.25 pertaining to Commercial Vehicle Safety Act
03-26	Not Codified
03-27	Not Codified
03-28	Not Codified
03-29	Not Codified
03-30	Not Codified
03-31	Not Codified
03-32	Not Codified
03-33	Not Codified
03-34	Not Codified
03-35	Adds Ch. 13.34 pertaining to Water Conservation
03-36	Not Codified
03-37	Amends Ch. 5.36 pertaining to Massage Therapy
03-38	Not Codified
03-39	Not Codified
03-40	Not Codified
03-41	Not Codified
03-42	Not Codified
03-43	Not Codified
03-44	Not Codified
03-45	Not Codified
03-46	Not Codified
03-47	Not Codified
03-48	Not Codified
03-49	Not Codified
03-50	Not Codified
03-51	Not Codified
03-52	Not Codified
03-53	Not Codified
03-54	Not Codified
03-55	Not Codified
03-56	Not Codified
03-57	Not Codified
03-58	Not Codified
03-59	Not Codified
03-60	Not Codified
03-61	Not Codified
03-62	Not Codified

03-63	Not Codified
03-64	Amends Ch. 2.44 pertaining to the Disabled Persons Advisory Board
03-65	Not Codified
03-66	Not Codified
03-67	Not Codified
03-68	Not Codified
03-69	Not Codified
03-70	Not Codified
03-71	Amends Ch. 2.60 pertaining to Emergency Medical Services
03-72	Amends Ch. 6.04 pertaining to Solid Waste
03-73	Amends Ch. 9.05 pertaining to Sex Offenses
03-74	Not Codified
03-75	Adds Ch. 15.61 pertaining to Street Naming and Numbering
03-76	Not Codified
03-77	Not Codified
03-78	Amends Ch. 9.04 pertaining to Offenses Against Persons
03-79	Not Codified
03-80	Amends Ch. 10.12 pertaining to Parking
03-81	Amends Ch. 9.05 pertaining to Sex Offenses
03-82	Amends Ch. 9.14 pertaining to Miscellaneous Provisions
03-83	Not Codified
03-84	Not Codified
03-85	Not Codified
03-86	Not Codified
03-87	Not Codified
03-88	Not Codified
03-89	Not Codified
03-90	Amends Ch. 9.06 pertaining to Offenses Affecting Family Relationships and Children
03-91	Amends Ch. 7.02 pertaining to General Provisions
03-92	Not Codified
03-93	Adds Ch. 10.26 Transportation of Hazardous Materials
03-94	Not Codified
03-95	Not Codified
03-96	Not Codified
03-97	Not Codified
03-98	Not Codified
03-99	Not Codified
03-100	Not Codified
03-101	Not Codified
03-102	Not Codified
03-103	Not Codified
03-104	Not Codified
03-105	Not Codified
03-106	Not Codified
03-107	Not Codified
03-108	Not Codified
03-109	Not Codified
03-110	Not Codified
03-111	Amends Ch. 10.01 pertaining to the Olathe Traffic Ordinance
03-112	Not Codified
03-113	Not Codified
03-114	Not Codified
03-115	Not Codified
03-116	Not Codified
03-117	Amends Ch. 9.07 pertaining to Offenses Against Property
03-118	Not Codified
03-119	Not Codified
04-01	Not Codified
04-02	Not Codified
04-03	Not Codified
04-04	Not Codified
04-05	Amends Section 8.12.030 pertaining to dogs and cats
04-06	Adds Section 10.01.175.1, Engine Noise
04-07	Not Codified
04-08	Not Codified
04-09	Adds Ch. 3.26, Mahaffie Operations Fund
04-10	Not Codified
04-11	Not Codified
04-12	Not Codified
04-13	Not Codified
04-14	Not Codified
04-15	Amends Ch. 13.26, System Development Fees
04-16	Amends Ch. 6.04, Solid Waste
04-17	Not Codified
04-18	Not Codified
04-19	Not Codified
04-20	Not Codified
04-21	Not Codified
04-22	Not Codified
04-23	Not Codified
04-24	Not Codified
04-25	Not Codified
04-26	Not Codified
04-27	Not Codified
04-28	Not Codified
04-29	Not Codified
04-30	Not Codified
04-31	Amends Section 10.01.020, Play Streets; Temporary
04-32	Not Codified
04-33	Not Codified
04-34	Not Codified
04-35	Not Codified
04-36	Amends Ch. 15.18, Johnson County Environmental Sanitary Code
04-37	Not Codified
04-38	Amends Ch. 9.08, Offenses Against Affecting Governmental Functions

04-39	Repeals Section 8.08.025, Police Dogs
04-40	Not Codified
04-41	Not Codified
04-42	Not Codified
04-43	Not Codified
04-44	Not Codified
04-45	Not Codified
04-46	Not Codified
04-47	Not Codified
04-48	Not Codified
04-49	Not Codified
04-50	Not Codified
04-51	Not Codified
04-52	Not Codified
04-53	Not Codified
04-54	Not Codified
04-55	Not Codified
04-56	Not Codified
04-57	Amends Section 9.14.110, Urban Deer Management
04-58	Not Codified
04-59	Not Codified
04-60	Amends Ch. 13.34, Water Conservation
04-61	Adds Ch. 5.02, Retailers Registration
04-62	Not Codified
04-63	Not Codified
04-64	Not Codified
04-65	Not Codified
04-66	Not Codified
04-67	Not Codified
04-68	Not Codified
04-69	Not Codified
04-70	Not Codified
04-71	Not Codified
04-72	Not Codified
04-73	Not Codified
04-74	Not Codified
04-75	Not Codified
04-76	Not Codified
04-77	Amends Section 18.08.020 of the Unified Development Ordinance
04-78	Not Codified
04-79	Not Codified
04-80	Not Codified
04-81	Not Codified
04-82	Not Codified
04-83	Not Codified
04-84	Not Codified
04-85	Amends and adds sections to the Olathe Public Offense Code (Title 9)
04-86	Amends and adds sections to the Vehicle and Traffic Code (Title 10)
04-87	Amends and adds sections to the Vehicle and Traffic Code (Title 10)
04-88	Adds Section 9.11.180 to Olathe Public Offense Code pertaining to the keeping of disorderly premises
04-89	Not Codified
04-90	Not Codified
04-91	Not Codified
04-92	Not Codified
04-93	Not Codified
04-94	Not Codified
04-95	Not Codified
04-96	Not Codified
04-97	Not Codified
04-98	Not Codified
04-99	Not Codified
04-100	Not Codified
04-101	Not Codified
04-102	Not Codified
04-103	Not Codified
04-104	Not Codified
04-105	Not Codified
04-106	Not Codified
04-107	Not Codified
04-108	Amends Olathe Municipal Code Sections 3.70.030 and 3.70.060 08-17-2004 pertaining to stormwater management.
04-109	Amends sections to the Olathe Public Offense Code (Title 9)
04-110	Adds Section 10.01.204.5 pertaining to fines doubled in school zones
04-111	Not Codified
04-112	Not Codified
04-113	Not Codified
04-114	Not Codified
04-115	Not Codified
04-116	Not Codified
04-117	Not Codified
04-118	Not Codified
04-119	Not Codified
04-120	Amends Title 9 of the OMC pertaining to Urban Deer Management
04-121	Amends Section 6.18.070 of the Olathe Municipal Code pertaining to Motor Vehicle Maximum Sound Levels.
04-122	Not Codified
04-123	Not Codified
04-124	Not Codified
04-125	Not Codified
04-126	Not Codified
04-127	Not Codified
04-128	Not Codified
04-129	Not Codified
04-130	Not Codified
04-131	Not Codified
04-132	Not Codified
04-133	Not Codified
04-134	Not Codified
04-135	Not Codified
04-136	Not Codified
04-137	Not Codified

04-138	Not Codified
04-139	Not Codified
04-140	Not Codified
04-141	Amends Section 10.01.001 pertaining to definitions in the Olathe Traffic Ordinance.
04-142	Amends Section 7.04.010 of the Olathe Municipal Code pertaining to retail liquor.
04-143	Not Codified
04-144	Not Codified
04-145	Not Codified
04-146	Not Codified
04-147	Not Codified
04-148	Not Codified
04-149	Not Codified
04-150	Not Codified
04-151	Not Codified
04-152	Not Codified
04-153	Not Codified
05-01	Not Codified
05-02	Not Codified
05-03	Not Codified
05-04	Not Codified
05-05	Not Codified
05-06	Not Codified
05-07	Adds Chapter 13.31 of the Olathe Municipal Code pertaining to Cedar Creek Interceptor Collection System Development and Buy-In Connection Fee
05-08	Not Codified
05-09	Not Codified
05-10	Not Codified
05-11	Not Codified
05-12	Not Codified
05-13	Not Codified
05-14	Not Codified
05-15	Not Codified
05-16	Not Codified
05-17	Not Codified
05-18	Not Codified
05-19	Not Codified
05-20	Not Codified
05-21	Not Codified
05-22	Not Codified
05-23	Not Codified
05-24	Not Codified
05-25	Not Codified
05-26	Not Codified
05-27	Not Codified
05-28	Not Codified
05-29	Not Codified
05-30	Not Codified
05-31	Not Codified
05-32	Not Codified
05-33	Not Codified
05-34	Not Codified
05-35	Not Codified
05-36	Not Codified
05-37	Not Codified
05-38	Not Codified
05-39	Not Codified
05-40	Amends sections of Olathe Municipal Code Ch. 2.08 pertaining to City Emergency Operation Act
05-41	Not Codified
05-42	Not Codified
05-43	Not Codified
05-44	Not Codified
05-45	Not Codified
05-46	Adds Section 5.36.045 of the Olathe Municipal Code pertaining to Student Massage Therapy
05-47	Not Codified
05-48	Not Codified
05-49	Not Codified
05-50	Not Codified
05-51	Not Codified
05-52	Amends Section 9.14.110 of the Olathe Municipal Code pertaining to Urban Deer Management
05-53	Not Codified
05-54	Not Codified
05-55	Not Codified
05-56	Not Codified
05-57	Not Codified
05-58	Amends Sections 9.12.020 of the Olathe Municipal Code pertaining to Criminal Use of Weapons and 9.14.130 of the Olathe Municipal Code pertaining to Alcohol without Liquid
05-59	Amends Sections of Chapter 10.01 of the Olathe Municipal Code pertaining to the Olathe Traffic Ordinance
05-60	Not Codified
05-61	Not Codified
05-62	Not Codified
05-63	Not Codified
05-64	Not Codified
05-65	Adds Chapter 7.20 to the Olathe Municipal Code pertaining to Sunday sales and holidays sales of alcoholic liquor and cereal malt beverage
05-66	Not Codified
05-67	Not Codified
05-68	Not Codified
05-69	Not Codified
05-70	Not Codified
05-71	Amends Section 5.42.140 of the Olathe Municipal Code pertaining to pawnbrokers and precious metal dealers
05-72	Not Codified
05-73	Not Codified

05-74	Amends Section 10.10.010 of the Olathe Municipal Code pertaining to the designation of main traffic ways
05-75	Not Codified
05-76	Not Codified
05-77	Not Codified
05-78	Not Codified
05-79	Not Codified
05-80	Not Codified
05-81	Not Codified
05-82	Not Codified
05-83	Not Codified
05-84	Not Codified
05-85	Not Codified
05-86	Not Codified
05-87	Not Codified
05-88	Not Codified
05-89	Not Codified
05-90	Not Codified
05-91	Not Codified
05-92	Not Codified
05-93	Not Codified
05-94	Not Codified
05-95	Not Codified
05-96	Not Codified
05-97	Amends Section 10.24.020 of the Olathe Municipal Code pertaining to Specified Truck Traffic Prohibited on Designated Streets
05-98	Amends Chapter 3.30 of the Olathe Municipal Code pertaining to the collection of park excise tax
05-99	Not Codified
05-100	Not Codified
05-101	Not Codified
05-102	Not Codified
05-103	Adds and amends sections to the Olathe Public Offense Code (Title 9)
05-104	Not Codified
05-105	Not Codified
05-106	Not Codified
05-107	Not Codified
05-108	Not Codified
05-109	Not Codified
05-110	Not Codified
05-111	Not Codified
05-112	Not Codified
05-113	Not Codified
05-114	Not Codified
05-115	Not Codified
05-116	Not Codified
05-117	Not Codified
05-118	Not Codified
05-119	Not Codified
05-120	Not Codified
05-121	Not Codified
05-122	Amends Section 3.70.010 pertaining to Imposition of Stormwater Management Fee
05-123	Amends Section 3.02.010 pertaing to Definitions for Service Charge for Dishonored Instruments
05-124	Amends Sections in Chapter 6.04 pertaining to Solid Waste
05-125	Amends Sections in Chapter 13.26 pertaining to Systems Development Charge
05-126	Amends Section 3.35.030 pertaining to Levy and Payment of Tax for the Transportation Improvements Excise Tax
05-127	Amends Section 8.14.025 pertaining to Collection of Fees for Animals
05-128	Amends Section 2.56.020 pertaining to Special Police Services Fee for the Police Department
05-129	Not Codified
05-130	Not Codified
05-131	Amends Sections 8.02.020, 8.10.110 and 8.14.030 pertaining to definitions, vicious dogs, and penalties
05-132	Not Codified
05-133	Not Codified
05-134	Not Codified
05-135	Not Codified
05-136	Not Codified
05-137	Not Codified
05-138	Not Codified
05-139	Not Codified
05-140	Not Codified
05-141	Amends and adds sections to Title 7 pertaining to liquor laws
05-142	Not Codified
05-143	Not Codified
05-144	Not Codified
05-145	Not Codified
05-146	Not Codified
05-147	Not Codified
05-148	Not Codified
05-149	Not Codified
05-150	Not Codified
05-151	Not Codified
05-152	Not Codified
05-153	Not Codified
05-154	Repeals Ch. 9.25 and adds new Ch. 9.25 pertaining to Automatic Alarm Systems
05-155	Not Codified
06-01	Not Codified
06-02	Not Codified
06-03	Not Codified
06-04	Not Codified
06-05	Not Codified
06-06	Not Codified
06-07	Not Codified
06-08	Not Codified
06-09	Not Codified
06-10	Not Codified

06-11	Not Codified
06-12	Not Codified
06-13	Not Codified
06-14	Not Codified
06-15	Not Codified
06-16	Not Codified
06-17	Not Codified
06-18	Not Codified
06-19	Amends Section 10.01.175 of the Olathe Municipal Code pertaining to Noise Prevention; Mufflers
06-20	Amends Chapter 9.13 of the Olathe Public Offense Code pertaining to public morals
06-21	Not Codified
06-22	Not Codified
06-23	Not Codified
06-24	Not Codified
06-25	Not Codified
06-26	Not Codified
06-27	Amends Section 10.01.175 of the Olathe Traffic Ordinance pertaining to Noise Prevention; Mufflers
06-28	Not Codified
06-29	Not Codified
06-30	Not Codified
06-31	Not Codified
06-32	Not Codified
06-33	Not Codified
06-34	Not Codified
06-35	Not Codified
06-36	Amends and Adds Sections in Title 10 pertaining to 10.01.001 Definitions; 10.01.196 Unauthorized Operator; 10.01.197 Unauthorized Minors; 10.01.109.1 Motorized Skateboards
06-37	Not Codified
06-38	Not Codified
06-39	Not Codified
06-40	Not Codified
06-41	Not Codified
06-42	Amends Section 2.44.041, Disabled Persons Advisory Board
06-43	Not Codified
06-44	Amends Section 9.12.020 of the Olathe Municipal Code pertaining to Criminal Use of Weapons and adds Section 9.12.230 pertaining to Carry Concealed Weapons; Prohibited Acts
06-45	Not Codified
06-46	Not Codified
06-47	Not Codified
06-48	Not Codified
06-49	Not Codified
06-50	Not Codified
06-51	Not Codified
06-52	Not Codified
06-53	Not Codified
06-54	Not Codified
06-55	Not Codified
06-56	Adds Section 15.01.125 of the Olathe Municipal Code pertaining to Physical Security
06-57	Adds Section 15.05.105 of the Olathe Municipal Code pertaining to Physical Security
06-58	Not Codified
06-59	Not Codified
06-60	Not Codified
06-61	Not Codified
06-62	Not Codified
06-63	Not Codified
06-64	Not Codified
06-65	Not Codified
06-66	Amends Sections of Chapter 10.01 of the Olathe Municipal code pertaining to the Olathe Traffic Ordinance
06-67	Not Codified
06-68	Not Codified
06-69	Not Codified
06-70	Amends Sections of Chapter 10.01 of the Olathe Municipal code pertaining to the Olathe Traffic Ordinance\
06-71	Amends and Adds Sections to Title 9 of the Olathe Municipal Code pertaining to the Olathe Public Offense Code
06-72	Not Codified
06-73	Not Codified
06-74	Not Codified
06-75	Not Codified
06-76	Adds Chapter 17.07 to the Olathe Municipal Code pertaining to Stormwater Pollution Prevention
06-77	Not Codified
06-78	Not Codified
06-79	Not Codified
06-80	Not Codified
06-81	Not Codified
06-82	Not Codified
06-83	Not Codified
06-84	Not Codified
06-85	Amends Sections 18.12.040, 18.62.045, 18.68.390 and 18.68.400 and repeals Sections 18.12.040, 18.62.045, 18.68.390 and 18.68.400 of Title 18, Unified Development Ordinance
06-86	Not Codified
06-87	Not Codified
06-88	Amends Olathe Municipal Code Sections 6.04.050 pertaining to Precollection Practices; 6.04.060 pertaining to Containers; and 6.04.090 pertaining to Service Charges
06-89	Amends Olathe Municipal Code Sections 13.05.010 pertaining to Definitions; 13.05.070 pertaining to

	Water Service Connection; and 13.05.080 pertaining to Sanitary Sewer Connections
06-90	Repeals Chapter 13.31 of the Olathe Municipal Code pertaining to Cedar Creek Interceptor Collection System Development and Buy-In Connection Fee
06-91	Not Codified
06-92	Repeals Olathe Municipal Code Section 3.70.060 pertaining to Rate Sunset
06-93	Not Codified
06-94	Not Codified
06-95	Not Codified
06-96	Not Codified
06-97	Adds Chapter 6.20 to the Olathe Municipal Code pertaining to Indoor Clean Air and repeals Section 9.10.030 pertaining to Smoking in a Public Place
06-98	Not Codified
06-99	Not Codified (Ordinance Failed)
06-100	Not Codified
06-101	Not Codified
06-102	Not Codified
06-103	Not Codified
06-104	Not Codified
06-105	Not Codified
06-106	Not Codified
06-107	Not Codified
06-108	Amends Sections 6.04.020, 6.04.030 and 6.04.090 of the Olathe Municipal Code pertaining to Solid Waste
06-109	Amends Section 7.02.010 pertaining to the definitions for the City's liquor laws
06-110	Not Codified
06-111	Not Codified
06-112	Not Codified
06-113	Not Codified
06-114	Amends Section 10.01.030.2 of the Olathe Municipal Code pertaining to Preliminary Breath Test
06-115	Amends Sections in Title 8 of the Olathe Municipal Code pertaining to Animals
06-116	Not Codified
06-117	Not Codified
06-118	Not Codified
06-119	Not Codified
06-120	Not Codified
06-121	Not Codified
06-122	Not Codified
06-123	Amends Sections of Chapter 2.82 of the Olathe Municipal Code pertaining to the Public Art and Culture Commission
06-124	Not Codified
06-125	Not Codified
06-126	Not Codified
06-127	Not Codified
06-128	Not Codified
06-129	Not Codified
06-130	Not Codified
06-131	Not Codified
06-132	Not Codified
06-133	Not Codified
06-134	Not Codified
06-135	Not Codified
06-136	Amends Sections in Chapter 3.50 of the Olathe Municipal Code pertaining to Procurement Policies
07-01	Not Codified
07-02	Not Codified
07-03	Not Codified
07-04	Not Codified
07-05	Not Codified
07-06	Not Codified
07-07	Not Codified
07-08	Not Codified
07-09	Not Codified
07-10	Not Codified
07-11	Not Codified
07-12	Not Codified
07-13	Not Codified
07-14	Not Codified
07-15	Not Codified
07-16	Not Codified
07-17	Not Codified
07-18	Not Codified
07-19	Not Codified
07-20	Not Codified
07-21	Not Codified
07-22	Not Codified
07-23	Not Codified
07-24	Not Codified
07-25	Not Codified
07-26	Not Codified
07-27	Not Codified
07-28	Not Codified
07-29	Not Codified
07-30	Not Codified
07-31	Not Codified
07-32	Not Codified
07-33	Not Codified
07-34	Not Codified
07-35	Not Codified
07-36	Not Codified
07-38	Not Codified
07-39	Not Codified
07-40	Not Codified
07-41	Not Codified
07-42	Not Codified
07-43	Not Codified
07-44	Not Codified
07-45	Not Codified
07-46	Not Codified

07-47	Not Codified
07-48	Not Codified
07-49	Not Codified
07-50	Not Codified
07-51	Not Codified
07-52	Not Codified
07-53	Not Codified
07-54	Adds Chapter 2.84 of the Olathe Municipal Code pertaining to Historic Preservation
07-55	Not Codified
07-56	Not Codified
07-57	Not Codified
07-58	Not Codified
07-59	Not Codified
07-60	Not Codified
07-61	Not Codified
07-62	Not Codified
07-63	Not Codified
07-64	Not Codified
07-65	Not Codified
07-66	Not Codified
07-67	Not Codified
07-68	Not Codified
07-69	Not Codified
07-70	Not Codified
07-71	Not Codified
07-72	Not Codified
07-73	Not Codified
07-74	Not Codified
07-75	Not Codified
07-76	Not Codified
07-77	Not Codified
07-78	Not Codified
07-79	Not Codified
07-80	Not Codified
07-81	Not Codified
07-82	Not Codified
07-83	Not Codified
07-84	Amends Chapter 3.50 of the Olathe Municipal Code pertaining to Procurement Policies
07-85	Not Codified
07-86	Not Codified
07-87	Not Codified
07-88	Not Codified
07-89	Not Codified
07-90	Not Codified
07-91	Not Codified
07-92	Not Codified
07-93	Not Codified
07-94	Not Codified
07-95	Not Codified
07-96	Not Codified
07-97	Not Codified
07-98	Amends Chapter 1.08 of the Olathe Municipal Code pertaining to Definitions of Wards
07-99	Not Codified
07-100	Not Codified
07-101	Not Codified
07-102	Not Codified
07-103	Not Codified
07-104	Not Codified
07-105	Not Codified
07-106	Not Codified
07-107	Not Codified
07-108	Not Codified
07-109	Not Codified
07-110	Not Codified
07-111	Not Codified
07-112	Not Codified
07-113	Not Codified
07-114	Not Codified
07-115	Not Codified
07-116	Not Codified
07-117	Not Codified
07-118	Not Codified
07-119	Not Codified
07-120	Not Codified
07-121	Not Codified
07-122	Not Codified
07-123	Not Codified
07-124	Not Codified
07-125	Not Codified
07-126	Not Codified
07-127	Not Codified
07-128	Not Codified
07-129	Not Codified
07-130	Not Codified
07-131	Not Codified
07-132	Not Codified
07-133	Amends and adds Sections to Chapter 6.04 of the Olathe Municipal Code pertaining to Solid Waste
07-134	Amends Sections to Title 13 of the Olathe Municipal Code pertaining to Water and Sewer
07-135	Amends and adds Sections to Title 9 of the Olathe Municipal Code pertaining to the Public Offense Code
07-136	Amends and adds Sections to Chapter 10.01 of the Olathe Municipal Code pertaining to the Olathe Traffic Ordinance
07-137	Not Codified
07-138	Not Codified
07-139	Not Codified
07-140	Not Codified
08-01	Not Codified
08-02	Not Codified
08-03	Amends Section 10.28 of the Olathe Municipal Code pertaining to School Zones
08-04	Not Codified
08-05	Not Codified
08-06	Not Codified
08-07	Not Codified

08-08	Not Codified
08-09	Not Codified
08-10	Not Codified
08-11	Not Codified
08-12	Not Codified
08-13	Not Codified
08-14	Amends Chapter 5.36 of the Olathe Municipal Code pertaining to Massage Therapy
08-15	Not Codified
08-16	Not Codified
08-17	Not Codified
08-18	Not Codified
08-19	Not Codified
08-20	Not Codified
08-21	Not Codified
08-22	Not Codified
08-23	Not Codified
08-24	Not Codified
08-25	Not Codified
08-26	Not Codified
08-27	Not Codified
08-28	Not Codified
08-29	Not Codified
08-30	Not Codified
08-31	Not Codified
08-32	Not Codified
08-33	Not Codified
08-34	Not Codified
08-35	Not Codified
08-36	Not Codified
08-37	Not Codified
08-38	Not Codified
08-39	Not Codified
08-40	Not Codified
08-41	Not Codified
08-42	Not Codified
08-43	Not Codified
08-44	Not Codified
08-45	Not Codified
08-46	Not Codified
08-47	Not Codified
08-48	Not Codified
08-49	Not Codified
08-50	Not Codified
08-51	Amends Section 10.01.033 of the Olathe Municipal Code pertaining to Maximum Speed Limits
08-52	Not Codified
08-53	Not Codified
08-54	Not Codified
08-55	Not Codified
08-56	Not Codified
08-57	Adds Chapter 15.43 of the Olathe Municipal Code pertaining to Payday Loan and Title Loan Businesses
08-58	Not Codified
08-59	Not Codified
08-60	Not Codified
08-61	Not Codified
08-62	Not Codified
08-63	Not Codified
08-64	Not Codified
08-65	Not Codified
08-66	Adds Chapter 10.14 of the Olathe Municipal Code pertaining to Immobilization of Vehicles
08-67	Not Codified
08-68	Not Codified
08-69	Repeals existing and adds new Chapter 12.21 of the Olathe Municipal Code pertaining to Parks and Recreational Areas
08-70	Not Codified
08-71	Not Codified
08-72	Not Codified
08-73	Not Codified
08-74	Not Codified
08-75	Not Codified
08-76	Not Codified
08-77	Not Codified
08-78	Not Codified
08-79	Not Codified
08-80	Adds Chapter 16.07 of the Olathe Municipal Code pertaining to Automatic Fire Alarm Systems
08-81	Amends Section 16.12.010 of the Olathe Municipal Code pertaining to Fire Inspections
08-82	Amends Sections 12.08.080 and 12. 08.090 of the Olathe Municipal Code pertaining to Excavations
08-83	Amends Section 7.14.080 of the Olathe Municipal Code pertaining to Cereal Malt Beverage License
08-84	Amends Chapter 6.04 of the Olathe Municipal Code pertaining to Solid Waste
08-85	Amends Section 13.04.050 of the Olathe Municipal Code pertaining to Utility Service Applications Deposit
08-86	Amends Section 13.045.010 of the Olathe Municipal Code pertaining to Water Line Connections
08-87	Amends Section 2.74.050 of the Olathe Municipal Code pertaining to the Board of Code Review
08-88	Not Codified
08-89	Amends Section 15.48.010 of the Olathe Municipal Code pertaining to Swimming Pool Permit
08-90	Not Codified
08-91	Not Codified
08-92	Not Codified
08-93	Not Codified
08-94	Not Codified
08-95	Not Codified
08-96	Not Codified

08-97	Not Codified
08-98	Not Codified
08-99	Not Codified
08-100	Not Codified
08-101	Not Codified
08-102	Amends Sections in Chapter 7.02 of the Olathe Municipal Code pertaining to General Provisions of the Liquor Laws
08-103	Not Codified
08-104	Not Codified
08-105	Not Codified
08-106	Not Codified
08-107	Not Codified
08-108	Not Codified
08-109	Amends Sections in Chapter 6.09 of the Olathe Municipal Code pertaining to Weeds
08-110	Amends Olathe Municipal Code Section 5.43.120 pertaining to Weeds
08-111	Amends Chapters and Sections of Title 9 of the Olathe Municipal Code pertaining to the Olathe Public Offense Code
08-112	Amends Sections in Chapter 10.01 of the Olathe Municipal Code pertaining to the Olathe Traffic Ordinance
08-113	Not Codified
08-114	Not Codified
08-115	Not Codified
08-116	Amends Olathe Municipal Code Section 16.05.010 pertaining to Fire Codes
08-117	Not Codified
08-118	Not Codified
08-119	Not Codified
08-120	Not Codified
08-121	Not Codified
08-122	Not Codified
08-123	Not Codified
08-124	Not Codified
08-125	Not Codified
08-126	Not Codified
08-127	Not Codified
08-128	Not Codified
08-129	Not Codified
08-130	Not Codified
08-131	Not Codified
08-132	Not Codified
08-133	Not Codified
09-01	Not Codified
09-02	Not Codified
09-03	Not Codified
09-04	Not Codified
09-05	Not Codified
09-06	Not Codified
09-07	Not Codified
09-08	Not Codified
09-09	Not Codified
09-10	Not Codified
09-11	Not Codified
09-12	Not Codified
09-13	Not Codified
09-14	Not Codified
09-15	Not Codified
09-16	Not Codified
09-17	Not Codified
09-18	Not Codified
09-19	Not Codified
09-20	Not Codified
09-21	Not Codified
09-22	Not Codified
09-23	Not Codified
09-24	Amends Olathe Municipal Code Section 16.05.050 pertaining to Open Burning
09-25	Repeals Olathe Municipal Code Title 17, Stormwater Management and adds new Title 17, Stormwater Management
09-26	Not Codified
09-27	Not Codified
09-28	Not Codified
09-29	Amends Chapters and Sections of Title 14 of Olathe Municipal Code pertaining to Sewer Use Regulations
09-30	Amends Chapters and Sections of Title 7 of the Olathe Municipal Code pertaining to Liquor Laws
09-31	Amends Olathe Municipal Code Section 9.11.150 pertaining to Unlawful Noise Disturbance
09-32	Not Codified
09-33	Not Codified
09-34	Not Codified
09-35	Not Codified
09-36	Not Codified
09-37	Not Codified
09-38	Not Codified
09-39	Not Codified
09-40	Not Codified
09-41	Amends Olathe Municipal Code Section 5.42.240 pertaining to Pawnbroker/Precious Metal Dealer Employee Registration
09-42	Amends Sections of Chapter 6.04 of the Olathe Municipal Code pertaining to Solid Waste
09-43	Amends Section 9.14.110 of the Olathe Municipal Code pertaining to Urban Deer Management
09-44	Not Codified
09-45	Not Codified
09-46	Not Codified
09-47	Not Codified
09-48	Not Codified

09-49	Amends Sections in Title 1 of the Olathe Municipal Code pertaining to Wards
09-50	Not Codified
09-51	Not Codified
09-52	Not Codified
09-53	Not Codified
09-54	Not Codified
09-55	Not Codified
09-56	Amends Olathe Municipal Code Section 7.06.020 pertaining to license applications
09-57	Not Codified
09-58	Not Codified
09-59	Amends Sections of Title 9 of the Olathe Municipal Code pertaining to the Public Offense Code
09-60	Amends Sections of Chapter 10.01 of the Olathe Municipal Code pertaining to the Olathe Traffic Ordinance
09-61	Not Codified
09-62	Not Codified
09-63	Amends Olathe Municipal Code Section 17.12.040 pertaining to Abatement Bonds.
09-64	Not Codified
09-65	Not Codified
09-66	Adds Chapter 13.36 to the Olathe Municipal Code pertaining to Clare Road waterline buy-in connection fee
10-01	Not Codified
10-02	Not Codified
10-03	Not Codified
10-04	Not Codified
10-05	Not Codified
10-06	Not Codified
10-07	Amends Chapter 2.84 of the Olathe Municipal Code pertaining to Historic Preservation
10-08	Not Codified
10-09	Amends and adds sections in Chapter 14.10 of the Olathe Municipal Code pertaining to Refuse in Sewers
10-10	Not Codified
10-11	Not Codified
10-12	Amends and adds sections in Chapter 15.17 of the Olathe Municipal Code pertaining to the Plumbing Code
10-13	Not Codified
10-14	Not Codified
10-15	Not Codified
10-16	Not Codified
10-17	Not Codified
10-18	Not Codified
10-19	Adds Chapter 2.86 to the Olathe Municipal Code pertaining to the Land Bank
10-20	Not Codified
10-21	Not Codified
10-22	Not Codified
10-23	Not Codified
10-24	Not Codified
10-25	Not Codified
10-26	Not Codified
10-27	Not Codified
10-28	Not Codified
10-29	Not Codified
10-30	Not Codified
10-31	Amends Chapters in Title 8 of the Olathe Municipal Code pertaining to Animals
10-32	Not Codified
10-33	Not Codified
10-34	Not Codified
10-35	Not Codified
10-36	Not Codified
10-37	Not Codified
10-38	Amends Sections of Chapter 9.25 of the Olathe Municipal Code pertaining to Automatic Alarm Systems
10-39	Not Codified
10-40	Not Codified
10-41	Not Codified
10-42	Not Codified
10-43	Amends Section 10.01.182.1 of the Olathe Municipal Code pertaining to seat belts
10-44	Amends Chapter 6.20 of the Olathe Municipal Code pertaining to Indoor Clean Air
10-45	Not Codified
10-46	Not Codified
10-47	Not Codified
10-48	Not Codified
10-49	Amends Section 13.04.120 of the Olathe Municipal Code pertaining to Deferred Payment Plan
10-50	Not Codified
10-51	Not Codified
10-52	Amends Section 9.06.020 of the Olathe Municipal Code pertaining to Furnishing Alcoholic Liquor or Cereal Malt Beverage to a Minor
10-53	Not Codified
10-54	Amends Section 6.04.110 of the Olathe Municipal Code pertaining to Transfer Station
10-55	Amends Section 15.17.120 of the Olathe Municipal Code pertaining to Cross Connection Control
10-56	Not Codified
10-57	Not Codified
10-58	Not Codified
10-59	Not Codified
10-60	Not Codified

10-61	Amends Section 7.04.030 of the Olathe Municipal Code pertaining to Occupation Tax – Penalty for Nonpayment
10-62	Amends Section 7.06.030 of the Olathe Municipal Code pertaining to License Fee
10-63	Amends Section 7.08.030 of the Olathe Municipal Code pertaining to License Fee.
10-64	Not Codified
10-65	Not Codified
10-66	Not Codified
10-67	Not Codified
10-68	Not Codified
10-69	Amends sections in Chapter 5.05 of the Olathe Municipal Code pertaining to Special Event Permit.
10-70	Amends sections in Chapter 10.01 of the Olathe Municipal Code pertaining to the Olathe Traffic Ordinance.
10-71	Amends sections in Title 9, Public Offense Code, of the Olathe Municipal Code.
10-72	Not Codified
10-73	Not Codified
10-74	Not Codified
10-75	Not Codified
10-76	Not Codified
10-77	Not Codified
10-78	Not Codified
10-79	Not Codified
10-80	Not Codified
10-81	Not Codified
10-82	Amends Chapter 2.84 of the Olathe Municipal Code pertaining to Historic Preservation.
11-01	Not Codified
11-02	Not Codified
11-03	Not Codified
11-04	Not Codified
11-05	Not Codified
11-06	Not Codified
11-07	Not Codified
11-08	Amends Sections in Chapter 10.12 of the Olathe Municipal Code pertaining to Parking.
11-09	Not Codified
11-10	Not Codified
11-11	Not Codified
11-12	Amends Sections 6.06.070, Public Officer, Notice to Abate, and Section 6.06.090, Service of Notice, of the Olathe Muncipal Code pertaining to Environmental Quality
11-13	Amends Section 10.01.182.1 of the Olathe Traffic Ordinance pertaining to seat belts.
11-14	Not Codified
11-15	Not Codified
11-16	Amends Olathe Municipal Code Section 10.01.030 pertaining to Driving Under the Influence of Intoxicating Liquor or Drugs; Penalties; Section 10.01.030.1 pertaining to Driving Commercial Motor Vehicle Under the Influence of Intoxicating Liquor or Drugs; Penalties and Section 10.01.030.3 pertaining to Ignition Interlock Devices; Tampering, of the Olathe Traffic Ordinance.
11-17	Not Codified
11-18	Not Codified
11-19	Not Codified
11-20	Amends Chapter 2.66 of the Olathe Municipal Code.
11-21	Amends Chapter 6.04 of the Olathe Municipal Code.
11-22	Amends Chapter 7.10 of the Olathe Municipal Code.
11-23	Amends Chapter 13.12 of the Olathe Municipal Code.
11-24	Amends Chapter 13.24 of the Olathe Municipal Code.
11-25	Amends Chapter 15.01 of the Olathe Municipal Code.
11-26	Amends Chapter 15.05 of the Olathe Municipal Code.
11-27	Amends Chapter 15.10 of the Olathe Municipal Code.
11-28	Amends Chapter 15.17 of the Olathe Municipal Code.
11-29	Amends Chapter 15.28 of the Olathe Municipal Code.
11-30	Amends Chapter 15.40 of the Olathe Municipal Code.
11-31	Amends Chapter 15.57 of the Olathe Municipal Code.
11-32	Amends Chapter 15.59 of the Olathe Municipal Code.
11-33	Not Codified
11-34	Not Codified
11-35	Not Codified
11-36	Amends Title 8 of the Olathe Municipal Code pertaining to Animals.
11-37	Not Codified
11-38	Not Codified
11-39	Not Codified
11-40	Not Codified
11-41	Not Codified
11-42	Not Codified
11-43	Not Codified
11-44	Not Codified
11-45	Not Codified
11-46	Not Codified

11-47	Amends Chapters in Title 9 pertaining to the Olathe Public Offense Code.
11-48	Amends Sections in Title 10 pertaining to the Olathe Traffic Ordinance.
11-49	Not Codified
11-50	Not Codified
11-51	Not Codified
11-52	Not Codified
11-53	Not Codified
11-54	Not Codified
11-55	Not Codified
11-56	Not Codified
11-57	Not Codified
12-01	Not Codified
12-02	Not Codified
12-03	Not Codified
12-04	Adds Chapter 5.52 to the Olathe Municipal Code pertaining to Scrap Metal Dealers Registration.
12-05	Not Codified
12-06	Not Codified
12-07	Not Codified
12-08	Not Codified
12-09	Amends Section 5.44.070 pertaining to Towing of Vehicles.
12-10	Amends Section 10.01.084 of the Olathe Traffic Ordinance pertaining to Removal of Vehicles.
12-11	Repeals Chapter 1.12 pertaining to Designation of the Official City Newspaper.
12-12	Not Codified
12-13	Not Codified
12-14	Not Codified
12-15	Not Codified
12-16	Not Codified
12-17	Not Codified
12-18	Amends Sections of Chapter 10.01 pertaining to the Olathe Traffic Ordinance.
12-19	Not Codified
12-20	Not Codified
12-21	Not Codified
12-22	Not Codified
12-23	Not Codified
12-24	Not Codified
12-25	Not Codified
12-26	Not Codified
12-27	Not Codified
12-28	Amends Sections 6.04.060 pertaining to Containers and 6.04.080 pertaining to Special Yard Waste Problems
12-29	Amends Section 15.17.120 pertaining to Cross Connection Control. (Effective 1-1-13)
12-30	Not Codified
12-31	Not Codified
12-32	Not Codified
12-33	Not Codified
12-34	Not Codified
12-35	Not Codified
12-36	Not Codified
12-37	Amends Olathe Municipal Code Chapter 6.20 pertainging to Indoor Clean Air.
12-38	Amends Olathe Public Offense Code (Title 9) of the Olathe Municipal Code.
12-39	Amends Olathe Traffic Ordinance (Title 10) of the Olathe Municipal Code.
12-40	Not Codified
12-41	Adds Chapter 15.02 adopting the 2012 International Building Code. (Effective 4-1-13)
12-42	Adds Chapter15.04 adopting the 2012 International Residential Code for One and Two Family Dwellings. (Effective 4-1-13)
12-43	Adds Chapter 15.06 adopting the 2012 International Existing Building Code. (Effective 4-1-13)
12-44	Adds Chapter 15.08 adopting the 2012 International Plumbing Code. (Effective 4-1-13)
12-45	Adds Chapter 15.10 adopting the 2012 International Mechanical Code. (Effective 4-1-13)
12-46	Adds Chapter 15.14 adopting the 2011 National Electrical Code. (Effective 4-1-13)
12-47	Adds Chapter 15.16 adopting the 2012 Energy Conservation Code. (Effective 4-1-13)
12-48	Adds Chapter 15.12 adopting the 2012 International Fuel Gas Code. (Effective 4-1-13)
12-49	Adds Chapter 15.20 adopting the 2012 International Swimming Pool and Spa Code. (Effective 4-1-13)
12-50	Adds Chapter 15.22 adopting the 2012 International Property Maintenance Code. (Effective 4-1-13)
12-51	Adds Chapter 15.24 adopting the Accessible and Usable Buildings and Facilities (ICC A117.1-2009). (Effective 4-1-13)
12-52	Adds Chapter 16.05 adopting the 2012 International Fire Code. (Effective 4-1-13)
12-53	Not Codified
12-54	Not Codified
12-55	Not Codified
12-56	Not Codified
12-57	Not Codified
12-58	Not Codified

12-59	Not Codified
12-60	Not Codified
12-61	Not Codified
12-62	Not Codified
12-63	Not Codified
13-01	Not Codified
13-02	Not Codified
13-03	Amends Section 2.44.041 pertaining to Persons with Disabilities Advisory Board.
13-03	Not Codified
13-04	Not Codified
13-05	Not Codified
13-06	Not Codified
13-07	Not Codified
13-08	Amends OMC Section 7.02.100 pertaining to Furnishing Alcohol or Cereal Malt Beverage to a Minor and OMC Section 9.06.020 pertaining to Furnishing Alcoholic Liquor or Cereal Malt Beverage to a Minor.
13-09	Not Codified
13-10	Not Codified
13-11	Not Codified
13-12	Not Codified
13-13	Amends OMC Section 16.05.060 pertaining to Section [A] 102.7 Amended - Referenced codes and standards of the Fire Code.
13-14	Not Codified
13-15	Not Codified
13-16	Not Codified
13-17	Not Codified
13-18	Not Codified
13-19	Not Codified
13-20	Amends OMC Section 8.12.030 pertaining to Dogs and Cats and OMC Section 8.14.025 pertaining to Collection of Fees.
13-21	Not Codified
13-22	Amends OMC Section 9.12.010 pertaining to Definitions of Offenses Against the Public Safety.
13-23	Amends OMC Section 9.14.080 pertaining to Encroachments Upon Public Lands.
13-24	Amends OMC Chapter 12.21 pertaining to Public Lands.
13-25	Not Codified
13-26	Not Codified
13-27	Not Codified
13-28	Not Codified
13-29	Not Codified
13-30	Amends OMC Chapter 10.24 pertaining Truck Traffic.
13-31	Not Codified
13-32	Not Codified
13-33	Amends Sections in Title 9, Public Offense Code.
13-34	Not Codified
13-35	Not Codified
13-36	Not Codified
13-37	Not Codified
13-38	Amends Chapter 10.12 pertaining to Parking Zones.
13-39	Not Codified
13-40	Amends Section 5.36.060 pertaining to Massage Therapy
13-41	Amends Section 12.08.090 pertaining to Street Regulations.
13-42	Amends Chapter 12.24, City Cemetery.
13-43	Amends Section 15.02.210 pertaining to Building Codes.
13-44	Repeals Chapter 15.32, Water Conditioning Control.
13-45	Repeals Chapter 15.36, Dangerous Structures.
13-46	Repeals Chapter 15.40, Moving Buildings.
13-47	Amends Chapter 15.53, Inspection of Mobile Homes.
13-48	Repeals Chapter 15.54, Severe Storm Safety Measures for Mobile and Modular Homes and Subdivisions.
13-49	Not Codified
13-50	Not Codified
13-51	Not Codified
13-52	Not Codified
13-53	Not Codified
13-54	Not Codified
13-55	Not Codified
13-56	Not Codified
13-57	Amends OMC Section 5.42.240 pertaining to registration requirements for employees of a pawnbroker or precious metal dealer.
13-58	Adds Chapter 12.26 to the Olathe Municipal Code pertaining to the Community Center.
13-59	Not Codified
13-60	Adds Section 10.08.030 to the Olathe Municipal Code designating East Park Street between Cherry Street and Water Street as a two-way street.
13-61	Not Codified
13-62	Not Codified
13-63	Not Codified
13-64	Amends Sections 7.02.040 and 7.02.050 of the Olathe Municipal Code pertaining to Consumption on Public Property and Possession on Public Property.
13-65	Not Codified
13-66	Not Codified
13-67	Not Codified
14-01	Not Codified
14-02	Not Codified

14-03	Not Codified
14-04	Not Codified
14-05	Not Codified
14-06	Not Codified
14-07	Not Codified
14-08	Not Codified
14-09	Not Codified
14-10	Not Codified
14-11	Repeal Olathe Municipal Code Chapter 2.70 pertaining to the Audit Committee.
14-12	Repeals Olathe Municipal Code Chapter 2.72 pertaining to the Community Image Committee.
14-13	Repeals Olathe Municipal Code Chapter 2.76 pertaining to the Cable TV Advisory Committee.
14-14	Amends Sections in Title 7 of the Olathe Municipal Code pertaining to liquor laws.
14-15	Amends Olathe Municipal Code Section 16.05.060 pertaining to Section [A] 102.7 Amended – Referenced codes and standards, Explosive Materials Code and adds Section 16.05.065 pertaining to Section [A] 102.13 – Home child daycares.
14-16	Amends sections Olathe Municipal Code Chapter 2.74 pertaining to the Board of Code Review.
14-17	Amends Olathe Municipal Code Section 15.02.210 pertaining to Board of Code Review (Board of Appeals).
14-18	Repeals Olathe Municipal Code Chapter 2.80 pertaining to the Property Maintenance Appeal Board.
14-19	Not Codified
14-20	Amends Olathe Municipal Code Section 10.01.114.1 pertaining to Unlawful Operation of All-Terrain Vehicles.
14-21	Not Codified
14-22	Not Codified
14-23	Not Codified
14-24	Not Codified
14-25	Not Codified
14-26	Amends Olathe Municipal Code Section 9.01.070 pertaining to Time Limitations.
14-27	Not Codified
14-28	Not Codified
14-29	Not Codified
14-30	Not Codified
14-31	Not Codified
14-32	Not Codified
14-33	Not Codified
14-34	Not Codified
14-35	Not Codified
14-36	Amends Section 8.10.110 of the Olathe Municipal Code pertaining to Dangerous or Vicious Dogs.
14-37	Adds Chapter 12.10 to the Olathe Municipal Code pertaining to Signs in the Public Right-of-Way and on Public Property.
14-38	Not Codified
14-39	Adopts new Title 18 of the Olathe Municipal Code pertaining to the Unified Development Ordinance.
14-40	Amends Section 2.08.110 of the Olathe Municipal Code pertaining to the Powers of the Mayor and City Manager.
14-41	Amends Olathe Municipal Code Sections 5.10.020 pertaining to City Council Authority (Warehouse Entertainment Clubs); 5.15.050 pertaining to Procedure for Issuance or Denial of License (Teen Entertainment Clubs); 5.42.120 pertaining to Suspension or Revocation of License (Pawnbrokers and Precious Metal Dealers).
14-42	Amends Olathe Municipal Code Chapters 9.01 Scope and Application, 9.12 Offenses Against the Public Safety and 9.40 Mob Action of the Public Offense Code to conform with new firearm and knife legislation.
14-43	Amends Chapter 12.21 Public Lands of the Olathe Municipal Code to conform with new firearm and knife legislation.
14-44	Amends Olathe Municipal Code Chapter 3.50 pertaining to Procurement Policies.
14-45	Not Codified
14-46	Amends Olathe Municipal Code Section 13.12.070 pertaining to Purchase of Water from Water Hydrants – Procedure.
14-47	Not Codified
14-48	Not Codified
14-49	Not Codified
14-50	Not Codified
14-51	Not Codified
14-52	Not Codified
14-53	Amends Section 8.12.010 of the Olathe Municipal Code pertaining to Impounding, Redemption and Disposition of Animals Running at Large or Involved in Biting Persons or Other Animals.

14-54	Amends Section 6.06.030 of the Olathe Municipal Code pertaining to Definitions; Adds Section 6.06.041 to the Olathe Municipal Code pertaining to Proof of Operability; Adds Section 6.06.046 to the Olathe Municipal Code pertaining to Parking Requirements for Single-Family, Two-Family, and Multi-Family Lots – Commercial Vehicle Parking Prohibited; and adds Section 6.06.047 to the Olathe Municipal Code pertaining to Recreational Vehicle Parking on a Single-Family or Two-Family Lot - Critiera.
14-55	Not Codified
14-56	Not Codified
14-57	Amends sections in Chapter 10.01 of the Olathe Municipal Code pertaining to the Olathe Traffic Ordinance.
14-58	Not Codified
14-59	Not Codified
14-60	Amends sections in Chapter 10.10 of the Olathe Municipal Code pertaining to Main Trafficways and Main Trafficway Connections.
14-61	Amends Chapter 10.28 of the Olathe Municipal Code pertaining to School Zones.
14-62	Not Codified
14-63	Amends chapters and sections in Title 9 of the Olathe Municipal Code pertaining to the Olathe Public Offense Code.
14-64	Not Codified
14-65	Not Codified
14-66	Amends Section 10.24.020 of the Olathe Municipal Code pertaining to Specified Truck Traffic Prohibited on Designated Streeets.
14-67	Not Codified
14-68	Amends Sections in Chapter 13.26 of the Olathe Municipal Code pertaining to Systems Development Charge.
14-69	Potential Amendment to OMC 6.20.020 rescheduled to future date.
14-70	Amends Section 10.01.084 of the Olathe Municipal Code pertaining to Removal of Vehicles.
15-01	Not Codified
15-02	Not Codified
15-03	Not Codified
15-04	Not Codified
15-05	Not Codified
15-06	Not Codified
15-07	Not Codified
15-08	Amends Chapter 3.95 of the Olathe Municipal Code Pertaining to the Park Sales Tax Fund.
15-09	Repeals Chapter 3.96 of the Olathe Municipal Code pertaining to the Golf Course Fund.
15-10	Amends Olathe Municipal Code Section 6.20.020 pertaining to Definitions and Section 6.20.050 pertaining to Exceptions of Chapter 6.20 Indoor Clean Air.
15-11	Not Codified
15-12	Not Codified
15-13	Not Codified
15-14	Not Codified
15-15	Not Codified
15-16	Amends Title 18 of the Olathe Municipal Code pertaining to the Unified Development Ordinance.
15-17	Adds Chapter 5.30 to the Olathe Municipal Code pertaining to Mobile Food Vendors.
15-18	Amends Section 5.28.040 of the Olathe Municipal Code pertaining to Special Regulations for Ice Cream Vendors.
15-19	Adds Sections to Chapter 3.50 of the Olathe Municipal Code pertaining Procurement Policies.
15-20	Not Codified
15-21	Not Codified
15-22	Not Codified
15-23	Amends Chapters 7.02, 7.16 and 7.18 of Title 7 of the Olathe Municipal Code pertaining to Liquor Laws.
15-24	Amends Chapters 9.06 and 9.18 of Title 9 of the Olathe Municipal Code pertaining to the Olathe Public Offense Code.
15-25	Not Codified
15-26	Not Codified
15-27	Amends Chapter 2.36 of the Olathe Municipal Code pertaining to the Olathe Public Library and Olathe Public Library Advisory Board.
15-28	Not Codified
15-29	Not Codified
15-30	Not Codified
15-31	Not Codified
15-32	Not Codified
15-33	Not Codified
15-34	Not Codified
15-35	Amends OMC, Section 16.05.270 Subsection 901.6.3 Added – Test documentation, to implement a third-party software to track and manage commercial fire system inspection, maintenance and testing requirements.
15-36	Amends OMC Chapter 5.05, Special Event Permit.
15-37	Not Codified
15-38	Not Codified

15-39	Not Codified
15-40	Not Codified
15-41	Not Codified
15-42	Amends OMC Chapter 2.32 pertaining to the Planning Commission.
15-43	Not Codified
15-44	Not Codified
15-45	Not Codified
15-46	Not Codified
15-47	Not Codified
15-48	Not Codified
15-49	Not Codified
15-50	Adds OMC Section 3.70.070 pertaining to discount program.
15-51	Adds OMC Section 15.02.205 pertaining to service reconnect permit fee.
15-52	Adds OMC Section 15.02.395 pertaining to elevator certificate of inspection.
15-53	Adds OMC Section 15.22.125 pertaining to elevators, escalators and dumbwaiters.
15-54	Amends OMC Section 12.16.020 pertaining to Trees Overhanging Public Property – Trimming Required and OMC Section 12.16.040 pertaining to Traffic Hazard – Removal Notice.
15-55	Not Codified
15-56	Not Codified
15-57	Not Codified
15-58	Not Codified
15-59	Not Codified
15-60	Amends OMC Chapter 5.36 pertaining to Massage Therapy.
15-61	Not Codified
15-62	Not Codified
15-63	Amends OMC Title 7 pertaining to Liquor Laws.
15-64	Amends the OMC Chapter 10.01 pertaining to the Olathe Traffic Ordinance.
15-65	Amends OMC Section 10.24.010 pertaining to Definitions.
15-66	Amends OMC Title 9 pertaining to the Olathe Public Offense Code.
15-67	Amends OMC Section 12.21.230 pertaining to Prohibition Against Alcoholic Beverages and Cereal Malt Beverages.
15-68	Not Codified
16-01	Not Codified
16-02	Not Codified
16-03	Not Codified
16-04	Not Codified
16-05	Not Codified
16-06	Not Codified
16-07	Amends OMC Title 7 pertaining to Liquor Laws
16-08	Not Codified
16-09	Amends OMC Title 9 pertaining to the Olathe Public Offense Code.
16-10	Not Codified
16-11	Not Codified
16-12	Not Codified
16-13	Amends OMC Title 17 pertaining to Stormwater Management.
16-14	Not Codified
16-15	Not Codified
16-16	Not Codified
16-17	Amends OMC Title 18 pertaining to the Unified Development Ordinance. (An error in the ordinance was corrected with Ord. 16-20 and Ord. No. 16-17 was repealed.)
16-18	Not Codified
16-19	Not Codified
16-20	Amends OMC Title 18 pertaining to the Unified Development Ordinance (UDO-15-001).
16-21	Not Codified
16-22	Not Codified
16-23	Not Codified
16-24	Amends OMC Chapter 5.43 regarding Payday Loan and Title Loan Businesses.
16-25	Amends OMC Chapter 5.52 regarding Scrap Metal Dealer Registration.
16-26	Amends OMC Section 9.20.025 regarding Municipal Court diversion.
16-27	Amends OMC Sections 9.12.020 and 9.12.040 regarding ordinance violations involving use and carrying of weapons.
16-28	Amends OMC Chapter 5.40 pertaining to Private Police.
16-29	Not Codified
16-30	Not Codified
16-31	Not Codified
16-32	Not Codified
16-33	Not Codified
16-34	Not Codified
16-35	Not Codified
16-36	Not Codified
16-37	Not Codified
16-38	Not Codified
16-39	Not Codified
16-40	Adds OMC Chapter 1.06 pertaining to Terms of Office of the Governing Body and Elections.
16-41	Not Codified
16-42	Not Codified
16-43	Adds OMC Section 2.16.060 Complaints and Notices to appear, Service.
16-44	Not Codified

16-45	Not Codified
16-46	Amends OMC Sections 3.100.010, 3.100.020, 3.100.060, and 3.100.090 pertaining to the insurance proceeds fund and repeals existing sections.
16-47	Amends OMC Sections 9.06.080, Purchase or Consumption of Alcoholic or Cereal Malt Beverage by Minor; Penalty; 9.07.010, Theft; 9.10.020 Breach of Privacy; and repeals existing sections and also repeals Section 9.07.040, Theft of Services.
16-48	Amends OMC Title 10 pertaining to the Olathe Traffic ordinance regarding school zones and parking violations.
16-49	Not Codified
16-50	Not Codified
16-51	Amends OMC Title 18 pertaining to the Unified Development Ordinance regarding Quarries.
16-52	Amends OMC Title 8 pertaining to penalties for animal nuisance violations.

TITLE 1

GENERAL PROVISIONS

CHAPTERS:

1.01 Code Adopted
1.06 Elections
1.08 Wards
1.12 Official Newspaper (Repealed 5/1/12)
1.16 General Penalty

CHAPTER 1.01

CODE ADOPTED

Sections:

1.01.010 Adoption.
1.01.020 Publication of the Olathe Municipal Code Effect.
1.01.030 Title--Citation--Reference.
1.01.040 Reference Applies to Amendments.
1.01.050 Definitions.
1.01.060 Grammatical Interpretation.
1.01.070 Prohibited Acts Including Causing, Permitting, etc.
1.01.080 Construction.
1.01.090 Repeal Shall Not Revive Any Ordinances.
1.01.100 Repeal.
1.01.110 Title, Chapter and Section Headings.
1.01.120 Reference to Specific Ordinances.
1.01.130 Effect of Code on Past Actions and Obligations.
1.01.140 Exclusions.
1.01.150 Effective Date.
1.01.160 Constitutionality.

1.01.010 Adoption. Pursuant to the provisions of Sections 12-3014 and 12-3015 of Kansas Statutes Annotated, there is hereby adopted the "Olathe Municipal Code" as published by Book Publishing Company, Seattle, Washington, together with those secondary codes adopted by reference as authorized by K.S.A. Section 12-3015 save and except those portions of the secondary codes as are deleted or modified by the provisions of the "Olathe Municipal Code." (Ord. 1 § 1, 1972.)

1.01.020 Publication of the Olathe Municipal Code Effect. The code, in conjunction with this chapter and with a certificate of the city clerk that the code and the ordinance codified in this chapter are true and correct copies when published in book form of fifty or more copies shall import absolute verity and be received in evidence in all courts and places without further proof. (Ord. 1 § 2, 1972.)

1.01.030 Title--Citation--Reference. This code shall be known as the "Olathe Municipal Code" and it shall be sufficient to refer to this code as the "Olathe Municipal Code" in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the "Olathe Municipal Code." Further reference may be had to the titles, chapters, sections and subsections of the "Olathe Municipal Code" and such reference shall apply to that numbered title, chapter, section or subsection as it appears in the code. (Ord. 1 § 3, 1972.)

1.01.040 Reference Applies to Amendments. Whenever a reference is made of this code as the "Olathe Municipal Code" or to any portion thereof, or to any ordinance of the City of Olathe, Kansas, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. (Ord. 1 § 4, 1972.)

1.01.050 Definitions. The following words and phrases, whenever used in the ordinances of the City of Olathe, Kansas, shall be construed as defined in this section unless, from the context, a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

(1) "City" means the City of Olathe, Kansas, or the area within the territorial limits of the City of Olathe, Kansas, and such territory outside of the city over which the city has jurisdiction or control by virtue of any constitutional or statutory provision.

(2) "County" means the County of Johnson, Kansas.

(3) "Governing Body" means the modified Mayor-City Council-City Manager plan of the City of Olathe.

(4) "Law" denotes applicable federal law, the constitution and statutes of the state of Kansas, the ordinances of the City of Olathe, Kansas, and when appropriate, any and all rules and regulations which may be promulgated thereunder.

(5) "May" is permissive.

(6) "Must" and "shall." Each are mandatory.

(7) "Oath" includes affirmation.

(8) "Office" is the use of the title of any officer, employee, or any office, and it shall mean such officer, employee or office of Olathe unless otherwise specifically designated.

(9) "Ordinance" means law of the city; provided that a temporary or special law, administrative action, order or directive may be in the form of a resolution.

(10) "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

(11) "State" means the State of Kansas.

(12) "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in this city which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

(13) "Written" includes printed, typewritten, mimeographed or multigraphed. (Ord. 87-30 § 1, 1987; Ord. 1 § 5, 1972.)

1.01.060 Grammatical Interpretation. The following grammatical rules shall apply in the ordinances of the City of Olathe, Kansas:

(1) GENDER. Any gender includes the other genders;

(2) SINGULAR AND PLURAL. The singular number includes the plural and the plural includes the singular;

(3) TENSES. Words used in the present tense include the past and the future tenses and vice versa;

(4) USE OF WORDS AND PHRASES. Words and phrases not specifically defined shall be construed according to the context and approved usage of the language. (Ord. 1 § 6, 1972.)

1.01.070 Prohibited Acts Include Causing, Permitting, etc. Whenever in this code any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. (Ord. 1 § 7, 1972.)

1.01.080 Construction. The provisions of this code and all proceedings under it are to be construed with a view to effect its objects and to promote justice. (Ord. 1 § 8, 1972.)

1.01.090 Repeal Shall Not Revive any Ordinances. The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby. (Ord. 1 § 9, 1972.)

1.01.100 Repeal. All general ordinances of the City of Olathe, Kansas, not included in this code or excluded from the operation and effect of this section are hereby repealed. (Ord. 1 § 10, 1972.)

1.01.110 Title, Chapter and Section Headings. Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof. (Ord. 1 § 11, 1972.)

1.01.120 Reference to Specific Ordinances. The provisions of this code shall not in any manner affect deposits or other matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this code. (Ord. 1 § 12, 1972.)

1.01.130 Effect of Code on Past Actions and Obligations. Neither the adoption of this code nor the repeal or amendments hereby of any ordinance or part or portion of any ordinances of the city shall in any manner affect the prosecution for violations of ordinances, nor be violations were committed prior to the effective date hereof, nor be construed as a waiver of any such license, fee or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, on the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect. (Ord. 1 § 13, 1972.)

1.01.140 Exclusions. Every special ordinance of this city governing the following subject matter, whether contained in whole or in part within this code, is excluded from the operation and effect of Section 1.01.100 and is not affected by the repeal provisions hereof. Annexations; franchises, naming roads, streets and public places, acquisitions or disposal of public property; vacation of streets, alleys or public ways; acceptance of any gift, devise, license or other benefit; provided that the foregoing enumeration of exceptions or exclusions shall not be deemed to be exclusive or exhaustive, it being the intent and purpose to exclude from repeal any and all ordinances not of a general nature. (Ord. 1 § 14, 1972.)

1.01.150 Effective Date. This code shall become effective in accordance with Section 1.01.010. (Ord. 1 § 15, 1972.)

1.01.160 Constitutionality. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The Governing Body declares that it would have passed this code, and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect. (Ord. 87-30 § 2, 1987; Ord. 1 § 6, 1972.)

CHAPTER 1.06

ELECTIONS

Sections:

1.06.010 Terms of Office
1.06.020 Filing for City Office

1.06.010 Terms of Office.

(A) The terms office of the following members of the Governing Body of the City of Olathe, Kansas shall expire on the second Monday in January of 2018:

(1) The Councilmember for at large position 1;
(2) The Councilmember for ward 3; and
(3) The Councilmember for ward 4.

(B) The terms office of the following members of the Governing Body of the City of Olathe, Kansas shall expire on the second Monday in January of 2020:

(1) The Mayor;
(2) The Councilmember for at large position 2;
(3) The Councilmember for ward 1; and
(4) The Councilmember for ward 2. (Ord. 16-40 § 1, 2016.)

1.06.020 Filing for City Office: Any person desiring to become a candidate for a city office shall file with the county election officer before the filing deadline established in K.S.A. 25-205, and amendments thereto, a statement of such candidacy on a form furnished by the county election officer as specified by the secretary of state. Each such filing shall be accompanied by the filing fee established in K.S.A. 25-21a01, and amendments thereto; or, in lieu of such filing fee:

(A) In the case of a city officer elected by ward, by a petition signed by 100 qualified electors of the ward or by a number of qualified electors of the ward equal to 1% of the ballots cast in the ward at the last general city election, whichever is less; or

(B) In the case of a city officer elected by the city at large, by a petition signed by 100 qualified electors of the city or by a number of qualified electors of the city equal to 1% of the ballots cast at the last general city election, whichever is less. (Ord. 16-40 § 1, 2016.)

CHAPTER 1.08

WARDS

Sections:

1.08.010 Establishment.
1.08.020 Ward I--Description.
1.08.030 Ward II--Description.
1.08.040 Ward III--Description.
1.08.050 Ward IV--Description.

1.08.010 Establishment. The various wards of the city are defined to be established as set out in this chapter. (Ord. 87-168 § 1, 1987; Ord. 86-107 § 1, 1986; Ord. 81-130 § 2, (Part), 1980.)

1.08.020 Ward I — Description. Ward I is defined and established as follows:

WARD I

That territory of the City of Olathe, Johnson County, Kansas, with a Point of Beginning being the NE corner of the SE ¼ of Section 18, T14S, R24E; thence South to the SE corner of the SE ¼ of said Section 18; said point also being the NE corner of the NE ¼ of Section 19 T14S R24E; thence South to the NE corner of the SE corner of said Section 19; thence West to the NW corner of the SE ¼ of said Section 19; thence South to the SW corner of the SE ¼ of said section 19; thence West to a point 245 feet East of the SW corner of the SW ¼ of said section 19; thence North 370 feet; thence West 245 feet to a point on the West line of the SW ¼ of said section 19; thence North to the NW corner of the SW ¼ of said section 19; thence North 528 feet; thence West to a point on the East line of the W ½ of the NE ¼ of Section 24, T14S, R23E; thence south along the East line of the W ½ of said NE ¼ to the SE corner of said W ½; thence West along the South line of the NE ¼ to the SW corner said Section 24; thence north along the west line of the NE ¼ to the NW corner of the NE ¼ of said section 24 said point also being the SW corner of the SE ¼ of Section 13, T14S, R23E; thence North along the East line of said SE¼ to the NW corner thereof, said corner also being the SE corner of the SE¼ of the NW¼ of said Section 13; thence West along the South line of said SE¼ a distance of 1,320.64 feet to the SW corner thereof; thence N00°05’04”W, along the West line of said SE¼, a distance of 1,322.64 feet to the NW corner thereof; thence N89°54’02”E, along the North line of said SE¼, a distance of 861.18 feet; thence N01°52’28”E a distance of 1321.53 feet to a point on the North line of the NW¼ of said Section 13; thence West along the North line of the NW¼ of said Section 13 to the NW corner thereof, said corner also the NE corner of the N½ of the NE¼ of Section 14, T14S, R23E; thence South along the East line of said N½ to the SE corner thereof; thence West along the South line of said N½ a distance of 30 feet to a point of intersection with the Westerly right-of-way line of US Highway 169; thence Southerly along the Westerly right-of-way line of US Highway 169 a distance of 536.8 feet; thence West and parallel to the North line of the NE¼ of said Section 14 to a point of intersection with the Westerly right-of- way line of US Highway 169, said point 151.15 feet West of the East line of the NE¼ of said Section 14; thence S05°51’26”E a distance of 40.28 feet; thence South along a curve to the left having a radius of 5,858.84 and an initial tangent bearing of S03°46’58”W a distance of 385.76 feet; thence S00°0O’37”W a distance of 23.19 feet; thence S00°32’35”E (S00°32’265” deeded) a distance of 347.86 feet to a point on the South line of the NE¼ of said Section 14; thence West along the South line of said NE ¼ to the SW corner of the NE ¼ of said Section 14; thence South along the East line of the SW ¼ of said Section 14 and along the East line of the NW ¼ of Section 23, T14S, R23E to the SE corner of the NW ¼ of said Section 23; thence west along the South line of the NW ¼ of said Section 23 to the SW corner of the NW ¼ of said Section 23; thence North along the West section line of said Section 23 to a point at the NW corner of the NW ¼ of said Section 23 said point also being the SE corner of the SE ¼ of Section 15, T14S, R23E;

thence west to the NE corner of the NW ¼ of the NE ¼ of said Section 22, T14S, R23E; thence south to the SE corner of the NW ¼ of the NE ¼ of said Section 22; thence north to the NW corner of the NE ¼ of said Section 22, said point also being the SW corner of the SE ¼ of Section 15, T14S, R23E; thence north along the west line of the SE ¼ to the NW corner of the SE¼ said Section 15; thence S89°37’50”E a distance of 1565.62 feet; thence S14°16’35”W a distance of 431.17 feet; thence S00°20’00”W a distance of 320.00 feet; thence N71°49’37”E a distance of 327.84 feet; thence S79°07’16”E a distance of 240.78 feet; thence S26°42’26”E a distance of 275.91 feet; thence S53°18’24”E a distance of 631.88 feet to a point on the east line of the SE ¼ of said Section 15; thence north along the east line of the SE ¼ of said Section 15 to the NE corner of the SE ¼, said point also being the NW corner of the SW ¼ of Section 14, T14S, R23E; thence East along the North line of the SW ¼ of said Section 14 to a point at the SW corner of the E ½ of the NW ¼ of said Section 14; thence North along the West line of the E ½ of the NW ¼ to a point on the North line of said Section 14, said North line also being the South line of Section 11, T14S, R23E; thence West along the South line of said Section 11 and Section 10 to the SW corner thereof, said corner also the NE corner of Section 16, T14S, R23E; thence West along the North line of said Section 16 to a point of intersection with the western right-of-way line of the Atchison, Topeka and Santa Fe Railroad; thence S25°18’03”W along said western right-of-way line, a distance of 1,632.14 feet; thence N64°41’57”W, along said western right-of-way line, a distance of 11.00 feet; thence S25°18’03”W, along said western right-of-way line, a distance of 300.00 feet; thence S64°41’57”E, along said western right-of- way line a distance of 11.00 feet; thence S25°18’03”W, along said western right-of-way line a distance of 1,000.00 feet to a point on the South line of the NE¼ of said Section 16; continuing along said Western right-of-way line to the point of intersection with the West line of said Section 16; thence North along the West line of said Section 16, to the NW corner thereof: said point also being the SE corner of the SE ¼ of Section 8, T14S, R23E; thence North along the East line of said SE¼ to the SE corner of the N ½ of said SE¼; thence West along the South line of said N ½ to the SW corner thereof; thence North along the West line of said N ½ ; and continuing North along the West line of the NE¼ of said section to the NW corner thereof, said corner also the SE corner of the SW ¼ of Section 5, T14S, R23E; thence West along the South line of said SW ¼ to the SW corner thereof; thence S89°51’53”W a distance of 930.99 feet; thence N00°15’25”E a distance of 276.00 feet; thence S89°51’53”W 396 feet; thence N00°15’25”E 1532.49 feet; thence S89°34’22”E 1326.69 feet; thence North to the NW corner of the SW ¼ of said section 5; thence West along the South line of the E ½ of the E ½ of the NE ¼ of Section 6, T14S, R23E to a point at the SW corner of the E ½ of the E ½ of the NE ¼ of said Section 6; thence North along the West line of the E ½ of the E ½ of the NE ¼ of said Section 6 to a point at the NW corner of the E ½ of the E ½ of the NE ¼ of said Section 6; thence East along the North line of the E ½ of the E ½ of the NE ¼ of said Section 6 to a point at the NE corner of the E ½ of the E ½ of the NE ¼ of said Section 6, said corner also being the SW corner of the SW ¼ of Section 32, T13S, R23E; thence East along the South line of the SW ¼ 385 feet; thence North 452.57 feet; thence West 385 feet to a point on the West line of the SW ¼ ; thence North along the West line of the SW ¼ a distance of 1587.43 feet; thence East 290.41 feet; thence North 600 feet to a point on the North line of the SW ¼ of said Section 32; thence East along the North line of the SW ¼ of said Section 32 to the NE corner of the E ½ of the E ½ of the SE ¼ ; thence South 1320 feet to a point on the S ½ of the SE ¼ ; thence East to the SW corner of the NE ¼ of the SE ¼ ; thence North along the West line of said NE¼ the SE¼ to a point 330.00 feet South of the NE corner of NW¼ of SE¼ of said Section 32; thence S89°49’41”W a distance of 273.50 feet; thence S00°09’25”W a distance of 325.00 feet; thence S89°49’41”W a distance of 97.25 feet; thence N00°09’25”E a distance of 475.00 feet; thence N89°49’41”E a distance of 370.75 feet to the West line of the NE¼ of said SE ¼; thence north along the west line of said NE ¼ and continuing along the West line of the SE¼ of the NE¼ of said Section 32 to the NW corner thereof; thence Northwesterly a distance of 737.90 feet to a point on the South line of the N½ of the NW¼ of the NE¼ of said Section 32, said point being 330.0 feet West of the East line of the NW¼ of the NE¼ of said Section 32;

thence West along the South line of said N½ a distance of approximately 850.0 feet to a point 140 feet East of the West line of said N½; thence North a distance of 495.0 feet; thence East a distance of 74.50 feet; thence North a distance of 214.5 feet to a point on the North line of the NE¼ of said Section 32, said point being 214.5 feet East of the NW corner of said NE¼; thence East along the North line of said Section 32 to the NE corner thereof, said corner also being the NW corner of Section 33, T13S, R23E; thence South along the West line of said Section 33, a distance of 230.0 feet; thence Southeasterly to a point on the East line of the NW¼ of the NW¼ of said Section 33, said point being 230.0 feet North of the SE corner of said NW¼; thence North along the East line of said NW¼ to the NE corner thereof, thence East along the North line of Section 33, 34, 35, and 36, T13S, R23E and Section 31, T13S, R24E to a point of intersection with the Western right-of-way line of Interstate Highway 35; thence South along said right-of-way line to a point of intersection with the centerline of Sheridan Street thence East along said centerline to a point of intersection with the centerline of Lindenwood Drive; thence South along said centerline to a point of intersection with the centerline of 151st Street; thence East along said centerline to the NE corner of the NE ¼ of Section 7, T14S, R24E; thence South along the East line of said Section 7 to the SE corner of the N ½ of the NE¼ of the SE¼ of Section 7, T14S, R24E; thence West along the South line of the N ½ of the NE ¼ of the SE ¼ of said Section 7 to the NW corner of the N ½ of the NE ¼ of the SE¼ of said Section 7; thence South to the SW corner of the SE ¼ of the SE ¼ of said Section 7; thence East along the South line of said Section 7 to a point of intersection with the centerline of Mur-Len Rd; thence South along said centerline to the SE corner of the NE¼ of said Section 18 also the POINT OF BEGINNING.

AND:
A tract of land in the NE ¼ of Section 27, T14S, R23E; more particularly described as: Beginning at the NE corner of the NE ¼ of said Section 27; thence S 00°12’00”W, along the East line of the NE ¼ of said Section 27 a distance of 2023.41 feet; thence S89°45’14”W a distance of 2705.46 feet to a point on the west line of the NE ¼ of said Section 27; thence N00 °23’00”E along the West line of the NE ¼ of said Section 27 a distance of 2035.20 feet to the NW corner of the NE ¼ of said Section 27; thence S89°59’49”E along the North line of the NE ¼ of said Section 27 a distance of 1785.39 feet; thence S00°12’00”W a distance of 460.00 feet; thence S89°59’49”E a distance of 190.00 feet; thence N00°12’00”E a distance of 460.00 feet to a point on the North line of the NE ¼ of said Section 27; thence S89°59’49”E along the North line of the NE ¼ of said Section 27 a distance of 723.50 feet to the POINT OF BEGINNING.

EXCEPT:
A tract of land in the NE¼ of Section 18, T14S, R24E more particularly described as: Beginning at a point 862.67 feet West of the NE corner of the NE¼ of Section 18, T14S, R24E; thence South a distance of 667.90 feet; thence East a distance of 431.23 feet; thence South 303 feet; thence East 431.30 feet; thence South to the SE corner of the SE ¼ of the the SE ¼ ; thence West a distance of 1,978.76 feet; thence North a distance of 1,278.01 feet to a point on the North line of said NE¼; thence East along the North line of said NE¼ to the POINT OF BEGINNING.

EXCEPT:
A tract of land in the SW¼ of Section 7, T14S, R24E; more particularly described as the North 165 feet of the West 264 feet.

EXCEPT:
A tract of land in the SW¼ of Section 7, T14S, R24E more particularly described as the South 138 feet of North 660 feet of the West 600 feet.

EXCEPT:
A tract of land in the SE¼ of Section 13, T14S, R23E ; more particularly described as: Beginning at a point 1295.6 feet North of the SE corner of said SE¼ of Section 13, T14S, R23E; thence North along the East line of the SE¼ of Section 13, T14S, R23E to a point 836.90 feet South of the NE corner of said SE¼; thence S89°59’53”W a distance of 660 feet; thence S00°00’07”E, a distance of 520.10 feet; thence N89°59’53”E, a distance of 660 feet, to the POINT OF BEGINNING.

EXCEPT:
A tract of land described as following: Beginning at the SW corner of the NE ¼ of the NE ¼ of Section 24, T14S, R23E; thence East to a point on the East line of the NE ¼ ; thence North to the NE corner of the NE ¼, said point also being the SE corner of the SE ¼ of Section 13, T14S, R23E; thence continuing along the East line of the SE ¼ of said Section to a point 965.6 feet North of the SE corner of said SE¼; thence South 89°59’53” West, a distance of 660.00 feet; thence N00º00'07"W, a distance of 148.02 feet; thence N84º40'15"W, a distance of 152.62 feet; thence S78º05'00"W, a distance of 85.45 feet; thence S00º20'56"E a distance of 1,113.16 feet, to a point on the South line of the SE ¼ of said Section 13 said point also being on the North line of the NE ¼ of the NE ¼ of Section 24, T14S, R23E; thence west along the North line of the NE ¼ of the NE ¼ of said Section 24 to the NW corner of the NE ¼ of the NE ¼ of said Section 24; thence South to the SW corner of the NE ¼ of the NE ¼ of said Section 24 to the POINT OF BEGINNING.

EXCEPT
A tract of land described as following: Beginning at a point 897.0 feet West of the NE corner of the NW¼ of Section 33, T13S, R23E; thence South a distance of 208.71 feet; thence East a distance of 231.0 feet; thence North a distance of 208.71 feet to the North line of said Section 33; thence West along the North line of said NW¼ to the POINT OF BEGINNING.

EXCEPT
A tract of land described as following: commencing at the SE corner of the SW¼ of Section 4, T14S, R23E, Johnson County, Kansas; thence Northwesterly to a point on the North line of said SW ¼, said point being 1,100 feet East of the NW corner of said SW ¼; thence East along the North line of said SW ¼ to the NE corner of said SW ¼ thence South along the East line of said SW ¼ to the POINT OF BEGINNING.

EXCEPT
The W½ of the NW¼ of Section 9, T14S, R23E.

EXCEPT
Beginning at the NE corner of the SE ¼ of Section 10, T14, R23E; thence West a distance of 600.00 feet, thence Southwesterly a distance of 740.00 feet more or less to a point of 1,500.00 feet West and 500 feet South of the NW corner of the SE¼ of said Section 10; thence West 1,500.00 feet to the West line of said SE¼; thence North 500.00 feet to the NW corner of said SE¼, continuing North along the West line of the NE¼ of said Section 10 to the NW corner thereof; thence East along the North line of said NE¼ to the NE corner of said NE ¼ ; thence south along the east line of said NE ¼ to the POINT OF BEGINNING.

EXCEPT:
A tract of land in the SE ¼ of Section 32, T13S, R23E; more particularly described as: Beginning at a point 477 feet East of the SW corner of the SE ¼ of said section; thence North 208.71 feet; thence East 208.71; thence South 208.71 feet; thence West 208.71 feet to the POINT OF BEGINNING.

EXCEPT:
A tract of land in the SE ¼ of Section 32, T13S, R23E; more particularly described as: Beginning at the SW corner of the SE ¼ of the SE ¼ of said section; thence 208.71 feet West; thence North 417.32 feet; thence East a distance of 208.71 feet to a point on the West line of the SE ¼ of the SE ¼ ; thence South along the West line of the SE ¼ of the SE ¼ a distance of 17.42 feet; thence East 468.40 feet; thence South 400 feet to a point on the South line of the SE ¼ of the SE ¼ ; thence West along the South line of the SE ¼ of the SE ¼ a distance of 468.40 feet to the POINT OF BEGINNING.

EXCEPT:
A tract of land in the SE ¼ of Section 32, T13S, R23E; more particularly described as: Beginning at the SE corner of the SE ¼ ; thence West along the South line of the SE ¼ a distance of 363 feet; thence North a distance of 1320 feet to a point on the North line of the S ½ of the SE ¼ ; thence East 154.29 feet; thence South a distance of 208.71 feet; thence East 208.71 feet to a point on the East line of the SE ¼ ; thence South along the East line of the SE ¼ to the POINT OF BEGINNING.

EXCEPT
Beginning at a point 30 feet East and 643.10 feet North of the SW corner of Section 11, T14S, R23E, said point also being on the North right-of-way line of I-35 Highway; thence Northeasterly a distance 448.60 feet more or less to a point 60 feet East and 1,120.70 feet North of said SW corner; thence East a distance of 15 feet; thence North a distance of 190 feet along said right-of-way; thence West a distance of 45 feet to the East line of the SE¼ of Section 10, T14S, R23E; thence North a distance of 80.00 feet along said East line; thence West a distance of 30 feet; thence Southwesterly a distance of 252.04 feet to a point 56 feet West and 1140 feet North of the SE corner of said Section 10; thence Southwesterly a distance of 182.51 feet to a point 134 feet West and 975.00 feet North of the said SE corner; thence Southwesterly a distance of 340.88 feet more or less to a point 435.00 feet West and 815 feet North of said SE corner; thence Southwesterly a distance of 114.53 feet to a point 500.00 feet West and 720.70 feet North of said SE corner; thence North to a point 500.00 feet West and 940.00 feet South of the NE corner of the SE¼ of said Section 10; thence East 500.00 feet to the East line of said Section 10, said line is also the West line of the SW¼ of Section 11, T14S, R23E; Continuing East and parallel to the North line of said SW¼ to a point of intersection with the North right-of-way line of I-35 Highway; thence Southwesterly along the North right-of-way of said I-35 to the POINT OF BEGINNING. (Ord. 09-49 § 1, 2009; Ord. 07-98 § 1, 2007; Ord. 02-113 § 1, 2002; Ord. 94-80 § 1, 1994; Ord. 87-168 § 1, 1987; Ord. 86-107 § 2, 1986; Ord. 81-130 § 2 (part), 1981.)

1.08.030 Ward II — Description. Ward II is defined and established as follows:

WARD II

Beginning at the SE corner of the W ½ of the W ½ of Section 28, T13S, R23E; thence North along the East line of the said W½ to a point 825.00 feet North of the SE corner of the SW¼ of the NW¼ of said Section 28; thence West a distance of 658.98 feet; thence North a distance of 165.00 feet; thence West a distance of 325.25 feet; thence North a distance 131.10 feet; thence West to the West line of said Section 28; thence North along the West line of said Section 28 to the SW corner of Section 21, T13S, R23E; thence S88º01’55”W, along the South line of the SE ¼ of said Section 20, a distance of 332.25 feet; thence N01º43’36”W a distance of 70.00 feet; thence N88º01’55”E, parallel with the South line of said SE ¼, a distance of 257.25 feet; thence N01º43’36”W, parallel with the East line of said SE ¼ , a distance of 292.09 feet; thence Northerly, on a curve to the right having a radius of 900 feet, for a distance of 355.42 feet; thence N20º54’00”E a distance of 14.89 feet to a point on the East line of said SE ¼ ; thence North along the West line of Section 21, T13S, R23E to the SW corner of the NW¼ of the NW¼ of said section;

thence East along the South line of said NW¼ to the SE corner thereof; thence North along the East line of said NW¼ to the NE corner thereof, said corner also the NW corner of the NE¼ of the NW¼ of said section; thence N88°08’32”E a distance of 453.99 feet along the North line of said NE¼; thence S65°24’56”E a distance of 437.95 feet; thence N79°41 ‘35”E a distance of 374.29 feet; thence N88°08’35”E a distance of 219.87 feet; thence N33°57’31”E a distance of 110.99. feet; thence N88°08’45”E a distance of 195.10 feet; thence N01°47’53”W a distance of 50 feet to a point on the North line of the NE¼ of said Section 21; thence West along said North line to the NW corner of said NE¼, said corner also the SE corner of the SW¼ of Section 16, T13S, R23E; thence North along the East line of said SW¼ a distance of 801.41 feet; thence S88°05’37”W a distance of 370.00 feet; thence N65°58’58”W a distance of 201.12 feet; thence S88°05 03”W to a point on the West line of the SW ¼ of said section; thence N00°08’08”E a distance of 346.74 feet; thence S89°51’52”E a distance of 964.49 feet to the centerline of a creek ; thence N47°41’56”W, along said centerline, a distance of 36.24 feet; thence N24°54’35”W, continuing along said center, a distance of 33.56 feet; thence N15°18’36”E, continuing along said centerline, a distance of 147.45 feet; thence N27°42’09”E, continuing along said centerline, a distance of 41.11 feet; thence N00°03’50”E, continuing along said centerline, a distance of 35.82 feet; thence N33°25’03”W, continuing along said centerline, a distance of 93.62 feet; thence N89°51’52”W a distance of 532.81 feet; thence S00°08’08”W a distance of 332 feet; thence N89°51’52”W a distance of 383 feet to West line of said Section 16, also the East line of the S½ of the SE¼ of Section 17, T13S, R23E; thence North along said East line of said S½ to the NE corner thereof; thence West along the North line of said S½ to the NW corner thereof, also the NE corner of the S½ of the SW¼ of said section; thence South along the East line of said S½ and continuing South along the East line of the NW¼ of Section 20, T13S, R23E to the SE corner thereof; thence West along the South line of the NW¼ of said Section 20 and continuing along the South line of the NE¼ of Section 19, T13S, R23E to the SW corner thereof; thence North along the West line of the NE¼ to the NW corner thereof; said corner also the SE corner of the E ½ of the SW¼ of Section 18, T13S, R23E; thence West along the South line of said E½ to the SW corner thereof; thence North along the West line of said E½ to the NW corner thereof, said point also the NE corner of the W½ of the SW¼ of said Section 18; thence West along the North line of said W½ to a point 835.36 feet East of the NW corner of said W½; thence S34°34’50”W a distance of 819.45 feet; thence S47°42’20”W, a distance of 479.30 feet to the West line of said W½; thence North along the West line of said SW¼ to the NW corner thereof, said corner also being the SE corner of the S½ of the NE¼ of Section 13, T13S, R22E; thence North along the East line of said S ½ to the NE corner thereof; thence West along the North line of said S½ to the NW corner thereof; said corner also the SW corner of the N ½ of said NE¼;thence North along the West line of said N½, and continuing North along the West line of the SE¼ of Section 12, T13S, R22E to the NW corner thereof; said corner also the SE corner of the NW¼ of said Section 12; thence West along the South line of said NW¼ to the SW corner thereof; thence North along the West line of said NW¼ and continuing North along the West line of Section 1, T13S, R22E to a point 1,914.0 feet North of the SW corner of Section 1; thence East along a line parallel to the South line of said Section 1 to a point 1,236.00 feet West of the East line of said Section 1, thence North along a line parallel to the East line of said Section 1 a distance of 1,070.92 feet to a point; thence West along a line parallel to the South line of said Section 1 a distance of 1,290.00 feet to a point; thence North-along a line parallel to the East line of said Section 1 a distance of 968.00 feet; thence East along a line parallel to the South line of said Section 1 a distance of 1,800.00 feet; thence South along a line parallel to the East line of said Section 1 a distance of 966.73 feet; thence East along a line parallel to the South line of said Section 1 a distance of 726.00 feet to a point on the East line of said Section 1, also the West line of Section 6, T13S, R23E; thence North along the West line of said Section 6 to the point of intersection with the South right-of-way line of Kansas State Highway 10; thence continuing North along the West line of said Section 6 a distance of 326.40 feet; thence S54º38’51”E a distance of 227.58 feet; thence S45º56’57”E a distance of 847.00 feet; thence S50º14’26”E a distance of 710.89 feet;

thence S63º36’54”E a distance of 589.24 feet; thence S65º55’48”E a distance of 818.52 feet; thence-along a curve to the left with an initial tangent in bearing of S70º44’45” E and a radius of 2800 feet and an arc length of 1376.27 feet; thence S70º23’18”E a distance of 7.96 feet; thence N81º41’32”E a distance of 1036.81 feet; thence N88º35’40”E a distance of 239.37 feet; thence N86º29’23”E a distance of 1344.72 feet; thence N86º51’03”E a distance of 269.43 feet; thence S68º59’59”E a distance of 1140.57 feet; thence S68º18’53”E a distance of 2969.47 feet; thence S72º47’46”E a distance of 1411.82 feet; thence S80º40’49”E a distance of 744.00 feet to a point on the North line of Section 9, T13S, R23E; thence East along the North line to the NE corner of the NE ¼ of said Section 9; thence continuing East along the north line of Section 10, T13S, R23E, Section 11, T13S, R23E, and Section 12, T13S, R23E to the NE corner of the NW ¼ of said Section 12; thence South along the East line of said NW ¼ to a point of intersection with the South line of the North ½ of said Section 12; thence West along said South line to a point of intersection with the West right-of-way line of the Atchison, Topeka and Santa Fe Railroad; thence North along said right-of-way line to a point of intersection with the South line of the N ½ of the NW ¼ of said Section 12; thence West to the SW corner of the N ½ of the NW ¼ of said Section 12; thence South to the SW corner of the NW ¼ of said Section 12; thence East along said South line of said NW ¼ to a point of intersection with the West right-of-way line of the Atchison, Topeka and Santa Fe Railroad; thence South along said right-of-way line to a point of intersection with the South line of Section 13, T13S, R23E; thence East along said south line to the SE corner of said Section 13, said corner also being the NE corner of Section 24, T13S, R23E; thence South along the East line of said Section 24 and Section 25, T13S, R23E to the SE corner of said Section 25; thence West along the South line of said Section 25, Section 26, T13S, R23E, Section 27, T13S, R23E, and Section 28, T13S, R23E, to the POINT OF BEGINNING.

AND:
A.tract of land in Sections 24 and 25 T12S, R22E in Johnson County, Kansas more particularly described as Beginning at the SW corner of the SW¼ of the SW¼ of Section 24, T12S, R22E in Johnson County, Kansas; thence North along the West line of said SW¼ to the NW corner thereof; thence East along the North line of said SW¼ to the NE corner thereof; thence South along the East line of said SW¼ to the SE corner thereof; said corner also the NE corner of NW¼ of the NW¼ of Section 25, T12S, R22E; thence South along the East line of said NW¼ to a point of intersection with the SW bank of the Kansas River; thence along said SW bank, on a bearing of S45°04’42”E, a distance of 163.80 feet; thence continuing along said SW bank, on a bearing of S55°09’11 “E, a distance of 55.50 feet; thence continuing along said SW bank, on a bearing of S33°09’24”E, a distance of 89.10 feet; thence continuing along said SW bank, on a bearing of S42°43’42”E, a distance of 91.87 feet; thence continuing along said SW bank, on a bearing of S65°09’24”E, a distance of 67.07 feet; thence continuing along said SW bank, on a bearing of S48°41’49”E, a distance of 84.22 feet; thence continuing along said SW bank, on a bearing of S58°49’34”E a distance of 73.41 feet; thence continuing along said SW bank, on a bearing of S48°57’41”E, a distance of 66.99 feet; thence continuing along said SW bank, on a bearing of S74°29’31”E, a distance of 95.12 feet; thence continuing along said SW bank, on a bearing of S79°16’12”E a distance of 95.42 feet; thence continuing along said SW bank, on a bearing of S78°27’44”E, a distance of 85.09 feet; thence continuing along said SW bank, on a bearing of S88°08’52”E, a distance of 75.49 feet to the junction of said SW bank of the Kansas River with the NW bank of Cedar Creek; thence along a projection of said SW bank, on a bearing of S39°36’56”E, a distance of 58.53 feet to a point in the center line of said Cedar Creek; thence along said projection, on a bearing of S39°36’57”E, a distance of 47.73 feet to a point of intersection with the Northerly right-of-way line of Atchison, Topeka & Santa Fe Railway Company; thence N49°58’06”E along said Northerly right-of-way line, until it intersection with the East line of the NE¼ of the NW¼ of Section 25, T12S, R22E;

thence South along the East line of said NE¼ to the SE corner thereof; thence N89°58’14”W along the South line of said NE¼ a distance of 1292.39 feet; thence S00°11’56”E, along the East line of said SW¼, a distance of 537.43 feet to a point of intersection with the Northerly right-of-way line of the Atchison, Topeka & Santa Fe Railway Company; thence along said Northerly right-of-way line, along a curve to the right having a radius of 1,587.30 feet, an arc distance of 303.68 feet (chord bearing: S64°28’49”W, chord distance: 313.17 feet) to a point of compound curvature; thence continuing along said Northerly right-of-way, along a curve to the right, said curve having a radius of 2,211.90 feet, an arc, distance of 822.50 feet (chord bearing: S86°43’40”W, chord distance 817.77 feet) to the point of tangency; thence continuing along said Northerly right-of-way line, on a bearing of N82°37’10”W, a distance of 197.20 feet to a point on the West line of said SW¼, NW¼; thence on a bearing of N00°0150”E, along said West line, a distance of 2,013.1 feet to the POINT OF BEGINNING.

AND:
The South 570 feet of the East 230 feet of the NE¼, of the SW¼, Section 30, T12S, R23E, and the South 570 feet of the NW¼, of the SE¼ of Section 30, T12S, R23E, Johnson County, Kansas;

AND
Part of the SW¼ of Section 16, T13, R23, Johnson County, Kansas, described as follows: Commencing 1,818.49 feet South of the NW corner of the SW¼ of Section 16 T13, R23; thence East a distance of 280 feet; thence South a distance of 300 feet; thence East a distance of 446 feet; thence South a distance of 120 feet; thence West a distance of 123 feet; thence S43°55’W a distance of 166.21 feet; thence S25°27’29”W a distance of 153.71 feet; thence S81°11’54”W a distance of 425 feet to a point on the West line of the SW¼; thence N00°08’08”E along said West line a distance of 743.8 feet to the POINT OF COMMENCEMENT.

EXCEPT:
Beginning at the SE corner of the NW¼ of Section 10, T13S, R23E; thence North along the East line of said NW¼ to a distance of 600.01 feet; thence West along a line parallel to the South line of said NW¼ a distance of 603.14 feet; thence South along a line parallel to the East line of said NW¼ a distance of 600.00 feet to the South line of said NW¼; thence East along the South line to the POINT OF BEGINNING.

EXCEPT:
The West 330 feet of the South 660 feet of the East 95 acres of the SW¼ of Section 10, T13S, R23E.

EXCEPT:
A tract of land within the NW¼ of the SW¼ of Section 16, T13S, R23E more particularly described as follows: Beginning at a point on the West line of the NW¼ of the SW¼ of Section 16, T13S, R23 228.71 feet South of the NW corner of said NW¼ of the SW¼; thence South along the West line of said NW¼ a distance of 153.10 feet; thence East a distance of 779.57 feet; thence N20º34’59”E a distance of 241.05 feet to a point; thence N36º40’03”E a distance of 204.39 feet; thence West a distance of 458.41 feet; thence South a distance of 246.71 feet; thence West a distance of 536.96 feet to the POINT OF BEGINNING.

EXCEPT
A tract of land described as following: Beginning at the NW corner of the NW¼ of Section 22, T13S, R23E; thence N87°35’00”E a distance of 1319.20 feet; thence S02º25'00"E a distance 20 feet; thence S47°38’44”W a distance of 125.13 feet, (S47°58’W, 125.1 feet, deeded); thence S87°35’00”W a distance of 253.6 feet; thence S2°6’11”E a distance of 420.24 feet (S02°07’E a distance of 420.3feet);

thence N87°35’00”E a distance of 423.49 feet; thence N02°25’00”W, a distance of 520 feet to a point on the North line of the NE¼ of said Section 22; thence East to a point 656.53 feet West of the NE corner of said NE¼, said point also the NW corner of the E½ of the NE¼ of the NW¼; thence S00°27’13”W, along the West line of the said E½ a distance of 728.17 feet; thence S72°54’44”W a distance of 1,156.84 to a point of intersection with the northeasterly right-of-way line of K-7 Highway; thence S35°41’24”E along said Northeasterly right-of-way line a distance of 676.58 feet; thence N52°07’33”E a distance of 81.79 feet; thence S38°07’E a distance of 435.40 feet; thence S72°22’35”E a distance of 151.20 feet; thence S38°07’ E a distance of 225.00 feet; thence S41°28’ E a distance of 601.00; thence S38°07’E a distance of 39.10 feet; thence West to the SW corner of the NW ¼ of Section 22 T13S R22E said corner also the SE corner of the SE¼ of the NE¼ of Section 21, T13S, R23E; thence North along the East line of said SE¼ to the NE corner thereof, said corner also the SE corner of the E½ of the NE¼ of the NE¼; thence West along the South line of said E½ to the SW corner thereof; thence North along the West line of said E½ to a point 660 feet South of the NW corner thereof; thence West a distance of 330 feet; thence North a distance of 660 feet to a point on the North line of said Section 21; thence East along the North line of said Section 21 to the POINT OF BEGINNING.

EXCEPT:
Beginning at the SE corner of Section 15, T13S, R23E; thence North along the East line of said Section 15 a distance of 215 feet; thence West parallel to the South line of said Section 15 a distance of 202.16 feet; thence South a distance of 215 feet to the South line of said Section 15; thence East along the South line of said Section 15 to the POINT OF BEGINNING. (Ord. 07-98 § 2, 2007;Ord. 02-113 § 2, 2002; Ord. 94-80 § 2, 1994; Ord. 90-70 § 1, 1990; Ord. 87-168 § 2, 1987; Ord. 81-130 § (Part) 1981.)

1.08.040 Ward III — Description. Ward III is defined and established as follows:

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Beginning at the NE corner of Section 33, T13S, R24E; thence South along the East line of said Section 33 to the SE corner of Section 33, said corner also the NW cornet of Section 3, T14S, R24E; thence East along the North line of said Section 3 and continuing along the North line of the NW¼ of the NW¼ of Section 2, T14S, R24E, to the NE corner thereof; thence South along the East line of said NW¼ to the SE corner thereof, said corner also the NW corner of. the SE¼ of said NW¼; thence East along the North line of said SE¼ to the NE corner thereof; thence South along the East line of said SE¼ to the SE corner thereof; thence West along the South line of said SE¼ to the SW corner thereof, said corner also the NW corner of the NE¼ of the SW¼ of said Section 2; thence South along the West line of said NE¼ to the SE corner thereof, said corner also the NW corner of the SE¼ of the SW¼ of said Section 2; thence East along the North line of said SE¼ to the NE corner thereof; thence South along the East line of said SE¼ to the SE corner thereof, said corner also the SE corner of the SW¼ of said Section 2; thence West along the South line of said SW¼ and continuing along the South line of the SE¼ of Section 3, T14S, R24E, to the SW corner thereof, said corner also the NE corner of the NW¼ of Section 10, T14S, R24E; thence South along the East line of said NW¼ to the SE corner thereof; thence West along the South line of said NW¼, to a point 1,733.4 feet East of the West line of said NW ¼ ; thence South to a point on the South line of said Section 10; thence West along the South line of said Section 10 a distance of 773.20 feet; thence North to a point on the North line of the SW¼ of said Section 10; thence West along the North line of said SW¼ to a point 610.61 feet East of the West line of said SW¼; thence S00°14’13”W a distance of 619.00 feet; thence N89°39’52”W a distance of 613.01 feet to a point on the West line of said Section 10; thence South along said West line to a point 401.14 feet North of the SW corner of said Section 10; thence N88°05’12”E, a distance of 619.34 feet; thence S02°02’38”E, a distance of 401.14 feet to a point on the South line of Section 10;

thence S88°05’12”W, along the South line of said section, a distance of 620.90 feet to the SW corner thereof; continuing along the South line of the SE¼ of Section 9, T14S, R24E; to the SW corner thereof; thence North along the West line of said SE¼ to the NW corner thereof; said corner also the SE corner of the NW¼ of said Section 9; thence West along the South line of said NW¼ to the SW corner thereof, said corner also the NE corner of the SE¼ of Section 8, T14S, R14E; thence South along the East line of said SE¼ to the SE corner thereof; thence S87°52’01”W along the South line of the SE¼ a distance of 1,314.67 feet; thence N01°31’59”W a distance of 705 feet; thence S87°52’01”W a distance of 156 feet; thence S65°18’28”W a distance of 372.3 feet; thence S01 °31’59”E a distance of 550.25 feet to a point on the South line of the SE¼ of said Section 8; thence West along the South line of said SE¼ to the SW corner thereof; said corner also the NE corner of the NW¼ of Section 17, T14S, R24E; thence South along the East line of said NW¼ to the SW corner thereof; thence East to a point 242 feet West of the NE corner of the SE ¼ ; thence South to a point 360 feet South of the North line of the SE ¼ of Section 17, T14S, R24E; thence East to a point on the East line of the SE ¼ of said Section 17; thence South to the SE corner the NE ¼ of the SE ¼ of said Section 17; thence West 519 feet; thence South 242.13 feet; thence East 125.68 feet; thence South 221.50 feet; thence East 108.32 feet; thence South 230.00 feet; thence East 285.00 feet; thence South to a point 330.43 feet North of the SE corner of the SE ¼ said Section 17; thence West 1318.50 feet; thence South 330.43 feet to a point on the South line of the SE ¼ said Section 17; thence West to the SE corner of the SW ¼ ; thence South to the SW corner of the NE ¼ of Section 20 T14S R24E ; thence East to the SE corner of the NE ¼ of said Section 20 ; thence South to the SE corner of the SE ¼ of said Section 20; thence West to the SW corner of the SE ¼ of said Section 20; thence west to a point of intersection with the centerline of Mur-Len Rd; thence North along said centerline to the NW corner of Section 17, T14S, R24E; thence West along the South line of Section 7, T14S, R24E to the SW corner of the East ½ of the SE ¼ of said Section 7; thence North along the West line of the East ½ of the SE ¼ of said Section 7 to the SW corner of the N ½ of the NE ¼ of the SE ¼ of said Section 7; thence East along the South line of the N ½ of the NE ¼ of the SE ¼ of said Section 7 to the SE corner thereof; thence North along the East line of said Section 7 to the NE corner of said Section 7; thence West along the north line of said Section 7 to a point of intersection with the centerline of Lindenwood Drive; thence North along said centerline to a point of intersection with the centerline of Sheridan Street; thence NW along said centerline to a point on the Western right-of-way line of Interstate Highway 35; thence North along said right-of-way line to a point of intersection with the centerline of Santa Fe Street; thence East along the North line of Section 31, T13S, R24E, Section 32, T13S, R24E, Section 33, T13S, R24E, to the NE corner of Section 33, T13S, R24E, said corner also the POINT OF BEGINNING.

EXCEPT:
A tract of land in the SW¼ of Section 8, T14S, R24E; more particularly described as: Beginning at the SW corner of the above described SW¼ thence N0º8'18"W along the West line a distance of 779.49 feet to TRUE POINT OF BEGINNING; thence N89º54'43"E a distance of 353.15 feet; thence N00º6'47"W a distance of 315 feet; thence S89º54'43"W a distance of 353.28 feet to a point on the West line of said SW¼; thence S00º8'18"E along the West line of said SW¼ a distance of 315.11 feet to the TRUE POINT OF BEGINNING.

EXCEPT:
A tract of land in the SW¼ of Section 8, T14S, R24E; more particularly described as: Beginning at the SW corner of the above described SW¼ thence N00°08’18”W along the West line a distance of 779.49 feet to TRUE POINT OF BEGINNING; thence N89°54’43”E a distance of 353.15 feet; thence N00°06’47”W a distance of 315 feet; thence S89°54’43”W a distance of 353.28 feet to a point on the West line of said SW¼; thence S00°08’18”E along the West line of said SW¼ a distance of 1316.23 feet to the TRUE POINT OF BEGINNING. (Ord. 09-49 § 2, 2009; Ord. 07-98 § 3, 2007; Ord. 02-113 § 3, 2002; Ord. 94-89 § 3, 1994.)

1.08.050 Ward IV — Description. Ward IV is defined and established as follows:

WARD IV

Beginning at the NW corner of the NE ¼ of Section 12, T13S, R23E; thence East along the North line of said Section to the NE corner of said Section 12, said point also being the NW corner of Section 7, T13S, R23E; thence continuing along the North line of said Section 7 to the NW corner of the NW¼ of the NE¼; thence South along the West line of said NW¼ to the SW corner thereof, said corner also the NW corner of the SW¼ the NE¼ of said Section 7; thence East along the North line of said SW¼ to the NE corner thereof; thence South along the east line of said SW¼ to the SE corner thereof; thence West along the South line of said SW¼ to the SW corner thereof; said corner is also the NE corner of the E½ of the SW¼ of said Section 7; thence west along the north line of said E½ to the NW corner thereof; thence South along the West line of said E½ to the SW corner thereof; thence east along the South line of said E ½ to the SE corner thereof, said corner also the NE corner of the W½ of Section 18, T13S, R24E; thence South along the East line of said W½ to the NW corner of the S½ of the SE ¼ of said Section 18; thence East along the North line of said S½ to a point 422 West of the NE corner of said S½; thence N01°18’59”W a distance of 142 feet, thence N87°26’04”E a distance of 362 feet to a point of intersection with the Westerly right-of- way line of Renner Blvd; thence South along the Westerly right-of-way line of Renner Blvd a distance of 142 feet to a point on the North line of the S ½ of said SE ¼ ; thence S89°58’07”W, along the North line of said S½ a distance of 115 feet; thence S01°04’50”W a distance of 180 feet; thence N89°58’07”E a distance of 185 feet to a point on the West line of the SW¼ of the SW¼ of Section 17, T13S, R24E; thence N01°04’50”E, along the West line of said SW¼ a distance of 180 feet to the NW corner thereof; thence East along the North line of said SW¼ to the NE corner thereof; thence South along the East line of said SW¼ to a point 782.9 feet North of the SE corner of said SW¼; thence East a distance of 1,077.50 feet to a point of intersection with the Westerly right-of-way line of the public road (Old US 50 Highway); thence Northeasterly along the Westerly right-of-way line of the public road to its point of intersection with the North line of the SE¼ of said Section 17; thence East along the North line of said SE ¼ and continuing on the North line of the SW¼ of Section 16, T13S, R24E to the NE corner thereof; said corner also the SW corner of the NE¼ of said Section 16; thence North along the West line of the NE¼ to the NW corner thereof; thence East along the North line of said NE¼ to the NE corner thereof, said corner also the NE corner of Section 16; thence South along the East line of Sections 16, 21, and 28 to the SE corner of Section 28, T13S, R24E; thence West along the South line of Sections 28, 29 and 30 to the SW corner of Section 30, T13S, R24E; thence North along the West line of Section 30 and 19 to the NW corner of Section 19, T13S, R24E; said corner also the SE corner of Section 13, T13S, R23E; thence West along the South line of said section to the West right-of-way line of the Atchison, Topeka & Santa Fe Railroad; thence North along said right of way to the North line of the SW ¼ of Section 12, T13S, R23E; thence East along the North line of the said SW¼ to the SW ¼ of said Section 12; thence North along the SE corner of the N ½ of the NW ¼ of said Section 12; thence east to a point on the West right-of-way line of the Atchison, Topeka & Santa Fe Railroad; thence South along said right of way to the SW corner of the N ½ of said Section 12; thence North along the East line of said N ½ to the NE corner of said N ½ said point also being the POINT OF BEGINNING. (Ord. 07-98 § 4, 2007; Ord. 02-113 § 4, 2002; Ord. 94-89 § 4, 1994; Ord. 14 § 1, 1972; Ord. 465-C § 1, 1971.)

CHAPTER 1.12, Official Newspaper. Repealed 5/1/12. (Ord. 12 § 11, 2012; Ord. 14 § 1, 1972; Ord. 465-C § 1, 1971.)

CHAPTER 1.16

GENERAL PENALTY

Sections:

1.16.10 Penalty For Violation.

1.16.010 Penalty for Violations. Any person, corporation, partnership or association violating the regulatory, prohibitory, or penal provisions of the ordinances or code of Olathe, Kansas, upon conviction thereof, shall be fined in any amount not less than One Hundred Dollars ($100) nor more than Five Hundred Dollars ($500.00) or shall be imprisoned for a period not to exceed thirty days, or shall be both so fined and imprisoned. Each day during which a violation occurs or continues shall constitute a separate offense. Each violation of each regulatory, prohibitory, or penal provision shall constitute a separate offense and may be punished as such. (Ord. 00-63 § 1, 2000; Ord. 2 § 1, 1972.)

TITLE 2

ADMINISTRATION AND PERSONNEL

CHAPTERS:

2.08 City Emergency Operation Act
2.12 City Manager
2.14 Employee Severance Agreements
2.16 Municipal Court
2.18 Alcohol and Drug Safety Action Program
2.20 Oaths and Bonds
2.24 Municipal Organization and Personnel Service
2.28 Law Enforcement Agreement
2.32 Planning Commission
2.36 Olathe Public Library and Olathe Public Library Advisory Board
2.40 Parks and Recreation Leadership Advisory Board
2.44 Human Relations Commission
2.48 Public Building Commission
2.52 Housing Authority
2.56 Police Department
2.60 Emergency Medical Services
2.62 Energy Advisory Board
2.64 Mahaffie Farmstead Advisory Board
2.66 Open Public Records
2.68 Sister Cities Committee
2.70 Audit Committee (Repealed 2/18/14)
2.72 Community Image Committee (Repealed 2/18/14)
2.74 Board of Code Review
2.76 Cable Television Advisory Committee (Repealed 2/18/14)
2.78 Citizen's Police Advisory Council
2.80 Property Maintenance Appeal Board (Repealed 3/4/14)
2.82 Public Art and Culture Commission
2.84 Historic Preservation
2.86 Land Bank

CHAPTER 2.08. Formerly known as "Emergency Government." Repealed 4/16/96. (Prior Code § 1-1001 thru 1-1005)

CHAPTER 2.08

CITY EMERGENCY OPERATION ACT

Sections:

2.08.010 Title.
2.08.020 Definitions.
2.08.030 Emergency Operations Plan Established.
2.08.040 Emergency Management Director.
2.08.050 State of Local Emergency Disaster.
2.08.060 Assistance Request.
2.08.070 Public Responsibility.
2.08.080 Use of Property.
2.08.090 Powers and Immunities of Emergency Personnel.
2.08.100 Curfew.
2.08.110 Powers of Mayor and City Manager.
2.08.120 Dangerous Structures.
2.08.130 Minor Disasters.
2.08.140 Emergency Operations Plan.
2.08.150 Agreements with County.
2.08.160 Agreements with State.
2.08.165 Extraterritorial Assistance.
2.08.170 Acceptance of Support.
2.08.180 Liability.
2.08.190 Vacancies.
2.08.200 Judicial Vacancy.
2.08.210 Emergency Location of Government.
2.08.220 Violation and Penalties.

2.08.010 Title. This Act shall be known as the "City Emergency Operation Act". (Ord. 96-33 § 2, 1996.)

2.08.020 Definitions. As used in this Ordinance, unless the context otherwise requires:

(a) "City" means the City of Olathe, Kansas.

(b) "City Emergency Operation Plan" means all disaster emergency plans developed and promulgated by the City Manager and the Emergency Management Director pursuant to K.S.A. 48-929, and amendments thereto. "Emergency Operation Plan" shall be equivalent to the term of "Emergency Management" as set out under K.S.A. 48-904 et. seq.

(c) "County" means the Board of County Commissioners of Johnson County, Kansas.

(d) "Curfew" is hereby defined as prohibiting any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises during the hours in which a curfew has been imposed, excepting persons officially designated to duty with reference to said state of local disaster emergency.

(e) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including, but not limited to, fire, flood, earthquake, heat wave, wind, tornado, storm, epidemics, air pollution, utility line breakage, contamination, drought, infestation, explosion, train or truck accident, explosion, nuclear weapons attack, terrorist attack, riot, or major event resulting to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

(f) "Emergency Operation" means the preparation for and the carrying out of all emergency functions, which are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters.

(g) "Riot" is characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute such force by five or more persons acting together without authority of law. (Ord. 96-33 § 2, 1996.)

2.08.030 Emergency Operation Plan Established. There is hereby established in the City of Olathe, Kansas, an Emergency Operations Plan for the purpose of coordinating the mitigation of, preparedness for, response to and recovery from disasters. When applicable, the plan would comply with the United States Department of Homeland Security National Incident Management System (NIMS). (Ord. 05-40 § 1, 2005; Ord. 96-33 § 2, 1996.)

2.08.040 Emergency Management Director. The City Manager shall appoint an Emergency Management Director to take charge of the Emergency Operations Plan and the Director is hereby delegated sufficient authority to effect coordination and accomplish all actions required incidental to the functions and duties as set out by state law and by any Emergency Operations Plan promulgated by the City Manager. (05-40 § 2, 2005; Ord. 96-33 § 2, 1996.)

2.08.050 State of Local Disaster. A state of local disaster emergency may be declared by the Mayor upon a finding by such officer that a disaster has occurred or the threat thereof is imminent within the City. No state of local disaster emergency shall be continued for a period in excess of seven (7) days, or renewed, except with the consent of the City Council of the City. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be filed promptly with the city clerk. In the event of the absence of the Mayor from the City or the incapacity of the Mayor, the order of succession is as follows, the Mayor Pro-Tem, any three members of the City Council, the City Manger, the Emergency Management Director shall have the authority to declare a state of local disaster emergency and act with the authority of the Mayor under this Ordinance. In the event of the absence of the City Manager, the order of succession shall be set out in the Emergency Operation Plan. (Ord. 96-33 § 2, 1996.)

2.08.060 Assistance Request. The Mayor and/or City Manager shall have the authority to contact and request the County and/or the Director of the Johnson County Emergency Management and Homeland Security to provide assistance to the City during the course of the disaster. (05-40 § 3, 2005; Ord. 96-33 § 2, 1996.)

2.08.070 Public Responsibility. Each person within the City shall conduct himself or herself and keep and manage his or her affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the City and the Public successfully to meet disasters. This obligation includes appropriate personal service and use or restriction on the use of property during a declared state of local disaster emergency. Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized in this section are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered his or her services or property without compensation. (Ord. 96-33 § 2, 1996.)

2.08.080 Use of Property. Compensation for property shall be only if the property was commandeered or otherwise used in coping with a disaster and its use or destruction was ordered by an official of the City agency. Any person claiming compensation for the use, damage, loss or destruction of property under this Ordinance shall file a claim with the city clerk. Nothing in this section applies to or authorizes compensation for the destruction or damage of property caused by the local disaster, or removal of any buildings or structures rendered unsafe or dangerous by the disaster, or any actions by City employees necessary to protect the public safety, health and welfare. (Ord. 96-33 § 2, 1996.)

2.08.090 Powers and Immunities of Emergency Personnel. Pursuant to K.S.A. 48-934, and any amendment thereof, law enforcement officers, city employees, employees of other cities or county, or other persons authorized to assist them, while engaged in maintaining or restoring the public peace or safety or in the protection of life or property during a state of local disaster emergency shall have all powers, duties,

and immunities of peace officers of the state of Kansas in addition to all powers, duties, immunities now otherwise provided by law and shall be immune from civil and criminal liability for acts reasonably done by them in the performance of their duties so long as they act without malice and without the use of excessive or unreasonable force. All such personnel shall have the authority to enforce any and all ordinances of the City, and for such purpose, all such personnel shall be considered to be authorized officers of such City. (Ord. 96-33 § 2, 1996.)

2.08.100 Curfew. During the state of local disaster emergency, the Mayor may order a general curfew applicable to such geographical areas of the City or to the City as a whole, as deemed advisable and applicable during such hours of the day or night as deemed necessary in the interest of the public safety and welfare. (Ord. 96-33 § 2, 1996.)

2.08.110 Powers of Mayor and City Manager. During any state of disaster emergency declared under this Act, the City Manager shall be commander of all forces available for emergency duty and shall delegate or assign command authority pursuant to the Emergency Operations Plan.

A. The Mayor may in the interest of public safety and welfare make any or all of the following orders or actions:

1. Order the discontinuance of the sale of beer or liquor by any establishment in the City.
2. Order the discontinuance of selling, distributing, transporting, or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.
3. Order that no person shall possess, transport, or consume any alcoholic beverages in a public street or place which is publicly owned or in any motor vehicle driven or parked thereon which is within a duly designated restricted area.
4. Order that no person shall carry or possess any rock, bottle, club, brick, explosive, combustibles, or weapon, who uses or intends to use the same unlawfully against the person or property of another.
5. Order that no person shall make, carry, possess, or use any type of "Molotov Cocktail," gasoline or petroleum-base fire bomb or other incendiary missile.
6. Order law enforcement officer or City employee to confiscate any items, including alcoholic beverages, explosives, weapons, and combustibles, which other orders prohibits possession thereof.
7. Order suspension of the quorum requirement under K.S.A. 12-3002 and Charter Ordinance No. 28 needed to hold a City Council meeting due to the unavailability or death of any member(s) of the City Council after a good faith effort to find such member(s).
8. Issue such other orders as are imminently necessary for the protection of life and property.

B. The City Manager may in the interest of public safety and welfare make any or all of the following orders or actions:

1. Direct and compel the evacuation of all or part of the population from any area of the City stricken or threatened by a disaster, if the City Manager deems this action necessary for the preservation of life or other disaster mitigation, response or recovery.
2. Prescribe routes, modes of transportation and destinations in connection with such evacuation.
3. Control ingress and egress to and from a disaster area, the movement of persons within the area and the occupancy of premise therein.
4. Order that no person shall enter any area designated by City Manager as a restricted area unless in the performance of official duties or with written permission from any City employee or such person shall prove residence therein.

5. Order the suspension of the confinement time period for animals picked up by City employees in order for the animals to be destroyed immediately if the capacity of the City animal shelter is full and said animals shall be destroyed in a humane fashion and to order animals, if found to be roaming in pack of four or more in the City, to be destroyed immediately and in any manner based upon the law enforcement officer's discretion.

6. Order suspension of any or all provisions of any rule, resolution, or ordinance necessary for the immediate and effective response of City and/or City employees to the local disaster emergency, including the right to acquire needed supplies and equipment by any means necessary provided that compensation shall be paid under Section Eight hereof.

7. Transfer the supervision, personnel or functions of the City departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities.

8. Commandeer or utilize any private property if the City Manager finds such action necessary to cope with the disaster, subject to any applicable requirements for compensation.

9. Issue such other orders as are imminently necessary for the protection of life and property.

The City Council, through the majority of the remaining members, may rescind or amend any order issued by the Mayor and/or City Manager at any time under this section. (Ord. 14-40 § 1, 2014; Ord. 05-40 § 4, 2005; Ord. 96-33 § 2, 1996.)

2.08.120 Dangerous Structures. Where necessary to protect against escaping dangerous gases, explosion, unsafe buildings or structures, or other unsafe or dangerous physical conditions, designated City employees, including but not limited to law enforcement officers, fire fighters and code enforcement officers may order the evacuation of any part of the City or of any structures in the City. Any area or structure to be evacuated shall be a restricted area, which no person, other than authorized City employees, shall be permitted to enter. The Code Enforcement Officer shall have the authority to order any unsafe or dangerous structure or building to be taken down or repaired without delay and such action may be taken without prior notice to or hearing of the owners, agents, lien holders, and occupants pursuant to Section 15.36.050. (Ord. 96-33 § 2, 1996.)

2.08.130 Minor Disasters. In the event that a minor disaster of a local nature, including accidents or major disturbance, has occurred and a state of local disaster emergency is not declared, the City Manager, Emergency Management Director, Director of Code Enforcement, Police Chief or Fire Chief and city employees acting under the authority of the department heads shall have the authority to take reasonable steps whatsoever, including evacuation and/or restriction to the designated area, necessary to protect the public safety, health and welfare or to protect any individual located within the area of the disaster. (Ord. 96-33 § 2, 1996.)

2.08.140 Emergency Operations Plan. The City Manager is hereby authorized to adopt and promulgate the City Emergency Operations Plan establishing policies, guidelines, and procedures to provide City employees with information and equipment to function quickly and effectively in disaster situations. Said plan shall include operation of an Emergency Operations Center and any other function necessary to meet any potential disaster. Said plan shall be approved pursuant to K.S.A. 48-929 and be on file at the City Manager’s Office for public review. (05-40 § 5, 2005; Ord. 96-33 § 2, 1996.)

2.08.150 Agreements with County. The Mayor and/or City Manager is hereby authorized to enter into any agreement with the County and/or other Cities in the County to provide or receive assistance of city and/or county employees or equipment needed to meet any disaster in the City or in the County. Any other city or county providing assistance of its employees and/or equipment to the City during the state of local disaster emergency shall be entitled to the same authority and immunity as its own employees under city ordinance or state law. (Ord. 96-33 § 2, 1996.)

2.08.160 Agreements with State. Pursuant to K.S.A. 48-914, the Mayor and/or City Manager may enter into a contract on behalf of the City for the lease or loan with the State as he or she may deem necessary to promote the public welfare and protect the interests of the City of any real or personal property of the City or State or under the jurisdiction or control of the City or State, or the temporary transfer or employment of personnel of the state government. The Mayor and/or City Manager is authorized to enter in to such contract or lease with the State or accept any such loan or employ such personnel, and the City may equip, maintain, utilize and operate any such property and employ necessary personnel therefor in accordance with the purposes of which such contract is executed and do all things and perform any and all acts which he or she may deem necessary to effectuate the purpose for which such contract was entered into under the provisions of this Ordinance. (Ord. 96-33 § 2, 1996.)

2.08.165 Extraterritorial Assistance. In the event of a disaster when there is a request for assistance in territory outside the City limits of Olathe, including outside the State of Kansas, the City Manager, or his or her designee, may authorize the City to provide assistance as may be allowed under the authority granted the City by K.S.A. 12-16, 117, with all the privileges and immunities provided therein. Assistance may include any form of City service including, but not limited to, police, fire, emergency medical services, public works, administrative and clerical.

The City will only provide assistance if it can do so without unduly jeopardizing the protection of its own community.

Nothing in this section is intended to conflict or circumvent any existing interlocal agreement, any automatic aid, intergovernmental or mutual aid agreement, or any authority to enter into those agreements in the future. (05-40 § 6, 2005; Ord. 96-33 § 2, 1996.)

2.08.170 Acceptance of Support. Whenever the Federal or State government or any agency or officer thereof or any person, firm or corporation offers to the City, services, equipment, supplies, materials or funds by way of gift, grant or loan, for the purposes of emergency management, the City acting through the Mayor and/or City Manager, may accept such offer and upon acceptance, the Mayor and/or City Manager may authorize any employee of the City to receive such services, equipment, supplies, materials, or funds on behalf of the City and subject to the terms of the offer and rules and regulations, if any of the agency making the offer (K.S.A. 48-916). (Ord. 96-33 § 2, 1996.)

2.08.180 Liability. Pursuant to K.S.A. 48-915, and any amendment thereof, neither the City, its employees, members of the City Council, employees from other cities or county, or volunteers, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer worker, or any City employees engaged in emergency operations activities. The foregoing shall not affect the right of any person to receive benefits or compensation to which he or she might otherwise be entitled under the workmen's compensation law or any pension law or any act of congress. Upon a declaration of a local disaster emergency, neither the City nor, except in cases of willful misconduct, gross negligence or bad faith, the employees, agents of the City nor any volunteer workers, or employees from other cities or counties, complying with or reasonably attempting to comply with this act, or any proclamation, order, rules, regulations or the Emergency Operations Plan adopted pursuant to the provisions of this Ordinance relating to blackout or other precautionary measures enacted by the City, shall be liable for the death of or injury to persons, or for damages to property, as a result of any such activity performed during the existence of such state of local disaster emergency. (Ord. 96-33 § 2, 1996.)

2.08.190 Vacancies. Pursuant to K.S.A. 48-1201, et seq., should any vacancy arise due to the death of or the unexplained absence of any member of the City Council or in the event that the member is unavailable to exercise the powers and discharge the duties of his/her office during the course of any local disaster emergency declared by the Mayor, said vacancy shall be filled through appointment by the Mayor with approval of a majority of the remaining members of the City Council from the following: ex-member of the City Council or any member of the City Planning Commission or Board of Zoning Appeals. Said appointment shall last until the member reappears or until the next scheduled election of the City Council. (Ord. 96-33 § 2, 1996.)

2.08.200 Judicial Vacancies. Pursuant to K.S.A. 48-1201, et seq., in the event that the Judge of the Olathe Municipal Court is unavailable to exercise the powers and discharge the duties of the Court, the Mayor and/or City Manager may appoint any attorney with at least ten years of legal experience, preferable in the Olathe Municipal Court, as Judge of the Municipal Court with the approval of the majority of the remaining City Council. (Ord. 96-33 § 2, 1996.)

2.08.210 Emergency Location of Government. Whenever due to an emergency resulting from the effects of enemy attack or the local disaster emergency, the City Council may meet within or without the City of Olathe on the call of the Mayor and/or City Manager or any three members of the City Council, and shall proceed to establish and designate by ordinance, resolution or the manner, alternate places as the emergency temporary location of the local government where all or any part of the public business may be transacted and conducted during the emergency situation. Such place may be within or without the City of Olathe and within the state of Kansas. (K.S.A. 48-1401). During the period when the public business is being conducted at the emergency temporary location, the governing body shall have and possess and shall exercise all of the executive, legislative and judicial powers and functions conferred upon the governing body. Such powers and functions may be exercised in the light of the exigencies of the emergency situation without regard to or compliance with the time consuming procedures and formalities prescribed by law and pertaining thereto, and all acts of such governing body shall be as valid and binding as if performed within the City of Olathe (K.S.A. 48-1402). (Ord. 96-33 § 2, 1996.)

2.08.220 Violation and Penalties. The violation of any provision of this act or any rule, regulations, or plan adopted under this act or any lawful order or proclamation issued under authority of this Ordinance whether pursuant to a proclamation declaring a state of local disaster emergency, shall constitute an Unclassified Public Offense. The sentence shall be a definite term of confinement in jail which shall not exceed one hundred eighty days (180) days, or a fine to be at least Two Hundred Fifty Dollars and not to exceed One Thousand Dollars, or both. (Ord. 96-33 § 2, 1996.)

CHAPTER 2.12

CITY MANAGER

Sections:

2.12.010 Administration of City Business.
2.12.020 Appointment--Term--Qualifications.
2.12.030 Salary--Bond.
2.12.040 Duties.
2.12.050 Countersigning Warrants.

2.12.010 Administration of City Business. The administration of the city's business shall be in the hands of a manager. (Prior code § 1-201.)

2.12.020 Appointment--Term--Qualifications. The commission shall, whenever by virtue of a vacancy in the office it becomes necessary, appoint a manager, who shall be responsible for the administration of all of the affairs of the city and hold office at the pleasure of the board. The manager shall be chosen solely on the basis of administrative ability and the choice shall not be limited by any residence qualifications. (Prior code § 1-202.)

2.12.030 Salary--Bond. The manager shall receive a salary to be fixed by the commission, and shall give bond for the faithful performance of his duties in such amount as may be provided by ordinance. (Prior code § 1-203.)

2.12.040 Duties. The manager shall be responsible for the administration of all of the affairs of the city. He shall see that the laws and ordinances are enforced. He shall appoint and remove all heads of departments, the city treasurer, and all subordinate officers and employees of the city. All such appointments shall be made upon merit and fitness alone. He 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 shall prepare and submit the annual budget to the Governing Body and shall also keep the city fully advised as to the financial condition and needs of the city. He may make recommendations to the commissioners on all matters concerning the welfare of the city, and shall have a seat, but no vote, in all of the public meetings of the Governing Body. He shall perform such other and further duties as may be required by law or ordinance. (Prior code § 1-204.)

2.12.050 Countersigning Warrants. The city manager shall countersign all warrants and combined warrant-checks issued by the director of finances. (Prior code § 1-205.)

CHAPTER 2.14

EMPLOYEE SEVERANCE AGREEMENTS

Sections:

2.14.010 Purpose.
2.14.020 Definition.
2.14.030 Delegation of Authority.

2.14.010 Purpose. It is the purpose of this chapter to clarify and ambiguity in Charter Ordinance No. 28 concerning the city manager's authority to enter into severance agreements with city employees. The Charter Ordinance authorizes the city manager to appoint, promote, transfer, assign and demote, discipline, layoff, suspend, discharge or remove all city employees. The Charter Ordinance also authorizes the City Council to pass all such contracts needful for the welfare of the city and the mayor to sign all such contracts. This chapter delegates to the city manger limited authority to enter into and sign severance agreements with city employees. (Ord. 91-58 § 1, 1991)

2.14.020 Definition. For the purposes of this chapter, severance agreement shall mean an agreement between the city and a city employee who is to be terminated covering the details of the severance pay and benefits, the return of city property under the control or possession of the city employee, and releases of liability for termination in favor of the city, its officials, officers, employees and agents. (Ord. 91-58 § 1, 1991)

2.14.030 Delegation of Authority. The city manager is hereby delegated the authority to enter into and sign severance agreements with city employees who are to be terminated from city employment. No such severance agreement shall exceed the dollar value of three (3) months salary at the salary rate in effect on the date notice of termination was given, plus any accrued salary and benefits due and owing the terminated employee without the severance agreement being approved by the City Council. (Ord. 91-58 § 1, 1991)

CHAPTER 2.16

MUNICIPAL COURT

Sections:

2.16.010 Establishment of the Olathe Municipal Court.
2.16.020 Jurisdiction of the Olathe Municipal Court.
2.16.030 Organization of the Olathe Municipal Court.
2.16.040 Municipal Court Procedure.
2.16.050 Additional Court Rules.

2.16.010 Establishment of the Olathe Municipal Court. There is hereby established a municipal court for the City of Olathe, Kansas, to be presided over by a municipal court judge or judges appointed by the Governing Body. (Ord. 87-30 § 3, 1987; Ord. 84-73 § 2, 1984.)

2.16.020 Jurisdiction of the Olathe Municipal Court. The jurisdiction of the municipal court for the City of Olathe, Kansas, shall be as prescribed in the Kansas Code of Procedure for Municipal Courts found at K.S.A. 12-4101, et. seg. and all amendments thereto. (Ord. 84-73 § 2, 1984.)

2.16.030 Organization of the Olathe Municipal Court. The municipal court of the City of Olathe, Kansas, shall be organized as prescribed in the Kansas Code of Procedure for Municipal Courts found at K.S.A. 12-4101, et. seg. and all amendments thereto. (Ord. 84-73 § 2, 1984.)

2.16.040 Municipal Court Procedure. The procedure used in the municipal court of the City of Olathe, Kansas, shall be governed by the Kansas Code of Procedure for Municipal Courts found at K.S.A. 12-4101, et. seg., and all amendments thereto. (Ord. 84-73 § 2, 1984.)

2.16.050 Additional Court Rules. The appointed municipal court judges may from time to time by unanimous agreement promulgate such further and additional rules not inconsistent with the Kansas Code of Procedure for Municipal Courts or other applicable state statutes or city ordinances as may be appropriate to govern the procedure in the municipal court of the City of Olathe, Kansas. (Ord. 84-73 § 2, 1984.)

CHAPTER 2.18

OLATHE MUNICIPAL COURT ALCOHOL AND DRUG SAFETY ACTION PROGRAM

Sections:

2.18.010 Purpose.
2.18.020 Alcohol and Drug Safety Action Program.
2.18.030 Alcohol and Drug Safety Action Fund.
2.18.040 Reporting Requirements.

2.18.010 Purpose. It is the intent of this Chapter to officially create an Olathe Municipal Court alcohol and drug safety action program to evaluate and monitor persons convicted of driving under the influence of alcohol and/or drug charges and persons placed on diversion in lieu of further criminal proceedings on such charges. It is the further intent of this Chapter to create an alcohol and drug safety action fund within the City accounts to fund the Olathe Municipal Court alcohol and drug safety action program with fees collected pursuant to this Chapter and K.S.A. 8-1008(e) and to provide for the legal disbursement of such funds. (Ord. 02-28 § 1, 2002; Ord. 95-17 § 1, 1995)

2.18.020 Alcohol and Drug Safety Action Program. An Olathe Municipal Court Alcohol and Drug Safety Action Program is hereby created pursuant to K.S.A. 8-1008 and amendments thereto. This program has been established and certified by the District Court as required by K.S.A. 8-1008(b) to provide:

(1) Presentence alcohol and drug evaluations of any person who is convicted of a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by the statute;

(2) Supervision and monitoring of all persons who are convicted of a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute, and whose sentences or terms of probation require completion of an alcohol and drug safety action program, as provided in this section, or an alcohol and drug abuse treatment program, as provided in this section;

(3) alcohol and drug evaluations of persons whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute;

(4) supervision and monitoring of persons required, under a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute, to complete an alcohol and drug safety action program, as provided in this Section, or an alcohol and drug abuse treatment program, as provided in this Section; or

(5) any combination of (1), (2), (3) and (4). (Ord. 02-28 § 1, 2002; Ord. 95-17 § 1, 1995)

2.18.030 Alcohol and Drug Safety Action Fund.

(a) There is hereby created within the City accounts a fund to be known as the Olathe Municipal Court Alcohol and Drug Safety Action Fund. All monies collected from the assessment of fees pursuant to K.S.A. 8-1008(e) and amendments thereto upon persons utilizing the Olathe Municipal Court Alcohol and Drug Safety Action Program shall be deposited into this fund.

(b) The Olathe Municipal Court Alcohol and Drug Safety Action Fund shall be subject to the administration of the Olathe Municipal Court Senior Judge. Monies credited to the Alcohol and Drug Safety Action Fund shall be expended by the Olathe Municipal Court, pursuant to vouchers signed by the Senior Judge.

(c) Monies from this Fund can only be expended for costs of the services specified by Section 2.18.020, or otherwise required or authorized by law and provided by the Olathe Municipal Court Alcohol and Drug Safety Action Program, except that not more than ten percent (10%) of the money credited to the Fund may be expended to cover the expenses of the Court involved in administering the provisions of this Section. (Ord. 02-28 § 1, 2002; Ord. 95-17 § 1, 1995)

2.18.040 Reporting Requirements. The Olathe Municipal Court Senior Judge shall compile a report and send such report to the office of the State Judicial Administrator on or before January 20 of each year. Such report shall include, but not be limited to:

(1) The balance of the Alcohol and Drug Safety Action Fund of the Court on December 31 of each year;

(2) the assessments deposited into the Fund during the 12-month period ending the preceding December 31; and

(3) the dollar amounts expended from the fund during the 12-month period ending the preceding December 31. (Ord. 02-28 § 1, 2002; Ord. 95-17 § 1, 1995)

CHAPTER 2.20

OATHS AND BONDS

Sections:

2.20.010 Bonds Required.
2.20.020 Bonds--Filing.
2.20.030 Bonds--Premiums.
2.20.040 Bonds--Approval.
2.20.050 Oaths Required.
2.20.060 Oaths--Forms--Filing.
2.20.070 Blanket Bond.

2.20.010 Bonds Required. The following city officers, employees, and persons with positions of trust within the city shall, before entering upon the duties of their respective offices, give a good and sufficient corporate surety bond to the city, duly approved, conditioned upon the faithful performance and discharge of their respective duties, in the following amounts:

(1) Mayor - $5,000
(2) Other Members of the Governing Body - $5,000
(3) City Manager - $5,000
(4) City Clerk - $10,000
(5) Treasurer of Olathe Public Library - $10,000
(6) Treasurer of Firemen's Relief Assoc - $4,000

All bonds required or authorized by this chapter shall be conditioned for the faithful performance of duty and of all acts required by the laws of the State 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 and employee by virtue of his office. (Ord. 87-30 § 4, 1987; Prior code § 1-401.)

2.20.020 Bonds--Filing. All bonds shall be filed with the city clerk. (Prior code § 1-402.)

2.20.030 Bonds--Premiums. All premiums on such surety bonds shall be paid by the city from the general fund. (Prior code § 1-403.)

2.20.040 Bonds--Approval. All bonds given to the city shall be approved as to their form by the city attorney and as to their sufficiency by the Governing Body, unless otherwise provided by statute. (Prior code § 1-404.)

2.20.050 Oaths Required. All elected or appointed officials and officers shall before entering upon the duties of their respective offices, take and subscribe an oath or affirmation, as follows:
"I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States and the constitution of the State of Kansas, and faithfully discharge the duties of . . . . . So help me God." (Prior code § 1-405.)

2.20.060 Oaths--Forms--Filing. All officers and employees required by law to take and subscribe or file any oath or affirmation shall be supplied the necessary forms by the city and upon taking and subscribing or signing of any such oath or affirmation, the same shall be filed with the city clerk. (Prior code § 1-407.)

2.20.070 Blanket Bond. The Governing Body may provide for the coverage by blanket bond of such officers and employees and in such amounts as the Governing Body may, by resolution, designate. (Prior code § 1-408.)

CHAPTER 2.24

MUNICIPAL ORGANIZATION AND PERSONNEL SERVICE

Sections:

2.24.010 Administration.
2.24.020 Personnel System Created.
2.24.030 Rules and Regulations.

2.24.010 Administration. The city manager shall provide for all necessary offices and departments, and the Governing Body shall review and approve annually such offices and departments as are required in order to carry out and administer the affairs of the city pursuant K.S.A., Chapter 12, Article 10, relating to the commission-manager form of government, and all other laws applicable to cities of the appropriate class under such form of government. (Ord. 81-21 § 2, (part) 1981.)

2.24.020 Personnel System Created. There is hereby created a personnel system of the City of Olathe, and all persons employed by the city except elected officials, members of boards and commissions, independent contractors and consultants, are under the jurisdiction of the personnel system. The personnel system shall include a classification plan and a pay plan which shall be established and administered in accordance with standard personnel and pay administration. (Ord. 81-21 § 2 (part), 1981.)

2.24.030 Rules and Regulations. Rules and regulations governing the personnel system shall be issued by the city manager and shall be on file in the office of the city manager and open to inspection during regular business hours by any interested person. (Ord. 81-21 § 2 (part), 1981.)

CHAPTER 2.28

LAW ENFORCEMENT AGREEMENT

Sections:

2.28.010 Johnson and Wyandotte Mutual Aid Compact Approved.
2.28.020 City Participation Authorized.
2.28.030 Authority of Mayor and Clerk.

2.28.010 Johnson and Wyandotte Mutual Aid Compact Approved. The agreement entitled "Johnson and Wyandotte Mutual Aid Compact," between the City of Olathe, Kansas, and certain city and county governments of Johnson and Wyandotte Counties empowering uniformed law enforcement officers to exercise their power outside of their normal jurisdictions when a request for assistance is made by another law enforcement agency, is hereby approved. (Ord. 777 § 1, 1978.)

2.28.020 City Participation Authorized. The City of Olathe is hereby authorized to participate in the act approved in Section 2.28.010. (Ord. 777 § 2, 1978.)

2.28.030 Authority of Mayor and Clerk. The mayor of the City of Olathe is authorized to execute the mutual aid compact, and the city clerk is authorized to attest the signature of the mayor on such compact. (Ord. 777 § 3, 1978.)

CHAPTER 2.32

PLANNING COMMISSION

Sections:

2.32.010 Established.
2.32.050 Powers and Duties.

2.32.010 Established. There is hereby created a Planning Commission for the City. (Ord. 15-42 § 1, 2015; Prior code § 1-801.)

2.32.050 Powers and Duties. The Planning Commission and Governing Body shall have all powers and duties set forth in K.S.A. 12-744 et seq., as amended, Title 18 of this Code, and such other powers and duties as are now or may hereafter be prescribed by law. (Ord. 15-42 § 1, 2015; Prior Code § 1-805.)

Previously codified provisions of repealed sections can be found in the following ordinances. (Ord. 87-30 § 5, 1987; Ord. 82-72 § 1, 1982; Prior code § 1-804; Prior code § 1-803; prior code § 1-802.)

CHAPTER 2.36

OLATHE PUBLIC LIBRARY AND OLATHE PUBLIC LIBRARY ADVISORY BOARD

Sections:

2.36.010 Definitions.
2.36.020 Establishment & Responsibility.
2.36.030 Financing; Levy of Taxes; Issuance of Bonds.
2.36.040 Administrative Policies and Procedures.
2.36.050 Library Advisory Board – Creation.
2.36.060 Library Advisory Board – Size.
2.36.070 Library Advisory Board – Appointment, Vacancies, Removal, Compensation.
2.36.080 Library Advisory Board – Term of Appointment.
2.36.090 Library Advisory Board – Appointment of Officers and Conduct of Meetings.
2.36.100 Library Advisory Board – Duties and Responsibilities.

2.36.010 Definitions. Unless the context requires a different meaning, the following words, terms and phrases shall have the meaning ascribed to them in this section:

A. "City" shall mean the City of Olathe, Kansas.

B. "Governing Body" shall mean the governing body of the City.

C. "Library" or "Olathe Public Library" shall mean the public library in the City which serves the general public and is supported in whole or in part with tax money.

D. "Library Advisory Board" or "Olathe Public Library Advisory Board" shall mean a board appointed by the Mayor with the consent of the Governing Body of the City.

E. "Mayor" shall mean the Mayor of the City. (Ord. 15-27 § 2, 2015)

2.36.020 Establishment and Responsibility.

A. A public library is hereby established, continued, and maintained for the City of Olathe, Kansas under the provisions of Charter Ordinance No. 75, this Ordinance, and any related Ordinances and/or Charter Ordinances adopted by the Governing Body and any by-laws adopted by the Library Advisory Board. The public library shall be called the Olathe Public Library.

B. The Olathe Public Library shall be the public agency responsible for providing and making freely accessible to all residents in the City of Olathe library and information services suitable to persons of all ages.

C. All contracts entered into by the board of directors of the Olathe Public Library prior to the effective date of this Ordinance shall be binding on the Governing Body.

D. All outstanding bonds, debts and other obligations of the Olathe Public Library prior to the effective date of this Ordinance shall become an obligation of the City.

E. All rights, property and other assets of the Olathe Public Library as of the effective date of this Ordinance shall be transferred to the City. Any sale of such rights, property, and other assets shall occur as follows:

1. Any sale of real property owned by the Olathe Public Library prior to the effective date of this Ordinance shall be made in accordance with the City's Sale of Surplus Real Property Policy (Policy PI-10), as amended. Any proceeds from the sale of such real property shall be deposited into a fund or account to be used for Library capital improvements.

2. Any sale of personal property owned by the Olathe Public Library prior to the effective date of this Ordinance shall be made in accordance with the City's procurement policies (Chapter 3.50 of the Olathe Municipal Code), as amended. Any proceeds from the sale of such personal property will be deposited into the City's General Fund or into a fund dedicated for the purchase and replacement of vehicles and equipment, as applicable. (Ord. 15-27 § 2, 2015; Prior Code § 1-810.)

2.36.030 Financing; Levy of Taxes; Issuance of Bonds.

A. The Olathe Public Library shall be financed through the use of general fund monies, library mill levy revenues, library operational revenues (including, but not limited to, fines and fees established by resolution of the Governing Body), intergovernmental agreements, grants, gifts, donations and bequests received and designated to be used for library purposes, and any other tax levies that may be authorized by the Governing Body of the City under the authority of Charter Ordinance No. 74, and in accordance with the Kansas cash-basis law (K.S.A. 10-1101 et seq., and any amendments thereto), and any other applicable provisions otherwise set forth in this Chapter or under Kansas law.

B. The Governing Body shall annually levy a tax for the operation, maintenance, and support of the Library, including employee benefits, in such sum as it may choose. Such tax may be based on the recommendation of the Library Advisory Board, but shall be levied by the Governing Body within the limitations fixed by law. Such tax may also pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774. Such tax shall be levied and collected in like manner as other taxes of the City and, except for an amount to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendment thereto, shall be kept in a separate fund to be known as the library fund of the City.

C. The Governing Body may erect and equip library buildings and procure sites therefor, and may issue the bonds of such City in accordance with K.S.A. 12-1737 or Charter Ordinance No. 74. (Ord. 15-27 § 2, 2015)

2.36.040 Administrative Policies and Procedures. The City Manager shall be responsible for the fiscal and internal administrative operations of the Library. Except as determined by the City Manager in collaboration with the Library in order to optimize operational efficiencies, the Library shall operate in conformance with City administrative policies and procedures including, but not limited to, those pertaining to:

A. Personnel, including recruitment, selection, classification and pay for Library personnel. The City Manager shall consult with the Library Advisory Board regarding the selection of a Library Director.

B. Receipt, disbursement, and accounting of monies.

C. Maintenance of general books, cost accounting records, and other financial documents.

D. Budget administration.

E. Operation and maintenance of equipment and buildings. (Ord. 15-27 § 2, 2015)

2.36.050 Library Advisory Board – Creation. There is hereby established an Olathe Public Library Advisory Board. The Library Advisory Board shall advise the City Manager and/or the Governing Body regarding the business and affairs of the Library based on the duties and responsibilities enumerated in Section 2.36.100 of this Chapter. (Ord. 15-27 § 2, 2015)

2.36.060 Library Advisory Board – Size. The Olathe Public Library Advisory Board shall consist of seven members. (Ord. 15-27 § 2, 2015)

2.36.070 Library Advisory Board – Appointment, Vacancies, Removal, Compensation. The members of the Library Advisory Board shall be appointed by the Mayor with the consent and approval of the remainder of the Governing Body. Vacancies occurring before the expiration of a term shall be filled by appointment by the Mayor with the consent of the remaining members of the Governing Body for the remainder of the unexpired term. The Mayor, with the consent of the remaining members of the Governing Body, may remove any appointed member of the Board at any time for good and sufficient cause. Cause may include, but be not limited to, violations of any applicable law, regulation or policy, neglect of duty, and/or failure to comply with the City's attendance policy for appointed boards and commissions. The members of the Library Advisory Board shall serve without compensation. (Ord. 15-27 § 2, 2015)

2.36.080 Library Advisory Board – Term of Appointment. The term of appointment for each member of the Library Advisory Board shall be four years, except those members of the Advisory Board first selected. Three shall serve two years and four shall serve four years. Each member may be reappointed to the Advisory Board, provided that the member's term of office shall not exceed eight consecutive years. Each shall serve until a successor is appointed. (Ord. 15-27 § 2, 2015)

2.36.090 Library Advisory Board – Appointment of Officers and Conduct of Meetings.

A. The Library Advisory Board shall select from its membership a chairperson and a vice-chairperson.

B. The Library Advisory Board shall establish the time and place at which its meetings shall be held. Meetings shall be held within the City and shall be subject to the provisions of K.S.A. 75-4317 et seq., and amendments thereto.

C. The Library Advisory Board may make and establish such reasonable bylaws, rules and regulations as may be necessary for their own governance, and for the full and complete execution of their duties and responsibilities. General or special meetings may be held at such time as the chairperson or vice-chairperson directs.

D. A majority of the Library Advisory Board shall constitute a quorum for the transaction of business.

E. The members of the Library Advisory Board shall be subject to the provisions of the laws of the state of Kansas which relate to conflicts of interest, including, but not limited to, K.S.A. 75-4301 et seq., and amendments thereto. (Ord. 15-27 § 2, 2015)

2.36.100 Library Advisory Board – Duties and Responsibilities. The Olathe Public Library Advisory Board shall be an advisory board to the Governing Body. Nothing in this Chapter shall be construed as depriving any elected or appointed officials of the City of Olathe of any power they may have under federal law, the laws of the State of Kansas, or the Olathe Municipal Code. The Library Advisory Board shall have the following functions, duties and responsibilities:

A. To assist the Library Director in identifying and prioritizing budget needs to submit an annual budget for the Olathe Public Library to the Governing Body;

B. To assist the Library Director in identifying and prioritizing capital improvement needs to be included in the City's Capital Improvement Plan and to establish priorities for capital improvement projects for the Library to the Governing Body;

C. To make recommendations to the Library Director, City Manager, and/or Governing Body for the acceptance, use, or expenditure of any real property (and any capital improvements thereon) or personal property or funds donated to the Library, and make recommendations for the purchase, control, or disposal of real and/or personal property necessary for the purposes of the Library. Gifts of any real and/or personal property or funds donated to the library and accepted by the Governing Body shall be administered in accordance with each gift's terms. All property or funds shall be held in the name of the City of Olathe;

D. To make recommendations for the selection and/or location of sites for Library buildings and/or facilities;

E. To review and recommend to the Governing Body the terms for contracts and working relationships with private and public entities regarding library services;

F. To make rules and policies for the efficient and effective operation of the Olathe Public Library, its services and programs, and to make recommendations to the Governing Body regarding such items as deemed appropriate by the City Manager;

G. To engage in activities for the purpose of obtaining monetary and service donations for the Olathe Public Library;

H. To engage in activities for the purpose of informing the public about the Olathe Public Library and programs conducted at the Olathe Public Library, including, but not limited to, serving as advocates for the Olathe Public Library in the community and encouraging the use of the Library for informational, educational and recreational purposes;

I. To recommend to the Library Director, City Manager, and/or Governing Body the use of funds donated for Olathe Public Library programs and/or development of the Olathe Public Library in accordance with applicable policies and procedures;

J. To advise the Governing Body on programs and activities conducted at the Olathe Public Library;

K. To advise and, on no less than an annual basis, appraise the Governing Body on implementation of the Library Master Plan; and

L. To advise the Governing Body on other such matters as may be requested by the Governing Body. (Ord. 15-27 § 2, 2015)

CHAPTER 2.40

OLATHE PARKS AND RECREATION LEADERSHIP ADVISORY BOARD

Sections:

2.40.010 Purpose
2.40.020 Established
2.40.030 Membership, Appointment, Terms, Vacancies
2.40.040 Removal
2.40.050 Organization
2.40.060 Duties and Powers

2,40.010 Purpose. It is hereby declared to be the purpose of this chapter to establish the Olathe Parks and Recreation Leadership Board having power to act on all matters referred to it for the construction, reconstruction and improvement of public parks and recreational facilities including the acquisition of land for park purposes, the acquisition of major recreational equipment and facilities and the institution of new programs in the recreation system. (Ord. 01-18 § 2, 2001; Ord. 206-C § 2 thru 4, 1968.)

2.40.020 Established. There is hereby established an Olathe Parks and Recreation Leadership Board for the city. (Ord. 01-18 § 2, 2001; Ord. 206-C § 2 thru 4, 1968.)

2.40.030 Membership, Appointment, Terms, Vacancies. The Olathe Parks and Recreation Leadership Advisory Board shall consist of nine members. They shall be appointed by the Mayor and with the consent of the Governing Body. The nine members who are first appointed pursuant to this section shall be selected for and designated to serve terms as follows:

A. The existing members whose terms have not expired shall serve out their appointed term.

B. The member whose term has expired and the two new members shall be appointed to three year terms.

Thereafter, the members of the Board shall be selected in the same manner as the member he or she is succeeding and the term of office of each shall be three years. Vacancies shall be filled by appointment for the unexpired term. All members shall serve without compensation. Ex-officio members may be added to the Board with Governing Body approval. (Ord. 03-05 § 1, 2003; Ord. 01-18 § 2, 2001; Ord. 206-C § 2 thru 4, 1968.)

2.40.040 Removal. The Mayor, with the consent of the remaining members of the Governing Body, may remove any appointed member of the Board at any time for good and sufficient cause. Cause shall include, but be not limited to, violations of the conflict of interest laws, any violation of any applicable law, regulation or policy, neglect of duty, and failure to comply with the city's attendance policy. (Ord. 01-18 § 2, 2001; Ord. 206-C § 2 thru 4, 1968.)

2.40.050 Organization. The Board shall select from its members a chairperson, a vice-chairperson and a secretary. The term of office for the chairperson, vice-chairperson and secretary shall be for one (1) year and no member may serve more than two consecutive terms as chairperson, vice-chairperson or secretary. A majority of the members of the Board shall constitute a quorum for the transaction of business. The Board may meet as often as necessary, but not less than once a month. (Ord. 01-18 § 2, 2001; Ord. 206-C § 2 thru 4, 1968.)

2.40.060 Duties and Powers. The Board shall have the following powers and duties:

A. To assist and advise the Governing Body in the establishment of essential policies, programs and facilities relating to the parks and recreation programs in Olathe that may include, but is not limited to park naming policy, swimming pool fee structure, programming fee structure, and review and development of special events; and

B. To review and recommend projects for inclusion in the five (5) year Capital Improvement Plan, as well as, monitor and oversee the progress of the parks sales tax initiative; and

C. To complete and present to the Governing Body an annual report setting forth its accomplishments and goals; and

D. To serve as the Board of Trustees for the Olathe Parks and Recreation Foundation.

(Ord. 03-05 § 2, 2003; Ord. 01-18 § 2, 2001; Ord. 206-C § 2 thru 4, 1968.)

CHAPTER 2.44

HUMAN RELATIONS COMMISSION

Sections:

2.44.010 Declaration of Policy.
2.44.011 Purpose.
2.44.020 Definitions.
2.44.030 Created.
2.44.040 Powers and Duties.
2.44.041 Persons with Disabilities Advisory Board.
2.44.042 Senior Citizens Advisory Board. (Repealed 12/17/91)
2.44.050 Complaint--Filing, Service and Investigation.
2.44.051 Investigation--Procedure Following Probable Cause Findings.
2.44.052 Hearings.
2.44.060 Rehearing Procedure.
2.44.061 Enforcement of Order.
2.44.062 Judicial Review.
2.44.070 Unlawful Employment Practices.
2.44.080 Unlawful Discriminatory Practices.
2.44.090 Unlawful Housing Practices.
2.44.091 Discriminatory Housing Practices Complaint Procedure.
2.44.092 Subpoenas.
2.44.093 Civil Actions for Alleged Discriminatory Housing Practices.
2.44.094 Interference, Coercion or Intimidation.
2.44.100 Affirmative Action Program for City Personnel.
2.44.110 Affirmative Action Program for Public Contracts.
2.44.120 Penalties.
2.44.130 Construction.

2.44.010 Declaration of Policy. This Chapter shall be known as the act against discrimination. It shall be deemed an exercise of the police power of the City for the protection of the public welfare, safety, health and peace of the people of this City. The practice or policy of discrimination against individuals in employment relations, in relation to free and public accommodations, in housing by reason of race, religion, color, sex, disability, national origin or ancestry or in housing by reason of familial status in a matter of concern to the City, since such discrimination threatens not only the rights and privileges of the inhabitants of the City of Olathe but menaces the institutions and foundations of a free democratic state.

It is hereby declared to be the policy of the City of Olathe to eliminate and prevent discrimination in all employment relations, to eliminate and prevent discrimination, segregation, or separation in all places of public accommodations covered by this Chapter, and to eliminate and prevent discrimination, segregation or separation in housing.

It is also declared to be the policy of this City to assure equal opportunities and encouragement to every citizen regardless of age, religion, color, sex, disability, national origin or ancestry, in securing and holding, without discrimination, employment in any field of work or labor for which a person is properly qualified, to assure equal opportunities to all persons within this state to full and equal public accommodation, and to assure equal opportunities in housing without distinction on account of race, religion, color, sex, disability, familial status, national origin or ancestry. It is further declared that the opportunity to secure and to hold employment, the opportunity for full and equal public accommodations as covered by this act and the opportunity for full and equal housing are civil rights of every citizen. (Ord. 92-37 § 1, 1992; Ord. 941 § 1, 1979.)

Section 2.44.011 Purpose. It is hereby declared to be the purpose of this Chapter to provide a Human Relations Commission having power to eliminate and prevent segregation and discrimination, or separation in employment, in all places of public accommodations covered by this Chapter, in housing because of race, religion, color, sex, disability, national origin or ancestry and in housing because of familial status, either by employers, labor organizations, employment agencies, realtors, financial institutions or other persons as hereinafter provided. (Ord. 92-37 § 2, 1992.)

2.44.020 Definitions. For the purposes of this Chapter, the following definitions apply:

(a) "Affirmative Action Program" means a positive program designed to insure that a good faith, diligent effort will be made to employ applicants and to treat employees during employment equally without regard to their race, color, creed or religion, disability, national origin or sex. Such program shall include, where applicable, but not be limited to, the following:

Recruitment and recruitment advertising, employment, upgrading promotion, demotion or transfer, layoff or termination, rates of pay or other forms of compensation, other terms or conditions of employment and selection for training, including apprenticeship; and shall include goals, methodology and timetable for implementation of the program. The affirmative action program shall require a showing of demonstrable evidence of progress toward the goal of said program. The words "applicants" and "employees" as used in this Chapter include subcontractors as well as individuals.

(b) "Age" means an age of eighteen (18) or more years.

(c) "Aggregate Annual Business" means the amount of business done by the supplier or other contractor with the City during the current calendar year and, if this amount does not exceed Ten Thousand Dollars ($10,000.00), then by the amount of business done by such supplier or contractor with the City during the next preceding calendar year.

(d) "Class I Contract" means any contract which the City enters into or renews with a supplier or contractor after the effective date of the ordinance codified in this Chapter in an amount equal to or more than Ten Thousand Dollars ($10,000.00), or to any contract with a supplier or contractor who does an aggregate annual business with the City equal to or in excess of Ten Thousand Dollars ($10,000.00).

(e) "Class II Contract" means any contract which the City enters into or reviews with a supplier or contractor after the effective date of the ordinance codified in this Chapter in an amount less than Ten Thousand Dollars ($10,000.00), or to any contract with a supplier or contractor who does an aggregate annual business with the City of less than Ten Thousand Dollars ($10,000.00).

(f) "Commission" means the Human Relations Commission as established by this Chapter.

(g) "Disability" means, with respect to an individual:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
(2) A record of such an impairment; or
(3) Being regarded as having such an impairment.

Disability does not include current, illegal use of a controlled substance as defined in Section 102 of the Federal Controlled Substance Act (21 U.S.C. 802).

(h) "Discrimination" means any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial or any other differentiation or preference in the treatment of a person or persons on account of age, race, religion, color, sex, familial status, national origin, ancestry or disability and/or any denial of any right, privilege or immunity secured by or protected by the Constitution or laws of Kansas or the United States. Discrimination shall include, but not be limited to, any practice which produces the demonstrable racial or ethnic effect without a valid business motive.

(i) "Employee" does not include any individual employee employed by such individual's parent, spouse or child or in the domestic service of any person.

(j) "Employer" includes any person doing business in this City employing four or more persons and any person acting directly or indirectly for an employer, labor organizations, non-secretarial corporations, organizations engaged in social service work and all political subdivisions of the city, state and federal governments, but does not include a nonprofit fraternal or social association or corporation.

(k) "Employment Agency" includes any person or government agency undertaking with or without compensation to procure opportunities to work, or to procure, recruit, refer or place employees.

(l) "Family" includes a single individual.

(m) "Familial status" means one or more individuals less that eighteen (18) years of age, domiciled with:

(1) A parent or another person having legal custody of such individual or individuals; or
(2) The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

(n) "Firefighter" means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

(o) "Labor Organization" includes any organization which exists for the purpose, in whole or part, of collective bargaining, of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in relation to employment.

(p) "Law enforcement officer" means an employee, the duties of whose position are primarily the investigation, apprehension or detention of individuals suspected or convicted of offenses against the criminal laws of Kansas or of offenses against any ordinance or resolution which imposes criminal sanctions and is adopted by a city, county or other political subdivision of Kansas, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purposes of this subsection, "detention" includes the duties of employees assigned to guard individuals incarcerated in any penal institution.

(q) "Person" includes one or more individuals, partnerships, associations, organization, corporations, municipal corporations, quasi-municipal corporations, governmental agencies, public bodies, legal representatives, trustees, trustees in bankruptcy, receivers, fiduciaries, mutual companies or unincorporated organizations.

(r) "Person Aggrieved" means any person who claims to have been injured by an unlawful act or who believes that such person will be injured in any such unlawful act or practice that is about to occur.

(s) "Probable Cause" means the presence of a reasonable ground for belief in the existence of the allegation of a violation of any statute, ordinance or other authority, orders, rules or regulations.

(t) "Public Accommodations" means any person who caters or offers goods, services, facilities and accommodations to the public. Public accommodations include, but are not limited to, any lodging establishment or food service establishment, as defined by K.S.A. 36-501 and amendments thereto, any bar, tavern, barbershop, beauty parlor, theater, skating rink, bowling alley, billiard parlor, amusement park, recreation park, swimming pool, lake, gymnasium, mortuary or cemetery which is open to the public; or any public transportation facility. Public accommodations do not include a nonprofit fraternal or social association or corporation. Public accommodations shall also include all City agencies which serve the public.

(u) "Real Property" means and includes:

(1) Any vacant or unimproved land;
(2) Any building or structure for occupancy, or any building designed or intended for occupancy, or any building or structure having a portion thereof which is occupied or designed or intended for occupancy.

(v) "Reasonable Accommodation" means:

(1) In the context of employment under this chapter, making existing facilities used by employees readily accessible to and useable by individuals with disabilities; and

(2) Job restructuring, part-time or modified work schedules; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials or policies; provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.

(3) In the context of housing under this chapter, those reasonable measures which may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling unit, including public and common use areas.

(w) "To rent" means to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(x) "Unlawful act or practice" means any unlawful employment practice, any unlawful discriminatory practice or any unlawful housing practice as defined in this Section.

(y) "Unlawful employment practices" includes only those unlawful practices and acts specified in Section 2.44.060.

(z) "Unlawful housing practice" means any act that is unlawful under Section 2.44.130.

(aa) "Unlawful discriminatory practice" means any discrimination against persons by reason of their race, religion, sex, color, disability, national origin or ancestry:

(1) In any place of public accommodations; or

(2) in the full and equal use and enjoyment of the services, facilities, privileges and advantages of any institution, department or agency of the State of Kansas or any political subdivision or municipality thereof. (Ord. 93-07 § 1, 1993; Ord. 92-37 § 3, 1992; Ord. 941 § 2, 1979.)

2.44.030 Created.

(a) There is created a commission to be known as the Human Relations Commission. Said commission shall consist of eleven (11) members to be drawn from diverse segments of the community, who shall be citizens of the city, and who shall be appointed by the mayor, with the consent of the Governing Body. The terms of office of each member of the commission shall be for three (3) years or until a successor is appointed. No member shall serve more than two (2) successive full terms.

(b) The commission shall elect one of its members as chairperson who shall preside at all meetings of the commission and shall perform all duties and functions of the chairperson thereof. The commission shall elect, in the same manner, one of its members as vice chairperson who shall act as chairperson during the absence or incapacity the chairperson and, when so acting, the vice-chairperson shall have and perform all the duties and functions of the chairperson. In the event neither the chairperson nor vice chairperson can attend a regular or special meeting, the chairperson shall designate a member of the commission as acting chairperson for that meeting only. The term of office of the chairperson and vice chairperson shall be for one year an no person shall serve for more than two consecutive terms in the same office, unless such election to the immediately subsequent term is made by the members of the commission by a unanimous vote. The chairperson or vice chairperson may resign from his or her office at any during his or her term and may do so without resigning from the commission. In such event, the commission shall elect another member to replace that person and such person shall serve the unexpired term of the person he or she replaces. A majority of the presently serving members of the commission shall constitute a quorum for the purpose of conducting business thereof. The members of the commission shall serve without compensation.

(c) There is created the position of human relations director of the city to be appointed by and directly responsible to the city manager. Among the duties to which the director shall be assigned is that of administrative staff member to the commission.

(d) Prior to the holding of any hearing as required by this chapter, the Governing Body shall appoint a hearing examiner who shall be an attorney duly admitted to practice in the courts of the state. Compensation of the hearing examiner shall fixed by the Governing Body.

(e) The Governing Body may authorize the employment of such other personnel as may be reasonably necessary to carry out the provisions of this chapter. (Ord. 91-42 § 1, 1991; Ord. 941 § 3, 1979.)

2.44.040 Powers and Duties. The commission shall have the following functions, powers, duties and responsibilities:

(1) To endeavor to eliminate prejudice among the various groups in the City and to further goodwill among all people of Olathe, and specifically, to encourage equality of treatment for and prevent discrimination against any persons with disabilities or any racial, religious, minority or ethnic group, or its members.

(2) To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions of this Chapter, and the policies and practices of the commission in connection therewith.

(3) To receive, initiate, investigate and pass upon complaints alleging discrimination in employment, public accommodations and housing because of race, religion, color, sex, disability, national origin or ancestry and complaints alleging discrimination in housing because of familial status.

(4) To subpoena witnesses, compel their appearance and require the production for examination of records, documents and other evidence or possible sources of evidence and to examine, record and copy such materials and take and record the testimony or statements of such persons. The commission may issue subpoenas to compel access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent to the same extent and subject to the same limitations as would apply if the subpoena or interrogatories were issued or served in aid of a civil action in district court. The commission shall have access at all reasonable times to premises and may compel such access by application to a court of competent jurisdiction provided that the commission first complies with the provisions of Article 15 of the Kansas Bill of Rights and the Fourth Amendment to the United States Constitution relating to unreasonable searches and seizures. The commission may administer oaths and take depositions to the same extent and subject to the same limitations as would apply if the deposition was taken in aid of a civil action in the district court. In case of the refusal of any person to comply with any subpoena, interrogatory or search warrant issued hereunder, or to testify to any matter regarding which such person may be lawfully questioned, the district court of any county may, upon application of the commission, order such person to comply with such subpoena or interrogatory and to testify. Failure to obey the court's order may be punished by the court as contempt. No person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which such person testifies or produces evidence, except such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons.

(5) To act in concert with other parties in interest in order to eliminate and prevent discrimination and segregation, prohibited by this Chapter, by including any term in a conciliation agreement as could be included in a final order under this Chapter.

(6) To apply to the district court of the county where the respondent resides or transacts business for enforcement of any conciliation agreement by seeking specific performance of such agreement.

(7) To issue such final orders after a public hearing as may remedy any existing situation found to violate this Chapter and prevent its recurrence.

(8) To create such advisory agencies and a conciliation committee as in the commission's judgment will aid in effectuating the purposes of this Chapter. Said agencies or committees shall be created:

(a) To study the problem of discrimination in all or specific fields or instances of discrimination because of age, race, sex, religion, disability, color, national origin or ancestry;

(b) To foster, through community effort or otherwise, goodwill, cooperation, conciliation, and segments of the population of the City;

(c) To recommend to the Human Relations Commission policies, procedures and programs of formal and informal education which the commission may recommend to the Governing Body of the City. Such advisory agencies or conciliation committees shall be composed of representative citizens of this City and shall serve without compensation. Nothing in this section shall be construed to prevent the Human Relations Commission itself from making the studies and performing the acts authorized by this section. It shall, by conference with the parties in interest, endeavor by conciliation and persuasion to eliminate discrimination in all the stated fields and to foster goodwill and cooperation among all segments of the population of this City.

(9) To accept contributions from any person or governmental unit to assist in the effectuation of this section and to seek and enlist the cooperation, including financial assistance, of private, charitable, religious, labor, civic and benevolent organizations. For the purposes of this section, all funds contributed shall be audited annually by the City Auditor.

(10) To issue such publications and such results of investigation and research as, in the judgment of the commission and Director, will tend to promote goodwill and minimize or eliminate, discrimination because of age, race, sex, religion, disability, color, national origin or ancestry.

(11) To render each year to the Governing Body of the City a full written report of all of its activities and recommendations.

(12) To solicit, receive and accept, through the Governing Body, city, county, state and federal funds to effectuate the purposes of this Chapter. Such funds shall be subjected to annual audit by the City Auditor.

(13) To cooperate with the governmental and nongovernmental agencies and organizations having like or kindred functions, and specifically to enter into contracts or agreements or memoranda of agreement with the Kansas Human Rights Commission and with the Federal Equal Employment Opportunity Commission, in order to carry out any and all assignments made through these agencies to the commission with the consent of the Governing Body.

(14) To meet regularly, once each month, at a place and time decided by the commission and at such other special meetings as may be called by the chairperson or by a majority of the members of the commission then presently serving.

(15) To regularly advise the members of the Governing Body, through distribution of its minutes, memoranda, reports and other pertinent documents of the items of business before the commission, of the ongoing state of each item, and the disposition of such items. (Ord. 92-37 § 4, 1992; Ord. 941 § 4, 1979.)

2.44.041 Persons with Disabilities Advisory Board.

(a) There is created a Persons with Disabilities Advisory Board as a permanent committee of the Human Relations Commission. Said Board shall consist of no less than twelve (12) and no more than fourteen (14) members as follows:

(1) No less than one (1) and no more than three (3) individuals who by a professional or personal association with disabled persons is knowledgeable of their concerns;

(2) One (1) individual who by a professional or personal association with consumers of mental health services is knowledgeable of their concerns;

(3) One (1) appointed member from the Human Relations Commission as an ex-officio member, and

(4) Nine (9) Olathe residents who live with a physical disability that substantially limits one or more of the major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
This includes mobility and sensory impairments, mental illness, developmental disabilities, and learning disabilities. Also included are diabetes, cancer, HIV/AIDS, respiratory and cardiac conditions, arthritis and the needs of parents of children with disabilities.

The members of the Board shall be appointed by the Mayor with consent of and approval by the remainder of the Governing Body. The members who are appointed shall be selected for a designated term to serve as follows:

(A) The existing members whose terms have not expired shall serve out their term.
(B) The members whose terms have expired and two (2) new members shall serve for three years.

The term of office shall be for three (3) years. Members may be reappointed. The ex-officio member is appointed by the Human Relations Commission.

(b) The Board shall elect a chairperson, a vice-chairperson and a secretary who shall serve for one (1) year. The chairperson shall preside at all meetings, the vice-chairperson shall preside at meetings in the absence of the chairperson, and the secretary shall be responsible for record keeping and shall prepare the minutes of each meeting. The Board shall make such rules and procedures as necessary for its own governance. The Board shall meet at least six (6) times per year.

(c) The Board shall have as its primary purpose advising the Human Relations Commission, which shall in turn advise the Governing Body and City staff on special concerns of the disabled pertaining to community services, programs, facilities, access, employment opportunities and practices, community education programs and such other matters. All actions taken by this Board shall be of an advisory nature only. (Ord. 13-03 § 1, 2013; Ord. 06-42 § 1, 2006; Ord. 03-64 § 1, 2003; Ord. 87-30 § 6, 1987; Ord. 85-30 § 4, 1985.)

2.44.042 Senior Citizens Advisory Board. Repealed 12/17/91. (Ord. 91-79 § 1, 1991; Ord. 91-44 § 1, 1991; Ord. 91-28 § 1, 1991.)

2.44.050 Complaint--Filing, Service and Investigation.

(a) Any person claiming to be aggrieved by an alleged unlawful employment practice or by an alleged unlawful discriminatory practice may, personally or by an attorney at law, make, sign and file with the commission a verified complaint in writing which shall state the name and address of the person, employer, labor organization or employment agency alleged to have committed the unlawful employment practice complained of or the name and address of the person alleged to have committed the unlawful discriminatory practice complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the commission.

(b) The commission upon its own initiative may, in like manner, make, sign and file such complaint. Any employer whose employees or some of whom refuse or threaten to refuse to cooperate with the provisions of this Chapter, may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.

(c) Whenever any problem of discrimination because of age, race, religion, color, sex, disability, national origin or ancestry arises, or whenever the commission has, in its own judgment, reason to believe that any person has engaged in an unlawful employment practice or an unlawful discriminatory practice in violation of this Chapter, or has engaged in a pattern or practice of discrimination, the commission may conduct an investigation without filing a complaint and shall have the same powers during such investigation as provided for the investigation of complaints. The person to be investigated shall be advised of the nature and scope of such investigation prior to its commencement. The purpose of the investigation shall be to resolve any such problems promptly. In the event such problems cannot be resolved within a reasonable time, the commission may issue a complaint whenever the investigation has revealed a violation of this Chapter has occurred. The information gathered in the course of the first investigation may be used in processing the complaint.

(d) After the filing of any complaint by an aggrieved individual or by the commission, the commission shall, within seven days after the filing of the complaint, serve a copy on each of the parties alleged to have violated this Chapter, and shall designate one of the commissioners to make, with the assistance of the commission's staff, prompt investigation of the alleged act of discrimination. (Ord. 92-37 § 5, 1992; Ord. 941 § 5, 1979.)

2.44.051 Investigation - Procedure following Probable Cause Findings.

(a) If the commissioner shall determine after such investigation that no probable cause exists for crediting the allegations of the complaint, such commissioner, within ten (10) business days from such determination, shall cause to be issued and served upon the complainant and respondent written notice of such determination.

(b) If such commissioner after such investigation shall determine that probable cause exists for crediting the allegations for the complaint, the commissioner or such other commissioner as the commission may designate, shall immediately endeavor to eliminate the unlawful employment practice or the unlawful discriminatory practice complained of by conference and conciliation. The complainant, respondent and commission may have forty-five (45) days from the date respondent is notified in writing of a finding of probable cause to enter into a conciliation agreement signed by all parties in interest. The parties may amend a conciliation agreement at any time prior to the date of entering into such agreement. Upon agreement by the parties, the time for entering into such agreement may be extended. The members of the commission and its staff shall not disclose what has transpired in the course of such endeavors. (Ord. 92-37 § 6, 1992.)

2.44.052 Hearings.

(a) In case of failure to eliminate such practices by conference and conciliation or in advance thereof, the commission shall then cause to be issued and served, in the name of the commission, a written notice together with a copy of such complaint as the same may have been amended requiring the person, employer, labor organization, employment agency, realtor or financial institution named in such complaint, hereinafter referred to as respondent, to answer the charges of such complaint before a hearing examiner to be appointed by the Governing Body at a time not less than ten (10) business days after the service of said notice, unless the respondent requests in writing and is granted a continuance by the Human Relations Commission.

(b) The complainant or respondent may apply to the Human Relations Commission for the issuance of a subpoena for the attendance of any person or the production or examination of any books, records or documents pertinent to the proceedings at the hearing. Upon such application, the Human Relations Commission shall cause such subpoena to be issued under the provisions of Section 2.44.040 of this Chapter.

(c) A City Attorney or an attorney selected by the Human Relations Commission shall present the cases brought before the hearing examiner.

(d) Any complaint filed pursuant to this Section must be so filed within six (6) months of the alleged act of discrimination unless the act complained of constitutes a continuing pattern or practice of discrimination, in which event it will be from the last act of discrimination.

(e) The respondent may file a written, verified answer to the complaint and appear at such hearing in person or otherwise, with or without counsel, and submit testimony. The complainant shall appear at such hearing in person, with or without counsel, and submit testimony. The hearing examiner or a complainant shall have the power, reasonably and fairly, to amend any complaint and the respondent shall have like power to amend his or her answer. The hearing examiner shall be bound by the rules of evidence of the prevailing courts of law or equity and only relevant evidence of reasonable probative value shall be received. Reasonable examination and cross examination shall be permitted. All parties shall be afforded opportunity to submit briefs prior to adjudication. The testimony taken at the hearing shall be under oath and be recorded and transcribed at the request of either the respondent or complainant.

(f) The hearing examiner shall listen to all pertinent evidence presented by both the Human Relations Commission and the respondent and shall upon the conclusion of the hearing make findings of fact and conclusions of law and issue orders based thereon. The rulings made by the hearing examiner shall be binding upon all parties.

(g) If upon all the evidence in the hearing, the hearing examiner shall find the respondent has engaged in or is engaged in any unlawful employment practice or other unlawful discriminatory practice as defined in this Chapter, then the hearing examiner shall state the findings of fact and shall issue and cause to be served upon such respondent an order requiring such respondent to cease and desist from such unlawful employment practice or such unlawful discriminatory practice and to take such affirmative action, including, but not limited to, the hiring, reinstatement or upgrading of employees, with or without back pay, and the admission or restoration of membership in any respondent labor organizations; the admission to and full and equal enjoyment of the goods, services, facilities and accommodations offered by any respondent place of public accommodation denied in violation of this Section as in the judgment of the hearing examiner will effectuate the purposes of this Chapter and including a requirement for a report of the manner of compliance. Such order may also include an award of damages for pain, suffering and humiliation which are incidental to the act of discrimination, except that an award for such pain, suffering and humiliation shall in no event exceed the sum of Two Thousand Dollars ($2,000.00).

(h) If the hearing examiner finds that a respondent has not engaged in any such unlawful employment practice, or any such unlawful discriminatory practice, the hearing examiner shall render an order dismissing the complaint as to such respondent.

(i) The copy of the order shall be delivered by certified mail, return receipt requested, in all cases, by the Human Relations Commission to the complainant, to the respondent, to the City Attorney's office and such other public officers as the Human Relations Commission may deem proper. (Ord. 92-37 § 7, 1992.)

2.44.060 Rehearing Procedure. Any party being dissatisfied with any order or decision of the hearing examiner may within ten (10) days from the date of the service of such order or decision apply for a rehearing in respect to any matter determined therein; the application shall be granted or denied by the hearing examiner within ten (10) days from the date same shall be filed and if the rehearing be not granted within ten (10) days, it shall be taken as denied. If a rehearing be granted, the matter shall be determined by the hearing examiner within thirty (30) days after the same shall be submitted. No cause of action arising out of any order or decision of the hearing examiner shall accrue in any court to any party unless such party shall make application for a rehearing as herein provided. Such application shall set forth specifically the ground or grounds on which the applicant considers such order or decision to be unlawful or unreasonable. No party shall in any court urge or rely upon any ground not set forth in said application. An order made after a rehearing abrogating, changing or modifying the original order or decision shall have the same force and effect as an original order or decision. (Ord. 92-37 § 8, 1992.)

2.44.061 Enforcement of Order. The commission, the City Attorney, the complainant or the respondent may secure enforcement of any final order of the hearing examiner by the district court of the county where the unlawful employment practice or unlawful discriminatory practice shall have occurred or where any person required in the order to cease and desist from an unlawful employment practice or unlawful discriminatory practice or to take any affirmative action resides or transacts business, through mandamus or injunction in appropriate cases, or by action to compel the specific performance of the order. Such proceedings shall be initiated by the filing of a petition in such court, together with a transcript of the record upon the hearing before the hearing examiner, and issuance of service of a copy of said petition as in civil actions. The court shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony and proceedings an order or decree enforcing, modifying and enforcing as so modified or setting aside in whole or in part, the order of the hearing examiner. (Ord. 92-37 § 9, 1992.)

2.44.062 Judicial Review. The Human Relations Commission, City Attorney, or any person aggrieved by an order made by the hearing examiner may obtain judicial review thereof in the said court by filing with the clerk of said court, within thirty (30) days from the date of service of the order, a written appeal praying that such order be modified or set aside. The appeal shall certify that notice in writing of the appeal with a copy of the appeal has been given to all parties who appeared before the hearing examiner, at their last known address, and to the Human Relations Commission and the hearing examiner who presided at the hearing.

The evidence presented to the hearing examiner, together with his or her findings and the order issued thereon, shall be certified by the hearing examiner to said district court as its return. No order of the hearing examiner shall be superseded or stayed during the proceeding on the appeal unless the district court shall so direct.

The court shall hear the appeal by trial de novo, with or without a jury, in accordance with the provisions of K.S.A. 60-238 and amendments thereto, and the court may, in its discretion, permit any party to submit additional evidence on any issue. Said appeal shall be heard and determined by the court as expeditiously as possible. After hearing, the court may affirm the adjudication. If the adjudication is not affirmed, the court may set aside or modify it in whole or in part, or may remand the proceedings to the hearing examiner for further disposition in accordance with the order of the court.
The copy of the testimony given at the hearing shall be available at all reasonable times to all parties for examination without cost and for the purpose of judicial review of the order. The review shall be heard on the record without requirement of printing.

The jurisdiction of the district court of the proper county as aforesaid, shall be exclusive and its final order or decree shall be subject to review by the Supreme Court, as in other cases, upon appeal within thirty (30) days of the filing of such decision.
The Human Relations Commission shall, except as otherwise herein provided, establish rules of practice to govern, expedite and effectuate the foregoing procedure and its own actions thereunder. (Ord. 92-37 § 10, 1992.)

2.44.070 Unlawful Employment Practices.

(a) It shall be unlawful employment practice:

(1) For an employer, because of the age, race, religion, color, sex, disability, national origin or ancestry of any person to refuse to hire or employ such person, to bar or discharge such person from employment or to otherwise discriminate against such person in compensation or in terms, conditions, or privileges of employment; to limit, segregate, separate, classify or make any distinction in regards to employees; or to follow any employment procedure or practice which, in fact, results in discrimination, segregation or separation without a valid business motive.

(2) For a labor organization, because of the age, race, religion, color, sex, disability, national origin or ancestry of any person, to exclude or to expel from its membership such person or to discriminate in any way against any of its members or against any employer or any person employed by an employer.

(3) For any employer, employment agency or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or membership or to make any inquiry in connection with prospective employment or membership, which expresses, directly or indirectly, any limitation, specification or discrimination as to age, race, religion, color, sex, disability, national origin or ancestry, or any intent to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

(4) For any employer, employment agency or labor organization to discharge, expel or otherwise discriminate against any person because such person has opposed any practices or acts forbidden under this Chapter or because such person has filed a complaint, testified or assisted in any proceeding under this Chapter.

(5) For an employment agency to refuse to list and properly classify for employment or to refuse to refer any person for employment or otherwise discriminate against any person because of such person's age, race, religion, color, sex, disability, national origin or ancestry, or to comply with a request from an employer for a referral of applicants for employment if the request expresses, either directly or indirectly, any limitation, specification or discrimination as to age, race, religion, color, sex, disability, national origin or ancestry.

(6) For an employer, labor organization, employment agency, or school which provides, coordinates or controls apprenticeship, on-the-job, or other training or retraining program, to maintain a practice of discrimination, segregation or separation because of age, race, religion, color, sex, disability, national origin or ancestry, in admission, hiring, assignments, upgrading, transfers, promotion, layoff, dismissal, apprenticeship or other training or retraining program, or in any other terms, conditions or privileges of employment, membership, apprenticeship or training; or to follow any policy or procedure which, in fact, results in such practices without a valid business motive.

(7) For any person, whether an employer or an employee or not to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this Chapter, or attempt to do so.

(8) For an employer, labor organization, employment agency or joint labor-management committed to:

(a) Limit, segregate or classify a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(b) participate in a contractual or other arrangement or relationship, including a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee or an organization providing training and apprenticeship programs that has the effect of subjecting a qualified applicant or employee with a disability to the discrimination prohibited by this Chapter;

(c) utilize standards criteria, or methods of administration that have the effect of discrimination on the basis of disability or that perpetuate the discrimination of others who are subject to common administrative controls;

(d) exclude or otherwise deny equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(e) not make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such employer, labor organization, employment agency or joint labor-management committee can demonstrate that the accommodation would impose an undue hardship on the operation of the business thereof;

(f) deny employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(g) use qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used, is shown to be job-related for the position in question and is consistent with business necessity; or

(h) fail to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills, aptitude or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(9) For an employer to reduce the wage rate of any employee in order to comply with the age discrimination provisions of this Chapter.

(10) For an employer, employment agency, labor organization or any combination thereof to establish or maintain an employee pension benefit plan which requires or permits:

(a) in the case of a contribution plan, the cessation of an employee's benefit accrual or the reduction of the rate of an employee's benefit accrual, because of age; or

(b) in the case of a contribution plan, the cessation of allocations to an employee's account or the reduction of the rate at which amounts are allocated to an employee's account, because of age.

Nothing in this subsection (a.10.) shall be construed to prohibit an employer, employment agency or labor organization or any combination thereof from observing any provision of an employee pension benefit plan to the extent that such provision imposes, without regard to age, a limitation on the amount of benefits that the plan provides or a limitation on the number of years of service or years of participation which are taken into account for purposes of determining benefit accrual under the plan.

(b) It shall not be an unlawful employment practice to:

(1) Fill vacancies in such way as to eliminate or reduce imbalance with respect to race, religion, color, sex, disability, national origin or ancestry;

(2) Take any action on the basis of age, which is otherwise prohibited under subsection (a), if age is a bona fide occupational qualification necessary to the normal operation of the particular business or if the differentiation is based on necessary factors other than age;

(3) Observe the terms of a bona fide seniority system or any bona fide employee benefit plan, such as a retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of this Chapter, except that no such employee benefit plan shall excuse the failure to hire any individual and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual;

(4) Observe the provisions of a retirement, pension or other benefit plan permitted by state or federal law or by ordinance or resolution; or

(5) Before January 1, 1994, for this state or any political subdivision of this state, or any agency or instrumentality thereof, or any interstate agency, to fail or refuse to hire or to discharge any individual because of such individual's age if such action is taken:

(a) With respect to the employment of an individual as a firefighter or as a law enforcement officer and the individual has attained the age of hiring or retirement in effect under applicable state or local law on March 3, 1983, and

(b) pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the purpose of this Chapter. (Ord. 92-37 § 11, 1992; Ord. 507 § 7, 1976.)

2.44.080 Unlawful Discriminatory Practices.

(a) It shall be an unlawful discriminatory practice:

(1) For any person, as defined herein being the owner, operator, lessee, manager, agent or employee of any place of public accommodation to refuse, deny or make a distinction, directly or indirectly, in offering its goods, services, facilities, and accommodations to any person as covered by this Chapter because of race, religion, color, sex, disability, national origin or ancestry, except where a distinction because of sex is necessary because of the intrinsic nature of such accommodation.

(2) For any person, whether or not specifically enjoined from discrimination under any provisions of this Chapter, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this Chapter, or to attempt to do so.

(3) For any person to refuse, deny, make a distinction, directly or indirectly, or discriminate in any way against persons because of the race, religion, color, sex, disability, national origin or ancestry of such persons in the full and equal use and employment of the services, facilities, privileges and advantages of any institution, department or agency of the State of Kansas or any political subdivision or municipality thereof. (Ord. 92-37 § 12, 1992; Ord. 507 § 8, 1976.)

2.44.090 Unlawful Housing Practices

(a) It is unlawful housing practice to:

(1) To refuse to sell or rent after the making of a bona fide offer to fail to transmit a bona fide offer or refuse to negotiate in good faith for the sale or rental of, or otherwise make unavailable or deny, real property to any person because of race, religion, color, sex, disability, familial status, national origin or ancestry.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of real property, or in the provision of services or facilities in connection therewith, because of race, religion, color, sex, disability, familial status, national origin or ancestry.

(3) To make, print, publish, disseminate or use, or cause to be made, printed, published, disseminated or used, any notice, statement, advertisement or application, with respect to the sale or rental of real property that indicates any preference, limitation, specification or discrimination based on race, religion, color, sex, disability, familial status, national origin or ancestry, or an intention to make any such preference, limitation, specification or discrimination.

(4) To represent to any person because of race, religion, color, sex, disability, familial status, national origin or ancestry that any real property is not available for inspection, sale or rental when such real property is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any real property by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religion, color, sex, disability, familial status, national origin or ancestry.

(6) To deny any person access or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting real property, or to discriminate against such person in the terms or conditions of such access, membership or participation, because of race, religion, color, sex, disability, familial status, national origin or ancestry.

(7) To discriminate against any person in such person's use or occupancy of real property because of the race, religion, color, sex, disability, familial status, national origin or ancestry of the people with whom such person associates.

(8) (a) To discriminate in the sale or rental, or to otherwise make unavailable or deny, residential real property to any buyer or renter because of a disability of:

(1) That buyer or renter;

(2) a person residing in or intending to reside in such real property after it is sold, rented or made available; or

(3) any person associated with that buyer or renter.

(b) To discriminate against any person in the terms, conditions or privileges of sale or rental of residential real property or in the provision of services or facilities in connection with such real property because of a disability of:

(1) That person;

(2) a person residing in or intending to reside in that real property after it is so sold, rented or made available; or

(3) any person associated with that person;

(c) For the purposes of this subsection 8, discrimination includes:

(1) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises;

(2) a refusal to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy residential real property; or

(3) in connection with the design and construction of covered multifamily residential real property for first occupancy on and after March 13, 1991, a failure to design and construct such residential real property in such a manner that:

A. The public use and common use portions of such residential real property are readily accessible to and usable by persons with disabilities;

B. The dwellings have at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site;

C. With respect to dwellings with building entrance on an accessible route--

1. The public use and common use portions of the dwellings are readily accessible to and usable by persons with disabilities;

2. All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by persons with disabilities who are in wheelchairs; and

3. All premises within covered multifamily dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people, commonly cited as "ANSI A 117.1," suffices to satisfy the requirements of subsection 8 a, c, C.

(d) As used in this subsection 8, "covered multifamily residential real property" means:

(1) Buildings consisting of four or more units if such buildings have one or more elevators; and

(2) ground floor units in other buildings consisting of four or more units.

(e) Nothing in this subsection 8 requires that residential real property be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of other.

(9) It shall be unlawful for any person or other entity whose business includes engaging in real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of the race, religion, color, sex, disability, familial status, national origin or ancestry of such person or of any person associated with such person in connection with any real estate related transaction.

(a) As used in this Section, "real estate related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance:

A. For purchasing, constructing, improving, repairing or maintaining a dwelling; or

B. secured by real property.

(2) The selling, brokering or appraising of real property.

(b) Nothing in this Section prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, religion, color, sex, disability, familial status, national origin or ancestry.

(b) Nothing in this Chapter shall be construed to invalidate or limit any state law or ordinance that requires residential real property to be designed and constructed in a manner that affords persons with disabilities greater access that is required by this Chapter.

(c) Nothing in this Chapter shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the rental or occupancy of real property which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin or ancestry. Nor shall anything in this Chapter prohibit a nonprofit private club in fact not open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(d) Nothing in this chapter shall apply to rooms or units in buildings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as the owner's residence.

(e) Nothing in this chapter limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this chapter regarding familial status apply with respect to housing for older persons.

(1) As used in this subsection (e), "housing for older persons" means housing:

(a) Provided under any state or federal program that the U.S. Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons as defined in the state or federal program; or

(b) intended for and occupied solely by persons sixty-two (62) years of age or older.

(c) intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the following factors must also be present:

1. the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provisions of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

2. that at least eighty percent (80%) of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit; and

3. the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older.

(2) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(a) persons residing in such housing as of September 13, 1988, who do not meet the age requirements of subsections b or c: Provided, that the new occupants or such housing meet the age requirements or subsection 1 b or c; or

(b) unoccupied units: Provided, that such units are reserved for occupancy by persons who meet the age requirements of subsection 1 b or c.

(f) Nothing in this Chapter prohibits conduct against a person because such person has been convicted two or more times by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined by Section 102 of the Federal Controlled Substances Chapter (21 U.S.C. 802). (Ord. 93-07 § 2, 1993; Ord. 92-37 § 13, 1992; Ord. 507 § 9, 1976.)

2.44.091 Discriminatory Housing Practices Complaint Procedure.

(a) The authority and responsibility for administering sections of this Chapter shall be in the commission. Any person aggrieved may file a verified complaint with the commission. Such complaints shall be in writing, shall state the facts upon which the allegations of a discriminatory housing practice are based and shall contain such other information and be in such form as the commission may require. Complaints must be filed within one year after the alleged discriminatory housing practice occurred, but may be reasonably and fairly amended at any time. The commission upon its own initiative may make, sign and file such complaint. A respondent may file a verified answer to the complaint against the respondent and with the leave of the commission, which shall be granted whenever it would be reasonable and fair to do so may amend the answer filed by the respondent at any time.

(b) Upon receipt of any such complaint, the commission shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums, and the commission shall within ten (10) days thereof serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this Chapter, together with a copy of the original complaint. Service of the notice shall be made in the manner prescribed by the Code of Civil Procedure.

(c) A respondent may file an answer to the complaint with the commission no later than ten (10) days after service of the notice of the complaint.

(d) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under subsections a and b, to such person, from the commission.

(e) (1) The commission shall commence an investigation within thirty (30) days of the receipt of a complaint, in the manner provided in this chapter for investigating complaints of violation of the act against discrimination and complete such investigation, including conciliation, within one hundred (100) days after the filing of the complaint, unless it is impracticable to do so.

(2) If the commission is unable to complete the investigation within one hundred (100) days, the commission shall inform the parties in writing of the reasons for not doing so.

(3) The commission shall commence an investigation within thirty (30) days of the receipt of a complaint, in the manner provided in this chapter for investigating complaints of violations of the act against discrimination and complete such investigation, including conciliation, within one hundred (100) days after the filing of the complaint, unless it is impracticable to do so.

(4) The commission shall make final administrative disposition within one year after the filing of the complaint, unless it is impracticable to do so.

(5) If the commission is unable to make final administrative disposition of the complaint within one year of the date of filing, the commission shall inform the parties in writing of the reasons for not doing so.

(f) (1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the commission, the commission shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion. The commission is hereby authorized to enter into formal conciliation agreement which shall also include the person aggrieved and the respondent as signatories. Such agreements may include in the provision thereof any term or condition which may be included in a final order of the commission. Each conciliation agreement shall be made public unless the person aggrieved and respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of this chapter.

(2) Any of the parties to a conciliation agreement may apply to the district court of the county where the alleged discriminatory housing practice occurred, or was about to occur, for specific performance of any such agreement.

(g) If it is determined that probable cause exists for crediting the allegations of the complaint, the commission shall serve written notice of such determination on the person aggrieved and shall hold a hearing on behalf of the aggrieved person before the commission. such hearing shall use the hearing procedures as set out in Section 2.44.052 of this chapter unless an election pursuant to subsection h is made.

(h) In lieu of a hearing under subsection g, a complainant, a respondent or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in the complaint decided in a civil action as provided in Section 2.44.093. The election must be made not later than twenty (20) days after the receipt by the electing person of service in the manner provided in this Chapter, in the case of an election by the commission, not later than twenty (20) days after such service. The person making the election shall give notice to the commission and to all other complainants and respondents to whom the complaint relates. If an election is made under this subsection, no later than sixty (60) days after the election is made the commission shall commence a civil action in the federal district court in its own name on behalf of the complainant. In such an action, the commission shall be represented by an attorney employed by the commission.

In a civil action brought under this section, the rights and remedies of the parties shall be determined by applicable federal law. The relief that may be granted in such a civil action shall include at least actual and punitive damages, injunctive and equitable relief as provided by applicable federal law.

(i) If an election is not made under subsection g and the commission finds that a respondent has engaged in or is engaging in any discriminatory housing practice, the commission shall render an order requiring the respondent to cease and desist from such discriminatory housing practice, and such order may direct a respondent to take such affirmative action as the commission deems necessary to effectuate the intent and purposes of this Chapter, including, but not limited to, the selling or renting of specified real property and the lending of money for the acquisition, construction, rehabilitation, repair or maintenance of real property. Such order may also include an award of actual damages, including pain, suffering and humiliation. Such order may also, to vindicate the public interest, assess a civil penalty against the respondent:

(1) In an amount not exceeding Ten Thousand Dollars ($10,000.00), if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

(2) subject to the provisions of subsection h (4), in an amount not exceeding Twenty-five Thousand Dollars ($25,000.00), if the respondent has been adjudged to have committed one other discriminatory housing practice during the five-year period ending on the date of the filing of the complaint;

(3) subject to the provisions of subsection h (4), in an amount not exceeding Fifty Thousand Dollars ($50,000.00), if the respondent has been adjudged to have committed two or more discriminatory housing practices during the seven-year period ending on the date of the filing of the complaint; and

(4) if the acts constituting the discriminatory housing practice that is the object of the complaint are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice in the amounts provided by subsections h. 2. and h. 3. without regard to the period of time within which any subsequent discriminatory housing practice occurred.

(j) Within fifteen (15) days after an order is served by the commission requiring or prohibiting action by a respondent, the respondent shall notify the commission in writing of the manner in which the respondent has complied with the order.

(k) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by the City, the commission shall, not later than thirty (30) days after the respondent has complied with the order, or, if such order is judicially reviewed under this Chapter, thirty (30) days after such order is in substance affirmed upon such review:

(1) Send copies of the findings of fact, conclusions of law and the order to the City Governing Body; and

(2) Recommend to the City Governing Body appropriate disciplinary action, including, where appropriate, the suspension or revocation of the license of the respondent. (Ord. 93-07 § 3, 1993; Ord. 92-37 § 14, 1992.)

2.44.092 Subpoenas.

(a) Upon written application to the commission, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the commission to the same extent and subject to the same limitations as subpoenas issued by the commission. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at respondent's request.

(b) Witnesses summoned by subpoena of the commission shall be entitled to the same witness and mileage fees as are allowed witnesses in proceedings in district courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by the respondent.

(c) If the commission concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this Chapter, the commission may bring a civil action in the district court for appropriate temporary or preliminary relief pending final disposition of the complaint under this Section. The commission shall promptly notify the City Attorney of the filing of any action pursuant to this subsection. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Rules of Civil Procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this Chapter.

(d) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if in such person's power to do so in obedience to the subpoena or lawful order of the commission, shall, upon conviction, be fined not more than One Thousand Dollars ($1,000.00) or imprisoned for not more than one year, or both such fine and imprisonment. Any person who, with intent thereby to mislead the commission, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document, submitted to the commission pursuant to subpoena or other order of the commission, or who shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records or other documents, or who shall willfully mutilate, alter or by any other means falsify any documentary evidence, shall, upon conviction, be fined not more than One Thousand Dollars ($1,000.00) or imprisoned for not more than one year, or both such fine and imprisonment. (Ord. 92-37 § 15, 1992.)

2.44.093 Civil Actions for Alleged Discriminatory Housing Practices.

(a) Within forty-five (45) days after the entry of an order by the commission pursuant to Section 2.44.091 of this Chapter, or within thirty (30) days after the commission has received written notification of the manner in which a respondent has complied with the commission's order, the commission or a person aggrieved may bring a civil action in the district court of the county in which the alleged discriminatory housing practice is alleged to have occurred or in which the respondent resides or transacts business, but upon application by the person aggrieved and the commission, the City Attorney may provide the attorney necessary to bring the action authorized herein. Such action may be brought to enforce the order of the commission, or to enforce any of the rights granted or protected by Section 2.44.090, insofar as such rights relate to the subject of the complaint with respect to which the order was issued. All such actions shall be heard by the court in a *trial de novo*. Upon application of any party to such action, the commission shall make available to all parties the records and information gathered during any investigation or hearing conducted pursuant to the authority granted by this Chapter, except that any records or information concerning the commission's efforts to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion shall not be admissible as evidence in such action. If the respondent shall request a copy of the transcript of the hearing, the respondent shall pay for the cost of its preparation.

(b) If the court finds that a discriminatory housing practice has occurred, or is about to occur, the court may, in its discretion, grant as relief any permanent, temporary or mandatory injunction, temporary restraining order or other proper order. Provided, but any sale, encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this Chapter, and involving a bona fide purchaser, encumbrancer or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this Chapter, shall not be affected.

(c) Whenever a complaint is filed, or a civil action commenced, under the provisions of this Chapter, the commission may post notice thereof on any real property which is the subject of such complaint or action.

(d) (1) An aggrieved person may commence a civil action in a district court of the county in which the alleged discriminatory housing practice is alleged to have occurred or in which the respondent resides or transacts business not later than two (2) years after the occurrence or the termination of an alleged discriminatory housing practice, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice, except in the case of an action arising from a breach of a conciliation agreement, the computation of the two-year period shall not include any time during which an administrative proceeding under this act was pending with respect to a complaint under this act based on such discriminatory housing practice.

(2) If the United States Department of Housing and Urban Development, the Kansas Human Rights Commission or the commission has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a hearing under Section 2.44.090 of this Chapter.

(4) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages and, subject to state law, may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order or other order, including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate. The court, in its discretion, may allow the prevailing party, other than the City of Olathe, reasonable attorney's fees and costs. The City of Olathe shall be liable for fees and costs to the same extent as a private person.

(5) Relief granted under this subsection shall not affect any contract, sale, encumbrance or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer or tenant, without actual notice of the filing of a complaint with the commission or civil action under this Chapter. (Ord. 92-37 § 16, 1992.)

2.44.094 Interference, Coercion or Intimidation. It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this chapter. (Ord. 93-07 § 4, 1993)

2.44.100 Affirmative Action Program for City Personnel. The affirmative action program for personnel in the city shall be as follows:

(1) It is the policy of the City to take affirmative action to achieve equal employment for all minorities and women in all personnel actions and procedures, including, but not limited to, recruitment, hiring, training, transfer, promotion, compensation and other benefits.

(2) General Objectives. General objectives shall be as follows:

A. To establish procedures to recruit minority and women applicants to every level of responsibility;

B. the City will maintain liaison and cooperate with programs providing training for minorities and women and seek out opportunities to participate in and/or operate such training programs;

C. to establish and maintain liaison between the City and minority communities.

(3) The City Manager, or his designated representative, shall be the Equal Employment Opportunity Officer to coordinate the City's efforts in the implementation of its affirmative action program and to advise and assist key staff in said implementation.

(4) All administrative personnel and department heads will be responsible for carrying out all aspects of the affirmative action program within their divisions or departments. The Human Resources Division shall be responsible for the development of recruitment and training programs to include hiring goals for each city department.

(5) Duties of the Equal Employment Opportunity Officer. The duties of the Equal Employment Opportunity Officer shall be to:

A. Conduct departmental reviews as necessary or indicated by reports, to determine compliance with the City's affirmative action program;

B. report to the Human Relations Commission and the City Manager results obtained with the affirmative action program, problems encountered and resistance or failure to implement the policy of the City; and recommend remedies;

C. serve as a consultant and resources person to the Human Resources Department and/or department heads in the development of recruitment programs, selection procedures, training programs or other personnel functions to implement the City's affirmative action program;

D. establish and maintain liaison between the City and minority communities.

(6) Dissemination of Policy.

A. The City policy of affirmative action shall be communicated by the City Manager to all personnel in City government.

B. The affirmative action policy shall be posted on all bulletin boards in areas where employed personnel will be aware of such policy.

C. The policy shall be sent to all appropriate recruitment sources. The intent of the policy shall be communicated with all letters or invitations for persons to submit resumes for consideration for employment.

D. During orientation of new personnel, the City's affirmative action program shall be emphasized. A printed brochure explaining all aspects of the policy will be provided to all new employees.

E. The policy of the City shall be forwarded to minority and women group leaders and organizations and churches; and particularly those composed of minority populations, schools, contractors, subcontractors, suppliers and other agencies.

(7) Recruitment and Selection. The City Human Resources Division shall:

A. Recruit personnel in such a manner that clearly demonstrates the City's interest in the employment of minorities and women.

B. Establish communications with educational institutions, organizations, leaders or spokesmen which encourage referral of qualified minorities and women applicants for positions which may become available in the City government.

C. Identify minority referral sources in Olathe and/or within the scope of the recruitment area.

D. Consider applicants on the basis of those able to be qualified to perform the job. If minority and women applicants have qualifications to perform the job, they shall be given equal consideration for employment with any other applicant.

(8) Audit Procedures.

A. The Human Resources Manager shall prepare an annual affirmative action report including all personnel within each department. This report will indicate numbers of persons employed, position of employment, race, sex, and shall be filed with the City Manager and Human Relations Commission.

B. The Human Resources Division shall prepare a quarterly report of new employees, transfers, promotions and terminations indicating the personnel who have resigned, retired, were fired or released by reduction of work force, noting in each case the race, sex and position of employment. The report shall include all personnel of the City and should include a statistical summary of new employees, transfers, promotions and terminations, by race and sex. Copies of the report shall be filed with the City Manager and the Human Relations Commission. (Ord. 92-37 § 17, 1992; Ord. 507 § 10, 1976).

2.44.110 Affirmative Action Program for Public Contracts. An affirmative action program for public contracts shall be submitted as follows:

(1) Class I Contracts

(A) Submission of Program. Prior to entering any contract, as defined in Section 2.44.020, with the city, all persons seeking such contract shall submit in writing to the Director of Human Relations an affirmative action program as defined in Section 2.44.020. Such affirmative action program shall be submitted concurrently with or prior to any contract bid or proposal. Said affirmative action program shall be submitted in the form of answers to a specific written questionnaire; provided that if any person fails or refuses to submit an affirmative action program as required by this section, such person shall be ineligible to enter into any Class I contract or to receive any said contract from the city until he has so complied.

(B) Review by Director of Human Relations.

(i) Affirmative Action Programs. The director shall receive and review affirmative action programs submitted to him or her and shall specify in writing any modification of the program needed to make it conform to the requirements of this section; provided that, prior to rejection of any program, the director shall advise and consult with the person submitting such program for the purpose of assisting him or her to develop an acceptable affirmative action program. In any event, the director shall notify the city manager in writing of his or her determination within five working days of the director's receipt of the program.

(ii) Option Annual Submission. Any person who so desires may file annually an affirmative action program which shall apply to all bids or proposals which such person makes during the calendar year next succeeding the day of such filing. Such annual submission shall be subject to review by the director of Human Relations and shall be amended at such time and in such manner as the director of Human Relations may require.

(C) Acceptance of Program. The final determination of acceptance or rejection of the affirmative action program shall be made by the Governing Body.

(D) Class I Contract Conditions

(i) Any person who has been awarded a Class I contract shall not discriminate against any person in the performance of work under the contract because of race, sex, religion, physical handicap, color, national origin, or ancestry, except by reason of demonstrably valid occupational disqualification.

(ii) In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer," or a similar phrase to be approved by the director of Human Relations.

(iii) If the contractor fails to comply with the provisions of this chapter, the contractor shall be deemed to have breached the contract and it may be rescinded, terminated, or suspended in whole, or in part, by the Governing Body.

(iv) The contractor shall include the provisions of this section in every subcontract so that such provisions will be binding upon such subcontractor.

(E) Duties and Authority of the Director of Human Relations. The director of Human Relations is charged with administration and enforcement of this section and is authorized and empowered.

(i) Affirmative Action Program, Review, Eligibility Certification. To receive, review and recommend approval or rejection of affirmative action programs submitted by persons seeking any city contract and to certify eligible persons to the city.

(ii) Compliance Investigation. To initiate investigations into, to survey and review any and all affirmative action programs and contracts subject to this section, and to take such action with respect thereto as shall insure compliance with the terms of this section, subject to approval of the city manager.

(iii) Initiate Complaints. To initiate and file with the Human Relations Commission complaints alleging violation of this section.

(iv) Complaint Investigation. To receive, investigate and rule upon, or pass on to the Human Relations Commission complaints of violations of this section.

(2) Class II Contracts. Prior to entering any contract, as defined in Section 2.44.020, with the city, all persons seeking such contract shall execute and agree to comply with the terms and conditions in every purchase order, which shall require compliance with Executive Order 11375, Section 202, pertaining to equal employment opportunity requirements; provided that, if any person fails or refuses to execute the purchase order containing the terms and conditions as required by this section, such person shall be ineligible to enter any Class II contract or to receive any said contract from the city until he has so compiled (Ord. 941 § 6, 1979.)

2.44.120 Penalties. Any person, as defined in Section 2.44.020, who or which shall be found in violation of this chapter or any order of the Human Relations Commission or a hearing examiner by a competent court of law, shall be adjudged guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than six months, or by a fine or not more than Five Hundred Dollars ($500.00), or by both such fine and imprisonment. (Ord. 941 § 7, 1979).

2.44.130 Construction. The provisions of this Chapter shall be construed liberally for the accomplishment of purposes thereof. Nothing contained in this Chapter shall be deemed to repeal any of the provisions of any other law of this City relating to discrimination because of race, religion, color, sex, disability, familial status, national origin or ancestry unless the same is specifically repealed by this Chapter. Nothing in this Chapter shall be construed to mean that an employer shall be forced to hire unqualified or incompetent personnel or discharge qualified or competent personnel. (Ord. 92-37 § 18, 1992; Ord. 507 § 13, 1976).

CHAPTER 2.48

PUBLIC BUILDING COMMISSION*

Sections:

2.48.010 Creation--Powers and Functions.
2.48.020 Composition, Qualifications and Terms.
2.48.030 Municipal Corporation.
2.48.040 Duties.

2.48.010 Creation--Powers and Functions. The Public Building Commission is created for the following purposes and is authorized to exercise the following powers and functions:

(1) To acquire a site or sites, construct, equip and furnish a building or buildings, or to purchase or otherwise acquire a building or buildings or other facilities for federal, state and county governmental agencies or for any municipal corporation, quasi-municipal corporation, political subdivision or body politic or agency thereof;

(2) To rent all or any part of the building or buildings to any federal, state or county governmental agency or to any municipal corporation, quasi-municipal corporation, political subdivision or body politic or agency thereof, and further to rent any space as may not be needed by such governmental agencies as provided by law;

(3) To acquire fee simple title to real estate including easements and reversionary interests in streets, alleys and other public places and personal property required for its purposes, by purchase, gift, devise, or by the exercise of the power of eminent domain, and to take title in the corporate name of the commission;

(4) To borrow money and issue revenue bonds in the manner provided by law for the purpose of paying the cost or a portion of the cost of acquiring real estate and construction, equipping and furnishing buildings thereon and to pledge the net revenues of the facilities to secure such revenue bonds and to make covenants with respect to the maintenance, operation, repair and insuring of improvements thereon;

(5) To repair, maintain and operate the buildings;

(6) To sue and be sued;

(7) To adopt a seal;

(8) To convey title to real estate;

(9) To do all things and acts necessary or convenient to carry out the powers granted to it under this section and under K.S.A. 1968 Supp. 12-1757 and any subsequent amendments thereto; provided, however, that under no circumstances shall any income of the Public Building Commission inure to the benefit of any private person. (Ord. 278-C § 1 (part), 1969; prior code § 1-1103.)

2.48.020 Composition, Qualifications and Terms. The Public Building Commission shall be composed of not less than three or more than nine members. Three of the members of the Public Building Commission shall, at the time of their appointment to the commission, be duly elected, qualified and acting members of the Governing Body of Olathe, Kansas, and may serve as long as they continue to be Governing Body members of Olathe, Kansas. All other members of the Public Building Commission shall be appointed by the mayor with the approval of the remainder of the Governing Body and for terms of two years each. (Ord. 87-30 § 7, 1987; Ord. 85-126 § 1, 1985; Ord. 278-C § 1 (part), 1969; prior code § 1-1101.)

2.48.030 Municipal Corporation. The Public Building Commission created in Section 2.48.020 shall be a municipal corporation and shall have all powers and authorities set forth in K.S.A. 1968 Supp. 12-1757, and all subsequent amendments thereto. (Ord. 278-C § 1 (part), 1969; prior code § 1-1102.)

2.48.040 Duties. Subject to the provisions of all other sections of this chapter, the Public Building Commission shall provide for the construction as required of a new building or buildings, shall prepare all leases required in connection therewith and shall arrange for all financing of said building or buildings, including the site or sites, construction, equipping and furnishing and all other rentals, payments and revenue bond debt service requirements. (Ord. 278-C § 1 (part), 1969; prior code § 1-1104.)

*****For statutory provisions authorizing the creation of a public building commission, see K.S.A. 12-1757 and the sections that follow.

CHAPTER 2.52

HOUSING AUTHORITY*

Sections:

2.52.010 Created.
2.52.020 Membership--Terms--Vacancies.
2.52.030 Compensation--Certificate of Appoint-ment.
2.52.040 Powers--Quorum--Meetings--Qualifica-tions.
2.52.050 Removal of Commissioner from Office.
2.52.060 Employees.
2.52.070 Delegated Powers.

2.52.010 Created. There is created a housing authority for the City of Olathe, pursuant to the Municipal Housing Law, as amended, to be known as the housing authority of the City of Olathe, Kansas. (Ord. 102-C § 1 (part), 1968; Ord. 43-C § 1, 1967.)

2.52.020 Membership--Terms--Vacancies. The housing authority of the City of Olathe, Kansas, shall consist of five persons as commissioners to be appointed by the mayor with the consent of the Governing Body. The commissioners who are first appointed pursuant to this chapter shall be designated to serve one for one year, one for two years, one for three years and two for four years each, from the date of their appointment, but thereafter such commissioners shall be appointed as aforesaid for a term of office of four years except that all vacancies shall be filled for the unexpired term, all such appointment to be made by the mayor with the consent of the Governing Body. (Ord. 102-C § 1 (part), 1968; Ord. 43-C § 2, 1967.)

2.52.030 Compensation--Certificate of Appointment. A commissioner shall receive no compensation for his services, but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the housing authority of the City of Olathe, Kansas, and this certificate shall be conclusive evidence of the due and proper appointment of the commissioner. (Ord. 102-C § 1 (part), 1968; Ord. 43-C § 3, 1967.)

2.52.040 Powers--Quorum--Meetings--Qualifications. The powers delegated by the Governing Body of the City of Olathe to the housing authority of the City of Olathe, Kansas, from time to time, shall be by ordinance, and such powers shall vest in the commissioners thereof in office from time to time. Three commissioners shall constitute a quorum of such authority for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the by-laws of the authority shall require a larger number. Meetings of the commissioners of an authority may be held anywhere within the perimeter boundaries of the area of operation of the authority or within any additional area where the authority is authorized to undertake a project. Appointments may be made of any persons as commissioners of the authority who reside within its boundaries or area, and who are otherwise eligible for such appointment. The commissioners of the authority shall elect a chairman and vice chairman from among the commissioners. (Ord. 102-C § 1 (part), 1968; Ord. 43-C § 4, 1967.)

2.52.050 Removal of Commissioner from Office. For inefficiency or neglect of duty or misconduct in office, a commissioner of the housing authority of the City of Olathe, Kansas, may be removed by the mayor, but a commissioner shall be removed only after a hearing and after he shall have been given a copy of the charges at least ten days prior to the hearing and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the city clerk. (Ord. 102-C § 1 (part), 1968; Ord. 43-C § 5, 1967.)

2.52.060 Employees. The housing authority of the City of Olathe, Kansas, is authorized to employ an executive director, technical experts, and such other officers, agents and employees, permanent and temporary, as it may require, and to delegate to one or more of its agents or employees such powers or duties as the authority may deem proper. (Ord. 102-C § 1, (part), 1968; Ord. 43-C § 6, 1967.)

2.52.070 Delegated Powers. The authority is delegated:

(1) The power to plan, construct, maintain, operate and manage any low-rent housing project or projects of the city;

(2) All other powers conferred on the city by the Municipal Housing Law, as amended, except the powers to execute contracts with an agency of the government, borrow money, issue bonds (as defined in the Municipal Housing Law), and acquire or dispose of real property. (Ord. 102-C § 1 (part), 1968; Ord. 43-C § 7, 1967.)

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*For statutory provisions pertaining to housing authorities, see K.S.A. 17-2340.

CHAPTER 2.56

POLICE DEPARTMENT

Sections:

2.56.010 Arrest Authority of Police.
2.56.020 Special Police Services Fees.

2.56.010 Arrest Authority of Police.

(A) A city law enforcement officer has the authority to arrest a person for any violation of city ordinances, except as provided in subsection (B), when:

(1) The officer has a warrant commanding that the person be arrested;
(2) A warrant for the person's arrest has been issued by a municipal court in this state;
(3) The officer has probable cause to believe that the person is committing or has committed a violation of an ordinance and that the person has intentionally inflicted bodily harm to another person;
(4) The law enforcement officer detained the person when:

(a) The law enforcement officer has probable cause to believe that the person is committing or has committed a violation of the city ordinance, and the law enforcement officer has probable cause to believe that:
(1) Such person will not be apprehended or evidence of the violation of the ordinance will be irretrievably lost unless such person is immediately detained; or
(2) Such person may cause injury to himself, herself or others or damage to property unless immediately detained; or

(b) Any violation of the city ordinance has been or is being committed by such person in the view of the law enforcement officer; and
(c) When one of the following occurs:

(1) The person refused to give a written promise to appear in court when served with a notice to appear;
(2) The person is unable to provide identification of self by presenting a valid driver's license or other identification giving equivalent information to the law enforcement officer;
(3) The person is not a resident of the state of Kansas; or
(4) The law enforcement officer has probable cause to believe that the person may cause injury to self or others or may damage property unless immediately arrested.

(B) A law enforcement officer may not arrest a person who is charged only with committing an ordinance traffic infraction or an ordinance cigarette or tobacco infraction unless the person charged has received service of a notice to appear and has failed to appear for the infraction. (Ord. 96-82 § 3, 1996; Ord. 207 § 1, 1973.)

2.56.020 Special Police Services Fees.

(1) A fee shall be paid whenever special police services are provided by the City of Olathe Police Department. The fee shall not exceed the cost of providing the service. Fees shall be established by resolution of the Governing Body.

(2) For the purposes of this ordinance, “special police services” includes, but is not limited to, fingerprinting, criminal records checks, and private security checks. (Ord. 05-128 § 1, 2005; Ord. 207 § 1, 1973.)

CHAPTER 2.60

EMERGENCY MEDICAL SERVICES

Sections:

2.60.010 Definitions.
2.60.020 Emergency Medical Services Program.
2.60.030 Contracts and Coordination with other Governmental Entities.
2.60.040 Rates and Emergency Medical Services. (Repealed 8/19/03)

2.60.010 Definitions. The following words and phrases shall be defined as follows for the purpose of this chapter:

(1) "Emergency medical service" means a service to provide for the effective and coordinated delivery of such emergency care as may be required by an emergency, including transportation of individuals by ground or air ambulances and the performance of any authorized emergency care.

(2) "Governmental entity" means the state, or any department, agency or authority of the state, any city, county, district or other political subdivision or public corporation and any instrumentality thereof. (Ord. 418 § 2 (part), 1976.)

2.60.020 Emergency Medical Services Program. Pursuant to K.S.A. 65-4301 et seq., as amended, it shall be the duty of the chief of the Fire Department to provide a program for emergency medical service, which shall be known and designated as the "Emergency Medical Service Program" of the city. (Ord. 418 § 2 (part), 1976.)

2.60.030 Contracts and Coordination with Other Governmental Entities. The Governing Body, pursuant to K.S.A. 65-4304 as amended, reserves the right to contract or otherwise agree to combine or coordinate its activities, facilities and personnel with those of any person or governmental entity for the purpose of furnishing emergency medical service within or without the city. (Ord. 418 § 2 (part), 1976.)

2.60.040 Rates and Emergency Medical Services. Repealed. (Ord. 03-71 § 1, 2003; Ord. 02-117 § 1, 2002; Ord. 83-87 § 1, 1983; Ord. 418 § 2 (part), 1976.)

CHAPTER 2.62

ENERGY ADVISORY BOARD

Sections:

2.62.010 Creation.
2.62.020 Size of Board.
2.62.030 Qualification of Members.
2.62.040 Appointment to Board.
2.62.050 Term of Office.
2.62.060 Filling of Vacancies.
2.62.070 Removal.
2.62.080 Compensation.
2.62.090 Organization.
2.62.100 Duties.
2.62.110 Advisory Actions.
2.62.120 Expenditure of Funds.

2.62.010 Creation. There is hereby established an Energy Advisory Board for the City of Olathe, Kansas. (Ord. 81-04 § 1 (part), 1981.)

2.62.020 Size of Board. The Energy Advisory Board shall consist of seven members. One member shall be a member of the Olathe Governing Body and one member shall be a member of the Olathe Planning Commission. (Ord. 87-30 § 8, 1987; Ord. 81-04 § 1 (part), 1981.)

2.62.030 Qualification of Members. All members to the Energy Advisory Board shall be duly qualified electors of the City of Olathe or own, or be an employee of, a business located in the city. (Ord. 81-04 § 1 (part), 1981.)

2.62.040 Appointment to Board. The members of the Energy Advisory Board shall be appointed by the mayor with the consent and approval of the remainder of the Governing Body. (Ord. 87-30 § 9, 1987; Ord. 81-04 § 1 (part), 1981.)

2.62.050 Term of Office. Each member of the Energy Advisory Board shall serve a term of four years. Each member may be reappointed to serve an additional term, but in no case shall a member serve for a period of time exceeding eight consecutive years. Each shall serve until a successor is appointed. (Ord. 81-04 § 1 (part), 1981.)

2.62.060 Filling of Vacancies. Vacancies occurring before the expiration of a term shall be filled by appointment by the mayor with the consent of the remaining members of the Governing Body for the remainder of the unexpired term. (Ord. 87-30 § 10, 1987; Ord. 81-04 § 1 (part), 1981.)

2.62.070 Removal. The mayor, with the consent of the remaining members of the Governing Body, may remove any appointed member of the board at any time for good and sufficient cause. (Ord. 87-30 § 11, 1987; Ord. 81-04 § 1 (part), 1981.)

2.62.080 Compensation. The members of the Energy Advisory Board shall serve without compensation. (Ord. 81-04 § 1 (part), 1981.)

2.62.090 Organization. A majority of the members of the Energy Advisory Board shall constitute a quorum for the transaction of business, they may hold general or special meetings at such times as they may by order direct, and may make and establish such reasonable bylaws, rules and regulations as may be necessary for their own government and for the full and complete execution of their duties and responsibilities. (Ord. 81-04 § 1 (part), 1981.)

2.62.100 Duties. The Energy Advisory Board shall have the following functions, duties and responsibilities:

(1) To evaluate the energy conservation needs of the City of Olathe, Kansas;

(2) To develop an energy conservation policy for the consideration of the Olathe Governing Body. Such policy shall include operational goals and a program design;

(3) To review the energy conservation activities of the various departments of the City of Olathe;

(4) To oversee the development of the intergovernmental grant applications concerning energy conservation activities;

(5) To report to the Olathe Governing Body, on a semiannual basis, concerning the status of energy conservation activities in Olathe, Kansas;

(6) To arrange and disseminate information concerning energy conservation and energy conservation activities. (Ord. 87-30 § 12, 1987; Ord. 81-04 § 1 (part), 1981.)

2.62.110 Advisory Actions. All actions taken by the board shall be of an advisory nature only, and a written report of such recommended activities and programs together with recommended action shall be given to the Governing Body for appropriate action. (Ord. 87-30 § 14, 1987; Ord. 81-04 § 1 (part), 1981.)

2.62.120 Expenditure of Funds. The Energy Advisory Board shall have no authority to expend funds unless and until the Governing Body has given specific advance authorization for the expenditure of funds. (Ord. 87-30 § 15, 1987; Ord. 81-04 § 1 (part), 1981.)

CHAPTER 2.64

MAHAFFIE FARMSTEAD ADVISORY BOARD

Sections:

2.64.010 Creation.
2.64.020 Size of Board.
2.64.030 Appointment, Vacancies, Removal, Compensation.
2.64.040 Term of Appointment.
2.64.050 Organization.
2.64.060 Duties and Responsibilities.
2.64.070 Advisory Actions.

2.64.010 Creation. There is hereby established a Mahaffie Farmstead Advisory Board for the City of Olathe, Kansas. (Ord. 81-16 § 1 (part), 1981.)

2.64.020 Size of Board. The Mahaffie Farmstead Advisory Board shall consist of seven members. One member shall be a representative from Unified School District No. 233. The director of Parks and Recreation and the historical coordinator shall be ex officio, non-voting members. (Ord. 81-16 § 1 (part), 1981.)

2.64.030 Appointment, Vacancies, Removal, Compensation. The members of the Mahaffie Farmstead Advisory Board shall be appointed by the mayor with the consent and approval of the remainder of the Governing Body. Vacancies occurring before the expiration of a term shall be filled by appointment by the mayor with the consent of the remaining members of the Governing Body for the remainder of the unexpired term. The mayor with the consent of the remaining members of the Governing Body, may remove any appointed member of the board at any time for good and sufficient cause. The members of the Mahaffie Advisory Board shall serve without compensation. (Ord. 87-30 § 15, 1987; Ord. 81-16 § 1 (part), 1981.)

2.64.040 Term of Appointment. The term of appointment for each member shall be four years, except those members of the board first selected. One shall serve one year, two shall serve two years, two shall serve three years and two shall serve four years. Each member may be reappointed to the board, provided that the member's term of office shall not exceed eight consecutive years. Each shall serve until a successor is appointed. (Ord. 81-16 § 1 (part), 1981.)

2.64.050 Organization. The members of the Mahaffie Farmstead Advisory Board shall, by majority vote, elect from among the members a chairperson and vice-chairperson. The board may make and establish such reasonable bylaws, rules and regulations as may be necessary for their own government, and for the full and complete execution of their duties and responsibilities. General or special meetings may be held at such time as the chairperson or vice-chairperson directs. A majority of the members of the Mahaffie Farmstead Advisory Board shall constitute a quorum for the transaction of business. (Ord. 81-16 § 1 (part), 1981.)

2.64.060 Duties and Responsibilities. The Mahaffie Farmstead Advisory Board shall have the following functions, duties and responsibilities:

(1) To prepare and update restoration plans and to establish priorities for restoration and development projects;

(2) To establish policies pertaining to the use and operation of Mahaffie Farmstead;

(3) To engage in activities for the purpose of obtaining monetary and service donations for the restoration of the Farmstead;

(4) To engage in activities for the purpose of informing the public about the Mahaffie Farmstead and programs conducted at the Farmstead;

(5) To determine use of funds donated for the restoration or development of the Farmstead;

(6) To advise on programs and activities to conducted at the Mahaffie Farmstead;

(7) To assist the historical coordinator in preparing annual budget recommendations. (Ord. 81-16 § 1 (part), 1981.)

2.64.070 Advisory Actions. All actions taken by the board shall be of an advisory nature only. Recommended actions and policies shall be given to the Governing Body for appropriate action. (Ord. 87-30 § 16; 1987; Ord. 81-16 § 1 (part), 1981.)

CHAPTER 2.66

OPEN PUBLIC RECORDS

Sections:

2.66.010 Policy.
2.66.020 Local Freedom of Information Officer and Records Custodian.
2.66.030 General Procedures.
2.66.040 Procedures for Inspection.
2.66.050 Procedures for Copying.
2.66.060 Fee Schedule for Copying Open Public Records.
2.66.070 Denial of Requests.

2.66.010 Policy. K.S.A. 45-215, et. seq., the Kansas Open Records Act, declares that, 'public records shall be open for public inspection by any person unless otherwise provided by this act, and that this act shall be liberally construed and applied to promote such policy'. Consistent with the policy, duties and procedures established by the State of Kansas in the act, and to facilitate the public policy of open government, the Local Freedom of Information Officer and all city record custodians shall provide full access and assistance in a timely and efficient manner to persons who request access to open public records. Copies of documents generated at recent public activities, such as Governing Body or commission or other board meetings and other current business activities, have been furnished on a free-of-charge basis in the past and that policy will continue. This ordinance and the act do not create any duties to retain particular public records, nor do they affect authority to destroy public records, the discretion of a public official to 'open' a record when not required or any other statutory created duty to make available for public inspection a particular record. (Ord. 00-79 § 1, 2000; Ord. 87-30 § 17, 1987; Ord. 84-07 § 1, 1984.)

2.66.020 Local Freedom of Information Officer and Records Custodian.

A. Local Freedom of Information Officer.

1. The Governing Body of the City of Olathe appoints the City Clerk as the local freedom of information officer.

2. The local freedom of information officer or his or her designee shall:

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

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

c) Respond to inquiries relating to the Open Records Act; and

d) Establish the requirements for content, size, shape and other physical characteristics of a brochure required to be displayed or distributed or otherwise make available to the public under the Open Records Act. In establishing such requirements for the content of the brochure, the local freedom of information officer shall include plainly written basic information about the rights of a requestor, the responsibilities of a public agency, and the procedure for inspecting and obtaining a copy of public records under the Open Records Act.

B. Custodians.

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

2. All City officers and employees appointed or designated under this ordinance shall prominently display or distribute or otherwise make available to the public a brochure in the form prescribed by the local freedom of information officer that contains basic information about the rights of a requestor, the responsibilities of a public agency, and the procedures for inspecting or obtaining a copy of public records under the Open Records Act. The official custodian shall display or distribute or otherwise make available to the public the brochure at one or more places in the administrative offices of the governmental body where it is available to members of the public who request public information in person under this ordinance.

3. The following City officers are hereby appointed as official custodian and record 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 records and duties:

a) Official Custodian. The City Clerk is appointed as official custodian of City records and as such shall receive and coordinate all requests for access to public records except for law enforcement records which will be received and coordinated by the Records Coordinator for the Police Department and the Fire Marshal for the Fire Department as provided in subparagraph b) following.

b) Custodial Procedure. The official custodian and law enforcement record custodian will be guided by the general provisions of Section 2.66.030 and the specific provisions contained in subparagraphs 1) and 2) following.

1) Official Custodian. If a requested record, other than a law enforcement record, is on file in the City Clerk's record vault, the City Clerk will act on the request. If the record is on file in another department, the City Clerk will coordinate with the record custodian for that department and obtain a date and time that the record will be available for inspection. The City Clerk will stamp the request form "Received" and ensure its delivery to the pertinent record custodian for action as appropriate. It will not be the City Clerk's duty to determine the accessibility of records not held by his office. The City Clerk will maintain a file of all requests received by the City other than law enforcement record requests.

2) Law Enforcement Records Custodian. Requests for law enforcement records will be received by the Records Coordinator for the Police Department and the Fire Marshal for the Fire Department and acted upon in accordance with the procedures established herein. The Records Coordinator for the Police Department and the Fire Marshal for the Fire Department will maintain a file of all law enforcement record requests separate of the file kept by the official custodian.

C. Record Custodians. The following City officials are appointed record custodians for all public records not on file in the City Clerk's office and as are kept and maintained in their respective offices:

1. City Manager.
2. Records Coordinator of the Police Department
3. Fire Marshal

D. Additional Record Custodians. Each of the custodians appointed in subsections A. B. and C. above is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act and this ordinance. Whenever record custodians shall appoint another person as an additional record custodian, he or she shall notify the City Clerk of such designation in writing, and the City Clerk shall maintain a register of all such designations. (Ord. 11-20 § 1, 2011; Ord. 00-79 § 2, 2000; Ord. 84-104 § 1 & 3, 1984; Ord. 84-07 § 1, 1984.)

2.66.030 General Procedures. The following procedures are hereby adopted and shall be applied by the official custodian and each record custodian and additional record custodian:

(1) Consistent with the policy, duties and procedures established by the State of Kansas in K.S.A. 45-205 et seq., as amended, the City's official and record custodians shall provide full access and assistance in a timely and efficient manner to persons who request access to open public records.

(2) Record custodians shall adopt and apply procedures which will ensure the protection and preservation of public records with respect to the manner in which such records are inspected and copied.

(3) All persons requesting inspection of or a copy of open public records must make such request in writing, except as otherwise provided in this ordinance, and include their name, address and a reasonable description of the record document(s) they desire to inspect and copy. Although no particular form is required, the official custodian shall provide a City form for the requestor's convenience.

(4) Record custodians shall take necessary measures, not inconsistent with their duties, to provide full public access to open public records, to ensure that the essential functions of the custodian's office, department or agency are not disrupted by requests for record inspection and copying.

(5) All inspections and copying of Open Public Records shall be performed by, or under the supervision of, the record custodian responsible for such records.

(6) All record inspection and copying requests are to be submitted by the person requesting the record. The official or record custodian may demand reasonable identification of any person requesting a record.

(7) Fees for copying are due at the time application is made and are to be paid to the official custodian. A fee schedule shall be adopted by the Governing Body of the City by resolution.

(8) The official custodian shall determine and assess a charge covering mailing and handling costs accrued in responding to requests through the mail service.

(9) The official custodian may exercise his or her discretion to reduce or waive any copying fee when such is in the public interest.

(10) No record copying charge shall be assessed against officers or employees of the City who make requests which are reasonably necessary to the performance of their official duties.

(11) Hours for making requests for inspection and/or copying shall be all regular working hours for each day the office maintains regular working office hours. If an office keeping or maintaining public records does not have working office hours Monday through Friday, the record custodian for such office shall establish hours for each such day when no regular office hours are kept; at which time members of the public may make requests for record inspection and/or copies of records.

(12) Each request for access to open public records shall be acted upon as soon as possible, but no later than the end or the third business day following the date that the request was received. If access is not granted within three working days the requestor will be given a day, time and place that the record will be made available.

(13) Information extracted from public records and routinely passed to citizens verbally during the normal course of business will continue to be disseminated in this manner. For example, information from the computerized real estate file will continue to be given out by telephone. Additionally, all records which arise from current City business activities, such as Governing Body or other commission and board meetings, will be provided as in the past, for inspection and copying at no charge to the requesting individual.

(14) The record custodian will allow access to an open public record only in the area of the City Hall or other City building in which the record is kept. Under no circumstances will a public record be removed for public inspection or copying from such premises.

(15) The above procedure, as well as any other inspection and copying procedures, shall be posted in a conspicuous place in the office of the official custodian. (Ord. 02-118 § 1, 2002; Ord. 00-79 § 3, 2000; Ord. 87-30 § 18, 1987; Ord. 84-07 § 1, 1984.)

2.66.040 Procedures for Inspection. The following procedures are hereby adopted and shall be applied by the official custodian and each record custodian (including additional record custodians):

(1) Record custodians shall handle all inspection requests in accordance with their duties to protect and preserve public records and to assist persons requesting inspection of open public records.

(2) No particular request form is required for submission of a request (see Section 2.66.030 (3) above), however, request submitted must be in writing; contain the name and address of the requester, and a reasonable description of the document (s) to be inspected; be in the name of an individual person(s); and delivered to the official custodian (city clerk).

(3) A written request is sufficient if it reasonably describes the record sought. In instances where the requester cannot provide sufficient information to identify a record, the official custodian shall assist in making such identification.

(4) In cases where a request for a specific record gives the official or record custodians reason to believe that the record contains information of a personal nature which if disclosed would constitute an unwarranted invasion of personal privacy, the official or record custodians shall inform the requester that a 72-hour waiting period must run before such record may be inspected. During that 72-hour period, the custodian shall make every reasonable effort to determine the identity of those persons whose privacy interest may be so affected by disclosure. The record custodian shall attempt to contact such persons and ascertain whether they, or any of them, will seek a court order challenging disclosure. Additionally, he will notify the municipal counsel of the possibility of a privacy violation and obtain a legal opinion pertaining thereto. If, after these steps and the custodian's own objective assessment, it appears that a privacy violation could occur, the custodian shall deny inspection pending the outcome of litigation or an intervening court order. (Ord. 84-07 § 1, 1984.)

2.66.050 Procedures for Copying. The following procedures are hereby adopted and shall be applied by the official custodian and each record custodian (including additional record custodians):

A. Record custodians shall handle all copy requests in accordance with their duties to protect and preserve public records and to assist persons requesting copies of open public records.

B. All request forms must be completed by the party requesting the copies. In all cases the party so requesting must be an individual person or persons. Written requests may be made on the form provided by the official custodian.

C. Mechanical reproduction of a record shall not be undertaken when it is the judgment of the record custodian that any available means of mechanically reproducing the subject record is likely to cause damage to such record.

D. Copy fees shall be such fees as are adopted by the Governing Body of the City by resolution. No copy fee shall be assessed when multiple copies of the record requested have been prepared for free public distribution, or when the official custodian determines that the cost of charging and handling the fee exceeds the cost of providing a copy without charge. Further, copies of current City business activities, such as Governing Body and or other commission and board meetings, will continue to be furnished free of charge as in the past (see Section 2.66.010).

E. No copying fee will be assessed when a denial of a request is made. (Ord. 11-20 § 2, 2011; Ord. 02-118 § 2, 2002; Ord. 87-30 § 19, 1987; Ord. 84-07 § 1, 1984.)

2.66.060 Fee Schedule for Copying Open Public Records. In order to avoid the necessity of using general public funds of the city to subsidize special services and benefits to a record requester, a schedule of fees for copying of open public records will be published by a separate resolution adopted by the Governing Body of the City. Such fees are intended to cover costs of labor, materials and equipment to the city in reproducing public records. (Ord. 02-118 § 3, 2002; Ord. 84-07 § 1, 1984.)

2.66.070 Denial of Requests.

(1) Inspection. A custodian may deny a request for inspection on grounds that the requested record is not a record required by law to be disclosed or that such a request would create an unreasonable burden upon the city or that it was made with the intent to disrupt city activity. In the first instance, a record not required by law to be disclosed, the record is either not a record covered by the act or it is one that is specifically exempted from mandatory disclosure by the act. In no instance will a custodian issue a denial of access to public record without first obtaining a legal opinion from the municipal counsel. Denials when issued, will be done in writing on a city form which provides the requester with information as to why the record access was denied and notifies the requester that it is his right to challenge the denial in the Johnson County District Court.

(2) Copy. Requests for copying records that have been made available for inspection can only be denied if the mechanical reproduction would damage the record, such copying is restricted under federal or state law or the act specifically exempts such copying. In no instance will a custodian deny a copy request without first obtaining a legal opinion from the municipal counsel. Denials, when issued, will be done in writing on a city form which provides the requester with information as to why the copy was denied and notifies the requester that it is his right to challenge the denial in the Johnson County District Court. (Ord. 84-07 § 1, 1984.)

CHAPTER 2.68

SISTER CITIES COMMITTEE

Sections:

2.68.010 Creation.
2.68.020 Size of Board.
2.68.030 Appointment, Vacancies, Removal, Compensation.
2.68.040 Term of Appointment.
2.68.050 Organization.
2.68.060 Duties and Responsibilities.

2.68.010 Creation. There is hereby established a Sister Cities Committee for the City of Olathe, Kansas.

2.68.020 Size of Board. The Sister Cities Committee shall consists of (9) voting members. A Governing Body member and a school district representative shall serve as ex-officio, nonvoting members. (Ord. 87-30 § 20, 1987; Ord. 85-121 § 1, 1985.)

2.68.030 Appointments, Vacancies, Removal, Compensation. The members of the Sister Cities Committee shall be appointed by the mayor with the consent of and approval by the remainder of the Governing Body. Vacancies occurring before the expiration of a term shall be filled by appointment by the mayor with the consent of the remaining members of the Governing Body for the remainder of the unexpired term. The mayor with the consent of the remaining members of the Governing Body may remove any appointed member of the committee at any time for good and sufficient cause. The members of the Sister Cities Committee shall serve without compensation. (Ord. 85-121 § 1, 1985.)

2.68.040 Term of Appointment. The term of appointment for each member shall be four years, except those members of the committee first selected. Two shall serve one year, two shall serve two years, two shall serve three years and three shall serve four years. Each member may be reappointed. Each shall serve until a successor is appointed. (Ord. 85-121 § 1, 1985.)

2.68.050 Organization. The members of the Sister Cities Committee shall by a majority vote, elect from among the members a chairperson, vice-chairperson and any other officers deemed necessary.
The committee may make and establish such reasonable by-laws, rules and regulations as may be necessary for their own governance, and for the full and complete execution of their duties and responsibilities. Meetings shall be held at least once a quarter. Additional meetings may be held at such time as the chairperson and vice-chairperson direct. A majority of the members of the Sister Cities Committee shall constitute a quorum for the transaction of business. (Ord. 85-121 § 1, 1985.)

2.68.060 Duties and Responsibilities. The Sister Cities Committee shall have the following functions, duties and responsibilities:

(1) To promote mutual friendship and cultural understanding between Olathe and its sister cities;

(2) To develop, compile, coordinate and exchange information with officials and citizens of the sister cities;

(3) To plan, develop and carry out mutual economic, athletic and cultural activities.

(4) To provide educational and cultural exchange programs;

(5) To encourage private cooperation and exchange of technical, medical and manufacturing information and operation;

(6) To promote information about the sister cities programs with Olathe. (Ord. 85-121 § 1, 1985.)

CHAPTER 2.70, Audit Committee. Repealed 2/18/14. (Ord. 14-11 § 1, 2014; Ord. 94-25 § 2, 1994; Ord. 88-18 § 1, 1988.)

CHAPTER 2.72, Community Image Committee. Repealed 2/18/14. (Ord. 14-12 § 1, 2014; Ord. 93-01, 1993; Ord. 91-60, 1991; Ord. 88-112 § 1, 1988.)

CHAPTER 2.74

BOARD OF CODE REVIEW

Sections:

2.74.010 Creation.
2.74.020 Size of Board, Qualifications of Members.
2.74.030 Appointment, Term, Vacancies, Removal, Compensation.
2.74.040 Organization.
2.74.050 Duties and Responsibilities.

2.74.010 Creation. There is hereby created a Board of Code Review for the City of Olathe, Kansas. (Ord. 89-93 § 1, 1989.)

2.74.020 Size of Board, Qualifications of Members. The Board of Code Review shall consist of seven (7) members. One member shall be a master electrician, one member shall be a master plumber, one member shall be a master mechanical installer, one member shall be a professional licensed engineer and/or architect, one member shall be a builder and/or contractor, and two members shall be people who by training and experience are qualified to pass on matters pertaining to building construction. Further, the Chief Building Official, Fire Marshal, and City Engineer shall serve as ex-officio, nonvoting members. (Ord. 14-16 § 1, 2014; Ord. 01-83 § 1, 2001; Ord. 89-93 § 1, 1989.)

2.74.030 Appointment, Term, Vacancies, Removal, Compensation. The members of the Board of Code Review shall be appointed by the mayor with the consent and approval of the remainder of the Governing Body. The term of office shall be four years except for the members first appointed of which two shall serve for two years, three shall serve for three years, two shall serve for four years. Expiration date of the terms for members appointed by the mayor shall be September 1st of the appropriate year for each member. Ex-officio members shall serve as long as they remain employees of the city in appropriate position. Vacancies occurring before the expiration of a term shall be filled in the manner of the original appointment for the remainder of the unexpired term. The mayor, with the consent of the remainder of the Governing Body, may remove any member appointed by the mayor for a good and sufficient cause. The members of the Board of Code Review shall serve without compensation. (Ord. 89-93 § 1, 1989.)

2.74.040 Organization. The members of the Board of Code Review shall, by majority vote, elect from among the appointed members a chairperson or vice chairperson. The committee may make and establish such reasonable by-laws, rules and regulations, as may be necessary for their own governance for the full and complete execution of their duties and responsibilities; provided such rules and regulations do not conflict with procedures established by other chapters of this code or other codes adopted by reference by city ordinance. The board may form itself into sub-committees composed of no less than three members for the purpose of reviewing and rendering decisions pursuant to the duties and responsibilities described in Section 2.74.050 of this chapter. The ex-officio member whose responsibility includes enforcement of the code being questioned shall be a non-voting member of such sub-committee and shall act as secretary to record the proceedings of the meeting and decisions rendered. General or special meetings may be held at such time as the chairperson may direct. A majority of the members of the board shall constitute a quorum for the transaction of business. (Ord. 89-93 § 1, 1989.)

2.74.050 Duties and Responsibilities. The Board of Code Review shall have the following functions, duties and responsibilities:

1. To review, evaluate and make recommendations to the Governing Body of the City of Olathe on the adoption or amendment of building, plumbing, mechanical, electrical, Chapters 15.22 and 15.38 Property Maintenance, storm water, fuel gas, fire and life safety codes.

2. To receive, evaluate and determine the suitability of materials and methods of construction alternate to those established by the building, plumbing, mechanical, electrical, Chapters 15.22 and 15.38 Property Maintenance, storm water, fuel gas, fire and life safety codes.

3. To review and provide interpretations of the provisions of the building, plumbing, mechanical, electrical, Chapters 15.22 and 15.38 Property Maintenance, storm water, fuel gas, fire and life safety codes.

4. To receive requests and render a decision to mitigate specific provisions of the various codes which create practical difficulties in their enforcement.

5. To advise the Governing Body of the City of Olathe on other such matters as may be requested by the Governing Body. (Ord. 14-16 § 2, 2014; Ord. 08-87 § 1, 2008; Ord. 01-83 § 2, 2001; Ord. 89-93 § 1, 1989.)

CHAPTER 2.76 - Cable Television Advisory Committee. Repealed 2/18/14. (Ord. 94-10 § 1, 1994.)

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CHAPTER 2.78

CITIZEN'S POLICE ADVISORY COUNCIL

Sections:

2.78.010 Creation.
2.78.020 Size of Council.
2.78.030 Qualifications of Members.
2.78.040 Appointment to Council.
2.78.050 Term of Office.
2.78.060 Filling of Vacancies.
2.78.070 Removal.
2.78.080 Compensation.
2.78.090 Organization.
2.78.100 Duties and Responsibilities.
2.78.110 Advisory Actions.
2.78.120 Expenditure of Funds.
2.78.130 Council Staff Support.

2.78.010 Creation. There is hereby established a Citizen's Police Advisory Council for the city of Olathe, Kansas. (Ord. 95-08 § 1, 1995.)

2.78.020 Size of Council. The Citizen's Police Advisory Committee shall consist of eleven (11) members. The Chief of Police shall be an ex-officio member of the Council. (Ord. 95-08 § 1, 1995.)

2.78.030 Qualification of Members. All members of the Citizen's Police Advisory Council shall be duly qualified electors of the city of Olathe; or own, or be an employee of a business located in the city. Membership should also reflect a diversity of civic, service charitable, religious and business groups. (Ord. 95-08 § 1, 1995.)

2.78.040 Appointment to Council. The members of the Citizen's Police Advisory Council shall be appointed by the Mayor with the consent and approval of the remainder of the Governing Body. (Ord. 95-08 § 1, 1995.)

2.78.050 Term of Office. Each member of the Council shall serve a term of three (3) years, except those members first selected. Four (4) members of the first Council shall be appointed for three (3) year terms, four (4) shall be appointed for two (2) year terms, and three (3) shall be appointed for a one (1) year term. Thereafter, appointments shall be for three (3) year terms. (Ord. 95-08 § 1, 1995.)

2.78.060 Filling of Vacancies. Vacancies occurring before the expiration of term shall be filled by appointment by the Mayor with the consent of the remaining members of the Governing Body for the remainder of the unexpired term. (Ord. 95-08 § 1, 1995.)

2.78.070 Removal. The Mayor, with the consent of the remaining members of the Governing Body, may remove any appointed member to the Council at any time for good and sufficient cause. (Ord. 95-08 § 1, 1995.)

2.78.080 Compensation. The members of the Council shall serve without compensation. (Ord. 95-08 § 1, 1995.)

2.78.090 Organization. A majority of the members of the Council shall constitute a quorum for the transaction of business. The may hold general meetings once a month. Special meetings may be held at such times as the Council may direct. The Council may make and establish such reasonable by-laws, rules and regulations as may be necessary for their own government and for the full and complete execution of their duties and responsibilities. (Ord. 95-08 § 1, 1995.)

2.78.100 Duties and Responsibilities. The duties of the Council shall be:

a. To serve as an advisory body to the City Council, City Manager and the Police Chief;

b. To study, recommend and review policy programs and concepts utilized in other communities which are designed to improve understanding and communication between the police and the community;

c. To invite and enlist the cooperation of all economic, educational, social, religious, social and ethnic groups of the city, and to act as a coordinating agency among them, in the establishment and maintenance of improved understanding and communication between the police and the community;

d. To institute and conduct educational and other programs to promote understanding and communication between the police and the community; and

e. To provide semi-annual reports to the Governing Body. (Ord. 95-08 § 1, 1995.)

2.78.110 Advisory Actions. All actions taken by the Council shall be of an advisory nature only, and a written report of recommended actions or policies shall be given to the Governing Body for action. (Ord. 95-08 § 1, 1995.)

2.78.120 Expenditure of Funds. The Council shall have no authority to expend funds unless and until the Governing Body of the city has given specific advance authorization for the expenditure of funds. (Ord. 95-08 § 1, 1995.)

2.78.130 Council Staff Support. The city manager shall assign appropriate staff support to the Council to facilitate the completion of Council business. (Ord. 95-08 § 1, 1995.)

CHAPTER 2.80 - PROPERTY MAINTENANCE APPEAL BOARD. Repealed 3/4/14. (Ord. 14-18 § 1, 2014; Ord. 97-25 § 1, 1997.)

CHAPTER 2.82

OLATHE PUBLIC ART AND CULTURE COMMISSION

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2.82.010 Creation. There is hereby created and established an Olathe Public Art and Culture Commission for the City. (Ord. 00-06 § 1, 2000.)

2.82.015 Purpose. The purpose of the Olathe Public Art and Culture Commission is to vitalize the City by supporting the region's cultural assets, enriching the human spirit, and integrating arts and culture into Olathe's community life. The Commission will oversee and administer the process for allocating public dollars for arts and cultural projects which enhance the quality of life, enrich the human spirit, encourage and strengthen the creative process, and deepen community and societal values. The commission will make recommendations to the Olathe City Council for allocating the funding. (Ord. 06-123 § 1, 2006; Ord. 00-14 § 1, 2000.)

2.82.020 Size of Commission. The Olathe Public Art and Culture Commission shall consist of 15 members. (Ord. 06-123 § 2, 2006; Ord. 00-06 § 1, 2000.)

2.82.030 Membership. The membership for the Commission shall be as follows:

(a) One member who shall be recommended by and represent the Olathe Civic Band;

(b) One member who shall be recommended by and represent the Olathe Community Orchestra;

(c) One member who shall be recommended by and represent the Olathe Community Theatre Association;

(d) One member who shall be recommended by and represent the Olathe Visual Artists;

(e) One member who shall be recommended by and represent the Hidden Glen Arts Festival;

(f) One member who shall be recommended by and represent the Olathe Youth Symphony;

(g) Two members recommended by the Board of Directors of the Olathe Arts Alliance;

(h) Seven members recommended by the Governing Body of the City of Olathe. (Ord. 06-123 § 3, 2006; Ord. 00-06 § 1, 2000.)

2.82.040 Appointment to Commission. The members of the Commission shall be appointed by the Mayor with the consent and approval of the remainder of the Governing Body. (Ord. 00-06 § 1, 2000.)

2.82.050 Term of Office.

(A) The term of office for the members of the Commission shall be for three years.

(B) Members of the Commission shall not serve more than three (3) complete successive terms. (Ord. 06-123 § 4, 2006; Ord. 00-06 § 1, 2000.)

2.82.060 Filling of Vacancies. Vacancies occurring before the expiration of term shall be filled by appointment by the Mayor with the consent of the remaining members of the Governing Body in the same manner as such member received the original appointment. (Ord. 00-06 § 1, 2000.)

2.82.070 Removal. The Mayor, with the consent of the remaining members of the Governing Body, may remove any appointed member to the Commission at any time for good and sufficient cause. Cause shall include, but be not limited to, violations of the conflict of interest laws, any violation of any applicable law, regulation or policy, neglect of duty, and failure to comply with the City's attendance policy. (Ord. 00-06 § 1, 2000.)

2.82.080 Compensation. Members of the Commission shall serve without pay. The City may pay the cost of travel on official business, secretary time, and storage space for documents, along with paper and office supplies for the Commission. (Ord. 00-06 § 1, 2000.)

2.82.090 Organization.

(A) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(B) The Commission may meet as often as necessary to deal with its business, but shall meet no less than two (2) times a year. A public hearing to provide public input and discussion of goals and objectives shall be held once every year.

(C) The officers of the Commission shall be selected by the Commission members at the first meeting of the Commission following the thirty first day of December of each year, and shall serve until the thirty first day of December the next succeeding year. The officers will be selected at an annual meeting and shall consist of Chairman, Vice Chairman, Secretary, Treasurer and a staff liaison member designated by the City Manager. The staff liaison is a non-voting member of the Commission. No officer shall serve in the same capacity for more than two (2) consecutive one-year terms.

(D) The meetings of the Commission shall be subject to the Kansas Open Meetings Law; its records subject to the Kansas Open Records Law; its members bound by the City's Code of Ethics and the State of Kansas Conflict of Interest Statutes; and any financial or property transactions or records subject to review by the City's auditors. (Ord. 06-123 § 5, 2006; Ord. 00-06 § 1, 2000.)

2.82.100 Powers and Duties. The Commission shall have the following powers and duties.

(A) To assist and advise the City Council in the establishment of essential policies, rules and regulations relating to public art and culture programs in Olathe. In addition, the Commission may recommend policies related to the presentation, acquisition, disposition, maintenance, use, care and promotion of public arts within the City.

(B) To recommend to the City Council a method of allocating public dollars for arts and cultural enrichment in our community. Recommendations for criteria for funding from the Public Art and Culture Commission will be based on the following:

a) Only 501c3 agencies may qualify, although the Commission itself may also submit and qualify for programs;

b) Funding must benefit the Olathe community, its artists and audiences;

c) Applications to the Commission should detail, in narrative, the purpose of the project, who are the participants, what is the potential audience. A financial statement containing the annual budget (income by source, expenses by item) must also be presented. Itemized budget for the proposed project completes the application;

d) Applications for grants must be submitted c/o Chairman, Olathe Public Art and Culture Commission, P. O. Box 768, Olathe, KS 66051;

e) Deadline for grant applications will be determined by the Commission;

f) Successful applications will be funded by June 30th of each year.

(C) The Commission shall further have the authority, and it shall be its duty, to review applications made by agencies, commissions and other subdivisions of the City, or by private groups seeking funds in connection with projects involving the arts and cultural enrichment. Following such review, the Commission shall have the authority, and it shall be its duty to recommend to the City Council which, if any, such applications shall be endorsed and funded.

(D) This review process will include a process for soliciting proposals, screening proposals, ranking proposals and making recommendations to the City Council for the allocation of these dollars for public arts and cultural activities in our community.

(E) The Commission will have authority to establish and reduce to writing criteria, rules and regulations for the evaluation of items submitted for its consideration. These rules and regulations shall become effective when approved by the City Council.

(F) The Commission is authorized to accept on behalf of the City gifts, contributions, donations and gratuities to the Commission. Such gifts, contributions, donations and gratuities shall be set aside in a special fund known as the Arts and Culture Fund and shall be distributed only upon approval of the City Council. Such gifts, contributions, donations and gratuities shall be used solely for purposes consistent with this Ordinance and the regulations established herein.

(G) Submit to the City Manager by October 30th of each year a written work plan, a report on activities for the preceding year, and a report on attendance of members. (Ord. 00-06 § 1, 2000.)

2.82.110 City Facilities. The City Manager may arrange for the Commission to use a meeting room when needed. (Ord. 00-06 § 1, 2000.)

2.82.120 Expenditure of Funds. The Commission shall have no authority to expend funds unless and until the Governing Body has given specific advance authorization for expenditures. (Ord. 00-06 § 1, 2000.)

CHAPTER 2.84

HISTORIC PRESERVATION

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2.84.010 Scope
2.84.020 Definitions
2.84.030 Olathe Historic Preservation Board
2.84.040 Historic Landmark Designation
2.84.050 Historic Landmark Designation Criteria
2.84.060 Historic District Designation Criteria
2.84.070 Nomination
2.84.080 Historic District Exemptions. (Repealed 12-7-10)
2.84.090 Historic Preservation Board
2.84.100 Procedure for Designation of Historic Landmark and Historic District
2.84.110 Historic District Preservation Guidelines
2.84.120 Historic District Designation Administrative Requirements
2.84.130 Certificate of Appropriateness Review
2.84.135 Review Standards
2.84.140 Historic Landmark and Historic District Demolition and Moving Permits
2.84.150 Review of Demolition Buildings and Moving Permits of/for Historic Resources
2.84.160 Historic Landmark and Historic District Demolition by Neglect
2.84.170 Penalty
2.84.180 Severability

2.84.010 Scope. The Governing Body finds and declares as a matter of public policy that the identification, designation, protection, enhancement, preservation and use of historic resources is a public necessity and is required in the interest of the culture, prosperity, education and welfare of the public. Preservation of historic resources will:

A.. Protect, enhance and perpetuate historic, distinctive and important elements of the City's cultural, social, economic, political, archaeological and architectural history;

B. Safeguard the City historic and cultural heritage as embodied and reflected in such historic resources;

C. Stabilize and improve property values in such locations of historic resources and thus strengthen the economy of the City;

D. Promote and encourage restoration, rehabilitation, and maintenance of historic properties, neighborhoods and districts and thus combat blight and decay;

E. Foster civic pride in the beauty and noble accomplishments of the past;

F. Protect and enhance City attractions to tourists and visitors and provide support and stimulus to business and industry; and

G. Promote the use and adaptive reuse of historic resources for the culture, education, enjoyment and economic welfare of the City citizens and visitors. (Ord. 07-54 § 1, 2007.)

2.84.020 Definitions. As used in this Chapter, the following words, terms and phrases shall be as defined below:

Alteration means any change to or modification, through public or private action, of any historic resource or any property located within a historic district, including, but not limited to, exterior changes to, or modifications of, a structure or any of its architectural details or visual characteristics, including paint color and surface texture, grading, surface paving, new structures, cutting or removal of trees and other natural features, disturbances of archeological sites or areas, and the placement or removal of any object such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plants, and landscape accessories affecting the historic qualities of the property.

Appurtenances and environmental setting means the parcel, as of the date of "historic district" or "historic landmark" designation, on which is located a historic resource. Appurtenances and environmental setting include walkways and driveways (whether paved or not) fences, gateways, open space and waterways. Interiors of structures are included only when a historic resource is designated a historic landmark and the owner consents to the addition of the interior of the structure.

Certificate of Appropriateness means the approval given by the Historic Preservation Board for projects impacting historic landmarks and resources within historic districts.

Certified Local Government (CLG) means a program of the National Parks Service designated to promote the preservation of prehistoric and historic sites, structures, objects, buildings, and historic districts, establishing a partnership between the local government, State Historic Preservation Office (SHPO), a division of the Kansas State Historical Society, and the National Parks Service. A certified local government carries out the purposes of the National Preservation Act, as amended. Each certified local government is required to maintain a system of ongoing surveys compatible with the SHPO.

Demolition shall mean any and all activity that requires a demolition permit under the provisions of the building code and shall also include any other activity by the owner or any party in possession of a historic resource or historic resource within a historic district which creates or results in the removal, destruction or deterioration of exterior walls, roof, chimneys, doors, windows, porches, steps or trim of interior structures, fixtures and features which would or could cause permanent damage, injury, or loss of or to historically significant exterior or interior features.

Demolition by neglect means the failure to provide ordinary and necessary maintenance and repair to a structure resulting in the deterioration of the structure or resulting in permanent damage, injury or loss to exterior features.

Design criteria means the standard used for issuing a Certificate of Appropriateness. The criteria shall be based upon the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, or guidelines adopted by the historic district and based upon criteria of the Secretary of Interior's Standards as recommended by the Historic Preservation Board and approved by the respective jurisdiction. Examples illustrating said standards shall be made available by Planning Services.

Environs means the vicinity surrounding any state or federal historic structure, object, or site, and those structures, objects, or sites that directly contribute to the architectural and/or historical significance of a state or federal historic site.

Growth Area means the City of Olathe’s planning area beyond City limits that is potentially annexable land within its sphere of influence.

Historic district means a group of residential historic resources, consisting of three (3) or more principal use residential structures or a residentially zoned tract of ground five (5) acres or larger which are significant as a cohesive unit and contribute to the historical, architectural, archaeological or cultural values of the City, county, state, or nation which is so designated by the Governing Body. Historic district includes all state and national registered residential districts provided the owner(s) of record consents in writing to the inclusion.

Historic landmark means a historic resource that has been designated, with the written consent of the owner(s) of record, as having historical, architectural, archaeological, or cultural importance or value which the City's Governing Body determines shall be protected, enhanced and preserved in the interest of the culture, prosperity, education and welfare of the public. Historic landmark may also include the interior of a structure with written consent from the owner(s) of record. Historic landmark includes all state and national registered structures provided the owner(s) of record consents in writing to the inclusion.

Historic resource means a site, land area, building, structure or object, including appurtenances and environmental setting, which has historical, cultural, aesthetic, architectural and/or archaeological significance, or is a site, land area, building, structure, or object with potential importance or value.

Maintenance means any cleaning, painting or restoration that does not result in the alteration of a historic landmark, site or structure.

"Original Town" Overlay District Zoning means any zoning that functions in addition to the existing land use zoning, as in the case of historic landmark or residential historic district zoning as outlined in Chapter 18.52 of the Unified Development Ordinance of the City of Olathe.

Permit means authorization whether by administrative action or actions by the Governing Body and includes, but is not limited to, a building, demolition, moving, zoning, sign, fence, parking lot, roofing, sidewalk, siding, special uses, or swimming pool permit which is issued by Planning Services.

Project classification means for the purpose of the Certificate of Appropriateness review procedure, proposed work involving a historic landmark or resource within a historic district shall be classified as major or minor.

1. Major projects include*:*

   a. Any undertaking requiring a permit on a national or state register property or historic landmark unless determined minor by Planning Services; or a structure within a national or state register district; unless determined minor by Planning Services;

   b. Any demolition permit or moving permit for any structure listed as a historic landmark or historic resource within a historic district listed in the preservation plan adopted by the Governing Body.

2. Minor project. For the purpose of a Certificate of Appropriateness review, a minor project is any project requiring a permit on a historic landmark or property within a historic district, or state or national register property that proposes repairing or restoring an existing exterior element, or replacing an element or material with identical material and design to that which is existing.

Preservation plan means a document developed, adopted and implemented by the Historic Preservation Board that identifies trends affecting and impacting historic resources and provides guidance for their preservation. The preservation plan will include a list of all historic resources, historic landmarks and historic districts within Olathe and the growth boundaries of the City of Olathe. The preservation plan will be a component of the comprehensive plan for the City.

Preservation program means the overall program administered by the Historic Preservation Board that involves the implementation of the historic preservation ordinance, the historic preservation plan, and all activities relating to the furtherance of historic preservation in Olathe and the growth area of the City of Olathe.

Repair means any change to, or modification of, any improvement, historic resource or any property located within a historic district, other than removal or alteration, where the purpose and effect of such change or modification is to correct any deterioration or damage to such improvement, or any part thereof, and to restore the same, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration or damage.

Residential means for purposes of historic preservation zoning designation residential shall mean: “RUR,” “RR-1,” “R-1 through “R-5,” “TN,” “AG” zoning classifications. . (Ord. 10-82 § 1, 2010; Ord. 10-07 § 1, 2010; Ord. 07-54 § 1, 2007.)

2.84.030 Olathe Historic Preservation Board. There is created and established a board to be known as the "Olathe Historic Preservation Board" of the City of Olathe. The Olathe Historic Preservation Board will hereafter be called the "Historic Preservation Board."

A. **Scope of duties**. The duties of the Historic Preservation Board are to advise the Governing Body on historic resources and to safeguard the architectural and cultural heritage of the community through the preservation of historic landmarks and historic districts. The Historic Preservation Board may carry out these duties through the identification, documentation and designation of historic resources; development and implementation of a historic preservation plan; administration of ordinances/resolutions governing the designation, alteration and removal of historic resources; assistance with educational programs, economic development and tourism, and coordination of public and private historic preservation activities.

B. **Compensation**. Members of the Historic Preservation Board shall serve without compensation, but shall be reimbursed by the City for approved expenses incurred in connection with their duties.

C. **Members**. The Historic Preservation Board shall be composed of seven (7) members, appointed by the Mayor with approval of the Governing Body. All members of the Historic Preservation Board shall live in the City, or own, or be an employee of a business located in the City, or have a substantial interest in historic preservation in the City of Olathe and/or Johnson County. The Historic Preservation Board membership shall be comprised of people who have a demonstrated interest in historic preservation through their community and/or professional involvements. The members of the Board shall be drawn from such backgrounds as architecture, history, landscape architecture, architectural history, planning, archaeology, urban design, neighborhood and community development, geography, real estate, law, finance, building trades or related areas. A minimum of four (4) members shall be preservation related professionals. The Board may include members of the Olathe Historical Society, but shall not be required to include members of the Olathe Historical Society. The Board shall regularly communicate its activities with the Olathe Historical Society so as to avoid duplication of efforts.

D. **Terms**. The initial terms of office shall be as follows:

One (1) year term	Two (2) members
Two (2) year terms	Two (2) members
Three (3) year terms	Three (3) members

Thereafter, all terms shall be for a three-year period commencing on January 1 and terminating on December 31, three years hence; however, members may serve until their successor has been appointed.

E. **Officers**. The Historic Preservation Board shall elect a chairperson and one vice-chairperson from its members.

F. **Meetings**. The Olathe Historic Preservation Board shall meet at least quarterly, with additional meetings upon call by the chairperson or upon petition of a majority of the members. All meetings shall be open to the public and notification shall be given in the official newspaper and to those who request notification. Unless otherwise required herein, five (5) members present constitute a quorum for the transaction of business.

G. **Ex-officio members**. The following may serve on the Historic Preservation Board as ex-officio members:

1. The Planning Manager or designee.
2. The chair or designee of the Olathe Planning Commission.
3. The director or designee of the Parks and Recreation Department.
4. One member of the Olathe Governing Body.

H. **Jurisdiction.** The ordinance shall apply to the City of Olathe.

I. **Committees and subcommittees**. The Historic Preservation Board may establish through its bylaws such committees, including a design review committee, as deemed necessary or convenient to carry out the various functions and duties of the Board. Such committees or subcommittees may be made up of part or all of the members of the Board and may include members outside the Historic Preservation Board and may meet upon such schedule and for such purposes as established by the Board. (Ord. 10-82 § 2, 2010; Ord. 10-07 § 2, 2010; Ord. 07-54 § 1, 2007.)

2.84.040 Historic Landmark Designation. The Governing Body may designate certain historic resources as historic landmarks or historic districts. Historic resources located within the City shall be designated by the Governing Body. Such designation shall be in addition to any other zoning designation established in the comprehensive zoning regulations of the City of Olathe known as the "Original Town" Overlay District (Chapter 18.52 of the Unified Development Ordinance). An official register of all historic designations in the City of Olathe shall be created, maintained and filed for public information and use in the office of the City Clerk and Olathe Historical Society. (Ord. 07-54 § 1, 2007.)

2.84.050 Historic Landmark Designation Criteria.

A. In the designation of buildings, structures and objects as historic landmarks certain criteria must be met. These properties must be fifty (50) years or older. In addition, the property must meet one or more of the following criteria:

1. Is associated with events that have made a significant contribution to the broad pattern of history of the City, county, state or nation;
2. Is associated with a significant person or group of persons in the history of the City, county, state or nation;
3. Embodies distinctive characteristics of a type, period, or method of construction; represents the work of a master builder/architect; possesses high artistic values; or represents a distinguishable entity whose components may lack individual distinction;
4. Yields or is likely to yield information important in prehistory or history; or
5. Possesses integrity of location, design, setting, materials and workmanship.

B. Properties less than fifty (50) years old may be eligible for designation provided they are of extreme historical significance. All other criteria listed herein shall apply. (Ord. 07-54 § 1, 2007.)

2.84.060 Historic District Designation Criteria. In the designation of buildings, structures and objects as residential historic districts certain criteria must be met. The historic resources within the historic district must be located on residentially zoned property and must be fifty (50) or more years old. In addition, the historic resources must meet one or more of the following criteria.

A. Are associated with events that have made a significant contribution to the broad pattern of history of the City, county, state or nation;

B. Are associated with a significant person or group of persons in the history of the City, county, state or nation;

C. Embody distinctive characteristics of a type, period, method of construction; represent the work of a master builder/architect; possess high artistic values; or represent a distinguishable entity whose components may lack individual distinction;

D. Yield or are likely to yield information in prehistory or history; or

E. Possess integrity of location, design, settings, materials and workmanship.

F. The boundaries of historic districts shall be drawn so as to include all buildings, structures, sites, objects or land areas which meet one or more of the criteria set out herein or which directly affect or relate to such buildings, structures, sites, objects or land areas meeting one or more of the above criteria, provided that at least fifty (50) percent of the total structures within the boundaries are of architectural, historical, archaeological, or cultural importance or value as determined by the Historic Preservation Board. (Ord. 07-54 § 1, 2007.)

2.84.070 Nomination.

A. The process is initiated when a historic landmark or historic district nomination form is accompanied by the following information and submitted to the Historic Preservation Board. Copies of the nomination form shall be retained by the City Clerk, and Planning Services. The nomination form shall include:

1. A description of the specific historic resource nominated as a historic landmark or a list of specific residential historic resources located within the proposed district boundaries and a description of the particular importance or value of each such historic resource, such description to include the following:

a. Approximate date of construction, and dates of major alterations, if known,
b. Builder and/or architect, if known,
c. Architectural style,
d. Primary building materials,
e. Current owner of record,
f. Legal description of each property;

2. A map showing the boundaries of the proposed historic district and the location of each structure of importance or value identified by a number or letter designation;
3. Sufficient photographs of each historic resource proposed as a historic landmark or historic resources listed within the historic district;
4. Written consent to the nomination by all of the current owners of record of the proposed historic landmark is required.
5. For a residential historic district, sixty (60) percent of the current owners of record within the proposed residential historic district must provide written consent.

B. Applications to increase or otherwise expand the boundaries of a residential historic district may be made if one or more of the following conditions are met:

1. When additional residential historic resources which relate to the historic district are requested for inclusion.

2. When facts previously undisclosed to or unknown by the Historic Preservation Board are revealed which indicate that a particular residential building or site is possessed of special architectural, archaeological, or cultural character, or economic viability to the district.

3. When property within a historic district is exempt from the district at the time of district formation or exempt from the district at the time of a sale of the property in accordance with Section 2.84.080.

C. Applications to reduce the boundaries of a residential historic district may be made when one or more of the following conditions have been met:

1. When it can be shown that a particular residential building, structure, site, object or land area has no historic, architectural, archaeological, or cultural importance or value to the viability of the historic district.

2. When it can be shown that no physical, historical, architectural, archaeological or cultural degradation will result from exclusion of property from the district. (Ord. 10-82 § 3, 2010; Ord. 10-07 § 3, 2010; Ord. 07-54 § 1, 2007.)

2.84.080 Historic District Exemptions. Repealed 12/7/10. (Ord. 10-82 § 4, 2010; Ord. 10-07 § 4, 2010; Ord. 07-54 § 1, 2007.)

2.84.090 Historic Preservation Board. The Historic Preservation Board shall have the following functions:

A. The Historic Preservation Board shall familiarize itself with the historic resources within the community and those which may be eligible for designation as historic landmarks or residential historic districts and shall administer the identification, documentation and designation of such historic landmarks and historic districts, and shall present verification of significance to the Governing Body.

B. The Historic Preservation Board, using the criteria identified herein, shall determine whether certain buildings, structures, land areas, and interiors (only for historic landmarks and with owner consent) should be designated as historic landmarks or historic districts.

C. The Historic Preservation Board shall administer a Certificate of Appropriateness review according to design criteria as defined to determine whether to grant or deny approval of proposed undertakings.

D. The Historic Preservation Board shall review and comment on projects which may be determined to pose a threat to an archaeological site as designated by the Kansas State Historic Preservation Office.

E. The Historic Preservation Board may suggest sources of funds for preservation and restoration activities for acquisition, to include federal, state, municipal, private and foundation sources.

F. The Historic Preservation Board may recommend incentives for preservation.

G. If the Historic Preservation Board finds that certain historic resources cannot be preserved without acquisition, the Historic Preservation Board may recommend to the Governing Body that the fee or a lesser interest in the property be acquired by gift, or purchase, using funds or facilities available for preservation or restoration.

H. The Historic Preservation Board shall annually review the status of designated historic landmarks and residential historic districts and include in the Historic Preservation Board minutes a report of such review.

I. The Historic Preservation Board shall make and adopt a historic preservation plan and review and update the plan as needed. The plan may include a list of historic resources which may not have attained the status of a historic landmark or as historic district. Within twenty (20) days of a resource listing determination by the Historic Preservation Board, the following shall be provided as administered by Planning Services:

1. Property owners of those sites and structures which are listed as historic resources shall be notified of such listing.
2. Property owners of historic resources shall be provided the opportunity to concur, or not to concur, with the inclusion of their property in the listing.
3. Notice of the listing of a property as a historic resource shall be filed with the appropriate office of Johnson County and recorded as an official notice to subsequent property owners.

J. The Historic Preservation Board may implement a receivership program for conservation easement donations for the purpose of historic preservation. Such easements shall be held by the City and monitored by the Historic Preservation Board.

K. The Historic Preservation Board may recommend programs and legislation to the Governing Body to encourage historic preservation in the City.

L. The Historic Preservation Board, upon request of the property owner, may assist in the preparation of national and/or state register nominations.

M. The Historic Preservation Board, upon request of the property owner, may render advice and guidance with respect to any proposed work on a historic resource.

N. The Historic Preservation Board may enter into an agreement with the SHPO authorizing the City to make recommendations or to perform any or all responsibilities of the SHPO, including protection of the environs of property included in the national register of historic places or the state register of historic places, all in accordance with the provisions of K.S.A. 75-2724 (e) (1), and amendments thereto, upon a determination by the SHPO that the City has enacted a certified local preservation ordinance, established a local historic preservation board, and is actively engaged in a local historic preservation program. (Ord. 10-82 § 5, 2010; Ord. 10-07 § 5, 2010; Ord. 07-54 § 1, 2007.)

2.84.100 Procedure for Designation of Historic Landmark and Historic District. An application for historic landmark and residential historic district designation requires the following procedures:

A. A historic landmark or historic district nomination form, accompanying material, and for historic districts, historic district preservation guidelines as defined herein, shall be submitted to Planning Services.

B. Upon receipt of such nomination, a hearing by the Historic Preservation Board will be scheduled either at its regular meeting or at a special meeting, provided that notice of the meeting shall be published twenty (20) days prior to the date of such hearing. For purposes of holding a hearing to consider designation of a historic landmark or historic district, five (5) members of the Historic Preservation Board shall constitute a quorum. The owner or owners of record of any parcel on which a proposed historic landmark is situated or which is a part of a proposed historic district shall be mailed written notice at least twenty (20) days prior to the hearing relating to the designation of such proposed historic landmark or historic district, the amendment to any designation thereof, or the proposed reduction of any designation or the amendment thereto. Owner(s) consent to the historic landmark or historic district designation is a requirement for such designation to occur. The Historic Preservation Board shall afford a full and fair hearing to all interested persons.

The Historic Preservation Board may solicit expert testimony regarding the historic and architectural importance of the historic resource(s) under consideration for designation. All interested persons may appear in person or by representative and present evidence or comment. The Historic Preservation Board shall make its decision regarding the designation within a reasonable time, no later than fifteen (15) days following the close of the hearing. In the event a member of the Historic Preservation Board shall make application, evidence shall be presented in the same manner as all other persons and the Historic Preservation Board member shall not vote on the matter contained in the application. Four (4) affirmative votes shall be required to constitute a recommendation of approval on any nomination application presented to the Historic Preservation Board.

C. After consideration and recommendation by the Historic Preservation Board, the application shall be submitted to Planning Services. The following is required as part of the designation application:

1. The Historic Preservation Board recommendation;
2. Legal description and map of the boundaries of the proposed designation;
3. Completed historic landmark or historic district nomination form and accompanying materials;
4. Applicable historic district preservation guidelines as defined herein; and
5. A list of property owner(s) of record.

D. The designation shall be placed on the next possible Olathe Planning Commission meeting agenda for public hearing to consider historic landmark or historic district designation. The same public notices and public hearing as required by law in a zoning case shall be observed. The owner or owners of record of any parcel on which a proposed historic landmark is situated or within a proposed historic district as well as all property owners of record within a two hundred (200) foot radius in the City will be notified of the hearing. At the conclusion of its hearing, Planning Services shall set forth in writing findings of the Planning Commission as to whether the designation is consistent with adopted plans and shall transmit such findings to the Governing Body.

E. After notice and public hearing as required by law in a zoning case, a historic landmark or historic district may be created by resolution by the Governing Body.

F. Upon approval of a historic landmark or residential historic district designation resolution by the Governing Body, Planning Services shall cause the official designation and delineation of the property or properties involved. (Ord. 10-82 § 6, 2010; Ord. 10-07 § 6, 2010; Ord. 07-54 § 1, 2007.)

2.84.110 Historic District Preservation Guidelines. Preservation guidelines for a proposed residential historic district shall be submitted with a nomination application. The district preservation guidelines shall include, but not be limited to the following:

A. Guidelines for those seeking a Certificate of Appropriateness including, but not limited to the following:

1. Acceptable materials for any construction, additions, remodeling or rehabilitation activities to the exterior of the structures;
2. Appropriate architectural character, scale, and detail for any construction, additions, remodeling or rehabilitation activities;
3. Acceptable appurtenances to the structures;
4. Acceptable textures and ornamentation to the exterior of the structures;
5. Acceptable accessories on structures;
6. Such other building regulations which would have impact on the buildings;
7. Acceptable standards for changes to non-contributing resources within the district; and
8. Acceptable signage.

B. Guidelines for public improvements in the district, including street furniture, signs, design textures of sidewalks, streets and parks. (Ord. 07-54 § 1, 2007.)

2.84.120 Historic District Designation Administrative Requirements. The following shall apply:

A. When the Historic Preservation Board considers an area as a possible residential historic district, the Historic Preservation Board shall, prior to rendering its final recommendation, submit the nomination package including district preservation guidelines to appropriate City departments and other public agencies directly affected.

B. In addition, the Historic Preservation Board shall, prior to rendering its final recommendation, make the historic district preservation guidelines available upon request to all landowners in the proposed historic district.

C. Historic Preservation Board approved graphics for designated residential historic resources within a historic district may be made available to the owners of designated structures. (Ord. 07-54 § 1, 2007.)

2.84.130 Certificate of Appropriateness Review. The following procedures and requirements shall apply to Certificate of Appropriateness review:

A. A permit for any project as defined herein affecting a designated historic landmark or any property within a designated residential historic district shall not be issued to any applicant by Planning Services unless an application for a Certificate of Appropriateness has first been reviewed and approved by Planning Services, by the Historic Preservation Board and, if a protest is filed, by the Governing Body. Projects not requiring a permit but which propose to alter features which have been defined in a historic district's preservation guidelines as requiring protection shall require a Certificate of Appropriateness application. Projects which will or have the potential to damage or destroy historic features of a historic landmark or a historic resource which is located within a residential historic district shall be subject to a Certificate of Appropriateness review.

B. When applying for a Certificate of Appropriateness, the applicant shall provide plans, specifications or other documentation pertaining to the work as required on the Historic Preservation Board's adopted application forms. A Certificate of Appropriateness application and accompanying materials shall be submitted to Planning Services for review of the application and determination if the proposed work is a major or minor project.

C. The Historic Preservation Board shall review the application and recommend approval, approval with conditions, or denial within thirty (30) days of the receipt of the application. A fifteen (15) day period for written comments regarding the project shall be provided prior to the Historic Preservation Board's hearing. These written comments shall be directed to the Historic Preservation Board. If approved, and provided that a protest is not filed within five (5) business days, Planning Services shall issue a copy of the Certificate of Appropriateness to the applicant. If an appeal is filed by the applicant or any interested party with Planning Services within five (5) business days of the Historic Preservation Board's action, the Certificate of Appropriateness shall not be issued until the Planning Commission holds a public hearing regarding the application. This public hearing shall be at the next available meeting of the Planning Commission. For the purpose of this section, interested party shall mean an individual or individuals with a legally recognized interest in the real property located within the subject historic district.

D. A Certificate of Appropriateness for a minor project shall be reviewed and approved or denied by Planning Services. If approved, Planning Services shall provide a Certificate of Appropriateness to the applicant. An appeal from a denial of an application for a minor project may be filed with Planning Services within five (5) business days. A public hearing on the appeal shall be at the next available meeting of the applicable governing body.

E. Ordinary maintenance and repair not otherwise subject to a permit or restricted by the historic preservation guidelines may be carried out without a Certificate of Appropriateness.

F. If no action has been taken by Planning Services and/or the Historic Preservation Board within thirty (30) days for major projects and within fifteen (15) days for minor projects after date of receipt of the completed application, the permit may be applied for with Planning Services.

G. No significant change shall be made in the work defined in the Certificate of Appropriateness application after issuance of a Certificate of Appropriateness without resubmittal and approval thereof in the same manner provided herein.

H. A Certificate of Appropriateness may be re-filed provided the request addresses the concerns stated by the Governing Body in its denial. (Ord. 10-82 § 7, 2010; Ord. 10-07 § 7, 2010; Ord. 07-54 § 1, 2007.)

2.84.135 Review Standards. The Review Standards for a Certificate of Appropriateness align with the Secretary of the Interior's Standards for Rehabilitation (Department of Interior regulations, 36 CFR 67) and pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior (and possible interior if included in the designation), related landscape features and the building's site and environment as well as attached, adjacent, or related new construction. Review Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

A. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

B. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

C. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

D. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

E. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

F. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

G. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

H. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

I. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

J. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired. (Ord. 10-82 § 8, 2010.)

2.84.140 Historic Landmark and Historic District Demolition and Moving Permits.

A. If an application is received by Planning Services for demolition or moving of any historic landmark or structure within a residential historic district, the application shall be referred to the Historic Preservation Board for a Certificate of Appropriateness application. Review of such application for a Certificate of Appropriateness shall be as provided herein.

B. For a project which involves demolition of a historic landmark property or properties within a residential historic district or national and state registered properties, the proponents of such project shall, before doing any of the demolition or work in furtherance of such project, whether or not a building or other permit is required to be obtained to do such demolition work, file an application for a Certificate of Appropriateness for review as provided herein.

C. After review of Certificate of Appropriateness and upon the recommendation of the Historic Preservation Board and Planning Services, the Planning Commission shall hold a hearing within thirty (30) days of the Historic Preservation Board's recommendation. In addition to the recommendation of the Historic Preservation Board, the Planning Commission shall consider the state of repair of the building, the reasonableness of the cost of restoration or repair, owner hardship, the purpose of preserving the designated historic landmark or structure within a residential historic district, alternatives presented by interested parties, the character of the neighborhood, the economic consequences to the City or county and the affected owner(s), and all other factors which it finds appropriate. The owner(s) of the historic landmark or owner(s) of the structure within the residential historic district shall bear the burden of proof demonstrating hardship.

D. The Planning Commission may approve the Certificate of Appropriateness or deny the Certificate of Appropriateness if it determines that feasible alternatives to demolition or moving of the historic landmark or structure within the residential historic district exist and that in the interest of preserving historical values, the historic landmark or structure within the residential historic district should not be demolished or moved.

E. In the event of an "emergency" demolition of a historic landmark or a structure within a residential historic district, Planning Services shall notify the Historic Preservation Board as soon as possible.

F. The Historic Preservation Board shall, in the case of a historic resource, suggest to the owner of the property alternatives to demolition, or if demolition is the conclusive alternative, the Historic Preservation Board shall document or cause to be documented the historic resource with photographs and/or measured drawings. Planning Services shall notify the Historic Preservation Board in the event a permit for demolition is requested for a historic resource. (Ord. 10-82 § 9, 2010; Ord. 10-07 § 8, 2010; Ord. 07-54 § 1, 2007.)

2.84.150 Review of Demolition Buildings and Moving Permits of/for Historic Resources. An application to Planning Services for a demolition or moving permit shall require notification to Planning Services if the permit is for a historic resource determined by the Historic Preservation Board to have potential for landmark designation. These resources shall be fifty (50) years or older and meet one or more of the criteria for landmark designation described herein. The following procedure applies:

A. Demolition and moving permit applications for buildings or structures listed as historic resources or structures within Original Town Olathe that have the potential to be a historic resource will be reviewed by Planning Services.

B. Planning Services may make the determination that a building, site or structure threatened with demolition or removal meets the criteria for landmark designation.

C. If a building, site or structure is determined by Planning Services to meet criteria for historic landmark designation a written notice shall be sent by certified mail to the owner or owners of such building, site or structure. Said notice shall describe the property which meets historic landmark criteria including its location and boundaries and justification of its historic or architectural significance.

D. Following application for a moving or demolition permit for a listed historic resource, a ninety (90) day delay shall occur prior to the issuance of the requested moving or demolition permit in order for alternatives to be explored with the owner by Planning Services.

E. During such period, no permit shall be issued unless for emergency public safety reasons, or a Certificate of Appropriateness has been issued.

F. After the delay, if demolition of the historic resource is the conclusive alternative, the Historic Preservation Board shall direct Planning Services to document the resource with photography, and/or measured drawings for record purposes. (Ord. 10-82 § 10, 2010; Ord. 10-07 § 9, 2010; Ord. 07-54 § 1, 2007.)

2.84.160 Historic Landmark and Historic District Demolition by Neglect. In the event of demolition by neglect of a historic landmark or structure within a residential historic district on public or private property, the following provisions shall apply:

A. If a historic landmark or a property within a residential historic district has been determined by the Historic Preservation Board to be the subject of demolition by neglect, the Historic Preservation Board or Planning Services shall provide the owner of record with a written notice specifying the conditions of deterioration and the minimum items of repair or maintenance necessary to correct or prevent further deterioration.

B. Such notice shall be sent by certified mail, return receipt requested, addressed to the owner of the property, contract purchaser, if applicable, at his or her last known address, or the address shown on the real property tax records maintained by Johnson County, Kansas. Such notice, when so addressed and deposited with the Postal Service with proper postage prepaid, shall be deemed complete and sufficient. In the event that notification cannot be accomplished, as aforesaid, after reasonable efforts, notice shall be accomplished by posting a public notice on the property.

C. The notice shall provide that corrective action shall commence no later than thirty (30) days from the receipt or posting of said notice, unless an extension is granted by the Historic Preservation Board. The owner or contract purchaser, if applicable, shall demonstrate continual progress and all repairs shall be completed within a reasonable period of time. The notice shall state that the owner(s) of record of the subject property may within ten (10) days request a hearing before the Historic Preservation Board challenging the finding of demolition by neglect and/or the notice to repair. If such request for a hearing is received within this time period, a hearing will be held at the next regular meeting of the Historic Preservation Board. The Historic Preservation Board shall review all evidence of demolition by neglect at the scheduled hearing.

D. In the event that the Historic Preservation Board finds that, notwithstanding the necessity for such improvements, corrective action would impose a substantial hardship on the owner or any or all persons with any right or title in the subject property, then the Board shall establish a period of forty-five (45) days and direct Planning Services to seek alternative methods to preserve the historic landmark or property located within a historic district.

E. If no alternative is found to preserve the structure without undue hardship to the owner and any or all persons with any right or title in the subject property, and the structure is determined a threat to human safety and is in violation of City code, a demolition permit may be issued. (Ord. 10-82 § 11, 2010; Ord. 10-07 § 10, 2010; Ord. 07-54 § 1, 2007.)

2.84.170 Penalty. It is unlawful to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish, deface, move or maintain any historic landmark in violation of the provisions of this ordinance. In addition to other remedies, the City may institute any appropriate action or proceedings to prevent such unlawful construction, restoration, demolition, moving or maintenance to restrain, correct or abate such violation. Any person who violates any provision of the ordinance codified in the sections citied above shall be guilty of a separate offense for each day or portion thereof during which any such violation is committed, continued or permitted, and each offense shall be punishable by a fine of not less than One Hundred Dollars ($100) and not more than Five Hundred Dollars ($500) in combination with civil remedies. (Ord. 07-54 § 1, 2007.)

2.84.180 Severability. If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof. (Ord. 07-54 § 1, 2007.)

CHAPTER 2.86

LAND BANK

Sections:

2.86.010 Definitions
2.86.020 Authority and Governance
2.86.030 Governing Law
2.86.040 Appointment of Officers and Conduct of Meetings
2.86.050 Powers of the Board
2.86.060 Transfer of Property to the Land Bank
2.86.070 Administration of Land Bank Property
2.86.080 Disposition of Land Bank Property
2.86.090 Taxes and Assessments
2.86.100 Use of Proceeds from the Sale of Land Bank Property
2.86.110 Neighborhood Advisory Committee

2.86.010 Definitions. As used in this Chapter:

A. ‘‘City’’ means the City of Olathe.

B. ‘‘Board’’ means the Board of Trustees of the City of Olathe Land Bank.

C. ‘‘Bank’’ means the City of Olathe Land Bank established pursuant to this Chapter.

D. ‘‘Governing Body’’ means the Governing Body of the City.

E. ‘‘Municipality’’ means any city, county or other political or taxing subdivision which has the power to levy special assessments. (Ord. 10-19 § 1, 2010.)

2.86.020 Authority and Governance.

A. The Governing Body of the City hereby establishes the City of Olathe Land Bank.

B. The Bank shall be governed by a Board of Trustees. The Governing Body shall serve as the Board of Trustees. Vacancies on the Board shall be filled by appointment for the unexpired term.

C. The Governing Body shall advance operating funds to the Bank to pay expenses of the Board and the Bank.

D. The Bank may be dissolved by ordinance of the Governing Body. In such case, all property of the Bank shall be transferred to and held by the City and may be disposed of as otherwise provided by law. (Ord. 10-19 § 1, 2010.)

2.86.030 Governing Law.

A. The Bank shall be subject to the provisions of the Kansas cash-basis law, K.S.A. 10-1101 et seq., and amendments thereto.

B. The budget of the Bank shall be prepared, adopted and published as provided by law for other political subdivisions of the state. No budget shall be adopted by the Board until it has been submitted to, reviewed and approved by the Governing Body.

C. The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Board.

D. All records and accounts shall be subject to public inspection pursuant to K.S.A. 45-216 et seq., and amendments thereto.

E. Any moneys of the Bank which are not immediately required for the purposes of the Bank shall be invested in the manner provided by K.S.A. 12-1675, and amendments thereto.

F. The Bank shall make an annual report to the Governing Body on or before January 31 of each year, showing receipts and disbursements from all funds under its control and showing all property transactions occurring in each year. Such report shall include an inventory of all property held by the Bank. A copy of such inventory also shall be published in the official City newspaper on or before January 31 of each year.

G. The Bank shall be subject to the provisions of K.S.A. 9-1401 et seq., and amendments thereto. (Ord. 10-19 § 1, 2010.)

2.86.040 Appointment of Officers and Conduct of Meetings.

A. The Board shall select annually, from its membership, a chairperson, a vice-chairperson and a treasurer. The treasurer shall be bonded in such amounts as the Governing Body may require.

B. The Board may appoint such officers, agents and employees as it may require for the performance of its duties, and shall determine the qualifications and duties and fix the compensation of such officers, agents and employees.

C. The Board shall fix the time and place at which its meetings shall be held. Meetings shall be held within the City and shall be subject to the provisions of K.S.A. 75-4317 et seq., and amendments thereto.

D. A majority of the Board shall constitute a quorum for the transaction of business. No action of the Board shall be binding unless taken at a meeting at which at least a quorum is present.

E. The members of the Board shall be subject to the provisions of the laws of the state of Kansas which relate to conflicts of interest, including, but not limited to, K.S.A. 75-4301 et seq., and amendments thereto.

F. Subject to the provisions of K.S.A. 75-6101 et seq., and amendments thereto, if any action at law or equity, or other legal proceeding, shall be brought against any member of the Board for any act or omission arising out of the performance of duties as a member of the Board, such member shall be indemnified in whole and held harmless by the Board for any judgment or decree entered against such member and, further, shall be defended at the cost and expense of the Bank in any such proceeding. (Ord. 10-19 § 1, 2010.)

2.86.050 Powers of the Board. The Board may:

A. Sue and be sued;

B. Enter into contracts;

C. Authorize the City Manager to appoint and remove staff and provide for the compensation thereof;

D. Acquire, by purchase, gift or devise, and convey any real property, including easements and reversionary interests, and personal property subject to the provisions of this Chapter;

E. Rebate all, or any portion thereof, the taxes on any property sold or conveyed by the Bank;

F. Exercise any other power which may be delegated to the Land Bank by the Governing Body; and

G. Exercise any other incidental power which is necessary to carry out the purposes of the Land Bank and this Chapter. (Ord. 10-19 § 1, 2010.)

2.86.060 Transfer of Property to the Land Bank.

A. Except as otherwise provided in this Chapter, any property acquired by the City, the county, another city or other taxing subdivision within the county may be transferred to the Bank. The Board may accept or refuse to accept any property authorized to be transferred pursuant to this subsection. The transfer of any property pursuant to this subsection shall not be subject to any bidding requirement and shall be exempt from any provision of law requiring a public sale.

B. The fee simple title to any real estate which is sold to the county in accordance with the provisions of K.S.A. 79-2803 and 79-2804, and amendments thereto, and upon acceptance by the Board of Trustees may be transferred to the Bank by a good and sufficient deed by the County Clerk upon a written order from the Board of County Commissioners.

C. Property subject to a foreclosure sale may only be acquired by the Board if:

1. Such property is located within the City's Community Development Block Grant-eligible area and Neighborhood Revitalization Area, and
2. But for acquisition of the property by the Board (at the sole discretion of the Board), the property would not otherwise be put to productive use. (Ord. 10-19 § 1, 2010.)

2.86.070 Administration of Land Bank Property. The Board shall assume possession and control of any property acquired by it under this Chapter and shall hold and administer such property. In the administration of property, the Board shall:

A. Manage, maintain and protect or temporarily use for a public purpose such property in the manner the Board deems appropriate;

B. Compile and maintain a written inventory of all such property. The inventory shall be available for public inspection and distribution at all times;

C. Study, analyze and evaluate potential, present and future uses for such property which would provide for the effective reutilization of such property;

D. Plan for and use the Board's best efforts to consummate the sale or other disposition of such property at such times and upon such terms and conditions deemed appropriate;

E. Establish and maintain records and accounts reflecting all transactions, expenditures and revenues relating to the Bank's activities, including separate itemizations of all transactions, expenditures and revenues concerning each individual parcel of property acquired; and

F. Thirty days (30) prior to the sale of any property owned by the Bank, publish a notice in the official City newspaper announcing such sale. (Ord. 10-19 § 1, 2010.)

2.86.080 Disposition of Land Bank Property.

A. The Board, without competitive bidding, may sell any property acquired by the Board at such times, to such persons, and upon such terms and conditions, and subject to such restrictions and covenants deemed necessary or appropriate to assure the property's effective reutilization. The sale of any real property by the Board under the provisions of this Chapter on which there are delinquent special assessments to finance public improvements levied by the Governing Body shall be conditioned upon the approval of the Governing Body.

B. The Board, for purposes of land disposition, may consolidate, assemble or subdivide individual parcels of property acquired by the Bank. (Ord. 10-19 § 1, 2010.)

2.86.090 Taxes and Assessments.

A. Until sold or otherwise disposed of by the Bank and except for special assessments levied by the Governing Body to finance public improvements, any property acquired by the Bank shall be exempt from the payment of ad valorem taxes levied by the state and any other political or taxing subdivision of the state.

B. Except for special assessments levied by the Governing Body to finance public improvements, when the Board acquires property pursuant to this Chapter, the County Treasurer shall remove from the tax rolls all taxes, assessments, charges, penalties and interest that are due and payable on the property at the time of acquisition by the Board.

C. Property held by the Bank shall remain liable for special assessments levied by a municipality to finance public improvements, but no payment thereof shall be required until such property is sold or otherwise conveyed by the Bank.

D. The Governing Body may abate part or all of the special assessments it has levied, and the Bank and Governing Body may enter into agreements related thereto. Any special assessments that are abated shall be removed from the tax rolls by the County Treasurer as of the effective date of the abatement. (Ord. 10-19 § 1, 2010.)

2.86.100 Use of Proceeds from the Sale of Land Bank Property.

A. Except as provided in paragraph (b), any moneys derived from the sale of property by the Bank shall be retained by the Bank for the purposes and operations thereof.

B. The Board may use all or any part of the proceeds from the sale described in paragraph (a) to reimburse the City bond and interest fund for delinquent special assessments due on such property. (Ord. 10-19 § 1, 2010.)

2.86.110 Neighborhood Advisory Committees. The Board may establish separate neighborhood or City advisory committees consisting of persons living or owning property within the City or neighborhood. In the case of neighborhood advisory committees, the Board shall determine the boundaries of each neighborhood. In the absence of a resolution by the Board providing otherwise, each advisory committee shall consist of not less than five (5) nor more than nine (9) persons, to be appointed by the Board for two-year overlapping terms. The Board shall consult with each advisory committee as needed to review the operations and activities of the Bank and to receive the advice of the members of the advisory committee concerning any matter which comes before the committees. (Ord. 10-19 § 1, 2010.)

TITLE 3

REVENUE AND FINANCE

CHAPTERS:

3.02 Service Charge for Dishonored Instruments
3.12 Investment of Idle Funds
3.20 Procedure for Funding the Capital Improvements Fund
3.21 Central Garage Fund
3.22 Central Purchasing Fund
3.23 Personal Computer Replacement Reserve Fund
3.24 Information Technology Services Fund
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3.26 Mahaffie Operations Fund
3.30 Park Excise Tax
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3.40 Suits and Claims Against Officers and Employees (Repealed 2/19/91)
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3.90 Tourism and Convention Promotion Fund
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3.96 Golf Course Fund (Repealed 1/6/15)
3.97 Fire Levy Fund
3.100 Insurance Proceeds Fund.

CHAPTER 3.02

SERVICE CHARGE FOR DISHONORED INSTRUMENTS

Sections:

3.02.010 Definitions.
3.02.020 Service Charge.
3.02.030 Effective Date.

3.02.010 Definitions. The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section:

(1) Negotiable instrument. A writing considered to be a negotiable instrument within this chapter is any written security under the Uniform Commercial Code as adopted by the State of Kansas which may be transferred by endorsement and delivery or by delivery merely, so as to vest in the city the legal title, and thus enable the city to sue thereon in its own name. A negotiable instrument may take any of the forms of "check," "draft," "certificate of deposit" or "note." It may alternately be referred to in this chapter as "instrument."

(2) Credit card. Means any card, plate, coupon book or other credit device, existing for the purpose of obtaining money, property, labor or services on credit.

(3) Dishonor. An instrument or credit card is dishonored when it has been duly presented by the city and due acceptance or payment is refused or if presentment is excused and the instrument or credit card is not duly accepted or paid. Return of an instrument for lack of proper endorsement is not dishonor.

(4) Drawer. Any person, firm, partnership, corporation or association which draws an instrument and addresses it to the city. (Ord. 05-123 § 1, 2005; Ord. 83-103 § 1, 1983.)

3.02.020 Service Charge. Upon dishonor of any instrument held by the city the drawer will be responsible for payment of the amount stated on the instrument plus a service fee. Such service fee shall be adopted by the Governing Body of the City by resolution. The service fee is required to cover city administrative costs generated by processing of the dishonored instrument. (Ord. 02-119 § 1, 2002; Ord. 00-118 § 1, 2000; Ord. 83-103 § 1, 1983.)

3.020.030 Effective Date. The service charge provided for in this chapter will be effective for all dishonored instruments occurring on or after January 1, 2001. (Ord. 00-118 § 2, 2000; Ord. 83-103 § 1, 1983.)

CHAPTER 3.12

INVESTMENT OF IDLE FUNDS*

Sections:

3.12.010 Authority.
3.12.020 Procedure and Restrictions.
3.12.030 Custody and Safekeeping.
3.12.040 Sale or Transfer.
3.12.050 Earnings and Records.

3.12.010 Authority. Temporarily idle moneys of the city not currently needed may, in accordance with the procedure prescribed in this chapter, be invested in:

(1) Direct obligations of United States government which mature within one year from date of purchase and which are guaranteed as to principal by the United States government; or

(2) Temporary notes of the city issued pursuant to K.S.A. 10-123; or

(3) Bank time certificates of deposit which are protected by the Federal Deposit Insurance Corporation.

The provisions of this chapter shall not apply to any funds of the city, the investment of which is expressly authorized or limited or prohibited by the Kansas Statutes Annotated. (Ord. 396-C # 1, 1970: prior code # 1-502.)

3.12.020 Procedure and Restrictions. The City Manager shall periodically report to the Governing Body as to the amount of moneys available for investment and the period of time such amounts will be available for investment, and shall submit such recommendations as deemed necessary for the efficient and safe management of city finances. The recommendations of the City Manager shall provide for an investment program which shall so limit the amounts invested and schedule the maturities of investments so that the city will at all times have sufficient moneys available on demand deposit to assure prompt payment of all city obligations. The Governing Body shall determine by resolution the amount, method and term of any investment and the type of investment made, subject to the provisions of this chapter. (Prior code # 1-503.)

3.12.030 Custody and Safekeeping. Securities purchased pursuant to this chapter shall be under the joint care of the City Clerk and City Manager 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. Securities in original or receipt form held in the custody of a bank or trust company shall be held in the name of the city, and their redemption, transfer or withdrawal shall be permitted only upon the written instruction of at least two such city officers. Securities not held in the custody of a bank or trust company shall be personally deposited by such officers in a safety deposit box in the name of the city in a bank or trust company, access to which shall be permitted only in the personal presence and under the signature of at least two such officers. (Prior code # 1-504.)

3.12.040 Sale or Transfer. If, in order to maintain sufficient moneys on demand deposit in any fund, as provided in Section 3.12.010, it becomes necessary to transfer or sell any securities of such funds, any two or more of the officers specified in Section 3.12.030 may transfer the 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 transfers or sales shall be reported in writing to the Governing Body at its next regular meeting. (Prior code # 1-505.)

3.12.050 Earnings and Records. The interest or other earnings from investments made pursuant to this chapter shall be credited pro rata to the fund or funds from which the investments were made and shall be used, insofar as possible, to relieve the ad valorem tax levies of the city. The City Clerk shall maintain a complete and detailed record at all times of all investments made pursuant to this chapter. (Prior code # 1-506.)

*****For statutory provisions pertaining to the deposit of public moneys, see K.S.A. 9-1401.

CHAPTER 3.20

PROCEDURE FOR FUNDING THE CAPITAL IMPROVEMENT FUND

Sections:

3.20.020 Policy Objectives.
3.20.030 Budget Transfers Authorized.
3.20.040 Use of Studies.
3.20.050 Plan of Operation.
3.20.060 Transfer Out of Fund.

3.20.020 Policy Objective. It is the policy objective of the Governing Body that the capital improvements fund shall be used to provide a financing mechanism to meet the city's present and future public infrastructure needs as set forth in the city's adopted Capital Improvement Plan, including the repair, restoration and rehabilitation of existing public facilities, and to avoid the cost of unnecessary indebtedness. (Ord. 87-09 § 1, 1987.)

3.20.030 Budget Transfers Authorized. The Governing Body is hereby authorized to make budgeted transfer of moneys from other city funds lawfully available for improvement purposes to the capital improvements fund, including moneys in the general fund.

Except for reimbursed expenses, no moneys shall be credited to such special fund except as may be budgeted annually, or transferred by the annual budget from other funds. Such fund shall not thereafter be subject to the provisions of K.S.A. 79-2925 to 79-2937, inclusive, and amendments thereto. In making the budget, the amounts credited to, and the amount on hand in, the capital improvements fund and the amount expanded therefrom shall be shown for the information of the taxpayers. (Ord. 87-09 § 2, 1987.)

3.20.040 Use for Studies. Moneys in such fund may be used to pay the cost of engineering and other advanced public improvement plans and studies, with the fund periodically reimbursed from bond proceeds, special assessments, or state or federal aid that may be available for the completed project. (Ord. 87-09 § 3, 1987.)

3.20.050 Plan of Operation.

(a) The Governing Body shall adopt, and amend at least every two (2) years, a capital improvements plan.

(b) The Governing Body shall annually, at the same time and as a part of the annual operating budget process, adopt an implementation plan identifying those improvements to be financed from the fund during the following year.

(c) The City Manager shall annually, at the same time as part of the annual operating budget process, make recommendations for revenue allocations and budget transfers as may be necessary to finance those improvements scheduled for completion next year and to set aside moneys to be annually reserved for future improvements.

(d) The Governing Body shall annually, at the same time and as a part of annual operating budget, authorize the revenue allocations and budget transfers necessary to finance those improvements scheduled for completion next year and to set aside moneys to be annually reserved for future improvements. (Ord. 87-09 § 4, 1987.)

3.20.060 Transfers Out of Fund. If the Governing Body determines that money which has been transferred to the capital improvements fund, or any part thereof, is not needed for the purpose for which it is transferred, the Governing Body, by adoption of a resolution, may transfer such amount not needed to the general or other fund from which it was derived and such transfer and expenditures thereof shall be subject to the budget requirement provisions of K.S.A. 79-2925 to 79-2937, inclusive, and amendments thereto. (Ord. 87-09 § 5, 1987.)

CHAPTER 3.21

CENTRAL GARAGE FUND

Sections:

3.21.010 Fund Established.

3.21.010 Fund Established. There is hereby established a central garage fund to fund central garage activities for the city. Moneys may be budgeted and transferred to such fund from any source which ma be lawfully utilized for such purposes. (Ord. 97-87 § 1, 1997.)

CHAPTER 3.22

CENTRAL PURCHASING FUND

Sections:
3.22.010 Fund Established.

3.22.010 Fund Established. There is hereby established a central purchasing fund to fund central purchasing activities for the city. Moneys may be budgeted and transferred to such fund from any source which may be lawfully utilized for such purposes. (Ord. 97-88 § 1, 1997.)

CHAPTER 3.23

PERSONAL COMPUTER REPLACEMENT RESERVE FUND

Sections:
3.23.010 Fund Established.

3.23.010 Fund Established. There is hereby established a personal computer replacement reserve fund to finance the acquisition of personal computers. Moneys may be budgeted and transferred to such fund from any source which may be lawfully utilized for such purposes, including equipment use charges on the various departments of the city to finance new replacement equipment. (Ord. 93-107 § 1, 1993.)

CHAPTER 3.24

INFORMATION TECHNOLOGY SERVICES FUND

Sections:
3.24.010 Fund Established.

3.24.010 Fund Established. There is hereby established an information technology services fund to fund information technology services activities for the city. Moneys may be budgeted and transferred to such fund from any source which may be lawfully utilized for such purposes. (Ord. 97-89 § 1, 1997.)

CHAPTER 3.25

RECREATION ENTERPRISE FUND

Sections:
3.25.010 Fund Established.

3.25.010 Fund Established. There is hereby established a recreation enterprise fund to fund recreation activities for the city. Money from the general fund shall be transferred into the recreation enterprise fund, but thereafter the fund shall be self-sustaining from user charges collected from recreational activities. (Ord. 93-106 § 1, 1993.)

CHAPTER 3.26

MAHAFFIE OPERATIONS FUND

Sections:

3.26.010 Fund Established.

3.26.010 Fund Established. There is hereby established a Mahaffie Operations Fund to fund operational activities at the Mahaffie Stagecoach Stop and Farm. Moneys may be budgeted and transferred into such fund from any source which may be lawfully utilized for such purposes, including moneys collected from events at the Stagecoach Stop and Farm. (Ord. 04-09 § 1, 2004.)

CHAPTER 3.30

PARK EXCISE TAX

Sections:

3.30.010 Purpose.
3.30.020 Definitions.
3.30.030 Applicability of Park Excise Tax.
3.30.040 Imposition of Park Excise Tax.
3.30.050 Amount of Park Excise Tax.
3.30.060 Collection of Park Excise Tax.
3.30.070 Annual Review.
3.30.080 Restriction on Use of and Accounting for Park Excise Tax Funds.
3.30.090 Appeals.

3.30.010 Purpose. A Park Excise Tax is hereby imposed on the development of land for the purpose of assuring that neighborhood parks, parkland and open space is available and adequate to meet the needs created by new development while maintaining current and proposed park and open space standards pursuant to the Olathe Comprehensive Plan. It is the intent of this ordinance to raise revenue from new residential development in order to provide neighborhood parks in developing residential areas. Revenue raised from nonresidential development may be used for neighborhood parks, parkland, or open space as deemed appropriate by the Governing Body. The Park Excise Tax shall be imposed by the city on the development of all land in order to raise sufficient revenue to address the public need for parks. (Ord. 96-87 § 1, 1996; Ord. 89-87 § 1, 1989.)

3.30.020 Definitions.

(a) Applicant--the property owner, or duly designated agent of the property owner, of land on which a building permit has been requested for residential or nonresidential development.

(b) Building--any enclosed structure designed or intended for the support, enclosure, shelter or protection of persons or property.

(c) Building Permit--the city permit required for new building construction and/or additions to buildings pursuant to the Building Code of the City of Olathe. The term `building permit' as used herein shall not be deemed to include permits required for remodeling, rehabilitation or other improvements to an existing structure, or to the rebuilding of a damaged structure, or to permits required for accessory uses.

(d) City--the City of Olathe, Kansas.

(e) Development--the construction, erection, reconstruction or use of any principal building or structure for residential or nonresidential use which requires issuance of a building permit.

(f) Chief Building Inspector--the enforcement official responsible for technical review of building and other construction plans, issuance of building and land use permits, and enforcement of the various codes and ordinances relating to building and development in the City of Olathe.

(g) Dwelling--any building, or portion thereof, designed exclusively for residential occupancy and containing one or more dwelling units.

(h) Floodplain (100 year)--the land area adjoining a river, stream, watercourse, or lake which has the probability of flooding once every one hundred (100) years or a one (1) percent chance of flooding each year.

(i) Gross Floor Area--the square foot area of all space within the outside line of exterior walls including the total area of all floor levels.

(j) Governing Body--the legislative body of the City of Olathe, Kansas.

(k) City Planner--the city official responsible for review of building and development plans and preliminary and final plats.

(l) Comprehensive Plan--the official, adopted comprehensive development plan for the City of Olathe, and amendments thereto; The Olathe Comprehensive Plan.

(m) Neighborhood Parks--a recreation area within a residential neighborhood serving residents within a one-quarter (1/4) to one-half (1/2) mile radius. Such parks are five (5) to twenty (20) acres in size and generally contain play apparatus, small play fields, open space, park benches, picnic tables, and perhaps a shelter. Neighborhood parks may be located in or adjacent to streamway parks or community parks.

(n) Nonresidential Development--all develop-ment other than residential development and public and quasi-public use, as herein defined.

(o) Open Space--land used or to be used as park or open space associated with the city park or greenway system, but not including floodplains and steep slopes. Open space land includes the acquisition of such land, the construction of improvements thereon, and the expenditure of funds incidental thereto, including but not necessarily limited to planning, engineering and design work, utility relocation, provision of pedestrian and vehicular access thereto and purchase of equipment.

(p) Parkland--land used or to be used as a city park, including both the acquisition of such land, the construction of improvements thereon and the expenditure of funds incidental thereto, including but not necessarily limited to planning, engineering and design of the park and improvements, utility relocation, provision of pedestrian and vehicular access thereto and purchase of equipment.

(q) Property--a legally described parcel of land capable of development pursuant to applicable city ordinances and regulations.

(r) Property Owner--any person, group of persons, firm or firms, corporation or corporations, or any other entity having a proprietary interest in the land on which a building permit has been requested.

(s) Public and Quasi-Public Use--a development owned, operated or used by the City of Olathe, Kansas; any political subdivision of the State of Kansas, including but not limited to school districts; the State of Kansas, any agencies or departments thereof; the Federal Government, and any agencies or departments thereof. For purposes of this ordinance only, "places of worship" are hereby defined as quasi-public uses.

(t) Residential Development--the development of any property for a dwelling or dwellings.

(u) Subdivision Regulations--Chapter 18 of the City Code and including all duly adopted amendments thereto.

(v) Zoning Ordinance--Chapter 19 of the City Code and including all duly adopted amendments thereto.

(w) Single Family--Development containing one dwelling unit per structure and per lot.

(x) Duplex--Development containing structures with two dwelling units per structure.

(y) Multifamily Development--Development containing structures with more than two dwelling units per structure. (Ord. 96-87 § 1, 1996; Ord. 89-87 § 1, 1989.)

3.30.030 Applicability of Park Excise Tax. (a) This ordinance shall be uniformly applicable to residential and nonresidential development, but not to public and quasi-public uses on property in the City of Olathe which is or will be served by and is accessible to parkland and open space as herein defined. (Ord. 96-87 § 1, 1996; Ord. 89-87, §1, 1989.)

3.30.040 Imposition of Park Excise Tax.

(a) A Park Excise Tax shall be imposed on all residential and nonresidential development in the city.

(b) Imposition of the Park Excise Tax does not alter, negate, supersede or otherwise affect any other requirements of City, County, State or Federal legislation or regulations that may be applicable to a development, including city zoning and/or subdivision regulations that may impose open space and park or landscape requirements and standards.

(c) Upon receipt of an application for a preliminary plat, the City Planner shall preliminarily calculate the amount of the Park Excise Tax by multiplying the applicable residential or nonresidential tax rate by the number of dwelling units or floor area (in square feet) estimated for the proposed development for which subdivision approval is being sought.
Such calculation shall be an estimate only for the benefit of the applicant and shall be subject to final determination at such time as applicant requests a building permit. (Ord. 96-87 § 1, 1996; Ord. 89-87 § 1, 1989.)

3.30.050 Amount of Park Excise Tax. The Park Excise Tax shall be at the following rate:

(a) From January 1, 2001 to December 31, 2005:

Residential Development:	$260.00 per dwelling unit.
Commercial Development:	$0.13 per square foot of gross floor area.
Industrial Development:	$0.07 per square foot of gross floor area.

(b) From January 1, 2006 and all subsequent years, unless otherwise amended:

Residential Development:	$520.00 per dwelling unit.
Commercial Development:	$0.13 per square foot of gross floor area.
Industrial Development:	$0.07 per square foot of gross floor area.

(Ord. 05-98 § 1, 2005; Ord. 96-87 § 1, 1996; Ord. 89-87 § 1, 1989.)

3.30.060 Collection of Park Excise Tax

(a) The Chief Building Inspector shall be responsible for the processing and collection of the applicable Excise Tax.

(b) Applicants for building permits for residential and nonresidential development subject to this ordinance shall submit the following information:

(1) the number of dwelling units for residential development;
(2) the gross floor area for nonresidential development;
(3) both the number of dwelling units and the gross floor area for a mixed-use development; and
(4) relevant supporting documentation as may be required by the Chief Building Inspector.

(c) The Chief Building Inspector shall collect the applicable Park Excise Tax prior to issuance of a building permit for residential and nonresidential unless the applicant has submitted an appeal under the provisions of Section 3.30.090. (Ord. 96-87 § 1, 1996; Ord. 89-87 § 1, 1989.)

3.30.070 Annual Review

(a) Prior to January 1, 1990, and every year thereafter, the City Manager or his duly designated agent, shall prepare a report to the Governing Body on Park Excise Taxes summarizing the administration and enforcement of the Park Excise Tax. In the preparation of such report, the City Manager or his duly designated agent shall review the following information:

(1) a statement from the City Treasurer summarizing Park Excise Taxes collected and disbursed during the year;
(2) a statement from the City Parks and Recreation Director summarizing neighborhood parks, other parkland and open space acquisition and development and the status thereof for the preceding year;
(3) a statement from the City Planner summarizing the type, location, timing and amount of development for which building permits were issued in the year; a summary of changes to the Comprehensive Plan as they relate to parks and open space;
(4) a statement and recommendation from the Parks & Recreation Advisory Board on any and all aspects of the Park Excise Tax and city park and open space needs;
(5) a statement from the City Planner summarizing increases or decreases in land costs, engineering costs and construction costs in the City of Olathe as they relate to the acquisition and improvement of parks.

(b) The City Manager's Report shall make recommendations, if appropriate, on amendments to the ordinance, changes in the administration or enforcement of the ordinance, changes in the Park Excise Tax rate, and changes in the Comprehensive Plan.

(c) The Park Excise Tax rate shall be reviewed annually. Based upon the City Manager's report and such other factors as the Governing Body deems relevant and applicable, the Governing Body may amend the Park Excise Tax Ordinance including, but not limited to an amendment of the Park Excise Tax rate. If the Governing Body fails to take such action, the Park Excise Tax rate then in effect shall remain in effect.

(d) In the annual review process, the Governing Body shall take into consideration the following factors: land and construction costs; improvement cost increases as measured by actual experience during the year; changes in the design, engineering, location, or other elements of proposed parkland and open space; revisions to the Comprehensive Plan; and changes in the anticipated land use mix and/or intensity in new development areas of the city. (Ord. 96-87 § 1, 1996; Ord. 89-87 § 1, 1989.)

3.30.080 Restrictions on Use of and Accounting for Park Excise Tax Funds.

(a) The funds collected by reason of the establishment of the Park Excise Tax must be used solely for the purpose of funding parkland and open space acquisition and development pursuant to the Comprehensive Plan or for reimbursement to the city for parkland and open space acquisition and development pursuant to the Comprehensive Plan. The funds collected from single family and duplex residential developments shall be used for the acquisition and improvement of neighborhood parks in the developing residential areas of the city. Funds collected from multifamily, commercial and industrial projects may be used for general park development.

(b) Upon receipt of Park Excise Taxes, the Chief Building Inspector shall transfer such funds to the City Treasurer who shall be responsible for the placement of such funds in segregated, interest bearing accounts designated as the "Park Excise Tax Account - General Parks and Open Space" and "Park Excise Tax Account - Neighborhood Parks." All funds placed in said accounts and all interest earned therefrom shall be utilized solely and exclusively for parkland and open space acquisition and development pursuant to the Comprehensive Plan. At the discretion of the Governing Body, other revenues as may be legally utilized for such purposes may be deposited to such accounts. The City Treasurer shall establish adequate financial and accounting controls to ensure that Park Excise Tax funds disbursed from such accounts are utilized solely and exclusively for neighborhood parks, other parkland and open space acquisition and development or for reimbursement to the city of advances made from other revenue sources, including the "bond and interest fund," to fund parkland and open space acquisition and development.

(c) The City Treasurer shall maintain and keep adequate financial records for said account which shall show the source and disbursement of all funds placed in or expended from such accounts.

(d) Interest earned by such accounts shall be credited to the accounts and shall be utilized solely for the purposes specified for funds of the accounts.

(e) Excise Tax funds collected shall not be used to maintain, repair or operate the park system or to operate recreational activities. Excise Tax funds shall only be used to acquire and improve parkland in the City of Olathe.

(f) The city may issue and utilize general obligation bonds, revenue bonds, revenue certificates or other certificates of indebtedness as are within the authority of the City in such manner and subject to such limitations as may be provided by law in furtherance of the financing and provision of parkland and open space as set forth in the Comprehensive Plan. Funds pledged toward the retirement of such bonds or other certificates of indebtedness may include the Park Excise Tax and other city (and non-city) funds and revenues as may be allocated by the Governing Body. Park Excise Taxes paid pursuant to this ordinance, however, shall be used solely and exclusively for parkland and open space acquisition and development as defined herein. (Ord. 96-87 § 1, 1996; Ord. 89-87 § 1, 1989.)

3.30.090 Appeals. After a determination by the Chief Building Inspector of the applicability of the Park Excise Tax or the amount of the Excise Tax due, an applicant or a property owner may appeal to the Governing Body. The appellant must file a Notice of Appeal with the City Manager within (30) days following the determination by the Chief Building Inspector. If the Notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the City Attorney in an amount equal to the Park Excise Tax due as calculated by the Chief Building Inspector, the application shall be processed and construction of the development may begin. The filing of an appeal shall not stay the collection of the Excise Tax due unless a bond or other sufficient surety has been filed. (Ord. 96-87 § 1, 1996; Ord. 89-87 § 1, 1989.)

CHAPTER 3.35

TRANSPORTATION IMPROVEMENTS EXCISE TAX

Sections:

3.35.010 Purpose and Authority.
3.35.020 Definitions.
3.35.030 Levy and Payment of Tax.
3.35.040 Pledge of Revenues.
3.35.050 Exemptions.
3.35.060 Credits.
3.35.070 Procedure for Calculating and Making Credit and Applying for an Exemption.
3.35.080 Appeals.
3.35.090 Adjustment to Tax Rate.
3.35.100 Interpretation.

3.35.010 Purpose and Authority. The excise tax levied by this Ordinance on the act of platting real property in the City has for its purpose the raising of general revenues to be used for transportation improvements in the City. The City's authority to levy this excise tax is derived from Charter Ordinance No. 54, Article 12, Section 5(b) of the Kansas Constitution and K.S.A. § 12-137 and 12-138. (Ord. 98-106 § 1, 1998)

3.35.020 Definitions. For the purposes of Chapter 3.35, the following words have the following definitions.

(a) Administrator. The City Planner of the City, or his or her designee.

(b) Applicant. The person, firm, partnership, joint venture or corporation that seeks to exercise the privilege of engaging in the business of platting real property in the City by applying for Plat approval.

(c) Area. The gross area of the real property included in a plat for which approval is sought measured in square feet less the area described in Section Five hereof.

(d) City. The City of Olathe, Kansas.

(e) Collector Street Standards. Those standards established by the City Engineer in the latest edition of the City of Olathe's "Technical Specifications and Design Criteria for Public Improvement Projects."

(f) Commercial Zoning District. Retail Business (C-1 and CP-1), General Business (C-2 and CP-2), Community/Corridor Business (C-3 and CP-3), Central Business District (CBD) and Business Park (BP) zoning districts as described in the City's *Unified Development Ordinance*.

(g) Governing Body. The City Council of the City of Olathe, Kansas.

(h) Improvement. The design and construction of a public street and all appurtenances thereto.

(i) Initial Improvement. The improvement of any road designated as a main trafficway from an unimproved road to at least collector street standards.

(j) Initial Improvement Tax Rate. The rate of taxation designed to provide revenues to construct initial improvements to main trafficways.

(k) Intermediate Traffic Signals. Traffic signals located at the intersection of a non-trafficway (arterial), public street and a main trafficway.

(l) Intermediate Traffic Signal Tax Rate. The rate of taxation designed to provide revenues for the construction of intermediate traffic signals.

(m) Main Trafficway. The section line roads, street and highways designated s main trafficways in Chapter 10.10 of this Municipal Code.

(n) Multi Family Zoning Districts. Two-family (R-2 and RP-2), Low Density Apartment Townhouse (R-3 and RP-3), Garden Apartment (R-4 and RP-4), Apartment House (R-5 and RP-5), and Manufactured Home Park (MHP) zoning districts described in the City's *Unified Development Ordinance*.

(o) Other Zoning Districts. The zoning districts described in the City's *Unified Development Ordinance* that are not single family, multi family, or commercial zoning districts as described in this section, including but not limited to, office buildings, industrial zoning districts and mixed use zoning districts.

(p) Plat. A recordable final plat giving the location and dimensions of land as one or more lots, blocks, tracts or parcels, and meeting the requirements of the Municipal Code of the City of Olathe and Kansas Statutes. The purpose for recording of a document, and the absence of lots, blocks, or public rights-of-way shall not affect its status as a Plat.

(q) Real Property. A legally described parcel of land capable of development pursuant to applicable City ordinances and regulations.

(r) Recordable. Capable of being recorded with the Register of Deeds of Johnson County, Kansas.

(s) Single Family Zoning Districts. The single family (R-1 and RP-1) zoning districts described in the City's *Unified Development Ordinance*.

(t) Tax. The Excise Tax levied by this Ordinance.

(u) Tax Rate. The rate of taxation applied to the Area of real property expressed in dollars per square foot.

(v) Unimproved Road. Any road, street or highway in the City that has been designated as a main trafficway and is not constructed to collector street standards as of March 1, 1999. (Ord. 02-52 § 1, 2002; Ord. 98-106 § 2, 1998)

3.35.030 Levy and Payment of Tax.

(a) A tax is hereby levied on the act of platting real property in the City. The initial improvement tax rate shall be $0.215 per square foot. The intermediate traffic signal tax rate is:

Single Family Zoning Districts $.0037 per square foot
Multi Family Zoning Districts $.0120 per square foot
Commercial Zoning Districts $.0576 per square foot
Other Zoning Districts $.0098 per square foot

(b) Every applicant shall pay to the Administrator prior to recordation of an approved plat with the Register of Deeds, a tax equal to the area of the real property included in the plat multiplied by the current tax rate, less any applicable credits. The area of real property shall be finally determined by the Administrator. If multiple plats shall be filed in phases, the fee shall be due prior to each individual plat being recorded.

(c) No approved plat subject to this tax shall be recorded until the applicant has paid the tax in full.

(d) The Administrator shall forward all taxes collected to the Director of Financial Services who shall be responsible for the placement of such funds in an interest bearing account designated as the "Trafficway Excise Tax Account," in the Future Street Improvement Fund which account shall be capable of being accounted for independently of all other City accounts and subaccounts. All excise tax revenues shall be deposited into such account. All interest earned by the account shall be considered funds of the account. The funds in the account may be pooled with other City funds solely for the purpose of investment and for financial management; provided, however, that appropriate accounting controls have been adopted and implemented to ensure that the taxes collected and deposited to such account are utilized only for the purposes specified herein and pursuant to the applicable legal requirements.

(e) The Tax shall be paid by wire transfer, certified check, or cashier's check. (Ord. 05-126 § 1, 2005; Ord. 02-52 § 2, 2002; Ord. 01-105 § 1, 2001; Ord. 00-112 § 1, 2000; Ord. 99-94 § 1, 1999; Ord. 98-106 § 3, 1998)

3.35.040 Pledge of Revenues. All revenues received from the tax are pledged solely for the purpose of funding the initial improvement of main trafficways or intermediate traffic signals in the City of Olathe. At the discretion of the Governing Body, other revenues as may be legally utilized for such purpose may be deposited into the Trafficway Excise Tax account. The City may issue and utilize general obligation bonds or other certificates of indebtedness as are within the authority of the City in such manner and subject to such limitations as may be provided by law in furtherance of the financing and provision of the improvement of main trafficways. Funds pledged toward the retirement of bonds or other certificates of indebtedness may include the Trafficway Excise Tax and other City (and non-City) funds and revenues as may be allocated by the Governing Body. Trafficway Excise Taxes paid pursuant to this Ordinance, however, shall be used solely and exclusively for the initial improvement of main trafficways or intermediate traffic signals as defined herein. (Ord. 02-52 § 3, 2002; Ord. 98-106 § 4, 1998)

3.35.050 Exemptions.

(a) Prior to the passage of this Ordinance, the City had established a policy (Resolution No. 93-1119) which required a developer to pay a proportionate share of the costs of improving main trafficway designated streets by entering into an escrow agreement, by creating a benefit district and paying special assessments, or by constructing the improvement. From and after March 1, 1999, an exemption from payment of the Initial Improvement Tax (but not the Intermediate Traffic Signal Tax) will be granted for all land that fully complied with the policies of Resolution No. 93-1119. For the purposes this exemption, the phrase "fully complied" means:

(1) The execution and filing of an escrow agreement acceptable to the City, along with the payment of any financial contribution required by the agreement, prior to March 1, 1999; or

(2) The creation of a valid benefit district prior to March 1, 1999 and the levy of special assessments prior to January 1, 2001.

(3) The construction of main trafficway improvements by a developer prior to March 1, 1999.

(b) Any replat of previously platted land which was approved by the City will be exempt from the payment of the excise tax levied hereunder.

(c) Land within any final plat may be entitled to an exemption if it meets the following criteria:

(1) The land is a part of a single-unified ownership of property greater than 350 acres; and

(2) The land contains an environmentally sensitive area; and

(3) The topography of the land is so extreme that traditional section-line main trafficways are too expensive to be built; and

(4) The owner of the land has entered into a developer's agreement with the City to pay for the construction of the main trafficways by the creation of benefit districts and the square foot assessments to be levied upon the land will equal at least the tax rate established in Section Three of this Ordinance. (Ord. 02-52 § 4, 2002; Ord. 98-106 § 5, 1998)

3.35.060 Credits. The excise tax to be paid on a final plat pursuant to this Ordinance shall be credited in full, or in part, for:

(a) After March 1, 1999, any land within any final plat which in whole or in part was or will be specially assessed for main trafficway improvements.

(b) Land permanently dedicated on a final plat to the City as a floodway area, public open space or for recreational use. Such area shall not include land required to be dedicated for street right of way.

(c) Land within any final plat where the developer has constructed all or a portion of an adjacent main trafficway. (Ord. 98-106 § 6, 1998)

3.35.070 Procedure for Calculating and Making Credit and Applying for an Exemption.

(a) The applicant shall be responsible for completing any application for an exemption or credit and for supplying all information necessary supporting the claim of exemption or for calculation of the area and the credit. Any application or request for exemption or credit shall be specifically made in writing to the Administrator prior to Planning Commission approval of any final plat and if no such request is made then the applicant is deemed to have waived any right or claim to any exemption or credit.

(b) Under no circumstances shall a credit be given in excess of the amount of Tax calculated to be due on the Plat.

(c) If multiple plats are to be filed in various phases, a separate calculation will be made for each plat and the payment will be due upon recording of the final plat. Credits, if applicable, will be given at the time a subsequent plat is recorded.

(d) The credit amount shall be calculated:

(1) By multiplying the land area of the final plat subject to a credit by the tax rate required to be paid; or

(2) In situations where the credit is given for developer construction of improvements by the reasonable and customary cost of said construction in Olathe. No credit shall be allowed for overlaying or other temporary improvements not to the City's standards for main trafficways, made as a condition of approval of zoning, approval of a final Plat or issuance of a building permit.

(3) The amount of any special assessment levied on land included in the Plat for payment of the cost of improvement to a main trafficway. Where not all of the land included in the Plat was subject to a levy for special assessments then the credit shall not exceed the amount of Tax that would be due calculated only on that area which was subject to the special assessments. If all of a tract against which a special assessment was originally levied is not included in the Plat, then the credit shall be the amount of the original special assessment which would be apportioned on an area basis to the portion of the original tract included in the Plat. (Ord. 98-106 § 7, 1998)

3.35.080 Appeals. The Administrator will determine at the time final approval is given by the Planning Commission to any final plat if the applicant is entitled to an exemption or a credit of all or a portion of the excise tax levied and paid pursuant to this Ordinance. The decision of the Administrator on the granting of an exemption or the amount of the credit may be appealed to the City Council, by the applicant, prior to consideration of the final plat by the Governing Body. The notice of appeal shall be in writing, filed with the City Clerk, and state with particularity the decision being appealed; the grounds for the appeal; and the specific relief sought. An appeal hearing shall be scheduled within thirty (30) days of the date of the filing of the appeal notice. The decision of the City Council is final.

The Governing Body shall have the power to hear and decide appeals where it is alleged that there is an error in the interpretation, application, calculation by the Administrator.

The filing of an appeal or other legal challenge with a court of competent jurisdiction shall not stay the imposition, calculation or collection of the excise tax as calculated by the City unless a bond, letter of credit or other approved and sufficient surety in the amount calculated by the Administrator is filed with the City. If such approved surety is received with the notice of appeal, the final plat may be recorded. (Ord. 98-106 § 8, 1998)

3.35.090 Adjustment to Tax Rate. The Governing Body shall periodically review the tax rate at such time as it deems necessary or appropriate; provided, however, that a formal review shall take place in January 2001 and not less frequently than in January of every second year thereafter. Whenever the tax rates are ~~is~~ reviewed, appropriate public notice shall be given and a public hearing shall be held, regardless of whether the tax rates are ~~is~~ actually changed. Any adjustment in the tax rate shall be effected by an ordinance that amends this Ordinance and such amending ordinance shall be made effective no sooner than sixty (60) days following final publication. (Ord. 02-52 § 5, 2002; Ord. 98-106 § 9, 1998)

3.35.100 Interpretation.

(a) Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

(b) Conflict: To the extent of any conflict between other City code, ordinances, or this Ordinance, the provisions of this Ordinance shall be deemed to be controlling, provided, however, that unless expressly provided herein, this Ordinance is not intended to amend or repeal any existing City ordinance or code or regulation which shall continue in full force and effect after the passage, approval, and publication of this Ordinance.

(c) Invalidity: If any chapter, article, section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such chapter, article, section, subsection, sentence, clause, phrase, or portion of this Ordinance shall be deemed to be a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions of this Ordinance nor impair or nullify the remainder of this Ordinance which shall continue in full force and effect.

If the application of any provision of this Ordinance to any person, applicant, or new development is declared, for any reason, to be invalid by a court of competent jurisdiction, the intent of the City Council is that such decision shall be limited to that particular circumstance immediately involved in the controversy, action or proceeding in which such decision of invalidity was rendered. Such decision shall not affect, impair, or nullify this Ordinance as a whole or the application of any provision of this Ordinance to any other person, applicant, or new development. (Ord. 98-106 § 10, 1998)

CHAPTER 3.40. Suits And Claims Against Officers And Employees. Repealed 2/19/91. (Ord. 91-08 § 2, 1991; Ord. 87-30 § 22, 1987; Ord. 612, 1977.)

CHAPTER 3.50

PROCUREMENT POLICIES

Sections:

3.50.010 Definitions.
3.50.020 General.
3.50.030 Invitation for Bid.
3.50.040 Request for Proposal.
3.50.050 Purchases Less Than $50,000.
3.50.060 Sole Source Procurement.
3.50.070 Emergency Procurement.
3.50.080 Procurement of Professional Services.
3.50.090 Renewal/Extension Option.
3.50.100 Change Orders.
3.50.110 Property Acquisition.
3.50.120 Disposition of Property.
3.50.125 Disposition of Real Property.
3.50.130 Recycled Paper Product Preference.
3.50.140 Local Preference Standards.
3.50.145 Required Contractual Provisions of City Contracts.
3.50.150 Prohibited Contractual Provisions in City Contracts.
3.50.160 Prohibited Acts in City Contracts.
3.50.170 Penalties.
3.50.180 Conflict Between Sections 3.50.145 and 3.50.150 and Contract.

3.50.010 Definitions. For the purposes of this Chapter the following terms, phrases, words, and their derivations shall have the meaning given herein:

"Advantageous" connotes a judgmental assessment of what is in the City's best interest.

"Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

"Change Order" means a written modification or addition to a purchase order or contract.

"City" is the City of Olathe, Kansas.

"City Manager" means the City Manager or designated representative for the City of Olathe.

"Invitation for Bid (IFB)" means a publicly advertised solicitation to prospective vendors requesting a competitive firm price quotation in response to a detailed set of specifications. Not subject to discussion or negotiation after opening.

"Local Preference" means the discretion of the Governing Body to award contracts for supplies, materials, and equipment to a local business under the standards set forth in Section 3.50.140.

"Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, materials or equipment not connected to a Public Works construction project. It also includes all functions that pertain to the obtaining of any supplies, services, materials or equipment including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration. For the purposes of this Chapter, procurement shall not mean the solicitation or award of a Public Works construction contract.

"Public Works Construction Contract" means a contract to construct a public infrastructure project including, but not limited to, waterlines, sewer lines, streets, sidewalks, storm sewers, public buildings or facilities, and water or sewer treatment plants.

"Request for Proposal (RFP)" means a publicly advertised request to prospective vendors for a solution to the requested service, supplies, materials or equipment with negotiated pricing and terms and conditions. A solicitation document that is used for negotiated procurements.

"Responsible Bidder" means a vendor who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

"Responsive Bidder" means a vendor who has submitted a bid that conforms in all material respects to the Invitation for Bid.

"Services" means the furnishing of labor, time, or effort by a contractor.

"Supplies" means all personal property, including but not limited to equipment, materials, commodities and printing. (Ord. 14-44 § 1, 2014; Ord. 06-136 § 1, 2006; Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

3.50.020 General. Invitation for Bid is the preferred method of procurement; however, invitation for bid is not always practical and advantageous and in certain situations described in this chapter other methods of procurement, such as request for proposal, may be used. (Ord. 14-44 § 2, 2014; Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

3.50.030 Invitation for Bid. Unless an alternative procedure is authorized by other sections of this chapter, all supplies, materials, equipment and services, when the estimated cost is $25,000 and greater, shall be purchased by invitation for bid from the lowest responsive and responsible bidder, or at the discretion of the Governing Body under the standards set forth in Section 3.50.140, after due notice inviting bids and unless specifically provided otherwise herein.

A. Public Notice.

1. Distribution. Invitation for Bid (IFB) or notices of the availability of Invitations for Bid shall be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of availability shall indicate where, when, and for how long Invitations for Bids may be obtained; generally describe the supplies, materials or equipment desired; and may contain other information as is appropriate.

2. Publication. Notice of every procurement of $25,000 and greater shall be published once in the official City newspaper.

3. Public Availability. A copy of the Invitation for Bids shall be available for public inspection at the designated City office.

B. Bid Evaluation and Award.

1. For bids with an aggregate value between $25,000 and $50,000, the City Manager shall make an award determined to be the most advantageous to the City, taking into consideration price and any other pertinent evaluations factors.

2. For bids with an aggregate value of $50,000 or greater, the City Manager shall recommend to the Governing Body an award determined to be most advantageous to the City, taking into consideration price and any other pertinent evaluation factors. The Governing Body shall make the final award. (Ord. 14-44 § 3, 2014; Ord. 07-84 § 1, 2007; Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

3.50.040 Request for Proposal. Request for proposal (RFP) shall be governed as provided in the following:

A. Conditions for Use. Request for proposal may be used where it is necessary to insure fair and reasonable price analysis, but not to preclude competition for technical excellence. Generally, request for proposal may be used under the following conditions:

1. The procurement of professional services (except legal services).
2. The procurement of technical items or equipment.
3. The procurement of complex services.
4. The purchase of nonstandard items.

B. Public Notice. Public notice of the Request for Proposals shall be given in the same manner as provided in Section 3.50.030 (Invitation for Bid).

C. Evaluation of Proposals. The Request for Proposals shall state all of the evaluation factors. The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Factors not specified in the Request for Proposals shall not be considered.

D. Award.

1. For requests for proposals with an aggregate value between $25,000 and $50,000, the City Manager shall make an award to the responsible bidder whose proposal is determined to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in the Request for Proposals.

2. For Requests for Proposals with an aggregate value of $50,000 or greater, the City Manager shall recommend to the Governing Body an award to the responsible bidder whose proposal is determined to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in the Request for Proposals. The Governing Body shall make final award. (Ord. 14-44 § 4, 2014; Ord. 07-84 § 2, 2007; Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

3.50.050 Purchases Less Than $50,000. The City Manager shall adopt operational procedures for making purchases having an aggregate value of less than $25,000. Such operational procedures shall provide for obtaining adequate and reasonable competition and for making records to properly account for funds. For purchases having an aggregate value of between $25,000 and $50,000, the City Manager shall use the procedures of 3.50.030, unless alternative procedures are authorized by this chapter. A report detailing purchases between $25,000 and $50,000 shall be submitted to the Governing Body on a quarterly basis, post award. (Ord. 14-44 § 5, 2014; Ord. 07-84 § 3, 2007; Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

3.50.060 Sole Source Procurement. A Contract under $50,000 may be awarded for supplies, services, materials or equipment without competition when the City Manager determines that there is only one source available. A written record of the factors pertinent to such award will be maintained. For sole source contracts of $50,000 and greater, approval of the Governing Body will be required. (Ord. 14-44 § 6, 2014; Ord. 07-84 § 4, 2007; Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

3.50.070 Emergency Procurement. Notwithstanding any other provision of this Chapter, the City Manager may make emergency procurements when there exists a threat to public health, welfare or safety provided that such emergency procurements shall be made with such competition as is practical under the circumstances. Such emergency condition is further defined as an immediate and serious need for supplies, services, materials or equipment that cannot be timely met through normal procurement methods and the lack of which would threaten:

A. The function of City government.
B. The preservation or protection of property; and/or
C. The health or safety of any person. (Ord. 14-44 § 7, 2014; Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

3.50.080 Procurement of Professional Services. Professional services are generally associated with the following disciplines:

A. Architect, engineer and land surveying services.
B. Appraisal services.
C. Financial, accounting and auditing services.
D. Legal services.
E. Consulting services.
F. Health care services.
G. Insurance services.
H. Data processing consulting and programming services.
I. Testing and inspection services.
J. Photographic, art or marketing services.
K. Employment of temporary employees as advisors, lobbyists, etc.

The provisions of Section 3.50.040 (Request for Proposal) shall apply to all procurements of professional services (except legal services) which are expected to be $50,000 and greater. Procurement of professional services (including legal services) expected to be less than $50,000 shall be made in accordance with the operational procedures authorized in Section 3.50.050 (Purchases Less Than $50,000). Professional services uniquely applicable to a project may be determined to be a sole source service and may be negotiated with a single contractor in accordance with the procedures contained in Section 3.50.060 (Sole Source Procurement).

Legal services expected to be $50,000 and greater shall be governed by the following:

A. Not less than three (3) law firms shall be contacted to submit proposals for the services required by the City;

B. The proposals shall be submitted to the Governing Body, which shall award a contract based upon the proposal that is most advantageous to the City, taking into consideration not only price, but also technical competency.

C. The City Attorney shall maintain a list of law firms along with qualifications and specialties which may be utilized in requesting proposals. (Ord. 14-44 § 8, 2014; Ord. 07-84 § 5, 2007; Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

3.50.090 Renewal/Extension Option. Unless otherwise provided by law, a contract for supplies, materials, equipment or services may be renewed or extended provided the term of the contract and conditions for renewal or extension, if any, are included in the solicitations. The option will only be exercised as it is deemed to be in the best interest of the City. Consideration will include price, quality, vendor performance, economic trends and other evaluation factors which would affect the City's best interest. The City Manager shall make recommendation for renewal/extension of any contract totaling $50,000 and greater to the Governing Body for review. The Governing Body shall make final award as it is determined to be most advantageous to the City. The City Manager may award a renewal/extension for contracts totaling $50,000 or less. (Ord. 14-44 § 9, 2014; Ord. 07-84 § 6, 2007; Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

3.50.100 Change Orders. Change orders are issued to cover costs or address changes in terms and conditions associated with unforeseen problems not addressed in the bidding or contract document, or changes/modifications that may be recommended after a contract award. Change orders on contracts may be approved by the City Manager for amounts less than $50,000. Change orders of $50,000 or greater must be approved by the Governing Body; provided, however, that in instances where it is in the best interest of the City for a change order to be implemented prior to the next regularly scheduled meeting of the Governing Body, the City Manager shall have the authority to authorize the change subject to ratification by the Governing Body. (Ord. 14-44 § 10, 2014; Ord. 07-84 § 7, 2007; Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

3.50.110 Property Acquisition. A contract for the purchase of interests in real property associated with an approved public improvement project may be approved by the City Manager if the cost for the acquisition is less than $50,000. All other property acquisition shall require approval of the Governing Body. (Ord. 14-44 § 11, 2014; Ord. 07-84 § 8, 2007; Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

3.50.120 Disposition of Property. The City Manager may transfer, sell, exchange or destroy any surplus, obsolete, abandoned or confiscated personal property without competitive bidding if such property has a value of less than $50,000. No personal property shall be sold without receiving competitive bids if the value is $50,000 and greater. For the purposes of this Chapter, a public auction shall qualify as competitive bidding. (Ord. 14-44 § 12, 2014; Ord. 07-84 § 9, 2007; Ord. 06-136 § 2, 2006; Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

3.50.125 Disposition of Real Property. Except as provided otherwise by law, the Governing Body may convey, sell, trade, give, transfer, or exchange any real property in any manner that the Governing Body deems is in the best interests of the City. (Ord. 06-136 § 3, 2006)

3.50.130 Recycled Paper Product Preference. Notwithstanding any other provision of this Chapter, the Governing Body may, by Resolution, establish policies granting preferences in awarding contracts to vendors submitting bids for recycled paper products. (Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 94-54 § 1, 1994.)

3.50.140 Local Preference Standards. For supplies, materials, and equipment acquired through bids, where an award is to be made to the lowest responsive and responsible bidder, a bid from a local business may be selected over the lowest responsive and responsible bid only if:

A. The bid from the local business is responsive and responsible;

B. The quality, suitability, and usability of the supplies, materials, and/or equipment are equal to that of the lowest responsible bidder; and

C. The amount of the bid of the local business does not vary more than two percent (2%) and does not exceed Five Thousand Dollars ($5,000) above the amount of the lowest responsible bid. Such variance shall be calculated based on the total contract price.

The local preference descried in this Section shall not apply to bids in which federal funds or other governmental funds are used when the use of such funds prohibits the application of local preference policies. (Ord. 14-44 § 13, 2014.)

3.50.145 Required Contractual Provisions of City Contracts. The City of Olathe, Kansas shall not award contracts nor let bids to individuals or entities unless the vendor, contractor or individual agrees to indemnify and hold the City of Olathe, Kansas, harmless from any and all losses, damages or expenses of any kind arising out of any and all claims, demands, or causes of action initiated against the City of Olathe, Kansas, by competing entities bidding on the project which is the subject of the contract. (Ord. 15-19 § 1, 2015.)

3.50.150 Prohibited Contractual Provisions in City Contracts. The City of Olathe, Kansas shall not award contracts nor let bids to individuals or entities which attempt to do any of the following or include any of the following in the proposed contract:

A. Any diminishment of the common law or statutory standard of care, limitation of liability, or other attempt to reduce responsibility for mistake, error, or negligence of any type on the part of the vendor, contractor or individual.

B. Attempts to limit liability for breach of contract or negligent performance to the amount of the payment to the contractor by the City.

C. Attempt to claim ownership of intellectual property created during the performance of the contract with the City.

D. Arbitration agreements.

E. Provision for damages for breach by owner contrary to common law or statute including, but not limited to, any attempt to provide for attorney fees as part of recoverable damages.

F. Attempt to designate the laws of any other state besides the laws of the State of Kansas as the law under which the contract is construed, interpreted, and/or enforced, or designate any forum or venue for resolution of disputes other than the District Court of Johnson County, Kansas.

G. Any other attempted reallocation of risk contrary to common law or statute.

H. Any attempt to eliminate the City's ability to collect consequential, exemplary or punitive damages, or any other measure of damages permitted by law, in an action against the vendor, contractor or individual for breach of contract. (Ord. 15-19 § 2, 2015.)

3.50.160 Prohibited Acts in City Contracts. No vendor, contractor or individual submitting proposals or bids to the City of Olathe, Kansas, shall attempt to insert any of the contractual provisions prohibited by Section 3.50.150 into any contracts or agreements proposed to the City of Olathe, Kansas. (Ord. 15-19 § 3, 2015.)

3.50.170 Penalties. Any vendor, contractor or individual who, without the express permission of the Governing Body, City Manager, or Department Director (as applicable in accordance with this Chapter), or permitted to do so by the request for bids or request for proposals, or included as alternate provisions to be bid or proposed, proposes to enter into or enters into a contract with the City of Olathe, Kansas, which omits any of the contract provisions required by Section 3.50.140 or contains any of the contract provisions barred by Section 3.50.150 may be found to be in violation of this article. Any vendors, contractors or individuals found to be in violation of this article may be barred from bidding on future contracts with the City of Olathe, Kansas. (Ord. 15-19 § 4, 2015.)

3.50.180 Conflict Between Sections 3.50.145 and 3.50.150 and Contract. Unless otherwise permitted as set forth in Section 3.50.170, to the extent any contract entered into by or on behalf of the City of Olathe, Kansas omits any of the contract provisions required by Section 3.50.145, such provisions of Section 3.50.145 will prevail, and the required contract provisions will be read into the contract. To the extent any contract entered into by or on behalf of the City of Olathe, Kansas contains any of the contract provisions barred by Section 3.50.150, such provisions of Section 3.50.150 will prevail and the offending provisions shall be null and void and shall be unenforceable as to the City of Olathe, Kansas. (Ord. 15-19 § 5, 2015.)

CHAPTER 3.60

RISK MANAGEMENT POLICY

Sections:

3.60.010 Short Title.
3.60.020 Purpose.
3.60.030 General Objectives.
3.60.040 Risk Reduction and Prevention.
3.60.050 Risk Retention.
3.60.060 Risk Transfer--Hold Harmless Agreements.
3.60.070 Risk Transfer--Insurance.
3.60.080 Joint Insurance Transfer and Retention.
3.60.090 Insurance Purchasing.
3.60.100 Insurance Coverages.
3.60.110 Risk Management Expense Fund.
3.60.120 Risk Management Reserve Fund.
3.60.130 Protection of Officers.
3.60.140 General Policy on Tort Liability Claims.
3.60.150 Program Administration.

3.60.010 Short Title. This ordinance shall be known and cited as the "Risk Management Policy Ordinance." (Ord. 89-98 § 1, 1989.)

3.60.020 Purpose. The purpose of this chapter is to set forth the general public policy objectives of the city as relates to risk management; to establish an orderly process and program for managing the risks of the city; to establish guidelines for the operation of the city's risk management program; and to implement a risk management program based on risk identification and measurement, risk reduction and prevention, risk retention, risk transfer and such other systems or techniques as may be appropriate. (Ord. 97-135 § 1, 1997; Ord. 89-98 § 1, 1989.)

3.60.030 General Objectives. The general objectives of the city's risk management program shall be to secure the following:

(a) The establishment, to the extent practical, of a hazard-free work and public-service environment which employees of the city and members of the general public, exercising reasonable care, may use in safety and security;

(b) The protection of the city, and thus its citizens and taxpayers, against the consequences of accidental or other losses which are financially catastrophic in nature, and the preservation of the city's fiscal and other assets and its public-service capabilities from serious loss, destruction or depletion;

(c) The minimization of the total, long-term cost to the city of accidental losses and their consequences by providing for the identification, measurement, prevention and control of risks; and

(d) The creation of a system of internal procedures providing a continuing reassessment of exposures to loss, loss-bearing capacity and available financial resources to protect against such losses, including insurance, self-insuring, self-funding, and pooling. (Ord. 89-98 § 1, 1989.)

3.60.040 Risk Reduction and Prevention.

(a) All existing operations, programs, equipment and facilities of the city should be identified and evaluated to determine the potential severity and frequency of accidental loss. All potential hazards to the public or to city employees should be reduced to their practical minimum. Those services or facilities which constitute a potential liability risk to the city disproportionate to the public need or benefits derived therefrom, should be discontinued where the city has discretion as to the continued performance or existence of such service or facility.

(b) It shall be the general policy of the city to utilize loss prevention techniques wherever possible, consistent with the cost involved. Efforts to prevent losses shall be given first priority. Loss prevention recommendations of federal and state agencies, insurance companies, and other experts shall be implemented whenever practical. (Ord. 89-98 § 1, 1989.)

3.60.050 Risk Retention.

(a) It shall be the city's general policy to retain certain risks by self-insuring under the following circumstances:

(1) When the loss will occur with predictable frequency and in an amount which will not have a substantial impact on the city's financial position, recognizing:

(a) the ability of the city to finance losses from its operating budget;
(b) the amount of the city's reserve fund described in Section 3.60.120;
(c) capacity of the city to borrow money to pay judgments and certain other losses; and
(d) ability of the city to administer a self-insurance program, including the provision of legal defense;

(2) When the probability of occurrence is so remote that the cost of insuring the risk would be unwarranted use of public moneys;
(3) When insurance is not available, or available only at a prohibitive cost.

(b) Exceptions to these general guidelines shall be as listed in Section 3.60.070. (Ord. 97-135 § 2, 1997; Ord. 89-98 § 1, 1989.)

3.60.060 Risk Transfer--Hold Harmless Agreements. In all contractual relationships it shall be the general practice of the city to transfer to others, to the extent legally possible, all risk of loss from chance events resulting from the relationship of the contracting parties. However, before contractually transferring a risk to another party, that party's ability to assume the risk and control the loss, and the traditions of the parties and industry involved, as well as their financial worth shall be considered. In any event, all contractual agreements providing for any service, construction, leasing of real or personal property or other such agreements shall be reviewed by the City Attorney and the Risk Manager (see Section 3.60.150) to determine whether the city is legally and adequately protected against financial loss assumptions. (Ord. 89-98 § 1, 1989.)

3.60.070 Risk Transfer--Insurance.

(a) It shall be the policy of the city to purchase insurance under the following circumstances:

(1) When required by law or contract.
(2) When other methods of risk management or risk transfer do not reduce the loss exposure to an acceptable risk retention level.
(3) When certain necessary services, including legal defense and claims handling, can best be provided through the purchase of insurance.
(4) When self-insurance, including deductibles, does not result in long-term economy for the city.
(5) When the potential severity and degree of risk may result in a loss which would substantially affect the financial capability of the city to continue to provide essential public services and facilities.

(Ord. 97-135 § 3, 1997; Ord. 89-98 § 1, 1989.)

3.60.080 Joint Insurance Transfer and Retention. The city will combine risk retention and risk transfer when purchasing insurance through the use of deductibles or a self-insured retention where practical. Recognizing that a substantial portion of the cost of insurance premiums result from an insurer's expenditures for legal defense and payments for comparatively small claims, the city will give special consideration, in the allocation of the city's insurance program to those insurers which provide significant savings for policies whereby the first $100,000 per occurrence and $500,000 aggregate per year is a financial responsibility of the city. In the case of liability insurance, such retention may be applied either to the final settlement, court costs and attorney's fees or only to the cost of final judgment as determined by agreement. (Ord. 89-98 § 1, 1989.)

3.60.090 Insurance Purchasing.

(a) The city shall endeavor to purchase its property and casualty insurance coverage from a single source when the packaged arrangement proves financially advantageous to the city, and thus to its taxpayers and utility service users. Emphasis shall be given to total insurance costs, rather than the separate costs of individual policies. As a general rule, a multiplicity of separate insurance coverages shall be avoided.

(b) Notwithstanding any other city ordinance, insurance shall be purchased and placed in a businesslike manner, without preference or prejudice, at the lowest practical effective cost with special emphasis given to all benefits and levels of direct service to the city. The formal competitive bidding process shall be limited to a frequency no less than every three years, unless the current insurance company, broker or agent provides unsatisfactory service, cancels coverage or the Risk Manager determines that competitive bidding will produce significant savings due to a "soft insurance" market.

(c) Insurance will be placed only with those insurance companies or risk retention groups which may conduct business in Kansas, except as to such insurance as may be available only from non-admitted companies. Financial statements, or a rating of A+ or A in Best's Key Rating Guide, should be required from non-admitted companies.

(d) Insurance may be obtained by participating in a State of Kansas, Insurance Commissioner-approved "pool" which the Risk Manager has determined is properly funded and administered to adequately protect the city. (Ord. 89-98 § 1, 1989.)

3.60.100 Insurance Coverages. Subject to the provisions of this ordinance, the following should be observed in determining amounts of retention or transfer by insurance:

(a) Fire Insurance-Public Buildings and Contents: It shall be the city's policy to insure only property losses in excess of $10,000 per occurrence. Buildings and contents losses which will total less than $10,000 in any one occurrence (i.e., windstorm, flood, fire) will be met from budget appropriations. Buildings will be valued and insured at replacement cost, or at actual cash value when necessary. Property should be insured on an all-risk basis whenever possible.

(b) Automobile Liability Insurance on Motor Vehicles: Liability insurance shall be maintained on all city-owned, rented and non-owned motor vehicles used by city employees. The policy, with coverage of at least $500,000 per occurrence, may be subject to a large self-insured retention consistent with the reserve fund.

(c) Physical Damage and Collision Insurance on Motor Vehicles: Collision and comprehensive insurance shall not generally be carried on city vehicles licensed for highway use with a gross weight of 10,000 pounds or less. Licensed vehicles with a gross weight in excess of 20,000 pounds may be insured subject to a deductible or self-insured retention no greater than $25,000.

(d) Commercial (Comprehensive) General Liability Insurance: Except as otherwise provided in this ordinance, the city should carry general liability insurance to protect the city and its employees from tort liability for bodily injuries and property damage on all its properties and for all its operations. In addition, personal injury liability coverage should be carried as a policy endorsement where appropriate. The limits of liability for the above coverage shall be at least $500,000 per occurrence and in such aggregate amount as recommended by the Risk Manager and approved by the City Council. Medical payments coverage may be provided when it is deemed advisable to provide financial aid, without regard to negligence or liability, to any person who may be bodily injured. The purchase of public officials liability insurance shall be subject to the provisions of Section 3.60.130.

(e) Workers' Compensation: The city shall provide workers' compensation benefits for its employees as required by law.

(f) Catastrophic Insurance: The city should maintain umbrella or excess liability insurance as needed to protect itself against any major, uninsured catastrophe as recommended by the Risk Manager and as approved by the City Council.

(g) Other Insurance: Other insurance shall be placed into effect upon the determination of necessity and recommendation for such coverages by the Risk Manager; or when required by law.

(h) Employee Fidelity Bonds: Employee fidelity bonds shall be secured for officers and employees as required by state law and city ordinances. (Ord. 89-98 § 1, 1989.)

3.60.110 Risk Management Expense Fund.

(a) There is hereby created within the city's accounts a fund to be known as the risk management expense fund. Such fund shall be utilized as an operating fund, and also as a reserve fund as set forth in Section 3.60.120.

(b) To the maximum extent possible, all expenses involved in the payment of claims, purchase of insurance, provision of legal defense and other direct and indirect costs resulting from the implementation of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.) shall be paid from the risk management expense fund. Any expenditures from this fund shall be disbursed in the same manner as other expenditures of the city, subject to the provisions of Section 3.60.140.

(c) To the extent feasible, and as may be advisable to meet local conditions under the Kansas property tax lid law, the annual budget of expenditures for each department or function of the city should include an amount for tort liability expense. Such amounts should be credited as a expense to the various funds and accounts and as a receipt to the risk management expense fund. It is the position of the City Council that the provisions of the Kansas Tort Claims Act permit such inter fund transfers and that it is advisable to show the full municipal costs of tort liability in a single fund.

(d) To the extent possible, and in accordance with K.S.A. 44-505c and 44-505f, all costs involved in the payment of workers compensation claims, judgements, and expenses shall be paid from the risk management expense fund.

(e) To the extent possible, and in accordance with K.S.A. 44-505c, the annual budget of each department or function of the city should include an amount for workers compensation expense. Such amounts should be credited as an expense to the various funds and accounts and as a receipt to the risk management expense fund. Such amounts shall be exempt from the limitations imposed under the provisions of K.S.A. 79-5001 to 79-5016, inclusive. (Ord. 97-135 § 4, 1997; Ord. 89-98 § 1, 1989.)

3.60.120 Risk Management Reserve Fund.

(a) The city shall utilize the risk management expense fund as a liability reserve fund in accordance with K.S.A. 12-2615 for the purpose of providing moneys to reimburse the city, in whole or in part, from insurable losses not otherwise insured. Such liability reserve fund shall accumulate in annual installments no larger than $250,000 to a total fund balance no greater than ten percent of the city's annual workers' compensation payroll. Such annual installments should be in addition to the annual estimated costs of insurance, legal defense and the processing of claims. Once the maximum is reached, the annual contribution shall be sufficient to replenish the fund, up to the maximum, but in no event shall the annual contribution exceed $250,000. Moneys in such fund, not immediately needed, should be invested and the interest thereon credited to the fund.

(b) The city shall utilize the risk management expense fund as a workers compensation reserve fund in accordance with K.S.A. 44-505f and amendments thereto, for the purpose of payment of worker compensation claims, judgements and expenses from such moneys available to the city under the provisions of K.S.A. 44-505c, and amendments thereto, and by the transfer of moneys from any other funds or accounts of the city in reasonable proportion to the estimated cost of providing workers compensation benefits to the employees of the city compensated from such funds. Any balance remaining in such reserve fund at the end of the fiscal year shall be carried forward in to the reserve fund for the succeeding fiscal years. Interest earned on the investment of moneys in such fund shall be credited to such fund.

(c) The reserve funds will be annually examined as to their adequacy and a report of such adequacy furnished to the City Council as part of the city's annual audit. (Ord. 97-135 § 5, 1997; Ord. 89-98 § 1, 1989.)

3.60.130 Protection of Officers. The city shall, through insurance or other means, fully comply with the provisions of the Kansas Tort Claims Act, requiring the city to provide legal defense and pay judgments related to tort actions against city officers and employees operating legally and within the scope of their employment. The city shall purchase errors or omissions insurance, sometimes called public official liability insurance, when such coverage may be obtained at a moderate cost.

Pursuant to K.S.A. 75-6108, the city manager is hereby designated as the person to receive, and to determine eligibility of, any written requests from the city's officers and employees to provide a defense to civil tort actions or proceedings that may be filed against them. (Ord 91-08 § 1, 1991; Ord. 89-98 § 1, 1989.)

3.60.140 General Policy on Tort Liability Claims. The city recognizes that court decisions continue to develop a clearer understanding of the status of governmental immunity and liability under the Kansas Tort Claims Act. Further, the cost of commercial liability insurance in future years will be related to the loss experience of insurance companies writing such liability insurance. In addition, circumstances may arise where there will be strong public sympathy in support of payments to persons who may be injured as a result of the use of the city's services or facilities, notwithstanding the absence of negligence or tort liability. The following, as to the filing, settlement and payment of tort claims, are therefore established:

(a) All tort claims against the city, its officials, employees, agents and volunteers must be filed, as specified in K.S.A. 12-105b(d) only with the City Clerk.

(b) The city shall not require any insurance company to waive its use of the city's legal defenses against claims.

(c) The city shall not compromise or settle any uninsured tort claim unless there is reasonable evidence that the city may be legally liable, since such actions tend to precipitate similar claims and there are questions as to the propriety of using public funds for such purposes when there is no public benefit derived or any legal obligation. The City Attorney shall examine each uninsured tort claim filed against the city. If, in the judgment of the City Attorney, the city will probably not be found liable in the event of litigation, it shall be the policy of the city that the claim not be compromised or settled, regardless of the emotional merits of the case. The Risk Manager, with the assistance of the City Attorney, shall initiate claims settlement negotiations upon a finding of probable liability for all claims not serviced by an insurance company or contracted claims service company.

(d) The city shall endeavor to obtain liability insurance contracts which provide for the approval of the city prior to the settlement of any claim in excess of $10,000 which has not been finally litigated. The City Council, meeting in executive session, will concur with or oppose such unlitigated settlements. It is recognized that the cost of legal defense constitutes a substantial share of the cost of insurance premiums. However, the discouragement of nonmeritorious claims and the development of a body of case law interpreting the Tort Claims Act is of long-term importance, to this city and to other Kansas local governments.

(e) If the City Manager judges that the city would be found liable in the event of litigation, he is then empowered to negotiate a final uninsured liability claim settlement up to a maximum of $10,000. The City Council will approve or disapprove uninsured settlements in excess of $10,000. (Ord. 89-98 § 1, 1989.)

3.60.150 Program Administration.

(a) The City Manager shall insure that procedures have been implemented for the administration of the risk management policy.

(b) The Risk Manager shall, within 90 days of the close of the city's fiscal year, prepare a risk management status report for submission to the City Council.

(c) All tort claims against the city, its officials, employees, agents and volunteers shall be filed in writing with the City Clerk in compliance with K.S.A. 12-105b(d). The City Clerk shall record the filing in a claim log, and then forward the claim to the Risk Manager for processing.

(d) No official, officer or employee of the city shall release any information or make any admissions which will have an effect on the outcome of any pending claim or litigation without the advice of the City Attorney; and, if an employee, the approval of the City Manager.

(e) Property damage accidents over $2,500 and all bodily injury accidents involving city property, facilities, operations and personnel shall be reported to the Risk Manager by the most expedient means. All others shall be reported by the end of the next working day.

(f) Claims against insurance companies or individuals, determined to be responsible for damage to city property or for injury to city employees, will be filed by the Risk Manager with legal assistance and support provided by the City Attorney. (Ord. 89-98 § 1, 1989.)

CHAPTER 3.70

STORMWATER MANAGEMENT FEE

Sections:

3.70.010 Imposition of Stormwater Management Fee.
3.70.020 Collection.
3.70.030 Late Payment Penalty.
3.70.040 Accounts to be Established.
3.70.050 Administrative Review.
3.70.060 Rate Sunset. (Repealed 8-15-2006)
3.70.070 Discount Program

3.70.010 Imposition of fee for stormwater management. There is hereby imposed, assessed and levied upon the respective owners of all buildings or structures within the city occupied by them or upon any person or persons authorized by such owner or owners to occupy such building or buildings, a monthly stormwater management charge or fee used to construct or rehabilitate a stormwater management system designed to alleviate flooding in the city in accordance with the city's capital improvement program. Such fee shall be adopted by the Governing Body of the City by resolution. (Ord. 05-122 § 1, 2005; Ord. 02-120 § 1, 2002; Ord. 02-97 § 1, 2002; Ord. 01-96 § 1, 2001; Ord. 99-93 § 1, 1999; Ord. 95-81 § 1, 1995; Ord. 90-118 § 1, 1990.)

3.70.020 Collection. A bill reflecting the stormwater management fee shall be billed once each month. Such billing may be combined with the utility bill and service charges for water, sewer and/or sanitation services provided by the city to its residents. (Ord. 90-118 § 1, 1990.)

3.70.030 Late Payment Penalty. Utility service bills shall become due as established in Section 13.04.103 of the Olathe Municipal Code. Any customer failing to pay his/her utility service bill shall be assessed a penalty pursuant to the provisions of Section 13.04.103. Collection procedures and court action may be started on all bills remaining unpaid over ten (10) days after the due date. (Ord. 04-108 § 1, 2004; Ord. 95-81 § 2, 1995; Ord. 90-118 § 1, 1990.)

3.70.040 Accounts to be Established. All monies collected under the stormwater management fees established in this ordinance shall be accounted for in separate and readily identifiable revenue accounts which indicate the source of funds entered in said accounts. Interest earned on said accounts shall accrue to such accounts. The monies in said accounts shall be appropriated or utilized for stormwater related purposes including the construction, rehabilitation and/or maintenance of the stormwater management system in accordance with the city's capital improvement program and operational requirements. Lawfully available funds from other sources, including grants and general obligation bonds, may be combined with the funds received from the stormwater management fee and used for the construction of stormwater management projects. (Ord. 95-81 § 3, 1995; Ord. 90-118 § 1, 1990.)

3.70.050 Administrative Review. Any person wishing to protest any charge levied under this ordinance may do so in writing to the City Council. (Ord. 90-118 § 1, 1990.)

3.70.060 Rate Sunset. Repealed 8-15-06. (Ord. 06-92 § 1, 2006; Ord. 04-108 § 2, 2004; Ord. 02-120 § 2, 2002; Ord. 02-97 § 2, 2002; Ord. 01-96 § 2, 2001; Ord. 99-93 § 2, 1999; Ord. 97-142 § 1, 1997; Ord. 95-81 § 4, 1995; Ord. 95-13 § 1, 1995; Ord. 93-15 § 1, 1993; Ord. 90-118 § 1, 1990.)

3.70.070 Discount Program. The City Manager is hereby authorized and directed to establish a residential stormwater service charge account holder discount program. The discount program will be made available to residential account holders age sixty-five (65) and older who satisfy the residency requirements, maximum income restrictions, and other requirements established by the City Manager or designee to administer the program. The discount will be made available to qualified residential account holders on a yearly basis and will require each account holder in the program to show proof of income to the City Manager or designee for each year a discount on monthly stormwater service charges is requested. The discount rate shall be established by resolution of the Governing Body. (Ord. 15-50 § 1, 2015.)

CHAPTER 3.90

TOURISM AND CONVENTION PROMOTION FUND

Sections:
3.90.010 Fund Established.

3.90.010 Fund Established. Pursuant to Charter Ordinance No. 30, there is hereby established a Tourism and Convention Promotion Fund. Monies received into such fund shall only be expended for tourism and convention promotion activities. (Ord. 93-88 § 1, 1993)

CHAPTER 3.95

PARKS SALES TAX FUND

Sections:
3.95.010 Fund Established.

3.95.010 Fund Established. There is hereby established a Parks Sales Tax Fund. Monies received from the one-eighth of one percent (.125%) retailers sales tax approved by the voters of the City and levied by the Governing Body, shall be placed in the fund. The revenue from the fund shall be used to acquire and improve public parks and recreation areas and a portion may be used to enhance library services. (Ord. 15-08 § 1, 2015; Ord. 00-08 § 1, 2000.)

Chapter 3.96, Golf Course Fund. Repealed 1/6/15. (Ord. 15-09 § 1, 2015; Ord. 01-08 § 1, 2001.)

CHAPTER 3.97

FIRE LEVY FUND

Sections:
3.97.010 Fund Established.

3.97.010 Fund Established. Pursuant to K.S.A. 19-3622, there is hereby established a Fire Levy Fund. Monies received for the operation of the city's fire department shall be placed in the fund and expenditures relating to the operation of the fire department shall be paid for from the fund. Monies may be budgeted and transferred to such fund from any source which may be lawfully utilized for such purposes. (Ord. 01-35 § 1, 2001.)

CHAPTER 3.100

INSURANCE PROCEEDS FUND

Sections:

3.100.010 Scope and Application.
3.100.020 Lien Created.
3.100.030 Same; Encumbrances.
3.100.040 Same; Pro Rata Basis.
3.100.050 Procedure.
3.100.060 Fund Created; Deposit of Moneys.
3.100.070 Building Inspector; Investigation, Removal of Structure.
3.100.080 Removal of Structure; Excess Money.
3.100.090 Same; Disposition of Funds.
3.100.100 Effect Upon Insurance Policies.
3.100.110 Insurers; Liability.

3.100.010 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 of Olathe where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of seventy-five percent (75%) of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this Chapter. (Ord. 16-46 § 1, 2016; Ord. 97-96 § 1, 1997; Ord. 96-74 § 1, 1996.)

3.100.020 Lien Created. There is hereby created a lien in favor of the City of Olathe 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 where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of seventy-five percent (75%) of the face value of the policy(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. (Ord. 16-46 § 2, 2016; Ord. 97-96 § 2, 1997; Ord. 96-74 § 1, 1996.)

3.100.030 Same: Encumbrances. Prior to final settlement on any claim covered by Section 3.100.020, the insurer or insurers shall contact the County Treasurer, Johnson 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, Johnson County, Kansas. (Ord. 96-74 § 1, 1996.)

3.100.040 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. (Ord. 96-74 § 1, 1996.)

3.100.050 Procedure.

(a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds seventy-five percent (75%) 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 fifteen percent (15%) of the covered claim payment unless the Chief Building Inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.

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

(c) Upon the transfer of the funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the named insured or insured, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreement to or arrived at between the insurance company or companies and the insured or insured, whereupon the Chief Building Inspector shall contact the named insured or insureds 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 Chapter. (Ord. 98-51 § 1, 1998; Ord. 97-96 § 3, 1997; Ord. 96-74 § 1, 1996.)

3.100.60 Fund Created; Deposit of Moneys. The City Treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the City Treasurer as provided for by this Chapter shall be placed in said fund and deposited in an interest-bearing account. (Ord. 16-46 § 3, 2016; Ord. 96-74 § 1, 1996.)

3.100.070 Building Inspector; Investigation, Removal of Structure.

(a) Upon receipt of moneys as provided for by this Chapter, 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 twenty (20) days of the receipt of said moneys, the Chief Building Inspector shall determine, after prior investigation, whether the city shall investigate proceedings under the provisions of K.S.A. 12-1750 et seq., as amended.

(c) Prior to the expiration of the twenty (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 thirty (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 insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within thirty (30) days of the receipt of the moneys from the insurance company or companies. (Ord. 96-74 § 1, 1996.)

3.100.080 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. (Ord. 96-74 § 1, 1996.)

3.100.090 Same; Disposition of Funds. If the Chief Building Inspector, with regard to any damaged building or other damaged structure determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the City Treasurer under the authority of 3.100.050 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 effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the City Treasurer under 3.100.050, 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. (Ord. 16-46 § 4, 2016; Ord. 97-96 § 4, 1997; Ord. 96-74 § 1, 1996.)

3.100.100 Effect Upon Insurance Policies. This Chapter 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. (Ord. 96-74 § 1, 1996.)

3.100.110 Insurers; Liability. Insurers complying with this Chapter or attempting in good faith to comply with this Chapter 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 Chapter, or releasing or disclosing any information pursuant to this Chapter. (Ord. 96-74 § 1, 1996.)

TITLE 5

BUSINESS LICENSES AND REGULATIONS

CHAPTERS:

5.02 Retailers Registration
5.04 Business Licenses (Repealed 12/6/94)
5.05 Special Event Permit
5.08 Alcoholic Liquor (Repealed-See Title 7)
5.10 Warehouse Entertainment Clubs
5.15 Teen Entertainment Clubs
5.17 Nude Entertainment at Private Clubs (Repealed-See Title 7)
5.24 Taxicabs
5.28 Solicitation, Peddling and Canvassing
5.30 Mobile Food Vendors
5.36 Massage Therapy
5.40 Private Police
5.42 Pawnbrokers and Precious Metal Dealers
5.43 Distance Restricted Businesses
5.44 Towing of Vehicles
5.50 Adult Businesses
5.52 Scrap Metal Dealers Registration (Repealed 5/3/16)

CHAPTER 5.02

RETAILERS REGISTRATION

Sections:

5.02.010 Registration Required
5.02.020 Registration Period, Duration
5.02.030 Registration Not Assignable; Unlawful Use
5.02.040 Application; Issuance of License
5.02.050 Penalty
5.02.060 Scope
5.02.070 Severability

5.02.010 Registration Required.

(A) It shall be unlawful for any person, firm or corporation acting as a retailer, either as principal, agent or employee, to conduct, pursue, carry on or operate any calling, trade, profession or occupation in the City without first applying for and receiving a certificate of registration from the City of Olathe.

(B) For the purposes of this chapter, "Retailer" is defined as a person regularly engaged in the business of selling tangible personal property at retail or furnishing electrical energy, gas, water, services or entertainment, and selling only to the user or consumer and not for resale. (Ord. 04-61 § 1, 2004.)

5.02.020 Registration Period, Duration.

(A) Retailers must register within thirty (30) days from their first business day.

(B) Registration shall commence and endure as long as the retailer's business remains open in the City of Olathe and the information submitted by the applicant to the City of Olathe remains unchanged. Any changes from the submitted application will require the retailer to submit a new application within thirty (30) days of the change.

(C) The City of Olathe shall issue a certificate of registration for each registered business. This certificate shall be posted in a prominent visible location in each business at all times. (Ord. 04-61 § 1, 2004.)

5.02.030 Registration Not Assignable; Unlawful Use. No registration granted under the provisions of this chapter shall be assigned or transferred. Each registration is only valid for the person and business named in the registration. (Ord. 04-61 § 1, 2004.)

5.02.040 Application; Issuance of License.

(A) Each registration application shall be made to the City of Olathe in writing on a form provided by the City of Olathe, or as otherwise allowed by the City of Olathe.

(B) Each application will contain, but is not limited to, the following information:

(1) Type of business, including whether a franchise, independently owned or home based;
(2) Legal name and common name of business;
(3) Business, street, mailing and e-mail addresses; telephone number; and website URL;
(4) Date business started;
(5) Name, mailing address and contact telephone number of each owner, partner or corporate officer;

(6) Corporate address, contact name and telephone number (if any);
(7) An after hour (emergency) contact name and telephone number;
(8) Federal Income Tax Number, Federal Employer Identification Number; and Kansas State Tax Account Number;
(9) The numbers of any federal, state or county licenses or certificates held;
(10) Approximate number of full time and part time employees;
(11) Anticipated sales tax filing frequency.

(C) Changes to information submitted are to be reported as soon as possible and shall be done at no charge to the registrant.

(D) Information provided on this application may be forwarded to the Kansas Department of Revenue for purpose of verifying compliance with the provisions of the Kansas Retailers' Sales Tax Act, K.S.A. 79-3601 et seq., as amended. Such information shall be subject to the confidentiality provisions set forth in K.S.A. 79-3614.

(E) If all required information is supplied and it does not appear that any state law or City ordinance will be violated in the operation of the business, the license shall be issued. (Ord. 04-61 § 1, 2004.)

5.02.050 PENALTY. Any business in violation of this chapter shall be fined not less than Twenty-Five Dollars ($25.00) and not more than Seven Hundred Fifty Dollars ($750.00) for each offense. Each day that a retailer operates without a valid certificate of registration shall be considered a separate offense. (Ord. 04-61 § 1, 2004.)

5.02.060 SCOPE. The provisions of this ordinance apply to all retailers' registration of the City, except where an ordinance concerning a particular business contains a specific provision to the contrary, in which case the specific provision shall apply. (Ord. 04-61 § 1, 2004.)

5.02.070 SEVERABILITY. The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application. (Ord. 04-61 § 1, 2004.)

CHAPTER 5.04. Business Licenses. Repealed 12/6/94. (Prior Code § 5-101; Prior Code § 5-102; Prior Code § 5-104; Prior Code § 5-105.)

CHAPTER 5.05. Formerly known as "Amusement Enterprise License." Repealed 12/6/94. (Ord. 464, 1976.)

CHAPTER 5.05

SPECIAL EVENT PERMIT

Sections:

5.05.010 Unlawful to Operate Without Permit.
5.05.020 Definitions.
5.05.030 Issuance of Permit.
5.05.040 Fees.
5.05.050 Suspension and Revocation of Permit.
5.05.060 Clean-Up.
5.05.070 Additional Parade Regulations.
5.05.080 Rules and Regulations.
5.05.090 Penalty for Violations – Actions.

5.05.010 Unlawful to Operate Without Permit. It shall be unlawful for any person to use the streets, or other public places, including sidewalks, City owned parking lots and parks, for any special event, without first obtaining a permit as described in this Chapter. (Ord. 15-36 § 2, 2015; Ord. 94-88 § 2, 1994.)

5.05.020 Definitions.

"Special Event" shall mean the use of any public street, public right of way, park or other public facilities which is owned or operated by the City, for events including (but not limited to) sporting events, music festivals, pageants, reenactments, regattas, entertainment, public assemblies, demonstrations, and other activities which would require a closure or limitation of some or all of said facilities for the uses to which they are generally available.

"Not for profit organization" as referred to this Chapter shall mean any organization recognized by the Internal Revenue Service (IRS) as an exempt organization by Internal Revenue Code ("I.R.C.") Section 501(c).

"Operator" shall mean a person, association of persons, corporation or the agent of the same who owns, controls or has the duty to control the operation of a circus, carnival, sideshow, rodeo, wild west show, animal show, or other similar activities.

"Profit organization" as referred to in this Chapter shall mean any individual or organization not meeting the criteria of I.R.C. Section 501(c).

"Sponsoring agency" shall mean any profit or non-profit organization which is sponsoring a special event. (Ord. 15-36 § 2, 2015; Ord. 10-69 § 1, 2010; Ord. 94-88 § 2, 1994.)

5.05.030 Issuance of Permit. No special event that is to be conducted on public property shall commence operation, or operate, within the City before an approved special event permit has been issued by the City Clerk or designee. (Ord. 15-36 § 2, 2015; Ord. 10-69 § 2, 2010; Ord. 94-88 § 2, 1994.)

5.05.040 Fees. Upon the filing of an application, the operator or the sponsoring agency shall pay the City Clerk the required fees. The fees shall be adopted by the Governing Body of the City by resolution. (Ord. 15-36 § 2, 2015; Ord. 94-88 § 2, 1994.)

5.05.050 Suspension and Revocation of Permit. The City Manager or designee, upon notice, shall revoke or suspend a permit for any one of the following reasons:

A. If the permit holder has fraudulently obtained the license by giving false information in the application.

B. If the permit holder has violated any of the provisions of this Chapter or any requirement, rule or regulation promulgated under the authority of this Chapter.

C. If the permit holder has become ineligible to obtain a permit under this Chapter.

D. If it has been shown in any competent court of law probable cause leading to formal charges, or indictment by a grand jury, of the operator or manager for any felony offense or any offense described in this Chapter, the permit shall be suspended. The suspension shall be lifted upon dismissal of such charges, acquittal in a court of law, or, in the case of a manager, upon the installation of a new manager who meets the requirements of licensure under this Chapter.

E. If the operator of the event is convicted of any felony offense or any offense described in this Chapter, the permit shall be revoked. (Ord. 15-36 § 2, 2015; Ord. 94-88 § 2, 1994.)

5.05.060 Clean-Up. The operator or sponsoring agency shall clean and restore the location where the special event operates to the condition which existed thereon prior to the occurrence of the event. Upon failure to do so the City shall proceed to clean up the location and bill the operator or sponsoring agency for the costs. The City may file a civil action in the Johnson County District Court to collect unpaid costs, but the filing of such action shall not prevent the filing of an action in the Municipal Court for violation of this section. (Ord. 15-36 § 2, 2015; Ord. 94-88 § 2, 1994.)

5.05.070 Additional Parade Regulations.

A. The parade chairman or other person heading or leading such activity shall carry the special event permit upon his person during the conduct of the parade and shall be responsible for moving the parade from its point of origin to its point of termination expeditiously and without unreasonable delays in route.

B. It shall be unlawful for any person to unreasonably hamper, obstruct or impede, or interfere with any parade or parade assembly or with any person, vehicle, or animal participating or used in a parade.

C. It shall be unlawful for any driver of any vehicle to drive a vehicle between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade; provided, however, that this provision shall not apply to police, fire or ambulance vehicles when engaged in police, fire or ambulance functions.

D. The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street, or part thereof constituting a part of the route of a parade and to post signs to such effect. It shall be unlawful for any person to remove the signs before the event is completed. It shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

E. It shall be unlawful for any person to engage in, participate in, aid, form, or start any parade without first obtaining a permit therefor as provided for herein, or who shall otherwise violate any of the provisions of this Chapter. (Ord. 15-36 § 2, 2015; Ord. 94-88 § 2, 1994.)

5.05.080 Rules and Regulations. The City Manager is hereby authorized to promulgate such reasonable rules and regulations as are necessary to carry out the provisions or the intent of this Chapter. Any dispute over the interpretation and application of such rules and regulations may be appealed to the City Manager. The decision of the City Manager regarding such policy appeal is final. (Ord. 15-36 § 2, 2015; Ord. 10-69 § 6, 2010; Ord. 94-88 § 2, 1994.)

5.05.090 Penalty for Violations – Actions. The violation of any of the provisions of this Chapter is a misdemeanor, and any person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not to exceed Five Hundred Dollars ($500.00); and the City of Olathe, Kansas, shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provision of this Chapter; and in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the set-up, erection, construction, reconstruction, alteration, maintenance or use of a special event, or to correct or abate such violations. Each and every day any violation of this Chapter continues shall constitute a separate offense. (Ord. 15-36 § 2, 2015; Ord. 94-88 § 2, 1994.)

Repealed sections of Chapter 5.05 pertaining to Special Event Permit are available in Ordinance No. 10-69 and 94-88.

CHAPTER 5.08. Alcoholic Liquor. Repealed -- See Chapter 7. (Ord. 87-139; Prior Code § 3-101.)

CHAPTER 5.10

WAREHOUSE ENTERTAINMENT CLUBS

Sections:

5.10.010 Definitions
5.10.020 Authority; Findings; Purpose; Intent
5.10.030 License Required
5.10.040 Exemptions from License
5.10.050 License Application
5.10.060 Procedures for Issuance or Denial of License
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5.10.190 Penalty
5.10.200 Public Nuisance - Abatement

5.10.010 Definitions. As used in this chapter, the words and phrases defined in this section shall have the following meanings.

A. "Club premises" means any place where an entertainment club is operated or maintained and includes all hallways, bathrooms, parking areas and other adjacent portions of the premises which are accessible to the public during operating hours.

B. "Entertainment" means a single event, a series of events, or an ongoing activity or business, occurring alone or as part of another business, to which patrons are invited or allowed to watch, listen, or participate, and is conducted for the purpose of holding the attention of, gaining the attention of, or diverting or amusing guests or patrons, including:

1. Presentations by single or multiple performers, such as musical song and dance acts, plays, concerts, demonstrations of talent, shows, reviews and other such activities;
2. Dancing to live or recorded music;
3. Prerecorded music played on equipment which is operated by an agent or contractor, commonly known as "DJ" or "disc jockey."

C. "Loiter" means remaining idle in essentially one location, to be dilatory, to tarry, to dawdle and shall include but be not limited to standing around, hanging out, sitting, kneeling, sauntering and prowling.

D. "Patron(s)" means a member or members of the public who enter an entertainment club, except:

1. Any agent, owner, employee or contractor of a warehouse entertainment club. Any person who indirectly or directly receives anything of value in exchange for his or her services rendered on behalf of such establishment shall be considered an "employee" hereunder;
2. Any agent or representative of any governmental entity of any description whatsoever, including ad hoc boards, task forces, and commissions, provided that such agent or representative enters an establishment acting in his or her official capacity on behalf of said governmental entity;
3. Persons who perform or conduct entertainment at warehouse entertainment clubs.

E. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

F. "Photo identification" means a valid driver's license or photo identification issued by the person's state of residence or current school identification card showing the age of the person.

G. "Probable cause" means reasonable grounds for belief in the existence of facts warranting proceedings to suspend or revoke a license.

H. "Private entertainment event" means any music, singing, dancing or other similar entertainment event, or series of events, which is not open to the public, but is conducted in a warehouse entertainment club.

I. "Specified anatomical areas" shall be defined as in Section 9.13.020(2)(b) of this Municipal Code.

J. "Specified sexual activities" shall be defined as in Section 9.13.020(2)(a) of this Municipal Code.

K. "Warehouse entertainment club" means a commercial premise offering entertainment to patrons with a maximum occupancy load exceeding 350 people. Maximum occupancy shall be determined by the Director of Development Services by consulting the City's building codes, fire and life safety codes, and the Unified Development Ordinance. (Ord. 01-41 § 1, 2001.)

5.10.020 Authority; Findings; Purpose; Intent.

A. Authority: This chapter is created pursuant to Article 12, Section 5 of the Constitution of the State of Kansas.

B. Findings: The City Council of the City of Olathe encourages the development of art and culture and recognizes that many entertainment venues provide a means for such development. The City Council further recognizes that the variety of entertainment venues in the City provide a rich and diverse cultural experience for the residents of the City and visitors to the City.

The City Council finds that the operations of warehouse entertainment clubs present an environment with a demonstrated potential for:

1. Increased criminal activities including, but not limited to: loitering; littering; disorderly conduct; possession and or sale of controlled substances; assaults; batteries; homicides; violation of liquor laws; and sexual misconduct.
2. Public nuisances including, but not limited to: excessive noise, litter and trash, damage to parking lot islands and landscaping, traffic congestion, and fire lane/emergency access obstruction.
3. The need for increased police presence to keep the public peace, including the calling of other police agencies in Johnson County for help in quelling disturbances.
4. Increased public expenditures in keeping the public peace.

C. Purpose: It is the purpose of this chapter to regulate the operations of warehouse entertainment clubs for the public safety. All licensees will be held responsible for controlling patrons conduct in and around the clubs, making adequate provisions for security and crowd control, protecting the City's youth from criminal activity and minimizing disturbances as a result of the operation of the establishment.

D. Intent: It is the intent of this chapter to provide options regulating the variety of businesses and events which provide entertainment. The City Council finds that the imposition of conditions tailored to the particular establishment will allow the business to flourish while meeting the City's public safety needs and avoiding unnecessary conditions on existing businesses or organizations which would change the mode of operations of a law-abiding business or organization with a history of compliance with the City laws. (Ord. 14-41 § 1, 2014; Ord. 01-41 § 1, 2001.)

5.10.030 License Required. It is unlawful and prohibited for any person to own, lease, operate, manage or maintain a warehouse entertainment club, in the City without first obtaining a warehouse entertainment club license from the City. (Ord. 01-41 § 1, 2001.)

5.10.040 Exemptions from License. The following types of entertainment and events are exempt from the license required by this chapter. This exemption does not relieve any of the establishments from complying with all other applicable laws, including the laws related to noise levels.

A. Entertainment sponsored by any agency of the City of Olathe, the County of Johnson County, the various Boards of Education, or of any other political subdivision of the State of Kansas;

B. A teen entertainment club licensed under the provisions of Chapter 5.15 of the Olathe Municipal Code;

C. Entertainment in a full service restaurant or bar limited to the use of a radio, music recording machine, juke box, television, video games, video programs, or recorded music which is incidental to the primary function of serving food or drink;

D. Entertainment provided for members and their guests at a Class A private club licensed under K.S.A. 41-2037 having an established membership when admission is not open to the public;

E. Entertainment provided for invited guests at a private event such as a wedding reception, banquet, or celebration where there is no admission charge;

F. Entertainment conducted in connection with a regularly established recreation or theme park;

G. Entertainment conducted or sponsored by any bona fide club, organization, society or association which is exempt from taxation pursuant to Internal Revenue Code section 501(c)(3), when all proceeds, if any arising from such entertainment are used exclusively for the benevolent purposes of such club, society or association;

H. Performances by the students at public or private institutions where such performances are part of an educational or instructional curriculum or program;

I. Theaters where patrons sit in parallel rows of fixed seats, comedy clubs and dinner theaters;

J. Motion picture theaters not providing live entertainment;

K. Dance lessons, theatrical and performing arts lessons;

L. Book readings, book signings, poetry recitations, and any other similar entertainment consisting of the spoken word, including plays;

M. Fund-raisers for a political cause;

N. Entertainment consisting of ambient or incidental music provided for the guests by musicians such as a piano player, harpist, strolling violinist, mariachi band, guitarist or band. If there is an admission charge, required to observe such entertainment, it will not be considered incidental.

O. Pool hall, billiard hall or bowling alley that does not provide space for dancing. (Ord. 01-41 § 1, 2001.)

5.10.050 License Application. A verified application for a license to operate a warehouse entertainment club shall be made by the applicant to the City Clerk on a form provided by the City Clerk and shall contain, but not be limited to the following information:

A. The name and address of the applicant;

B. The address and legal description of the place for which the license is desired;

C. A drawing of the premises for which the license is desired showing the location of the proposed premises in relation to other buildings, structures, parking areas, public or private streets, and sidewalks within 300 feet. Sufficient dimensions shall be included to indicate the relationship between the premises and such other buildings, structures, parking areas, etc. The number of parking spaces the premises will use to comply with City parking requirements shall be clearly shown on the drawing;

D. The name of the owner of the premises upon which the place of business is located, if different from the applicant;

E. The name and address of all employees who will be employed on the premises, if known;

F. A statement by which the applicant consents and agrees that any member of the Police Department or Fire Department, code enforcement inspectors, building inspectors, health inspectors or other officer of the City or state of Kansas may enter and inspect any part of such premises including the locked portions thereof;

G. A statement authorizing any governmental agency to provide the City with any information pertinent to the application;

H. A written management plan consisting of:

1. A plan to insure that adequate traffic control, crowd protection and security, both inside and outside the premises, will be maintained, and that ages of patrons admitted to the club will be monitored;
2. An emergency management plan, consisting of, but not limited to: fire evacuation, storm shelter provisions, patron crowd control, exterior parking lot security provision, emergency access for fire, police and ambulance. The plan shall utilize the exterior site and interior building plans to show exit routes, areas for refuge and emergency exits.
3. In addition to the requirements of subsection C above, the licensee shall provide a floor plan graphically depicting: the dimensions of the interior location, the dimension of any dance floor, the seating arrangements, the location of any food service area, exit dimensions, number of exits, the location of the fire alarm system and sprinkler system.

I. A statement declaring whether the applicant desires to operate a teen club on the premises as defined in Chapter 5.15 of the Olathe Municipal Code and a statement of the proposed schedule of operating hours and days. (Ord. 01-41 § 1, 2001.)

5.10.060 Procedures for Issuance or Denial of License. After receiving a complete application for a warehouse entertainment club license, as specified in Section 5.10.050, the City shall follow the following procedures:

A. Upon receipt of an application, the City Clerk shall send one copy of the application immediately to the Police Chief for investigation of the applicant. It shall be the duty of the Police Chief to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The Police Chief shall report to the City Clerk no later than twenty (20) working days subsequent to the receipt of such application. Such report may recommend that conditions be placed on the license. The City Clerk shall schedule the application for consideration by the Governing Body at the earliest convenient meeting date. The Governing Body shall consider the report of the Police Chief and shall issue or deny the license within thirty (30) working days after the date on which the application was considered unless the applicant agrees to an extension of said time period in writing.

B. A license shall be denied by the Governing Body on one or more of the following grounds:

1. If the business premises do not comply with all applicable regulatory codes, laws and statutes of the City, of Johnson County Kansas or the State of Kansas;
2. If the application is incomplete or if it contains any material misrepresentation;
3. If the application does not propose adequate measures for the protection of the public health, safety and welfare in terms of traffic control, crowd protection and security, both inside and outside the premises, the monitoring of the ages of patrons admitted to the club and an emergency management plan.
4. To any applicant who has been convicted or diverted of a felony, or, during the immediate preceding five years has been convicted or diverted of any of the following:

(a) Prostitution;
(b) Promotion of prostitution;

(c) Public lewdness;
(d) Gambling;
(e) Violation of the Kansas Uniform Controlled Substance Act or the controlled substance laws of any other governmental entity;
(f) Two or more separate incidences of violating the liquor laws of the City, the state of Kansas, or any other governmental agency;
(g) Driving under the influence of alcohol or drugs or any other alcohol-related offense;
(h) Carrying a concealed weapon;
(i) Disorderly conduct;
(j) Battery;
(k) A violation of this chapter.

5. To any applicant whose employee or manager has been convicted or diverted of a felony, or, during the immediate preceding five years, has been convicted or diverted of the following:

(a) Prostitution;
(b) Promotion of prostitution;
(c) Public lewdness;
(d) Gambling;
(e) Violation of the Kansas Uniform Controlled Substance Act or the controlled substance laws of any other governmental entity;
(f) Two or more separate incidences of violating the liquor laws of the City, the state of Kansas, or any other governmental agency;
(g) Driving under the influence of alcohol or drugs or any other alcohol-related offense;
(h) Carrying a concealed weapon;
(i) Disorderly conduct;
(j) Battery;
(k) A violation of this chapter.

6. To a partnership, unless all the members are qualified individually;
7. To a corporation, if any corporation officer or director thereof or any stockholder owning in the aggregate more than 25% of the stock of such corporation would be ineligible to receive a license;
8. To a person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required of the licensee;
9. If the proposed location of a club is within 1,000 feet of an existing warehouse entertainment club.
10. No person defined herein who has a proprietary interest in a warehouse entertainment club that has been revoked, or any person acting on his or her behalf, shall be granted a warehouse entertainment club license within the City for a period of twelve (12) months following the date of revocation.

C. No license to operate a warehouse entertainment club shall be issued until notice has been given by the applicant by certified mail, return receipt requested, to all property owners and to all parties in possession of real property within 300 feet of the club premises as described in the application at least ten (10) days prior to the Governing Body hearing.

D. The Governing Body may impose such conditions on the issuance of the license which are necessary to protect the public health, safety and welfare. Conditions shall be based upon specific and articulable facts reasonably related to insuring public health and safety, including but not limited to, the protection of minors from alcohol and other criminal activity, prevention of public nuisances, enhancement of fire protection, traffic control, crowd control, security lighting and emergency access.

Such conditions are only subject to change at (1) the time of renewal of the license, (2) after a hearing requested in writing by the applicant to modify the conditions, or (3) after ten (10) days written notice to the applicant and a hearing by the Governing Body to consider additional or modified conditions designed to protect the public health and safety. (Ord. 01-41 § 1, 2001.)

5.10.070 License Fee. An annual license fee shall be paid for each license that is issued pursuant to this chapter. Such license fee shall be adopted by the Governing Body of the City by resolution. The full amount of the license fee shall be required regardless of the time of the year in which the application is made. There shall be no refund in any case when the licensee quits business prior to the end of the year. No license shall be transferable.

If any person required to pay a license fee shall fail or refuse to pay his license fee for any year, he shall not be granted a license for the current year until such delinquent license has been paid in addition to the current fee required. (Ord. 02-121 § 1, 2002; Ord. 01-41 § 1, 2001.)

5.10.080 License Term; Renewal.

A. The term of a warehouse entertainment club license shall be one year from issuance.

B. The license for a warehouse entertainment club shall be renewed in the same manner as for an original application. (Ord. 01-41 § 1, 2001.)

5.10.090 Operating Rules and Regulations.

A. The following operating rules and regulations shall apply to all warehouse entertainment clubs in the City:

1. The standards of conduct applicable to all businesses in the City, as specified in the Olathe Municipal Code, the Unified Development Ordinance, and any other building or safety codes shall apply to warehouse entertainment clubs.
2. It shall be the obligation of the licensee to insure that no controlled substances are offered for sale or consumed on the club premises.
3. It shall be the obligation of the licensee to remove from the club premises any person who is or appears to be under the influence of or affected by the use of alcohol and/or drugs, or whose conduct poses a physical danger to the safety of others present.
4. It shall be the obligation of the licensee to provide proper and adequate illumination of all portions of the club premises which are available for use by the public.
5. It shall be the obligation of the licensee to prevent loitering or the creation of public nuisances or disturbances of the peace by any patrons of the club on club premises, or the immediate vicinity of the same. "Loitering" shall not include walking between the club building and a patron's vehicle, nor shall it include the act of waiting in line to gain admission to the club.
6. It shall be the obligation of the licensee to clean up all litter on the premises resulting from club operations.
7. No person, other than an employee or entertainer, who leaves the club building shall be permitted to return to the club unless that person pays a readmission fee equal to the original price of admission.
8. No licensee shall feature or permit dancers, entertainers, employee, or any other person or persons to be engaged in specified sexual activities or to expose to view or display specified anatomical areas.
9. All persons shall be admitted to a warehouse entertainment club through a single entrance so that occupancy load can be monitored by the licensee.
10. No warehouse entertainment club shall be established within 1,000 feet of another licensed warehouse entertainment club.
11. Security guards.

(a) A minimum of two security persons shall be required for up to the first 50 persons in attendance.

(b) In addition to the minimum two security persons, one additional security person for each additional 50 persons in attendance shall be required.

(c) "Qualified security personnel" means any person who works for:

(1) A private police organization as defined in Chapter 5.40; and
(2) Is 21 years of age or older; and
(3) Is uniformed when working.

12. No warehouse entertainment clubs may operate between the hours of 2:00 a.m. and 9:00 a.m.

13. The licensee shall control the conduct of patrons so as to prevent or minimize disorderly or unlawful conduct upon the premises and within one hundred (100) feet of the premises. The 100-foot distance shall be measured in a straight line from the property line of the licensed premises.

14. The licensee shall cause the orderly dispersal of individuals from the vicinity of the club at closing time, and shall not allow them to congregate in the vicinity in a disorderly fashion.

15. The licensee shall make reasonable efforts to prevent the admission of any person whose conduct is described in Section 9.11.010 of the code (disorderly conduct) on the premises or on any parking lot or similar facility used by the club. The licensee shall make reasonable efforts to remove persons exhibiting such conduct from the premises.

16. The licensee shall be responsible to insure that an adequate number of qualified security personnel are employed and in attendance before, during, and following each entertainment event as is necessary in order to maintain order and insure compliance with all applicable federal, state and city law and ordinances.

B. Additional operating rules and regulations for teen entertainment clubs.

1. A warehouse entertainment club licensee may operate a teen entertainment club on the premises of a warehouse entertainment club upon compliance with the provisions of Chapter 5.15 of the Olathe Municipal Code and payment of an additional license fee. Such fee shall be adopted by the Governing Body of the City by resolution.

2. A licensee may not operate a teen entertainment club at the same time that the licensee is operating as a warehouse entertainment club. When the licensee is operating as a warehouse entertainment club, no person under the age of 21 shall be permitted to enter or remain in the club unless accompanied by a parent or legal guardian, except for bona fide employees or entertainers hired by the licensee to work in the club.

3. The operating standards found in Chapter 5.15 for teen entertainment clubs shall apply to the days a warehouse entertainment club is operating as a teen entertainment club.

4. A 3 foot by 3 foot sign shall be clearly posted at the entrance notifying the public that the premises is operating as a teen club. (Ord. 02-121 § 2, 2002; Ord. 01-41 § 1, 2001.)

5.10.100 Access by Law Enforcement Officers. All law enforcement officers and any other officials of the City shall have free access to all warehouse entertainment clubs for the purpose of inspection and to enforce compliance with the provisions of this chapter. (Ord. 01-41 § 1, 2001.)

5.10.110 Checking the Age of Patrons.

A. It is the responsibility of the licensee to require photo identification, showing the age of each person admitted to a warehouse entertainment club. It shall be unlawful for any person to knowingly or recklessly allow a person to enter or remain on the premises of a warehouse entertainment club in violation of the provisions of this chapter.

B. It shall be unlawful for any person for the purpose of obtaining admission to, or remain at, a warehouse entertainment club to misrepresent his or her:

1. Age;
2. Authority as a licensee or employee of such warehouse entertainment club;
3. Authority as a parent or guardian of a person in such warehouse entertainment club;
4. Authority as a governmental employee engaged in the performance of his or her duties.

C. It shall be unlawful for any person on the premises to not provide identification to law enforcement officers to include name, age and address. (Ord. 01-41 § 1, 2001.)

5.10.120 Procedure for Suspension or Revocation of Licenses. Whenever the Chief of Police determines that there is probable cause for suspending or revoking a warehouse entertainment club license, the Chief of Police shall notify the licensee by registered or certified mail, return receipt requested, of such determination. Notice mailed to the address on the license shall be deemed received seven (7) working days after mailing. The notice shall specify the proposed grounds for suspension or revocation. The grounds for suspension and revocation are found in Section 5.10.130. The notice shall also specify that a hearing shall be conducted by the City Manager for a license suspension or by the Governing Body for a license revocation at a time and date denominated in the notice, nor more than thirty (30) days thereafter, to determine whether or not the license shall be suspended or revoked. The notice shall be mailed to the licensee at least five (5) days prior to the date set for the hearing. The licensee may appear at the hearing and be heard in opposition to such suspension or revocation. The decision to suspend or revoke shall be final. (Ord. 01-41 § 1, 2001.)

5.10.130 Grounds for Suspension or Revocation.

A. The City Manager or his designee may, after notice and hearing as required in Section 5.10.120, suspend a warehouse entertainment club license whenever the licensee, or any manager, officer, director, agent, or employee of the licensee has caused, permitted or knowingly done any of the following:

1. Failed to keep the building structure or equipment of the licensed premises in compliance with the applicable health, building, fire or safety laws, regulations or ordinances which relates to or affects public health or safety on the warehouse entertainment club premises;
2. Failed to comply with the operating rules and regulations of warehouse entertainment clubs specified in Section 5.10.090.

B. The Governing Body may, after notice and hearing as required in Section 5.10.120, revoke a warehouse entertainment club license on any one or more of the following grounds:

1. Whenever the City learns that the licensee or any manager, officer, director, agent or employee of the licensee made a material false statement or representation, or failed to disclose any material information to the City, in connection with any application for the warehouse entertainment club license or any renewal thereof;
2. Whenever the licensee or any manager, officer, director, agent or employee of the licensee fails within a reasonable time to cure a condition that caused a license suspension;
3. Whenever the licensee or any manager, officer, director, agent or employee of the licensee knowingly permits conduct on the licensed premises that violates any federal, state or city criminal or penal statute, law or ordinance, including the liquor laws of the state of Kansas or this City;
4. Whenever operation of the warehouse entertainment club becomes the proximate cause of a significant increase in criminal activity on the premises or in the immediate vicinity in such a way as to endanger persons or property.
5. Whenever licensee knowingly employs persons in violation of the licensing standards of this chapter;
6. Whenever licensee fails to cooperate with City officials in the conduct of their enforcement and inspection duties.

No person defined herein who has a proprietary interest in a warehouse entertainment club that has been revoked, or any person acting on his or her behalf, shall be granted an entertainment club license within the City for a period of twelve (12) months following the date of revocation. (Ord. 01-41 § 1, 2001.)

5.10.140 Chief of Police Authority Where There Is Immediate Threat to Public Safety.

A. The Chief of Police, or his designee, may require a licensee to close down operations and disperse all patrons whenever conduct by disorderly patrons reaches a magnitude that presents an immediate threat to the public safety and well-being of the patrons and general public in the vicinity. The operations shall remain closed until the threat has passed.

B. It is unlawful for any person to fail to comply with any directive issued by the Chief of Police, or his designee, under authority of Section 5.10.140 A. (Ord. 01-41 § 1, 2001.)

5.10.150 Private Entertainment Event.

A. It shall be unlawful and prohibited for any person to authorize or conduct a private entertainment event in a licensed warehouse entertainment club without registering with the City Clerk and paying the a registration fee. Such fee shall be adopted by the Governing Body of the City by resolution.

B. Registration forms may be obtained from the City Clerk.

C. The operating rules and regulations of Section 5.10.090 shall apply to private entertainment events.

D. All police officers of the City and the state of Kansas shall have free access to such private entertainment events for the purpose of inspection and enforce compliance with the ordinances of the City and the laws of the state of Kansas. (Ord. 02-121 § 3, 2002; Ord. 01-41 § 1, 2001.)

5.10.160 Applicability to Existing Businesses. The provisions of this chapter shall be applicable to all persons and businesses described in this chapter whether the activities described in this chapter were established before or after the effective date of the ordinance codified in this chapter. All existing businesses must be in compliance with this chapter by January 1, 2002. (Ord. 01-41 § 1, 2001.)

5.10.170 Conflict. In the event of a conflict between this chapter and any other chapter of the Olathe Municipal Code, the provisions of this chapter shall apply. (Ord. 01-41 § 1, 2001.)

5.10.180 Construction of Chapter. The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. (Ord. 01-41 § 1, 2001.)

5.10.190 Penalty. Any person convicted of a violation of this chapter shall be fined not more than $1,000 or imprisoned for more than six months, or by both such fine and imprisonment in addition to any action taken pursuant to Section 5.10.120. (Ord. 01-41 § 1, 2001.)

5.10.200 Public Nuisance – Abatement. Any business establishment providing entertainment maintained contrary to the provisions of this chapter shall be and the same is declared to be unlawful and a public nuisance and the City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal and enjoinment thereof in the manner provided by law and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such establishments and restrain and enjoin any person from operating, conducting or maintaining such an establishment where entertainment is provided contrary to the provisions of this chapter. (Ord. 01-41 § 1, 2001.)

CHAPTER 5.15

TEEN ENTERTAINMENT CLUBS

Sections:

5.15.010 Definitions
5.15.020 License Required
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5.15.040 License Application
5.15.050 Procedures for Issuance or Denial of License
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5.15.070 License Term; Renewal
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5.15.090 Alcohol and Tobacco Prohibited
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5.15.180 Construction of Chapter
5.15.190 Penalty
5.15.200 Public Nuisance - Abatement

5.15.010 Definitions. As used in this Ordinance, the words and phrases defined in this section shall have the following meanings.

A. "Entertainment" means a single event, a series of events, or an ongoing activity or business, occurring alone or as part of another business, to which persons are invited or allowed to watch, listen, or participate, and is conducted for the purpose of holding the attention of, gaining the attention of, or diverting or amusing guests or patrons, including:

1. Presentations by single or multiple performers, such as musical song and dance acts, plays, concerts, demonstrations of talent, shows, reviews and other such activities;
2. Dancing to live or recorded music;
3. Prerecorded music played on equipment which is operated by an agent or contractor, commonly known as "DJ" or "disc jockey."

B. "License" means a permit to operate a teen entertainment club.

C. "Licensee" means the person to whom the license required under this ordinance is issued as well as any manager, agent or employee of such person at the licensed place of business.

D. "Loiter" means remaining idle in essentially one location, to be dilatory, to tarry, to dawdle and shall include but be not limited to standing around, hanging out, sitting, kneeling, sauntering and prowling.

E. "Probable cause" means reasonable grounds for belief in the existence of facts warranting proceeding to suspend or revoke a license.

F. "Public school" means the Olathe Public School system.

G. "Specified anatomical areas" shall be defined as in Section 9.13.020(2)(b) of this Municipal Code.

H. "Specified sexual activities" shall be defined as in Section 9.13.020(2)(a) of this Municipal Code.

I. "Teen" means a person 14 years of age through 20 years of age.

J. "Teen entertainment club" means any place primarily attended by teens, to participate in dancing or listening to recorded music, or entertainment, whether admission thereto is by a set admission charge, by the donation of money, or no charge at all.

K. "Teen entertainment club premises" means any place where a teen entertainment club is operated or maintained and includes all hallways, bathrooms, parking areas and other adjacent portions of the premises which are accessible to the public during operating hours. (Ord. 01-42 § 1, 2001.)

5.15.020 License Required. It is unlawful and prohibited for any person to operate a teen entertainment club within the City without having in such person's possession a valid teen entertainment club license for the place of business issued by the City. (Ord. 01-42 § 1, 2001.)

5.15.030 Exemptions from License. The following activities do not require a license pursuant to this Chapter:

A. Entertainment conducted at a private residence from which the general public is excluded;

B. Entertainment conducted at or sponsored by a public or private elementary school, secondary school, college, or university;

C. Entertainment conducted at a religious or fraternal organization;

D. Entertainment conducted at a place owned by the federal, state or local government. (Ord. 01-42 § 1, 2001.)

5.15.040 License Application. A verified application for a license to operate a teen entertainment club shall be made by the applicant to the City Clerk on a form provided by the City Clerk and shall contain, but not be limited to the following information:

A. The name and address of the applicant;

B. The address and legal description of the place for which the license is desired;

C. A drawing of the premises for which the license is desired showing the location of the proposed premises in relation to other buildings, structures, parking areas, public or private streets, and sidewalks within 300 feet. Sufficient dimensions shall be included to indicate the relationship between the premises and such other buildings, structures, parking areas, etc. The number of parking spaces the premises will use to comply with City parking requirements shall be clearly shown on the drawing;

D. The name of the owner of the premises upon which the place of business is located, if different from the applicant;

E. The name and address of all employees who will be employed on the premises, if known;

F. A statement by which the applicant consents and agrees that any member of the Police Department or Fire Department, code enforcement inspectors, building inspectors, health inspectors or other officer of the City or state of Kansas may enter and inspect any part of such premises including the locked portions thereof;

G. A statement authorizing any governmental agency to provide the City with any information pertinent to the application;

H. A written management plan consisting of:

1. A plan to insure that adequate traffic control, crowd protection and security, both inside and outside the premises, will be maintained, and that ages of patrons admitted to the teen entertainment club will be monitored;
2. An emergency management plan, consisting of, but not limited to: fire evacuation, storm shelter provisions, patron crowd control, exterior parking lot security provision, emergency access for fire, police and ambulance. The plan shall utilize the exterior site and interior building plans to show exit routes, areas for refuge and emergency exits.
3. In addition to the requirements of subsection C above, the licensee shall provide a floor plan graphically depicting: the dimensions of the interior location, the dimension of any dance floor, the seating arrangements, the location of any food service area, exit dimensions, number of exits, the location of the fire alarm system and sprinkler system. (Ord. 01-42 § 1, 2001.)

5.15.050 Procedures for Issuance or Denial of License. After receiving a complete application for a teen entertainment club license, as specified in Section 5.15.040, the City shall follow the following procedures:

A. Upon receipt of an application, the City Clerk shall send one copy of the application immediately to the Police Chief for investigation of the applicant. It shall be the duty of the Police Chief to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The Police Chief shall report to the City Clerk no later than twenty (20) working days subsequent to the receipt of such application. Such report may recommend that conditions be placed on the license. The City Clerk shall schedule the application for consideration by the Governing Body at the earliest convenient meeting date. The Governing Body shall consider the report of the Police Chief and shall issue or deny the license within thirty (30) working days after the date on which the application was considered unless the applicant agrees to an extension of said time period in writing.

B. A license shall be denied by the Governing Body on one or more of the following grounds:

1. If the business premises do not comply with all applicable regulatory codes, laws and statutes of the City, of Johnson County Kansas or the State of Kansas;
2. If the application is incomplete or if it contains any material misrepresentation;
3. If the application does not propose adequate measures for the protection of the public health, safety and welfare in terms of traffic control, crowd protection and security, both inside and outside the premises, the monitoring of the ages of patrons admitted to the club and an emergency management plan.
4. To any applicant who has been convicted or diverted of a felony, or, during the immediate preceding five years has been convicted or diverted of any of the following:

(a) Prostitution;
(b) Promotion of prostitution;
(c) Public lewdness;
(d) Gambling;
(e) Violation of the Kansas Uniform Controlled Substance Act or the controlled substance laws of any other governmental entity;
(f) Violation of the liquor laws of the City, the state of Kansas, or any other governmental agency;

(g) Driving under the influence of alcohol or drugs or any other alcohol-related offense;
(h) Disorderly conduct;
(i) Battery;
(j) A violation of this chapter.

5. To any applicant whose employee or manager has been convicted or diverted of a felony, or, during the immediate preceding five years, has been convicted or diverted of the following:

(a) Prostitution;
(b) Promotion of prostitution;
(c) Public lewdness;
(d) Gambling;
(e) Violation of the Kansas Uniform Controlled Substance Act or the controlled substance laws of any other governmental entity;
(f) Violation of the liquor laws of the City, the state of Kansas, or any other governmental agency;
(g) Driving under the influence of alcohol or drugs or any other alcohol-related offense;
(h) Disorderly conduct;
(i) Battery;
(j) A violation of this chapter.

6. To a partnership, unless all the members are qualified individually;
7. To a corporation, if any corporation officer or director thereof or any stockholder owning in the aggregate more than 25% of the stock of such corporation would be ineligible to receive a license;
8. To a person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required of the licensee;
9. If the proposed location of a club is within 1,000 feet of an existing teen entertainment club;
10. No person defined herein who has a proprietary interest in a teen entertainment club that has been revoked, or any person acting on his or her behalf, shall be granted a teen entertainment club license within the City for a period of twelve (12) months following the date of revocation.

C. No license to operate a teen entertainment club shall be issued until notice has been given by the applicant by certified mail, return receipt requested, to all property owners and to all parties in possession of real property within 300 feet of the teen entertainment club premises as described in the application at least ten (10) days prior to the Governing Body hearing.

D. The Governing Body may impose such conditions on the issuance of the license which are necessary to protect the public health, safety and welfare. Conditions shall be based upon specific and articulable facts reasonably related to insuring public health and safety, including but not limited to, the protection of minors from alcohol and other criminal activity, prevention of public nuisances, enhancement of fire protection, traffic control, crowd control, security lighting and emergency access. Such conditions are only subject to change at (1) the time of renewal of the license, (2) after a hearing requested in writing by the applicant to modify the conditions, or (3) after ten (10) days written notice to the applicant and a hearing by the Governing Body to consider additional or modified conditions designed to protect the public health and safety. (Ord. 14-41 § 2, 2014; Ord. 01-42 § 1, 2001.)

5.15.060 License Fee. An annual license fee shall be paid for each license that is issued pursuant to this chapter. Such license fee shall be adopted by the Governing Body of the City by resolution. The full amount of the license fee shall be required regardless of the time of the year in which the application is made. There shall be no refund in any case when the licensee quits business prior to the end of the year. No license shall be transferable.

If any person required to pay a license fee shall fail or refuse to pay his license fee for any year, he shall not be granted a license for the current year until such delinquent license has been paid in addition to the current fee required.

If any person required to pay a license fee shall fail or refuse to pay the same for any year as herein provided for, such fee may be collected by the City in a proper action brought for the purpose. This remedy is cumulative and not exclusive. (Ord. 02-122 § 1, 2002; Ord. 01-42 § 1, 2001.)

5.15.070 License Term; Renewal.

A. The term of a teen entertainment club license shall be one year from issuance.

B..The license for a teen entertainment club shall be renewed in the same manner as for an original application. (Ord. 01-42 § 1, 2001.)

5.15.080 Operating Rules and Regulations.

A. The following operating rules and regulations shall apply to all teen entertainment clubs in the City:

1. The standards of conduct applicable to all businesses in the City, as specified in the Olathe Municipal Code, the Unified Development Ordinance, and any other building or safety codes shall apply to teen entertainment clubs.
2. It shall be the obligation of the licensee to insure that no controlled substances are offered for sale or consumed on the club premises.
3. It shall be the obligation of the licensee to remove from the club premises any person who is or appears to be under the influence of or affected by the use of alcohol and/or drugs, or whose conduct poses a physical danger to the safety of others present.
4. It shall be the obligation of the licensee to provide proper and adequate illumination of all portions of the club premises which are available for use by the public.
5. It shall be the obligation of the licensee to prevent loitering or the creation of public nuisances or disturbances of the peace by any person on club premises, or the immediate vicinity of the same. “Loitering” shall not include walking between the club building and a patron’s vehicle, nor shall it include the act of waiting in line to gain admission to the club.
6. It shall be the obligation of the licensee to clean up all litter on the premises resulting from club operations.
7. No person, other than an employee or entertainer, who leaves the club building shall be permitted to return to the teen entertainment club unless that person pays a readmission fee equal to the original price of admission.
8. No licensee shall feature or permit dancers, entertainers, employees, or any other person or persons to be engaged in specified sexual activities or to expose to view or display specified anatomical areas.
9. All persons shall be admitted to a teen entertainment club through a single entrance so that occupancy load can be monitored by the licensee.
10. No teen entertainment club shall be established within 1,000 feet of another licensed teen or warehouse entertainment club.
11. Security guards.

(a) A minimum of two security persons shall be required for up to the first 50 persons in attendance.

(b) In addition to the minimum two security persons, one additional security person for each additional 50 persons in attendance shall be required.

(c) "Qualified security personnel" means any person who works for:

(1) A private police organization as defined in Chapter 5.40; and
(2) Is 21 years of age or older; and
(3) Is uniformed when working.

12. Teen entertainment clubs shall be open to business only during the following times.

(a) If school is in session, the hours of operation shall be:

(1) 5:00 p.m. through 10:30 p.m. Monday through Thursday;
(2) 5:00 p.m. on Friday through 12:00 a.m. on Saturday;
(3) 1:00 p.m. Saturday through 12:00 a.m. on Sunday;
(4) 1:00 p.m. through 10:30 p.m. on Sunday.

(b) If school is not in session, the hours of operation shall be 1:00 p.m. through 12:00 a.m. Monday through Sunday.

13. The licensee shall control the conduct of persons so as to prevent or minimize disorderly or unlawful conduct upon the premises and within one hundred (100) feet of the premises. The 100-foot distance shall be measured in a straight line from the property line of the licensed premises.

14. The licensee shall cause the orderly dispersal of individuals from the vicinity of the teen entertainment club at closing time, and shall not allow them to congregate in the vicinity in a disorderly fashion.

15. The licensee shall make reasonable efforts to prevent the admission of any person whose conduct is described in Section 9.11.010 of the code (disorderly conduct) on the premises or on any parking lot or similar facility used by the club. The licensee shall make reasonable efforts to remove persons exhibiting such conduct from the premises.

16. The licensee shall be responsible to insure that an adequate number of qualified security personnel are employed and in attendance before, during, and following each entertainment event as is necessary in order to maintain order and insure compliance with all applicable federal, state and city law and ordinances.

17. (a) Licensees may allow persons 14 years of age through 20 years of age to enter the teen entertainment club; provided, if a licensee allows persons 14 and 15 years of age to enter the teen entertainment club, they shall be prohibited from allowing persons 19 and 20 years of age from entertaining the teen entertainment club; provided further, if a licensee prohibits individuals 14 and 15 years of age from entering the teen entertainment club; they may allow persons 16 through 20 years of age to enter the teen entertainment club. Licensees are prohibited from allowing both 14 and 15 year old individuals and 19 and 20 year old individuals in the club at the same time. In addition, licensees must state on their application for license which age group they intend to serve. If during the license period a licensee desires to change the age group to be served, the licensee must first notify the City Clerk in writing of the change.

(b) In those teen entertainment clubs where the licensee has indicated on the license application that service will be to 14 through 18 year old individuals, no person under the age of 14 years of age or over the age of 18 years old may enter or remain on the premises. In those teen entertainment clubs, where the licensee has indicated on the license application that service will be to 16 through 20 year old individuals, no person under the age of 16 and no person over the age of 20 may enter or remain on the premises; provided that regardless of the age of the patrons selected by the licensee, parents or legal guardians of persons on the premises, employees, or licensees of the teen entertainment club and government officials conducting business may enter upon the premises.

(c) It is a violation of this chapter for any person for the purpose of gaining admittance to a teen entertainment club to falsely represent:

(1) Their actual age;
(2) Themselves to be a licensee or an employee of the teen entertainment club;
(3) Themselves to be a parent or guardian of a person in a teen entertainment club;
(4) Themselves to be a governmental employee in the performance of his/her duties.

(d) It shall be a violation of this chapter for a licensee not to check each person entering the licensed premises to insure by way of valid identification the person entering the teen entertainment club. Persons without identification shall be denied entrance to the premises.

(e) It shall be a violation of this chapter for any person on the premises, to include the parking areas, to not provide identification to law enforcement officers to include name, age and address. (Ord. 01-42 § 1, 2001.)

5.15.090 Alcohol and Tobacco Prohibited.

A. The possession of alcohol or cereal malt beverages is prohibited on the premises of any teen entertainment club and it shall be a violation of this chapter for any person to possess alcohol on the premises of a teen entertainment club or for a licensee to permit the possession of alcohol on the premises. Licensees shall physically check all handbags, purses, backpacks, book bags or hand carried clothing to insure no alcohol is brought into the premises.

B. There shall be no smoking permitted on the premises of a teen entertainment club. It shall be a violation of this chapter for any person to smoke on the premises of a teen entertainment club or for a licensee to permit smoking on the premises. (Ord. 01-42 § 1, 2001.)

5.15.100 Access by Law Enforcement Officers. All law enforcement officers and any other officials of the City shall have free access to all warehouse entertainment clubs for the purpose of inspection and to enforce compliance with the provisions of this chapter. (Ord. 01-42 § 1, 2001.)

5.15.110 Posting. Licensee shall post the age restrictions and the alcohol and tobacco prohibitions conspicuously upon the premises, preferably on the outside of the building adjacent to the main entrance. (Ord. 01-42 § 1, 2001.)

5.15.120 Maximum Occupancy. The interior of each teen entertainment club must have at least seven square feet of floor space for each person who is permitted therein by the occupancy load for the location, at least four square feet of which must be reserved exclusively for dancing, if dancing is permitted. The occupancy load shall be posted above each door and occupancy in excess of the posted load shall not be permitted. (Ord. 01-42 § 1, 2001.)

5.15.130 Procedures for Suspension or Revocation of Licenses. Whenever the Chief of Police determines that there is probable cause for suspending or revoking a teen entertainment club license, the Chief of Police shall notify the licensee by registered or certified mail, return receipt requested, of such determination. Notice mailed to the address on the license shall be deemed received seven (7) working days after mailing. The notice shall specify the proposed grounds for suspension or revocation. The grounds for suspension and revocation are found in Section 5.15.140. The notice shall also specify that a hearing shall be conducted by the City Manager for a license suspension or by the Governing Body for a license revocation at a time and date denominated in the notice, nor more than thirty (30) days thereafter, to determine whether or not the license shall be suspended or revoked. The notice shall be mailed to the licensee at least five (5) days prior to the date set for the hearing. The licensee may appear at the hearing and be heard in opposition to such suspension or revocation. The decision to suspend or revoke shall be final. (Ord. 01-42 § 1, 2001.)

5.15.140 Grounds for Suspension or Revocation.

A. The City Manager or his designee may, after notice and hearing as required in Section 5.15.130, suspend a teen entertainment club license whenever the licensee, or any manager, officer, director, agent, or employee of the licensee has caused, permitted or knowingly done any of the following:

1. Failed to keep the building structure or equipment of the licensed premises in compliance with the applicable health, building, fire or safety laws, regulations or ordinances which relates to or affects public health or safety on the teen entertainment club premises;
2. Failed to comply with the operating rules and regulations of teen entertainment clubs specified in Section 5.10.090.

B. The Governing Body may, after notice and hearing as required in Section 5.15.130, revoke a teen entertainment club license on any one or more of the following grounds:

1. Whenever the City learns that the licensee or any manager, officer, director, agent or employee of the licensee made a material false statement or representation, or failed to disclose any material information to the City, in connection with any application for the teen entertainment club license or any renewal thereof;
2. Whenever the licensee or any manager, officer, director, agent or employee of the licensee fails within a reasonable time to cure a condition that caused a license suspension;
3. Whenever the licensee or any manager, officer, director, agent or employee of the licensee knowingly permits conduct on the licensed premises that violates any federal, state or city criminal or penal statute, law or ordinance, including the liquor laws of the state of Kansas or this City;
4. Whenever operation of the teen entertainment club becomes the proximate cause of a significant increase in criminal activity on the premises or in the immediate vicinity in such a way as to endanger persons or property;
5. Whenever licensee knowingly employs persons in violation of the licensing standards of this chapter;
6. Whenever licensee fails to cooperate with City officials in the conduct of their enforcement and inspection duties.

No person defined herein who has a proprietary interest in a teen entertainment club that has been revoked, or any person acting on his or her behalf, shall be granted an entertainment club license within the City for a period of twelve (12) months following the date of revocation. (Ord. 01-42 § 1, 2001.)

5.15.150 Chief of Police Authority Where There Is Immediate Threat to Public Safety.

A. The Chief of Police, or his designee, may require a licensee to close down operations and disperse all patrons whenever conduct by disorderly patrons reaches a magnitude that presents an immediate threat to the public safety and well-being of the patrons and general public in the vicinity. The operations shall remain closed until the threat has passed.

B. It is unlawful for any person to fail to comply with any directive issued by the Chief of Police, or his designee, under authority of Section 5.10.140 A. (Ord. 01-42 § 1, 2001.)

5.15.160 Applicability to Existing Businesses. The provisions of this chapter shall be applicable to all persons and businesses described in this chapter whether the activities described in this chapter were established before or after the effective date of the ordinance codified in this chapter. All existing businesses must be in compliance with this chapter by January 1, 2002. (Ord. 01-42 § 1, 2001.)

5.15.170 Conflict. In the event of a conflict between this chapter and any other chapter of the Olathe Municipal Code, the provisions of this chapter shall apply. (Ord. 01-42 § 1, 2001.)

5.15.180 Construction of Chapter. The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. (Ord. 01-42 § 1, 2001.)

5.15.190 Penalty. Any person convicted of a violation of this chapter shall be fined not more than $1,000 or imprisoned for more than six months, or by both such fine and imprisonment in addition to any action taken pursuant to Section 5.15.120. (Ord. 01-42 § 1, 2001.)

5.15.200 Public Nuisance – Abatement. Any business establishment providing entertainment maintained contrary to the provisions of this chapter shall be and the same is declared to be unlawful and a public nuisance and the City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal and enjoinment thereof in the manner provided by law and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such establishments and restrain and enjoin any person from operating, conducting or maintaining such an establishment where entertainment is provided contrary to the provisions of this chapter. (Ord. 01-42 § 1, 2001.)

CHAPTER 5.17. Nude Entertainment at Private Clubs. Repealed – See Chapter 7. (Ord. 87-139; Ord. 529 § 2, 1976; Ord. 529 § 3, 1976; Ord. 529 § 4, 1976.)

CHAPTER 5.24

TAXICABS

Sections:

5.24.010 License Required.
5.24.020 License--Application for License.
5.24.030 Insurance.
5.24.040 License--Issuance.
5.24.050 License--Fee.
5.24.060 Participation in the Senior Citizen Program.
5.24.070 Designation of Taxicabs.
5.24.080 Taxicab License Stickers.
5.24.090 Cleanliness and Mechanical Condition of Vehicles.
5.24.100 Additional Regulations.
5.24.110 Transfer of Taxicab Licenses.
5.24.120 Suspension and Revocation of License.
5.24.130 Application for Driver's Certificate.
5.24.140 Qualifications of Applicant for Driver's Certificate.
5.24.150 Investigation of Applicant for Driver's Certificate.
5.24.160 Issuance of Driver's Certificate.
5.24.170 Driver's Certificate Fee.
5.24.180 Renewal of Driver's Certificate.
5.24.190 Suspension or Revocation of Taxicab Driver's Certificate.
5.24.200 Prohibition of Drivers.
5.24.205 Appeals.
5.24.210 Violation--Penalty.
5.24.220 Disclosure.

5.24.010 License Required. It is unlawful for any person, firm, or partnership or corporation to engage in the business or occupation of transporting or carrying passengers for hire by means of a taxicab within the city without having procured a license to do so from the City of Olathe, except that taxicabs that have current licenses to operate in a municipality within the Kansas City metropolitan area, may carry passengers into Olathe from points outside Olathe, without being required to be licensed by the City of Olathe. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2, 1980.)

5.24.020 License--Application for License. Any person, firm, partnership, or corporation seeking to secure a license from the City of Olathe, to transport passengers for hire shall make a written application to the City Clerk for such license and the application shall set forth the following:

(1) A full identification of the applicant and all persons to be directly or indirectly interested in the license if granted;

(2) The residence and business address and the citizenship of the applicant, and of all members of any firm or partnership, and of all officers and directors of any corporation applying;

(3) Whether or not the applicant or any of the persons to be interested in the license, if granted, have been convicted of the violation of any federal, state or municipal law;

(4) Whether or not any license issued to the applicant has been revoked, and if so, the circumstances of such revocation;

(5) The number of taxicabs proposed to be operated;

(6) A complete description of the taxicabs proposed to be operated and of the proposed operations;

(7) The color scheme, name and characteristic insignia to be used to designate the taxicabs of said applicant;

(8) The vehicles have been properly registered and bear proper state license tags.

(9) Such further information as the City Clerk may require. (Ord. 97-119 § 1, 1997; Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.030 Insurance. The applicant shall file with the application a certificate of insurance certifying that the applicant has an automobile liability insurance policy insuring passengers and other persons against personal injuries and property damage. The policy shall be in the amount of Three Hundred Fifty Thousand Dollars ($350,000.00) combined single limit, except that the policy for those companies that choose to participate in Olathe's taxi coupon program shall be in the amount of five hundred thousand dollars ($500,000.00). (Ord. 96-58 § 2, 1996; Ord. 88-10 § 1, 1988; Ord. 86-105 § 1, l986; Ord. 80-69 § 2 (part), 1980.)

5.24.040 License--Issuance. The City Clerk shall issue a taxicab license except if the applicant has been convicted of felony, any crime involving moral turpitude, or driving a vehicle under the influence of intoxicating liquor and/or drugs, of reckless driving, driving while suspended or revoked within the last three (3) years or if the applicant's driver's license is suspended or revoked at the time of application. (Ord. 97-119 § 2, 1997; Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.050 License--Fee.

(a) No license shall be granted to any person, firm or corporation until the applicant complies with the requirements of Section 5.24.020 through and including Section 5.24.050 and until the applicant pays a license fee.

(b) Such license fee shall be adopted by the Governing Body of the City by resolution.

(c) All licenses granted under the provisions of this chapter shall be for the period from January 1st until the following December 31. No license shall be granted for a fraction of a year. Renewal licenses shall be issued upon a showing that all the information required by this chapter is current and correct and all other requirements continue to be met. Licenses issued hereunder shall be nontransferable. (Ord. 02-123 § 1, 2002; Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 86-69 § 2 (part), 1980.)

5.24.060 Participation in the Senior Citizen Program. Any person, firm, partnership or corporation granted a taxicab license under the provisions of this chapter that chooses to participate in the taxi coupon transportation services program will enter into an agreement with the city entitled "Agreement for Taxi Coupon Transportation Services." The agreement may be modified from time to time upon the approval of the Governing Body. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 81-188 § 1, 1981; Ord. 80-69 § 2 (part), 1980.)

5.24.070 Designation of Taxicabs.

(a) Any taxicab operated under a license issued pursuant to this chapter shall bear on the outside of each front or rear door in printed letters not less than two (2) inches in height or by a magnetic sign with letters not less than two (2) inches in height, the name and telephone number under which the taxicab is being operated.

(b) The outside of the taxicabs must be painted according to an identifying color scheme, and in addition may bear an identifying design. The designated color and design scheme shall be filed with the City Clerk; and

(c) No vehicle covered by the terms of this chapter shall be licensed whose name, color scheme, identifying design or insignia to be used thereon shall, in the opinion of the City Clerk, conflict with or imitate any name, color scheme, identifying design or insignia used on a vehicle or vehicles already operating under this chapter, in such a manner as to be misleading or tend to deceive or defraud the public; and provided further, that if, after a license has been issued for a taxicab thereunder, the name, color scheme, identifying design or insignia thereof is changed so as to be, in the opinion of the City Clerk, in conflict with or imitate the name color scheme, identifying design or insignia used by any other person, owner or operator, in such a manner as to be misleading or tend to deceive the public, the license of or certificate covering such taxicab or taxicabs shall be suspended or revoked. (Ord. 97-119 § 3, 1997; Ord. 96-100 § 1, 1996; Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.080 Taxicab License Stickers. The city clerk shall issue a suitable tag or sticker for each taxicab that is operated under the license issued in Section 5.24.040. Such tag or sticker shall be displayed in the lower left hand corner of the rear window on each taxicab while it is in use except that on vehicles equipped with electric rear window defrosters or equipped with one-way glass or adhesive film or other glaze or application on the rear window which inhibits or substantially impairs the ability to see into the vehicle through such window, such sticker shall be placed in the lower portion or the driver's side of the front windshield. (Ord. 96-58 § 2, 1996).

5.24.090 Cleanliness and Mechanical Condition of Vehicles.

(1) Every taxicab operated on the streets of the city shall be maintained in a clean and serviceable condition and in adequate repair.

(2) Any time the city has probable cause to believe that a vehicle that is licensed by the City of Olathe is not in acceptable mechanical condition and if it is found that an unsafe condition exists, that the condition be corrected. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.100 Additional Regulations. Every taxicab operated in the city shall be a four-door model automobile, with all doors fully operational. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986.)

5.24.110 Transfer of Taxicab Licenses. There shall be no transfers or assignments of taxicab licenses from one person or entity to another. A change in the stock ownership of ten percent or more of the outstanding stock, or any change in the corporate structure of a corporation holding a license hereunder, including a change effected by a merger, consolidation or reorganization shall require submission of a new application pursuant to 5.24.020 along with applicable license fees. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.120 Suspension and Revocation of License.

(1) A license issued under the provisions of this chapter may be revoked or suspended by the City Clerk if the holder thereof has:

(a) Violated any of the provisions of this ordinance;
(b) Discontinued operations for more than sixty (60) days;
(c) Made any false statement as to a material matter in an application for a license, or license renewal;
(d) Violated any ordinance of the City of Olathe or the laws of the United States or the State of Kansas, the violation of which reflect unfavorably on the fitness of the holder to offer public transportation;
(e) Failed to keep in effect the insurance required by Section 5.24.030;
(f) Been convicted of a felony, any crime involving moral turpitude, repeated violation of the traffic laws of the city or state, of driving a vehicle under the influence of intoxicating liquor or drugs, reckless driving, or of driving on a suspended or revoked licenses;
(g) Has become ineligible for a license.

(2) Prior to suspension or revocation, the holder of the license shall be given notice of the proposed action to be taken and shall be given an opportunity to be heard. (Ord. 97-119 § 4, 1997; Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.130 Application for Driver's Certificate.

(1) Filing. Every person desiring to drive a taxicab for a company that is licensed by the City of Olathe, shall file with the city clerk an application for a driver's certificate.

(2) Contents. The application for a taxicab driver's certificate shall be made upon a printed form to be provided by the city clerk and shall have printed thereon such questions as will elicit from the applicant his or her name, age, residence, height, color of eyes and hair, place and date of birth, length of residence in city, county, or state, whether a citizen of the United States, whether he or she has ever been convicted of a violation of a federal or state law or a city ordinance, whether he or she has a valid driver's license and if it has ever been suspended or revoked, whether he or she has ever been authorized by any city or state as a taxicab driver, and if so, where and whether such authority was ever revoked, and if revoked, the cause thereof, and such other information as may be deemed proper. Each application shall be accompanied by a photograph taken of the applicant within three months of the date of application. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 85-83 § 1, 1985; Ord. 80-69 § 2 (Part), 1980.)

5.24.140 Qualifications of Applicant for Driver's Certificate. Every applicant for a driver's certificate shall:

(1) Be over the age of eighteen years;

(2) Not have been convicted of any felony or any crime involving moral turpitude or driving under the influence of intoxicating liquor or drugs within five (5) years preceding the making of an application for a driver's certificate;

(3) Not have been convicted of reckless driving, or of driving on a revoked or suspended driver's license within three (3) years preceding the making of an application for a driver's certificate;

(4) Does not have an expired, suspended or revoked driver's license at the time of application. (Ord. 97-119 § 5, 1997; Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 85-83 § 2, 1985; Ord. 80-69 § 2 (part), 1980.)

5.24.150 Investigation of Applicant for Driver's Certificate.

(a) Applications for driver's certificates shall be submitted to the police department for investigation as to compliance with the requirements of this chapter prior to approval and issuance of certificate by the city clerk. A report of such investigation and a copy of the traffic and police record of the applicant, if any, shall be attached to the application and returned to the city clerk. The city clerk shall not issue a certificate to any applicant who is in violation of Section 5.24.140.

(b) The City Clerk may issue a temporary driver's certificate pending such investigation, however, the City Clerk may not issue a temporary certificate if the applicant's driver's license is currently expired, suspended or revoked. (Ord. 97-119 § 6, 1997; Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 85-83 § 3, 1985; Ord. 80-69 § 2 (Part), 1980.)

5.24.160 Issuance of Driver's Certificate. Upon determination that the applicant meets the qualifications set forth in section 5.24.140, the city clerk will issue a certificate that expires on December 31 of the year issued. The certificate will bear the picture of the applicant and will be posted in the vehicle any time the driver is on duty. (Ord. 96-58 § 2, 1996)

5.24.170 Driver's Certificate Fee. No certificate shall be issued until the applicant pays a driver's certificate fee. Such fee shall be adopted by the Governing Body of the City by resolution. (Ord. 02-123 § 2, 2002; Ord. 96-58 § 2, 1996)

5.24.180 Renewal Of Driver's Certificate. A taxicab driver's certificate may be renewed from year to year by the city clerk upon written application. Each renewal shall be investigated by the police department as provided in Section 5.24.120 pertaining to new certificates. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 85-83 § 3, 1985; Ord. 80-69 § 2, (part), 1980.)

5.24.190 Suspension Or Revocation of Taxicab Driver's Certificate.

(1) A certificate issued under the provisions of this Chapter may be revoked or suspended by the City Clerk if the holder thereof:

(a) Violated any of the provisions of this ordinance;
(b) Has made any false statement as to a material matter in an application for a certificate, or a certificate renewal;
(c) Violated any ordinances of the city or the laws of the state of Kansas, the violation of which reflect unfavorable on the fitness of the holder to offer public transportation;
(d) Is convicted of a felony, any crime involving moral turpitude, repeated violations of the traffic laws of the city or state, or driving a vehicle under the influence of intoxicating liquor or drugs, reckless driving, or driving on a suspended or revoked license;
(e) Has become ineligible for a certificate.

(2) Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard by the City Clerk. (Ord. 97-119 § 7, 1997; Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.200 Prohibition Of Drivers. No taxicab driver shall without cause willfully refuse to accept a passenger for transportation to any area within the city, or to respond to a request for passenger service. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.205 Appeals.

(a) Anyone who has been denied a taxicab license or driving certificate or who has had such license or certificate revoked or suspended pursuant to Sections 5.24.120 or 5.24.190 may appeal the City Clerk's decision to an administrative hearing officer.

(b) An appeal may be taken within ten (10) days, exclusive of Saturdays, Sundays and holidays, of such determination by making a written request for a hearing. The hearing shall be conducted by a designated hearing officer appointed by the City Manager who shall not be a subordinate of the City Clerk. The hearing officer shall receive evidence, review the investigation and prepare a written order. The order shall be sent by certified mail to all relevant parties within ten (10) days of the hearing, unless otherwise stated at the hearing. The written order shall describe the relevant facts relied upon, state the specific code provisions being relied upon, and state any other stipulations as deemed necessary by the hearing officer.

(c) The hearing officer's decision may be appealed within thirty (30) days of such written order to the Johnson County District Court. (Ord. 97-119 § 8, 1997)

5.24.210 Violation--Penalty. Failure to comply with the license or certificate requirements of this chapter shall render the person operating a vehicle in violation thereof subject to conviction punishable by a fine of Five Hundred Dollars ($500.00) or less or imprisonment for six months or less, or both such fine and imprisonment. (Ord. 96-58 § 2, 1996; Ord. 86-105 § 1, 1986; Ord. 80-69 § 2 (part), 1980.)

5.24.220 Disclosure. Complaints against service providers may be filed with the city clerk by calling 971-8521. (Ord. 97-119 § 9, 1997; Ord. 96-58 § 2, 1996)

CHAPTER 5.28

SOLICITATION, PEDDLING AND CANVASSING

Sections:

5.28.010 Purposes.
5.28.020 Definitions.
5.28.030 Prohibited Acts.
5.28.040 Special Regulations for Ice Cream Vendors.
5.28.045 Issuance of Certificate of Registration--Organizations (Repealed 9/1/98).
5.28.050 Placing Handbills In or Upon Vehicles (Repealed 10/5/99).
5.28.060 Duty of Police to Enforce.
5.28.070 Penalty.
5.28.080 Separability.
5.28.090 Revocation of Certificate (Repealed 9/1/98).

5.28.010 Purposes. The purposes of this chapter are to protect the public against criminal activity, including fraud and burglary, minimize the unwelcome disturbance of citizens and the disruptions of privacy, and to preserve the public health, safety and welfare by regulating and controlling solicitors, peddlers and canvassers. (Ord. 98-88 § 2, 1998.)

5.28.020 Definitions. For the purpose of this chapter the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them, unless a different meaning is clearly indicated by the context.

A. “Canvass” as used in this chapter means opinion sampling, poll taking, proselytizing, or other similar activity from house to house, door to door, street to street, or from place to place.

B. “Canvasser” as used in this chapter means any person who engages in canvassing in person for himself or any other person.

C. “Charitable” as used in this chapter means any activity represented as carried on from unselfish, civic, or humanitarian motives, or for the benefit of others, and not for private gain, and may include without limitation patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, eleemosynary, scientific, historical, athletic, medical, or religious activities, either actual or implied.

D. “City” as used in this chapter means the City of Olathe, Kansas.

E. “Peddle” as used in this chapter means to operate from a temporary stand, display or similar facility or to travel from house to house, door to door, street to street or from place to place, carrying, conveying, or transporting goods, wares, or merchandise for the purpose of offering and exposing the same for sale.

F. “Peddler” as used in this chapter means a person who peddles for himself or any other person.

G. “Person” as used in this chapter means any individual, firm, partnership, corporation, company, religious sect or denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

H. “Solicit” and “solicitation” as used in this chapter mean and include any one or more of the following:

1. Selling or offering for sale, or taking or attempting to take orders for the sale of goods or services of any kind, character or description;

2. Requesting directly or indirectly contributions of funds on the plea or representation that such contributions will be used for a charitable purpose;

3. Canvassing or peddling as defined in this section.

4. Advertising or offering of (to include, but not limited to) any item, service or benefit by the hanging of any flyer or handbill to any door, residence or business, regardless of whether a doorbell is rung or any physical or verbal contact is made.

A “solicitation” as defined herein shall be deemed completed when made, whether or not the person making the same receives any contribution or makes any sale.

I. “Solicitor” as used in this chapter means a person who solicits for himself or any other person.. (Ord. 98-88 § 2, 1998; Ord. 84-19 § 1, 1984; Ord. 81-129 § 2 (part), 1981.)

5.28.030 Prohibited Acts.

A. It shall be unlawful for any solicitor to:

1. Ring the bell or knock on the door or otherwise attempt to gain admittance for the purpose of soliciting at a residence, dwelling or apartment at which a sign bearing the words *No Solicitors, No Trespassers* or words of similar import indicating that such persons are not wanted on the premises, is painted, affixed or otherwise exposed to public view; provided, that this subsection shall not apply to any solicitor who gains admittance to such residence at the invitation or with the consent of the occupant thereof.

2. Solicit at hours other than the following: ten o’clock (10:00) A.M. to eight o’clock (8:00) P.M. local time of any day.

3. Engage in soliciting upon any premises (including parking lots), business or dwelling house, apartment or other residence after having been asked by the owner or occupant thereof to leave the premises, business or residence.

4. Make more than one solicitation call at the same residential premises for identical goods, services or contributions within any consecutive fourteen (14) day period without receiving a prior invitation therefor from the occupants of the premises. This provision shall be construed to include solicitation upon the same premises by employees, agents or other persons acting on behalf of the same person more than once during the aforesaid period without a prior invitation as herein provided.

5. Fail to provide, at the request of the purchaser, a written receipt for purchases exceeding five dollars ($5.00) in cash or tangible property, which receipt shall be signed by the person making the sale and shall set forth a brief description of the goods or services sold, the total purchase price thereof, amount of cash payment, if any, and the balance due and terms of payment; or for any charitable solicitor or organization accepting any contribution exceeding five dollars ($5.00) in cash or tangible property to fail to provide, at the request of the donor, a written receipt acknowledging such contribution and personally signed by the person accepting such contribution.

6. Fail, at the outset, to disclose to the prospective buyer, prospective donor or canvassee his name and the name of the company, product or organization he represents.

7. Make any assertion, representation or statement which misrepresents the purpose of the call or use any plan, scheme or ruse which misrepresents such purpose.

8. Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, increase traffic congestion or delay or constitute a hazard to traffic, life or property, or an obstruction of adequate access to fire, police or sanitation vehicles.

9. Advertise or offer (to include but not limited to) any item, service or benefit by the hanging of any flyer or handbill to any door, residence or business, if asked to discontinue by the owner/occupant, or if a “No Solicitors” sign is posted on the property, regardless of whether a doorbell is rung or any physical or verbal contact is made.

10. To cut across or walk upon any lawn, front yard or courtyard, except upon sidewalks or walkways if such walkways are provided or upon a regularly established path where no sidewalk or walkway has been provided to the house or other building.

B. It shall be unlawful for any person to:

1. Solicit who has been convicted of a felony, misdemeanor or ordinance violation involving force, violence, moral turpitude, deceit, fraud or the violation of any law regulating the act of soliciting as defined in this Chapter within the past five (5) years in this City, State or subdivision thereof or any other state or subdivision thereof or of the United States.

2. Solicit or attempt to solicit at a place of residence at any entrance other than the main entrance of the residence. (Ord. 98-88 § 2, 1998.)

5.28.040 Special Regulations for Ice Cream Vendors.

A. Definitions. The following words and phrases when used in this Section shall, for the purpose of this Section, have the meanings respectively ascribed to them in this Section except when the context otherwise requires:

"Ice cream vendor" means any person, firm, partnership or corporation who travels by any type of vehicle from house to house, or place to place, selling or offering for sale any ice cream food products within the corporate limits of the City of Olathe; provided, however, that no person, firm, partnership or corporation shall be considered an ice cream vendor when orders are taken for ice cream food products to be delivered to the ultimate consumer on a prearranged day subsequent to the date of sale.

"Ice cream vendor unit" or "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway for the purpose of vending ice cream.

B. It shall be unlawful for any ice cream vendor to:

1. Vend on a street where the posted speed limit exceeds twenty-five (25) miles per hour, nor exceed a speed of fifteen (15) miles an hour when seeking sales or when attempting to make a sale;
2. Stop anywhere within twenty-five (25) feet of an intersection when making a sale or attempting to make a sale;
3. Double-park, or park in any manner contrary to any ordinance relating to parking when attempting a sale or when making a sale;
4. Make a U-turn on any block;
5. Drive the vehicle backwards to make or attempt any sale;
6. Sell or attempt to sell to any person who is standing in the street;
7. Permit any person to hang on the vehicle or permit any person to ride in or on the vehicle except a driver and a bona fide assistant or assistants authorized by the owner of the vehicle and/or the licensee;
8. Remain standing or stopped at any place for a period of time exceeding ten (10) minutes, or otherwise stop or park a vehicle on the public right-of-way for the purpose of making a sale or sales so as to obstruct the free flow of traffic;
9. Sell or attempt to sell along any particular route more than one time during a twenty-four hour period;
10. Sell or attempt to sell inside any City park or recreational area unless authorized by the City as part of a City-sponsored event or under a temporary sales and event permit;
11. Sell or attempt to sell from a vehicle which is not equipped with a prominent sign visible to both the front and rear with the wording "Caution – Children," and flashing amber (yellow) caution lights on all four comers of the vehicle visible from front, rear and both sides;
12. Use a sound device or bell of any kind whatsoever, except amplified music or chimes which are not audible any distance greater than three hundred (300) feet which are turned off when the vehicle is stationary for the purpose of seeking a sale or attempting to make a sale;
13. Sell or attempt to sell or use amplified music or chimes outside the hours of 10:00 A.M. to thirty (30) minutes after sunset;
14. Sell or attempt to sell while the vehicle is moving; or
15. Sell or attempt to sell within five hundred (500) feet of an active school zone of a public or private school.

C. Exceptions. Exceptions to the prohibitions set forth in Subsection B of this Section may only be approved as part of a City-approved Temporary Sales or Event Permit or other City-sponsored event.

D. Vehicle Inspection. The Chief of Police or designee or other public officer charged by the City Manager with enforcement of this Chapter may at any time cause any ice cream vendor unit to be inspected to determine that said unit is suitable from the standpoint of safety for the conduct of an ice cream vendor business and that all provisions of this Section and any other City ordinances relating to safety are being complied with. (Ord. 15-18 § 1, 2015; Ord. 98-88 § 2, 1998; Ord. 87-152 § 1, 1987; Ord. 81-129 § 2, (part), 1981.)

5.28.045 Issuance of Certificate of Registration—Organizations. Repealed. (Ord. 98-88 § 2, 1998; Ord. 84-19 § 3, 1983.)

5.28.050 Placing Handbill In or Upon Vehicles. Repealed. (Ord. 99-99 § 1, 1999; Ord. 98-88 § 2, 1998.)

5.28.060 Duty of Police to Enforce. It shall be the duty of any police officer of the city to enforce the provisions of this chapter against any person found to be violating the same. (Ord. 98-88 § 2, 1998; Ord. 81-129 § 2 (part), 1981.)

5.28.070 Penalty. Any person violating any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not more than Five Hundred Dollars ($500.00) for each offense or shall be imprisoned for a period not to exceed ninety days, or shall be both so fined and imprisoned. (Ord. 98-88 § 2, 1998; Ord. 81-129 § 2 (part), 1981.)

5.28.080 Separability. It is the intention of the city that each separate provision of this chapter shall be independent of all other provisions herein, and it is further the intention of the city that if any provision of this chapter is declared invalid, all other provisions thereof shall remain valid and enforceable. (Ord. 98-88 § 2, 1998; Ord. 81-129 § 2 (part), 1981.)

5.28.090 Revocation of Certificate. Repealed. (Ord. 98-88 § 2, 1998; Ord. 81-129 § 2 (part), 1981.)

CHAPTER 5.30

MOBILE FOOD VENDORS

Sections:

5.30.010 Definitions
5.30.020 Operating Conditions
5.30.030 Licenses and Permits
5.30.040 Inspection
5.30.050 Penalties
5.30.060 Applicability
5.30.070 Severability

5.30.010 Definitions. The words and phrases listed below when used in this Chapter shall have the following meanings:

"City Approved Event" shall mean any event sanctioned by a Permit issued by the City, including but not limited to a Temporary Sales & Event Permit and/or a Temporary Concession License.

"Mobile Food Vendor" or "Vendor" shall mean any person, corporation, association, or other entity, however organized, that offers food and/or beverage for sale from a Mobile Food Unit.

"Mobile Food Unit" or "Unit" shall mean any self-contained vehicle, trailer, cart, or other type of conveyance from which food and/or beverage is offered for sale.

"Public property" shall include all City streets, alleys, rights-of-way, parking lots, and parking spaces, but shall not include any City parks and/or recreational areas as defined in Section 12.21.010 of the Olathe Municipal Code. (Ord. 15-17 § 1, 2015.)

5.30.020 Operating Conditions.

A. Mobile Food Vendors may operate within the City under the following conditions:

1. Location. Mobile Food Vendors may vend on Public property in accordance with this Chapter. Mobile Food Units may not be parked on Public property where a line of customers would hinder the flow of traffic on any street, the flow of bicycles within any bike lane or route, or the flow of pedestrians along any sidewalk. No accessible route providing access to persons with disabilities may be blocked or reduced to less than five (5) feet in width. If any such hindrance occurs, the Vendor must either (a) instruct customers to move to a safe location outside of the flow of traffic, bicycles, and pedestrians, (b) temporarily stop vending from its Unit, or (c) move its Unit to a different location.

2. Paved Surfaces. All Mobile Food Vendor operations must occur on paved surfaces constructed in accordance with Section 18.30.160 of the Unified Development Ordinance, unless as part of a City Approved Event.

3. Distance from Restaurants. No Mobile Food Vendor may vend on public or private property within a one hundred fifty foot (150') radius from a brick and mortar restaurant during such restaurant's posted hours of operation unless the Mobile Food Truck Vendor has written permission from the restaurant owner and maintains a record of such permission in its Unit for inspection.

4. Hours of Operation. Mobile Food Vendors are prohibited from offering for sale any food and/or beverage from a single property for more than four (4) hours out of every day, or outside the hours of 7:30 A.M. to thirty (30) minutes after sunset except as part of a City Approved Event. Mobile Food Vendors are prohibited at all times from selling or offering for sale alcoholic beverages.

5. Signage. Except as otherwise provided herein, no sign or device prohibited by Section 18.50.190 of the Unified Development Ordinance may be erected, placed, installed, and/or maintained in association with a Mobile Food Unit. Signage mounted on a Mobile Food Unit shall not exceed the dimensions of the Unit by more than one (1) foot in any direction. No sign on a Mobile Food Unit may be illuminated. A maximum of one detached "A" Frame Sign may be permitted with a maximum area of eight (8) square feet and a maximum overall height of four (4) feet. "A" Frame Signs must be located within fifteen (15) feet of its associated Unit and may not interfere with vehicle access, pedestrian movement, or handicap-accessible routes to and around the Unit. A minimum access width of five (5) feet must be maintained along all sidewalks and building entrances accessible to the public. "A" Frame Signs may only be used during the hours its associated Unit is conducting business.

6. Lights. No flashing lights or attention-attracting devices (as defined in Section 18.50.190 of the Unified Development Ordinance) are permitted on or in association with the use of a Mobile Food Unit. No direct light may be shined on adjacent property or cause a glare or distraction for vehicles, bicycles or pedestrians from a Mobile Food Unit.

7. Accessory Structures. Unless otherwise provided in this Section, no tables, chairs, or other accessory structures may be erected by a Mobile Food Vendor outside of a Mobile Food Unit.

8. Trash and Recycling. Trash and recycling receptacles shall be provided with each Mobile Food Unit. Such receptacles must be attached to the Unit or located within fifteen (15) feet of the Unit and cannot interfere with vehicle access, pedestrian movement, or handicap-accessible routes to and around the Unit. A minimum access width of five (5) feet must be maintained along all sidewalks and building entrances accessible to the public.

9. Restoration of Site. Immediately upon cessation of vending, the Mobile Food Vendor shall return the site to its previous condition, including the removal of all litter, repair of any damage, or other evidence of the vending. If the site is not returned to its previous condition, the City will restore the site at the expense of the vendor. (Ord. 15-17 § 1, 2015.)

5.30.030 Licenses and Permits. All Mobile Food Vendors shall acquire and maintain all required licenses and permits applicable to the use and operation of Mobile Food Units from all applicable jurisdictions. Evidence of all such licenses and/or permits shall be kept in the Unit and produced upon request by the Chief of Police or designee or other public officer charged by the City Manager with enforcement of this Chapter. (Ord. 15-17 § 1, 2015.)

5.30.040 Inspection. The Chief of Police or designee or other public officer charged by the City Manager with enforcement of this Chapter may at any time cause any Mobile Food Unit to be inspected to determine that said unit is suitable from the standpoint of safety for the conduct of a mobile food vendor business and that all provisions of this Chapter and any other City ordinances relating to safety are being complied with. (Ord. 15-17 § 1, 2015.)

5.30.050 Penalties. Any person operating as a Mobile Food Vendor in violation of this Chapter shall be charged with an Unclassified Public Offense in accordance with Chapter 9.18 of the Olathe Municipal Code and may be requested by the Chief of Police or designee or other public officer charged by the City Manager with enforcement of this Chapter to leave the premises on which they are conducting business. (Ord. 15-17 § 1, 2015.)

5.30.060 Applicability. The provisions of this Chapter shall not apply to the following activities:

A. Ice cream vendors licensed under Section 5.28.040 of the Olathe Municipal Code;

B. Caterers licensed under Chapter 7.10 of the Olathe Municipal Code;

C. Vendors selling as part of a City Approved Event;

D. Vendors selling at the Olathe Farmers' Market;

E. Vendors selling on public or private school property with the permission of any such school; or

F. Vendors selling on private property with the permission of the property owner. (Ord. 15-17 § 1, 2015.)

5.30.140 Severability. Should any section, clause, sentence, or phrase of this ordinance be found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any remaining provisions herein. (Ord. 15-17 § 1, 2015.)

CHAPTER 5.36

MASSAGE THERAPY

Sections:

5.36.010 Definitions.
5.36.020 Massage Therapy Establishment License Required.
5.36.030 Massage Therapist License Required.
5.36.040 Limitation on Off-Site Massage Therapy.
5.36.045 Student Massage Therapy
5.36.050 Application for Massage Therapy Establishment License.
5.36.060 Application for Massage Therapist License.
5.36.070 Massage Therapist Education Requirements.
5.36.080 Issuance of Massage Therapy Establishment License.
5.36.090 Issuance of Massage Therapist License.
5.36.100 Suspension of Massage Therapy Establishment License.
5.36.105 Revocation of Massage Therapy Establishment License.
5.36.110 Suspension of Massage Therapist License.
5.36.115 Revocation of Massage Therapist License.
5.36.130 Inspections, Immediate Right of Entry.
5.36.140 Massage Therapy Establishment Regulations.
5.36.150 Massage Therapist Regulations.
5.36.190 Transfer of Licenses, Other Licenses and Fees.
5.36.195 Change of Location.
5.36.210 Exceptions.
5.36.220 Further Regulations.
5.36.240 Penalty.
5.36.250 Appeal.

5.36.010 Definitions.

“Conviction” means being found guilty or entering into a diversion agreement or deferred judgment agreement.

"Employee" means any person, other than a massage therapist, who renders any service for or on behalf of a licensee under this Chapter and/or who receives compensation from the licensee or a patron.

“Healing arts practitioner" is defined by the provisions of K.S.A.65-2801, et. seq.

"Health official" means any person employed by the City of Olathe and designated by the City Manager to enforce and administrate the provisions of this Chapter.

"Massage therapist" means any person who, for any consideration whatsoever, engages in massage therapy.

"Massage therapy" means any method which may include but is not specifically limited to stroking, kneading, tapping, compression, vibration, rocking, friction, pressure, and those techniques based on manipulation or the application of pressure to the muscular structure or soft tissues of the human body, which may also include non-forceful passive or active movement and/or the application of techniques intended to affect the energetic systems of the body. The use of oils, lotions, powders, or other lubricants may also be included. “Massage therapy” does not mean the touching, in any fashion, of a patron’s pubic region, genitals, perineum, anal region, and/or the female breast.

"Massage therapy establishment" means any establishment licensed hereunder where any person, firm, partnership, association, or corporation engages in massage therapy for compensation.

“Minor traffic violation" means any violation classified as a traffic infraction or ordinance traffic infraction pursuant to K.S.A. 8-2118(c), and amendments thereto.

“Off-site massage therapy" means massage therapy that is provided by a massage therapist on the business premises of a massage patron.

“Operator” means any owner, manager, individual, licensee, person, and/or employee principally in charge of a massage therapy establishment at any given time.

"Patron" means any person who utilizes or receives the services of any massage therapist and/or massage therapy establishment subject to the provisions of this Chapter and under such circumstances that it is reasonably expected he or she will pay money or give any other consideration therefor.

“Police officer” means any duly authorized law enforcement officer employed by the City of Olathe.

“Table shower” means an activity in which a patron is washed by a massage therapist.

“UDO” means the Unified Development Ordinance. (Ord. 15-60 § 1, 2015.)

5.36.020 Massage Therapy Establishment License Required. No person, firm, partnership, association or corporation can operate a massage therapy establishment without a valid massage therapy establishment license issued by the City. A licensee must have a separate license for each place of business. A license is valid for a period of twelve (12) months from the date of issuance. (Ord. 15-60 § 2, 2015.)

5.36.030 Massage Therapist License Required.

A. No person can provide massage therapy in any massage therapy establishment unless he or she has a valid massage therapist’s license issued by the City pursuant to the provisions of this Chapter.

B. No person can provide off-site massage therapy without a valid massage therapist license issued by any jurisdiction which issues such licenses, and the licensing standards are at least as comprehensive as the City’s licensing requirements as set forth in Section 5.36.090. (Ord. 15-60 § 3, 2015.)

5.36.040 Limitation on Off-site Massage Therapy. The authority granted a licensee issued a massage therapy establishment or massage therapist license allows off-site massage therapy. The patron must be fully clothed. (Ord. 15-60 § 4, 2015.)

5.36.045 Student Massage Therapy. An individual actively enrolled in and currently attending classes in a course of instruction in the theory, method or practice of massage, may provide massage therapy as a practicum component of the training program, provided the following conditions are met:

A. The massage therapy is under the supervision of a licensed massage therapist. For the purposes of this Section, supervision means the supervising therapist is observing the student providing massage therapy on a patron.

B. All advertisements for massage therapy that will be provided by a student must clearly inform the patron that the massage therapy will be provided by a student under the supervision of a licensed massage therapist.

C. Prior to providing massage therapy, the student massage therapist will require the patron to sign an acknowledgement that he/she has been informed the massage therapy will be provided by a student under the supervision of a licensed massage therapist. These acknowledgement documents will be maintained by the supervising massage therapist for a period of one (1) year and will be produced at the request of any health official or police officer.

D. All student massage therapy must occur at a licensed massage therapy school. Under no circumstances are students permitted to provide in-home massage therapy.

E. No student massage therapist may receive any consideration whatsoever for providing massage therapy. (Ord. 15-60 § 5, 2015.)

5.36.050 Application for Massage Therapy Establishment License.

A. Every applicant for a massage therapy establishment license to operate a massage therapy establishment must file an application with the City Clerk and pay a non-refundable fee. Such fee will be established by the Governing Body by resolution.

B. The application for a massage therapy establishment license will set forth the exact nature of the services to be provided, the proposed place of business, and the name, address, and telephone number of each applicant and any operator.

C. In addition to the foregoing, any applicant for a massage therapy establishment license must furnish the following information:

1. Written evidence that the applicant and the operator(s) of the business are at least eighteen (18) years old by providing a copy of a current state or federal issued form of identification;
2. Social Security number, weight, height, color of hair and eyes of the applicant and operator(s);
3. Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application;
4. The massage therapy establishment license history of the applicant; whether the applicant while previously operating in this or another city or state under license has had such license denied, suspended or revoked, or has voluntarily surrendered the license in lieu of revocation or suspension by a city or any state or local agency within ten (10) years prior to the date of application and the reason why the license was denied, revoked, suspended or voluntarily surrendered;
5. All criminal offenses (except minor traffic violations) charged against the applicant or any criminal offenses charged on, against or related to any massage therapy establishment which applicant was operating or employed by, in this or another city or state within ten (10) years prior to the date of application, fully disclosing the place and court where the criminal offense occurred, the disposition of the criminal offense, and the circumstances thereof.

D. The applicant must provide written authorization for the City, its agents and employees to seek information and investigate the truth of the statements set forth in the application and the qualifications of the applicant and the operator(s) for the license.

E. In the case of applicants who personally provide massage therapy, the applicant must also apply for and receive a massage therapist license as required in Section 5.36.030 A.

F. Upon submission of a request for renewal on a form provided by the City and a fee, an expiring massage therapy establishment license may be renewed by the City Clerk if there has been no change in ownership. Such fee will be adopted by the Governing Body by resolution. All requests for renewal must be received by the City at least thirty (30) days prior to the expiration of the license.

If the renewal request is not received at least thirty (30) days prior to the expiration, the City Clerk may be unable to process the renewal request prior to the expiration of the license. The renewal form will require a notarized statement that there have been no criminal offenses (except minor traffic violations) charged against the applicant or criminal offenses charged on, against or related to the massage therapy establishment within the preceding twelve (12) months.

G. No suspended license will be renewed. If a suspended license lapses during a suspension period, a new application for a massage therapy establishment license may only be filed upon the expiration of the period of suspension. (Ord. 15-60 § 6, 2015.)

5.36.060 Application for Massage Therapist License.

A. Any person who engages or intends to engage in massage therapy for any consideration whatsoever must file a written application with the City Clerk and pay a non-refundable fee. Such fee will be adopted by the Governing Body by resolution.

B. All applications for a massage therapist license must contain the following information:

1. Name, address, and telephone number;
2. Name, address, and telephone number of employing establishment;
3. Applicant's Social Security number, weight, height, color of hair and eyes;
4. Written evidence that the applicant is at least eighteen (18) years old by providing a copy of a current state or federal issued form of identification;
5. Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application;
6. Whether the applicant has ever been charged with any criminal offense (except minor traffic violations). If the applicant has been charged with any criminal offense, a statement must be made giving the place and court where the person was charged and the disposition of such criminal offense;
7. The massage therapist license history of the applicant, including, but not limited to, whether the applicant has:

a. had such license denied, suspended or revoked;
b. voluntarily surrendered the license in lieu of revocation or suspension by a city or any state or local agency within ten (10) years prior to the date of application;
c. if the license was denied, suspended, revoked or voluntarily surrendered, then the reason why the license was denied, revoked, suspended or voluntarily surrendered;

8. The position or function the applicant is being hired to provide within the employing establishment.

C. The applicant must provide written authorization for the City, its agents, and employees to seek information and investigate the truth of the statements set forth in the application and the qualifications of the applicant for the license.

D. Upon submission of a request for renewal, on a form provided by the City, and a fee, an expiring massage therapist license may be renewed by the City Clerk. Such fee will be adopted by the Governing Body by resolution. All requests for renewal must be received by the City at least thirty (30) days prior to expiration of the license. If the renewal request is not received at least (30) days prior to expiration, the City Clerk may be unable to process the renewal request prior to the expiration of the license. The renewal form will require a notarized statement that the applicant has not been charged with any criminal offense (except minor traffic violations) within the preceding twelve (12) months.

E. No suspended license will be renewed. If a suspended license lapses during a suspension period, a new application for a massage therapist license may only be filed upon the expiration of the period of suspension. (Ord. 15-60 § 7, 2015.)

5.36.070 Massage Therapist Education Requirements.

A. A massage therapist licensed in accordance with this Chapter must be certified by the National Certification Board for Therapeutic Massage & Bodywork (NCBTMB) or pass the Massage & Bodywork Licensing Examination (MBLEx). This Section will be effective from and after the passage and publication of this ordinance as provided by law for all new massage therapist applicants and upon license renewal in 2017 for existing massage therapists licensed after January 1, 1996.

B. Massage therapists licensed in accordance with this Chapter prior to January 1, 1996 are subject to the educational requirements set forth in this subsection unless the massage therapist can demonstrate that he or she has been licensed continuously since January 1, 1996. (Ord. 15-60 § 8, 2015.)

5.36.080 Issuance of Massage Therapy Establishment License.

A. After the filing of an application in the proper form and completion of a criminal background investigation, the City Clerk will examine the application, and after such examination, will issue a license for a massage therapy establishment unless the City Clerk finds that:

1. The applicant or operator of the establishment has a conviction for:

a. a felony; or
b. a misdemeanor in the last five (5) years for any of the following:

1. domestic violence
2. a person criminal offense
3. a drug violation
4. a second or subsequent DUI
5. furnishing alcohol to minors; or

c. an offense involving sexual misconduct; including but not limited to obscenity, solicitation of a lewd or unlawful act, or prostitution; or

2. The applicant or operator of the establishment:

a. is currently on probation or diversion or has a deferred judgment for any criminal offense listed in this Section; or
b. has an active warrant for arrest for any criminal offense listed in this Section; or
c. is currently charged with any criminal offense listed in this Section; or
d. has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith; or
e. has voluntarily surrendered a massage therapy establishment license or similar permit in lieu of revocation or had a license or permit revoked or a license or permit is currently suspended, by a city or any state or local agency; or
f. fails to disclose information in response to questions in the license application; or

3. The correct fee has not been paid to the City; or

4. 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; or

5. The applicant or operator(s) of the business are not over the age of eighteen (18) years; and

6. The applicant or operator(s) of the business would be ineligible to receive a license under the provisions of this Chapter.

B. Any massage therapy establishment license issued under the provisions of this Chapter must be displayed at all times by the licensee in an open and conspicuous place in the massage therapy establishment.

C. Renewal applications are subject to the same criteria as an original application except as provided otherwise in Sections 5.36.050 F. and 5.36.050 G. (Ord. 15-60 § 9, 2015.)

5.36.090 Issuance of Massage Therapist License.

A. After the filing of an application in the proper form and completion of a criminal background investigation, the City Clerk will examine the application, and after such examination, will issue a massage therapist license unless the City Clerk finds that:

1. The applicant for the massage therapist license has a conviction for:

a. a felony; or
b. a misdemeanor in the last five (5) years for any of the following:

1. domestic violence
2. a person criminal offense
3. a drug violation
4. a second or subsequent DUI
5. furnishing alcohol to minors; or

c. an offense involving sexual misconduct; including but not limited to obscenity, solicitation of a lewd or unlawful act, or prostitution; or

2. The applicant:

a. is currently on probation or diversion or has a deferred judgment for any criminal offense listed in this Section; or
b. has an active warrant for arrest for any criminal offense listed in this Section; or
c. is currently charged with any criminal offense listed in this Section; or
d. has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith; or
e. has voluntarily surrendered a massage therapist license or similar permit in lieu of revocation or had a license or permit revoked or a license or permit is currently suspended, by a city or any state or local agency; or
f. fails to disclose information in response to questions in the license application; or
g. has not been certified by the National Certification Board for Therapeutic Massage & Bodywork (NCBTMB) or has not passed the Massage & Bodywork Licensing Examination (MBLEx); or

3. The correct fee has not been paid to the City.

B. Any massage therapist license issued under the provisions of this Chapter must be displayed at all times by the licensee in an open and conspicuous place in the massage therapy establishment.

C. Renewal applications are subject to the same criteria as an original application except as provided otherwise in Sections 5.36.060 D. and 5.36.060 E. All requests for renewal must be received by the City at least thirty (30) days prior to expiration of the license. If the renewal request is not received at least thirty (30) days prior to expiration, the City Clerk may be unable to process the renewal request prior to the expiration of the license. (Ord. 15-60 § 10, 2015.)

5.36.100 Suspension of Massage Therapy Establishment License.

A. Any license issued by the City Clerk for a massage therapy establishment may be suspended by the City Clerk or designated representative after a public hearing before the City Clerk or designated representative where it is found that:

1. any of the provisions of this Chapter have been violated; or
2. the licensee or operator has been charged with a criminal offense found in Sections 5.36.080 or 5.36.090; or
3. the licensee or operator refused to permit any police officer or health official to inspect the premises during any hours when the establishment was open to the public.

B. The City Clerk or designated representative, before suspending a massage therapy establishment license, will give the licensee at least ten (10) days' written notice of the alleged license violations and the opportunity for a public hearing before the City Clerk or designated representative, at which time the licensee may present evidence. The decision of the City Clerk or designated representative is final, unless the licensee files an appeal in accordance with Section 5.36.250.

C. A suspension based on a charged criminal offense is effective until a court of competent jurisdiction rules on the criminal offense, unless the licensee files an appeal in accordance with Section 5.36.250. (Ord. 15-60 § 11, 2015.)

5.36.105 Revocation of Massage Therapy Establishment License.

A. Any license issued by the City Clerk for a massage therapy establishment may be revoked by the City Clerk or designated representative after a public hearing before the City Clerk or designated representative where it is found that:

1. any of the provisions of this Chapter have been violated; or
2. the licensee or operator, including a massage therapist, has a conviction for a criminal offense found in Sections 5.36.080 or 5.36.090; or
3. the licensee or operator refused to permit any police officer or health official of the City to inspect the premises during any hours when the establishment was open to the public.

B. The City Clerk or designated representative, before revoking a massage therapy establishment license, will give the licensee at least ten (10) days' written notice of the alleged license violations and the opportunity for a public hearing before the City Clerk or designated representative, at which time the licensee may present evidence. The decision of the City Clerk or designated representative is final, unless the licensee files an appeal in accordance with Section 5.36.250. (Ord. 15-60 § 12, 2015.)

5.36.110 Suspension of Massage Therapist License.

A. A massage therapist license issued by the City Clerk may be suspended by the City Clerk or designated representative after a public hearing before the City Clerk or designated representative, where it is found that:

1. the massage therapist has violated any of the provisions of this Chapter; or
2. the massage therapist has been charged with a criminal offense found in Section 5.36.090; or
3. the massage therapist refused to permit any police officer or health official to inspect the premises during any hours when the establishment was open to the public.

B. The City Clerk or designated representative before suspending a massage therapist license, will give the massage therapist at least ten (10) days' written notice of the alleged license violations and the opportunity for a public hearing before the City Clerk or designated representative, at which time the massage therapist may present evidence. The decision of the City Clerk or designated representative is final, unless the massage therapist files an appeal in accordance with Section 5.36.250.

C. A suspension based on a charged criminal offense is effective until a court of competent jurisdiction rules on the criminal offense, unless the massage therapist files an appeal in accordance with Section 5.36.250. (Ord. 15-60 § 13, 2015.)

5.36.115 Revocation of Massage Therapist License.

A. A massage therapist license issued by the City Clerk may be revoked by the City Clerk or designated representative after a public hearing before the City Clerk or designated representative, where it is found that:

1. the massage therapist has violated any of the provisions of Chapter; or
2. the massage therapist has a conviction for a criminal offense found in Section 5.36.090; or
3. the massage therapist refused to permit any police officer or health official to inspect the premises during any hours when the establishment was open to the public.

B. The City Clerk or designated representative before revoking a massage therapist license, will give the massage therapist at least ten (10) days' written notice of the alleged license violations and the opportunity for a public hearing before the City Clerk or designated representative, at which time the massage therapist may present evidence. The decision of the City Clerk or designated representative is final, unless the massage therapist files an appeal in accordance with Section 5.36.250. (Ord. 15-60 § 14, 2015.)

5.36.130 Inspections, Immediate Right of Entry.

A. Any health official and/or police officer may from time to time make an inspection of each licensed massage therapy establishment in this City for the purposes of determining compliance with the provisions of this Chapter. Such inspections will be during any hours when the establishment is open to the public.

B. It is unlawful for any licensee, operator, or massage therapist to deny any health official or police officer immediate access to the premises or to hinder an inspection in any manner.

C. Any failure on the part of any licensee, operator, or massage therapist to grant immediate access to any health official or police officer is grounds for the suspension or revocation of any massage therapy establishment license and/or massage therapist license.

D. The suspension and/or revocation procedure provided for in Sections 5.36.100, 5.36.105, 5.36.110, and/or in 5.36.115 may be initiated if an inspection reveals a violation of any provision of this Chapter. (Ord. 15-60 § 16, 2015.)

5.36.140 Massage Therapy Establishment Regulations. The operation of any massage therapy establishment will be subject to the following regulations:

A. The licensee will have the massage therapy establishment supervised at all times when open for business by himself/herself or an operator. The licensee or operator will personally supervise the establishment, and will not violate or permit others to violate any applicable provision of this Chapter.

B. Every licensee will at all times be responsible for the conduct of business on the licensed massage therapy establishment premises and for any act or conduct of an operator, massage therapist or employee, which constitutes a violation of the provisions of this Chapter. Any violation of the city, state or federal laws committed on the licensed premises by any licensee, operator, massage therapist or employee affecting the eligibility or suitability of the licensee to hold a license, may be grounds for suspension or revocation of same.

C. The massage therapy establishment will be closed and operations will cease between the hours of twelve (12) a.m. and six (6) a.m.

D. No alcoholic or cereal malt beverages, nor the possession or consumption thereof, will be allowed in or upon the massage therapy establishment premises.

E. All licensees, operators, massage therapists and employees will wear outer garments while at the establishment. Diaphanous or transparent clothing is prohibited. All licensees, operators, massage therapists and employees must be fully clothed at all times.

F. A licensed establishment must be kept clean and operated in a sanitary manner.

G. A patron's pubic region, genitals, perineum, anal region, and/or the female breast must be covered at all times by opaque towels, sheets, cloths or undergarments when in presence of a licensee, operator, massage therapist or employee.

H. Any contact by a licensee, operator, massage therapist or employee with a patron's pubic region, genitals, perineum, anal region, and/or the female breast is prohibited.

I. Clean, laundered sheets and towels will be provided to patrons for use. Such items will be laundered after each use thereof and stored in a sanitary manner.

J. Wet and dry heat rooms, showers, and other bathing compartments, and toilet rooms will be thoroughly cleaned each day the massage therapy establishment is in operation. Bathtubs or individual soaking areas will be thoroughly cleaned after each use.

K. Table showers are prohibited.

L. All massage therapy establishments and/or operators of massage therapy establishments will keep and maintain on the premises a current register of all massage therapists showing each individual's name, home address, telephone number, license number and a copy of the therapist's license and government-issued identification. Such register will be open to inspection during business hours by any health official or police officer.

M. All operators of a massage therapy establishment will keep a daily register at the massage therapy establishment of all patrons, with names, addresses, telephone numbers, and parental or legal guardian authorization (if applicable). Said daily register will, at all times during business hours, be subject to inspection by any health official or police officer and must be kept on file for one (1) year from the date of each entry.

N. No massage therapy establishment operator or employee will place, publish, distribute or cause to be placed, published or distributed, any advertisement offering or suggesting the availability of any service which is either prohibited or not authorized under this Chapter.

O. No individual will reside, inhabit or otherwise sleep overnight at a massage therapy establishment.

P. No operator or employee will permit the provision, offer to provide or provide to any patron any service with the intent to arouse or gratify the sexual desires of the operator, massage therapist, employee or patron. (Ord. 15-60 § 17, 2015.)

5.36.150 Massage Therapist Regulations. Massage therapists are subject to the following regulations when providing services:

A. The massage therapist will not violate any applicable provision of this Chapter.

B. A massage therapist will not provide massage therapy on patrons between the hours of twelve (12) a.m. and six (6) a.m.

C. A massage therapist will not consume any alcoholic or cereal malt beverages during business hours or while providing massage therapy.

D. Any violation of the city, state or federal laws committed by a therapist affecting his/her eligibility or suitability to hold a license may be grounds for suspension or revocation of same.

E. All massage therapists will wear outer garments while providing massage therapy. Diaphanous or transparent clothing is prohibited. The massage therapist must be fully clothed at all times.

F. A patron's pubic region, genitals, perineum, anal region, and the female breast must be covered at all times by opaque towels, sheets, cloths or undergarments when in the presence of the massage therapist.

G. Any contact by a massage therapist with a patron's pubic region, genitals, perineum, anal region, and/or the female breast is prohibited.

H. Table showers are prohibited.

I. A massage therapist will not provide or permit any massage therapy to be provided to a patron under the age of eighteen (18) unless the patron is accompanied to the massage therapy establishment by a parent or legal guardian, and the parent or legal guardian authorizes the massage therapy in writing.

J. No massage therapist will place, publish, distribute or cause to be placed, published or distributed, any advertisement offering or suggesting the availability of any service which is either prohibited or not authorized under this Chapter.

K. A massage therapist will notify the City Clerk of any change in massage therapy establishment employment within thirty (30) calendar days of the change.

L. No massage therapist will permit the provision, offer to provide or provide to any patron any service with the intent to arouse or gratify the sexual desires of the massage therapist or patron.

M. A massage therapist will keep a daily register at the massage therapy establishment of all patrons, with names, addresses, telephone numbers, and parental or legal guardian authorizations (if applicable). Said daily register will at all times during business hours be subject to inspection by any health official or police officer and must be kept on file for one (1) year from the date of each entry. (Ord. 15-60 § 18, 2015.)

5.36.190 Transfer of Licenses, Other Licenses and Fees.

A. A massage therapy establishment license is not transferable and such authority as a license confers shall be conferred only on the licensee named therein.

B. Any applications made, fees paid, and licenses obtained under the provisions of this Chapter are in addition to and not in lieu of any other fees or licenses required to be paid or obtained under any other ordinances of this City. (Ord. 15-60 § 22, 2015.)

5.36.195 Change of Location. If a licensee desires to change the location of the massage therapy establishment, the licensee will file an application with the City Clerk providing the same information relating to the proposed location as in the case of an original application. A fee for change of location will be adopted by the Governing Body by resolution. If the application is in proper form and complies with applicable zoning requirements of the UDO and all other requirements relating to the massage therapy establishment are met, a new license will be issued for the new location for the balance of the year for which a current license is held by the licensee. (Ord. 15-60 § 23, 2015.)

5.36.210 Exceptions. The provisions of this Chapter do not apply to hospitals, nursing homes, sanitariums, or persons holding an unrevoked certificate to practice the healing arts under the laws of this state, or persons working under the direction of any such persons or in any such establishment, nor does this Chapter apply to barbers or cosmetologists, as prescribed under K.S.A. 65-1901d, lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by this state. (Ord. 15-60 § 25, 2015.)

5.36.220 Further Regulations. The City Clerk or the health official may make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this Chapter. (Ord. 15-60 § 26, 2015.)

5.36.240 Penalty. Any person convicted of violating any of the provisions of this Chapter is guilty of an unclassified public offense and will be fined not more than Five Hundred Dollars ($500.00) for each offense, and may be imprisoned for a period not to exceed one hundred eighty (180) days for each offense, or may be both fined and imprisoned. A separate offense will be deemed committed on each day during or which a violation occurs or continues. (Ord. 15-60 § 28, 2015.)

5.36.250 Appeal.

A. If the City Clerk or designated representative denies issuance of a license, or issues an order suspending or revoking a license, the licensee, up to but not more than fifteen (15) days after the order, may appeal such denial or order to the City Manager or designated representative.

B. If the City Manager or designated representative issues an order upholding the denial, suspension, or revocation of the license, the licensee, up to but not more than thirty (30) days after the order, may appeal the order to the District Court of Johnson County.

C. Any appeal taken under this Section will stay the order of suspension or revocation of the license. (Ord. 15-60 § 29, 2015.)

Previous massage therapy codes were codified with the following ordinances. (Ord. 13-40, 2013; Ord. 08-14, 2008; Ord. 05-46, 2005; Ord. 03-37, 2003; Ord. 02-124, 2002; Ord. 02-87, 2002; Ord. 96-75, 1996; Ord. 92-07, 1992; Ord. 531, 1976.)

CHAPTER 5.40

PRIVATE POLICE

Sections:

5.40.010 Definitions

5.40.010 Definitions. The following words and phrases as used in this chapter shall, for the purpose of this chapter, have the meaning respectively ascribed to them in this section:

(a) "Private merchant police," "guard service" and "patrol service" mean any person, firm or corporation who engages in a business for hire to provide a protection service for the property of others and whose duties and activities in that connection include patrolling, guarding or watching the property of a subscriber, purchaser or client under contract or agreement to provide a protective service.

(b) "Security officer" means any person regularly employed by a person, firm or corporation, and whose duties, in addition to property of the employer, include conducting investigations concerning the reputation or character of employers or prospective employers, and investigations concerning the location of property of the employer that becomes lost or stolen.

(c) "Watchman" means any person regularly employed by a person, firm or corporation whose duties and activities consist of patrolling, guarding or watching the property of his/her employer.

(d) For the purpose of this chapter, private merchant police, guard service, patrol service, watchman and security officer will be referred to as "private police." (Ord. 16-28 § 2, 2016; Ord. 02-125 § 1, 2002; Ord. 89-82, § 2, 1989; Ord. 817, 1978.)

CHAPTER 5.42

PAWNBROKERS AND PRECIOUS METAL DEALERS

Sections:

5.42.010 Definitions.
5.42.020 License Required.
5.42.030 Application for License.
5.42.040 Investigation by Chief of Police.
5.42.050 Issuance of License.
5.42.060 Transfer of Stock by Stockholder of Corporate License--Effect.
5.42.070 License Requirements.
5.42.080 Nonuse of License.
5.42.090 Change in Location of Place of Business.
5.42.110 Examination of Books, Accounts and Records.
5.42.120 Suspension or Revocation of License--Notice and Hearing.
5.42.130 Loans Secured by Pledged Goods--Written Contract Required, Contents--Retention, Disposition and Redemption of Pledged Articles.
5.42.140 Report of Description of Property Received in Pawn or Purchased as Secondhand Merchandise or as a Precious Metal Dealer.
5.42.150 Record of Transaction.
5.42.160 Prohibited Acts.
5.42.170 Inspection and Examination by Law Enforcement Officers.
5.42.180 Interest and Charges on Pawnbroker Transactions--Applicability of other Loans--Maximum Charges--Terms of Loans.
5.42.190 Requirements of Precious Metal Dealers.
5.42.200 Effect of Refusal to Redeliver Converted or Stolen Property.
5.42.210 Persons from whom Pledges may not be taken or Precious Metals Purchased.
5.42.220 Acts of Employees.
5.42.230 Safekeeping of Pledges.
5.42.240 Employee Registration.
5.42.250 City Codes.
5.42.260 Penalty.

5.42.010 Definitions. For the purpose of this chapter, the following words and phrases shall be defined as follows:

(1) "Pawnbroker" means any person who loans money on deposit or pledge of 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.

(2) "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.

(3) "Person" means any individual, firm, company, partnership, corporation or association.

(4) "Precious metal" means gold, silver or platinum group metals or any used articles or other used personal property containing such metals, but shall not include uncirculated coins purchased for their numismatic value rather than their metal content or ingots or other industrial residue or byproducts composed of such metals purchased from manufacturing firms.

(5) "Precious metal dealer" means any person who engages in the business of purchasing precious metal for the purpose of reselling such metal in any form. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.020 License Required. It shall be unlawful for any person to engage or continue the business as a pawnbroker or precious metal dealer without first obtaining a license therefor from the city clerk. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.030 Application for License. Application for a license shall be in writing and shall state the full name and place of residence of the applicant; if the applicant is a partnership, the applicant shall contain the name and place of residence 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 places where the business is to be conducted, the hours 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 in accordance with the provisions of this chapter. Each applicant also shall submit with the application:

(1) A copy 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 herein, indicating whether the same was received in pledge, purchased as secondhand merchandise or precious metal purchased for resale; and

(3) A copy of his lease in the event the applicant is not the owner of the premises on which his business is operating.

The license application shall be in a form approved by the Attorney General. Each application shall be accompanied by a fee which shall be paid annually upon renewal of the license. Such fee shall be adopted by the Governing Body of the City by resolution. All such fees received by the city clerk shall be deposited in the city general fund. (Ord. 02-126 § 1, 2002; Ord. 02-86 § 2, 2002; Ord. 84-20 § 1, 1984; Ord. 81-106 § 1 (part), 1981.)

5.42.040 Investigation by Chief of Police. All applications for pawnbrokers' or precious metal dealers' licenses or renewals thereof shall be presented to the Governing Body at a regular meeting thereof. No application shall be acted upon until a recommendation for or against the application is received from the chief of police, provided that the Governing Body shall not be bound by the Chief's recommendation. (Ord. 02-86 § 2, 2002; Ord. 87-30 § 23, 1987; Ord. 81-106 § 1 (part), 1981.)

5.42.050 Issuance of License. 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 years immediately preceding the date of his 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, or of the United States, or shall have forfeited his bond to appear in court to answer charges for any such offense within the ten years immediately prior to such person's application for a license;

(d) Any person who has had his license revoked for cause under the provisions of this act;

(e) Any person who is not at least twenty-one 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 has a written lease therefor at least three-fourths 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 the 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. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.060 Transfer of Stock by Stockholder of Corporate License--Effect. It shall be unlawful for any shareholder of a corporate licensee to transfer any stock in said corporation to any person who would be ineligible to receive a license as an individual, and any such transfer shall be null and void; provided, that if any such stockholder of a corporate licensee shall become deceased, and his heirs or devisees to whom said stock descends by descent and distribution or by will shall be ineligible to receive a license hereunder, then the legal representatives of said deceased stockholder's estate, his heirs and devisees shall have fourteen months from the date of the death of said stockholder within which to sell said stock to a person eligible to receive a license hereunder, with such sale to be made in accordance with the provisions of the Probate Code and any amendments thereto. If said legal representatives, heirs and devisees shall fail, refuse or neglect to so convey said stock within the time hereinbefore prescribed, then said stock shall revert to and become the property of the corporation, for which the corporation shall pay to said legal representatives, heirs or devisees the book value of such stock. If the stock in any corporation shall be subject of any trust heretofore or hereafter created, the trustee or trustees and the beneficiaries of each trustee and beneficiary of said trust who is twenty-one years of age or older must be a person who would be eligible to receive a license, or the trustee shall be and he is hereby authorized and required, within fourteen months after the effective date of the trust, to sell said stock to a person eligible to receive a license under this act, and he shall hold and disburse the proceeds thereof in accordance with the terms of the trust, or the license of the corporation shall be forfeited. During the fourteen-month periods hereinbefore mentioned, a corporation shall not be denied a license or have its license revoked if it meets all of the other requirements necessary to have a license as provided in this chapter. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.070 License Requirements. The document or other instrument evidencing the license of a pawnbroker or precious metal dealer shall state the address at which the business is to be conducted and shall state fully the name of the licensee. If the licensee is a partnership, the license shall state the names of the members thereof, and, if a corporation, the date and place of its incorporation, and the names of all shareholders thereof. Such license shall be kept conspicuously posted in the place of business of the licensee and shall not be transferable or assignable. Not more than one place of business shall be maintained under the same license, but more than one license may be issued to the same licensee upon compliance with all the provisions of this act governing the issuance of an initial license. Additionally, should the structure of the business change in form (e.g., partnership to corporation, etc.) then a new license will be required and it may be obtained through the application process contained in Section 5.42.030. (Ord. 02-86 § 2, 2002; Ord. 84-20 § 3, 1984; Ord. 81-106 § 1 (part), 1981.)

5.42.080 Nonuse of License. If a pawnbroker shall not conduct said business for a period of ninety days, the license shall be null and void. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.090 Change in Location of Place of Business. Whenever a licensee shall change the place of business to another location within the city, he immediately shall give written notice thereof to the city clerk who then shall issue a duplicate license which shall show, in addition to all of the information appearing on the old license, a record of the change of location and the date thereof, which new license shall be authority for the operation of such business under such license at such location. The licensee shall return the old license to the city clerk as soon as the new license has been received and the change in location has taken place. No change in the place of business of a licensee to a location outside of the city shall be permitted under the same license. Additionally, if such change of location involves the acquisition of a new lease, such lease must meet the requirements of Section 5.42.050(g) and a copy must be submitted to the city clerk along with the written notice provided for above. (Ord. 02-86 § 2, 2002; Ord. 84-20 § 2, 1984; Ord. 81-106 § 1 (part), 1981.)

5.42.110 Examination of Books, Accounts and Records. Each licensee shall keep and use in the licensee's business such books, accounts and records as will enable the city to determine whether such licensee is complying with the provisions of this chapter. The city shall have the right to examine or cause to be examined the books, accounts, records and files used by any licensee or by any other person engaged in the business of pawnbroking or dealing in precious metals, irrespective of whether such person acts or claims to act as principal, agent or broker, or under or without authority of this chapter. The duly designated representatives of the city shall have and be given free access to all such books, accounts, papers, records, files, safes and vaults. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.120 Suspension or Revocation of License – Notice and Hearing. Any license issued under this act may be suspended or revoked, after due notice and public hearing, if the licensee:

A. Has failed to pay the annual license fee;

B. Has violated any provision of this act; or

C. Has been convicted of or has pleaded guilty to a felony under the laws of this state, or any other state, or of the United States, or shall have forfeited his bond to appear in court to answer charges for any such offense, if such conviction or plea occurred subsequent to or within the ten years immediately prior to the date of the licensee's application for the license. Said hearing herein provided shall be held within thirty days after notice thereof, and the alleged violation determined by written order of the city or county issuing the license within sixty days after such hearing is concluded; but no revocation or suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower. (Ord. 14-41 § 3, 2014; Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.130 Loans Secured by Pledged Goods--Written Contract Required, Contents--Retention, Disposition and Redemption of Pledged Articles. Every loan made by a pawnbroker 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 month; the date on which the load is due and payable; the charges; and it shall clearly inform the borrower of his right to redeem the pledge during the redemption period of two 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 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 pledgor, 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. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.140 Report of Description of Property Received in Pawn or Purchased as Secondhand Merchandise or as a Precious Metal Dealer.

(a) On or before Tuesday of each week, 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) A transaction required to be reported under this section shall be submitted to the chief of police.

(c) All reports made pursuant to this section shall comply with and be submitted in a format approved by the chief of police. Reports shall be submitted in a computer software format that meets the hardware and software specifications of the Olathe Police Department. If the pawnbroker or precious metal dealer is unable to submit reports, chooses not to submit their reports through the approved computer software, or in a way that does not meet the Police Department specifications, then the reports will be entered and/or modified by the Department and a fee shall be charged to the pawnbroker or precious metal dealer.

(d) Every precious metal dealer shall retain in the dealer's possession for a period of fifteen days all precious metal purchased as a precious metal dealer, and such metal shall remain in the condition in which it was purchased. The fifteen-day period shall commence on the date that the police chief receives the report of its acquisition in compliance with this section. If the police chief has probable cause to believe that any precious metal reported by a dealer has been stolen, the police chief may give written notice to the dealer to retain such metal for an additional period of fifteen days. Upon such notice, the dealer shall retain such metal in an unaltered condition for the additional fifteen-day period unless the police chief 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. (Ord. 05-71 § 1, 2005; Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.150 Record of Transaction.

The provisions of this section are codified with Charter Ordinance No. 73 and can be found in the Charter Ordinance section of the Olathe Municipal Code. (CO 73§ 1, 2013; Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.160 Prohibited Acts.

(a) It shall be unlawful for any pawnbroker to receive in pledge, or as security for any loan, transfer, service, undertaking or advantage, anything of value from any person under the age of eighteen years.

(b) It shall be unlawful for any precious metal dealer to purchase any precious metal from any person under the age of eighteen years. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.170 Inspection and Examination by Law Enforcement Officers. Every pawnbroker or precious metal dealer, and every person employed by a pawnbroker or precious metal dealer in the conduct of the pawnbroker's or dealer's business, shall admit to any and every part of the premises designated in the license, at any time, any law enforcement officer of the city, to examine any goods, articles, things, pledges, pawns, books or other records on the premises; and to search for and to take into possession any article known or believed by such officer to have been stolen. Such law enforcement officer may make any such search or seizure as is provided for in this section, and property so seized shall be receipted for by such officer who shall adequately describe the seized property and sign the receipt. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.180 Interest and Charges on Pawnbroker Transactions--Applicability of Other Loans--Maximum Charges--Terms of Loans.

(a) No pawnbroker shall contract for, charge, or receive directly or indirectly on or in connection with any pawnbroker transaction any 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 this act. Any other provisions of law relating to interest, storage and such charges shall not be applicable to any pawnbroker transaction made in accordance with this act.

(b) Whenever any loan is made by a pawnbroker for which goods are received in pledge:

(1) A charge may be added in an amount not to exceed ten percent (10%) per month or one hundred twenty percent (120%) per annum of the amount advanced to the borrower; and

(2) The amount of the loan shall not exceed Five Thousand Dollars ($5,000.00).

(c) The term of any loan made under the provisions of this act shall be one (1) 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 refund. On loans under this act, no insurance charges or any other charges of any nature whatsoever shall be permitted. (Ord. 02-86 § 2, 2002; Ord. 93-14 § 1, 1993; Ord. 81-106 § 1 (part), 1981.)

5.42.190 Requirements of Precious Metal Dealers. A precious metal dealer shall require of every person from whom the dealer purchases precious metal for resale:

(1) Proof of identification; and

(2) 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. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.200 Effect of Refusal to Redeliver Converted or 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. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.210 Persons From Whom Pledges May Not Be Taken or Precious Metals Purchased.

(a) It shall be unlawful for any pawnbroker, his servant or employee to receive any goods, articles or things in pledge from a person knowingly intoxicated, under the influence of drugs or mentally incapacitated.

(b) It shall be unlawful for any precious metal dealer to purchase precious metal from any person who is knowingly intoxicated, under the influence of drugs or mentally incapacitated. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.220 Acts of Employees. The holder of a pawnbroker's or precious metal dealer's license shall be responsible for any and all acts of his employees, and for any violation by them of the provisions of this chapter. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.230 Safekeeping of Pledges. Every pawnbroker licensed under the provisions hereof shall provide a safe place for the keeping of the pledges received by him and shall have sufficient insurance on the property held on pledges, for the benefit of the pledgors, in case of destruction by fire. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.240 Employee Registration. Every employee of a pawnbroker or precious metal dealer shall register his name and address, birth date and Social Security number with the Police Department of the City and shall have had his thumbprints, fingerprints and photograph taken and filed with the City and receive a certificate showing compliance therewith. For the purpose of this section, an employee of a pawnshop shall include all persons working in a pawnbroker's shop and any owner, stockholder if the owner is a corporation, partner or any other person who receives income in any manner from the operation of said pawnshop. Every person seeking to be registered under the provisions of this section shall first pay to the City a registration fee as a condition precedent to having issued to him or her a certificate as provided herein. The employee registration fee shall be adopted by the Governing Body by resolution. (Ord. 13-57 § 1, 2013; Ord. 09-41 § 1, 2009; Ord. 02-126 § 2, 2002; Ord. 02-86 § 2, 2002; Ord. 02-29 § 1, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.250 City Codes. No pawnbroker's or precious metal dealer's license shall be issued if the place of business does not comply with the provisions of the city's zoning, building or fire codes. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

5.42.260 Penalty. Any person violating any provision of this chapter, upon conviction thereof, shall be fined not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00) or shall be imprisoned for a period not to exceed sixty days, or shall be both fined and imprisoned. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 02-86 § 2, 2002; Ord. 81-106 § 1 (part), 1981.)

Previous Chapter 5.43, Payday Loan and Title Loan Businesses, was repealed by Ordinance No. 16-24, Distance Restricted Businesses. Payday Loan and Title Loan Businesses are included in new Chapter 5.43, Distance Restricted Businesses. Past Payday Loan and Title Loan Businesses regulations were codified with Ordinance Numbers 08-110 and 08-57.

CHAPTER 5.43

DISTANCE RESTRICTED BUSINESSES

Sections:

5.43.010 Definitions
5.43.020 License Required
5.43.030 Application for License and Fees
5.43.040 Issuance of License
5.43.050 License Requirements
5.43.060 Nonuse of License
5.43.070 Change in Location of Place of Business
5.43.080 Suspension or Revocation of License—Notice and Hearing
5.43.090 City Codes
5.43.100 Revocation and Penalty
5.43.110 Severability

5.43.010 Definitions. For the purpose of this Chapter, the following words and phrases shall be defined as follows:

"Bail Bond Business" means any business that acts as a surety and pledges money or property as bail for the appearance of a criminal defendant in court.

"Distance-Restricted Business" means any Bail Bond Business, Pawnbroker, Payday Loan Business, Small-Box Discount Retailer, Thrift Store, or Title Loan Business.

"Pawnbroker" is as defined in Section 5.42.010 of the Olathe Municipal Code.

"Payday Loan Business" means any business regulated by K.S.A. § 16a-2-404, as the same may be amended from time to time, except financial institutions, as defined by K.S.A. § 16-117.

"Person" means any individual, firm, company, partnership, corporation or association.

"Small-Box Discount Retailer" means a retail business that sells a wide range of inexpensive household goods for a profit with a building footprint of less than 15,000 square feet.

"Thrift Store" means a retail business selling second-hand and/or donated clothes and other household goods typically to raise funds for a charitable institution. This term does not include antique shops (for-profit businesses where collectible or valuable older items are purchased by the shop or individuals leasing space at the shop then re-sold for profit); consignment shops (for-profit businesses where an individual sells a used item and the shop takes a percentage of the sales profit in return); swap meets, flea markets or vintage/antique fairs associated with a City-approved Temporary Sales or Event Permit; Pawnbrokers; garage sales; or non-profit home improvement stores (not-for-profit businesses which sell donated new and used building materials, including electrical fixtures, appliances, kitchen cabinets, home furnishings and various types of hardware and tools at greatly reduced prices).

"Title" means a form issued by a Department of Motor Vehicles establishing a Person or business as legal owner of a Vehicle.

"Title Loan Business" means, except as provided below, a business which performs a consumer loan transaction made for a period of sixty (60) days or less, secured by Title to a vehicle. It shall not include a purchase money consumer loan or a loan made pursuant to subsection (2) of K.S.A. 16a-2-401 and amendments thereto.

"Vehicle" means every device in, upon or by which any Person or property is or may be transported or drawn upon a public highway and the ownership of which is evidenced by a Certificate of Title. (Ord. 16-24 § 2, 2016.)

5.43.020 License Required. It shall be unlawful for any Person to engage in or continue a Distance-Restricted Business without first obtaining a license from the City Clerk. Any Distance-Restricted Business lawfully in existence on the effective date of this Section is required to obtain the license required hereunder within sixty (60) days of such effective date. The initial license will cover the period from the date the business is commenced, or in the case of a business lawfully in existence on the date of adoption, from the date the business is first licensed hereunder, until the next annual renewal date. Thereafter, each license shall be valid for one year and must be renewed annually. (Ord. 16-24 § 2, 2016.)

5.43.030 Application for License and Fees. All applications for a license must be in writing and provide:

A. the full name and place of residence of the applicant and spouse of the applicant (if applicable);

B. if the applicant is a partnership, the application must the name and place of residence of each member thereof; or,

C. if a corporation or association, of each officer, shareholder or member thereof;

D. the application must include the address of the place where the business is to be conducted, the hours and days of the week during which the applicant proposes to engage in a Distance-Restricted Business, and such other information as may be necessary to determine the applicant's qualifications for a license in accordance with the provisions of this Chapter.

E. Each applicant must submit a copy of the lease with the application if the applicant is not the owner of the premises where the business will be operating.

The license application must be submitted to the City Clerk in a form approved by the City Clerk. Each application must be accompanied by a fee which must be paid annually upon renewal of the license. Such fee will be adopted by the Governing Body of the City by resolution. All fees paid in accordance with this Section are in addition to, and not in lieu of, any other fees or licenses required to be paid or obtained under any other provision of this Code and are non-refundable.

The City Clerk will mail the notice of renewal to a licensee's place of business no later than fifteen (15) days prior to the expiration date of the license. (Ord. 16-24 § 2, 2016.)

5.43.040 Issuance of License. After the filing of an application in the proper form, the City Clerk will examine the application, and after such examination, the City Clerk will issue a license for a Distance-Restricted Business unless the City Clerk finds that:

A. The Distance-Restricted Business is located within 5,280 feet of any other Distance-Restricted Business of the same type or within 200 feet of any property used for residential purposes, including but not limited to, any property used primarily for a single-family residence, a two-family residence, a town home, or an apartment building. The separation distances will be measured from the nearest property line of the residentially zoned property to the outer wall of the Distance-Restricted Business;

B. The Person submitted an application for a license to operate a Distance-Restricted Business at a location prohibited by any applicable local, state, or federal law, statute, ordinance, rule or regulation; provided, however, a Distance-Restricted Business lawfully in existence on the effective date of this Section will be considered lawfully nonconforming and permitted to obtain a license hereunder and continue in operation in accordance with Chapter 18.60 of the Unified Development Ordinance;

C. The correct license fee has not been paid to the City;

D. The applicant knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith;

E. The applicant is not a citizen of the United States;

F. The applicant has been convicted of or has pleaded guilty to a felony under the laws of this state, or any other state, or of the United States, or has forfeited a bond to appear in court to answer charges for any such offense within the ten (10) years immediately prior to the application;

G. The applicant had a license denied, revoked, or suspended for cause by the City or any other state or local agency within five (5) years prior to the date of the application;

H. The applicant is not at least twenty-one (21) years of age;

I. The applicant would be ineligible to receive a license under the provisions of this Chapter;

J. The applicant does not own the premises for which a license is sought, unless the applicant has a written lease for at least three-fourths of the period for which the license is to be issued;

K. The applicant's spouse would be ineligible to receive a license for any reason other than the age, citizenship and residence requirements;

L. Any partner is ineligible to receive a license; and

M. Any officer, manager, or director is ineligible to receive a license. (Ord. 16-24 § 2, 2016.)

5.43.050 License Requirements. The document or other instrument evidencing the license of a Distance-Restricted Business must state the address where the business is to be conducted and the name of the licensee. If the licensee is a partnership, the license must state the names of all partners thereof, and, if a corporation, the date and place of its incorporation. Such license will be kept conspicuously posted in the place of business and is not transferable or assignable. Failure to keep the license posted in the manner required by this Section is prima facie evidence that the business has not obtained the required license. Not more than one place of business may be maintained under the same license. Additionally, should the structure of the business change in form (e.g., partnership to corporation, etc.) then a new license will be required and it must be obtained through the application process contained in Section 5.43.030. (Ord. 16-24 § 2, 2016.)

5.43.060 Nonuse of License. If a Distance-Restricted Business does not conduct business for a period of ninety (90) days, the license will be void. (Ord. 16-24 § 2, 2016.)

5.43.070 Change in Location of Place of Business. If a licensee changes the location of the business within the City, and such location conforms with the provisions of Section 5.43.040 (A & B), the licensee will give written notice within two days of the change to the City Clerk who will issue a license which will show, in addition to all of the information appearing on the initial license, a record of any change of location and the date thereof, which new license authorizes operation of the business at the new location. The licensee will return the initial license to the City Clerk as soon as the new license has been received. Additionally, if such change of location involves a new lease, such lease must meet the requirements of Section 5.43.040(J) and a copy must be submitted to the City Clerk along with the written notice provided for above. (Ord. 16-24 § 2, 2016.)

5.43.080 Suspension or Revocation of License.

A. Any license issued under this Chapter may be suspended or revoked after a public hearing before the City Manager or designated representative where it is found that any of the provisions of this Chapter have been violated or where the licensee or any employee of the licensee has been convicted of any offense found in this Chapter and the licensee has actual or constructive knowledge of the violation or conviction, or where the licensee or employee of the licensee refuses to permit any duly authorized law enforcement officer to inspect the premises during any hours when the establishment is open to the public, or if the licensee has been convicted of or has pleaded guilty to a felony under the laws of this state, or any other state, or of the United States, or has forfeited a bond to appear in court to answer charges for any such offense, if such conviction or plea occurred subsequent to or within the ten (10) years immediately prior to the date of the licensee's application.

B. If the City Clerk or designated representative denies issuance of a license, or issues an order suspending or revoking a license, the licensee, up to but not more than fifteen (15) days after the order, may appeal such denial or order to the City Manager or designated representative.

C. If the City Manager or designated representative issues an order upholding the denial, suspension, or revocation of the license, the licensee, up to but not more than thirty (30) days after the order, may appeal the order to the District Court of Johnson County.

D. Any appeal taken under this Section will stay the order of suspension or revocation of the license. (Ord. 16-24 § 2, 2016.)

5.43.090 City Codes. No Distance-Restricted Business license may be issued or renewed if the business is not in compliance with the City's zoning, building or fire codes. (Ord. 16-24 § 2, 2016.)

5.43.100 Revocation and Penalty. Any license issued pursuant to this Chapter shall be subject to revocation for violation of any provision of this Chapter or any applicable local, state or federal law, statute, ordinance, rule or regulation. If the underlying zoning approval upon which a license is based is revoked or otherwise terminated, the license will also be simultaneously revoked. Any person violating any provision of this Chapter, upon conviction thereof, shall be fined not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00) or shall be imprisoned for a period not to exceed sixty (60) days, or shall be both fined and imprisoned. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 16-24 § 2, 2016.)

5.43.110 Severability. If any section, clause, sentence, or phrase of this Ordinance be found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any remaining provisions herein. (Ord. 16-24 § 2, 2016.)

CHAPTER 5.44

TOWING OF VEHICLES

Sections:

5.44.010 Purpose and Intent.
5.44.020 License Required.
5.44.030 Definitions.
5.44.040 Issuance, Renewal and Denial of License.
5.44.050 Fees.
5.44.060 Rates and Charges.
5.44.070 Accountability.
5.44.080 Notice Requirements.
5.44.090 Regulations.
5.44.100 Revocation and Suspension.
5.44.110 Penalty.

5.44.010 Purpose and Intent.

(a) It is hereby declared by the City Council that in order to protect the public, protect the rights of property owners, protect the rights of persons whose cars may be towed, and to preserve the peace of the community, the licensing and regulation of business enterprises engaged in the practice of towing, removing and storing of motor vehicles from private property are matters affecting the public interest and any persons desiring to conduct such a business enterprise shall be required to obtain a license and obey the regulations as hereinafter provided.

(b) The purpose of this chapter is to provide a uniform system for the licensing and regulation of business enterprises which are engaged in or which intend to engage in the practice of private property impound towing from non-residential property. (Ord. 92-55 § 1, 1992; Ord. 90-102 § 1, 1990.)

5.44.020 License Required.

(a) It shall be unlawful for any business enterprise to engage in the business of private property impound towing from non-residential property without first having secured a license from the City to do so.

EXCEPTION: The provisions of this chapter shall not apply to a police requested tow pursuant to section 10.01.084 of this code, the towing of motor vehicles done at the request of the vehicle owner, driver or person in charge of the motor vehicle, or to an emergency tow from private property. For the purposes of this chapter an emergency tow from private property shall mean any situations where a vehicle is left unattended so as to constitute a definite hazard or obstruction to the normal movement of traffic or potentially dangerous or a hazard to any lawful function.

(b) There is no requirement that employees of such business enterprise have the license provided for by this chapter. The business enterprise itself shall apply for, obtain and maintain the license.

(c) If required by state or federal law, any driver of a tow truck shall have a valid commercial driver's license and a medical certificate.

(d) If required by state law, any business enterprise engaged in the business of private property impound towing shall be licensed by the KCC Authority. (Ord. 97-103 § 1, 1997; Ord. 92-55 § 2, 1992; Ord. 90-106 § 1, 1990; Ord. 90-102 § 1, 1990.)

5.44.030 Definitions. As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

Business enterprise: A unit of economic organization or activity in the form of person, firm, partnership, corporation, trust or association.

Third Party Tow: The towing for hire of vehicles from private property without the permission or authority of the vehicle owner or their authorized representative.

Private Property Impound Tow: A third party tow in which the vehicle is impounded and held subject to the payment of a fee.

Property owner: Any person in lawful possession of private real property, including but not limited to the legal title holder, lessee or property manager. In no case shall any owner, operator or agent of a business enterprise engaged in the towing of vehicles from private property be considered a property owner unless he is the legal title holder or in possession of said property.

Removing: The act of changing by towing, the location of a parked vehicle from its location on private property other than residential property to a storage site.

Storing: To place and leave a towed vehicle at a properly zoned site where the business enterprise or another business enterprise exercises control and supervision over the vehicle.

Towing: Drawing or pulling a vehicle by means of another vehicle equipped with booms, car carriers, winches or similar equipment.

Non-Residential Property: Property located in the City zoned or used for commercial or industrial purposes.

Private Property: Nongovernmental owned property. (Ord. 92-55 § 3, 1992; Ord. 90-102 § 1, 1990.)

5.44.040 Issuance, Renewal and Denial of License.

(a) The city manager or his authorized representative shall approve issuance or renewal of a license hereunder where he finds:

(1) That the applying business enterprise does not have as an officer or director, if a corporation, as a partner, if a partnership, or as a sole proprietor, if a sole proprietorship, a person who is or was an officer, director, partner or sole proprietor of a business enterprise which has had its towing license revoked by action of the city manager within five (5) years of the date of application, or who has been convicted of any theft-related crime, crime involving violence or fraudulent crime within the past seven (7) years.

(2) That the tow or storage yard has been inspected and found to be in compliance with the requirements of this chapter, the fire code, the zoning ordinance, and all other applicable laws and city ordinances.

(3) If required by state law, that the business enterprise is licensed by the KCC Authority.

(4) That the business enterprise has presented proof of automobile liability insurance in compliance with the requirements of Kansas statutes.

(5) If required by state or federal law, that each tow truck driver holds a valid commercial driver's license and a medical certificate.

(b) A license issued or renewed pursuant to the provisions of this chapter shall not be assignable or transferable from one business enterprise to another business enterprise.

(c) The license shall remain valid for a period of one (1) year from the date of issuance unless sooner revoked or suspended. (Ord. 97-103 § 2, 1997; Ord. 92-55 § 4, 1992; Ord. 90-102 § 1, 1990.)

5.44.050 Fees. Before a license is issued or reviewed, a fee shall be paid to the city. Such fee shall be adopted by the Governing Body of the City by resolution. (Ord. 02-127 § 1, 2002; Ord. 90-102 § 1, 1990.)

5.44.060 Rates and Charges. It shall be unlawful to:

(a) Tow a vehicle unless the business enterprise shall file and keep on record with the City Manager, or his authorized representative, a complete copy of the current maximum rates charged for the towing and storage of vehicles on an imprinted tow receipt or ticket.

(b) Charge the registered owner or other authorized person in control of the vehicle fees in excess of those fees filed with the City Manager, or his authorized representative, in accordance with the requirements of this chapter, or Charge the registered owner or other authorized person in control of a vehicle fees for any services other than those reasonably related to the towing and storage of vehicles which are actually garaged. No fee shall be charged for "hoisting," or for "let down" or "standby" fees for allowing the registered owner or other authorized person to retrieve personal property from the impounded vehicle. No fee shall be charged for releasing the vehicle unless such release is at a time other than between 8:00 a.m. and 5:00 p.m., Monday through Friday, or unless such release is on the following holidays: New Year's Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day.

(c) Tow or remove or store a vehicle unless the current rates charged for the towing and storage of vehicles are posted in an open and conspicuous public place on the premises from which the vehicle is removed and of the business enterprise doing the towing or listed on a conspicuous notice placed on the vehicle twenty-four (24) hours prior to the tow.

(d) Pay or rebate money, or solicit or offer the payment or rebate of money, or other valuable consideration to property owners for the privilege of towing or removing vehicles. (Ord. 92-55 § 5, 1992; Ord. 90-102 § 1, 1990.)

5.44.070 Accountability. The wrecker or towing service shall:

(a) allow the owner of a vehicle towed to have access to personal property in such vehicle for forty-eight (48) hours after such vehicle has been towed and such personal property shall be released to the owner; and

(b) report the location of such vehicle to local law enforcement within two (2) hours of such tow, and

(c) maintain a record of all towing and storage transactions relating to the impounding of vehicles from private property and keep said record on file in the office of the business enterprise. Such records shall include consecutively numbered receipts for all transactions and shall be available for inspection during normal working hours of the business by the City Manager or designee. (Ord. 12-09 § 1, 2012; Ord. 92-55 § 6, 1992; Ord. 90-102 § 1, 1990.)

5.44.080 Notice Requirements. It shall be unlawful to tow a vehicle from nonresidential private property, except in emergency situations as defined in 5.44.020 unless:

(a) The private property owner has posted conspicuous notice at least five (5) feet above ground level on the private property stating that unauthorized vehicles will be towed at the owner's expense, or

(b) At least twenty-four (24) hours prior to towing, a conspicuous notice is placed upon the vehicle indicating that the vehicle will be towed at the owner's expense unless it has been removed within twenty-four (24) hours of said notice. Any such notice shall state the date and time such notice was placed on the vehicle. (Ord. 92-55 § 7, 1992; Ord. 90-102 § 1, 1990.)

5.44.090 Regulations. It shall be unlawful to:

(a) Tow or remove or store a vehicle where the registered owner or other legally authorized person in control of the vehicle arrives at the scene of potential towing prior to towing or removal.

(b) Tow or remove a vehicle occupied by a person or persons.

(c) Tow or remove or store a vehicle unless the towing business enterprise notifies the city police department immediately upon arrival at the garage. Such notification shall include the storage site, the time the vehicle was towed or removed, and the make, model, color, license plate number and vehicle identification number of the vehicle.

(d) Tow or remove or store a vehicle unless the vehicle shall be towed directly to the business enterprise's garage and the vehicle shall not be kept in any temporary holding or public area.

(e) Store a vehicle in a garage located further than ten (10) miles from the point of removal unless no closer facility is available. (Ord. 92-55 § 8, 1992; Ord. 90-106 § 2, 1990; Ord. 90-102 § 1, 1990.)

5.44.100 Revocation or Suspension. In addition to the grounds enumerated elsewhere in this chapter, in the event that any person holding a license or permit issued pursuant to this chapter is convicted of any of those crimes enumerated in Section 5.44.090 or repeatedly fails to comply with city vehicle code regulations regarding towing and storage of vehicles within ten (10) days of a notice given by the city manager, or his duly authorized representative, or has received two (2) such notices in any twelve (12) consecutive calendar months or three (3) notices within twenty-four (24) consecutive calendar months, the city manager may, in addition to other penalties provided by this code, suspend or revoke the permit.

Complaints against any business enterprise licensed by the city will be recorded and investigated by the city manager or his duly designated representative. (Ord. 90-102 § 1, 1990.)

5.44.110 Penalty. Any person, firm or corporation violating any provision of this chapter shall be fined not less than Five Dollars ($5.00) nor more than Five Hundred Dollars ($500.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 90-102 § 1, 1990.)

CHAPTER 5.50

ADULT BUSINESSES

Sections:

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5.50.040 Notification Requirements
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5.50.010 Adult Business Regulations Definitions Generally. For the purpose of this Chapter, the words and phrases used herein shall have the meanings established in this Article unless otherwise clearly indicated by the context.

ADULT: A person who has attained the age of eighteen (18) years.

ADULT ENTERTAINMENT: Any exhibition, dance, pantomime, modeling or other performance predominately distinguished by or characterized by emphasis on depiction or description of an erotic nature, including but not limited to depiction or descriptions of "specified sexual activities" or "specified anatomical areas" (separately defined).

ADULT BUSINESS ESTABLISHMENT: Any establishment having as a material portion of its business the offering of entertainment, services, stocks in trade or materials, scenes or other representations predominately distinguished by or characterized by emphasis on depiction or description of an erotic nature, including but not limited to depiction or descriptions of "specified sexual activities" or "specified anatomical areas" (separately defined). The definition of "adult business establishment" also includes but is not limited to any and all of the following specific adult businesses as defined herein:

A. Adult Arcade: Means any business establishment or concern to which the public is permitted or invited and where coin or slug operated or electronically, electrically, or mechanically controlled amusement devices, still or motion picture machines, projectors, videos or other image-producing devices, are maintained to show images on a regular or substantial basis, where the images so displayed relate to specified sexual activities or exhibition of specified anatomical areas.

B. Adult Encounter Parlor: Means an establishment where a regular and substantial portion of its business is the provision of premises where customers congregate, associate, or consort with employees, performers, and/or other customers or private contractors who display specified anatomical areas in the presence of such customers, with the intent of providing sexual arousal or excitement to such customers.

C. Adult Entertainment Cabaret: Means an establishment where a regular and substantial portion of its business is providing adult entertainment which features strippers, male or female, impersonators, or live performances, or material which depict, portray, exhibit or display specified anatomical areas or specified sexual activities or are intended to arouse or excite the sexual desires of the entertainer, other entertainer or customer.

D. Adult Entertainment Studio (includes the terms "rap studio," "exotic dance studio," "sensitivity studio," or "encounter studio"): Means an establishment whose premises are physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common areas of the premises, and where a regular and substantial portion of its business is providing entertainment which features materials of live performances characterized by an emphasis on or features materials relating to specified sexual activities or the exhibition of specified anatomical areas.

E. Adult Media Outlet: See definition below.

F. Adult Motel: Means an enterprise where a regular and substantial portion of its business is offering public accommodations for the purpose of viewing closed-circuit television transmissions, films, movies, motion pictures, video cassettes, videotapes, slides or other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas and which rents room accommodations for less than six hours at a time.

G. Adult Motion Picture Theater: Means an enclosed building used for presenting or showing, for money consideration, movie or video films or pictures or other material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (separately defined) for observation by customers therein.

H. Adult Newsrack: 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."

I Adult Retail Establishment: Means a business which offers for sale or rent instruments, devices, gifts or paraphernalia which are designed or marketed for use in connection with specified sexual activities, clothing that graphically depicts specified anatomical areas or any of the material sold or rented in an "adult media outlet" as defined below, 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 business set forth in the definition 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 term;
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 materials for the item;
6. The physical or structural characteristics of the item;
7. The manner in which the item is displayed, including its proximity to other regulated merchandise or signage relating to items in a display area.
8. Any person may request an interpretive ruling from the Chief of Police, or his 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 (10) business days following submission of a completed application. The decision of the Chief of Police may be appealed to the City Clerk within fifteen (15) days following the interpretive ruling by submitting a written notice of appeal to the City Clerk.

J. Adult Theater: Means an establishment where a regular and substantial portion of its business is providing the live performance of activities relating to specified sexual activities or exhibition of specified anatomical areas of live performers, for observation by customers.

K. Bathhouse: Means an enterprise where a regular and substantial portion of its business is offering baths and/or showers with other persons present who are nude or displaying specified anatomical areas.

L. Body Painting Studio: Means an establishment where a regular and substantial portion of its business is the application of paint or other substance to or on the human body by any means of application, technique, or process when the subject's body displays for customer view specified anatomical areas.

M. Escort Bureau: Any person, business or agency which, for a fee, commission, hire, reward or profit, furnishes or offers to furnish escorts or persons who, for hire or reward, accompany others to or about social affairs, entertainment or places of amusement or who consort with others, for hire or reward, about any place of public resort or within any private quarters.

ADULT MEDIA: Magazines, books, videotapes, movies, slides, paraphernalia or other media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (separately defined).

ADULT MEDIA OUTLET: An establishment that rents, sells or offers for viewing or other use any adult media and which meets at least one of the following tests:

For purposes of this subsection, 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. More than thirty percent (30%) of the floor area is devoted to adult media (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public); or

B. More than thirty percent (30%) of the gross sales (including rentals) result from the sale or rental of adult media;

C. Thirty percent (30%) or more of the dollar value of all merchandise displayed at any time is attributable to adult media;

D. Thirty percent (30%) or more of all inventory consists of adult media at any time;

E. Thirty percent (30%) or more of the merchandise displayed for sale consists of adult media;

F. Thirty percent (30%) or more of the stock in trade consists of such items at any time.

BOOTH: A small enclosure that separates the occupant from patrons or customers.

CONTAGIOUS AND COMMUNICABLE DISEASES: Those diseases which are set out in the Kansas Department of Health and Environment Regulations, K.A.R. 28-1-16, as amended.

CUSTOMER: Any person who:

A. Is allowed to enter an adult business establishment in return for the payment of an admission fee or any other form of consideration or gratuity; or

B. Enters an adult business establishment and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or

C. Is a member of or on the premises of an adult business establishment operating as a private club.

DAYCARE FACILITY: Any establishment that provides, on a regular basis, supervision, protection, and care for individuals on a regular basis away from their primary residences for less than 24 hours per day.

EMPLOYEE: Any person who renders any service whatsoever to the customers of an adult business establishment or who works in or about an adult business establishment and who receives compensation for such service or work from the operator or owner of the business or from the customers therein. "Employee" includes, but is not limited to, managers, entertainers and independent contractors who work in or at or render any services directly related to the operation of an adult business establishment.

ENTERTAINER: Any person who provides adult entertainment within an adult business establishment, whether or not a fee is charged or accepted for the entertainment.

EROTIC: Devoted to or tending to arouse or excite sexual desires.

FOOTCANDLE: A unit of illumination lighting a surface, on which there is uniformly distributed a light flux of one lumen over an area of one square foot. A lumen is a unit of measure of the quantity of light energy emitted by a light source without regard to the effectiveness of its distribution. A candela is the unit of intensity of a light source in a specific direction. One candela directed perpendicular to a surface one foot away generates one footcandle of light. A light source of one candela emits a total of 12.57 lumens. For the purposes of this Ordinance, the lumen output values shall be the initial lumen output ratings of a lamp.

GROUP BOARDING HOME FOR ADULTS: Means a residential dwelling unit for six (6) or more persons, eighteen (18) years of age or over.

GROUP BOARDING HOME FOR MINORS: Means a residential facility for six (6) or more persons under eighteen (18) years of age who for various reasons cannot reside in their natural home and where twenty-four (24) hour adult care, supervision and consultation exists under license of the Kansas Secretary of Health and Environment.

MANAGER: Any person who manages, directs, administers, or is in charge of the affairs of or conduct of any portion of any activity of any adult business.

MINOR: A person less than eighteen (18) years of age.

NUDITY: Exposing any of the human male or female genitals, pubic hair or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering below a point immediately below the top of the areola or the showing of the covered male genitals in a discernible turgid state.

NURSING FACILTY: Means a building, or a group of buildings, where for compensation pursuant to the previous arrangement, care is offered or provided for three (3) or more persons suffering from illness, other than a contagious disease, or sociopathic or psychopathic behavior, which is not of sufficient severity to require hospital attention, or for three (3) or more persons requiring further institutional care after being discharged from a hospital.

OPERATE: To own, conduct or maintain the affairs of an adult business establishment.

OPERATOR: Any person, partnership or corporation operating, conducting or maintaining an adult business establishment.

PARK: Any public or private land designated for park or recreational activities but not limited to a park, playground, nature trail, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness area, or similar land.

PERSON: Any individual, partnership, corporation, trust, incorporated or unincorporated association, joint venture, governmental entity or other entity or group of persons however organized.

RELIGIOUS INSTITUTION: A structure or site such as a church, synagogue, chapel, sanctuary, or cathedral used primarily for religious activity or worship and related religious activities.

RESIDENTIAL ZONE: Any property within the City which is zoned or used for residential purposes. The zoning designations refer to the sections in Title 18 of the Unified Development Ordinance as may be amended from time to time and include any property in the City which is zoned AG (Agricultural), RR (Rural Residential), R-1 (Single Family), RP-1 (Planned Single Family Residential), R-2 (Two Family) RP-2 (Planned Two-Family Residential), R-3 (Low-Density Apartment/Townhouse), RP-3 (Planned Low-Density Apartment/Townhouse), R-4 (Garden Apartment), RP-4 (Planned Garden Apartment), R-5 (Apartment House), RP-5 (Planned Apartment House), TN (Traditional Neighborhood), NC (Neighborhood Center), and MPH (Manufactured Home Park).

SCHOOL: Any institution of learning, whether public or private. This definition includes, but is not limited to a nursery school, kindergarten, elementary school, junior high school, senior high school, college and university.

SPECIFIED ANATOMICAL AREAS: These include:

A. Less than completely and opaquely covered: human genitals, pubic region, buttocks and female breast below a point immediately above the top of the areola; and

B. Human or simulated male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: Sexual conduct including but not limited to:

A. Human genitals in a state of sexual stimulation or arousal; and/or

B. Acts of human masturbation, sexual intercourse or arousal; and/or

C. Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; and/or

D. Masochism, erotic or sexually-oriented torture, beating, or the infliction of pain; and/or

E. Human excretion, urination, menstruation, vaginal or anal irrigation; and/or

F. Fondling or other erotic touching of clothed or unclothed human genitals, pubic region, buttock, or female breast; and/or

G. Acts involving animals or latent objects. (Ord. 01-39 § 1, 2001.)

5.50.020 Applicability.

A. The establishment of any adult business establishment subject to these regulations shall include any of the following activities:

1. The opening of such a business as a new business.
2. The relocation of an adult business establishment.
3. The conversion of an existing business to an adult business establishment.
4. An increase of the square footage of an existing adult business establishment.
5. The conversion of an existing adult business establishment to a different type of adult business establishment.

B. An adult business establishment existing prior to the effective date of this Ordinance shall:

1. Submit an application for an adult business establishment license no later than October 1, 2001;

2. Shall cease operations on April 1, 2002, unless it has secured, by that date, an adult business establishment license pursuant to this Ordinance; and

3. Shall be subject to all other provisions of this Ordinance except Section 5.50.110 as of April 1, 2002.

C. Any adult business establishment existing prior to the effective date of this ordinance that does not comply with Section 5.50.110 shall:

1. Be deemed a non-conforming business; and

2. Not be increased, enlarged, extended or altered except that such business may be changed to a conforming business.

D. An adult business establishment lawfully operating as a conforming business is not rendered nonconforming by the location, subsequent to the granting or renewal of the adult business license, of a school, park, religious institution, group home, nursing facility, hospital, library or property zoned or used for residential purposes located within the City limits and within 1,000 feet of the adult business establishment. This provision applies only to the renewal of a valid adult business establishment license and does not apply when an application for a new business license is submitted after a previous license has lapsed or has been revoked. (Ord. 01-39 § 1, 2001.)

5.50.030 General Regulations and Requirements.

A. Age Restriction: Only adults as defined in Section 5.50.120 of this Chapter, shall be permitted on the premises of any adult business establishment. If alcoholic or cereal malt beverages are sold or served on the premises, only persons twenty-one (21) years of age or older may be permitted on the premises.

B. Hours of Operation: It shall be unlawful for any adult business establishment to be conducted, operated, or otherwise open to the public, customers or members between the hours of 12:00 midnight and 10:00 a.m., Monday through Saturday. No adult business establishment shall be open on any Sunday.

C. Exterior Display: The premises of all adult business establishments shall be so constructed as to ensure 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 exterior doorways must be constructed with an anteroom or foyer so as to prevent observation of the interior of the premises from the exterior of the building.

D. Nudity Prohibited: No manager, employee, entertainer or customer in an adult business establishment shall be unclothed, nude or in such less-than-opaque and complete attire, costume or clothing, so as to expose to view any “specified anatomical area”.

E. Protective Barrier Required: Any adult business establishment engaging in the display or performance of live models, dancers, entertainers or other performers shall erect a platform at least two feet (2’) above the primary level of the customer floor level on which the employee or entertainer must be contained, shall not permit customers within ten feet (10’) of the employee or entertainer and shall, in addition, erect a protective barrier from floor to ceiling, of sufficient strength to prevent customers from entering the area of the employee or entertainer or touching the employee or entertainer in any manner. Further, it shall be unlawful for any customer to be upon any portion of the stage during a performance or for an owner, operator, or manager to permit a customer to be upon any portion of the stage during the performance.

F. Erotic Touching Prohibited: No employee, dancer, entertainer or customer of an adult business establishment shall be permitted to manually or through other bodily contact stimulate the genitals, pubic region, breasts or buttocks of themselves or any other person.

G. Display or Performance: No adult business establishment shall permit any employee, entertainer, model, dancer, other performer or customer to participate in any entertainment, live display or performance which depicts, describes or simulates "specified sexual activities" or contains any acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

H. Devices: No employee, model, dancer, entertainer, other performer or customer shall wear or use any device or covering exposed to view which simulates any "specified anatomical area," nor shall any employee, model, dancer, entertainer, other performer or customer use artificial devices or inanimate objects to depict any of the prohibited activities described in this Chapter.

I. Entertainer Payment or Gratuity: No model, dancer, entertainer or other performer while on the premises of an adult business establishment, shall solicit, demand or receive any payment or gratuity from any customer directly, rather all gratuities shall be placed in a permanently affixed receptacle provided for gratuities. No gratuity may be offered or accepted while a performance is being conducted.

J. Lighting: All adult business establishments, shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than two (2) footcandle as measured at the floor level, and such illumination must be maintained at all times that any customer is present in or on the premises.

K. Vending Machines Prohibited: No coin or token operated vending machine which sells adult media may be located in a place open to the public, except that said machines are permitted in public places from which minors are excluded.

L. Closed Booths or Rooms Prohibited: The premises of all adult business establishments shall be physically arranged in such a manner that the entire interior portion of any booths, cubicles, rooms, or stalls is visible from a public common area of the premises.

1. Visibility shall not be blocked or obscured by doors, curtains, drapes, or any other obstruction whatsoever.
2. The entire body of any viewing person must also be visible from the public, common area, without the assistance of mirrors or other viewing aids.
3. No booth shall be occupied by more than one customer at a time.
4. No holes shall be permitted between booths or individual viewing areas.

M. Identification Cards: Any adult business employee issued a permit by the City Clerk under the provisions contained herein shall, at all times when working in an adult business establishment, have in such employee's 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 card shall be laminated to prevent alteration.

N. Ventilation and Sanitation Requirements: The premises of all adult business establishments shall be kept in a sanitary condition. Separate dressing rooms and rest rooms for men and women shall at all times be maintained and kept in a sanitary condition.

O. Manager on Premises:

1. A permitted manager shall be on duty at all adult business establishments at all times the premises are open for business. The name of the manager on duty shall be prominently posted during business hours.
2. It shall be the responsibility of the manager to verify that every employee within any adult business establishment possesses a current and valid permit and have in their possession a current and valid identification card at all times while working.

P. General Prohibitions: No owner, operator, manager, or other person in charge of the premises of an adult business establishment shall:

1. Knowingly permit alcoholic liquor or cereal malt beverages to be brought upon the premises unless authorized to do so by a properly issued and current liquor license as required by Title 7;
2. Knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;
3. Knowingly allow or permit any person under the age of eighteen (18) to be in or upon the premises of an adult business establishment or any person under the age of twenty-one (21) if alcohol or cereal malt beverages are sold;
4. Knowingly allow or permit any act of prostitution or patronizing prostitution on the premises, as prohibited by state law or City ordinance;
5. Knowingly allow or permit a violation of this Chapter or applicable City ordinance; or
6. Knowingly allow any entertainer, employee, manager, or operator to perform any work, service, or entertainment directly related to the operation of an unlicensed adult business.

Q. Facilities Necessary: No adult business license to conduct a bathhouse or body painting studio shall be issued unless an inspection by the Director of Development Services, or his/her authorized representative reveals that the premises on which the applicant intends to conduct such business complies with each of the following minimum requirements:

1. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given or showers taken. Floors shall be free of any accumulation of dust, dirt, or refuse. All equipment used in the business' operation shall be maintained in a clean and sanitary condition. Towels, linens, and items for personal use of operators and patrons shall be clean and freshly laundered for each patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron.

No activity related to an adult business 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.

2. Toilet facilities shall be provided in convenient locations. 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. Toilet facilities shall be designated as to the gender accommodated therein.
3. 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 Director of Development Services 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 Director of Development Services may recommend the issuance of a license contingent upon compliance with all requirements of this Section. (Ord. 01-39 § 1, 2001.)

5.50.040 Notification Requirements.

Signage: All adult business establishments shall maintain on the premises a sign on which the upper-case letters shall be at least two inches (2") high, and lower-case letters shall be at least one inch (1") high, which shall be conspicuously displayed in the common area at the principal entrance to the adult business establishment and which shall read as follows:

THIS ADULT BUSINESS IS
REGULATED BY THE CITY OF OLATHE, KANSAS

EMPLOYEES, MODELS, DANCERS AND ENTERTAINERS:

- *Are not permitted to engage in any type of sexual conduct or in prostitution on the premises, or to fondle or caress the breasts, pubic region, buttocks, or genitals of any employee, customer, or other entertainer or to permit any employee, customer or other entertainer to fondle or caress the breasts, pubic region, buttocks, or genitals of said entertainer.*

- *Are not permitted to solicit, demand or receive any payment or gratuity from any customer, except as follows: A gratuity may be placed in a permanently affixed receptacle provided for gratuities but not while a performance is being conducted.*

- *NO nudity is permitted.*

Customers are:

- *Not permitted to be upon stage at any time.*

- *Not permitted to caress or fondle the breasts, pubic region, buttocks or genitals of any employee, server, entertainer, or customer or engage in solicitation for prostitution.*

(Ord. 01-39 § 1, 2001.)

5.50.050 Licensing and Permitting Requirements.

A. Adult Business Establishment License Required: No person shall operate an adult business establishment without having first obtained an annual adult business license from the City Clerk. A separate license shall be required for each and every separate place of business conducted by any one applicant. Such permit shall be valid only from January 1 to December 31. Every person obtaining an adult business license shall post such license in a conspicuous place and manner on the adult business establishment premises. The failure to post an adult business license in the manner required herein shall be prima facie evidence that the adult business does not have such a license. In addition, it shall be prima facie evidence that any entertainer, 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 has knowledge that such business is not licensed.

1. License Application: When making application to the City for an adult business establishment license, the applicant shall provide the following information which shall be signed by the applicant, verified, notarized and be accompanied by the license and classification fees:

a. The name, residence address, home telephone number, date and place of birth and social security number of the applicant and his relationship to the business.

b. The business name, address and telephone number of the establishment. The tax identification number and registered agent if the owner is required to have a tax identification number or registered agent.

c. The names, residence addresses, residence telephone numbers, social security numbers and dates of birth of any stockholder, partner, or member who owns more than 10% interest in such adult business establishment.

d. The name, address and telephone number of the owner of the property at which the business will be located.

e. A description of the adult entertainment or similar business history of the applicant and of all the partners and of all corporate officers and directors and any stockholder, partner, or member who owns more than 10% interest in such adult business establishment previously operating in this or another city, county or state, where it has had a business license revoked or suspended, the reason therefor and the activity or occupation subjected to such action, suspension or revocation.

f. A verified statement from the applicant, and any stockholder, partner, or member who owns more than 10% interest in such adult business establishment that each such person has not been convicted of or diverted from prosecution of a felony or released from confinement for conviction of any felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of or diverted from prosecution of a misdemeanor or public offense, or released from confinement for conviction of a misdemeanor or public offense, whichever event is later, within two (2) years immediately preceding the application, where such felony, misdemeanor or public offense involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses, or driving under the influence of intoxicating liquor or drugs as defined in Kansas Statutes, City ordinances, or the law of another city or state which prohibits driving under the influence of alcohol and/or drugs, or controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Statutes or City ordinances.

g. A full set of fingerprints and two (2) photographs, to be taken by the Olathe Police Department, of the applicants and of any stockholder, partner, or member who owns more than 10% interest in such adult business establishment.

h. If the applicant is a corporation or limited liability company, a current certificate of registration issued by the Kansas Secretary of State.

i. On applications requesting a license or renewal of license to operate a bathhouse or body painting studio, the applicant shall provide for each employee, a health certificate from a duly licensed Kansas physician stating that within 30 days prior thereto, the applicant and all other persons working on the premises have been examined and found free of any contagious or communicable disease. For each person who is subsequently employed, a health certificate shall be submitted to the City Clerk 48 hours prior to the time such person begins employment.

B. Employee Permit Required: All persons employed in an adult business establishment, including managers or operators, must annually obtain an adult business employee permit. This permit will be valid from January 1 to December 31.

1. Permit Application: Any person applying for an adult business employee permit shall provide the following information which shall be signed by the applicant, be verified, notarized and be accompanied by the license and classification fees:

a. The applicant's name, home address, home telephone number, date of birth, social security number, and any stage names or nicknames used in entertaining or performing.

b. The name and address of each business at which the applicant intends to work as a manager, operator, employee or dancer, model, entertainer, or other performer.

c. A statement from the applicant that he/she has not been convicted of or diverted from prosecution of a felony or released from confinement for conviction of any felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of or diverted from prosecution of a misdemeanor or public offense, or released from confinement for conviction of a misdemeanor or public offense, whichever event is later, within two (2) years immediately preceding the application, where such felony, misdemeanor or public offense involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses, or driving under the influence of intoxicating liquor or drugs as defined in Kansas Statutes, City ordinances, or the law of another city or state which prohibits driving under the influence of alcohol and/or drugs, or controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Statutes or City ordinances.

d. A full set of fingerprints and two (2) photographs taken by the Olathe Police Department.

e. The applicant shall provide documentation that he has attained the age of eighteen (18) years or twenty-one (21) years of age if the adult business establishment in which the applicant will be working sells or serves alcoholic or cereal malt beverages. Any of the following shall be accepted as documentation of age:

1) A motor vehicle operator's license issued by any state, bearing the applicant's photograph and date of birth;
2) A state-issued identification card bearing the applicant's photograph and date of birth;
3) An official and valid passport issued by the United States of America;
4) An immigration card issued by the United States of America;
5) Any other form of picture identification issued by a governmental entity that is deemed reliable by the City Clerk; or
6) Any other form of identification deemed reliable by the City Clerk.

f. A statement signed under oath that the applicant has personal knowledge that the information in the permit application is true and correct and that the applicant has read the provisions of this ordinance regulating adult business establishments.

C. License, classification and fees. The application for a license shall be accompanied by payment in full of licensing and classification fees paid by certified or cashier's check or money order, and no application shall be considered complete until such fee is paid. Such licensing and classification fees shall be adopted by the Governing Body of the City by resolution.

D. Application Processing: Upon receipt of an application for an adult business establishment license or adult business employee permit, 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 Director of Development Services.

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 or permit. The Chief of Police shall report the results of the investigation to the City Clerk not later than twenty (20) working days from the date the application is received by the City Clerk. It shall be the duty of the Director of Development Services 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, fire and property maintenance ordinances of the City. The Director of Development Services shall report the results of his/her investigation to the City Clerk not later than twenty (20) 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 Director of Development Services, the City Clerk shall determine if the license application meets the criteria for approval and shall issue license if it does and deny the license if it does not.

E. Criteria for Approval: A license or permit shall be issued if the City finds that:

1. The business for which a license is required will be conducted in a building, structure and location which complies with the requirements and standards of the applicable zoning and building codes of the City (see Titles 15 and 18) as well as the requirements of this Chapter; and
2. The applicant has not made any knowingly false, misleading or fraudulent statement of material fact in the application for a license or permit or in any report or record which may be required to be filed with the City Clerk; and
3. The applicant and all employees, agents, partners, directors, officers or managers shall have attained the age of eighteen (18) years, or if the business for which the license is required sells or serves alcoholic or cereal malt beverages, then the applicant and all employees, agents, partners, directors, officers or managers have attained the age of twenty-one (21) years; and

4. The applicant or any partner or any stockholder, partner, or member who owns more than 10% interest in such entity has not been convicted of or diverted from prosecution of a felony or released from confinement for conviction of any felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of or diverted from prosecution of a misdemeanor or public offense, or released from confinement for conviction of a misdemeanor or public offense, whichever event is later, within two (2) years immediately preceding the application, where such felony, misdemeanor or public offense involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses, or driving under the influence of intoxicating liquor or drugs as defined in Kansas Statutes, City ordinances, or the law of another city or state which prohibits driving under the influence of alcohol and/or drugs, or controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Statutes or City ordinances; and

5. The applicant or any stockholder, partner, or member who owns more than 10% interest in such entity has not had a license or permit issued under the provisions of this Article or another state, county or municipality's regulations governing adult entertainment or similar businesses revoked within five (5) years immediately preceding the application.

F. Disapproval of Application: 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. Any applicant aggrieved by the disapproval of a license application may seek judicial review in the Johnson County District Court in a manner provided by law. Such appeal shall be filed within thirty (30) days of the final decision of the City Clerk. The action taken by the City Clerk to issue or to deny issuance of a license shall be final and subject to judicial review.

G. Suspension and Revocation of License: Whenever the City has information that:

1. The owner or operator of an adult business establishment has violated or knowingly allowed or permitted the violation of any of the provisions of this Chapter; or

2. There have been recurrent violations of provisions of this Chapter that have occurred under such circumstances that the owner or operator of an adult business establishment knew or should have known that such violations were committed; or

3. The adult business establishment license was obtained through knowingly false statements in the application for such license or renewal thereof; or

4. The adult business establishment knowingly failed to make a complete disclosure of all information in the application for such license or renewal thereof; or

5. The owner or operator or any stockholder, partner, or member who owns more than 10% interest in such entity has become disqualified from having a license by a conviction or diversion described in subsection E of this Section, Criteria for Approval; or

6. Any cost or fee required to be paid by this Chapter is not paid; or

7. An operator employs anyone who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs as an entertainer without a permit.

8. then, the City may, upon five (5) days of posting notice on the adult business establishment's principal entrance, suspend the business license for a period not to exceed sixty (60) days. Within ten (10) days of the date of the notice, the City Clerk shall hold a hearing to ascertain all facts in the matter. Notice of such hearing shall be in writing and shall set forth the reason for the hearing and shall be served upon the licensee or by registered or certified mail to the licensee's last known business address. In the event that the City is not able to serve notice upon the licensee, and any notice sent by mail is returned by the postal service, the City shall cause such notice to be posted at the principal entrance of the adult business establishment, and such posting shall be a valid means of service. If the City Clerk finds and concludes from the evidence that the licensee has violated any of the above provisions, he/she may suspend, revoke or, in the case of a renewal application, refuse to renew such license. Following the entry of an order by the City Clerk suspending or revoking a license issued pursuant to this ordinance, such licensee or applicant may seek judicial review in a manner provided by law. The City Clerk shall stay enforcement of such order for a period of time not to exceed thirty (30) days pending the filing and/or final disposition of proceedings for judicial review.

H. Suspension and Revocation of Permit: Whenever the City has information that:

1. The permitee has violated or knowingly allowed or permitted the violation of any of the provisions of this Chapter; or
2. There have been recurrent violations of provisions of this Chapter that have occurred under such circumstances that the permittee knew or should have known that such violations were committed; or
3. The adult business employee permit was obtained through knowingly false statements in the application for such permit or renewal thereof; or
4. The permittee knowingly failed to make a complete disclosure of all information in the application for such permit or renewal thereof; or
5. The permittee has become disqualified from having a permit by a conviction or diversion described in subsection E of this Section, Criteria for Approval; or
6. The adult business establishment license for the business in which the permittee is working has been suspended or revoked.

then, the City may, five (5) days after sending notice to the permittee by placing such notice in the U.S. mail to the home address provided on the permittee's application, suspend the permit for a period not to exceed sixty (60) days. Within ten (10) days of the date of the notice, the City Clerk shall hold a hearing to ascertain all facts in the matter. Notice of such hearing shall be in writing and shall set forth the reason for the hearing and shall be served upon the permitee in person or by registered or certified mail to the address provided on the permitee's application.

In the event that the City is not able to serve notice upon the permittee in person, and any notice sent by mail is returned by the postal service, service shall still be considered valid. An appeal taken from an order of suspension shall not suspend the order of suspension during the pendency of any such appeal. If the City finds and concludes from the evidence that the permittee has violated any of the above provisions, it may suspend, revoke or, in the case of a renewal application, refuse to renew such permit. Following the entry of an order by the City Clerk suspending or revoking a permit issued pursuant to this ordinance, such permittee or applicant may seek judicial review in a manner provided by law. The City Clerk shall stay enforcement of such order for a period of time not to exceed thirty (30) days pending the filing and/or final disposition of proceedings for judicial review.

I. Change of Address: Any adult business establishment changing its address must reapply for an adult business establishment license and pay the appropriate license and classification fee. The application must be provided to the City Clerk's office prior to opening at the new location. (Ord. 02-128 § 1, 2002; Ord. 01-39 § 1, 2001.)

5.50.060 Transfer of Permits, Licenses and Fees.

A. Business licenses and employee permits are not transferable, and such authority as a license or permit confers shall be conferred only on the individual or business named therein.

B. Any applications made, fees paid and licenses or permits obtained under any of the provisions of this Chapter 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 ordinance of this City.

C. All adult 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 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. (Ord. 01-39 § 1, 2001.)

5.50.070 Renewal.

A. A license or permit may be renewed by making application to the City Clerk on application forms provided for that purpose. Licenses and permits shall expire on December 31 of each calendar year, and renewal applications for such licenses and permits shall be submitted between December 16 and December 31.

B. Upon timely application and review as provided for a new license or permit, a license or permit issued under the provisions of this ordinance shall be renewed by issuance of a new license or permit in the manner provided herein.

C. If the application for renewal of license or permit is not made during the time provided herein, the expiration of such license or permit shall not be affected, and a new application shall be required.

D. Following the entry of an order by the City Clerk disapproving the renewal application for a license or permit, such licensee or applicant may seek judicial review in a manner provided by law. The City Clerk shall stay enforcement of such order for a period of time not to exceed thirty (30) days pending the filing and/or final disposition of proceedings for judicial review. (Ord. 01-39 § 1, 2001.)

5.50.080 Operator Responsibility. In addition to the other requirements set out in this Chapter, the operator of an adult business establishment shall also have the following responsibilities:

A. Every act or omission by an employee constituting a violation of the provisions of this Chapter shall be deemed an act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator or as a result of the operator's failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

B. The operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the operator for the purposes of determining whether the license for the adult business establishment shall be suspended, revoked or renewed.

C. The operator shall maintain a register of all employees, showing the name, and aliases used by the employee, home address, age, birth date, sex, weight, color of hair and eyes, phone numbers, Social Security Number, date of employment, and termination, and duties of each employee.

The above information on each employee shall be maintained in the register on the premises for a period of one (1) year following termination. The operator shall make the register of employees available immediately upon demand of any law enforcement officer at all reasonable times. (Ord. 01-39 § 1, 2001.)

5.50.090 Inspections.

A. Any duly authorized officer of the City, including, but not limited to, Police Officers, Code Enforcement Officers, Planning Department employees, Fire Department officials, may, from time to time, make an inspection of each adult business establishment for the purposes of determining that the provisions of this Chapter are complied with. Such inspections shall be at reasonable times and in a reasonable manner. It shall be unlawful for anyone to fail to allow such officer immediate access to the premises or to hinder such officer in any manner.

B. Any business that engages in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, 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 business establishment" 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 business. (Ord. 01-39 § 1, 2001.)

5.50.100 Regulations. The City Manager shall have the power to promulgate regulations as may be necessary and feasible for the carrying out of the duties of this Chapter and which are not inconsistent with the provisions of this Chapter. (Ord. 01-39 § 1, 2001.)

5.50.110 Location and Distance Requirements.

A. Adult business establishments may be located in any property zoned M-3 and MP-3. No adult business establishment shall be located in any zoning district of the City except M-3 and MP-3.

B. Residential: Adult business establishments may not be located within one thousand feet (1,000') of any residentially zoned property.

C. Schools, Parks, Religious Institutions, Group Homes, Nursing Facility, Hospitals and Libraries: No adult business establishment shall be permitted to locate or expand within one thousand feet (1,000') of any private or public school, public park, daycare facility, group home for adults or minors, nursing facility, hospital, library or religious institution or place of worship.

D. Other Adult Uses: No adult business establishment shall be permitted to locate or expand within two thousand feet (2,000') of another adult business establishment.

E. Facilities With A Liquor License: No adult business establishment shall be permitted to locate or expand within two thousand feet (2,000') of any business licensed to sell or serve alcoholic liquor or cereal malt beverages, whether or not such business is also an adult business establishment as defined in Section 5.50.120 of this Chapter.

F. Measurement of Distance:

1. The distance between any adult business establishment and any religious institution, school, group home, nursing facility, hospital, library, public park or child care facility or any property zoned for residential use shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of the adult business use to the closest property line of the religious institution or place of worship, private or public school, public park, child care facility, property zoned for residential use, group home, nursing facility or hospital.
2. The distance between any two (2) adult business establishments or between any adult business establishment and a business licensed to sell or serve alcoholic or cereal malt beverages shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. (Ord. 01-39 § 1, 2001.)

5.50.120 Penalties.

A. Any person who violates the provisions of this Chapter shall be guilty of a Class A Municipal offense and, upon conviction, shall be punished by a fine of not less than One Dollar ($1.00) but no more than Two Thousand Five Hundred Dollars ($2,500.00) or by imprisonment for not more than one (1) year or shall be both so fined and imprisoned. In addition, any violation of this Chapter shall be grounds for the City Clerk to revoke any or all licenses or permits issued by the City.

B. Each violation of this Chapter shall be considered a separate offense, and any violation continuing more than one (1) day shall be considered a separate offense for each day of violation.

C. The conduct of any business within the City in violation of any of the terms of this Chapter is hereby found and declared to be a public nuisance and the City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or proceeding for the abatement, removal, and enjoinment thereof, in the manner provided by law, and shall take other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate or remove such adult business establishment and restrain and enjoin any person from conducting, operating, or maintaining an adult business establishment contrary to the provisions of this Chapter. (Ord. 01-39 § 1, 2001.)

5.50.130 Liberal Construction. The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience. (Ord. 01-39 § 1, 2001.)

5.50.140 Invalidity. If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed Ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances. (Ord. 01-39 § 1, 2001.)

CHAPTER 5.52 Scrap Metal Dealers Registration. Repealed by Ordinance No. 16-25 on 5/3/16. (Ord. 12-04 § 1, 2012.)

TITLE 6

HEALTH AND SANITATION

CHAPTERS:

6.04 Solid Waste
6.06 Environmental Quality
6.09 Weeds
6.18 Noise Control
6.20 Indoor Clean Air

CHAPTER 6.04. Formerly know as "Garbage and Refuse." Repealed 12/6/94. (Ord. 93-105, 1993; Ord. 92-70, 1993; Ord. 90-16, 1990; Ord 90-15, 1990; Ord. 87-30, 1987; Ord. 83-88, 1983; Ord. 82-115, 1982; Ord. 81-187, 1981; Ord. 81-01, 1981; Ord. 943, 1979; Ord. 829, 1979; Ord. 599, 1977; Ord. 290 (part), 1974; Ord. 281, 1974; Ord. 224, 1973; Prior code § 7-316; Prior code § 7-317.)

CHAPTER 6.04

SOLID WASTE

Sections:

6.04.010 Short Title.
6.04.020 Definitions.
6.04.030 Solid Waste Enterprise.
6.04.040 Collection of Solid Waste
6.04.050 Precollection Practices.
6.04.060 Containers.
6.04.070 Collection of Waste.
6.04.080 Special Solid Waste Problems.
6.04.090 Service Charges.
6.04.095 Solid Waste Connection Fee.
6.04.100 Solid Waste Collection Fund.
6.04.110 Transfer Station and Composting Facility.
6.04.115 Special Residential Recycling Program.
6.04.120 Penalty.

6.04.010 Short Title. This Ordinance shall be known and may be cited as the Municipal Solid Waste Ordinance of the City of Olathe. (Ord. 03-72 § 1, 2003; Ord. 94-87 § 2, 1994.)

6.04.020 Definitions. For the purposes of this Chapter the following terms, phrases, words and their derivations shall have the following meaning:

A. Ashes: Residue from fires.

B. Bulk Item: Appliances that do not contain CFC's or freon, carpeting, furniture, other household items, and other items of such volume and size as to be too large for collection by a residential collection vehicle.

C. City: The City of Olathe, Kansas.

D. City Manager: The City Manager of the City of Olathe, Kansas.

E. Commercial: Any company, corporation, business, firm, association, sole proprietorship, partnership, municipality, political subdivision, or government entity that is billed for solid waste collection on one account.

F. Computer recycling: The recycling of computers (e.g. central processing units, laptops and notebooks), monitors, printers, scanners and associated peripherals (e.g. keyboards, cords, speakers, mice, etc.).

G. Container: Any plastic or paper bag, can, cart, bin, dumpster, unit or other similar device used for storage and/or collection of solid waste.

H. Customer: A person, firm, or corporation utilizing the City’s solid waste service.

I. Electronic recycling: The recycling of electronic articles (e.g. televisions, cell phones, telephones and battery packs).

J. Garbage: Waste from the preparation, cooking and consumption of food; market refuse, waste from the handling, storage and sale of produce.

K. Hazardous waste: Any waste that because of its quantity, concentration, or physical, chemical, or infection characteristics may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or which poses a substantial presence or potential hazard to human health, wildlife or the environment when improperly treated, stored, transported, dispersed of or otherwise managed.

L. Litter: Garbage, refuse and rubbish and all other waste material which, if thrown or deposited, tends to create a danger to public health, safety and welfare.

M. Multi-Family Residential: Any apartment, mobile home park or condominium complex regardless of whether each unit is served by an individual water meter and/or is platted or re-platted for individual ownership, and billed for solid waste collection on one account.

N. Person: An individual, partnership, firm, trust, company, association, corporation, individual or individuals having controlling or majority interest in a corporation, institution, political subdivision, state agency or federal department or agency. The term also means the occupant or the owner, or both, of the premises for which services mentioned in this Chapter is rendered.

O. Private Property: All property, including, but not limited to, vacant land or any land, building or other structure designed or used for residential, commercial business, industrial, institutional or religious purposes, together with any yard, grounds, walk, driveway, fence, porch, steps, vestibule, mailbox or other structure appurtenant thereto.

P. Public Place: All streets, sidewalks, boulevards, alleys or other public ways, all public parks, squares, spaces, grounds, buildings and lakes.

Q. Recyclables: Any scrap materials that can be used as a replacement for virgin material in manufacturing, including, but not limited to, ferrous metals, scrap paper products, scrap plastics and nonferrous metals.

R. Residential: A building, part of a building, or structure that is designed for occupancy by one family.

S. Residential Development: The construction of any new residential dwelling or dwellings on any property.

T. Solid Waste: Garbage, trash and other discarded materials, including, but not limited to, solid, semisolid, sludges, or other waste materials resulting from industrial, commercial, agricultural and domestic activities.

U. Solid Waste Connection Fee: The fee paid by new residential development to cover the cost of connecting the dwelling to the solid waste system through the purchase of a collection cart and payment of the pro-rata share of the cost of equipment necessary to collect solid waste from the residential customer.

V. Tree and Brush Pruning Waste: Waste resulting from the pruning of brush and trees or from the cleanup of tree damage after wind storms. Tree pruning waste shall be limited in size to four inches in diameter and not larger than sixty (60) inches. Brush pruning waste shall be securely tied in bundles not larger than sixty (60) inches long and eighteen (18) inches wide. Brush, tree limbs, tree trunks, etc. larger than described above shall be considered special waste and collected under the authority and procedure established in Section 6.04.080C.

W. Yard Waste: Plant material (leaves, grass clippings, flowers, roots, etc.), organic debris commonly thrown away in the course of maintaining yards and gardens, including sod, and other biodegradable organic material. Yard waste excludes food waste, plastic and synthetic fibers, lumber, wood or tree limbs and soil contaminated with hazardous waste. (Ord. 09-42 § 1, 2009; Ord. 08-84 § 1, 2008; Ord. 07-133 § 1, 2007; Ord. 06-108 § 1, 2006; Ord. 04-16 § 1, 2004; Ord. 03-72 § 1, 2003; Ord. 94-87 § 2, 1994.)

6.04.030 Solid Waste Enterprise.

(a) The solid waste enterprise of the City shall consist of all vehicles, supplies, equipment, materials, garages and other lands and buildings used or intended for use in the collection and disposal of solid waste. The Division shall also consist of all City officers and employees assigned to any duties in connection with the collection and disposal of solid waste, including operations, billings and supervisory personnel.

(b) The City Manager shall have full control over all work provided for and contemplated under this Chapter.

(c) The City Manager shall have authority to promulgate rules and regulations based upon the provisions of this Chapter, including, but not limited to:

(1) Time and day schedules of and routes for collection of solid wastes;
(2) Preparation and drainage of garbage deposited in solid waste containers;
(3) Specifications for solid waste containers, including the type, composition, equipment, size and shape thereof;
(4) Identification of solid waste containers and of the covers thereof, and of equipment thereto appertaining, if any;
(5) Weight limitations on the combined weight of solid waste containers;
(6) Storage of solid waste in solid waste containers;
(7) Sanitation, maintenance and replacement of solid waste containers;
(8) Collection and disposal of solid waste;
(9) Collection points of solid waste containers; and
(10) Handling and collection of special waste such as computer recycling materials, electronic recycling articles, toxic waste, sludges, ashes, agriculture, construction, bulky items, tires, automobiles, oils, greases, tree trunks, large tree limbs, large quantities of brush, etc.
(11) For the billing and collection of solid waste collection service charges.

(d) A copy of any and all rules and regulations made and promulgated under the provisions hereof shall be filed in the office of the City Clerk. (Ord. 08-84 § 2, 2008;Ord. 06-108 § 2, 2006; Ord. 03-72 § 1, 2003; Ord. 94-87 § 2, 1994.)

6.04.040 Collection of Solid Waste. The City shall provide for the collection of solid waste as follows:

(a) Residential Collection. The City shall provide for the collection of residential solid waste and recyclables for the entire city. The City may, at its discretion, collect solid waste outside City limits.

(b) Multi-Family Residential. The City shall provide for the collection of multi-family residential solid waste and recyclables for the entire City. Multi-Family Residential property owners shall contract with the City for solid waste removal as current waste collection contracts expire, but no later than January 1, 2012.

(c) Commercial Collection. The City may, at its discretion, provide for the collection of commercial solid waste upon specific application of the owners, or persons in charge of commercial establishments; provided, however, that in the event that such application is not made or approved, it shall be the duty of such establishment to provide for the collection of all solid waste produced upon any such premises. (Ord. 08-84 § 3, 2008; Ord. 07-133 § 2, 2007; Ord. 03-72 § 1, 2003; Ord. 96-84, § 1, 1996; Ord. 94-87 § 2, 1994.)

6.04.050 Precollection Practices.

A. Prohibited Material from Normal Collection. No person shall place anything for collection in the public streets and public alleys of the City except in accordance with the terms of this Chapter.

No large dead animals, bricks, concrete, lumber, dirt, plaster, brush or tree limbs over four (4) inches in diameter, sand, gravel, large chunks of metal (such as automobile frames), other heavy metals, tires, refuse from construction or remodeling, items over two hundred (200) pounds, or hazardous materials as herein defined shall be placed for collection in the public streets or public alleys. Such items may be collected under the authority and procedure established in Section 6.04.080 (c).

B. Separation of Waste. Solid waste items shall be separated from yard waste, recyclables and bulk items.

C. Preparation of Waste. Solid waste, recyclables and yard waste shall be placed in the proper containers as required by Section 6.04.060. Tree limbs less than four (4) inches in diameter and brush shall be securely tied in bundles not larger than sixty (60) inches long and eighteen (18) inches in diameter when not placed in bags or other approved containers.

D. Placement for Collection. On the day the collection is scheduled for any residential premises, or not earlier than 5 p.m. of the night before collection is scheduled, City provided collection carts and all items to be picked up shall be placed at the street in front of the premises. City provided collection carts shall be removed from the curb as soon after collection of trash as possible, and no later than 5:00 p.m. the day after the collection day. When not at the curb for collection, the carts must be stored inside the garage or beside the residence. (Ord. 09-42 § 2, 2009; Ord. 06-88 § 1, 2006; Ord. 05-124 § 1, 2005; Ord. 03-72 § 1, 2003; Ord. 94-87 § 2, 1994.)

6.04.060 Containers. All solid waste shall be placed in containers of the type and size hereinafter prescribed:

A. Residential Solid Waste. Residential customers of the City shall be required to dispose of all solid waste in spill proof containers. The City shall provide for each residential dwelling unit one industrial manufactured cart designed to contain and store solid waste. The cart is the property of the City of Olathe and is provided for trash collection service at the residential premises and does not belong to the resident. Repairs to the carts will be the responsibility of the City.

1. The standard size cart provided will be approximately 95 gallons capacity. Carts with smaller capacity will be made available to residents in lieu of the standard size at the resident's request.
2. Additional carts may be provided with an additional monthly fee at the individual resident's request. Such fee shall be adopted by the Governing Body of the City by resolution.
3. Overflow volume of weekly trash must be securely bagged or containerized and placed at the curb for collection. In no instance shall the combined weight of each overflow volume container and its contents be packed so as to contain more than fifty (50) pounds.
4. The resident is responsible for cleaning and protecting the cart from damage. Resident may be charged for repairs due to neglect or misuse of the cart.

B. Residential Yard Waste. Residential customers of the City who do not compost shall be required to dispose of yard waste in special compostable yard waste paper bags or specifically designed carts for handling yard waste. The City will provide a yard waste cart for each residential dwelling unit where the customer requests such delivery. The customer will be charged for the cost of the yard waste cart and the customer will be charged for such cart on the next regular billing statement after delivery. The fee for yard waste carts shall be adopted by the Governing Body of the City by resolution.

C. Recyclables. The City will provide a recycling container at no charge to the customer. The container is the property of the City of Olathe and is provided for recyclable collection service at the residential premises and does not belong to the resident. The resident is responsible for cleaning and protecting the container from damage. Repairs to the container will be the responsibility of the City. The resident may be charged for repairs due to neglect or misuse of the container.

D. Commercial. Commercial customers shall be required to dispose of solid waste in containers meeting the specifications established by the City Manager pursuant to Section 6.04.030 (c). The containers shall be waterproof, leak proof and shall be covered at all times except when depositing waste therein or removing contents therefrom. The containers shall be fully accessible to collection equipment, public health personnel and fire inspection personnel.

E. Nonconforming containers may be collected together with its contents and disposed of. (Ord. 12-28 § 1, 2012; Ord. 09-42 § 3, 2009; Ord. 08-84 § 4, 2008; Ord. 06-88 § 2, 2006; Ord. 05-124 § 2, 2005; Ord. 03-72 § 1, 2003; Ord. 01-09 § 1, 2001; Ord. 94-87 § 2, 1994.)

6.04.070 Collection of Waste.

A. Public Places. It shall be unlawful for any person to place solid waste in any street, alley or other public place, or upon any private property whether owned by such person or not, within the City except it be in proper containers for collection or under express approval of the City Manager. It shall also be unlawful for any person to throw or deposit solid waste in any stream or other body of water.

B. Unauthorized Accumulation. Any unauthorized accumulation of solid waste or yard waste on any premises is hereby declared to be a nuisance and is prohibited.

C. Scattering of Solid Waste. It shall be unlawful to cast, place, sweep or deposit anywhere within the City any solid waste in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, parkway or other public place, or into any occupied premises within the City.

D. Points of Collection.

1. Residential. All solid waste, recyclables and yard waste shall be picked up at the curb. Overflow volume containers shall not weigh more than fifty (50) pounds.

2. Multi-Family Residential. All solid waste and yard waste shall be picked up at the curb or at the location of the container. City employees will not go upon private property to collect solid waste, except areas that are open to the public, such as business parking lots and private alleys.

3. Commercial. All solid waste shall be picked up at the location of the container. City employees will not go upon private property to collect solid waste, except areas that are open to the public, such as business parking lots and private alleys.

E. Frequency of Collection.

1. Residential. Residential solid waste and yard waste shall be collected once a week. Recyclables shall be collected bi-weekly or other intervals as may be fixed by the City Manager pursuant to Section 6.04.115.

2. Multi-Family Residential. Multi-Family Residential solid waste and yard waste shall be collected once a week and may be collected at such other intervals as may be fixed by the City Manager upon a determination that such other intervals are necessary for the preservation of the health and/or safety of the public.

3. Commercial. Commercial solid waste shall be collected once weekly and may be collected at such other intervals as may be fixed by the City Manager upon a determination that such other intervals are necessary for the preservation of the health and/or safety of the public.

F. Right to Regulate Separation, Deposit, Disposal. The City reserves the right to and retains the option at its discretion to require the separation of paper, recyclable materials, yard waste or other component parts of solid waste, to prescribe the method of disposal thereof, and to direct other related activities as determined necessary.

G. It is unlawful for any person to:

1. Deposit solid waste, yard waste, recyclables or bulk items in any solid waste container other than his/her own without the written consent of the owner of such container and/or with the intent of avoiding payment of the service charge hereinafter provided for solid waste collection and disposal.

2. Interfere in any manner with solid waste collection equipment, or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors shall be those of the City or those of a solid waste collection agency operating with a permit within the City.

3. Remove solid waste, yard waste, recyclables or bulk items from any container or private property without the approval of the owner thereof. (Ord. 09-42 § 4, 2009; Ord. 08-84 § 5, 2008; Ord. 05-124 § 3, 2005; Ord. 03-72 § 1, 2003; Ord. 94-87 § 2, 1994.)

6.04.080 Special Solid Waste Problems.

A. Residential Yard Waste.

1. Yard waste may be collected at curb side if such waste is properly contained in compostable yard waste paper bags or specifically designed carts for handling yard waste. Collection shall take place on a schedule established by the City Manager and may be at a different time than the collection of solid waste. Yard waste may also be deposited at any authorized City yard waste drop-off site or any authorized compost site while such site is open.

2. It shall be unlawful for any person to deposit yard waste in or upon any public street, water or grounds in the City; mix or permit the mixing of yard waste with solid waste for City curb side collection; or deposit yard waste at any authorized yard waste or compost site while the site is closed.

B. Residential Tree and Brush Pruning Waste. Tree and brush pruning waste may be collected at curb side if such waste is properly sized and/or bundled. Collection shall take place on a schedule established by the City Manager and may be at a different time than the collection of solid waste.

C. Bulk Items. The regular collection service shall not remove bulk items. Such items may be picked up separately if an Olathe resident calls the City one business day prior to the resident's regular collection day. (Ord. 12-28 § 2, 2012; Ord. 03-72 § 1, 2003; Ord. 01-09 § 2, 2001; Ord. 94-87 § 2, 1994.)

6.04.090 Service Charges.

A. There is hereby imposed a residential service charge for the collection and disposal of solid waste within City limits and such residential service charge shall be adopted by the Governing Body of the City by resolution.

The Residential Charge includes weekly trash collection, separate yard waste collection, recyclables and household hazardous waste disposal. Trash bags are available for purchase. The fee for trash bags shall be adopted by the Governing Body of the City by resolution.

B. Service charges for residential customers outside City limits shall be determined by the City Manager. The City Manager may charge residential customers outside City limits up to 1.25 times the monthly residential service charge for solid waste residential customers within City limits.

C. There is hereby imposed a service charge for the recycling of computers, computer related equipment, and electronic recycling articles and such charges shall be adopted by the Governing Body of the City by resolution.

D. There is hereby imposed a service charge for the collection and disposal of bulk items and such charges shall be adopted by the Governing Body of the City by resolution.

E. There is hereby imposed a multi-family residential service charge for the collection and disposal of solid waste within City limits and such multi-family residential service charge shall be determined by the City Manager on the basis of quantity, frequency and characteristics of material, point of pickup and the time required to collect the solid waste.

F. Commercial Charges. The maximum service charge for each commercial user will be determined by the City Manager on the basis of quantity and characteristics of material, point of pickup and the time required to collect the solid waste if service is performed by the City. Such maximum service charge rates shall be placed on file in the office of the City Clerk. The City Manager shall have the authority to negotiate and enter into contract with each institutional and other business establishments at a rate less than the maximum service charge in order to meet current market conditions.

G. Additional regulations.

1. The service and service charge shall be terminated upon presentation of satisfactory proof to the City Manager that any such dwelling unit or establishment is unoccupied and shall be commenced upon renewed occupancy thereof.

2. The system of service established by the provisions of this Chapter is designated as an integral part of the City's program of health and sanitation. The services provided for in this Chapter shall be deemed to be furnished both to the occupant and the owner of the premises receiving such services, and the City may enforce collection of such charge by bringing proper legal action against the occupant, the owner, or both, of any premises which has received such services, to recover any sums due for such service, plus a reasonable attorney's fee to be fixed by the court.

3. The service charge herein provided for is imposed, jointly and severally, upon the owner and upon the occupant of each residential unit receiving such service under the provisions of this Chapter; and billing therefore shall be made to the person receiving sanitation service to each such dwelling unit, in which event billing therefore shall be made to the owner or occupant thereof, or both. Service charges shall be payable to the department empowered to collect service charges imposed by the City. (Ord. 09-42 § 5, 2009; Ord. 08-84 § 6, 2008; Ord. 07-133 § 3, 2007; Ord. 06-108 § 3, 2006; Ord. 06-88 § 3, 2006; Ord. 03-72 § 1, 2003; Ord. 02-129 § 1, 2002; Ord. 01-09 § 3, 2001; Ord. 00-113 § 1, 2000; Ord. 99-92 § 1, 1999; Ord. 98-105 § 1, 1998; Ord. 97-141 § 1, 1997; Ord. 96-91 § 1, 1996; Ord. 95-93 § 1, 1995; Ord. 94-87 § 2, 1994.)

6.04.095 Solid Waste Connection Fee. A solid waste connection fee for new development shall be paid at the time of application for the building permit. The solid waste connection fee shall be paid for by the applicant requesting the solid waste connection. Such solid waste connection fee shall be established by the Governing Body of the City by resolution. (Ord. 11-21 § 1, 2011; Ord. 07-133 § 4, 2007.)

6.04.100 Solid Waste Collection Fund. The revenue collected under the provisions of this Chapter shall be deposited in a solid waste collection fund and shall be subject to an annual audit as now required by the laws of the state, and shall be used for the following purposes:

(a) Personal services of employees of this division;

(b) Cost of the operation of equipment and purchase or lease of new or additional equipment, including the costs of property damage and public utility insurance;

(c) Special clothing and/or uniforms where required in the performance of the duties of this department;

(d) Cost of the operation of the City transfer station and landfill, including any additional employees needed to properly dispose, regulate and operate the City dumping ground and its disposal system;

(e) In the event sufficient funds are available, the Governing Body may use such funds as are available to defray the cost of spraying any public or private property within the City Limits and such other expenses as are classified as public sanitation of the City;

(f) Cost of overhead services, such as legal, financial, city administration, management services and municipal services;

(g) Purchase of land and buildings;

(h) Payment of principal and interest from the issuance of solid waste/transfer station bonds and related bond issuance costs;

(i) Cost of contractual services, commodities and capital outlay;

(j) Operating reserves. (Ord. 03-72 § 1, 2003; Ord. 94-87 § 2, 1994.)

6.04.110 Transfer Station and Composting Facility.

A. The City will provide a solid waste transfer station and composting facility at such locations designated by the City to be used by refuse vehicles owned by the City, private refuse haulers and individuals.

B. Rules and regulations concerning the hours of operation and fee for disposal at the transfer station and/or composting facility shall be adopted from time to time by the City Manager. (Ord. 10-54 § 1, 2010; Ord. 03-72 § 1, 2003; Ord. 94-87 § 2, 1994.)

6.04.115 Residential Recycling Program.

A. A curbside recycling program is hereby established for the benefit of residential solid waste collection customers of the City. Effective January 1, 2010, curbside recycling shall be provided for all single family residences in Olathe. In addition, public and private drop-off facilities for recycables will be available for some specific recycyables.

B. Curbside residential recycling charges shall be included in the monthly residential solid waste rates.

C. The City Manager shall have the authority to promulgate rules and regulations on:

1. Days of collection of residential recyclables;
2. Pre-collection practices;
3. The type, color and physical dimensions of recycling bins or containers; and
4. Specific materials to be collected for recycling.

D. All recyclable materials shall become the property of the City when it is placed at the curbside for collection or placed in a color-coded container to be saved for collection day. It shall be unlawful for any person not authorized by the City to remove any item placed for recyclable collection from any recycling container. (Ord. 09-42 § 6, 2009; Ord. 08-84 § 7, 2008; Ord. 03-72 § 1, 2003; Ord. 02-129 § 2, 2002; Ord. 01-109 § 4, 2001; Ord. 96-84 § 2, 1996; Ord. 95-06 § 1, 1995.)

6.04.120 Penalty. Any person, firm or corporation violating any provision of this Ordinance shall be fined not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 09-42 § 8, 2009; Ord. 03-72 § 1, 2003; Ord. 94-87 § 2, 1994.)

CHAPTER 6.06

ENVIRONMENTAL QUALITY

Sections:

6.06.010 Authority.
6.06.020 Purpose.
6.06.030 Definitions.
6.06.040 Unlawful Acts.
6.06.041 Proof of Operability.
6.06.045 Unlawful Outdoor Illumination.
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6.06.047 Recreational Vehicle Parking on a Single-Family or Two-Family Lot – Criteria.
6.06.050 Right of Entry.
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6.06.100 Abatement of Immediate Vehicle Hazard.
6.06.110 Abatement Hearing.
6.06.120 Abatement by City.
6.06.130 Notice of Cost; Assessment and Collection.
6.06.140 Action in Municipal Court.
6.06.150 Penalty.

6.06.010 Authority. The city, under the authority of Kansas Statutes Annotated 12-1617e, is hereby authorized to provide for and require the removal and abatement of any and all nuisances, garbage and inoperable vehicles on lots or parcels of ground within the city. (Ord. 90-21 § 2, 1990; Ord. 80-59 § 2 (part), 1980.)

6.06.020 Purpose. The purpose of this chapter is to protect, preserve, upgrade and regulate the environmental quality of the city. This will be accomplished by prohibiting certain environmental conditions which may exist and are identified as a threat to the health, safety and welfare of the general public or to the aesthetic characteristics of the city and to provide for the administration and enforcement thereof. (Ord. 90-21 § 2, 1990; Ord. 80-59 § 2 (part), 1980.)

6.06.030 Definitions. For the purposes of this chapter, the following definitions apply:

"City" means the City of Olathe, Kansas;

"Code" means the Olathe Municipal Code;

"Commercial or Industrial" means areas which are used or intended to be used primarily for other than residential or agricultural purposes;

"Commercial Vehicle" means a vehicle with or without its own motive power; with a chassis rated at one (1) ton or more; dimensions exceeding twenty (20) feet in total length, eight (8) feet in total width, or seven (7) feet in total height; and used primarily for the carrying of equipment, livestock, minerals, liquids or other commodities, or the carrying of persons in the performance of a transportation service. Commercial vehicles include hauling and advertising trailers if used for commercial (e.g., non-recreational) purposes;

"Compost Pile" means a mixture consisting of leaves, stems, grasses, dirt and other organic matter which shall be stored in an enclosure and used for garden soil conditioning purposes. Said enclosure shall be screened or placed in a manner which is not offensive to neighboring residents or the general public;

"Garbage" means without limitation, any accumulation of animal, fruit or vegetable waste matter which normally is the by-product of handling, preparation, cooking, serving, delivering, storage or any other use of foodstuffs;

"Graffiti" means any drawing, painting, writing, inscription, figure or mark, regardless of its content, of the type which is commonly known and referred to as "graffiti," which is written, drawn, painted, sprayed, scratched or otherwise placed or affixed, regardless of the nature of the material used, on any wall, window, rock, building or portion thereof, fence, gate, sign, other structure, tree or other real or personal property, either publicly or privately owned, and that is visible from any adjacent public or private property or public or private right of way. "Graffiti" shall not include any permitted sign allowed to be erected in Section 18.50.190 of the Unified Development Ordinance;

"Immediate Vehicle Hazard" means any unattended vehicle which has been placed on jacks, blocks or a stand unless such vehicle is placed in a garage or other building;

"Nuisance" means, without limitation, any accumulation or collection of filth, human or animal excrement, tree limbs, lumber, wood, glass, rocks, concrete, dirt, grass clippings, leaves, cans, containers, paper, trash, plastic, petroleum products, styrofoam, rubber, metal, discarded appliances or other household items, abandoned or inoperable vehicles or parts thereof, or any other material or item which is thrown, left, deposited or stored upon any public or private property, except that compost piles as defined by Section 6.06.030 shall not constitute a nuisance;

The above also includes any place, operation, materials or substance offensive in appearance or which emits or causes any nauseous odors. Any dilapidated fence, wall, building or other structure in disrepair, open pits, pools or ponds of water or fluids, trenches or wells and/or any other condition which is offensive to or a threat to the environmental quality, health, safety or welfare of the City as determined by any Public Officer shall also constitute a nuisance;

"Inoperable Vehicle" means a vehicle or component parts thereof which cannot function properly or be used for its original purpose, including, without limitation, a condition of being junked, parted out, used for salvage, or any part thereof discarded or stored, or use of any part for artful or decorative purposes. Also, included would be any vehicle which is not currently registered or licensed or parked in any manner which would be a violation of other City ordinances or incapable of moving under its own power or would be unlawful to operate upon any street, road or highway. A vehicle which is temporarily inoperative but is in the process of being repaired shall be repaired within thirty (30) consecutive days or it shall be deemed an inoperable vehicle as defined in this section;

"Passenger Vehicle" means a vehicle which is:

1) licensed for use on public streets;
2) designed primarily for the transportation of people as opposed to equipment, freight or other vehicles, and
3) sold primarily to individuals for personal use.

This definition includes, but is not limited to, motorcycles, mopeds, motorscooters, automobiles commonly referred to as coupes, sedans, hatchbacks, station wagons, convertibles, minivans, passenger vans, cargo vans, and pickup trucks, any of which would not otherwise meet the definition of commercial vehicle or recreational vehicle as set forth herein;

"Person" means any individual, individuals, corporation, partnership, unincorporated association, other business organization, committee, board, trustee, receiver, agent or any representative who has charge, care, control or responsibility for maintenance of any premises regardless of status as owner, renter, tenant or lessee, whether or not in possession;

"Premises" means any lot, parcel or tract of land, including any structures, and/or excavations located thereon;

"Public Officer" means any City representative charged by the City Manager or designee with the administration and enforcement of this chapter;

"Recreational Vehicle" means a vehicular-type unit which is:

1) Built on a chassis or for use on a chassis,
2) designed primarily as temporary living quarters for recreational, camping, vacation or travel use, and
3) has its own motive power or is mounted on or drawn by another vehicle.

This definition includes, but is not limited to, motor homes (Class A, B, or C), travel trailers, folding camping trailers, 5th wheel trailers, truck campers (each as shown in Illustration A), passenger vehicles or buses specifically modified to meet the three conditions above, and boats, any of which would not otherwise meet the definition of commercial vehicle or passenger vehicle as set forth herein;

"Residential District" refers to any place or area where the property is zoned for residential occupancy including single-family, two-family and multifamily lots;

"Unimproved Premises" means any lot parcel or tract of land without any structures or any other type of improvement or development thereon;

"Vehicle" means any automobile, van, truck, all-terrain vehicle, motorcycle, moped, motorscooter, recreational vehicle, farm machinery, construction equipment, boat, boat trailer, airplane, bicycle, trailer, wagon or other device mounted on wheels and designed to carry any cargo, operator or passenger and may be powered by an engine or pulled or pushed by any device or person;

"Yard" means the area of the premises not occupied by a structure. (Ord. 14-54 § 1, 2014; Ord. 94-05 § 1, 1994; Ord. 90-21 § 2, 1990; Ord. 80-59 § 2 (part), 1980.)

ILLUSTRATION A

RECREATIONAL VEHICLES

Class A Motor Home

Class B Motor Home

Class C Motor Home

Travel Trailer

Folding Camper Trailer

Fifth-Wheel Trailer

Truck Camper

6.06.040 Unlawful Acts. It shall be unlawful for any person to allow to exist on any premises any garbage, graffiti, nuisance, inoperable vehicles or immediate vehicle hazard as defined. Except that the provisions of this section shall not apply to

(a) any vehicle which is enclosed in a garage or other building;

(b) the parking or storage of one temporarily disabled vehicle for a period of thirty (30) consecutive days or less; or

(c) any person conducting a business enterprise in compliance with existing zoning regulations and who places such vehicles behind screening of sufficient size, strength and density in order to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles. (Ord. 94-05 § 2, 1994; Ord. 90-21 § 2, 1990; Ord. 80-59 § 2 (part), 1980.)

6.06.041 Proof of Operability. When, after reasonable investigation, the Public Officer believes a vehicle meets the definition of an Inoperable Vehicle in Section 6.06.030, the vehicle shall be deemed to be an Inoperable Vehicle subject to the provisions of Section 6.06.040. Where a vehicle is (1) parked or stored in a residential district so that it is visible from a public or private street, or from adjacent private property with the permission of the adjacent property owner; 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, then the vehicle shall be deemed to be an inoperable vehicle subject to the provisions of Section 6.06.040. In both cases, such a determination may be voided if the property owner or vehicle owner or resident demonstrates to the Public Officer that the vehicle is operable on a public street and furnishes proof that the vehicle has a license plate and current registration as required for operation of the vehicle on public streets and highways. Such demonstration or proof shall be provided to a Public Officer of the City within fifteen (15) days from the date when a notice of violation was first given to the property owner, vehicle owner or resident. It shall be a violation of this Section to fail to provide such demonstration of operability or proof of registration within the specified time whether or not said vehicle is operable or legally registered. For the purposes of this Section, a vehicle shall be considered visible, even if covered, if the shape of the covered object is recognizable as a vehicle. Any covered object not recognizable as a vehicle shall be governed by the nuisance provisions of this Chapter. (Ord. 14-54 § 3, 2014.)

6.06.045 Unlawful Outdoor Illumination.

(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.

(d) Unlawful outdoor illumination as defined by this section shall be deemed to be a "nuisance" under this chapter and to effect legal relief persons directly affected may sign a complaint in Municipal Court. (Ord. 94-60 § 1, 1994.)

6.06.046 Parking Requirements for Single-Family, Two-Family, and Multifamily Lots – Commercial Vehicle Parking Prohibited.

A. Parking on single-family, two-family, and multifamily paved driveways or paved parking areas is restricted to passenger vehicles and wreckers, tow trucks or car carriers, as defined by K.S.A. 66-1329, and any amendments thereto, no larger than a factory designated, one (1) ton, single axle, dual wheel size which is immediately available for emergency response by an operator who is on duty or on call. However, wreckers, tow trucks or car carriers shall not be parked upon a paved driveway or paved parking area on a single-family, two-family, or multifamily paved driveway or paved parking area for more than twelve (12) hours during any twenty-four (24) hour period.

B. All passenger vehicles shall be parked on paved driveways or paved parking areas adjacent to the garage or carport. In areas where there are no garages or carports, passenger vehicles may be parked on paved driveways or paved parking areas constructed perpendicular to the street.

C. No passenger vehicle parking is allowed in the public right-of-way between the curb and the sidewalk or the area between the curb and the front lot line where no sidewalk exists.

D. No person shall stop, stand or park a commercial vehicle on any street, alley, lot, paved driveway or paved parking area within any residential district, except when loading or unloading such vehicle or when in the performance of a service to or upon real property within any residential district where such vehicle is parked. (Ord. 14-54 § 4, 2014.)

6.06.047 Recreational Vehicle Parking on a Single-Family or Two-Family Lot – Criteria. It is permissible to park or store not more than two (2) recreational vehicles on a single-family or two-family lot, provided that the following criteria are met:

A. The recreational vehicle shall be parked in a garage, the side yard or rear yard but not in the front yard, except as provided in Subsection G below.

B. The recreational vehicle shall not be parked closer than two (2) feet to any property line.

C. The recreational vehicle shall not be 1) used for on-site dwelling purposes for more than fourteen (14) days per year; or 2) permanently connected to sewer lines, water lines or electrical lines; or 3) used for storage.

D. The recreational vehicle shall be operable, its equipment shall be in a usable working condition at all times, not leaking fluids, and maintained in a clean, well-kept state that does not detract from the appearance of the surrounding area.

E. The recreational vehicle and the area where such vehicle is parked shall be maintained in a clean and neat manner. The area the recreational vehicle is parked on is not required to be paved; provided, however that any recreational vehicle must be parked or stored, or driven to and from said parking or storage area, on a dust-free and rut-free surface, including, without being limited to, any such areas covered with grass, ground cover, water-permeable grass pavers, cement, asphalt or other similar ground cover. Parking, storage or driving on gravel or exposed dirt is prohibited; provided, however, driving on a gravel driveway that has been previously established as a lawful nonconforming use is permitted.

F. The recreational vehicle shall be owned by the resident upon whose property it is parked, provided that others visiting the resident may park their recreational vehicle on the lot in accordance with the requirements set forth herein for a period of time not to exceed fourteen (14) consecutive days.

G. Parking of one (1) recreational vehicle is permitted on a front driveway provided that the following conditions are met:

1. There is no reasonable access to the rear or side yard. A lot shall be deemed to have reasonable access to the rear or side yard if:

a. the side yards are ten (10) feet or more in width;

b. there is less than ten (10) feet of difference in the elevation of the front and rear yards as measured at the front and rear lot lines; and

c. there are no large trees (trunk four [4] inches in caliper) or large shrubs (six [6] feet in height) in the side yards. Corner lots shall normally be deemed to have reasonable access to the rear yard. A fence shall not be deemed as preventing reasonable access.

2. Inside parking is not possible.

3. No part of the recreational vehicle shall extend over side yards, sidewalks or street right-of-way.

H. Recreational vehicles may be parked on the front drive for up to two (2) days to load and two (2) days to unload as related to a trip.

I. No tarps or other non-fitting covers may be used on a recreational vehicle. (Ord. 14-54 § 5, 2014.)

6.06.050 Right of Entry. Any authorized officer or agent of the city, pursuant to this chapter, shall be allowed to enter onto any land within the city limits to investigate violations of this chapter or for the abatement of violations pursuant to this chapter. (Ord. 90-21 § 2, 1990; Ord. 80-59 § 2 (part), 1980.)

6.06.060 Responsibility to Abate. The property owner, representative, tenant or other such person with control, occupancy or possession of real property shall be responsible for the abatement of any unlawful acts defined by Section 6.06.040. (Ord. 90-21 § 2, 1990; Ord. 80-59 § 2 (part), 1980.)

6.06.070 Public Officer; Notice to Abate. The City Manager shall designate a public officer to be charged with the administration and enforcement of this chapter. The public officer shall authorize the investigation of violations of this chapter. If it is determined that a violation of this chapter exists, then the officer or authorized designee shall send a notice to abate to the property owner, representative, tenant or other such responsible person by certified mail, return receipt requested, to the last known address of such property owner, representative, tenant or other such responsible person. (Ord. 11-12 § 1, 2011; Ord. 90-21 § 2, 1990; Ord. 80-59 § 2 (part), 1980.)

6.06.080 Notice Requirements. The notice of abatement shall state:

(a) A common and/or legal description of the property upon which the violation exists;

(b) That the property is in violation of the provisions of this chapter;

(c) A description of the nature of the violation that would reasonably allow the property owner or other responsible person, representative or tenant to determine the nature of the violation to allow for self-abatement;

(d) That the person in charge of the property shall have five (5) days from the date of the mailing of the notice to either remove and abate the violation of this chapter or request a hearing before the city's designated representative on the matter;

(e) That upon written request received prior to the expiration of the notice period, the property owner, representative, tenant or other responsible person may request a hearing before a designated hearing officer of the city;

(f) That if the owner, occupant, or agent of the property fails to correct the violation or request a hearing within five (5) days of the mailing of notice, the city or its authorized agent will remove and abate the violation of this chapter by reasonable means and assess the costs of removal, including reasonable administrative costs, against such person. Notice of the total cost of such abatement shall be provided to the owner, occupant or agent by certified mail, return receipt requested, or personal service;

(g) That if the assessed costs of removal, including administrative costs, are not paid within thirty (30) days of the date when the assessment comes due, the costs will be added to the property tax as a special assessment;

(h) That if any special assessments levied by the city in accordance with this chapter remain unpaid for a period of one year or more after their initial levy, the city may collect the amount due in the same manner as a personal debt of the property owner to the city by bringing an action in the Johnson County District Court. Such actions may be maintained, prosecuted and all proceedings taken, including any award of postjudgment interest, in accordance with K.S.A. 16-204, and amendments thereto, to the same effect and extent as for the enforcement of an action for debt. All provisional remedies available in such actions shall be available to the city in the enforcement of the payment of such obligations. In such actions the city also shall be entitled to recover interest at the rate provided in K.S.A. 79-2968, and amendments thereto, from and after the date a delinquency occurs in the payment of special assessments levied under this chapter. The city may pursue collection both by levying a special assessment and in the manner provided by this section, but only until the full cost and any applicable interest has been paid in full;

(i) Violation of any provisions of this article shall be deemed a misdemeanor and be punishable by a fine of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00) or imprisonment not to exceed thirty (30) days, or both. Each day any violation of this chapter continues shall constitute a separate offense punishable as a misdemeanor;
Prosecution of any offender under this section does not limit the city's right to abate any violation as defined under this chapter or to additionally recover any costs incident to the abatement process, including reasonable administrative costs;

(j) That the public officer should be contacted if there are any questions regarding the notice. (Ord. 90-21 § 2, 1990; Ord. 80-59 § 2 (part), 1980.)

6.06.090 Service of Notice.

(a) The notice shall be personally served or sent by certified mail, return receipt requested, once each calendar year or if the property is unoccupied and the owner is a nonresident of the State of Kansas, then by mailing notice by certified mail to the last known address of the owner once each calendar year;

(b) Failure to sign for the certified return, receipt requested, mail notice from the City, or failure to pick up said notice from the post office within fifteen (15) days shall not be deemed a lack of notice under this chapter where delivery was attempted and a record of this attempt was provided as required by procedures for certified mail.

(c) Second or subsequent notices, within the same calendar year, will be served personally or sent by first class mail and will result in mandatory Court appearances. (Ord. 11-12 § 2, 2011; Ord. 90-21 § 2, 1990; Ord. 80-59 § 2 (part), 1980.)

6.06.100 Abatement of Immediate Vehicle Hazard. When in the opinion of the public officer an immediate vehicle hazard as defined by 6.06.030(f) exists in such a condition as to require immediate action to protect the public, such officer may erect barricades or cause the vehicle to be taken down or otherwise made safe without delay and such action may, under such circumstances, be taken without prior notice to or hearing of the owners, agents or lienholders. The costs of any such action shall be assessed and paid in the manner set out in Section 6.06.130. (Ord. 90-21 § 2, 1990.)

6.06.110 Abatement Hearing. If the recipient of the notice of abatement makes a written request for hearing within the notice period, then the city shall immediately schedule a hearing during a regular business day within ten (10) calendar days from the receipt of the written request. The hearing shall be conducted by a designated hearing officer appointed by the city manager who shall not be a subordinate of the officer who issued the notice of abatement or conducted the investigation. The hearing officer shall receive evidence, review the investigation and prepare a written order. The order shall be sent by certified mail to all relevant parties within ten (10) days of the hearing, unless otherwise stated at the hearing, and prior to the city taking any action to abate the violation.
The order shall describe the relevant facts relied upon, state the specific code provisions being relied upon should a violation be found, and state any such other stipulations, methods of abatement or orders as deemed necessary by the hearing officer. (Ord. 90-21 § 2, 1990; Ord. 80-59 § 2 (part), 1980.)

6.06.120 Abatement by City. If the property owner, representative or tenant fails to request a hearing and fails to abate the violations within the notice period, then the city shall go onto the property to abate the violation in a reasonable manner. The city shall not be responsible for damage to property due to reasonable methods of gaining entrance onto the property or for damages to property in the reasonable exercise of its duty to the public to abate the violations. The city may use its own employees or contract for services to abate violations of this chapter. (Ord. 90-21 § 2, 1990.)

6.06.130 Notice of Cost; Assessment and Collection.

(a) If the city takes action to abate the violation, it shall provide a notice of costs to the property owner, representative or tenant. The notice of costs shall be delivered by certified mail, return receipt requested, at the last known mailing address; or if the property is vacant or unoccupied, the notice of costs may also be posted on the property in a reasonable manner. The notice of costs shall state:

(1) The common or legal description of the property, or both;
(2) The nature of the violation, including relevant ordinances;
(3) The nature of the work performed to abate the violation;
(4) The costs incurred for the abatement of the violations in either a lump sum or in itemized form;
(5) That the notice is a demand for payment within thirty (30) days from the date of the notice;
(6) That failure to pay the entire amount within thirty (30) days shall allow the city to file a tax lien against the property or to pursue litigation for the recovery of the costs, or both;
(7) That such additional remedies to recover costs shall include additional amounts, including additional administrative costs, attorneys' fees when applicable, and interest;
(8) That payments shall be made by check or money order made payable to the city, with no post-dating of the check, and sent to the address stated within the notice, with a written indication of the purpose for the payment and the address of the property where the violations occurred. Partial payments will not be accepted and shall be considered as non-payments.

(b) If the payment of costs is not made within the 30-day period, the city may levy a special assessment for such cost against the lot or piece of land. The city clerk, at the time of certifying other city taxes to the county clerk, shall certify the aforesaid costs, and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.

Provided further, the city may collect the costs in the manner provided at K.S.A. 12-1,115, as amended, by bringing an action in the appropriate court as a personal debt.

The city may pursue both assessment and collection at the same time until the full cost, including applicable interest, court costs, attorneys' fees and administrative costs have been paid in full. (Ord. 90-21 § 2, 1990.)

6.06.140 Action in Municipal Court. If an authorized public officer determines that a violation of this chapter exists, the officer may file a complaint with the Municipal Court for such violation. No other procedures are required as a prerequisite to the filing of a complaint. (Ord. 90-21 § 2, 1990.)

6.06.150 Penalty.

(a) Any property owner, representative or tenant found in violation of this chapter shall be subject to prosecution in the Olathe Municipal Court. Any person found guilty of violating the provisions of this chapter shall be subject to a fine of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00); or imprisonment for a term not to exceed thirty (30) days, or both;

(b) Prosecution of any offender under this chapter does not limit the city's right to pursue assessment or collection of costs as stated in this chapter, or by other laws;

(c) Each day that any violation of this chapter continues shall constitute a separate offense;

(d) The city shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provision of this chapter and to seek civil penalties, and to abate nuisances maintained in violation thereof, and in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceedings to prevent such unlawful nuisance or condition. (Ord. 90-21 § 2, 1990.)

CHAPTER 6.09

WEEDS

Sections:

6.09.010 Authority.
6.09.020 Purpose.
6.09.030 Findings.
6.09.040 Definitions.
6.09.050 Excessive Growth Unlawful.
6.09.060 Responsibility to Abate.
6.09.070 Public Officer; Notice to Abate.
6.09.080 Notice Requirements.
6.09.090 Service of Notice.
6.09.100 Abatement Hearing.
6.09.105 Annual Notice of Weed Removal (Repealed 7/15/97).
6.09.110 Abatement by the City.
6.09.120 Notice of Cost; Assessment and Collection.

6.09.130 Exceptions.
6.09.140 Right of Entry.
6.09.150 Action in Municipal Court.
6.09.160 Penalty.

6.09.010 Authority. The city, under the authority of Kansas Statutes Annotated 12-1617(f) and Kansas Statutes Annotated 2-1314, is hereby authorized to provide for and require the cutting or destruction of noxious weeds, weeds and other uncontrolled vegetation on lots or pieces of land within the city. (Ord. 97-97 § 2, 1997; Ord. 90-22 § 2, 1990; Ord. 80-47 § 1, 1980.)

6.09.020 Purpose. The purpose of this chapter is to provide reasonable controls restricting the excessive growth of weeds, grasses and other noncultivated vegetation; to declare that the excessive growth of such vegetation is noxious, unsightly, and is offensive to the general public health, safety and welfare of the community; to provide a method of enforcement of this act; to provide procedures to notify property owners or those in control of the property that a violation exists and to allow for self-abatement by such owner; to provide property owners or those in control of the property notification and an opportunity to be heard concerning violations of this chapter; to provide administrative procedures to allow the city to direct the abatement of violations; to provide a method of assessing or collecting costs for such abatement; to declare that the existence of such violations are unlawful and to provide penalties for enforcement through the Municipal Court system. (Ord. 97-97 § 2, 1997; Ord. 90-22 § 2, 1990; Ord. 80-47 § 2, 1980.)

6.09.030 Findings. The Governing Body of the city hereby finds that the allowance of the excessive growth of certain vegetation is noxious, unsightly, offensive to the residential and commercial development in the city, and offensive to the general public health, safety and welfare of the community. Excessive vegetation growth creates potential traffic safety problems; promotes conditions which accelerate the spread of fires; promotes the nesting and proliferation of rodents, snakes, mosquitoes and vermin; creates short and long-term impacts on the area, including the diminution of property values and the integrity of the neighborhood; and interferes with the orderly development of property in the city. (Ord. 97-97 § 2, 1997; Ord. 90-22 § 2, 1990; Ord. 80-47 § 3, 1980.)

6.09.040 Definitions. For the purposes of this chapter, the following definitions apply:

(a) “Agent” shall mean any person registered with the city as agent for a property, or any non-owner listed on the Johnson County tax roll as the person to receive the tax bill notice;

(b) “Best Management Practices” shall mean stormwater management practices used to prevent or control the discharge of pollutants into waters. These may include engineered solutions, a schedule of activities, prohibition of practices, maintenance procedures, or other management practices. They include three categories: preservation and promotion of natural hydrology (open space, natural vegetation, filter strips), engineered stormwater treatment and infiltration (bio-retention filters, engineered swales, infiltration trenches), and onsite detention and treatment (pervious pavement, wet ponds).

(c) “Calendar Year” as used herein means that period of time beginning January 1 and ending December 31 of the same year;

(d) “City” shall mean the City of Olathe, Kansas;

(e) “Developed Parcel“ shall mean any lot, tract, or other parcel of unimproved real estate with any man-made changes, including but not limited to buildings, structures, stormwater improvements, utilities, and other site developments.

(f) “Excessive Growth” shall mean any vegetation which is more than eight (8) inches in height on developed parcels or more than twelve (12) inches in height on undeveloped parcels, either above the ground or in length if matted down as measured along the stem and shall include all trees, bushes, shrubs, flowers and ornamental or garden plants, either cultivated or uncultivated if such plants are not made readily distinguishable from surrounding vegetation of excessive growth and plants which are poisonous to the touch, including poison ivy, poison oak and poison sumac;

(g) “Governing Body” shall mean the City Council of the City of Olathe, Kansas;

(h) “Person” shall mean any individual; individuals; partnership; corporation; unincorporated association; other business organization; committee; board; trustee; receiver; agent; or any representative who has charge, care or responsibility for maintenance of any property, lot or parcel of land regardless of status as owner, tenant or lessee, and regardless of whether such person has possession;

(i) “Perennial violator” shall mean any person having control of real property for which two (2) or more notices to abate have been issued within any two (2) year period;

(j) “Property owner” shall mean the person who owns the property as indicated by the records of the Register of Deeds or appraiser’s office in Johnson County, Kansas; and for purposes of this chapter shall include the owner of property abutting the streets, alleys, avenues, boulevards, public easements and public rights-of-way;

(k) “Representative” shall mean any person listed in the Johnson County, Kansas, appraiser’s office or treasurer’s office for the purposes of paying taxes; a registered agent with the Kansas Secretary of State’s office for corporate or partnership ownership; an agent or manager directed by the property owner, estate or court order to represent the interests of the property or to otherwise control activities on the real property; or corporate officer;

(l) “Tenant” shall mean any person who has a severable or non-severable interest in the real property either by oral or written lease or covenant, or by other methods of conveying a limited interest in such lands; or any person who occupies or has possession of such real property;

(m) “Undeveloped Parcel” shall mean any lot, tract, or parcel of real estate without any man-made changes, structures or other improvements, except grading.

(n) “Vegetation” shall include, but not be limited to, weeds, woody vines, brush, grass and uncultivated plants;

(o) “Waterways” shall include, but not be limited to, any stream, creek, brook, branch, depression, reservoir, lake, pond, or drainage way in or into which stormwater runoff flows.

(p) “Weeds” shall include, but not be limited to, kudzu (Pueraria lobata), field bindweed (Convolvulus arvensis), Russian Knapweek (Centaurea picris), hoary cress (Lepidium draba), Canada thistle (Cirsium Arvense), quackgrass (Agropyron repens), leafy spurge (Euphobia esula), bur ragweed (Franseria tomentosa and discolor), pignut (Hoffmannseggia densiflora), musk (nodding), thistle (Carduus nutans L.), Johnson grass (Sorghum halepense), sericea lespedeza (Lespedeza cuneata) and multiflora rose (Rosa Multiflora) (Ord. 08-109 § 1, 2008; Ord. 97-97 § 2, 1997; Ord. 90-22 § 2, 1990; Ord. 80-47 § 4, 1980.)

6.09.050 Excessive Growth Unlawful. It shall be unlawful for any person to allow excessive growth of vegetation on any lot or parcel of land within the city or any area between the property lines of said lot or parcel, and the curb line or edge of any adjacent street, and the centerline of any adjacent alley, including, but not specifically limited to, sidewalks, streets, alleys, easements, rights of way and all other areas, public or private. (Ord. 08-109 § 2, 2008; Ord. 97-97 § 2, 1997; Ord. 90-22 § 2, 1990; Ord. 80-47 § 5, 1980.)

6.09.060 Responsibility to Abate. The property owner or other responsible person of real property shall be responsible for the abatement of any excessive growth of vegetation as made unlawful by Section 6.09.050. Further, it is the responsibility of the property owner or other responsible person to clearly mark, stake out or otherwise distinguish between trees, bushes, shrubs, flowers and ornamental or garden plants as compared to any excessive vegetation in the surrounding area. (Ord. 08-109 § 3, 2008; Ord. 97-97 § 2, 1997; Ord. 90-22 § 2, 1990.)

6.09.070 Public Officer; Notice to Abate. The city manager shall designate a public officer to be charged with the administration and enforcement of this chapter. The public officer shall authorize the investigation of violations of this chapter. If it is determined that a violation of this chapter exists, then the officer or authorized assistant shall send a written notice to abate to the property owner, representative, tenant or other such responsible person by certified mail, return receipt requested, to the last known address of such property owner, representative, tenant or other such responsible person. Such notice shall be required once per calendar year. (Ord. 08-109 § 4, 2008; Ord. 97-97 § 2, 1997; Ord. 90-22 § 2, 1990.)

6.09.080 Notice Requirements. The notice to abate shall state:

(a) A common and/or legal description of the property upon which the violation exists;

(b) That the property is in violation of the provisions of this chapter;

(c) A description of the nature of the violation that would reasonably allow the property owner or other responsible person to determine the nature of the violation to allow for self-abatement;

(d) That the person in charge of the property shall have five (5) days from the date of the mailing of the notice, or in cases where the owner is unknown and the property is vacant, ten (10) days after notice has been published by the city in the official city paper to either eradicate the excessive growth of vegetation or request a hearing before the city's designated representative on the matter;

(e) That upon written request received prior to the expiration of the notice period, the property owner or other responsible person may request a hearing before a designated hearing officer of the city;

(f) That if the property owner or other responsible party fails to correct the violation or request a hearing within five (5) days of the mailing of notice or ten (10) days in the case of notice by publication, the city or its authorized agent will remove the excessive growth of vegetation by reasonable means and assess the costs of removal, including reasonable administrative costs, against such person. Notice of the total cost of such abatement shall be provided to the property owner or other responsible party by certified mail, return receipt requested, or personal service;

(g) That if the assessed costs of removal, including administrative costs, are not paid within thirty (30) days of the date when the assessment comes due, the costs will be added to the property tax as a special assessment;

(h) That if any special assessments levied by the city in accordance with this chapter remain unpaid for a period of one year or more after their initial levy, the city may collect the amount due in the same manner as a personal debt of the property owner to the city by bringing an action in the Johnson County District Court. Such actions may be maintained, prosecuted and all proceedings taken, including any award of post judgment interest, in accordance with K.S.A. 16-204, and amendments thereto, to the same effect and extent as for the enforcement of an action for debt. All provisional remedies available in such actions shall be available to the city in the enforcement of the payment of such obligations. In such actions the city also shall be entitled to recover interest at the rate provided in K.S.A. 79-2968, and amendments thereto, from and after the date a delinquency occurs in the payment of special assessments levied under this chapter. The city may pursue collection both by levying a special assessment and in the manner provided by this section, but only until the full cost and any applicable interest has been paid in full;

(i) That no further notice shall be given prior to removal of any subsequent excessive growth during the calendar year

(j) That the public officer shall be contacted if there are any questions regarding the notice to abate or notice of costs;

(k) If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this subsection, the city may not recover the costs or levy an assessment for the costs incurred by the cutting or destruction of the excessive growth on such property unless the new record owner of title to such property is provided notice as required by this section;

(l) Prosecution of any offender under this section does not limit the city's right to abate any excessive growth as defined under this chapter or to additionally recover any costs incident to the abatement process, including reasonable administrative costs. (Ord. 08-109 § 5, 2008; Ord. 97-97 § 2, 1997; Ord. 90-22 § 2, 1990.)

6.09.090 Service of Notice.

(a) The notice shall be personally served or sent by certified mail, return receipt requested, and where the property is either vacant or unoccupied, and the property owner or other responsible person is unknown, then the city clerk shall publish the notice to abate in the official city newspaper;

(b) If the notice to abate is made by publication, the property owner or other responsible person will be ordered to abate the problem within ten (10) days of the publication;

(c) Failure to sign for the certified mail, return receipt requested, notice from the city, or failure to pick up said notice from the post office within fifteen (15) days shall not be deemed a lack of notice under this chapter where delivery was attempted and a record of this attempt was provided as required by procedures for certified mail. (Ord. 08-109 § 6, 2008; Ord. 97-97 § 2, 1997; Ord. 90-22 § 2, 1990.)

6.09.100 Abatement Hearing. If the recipient of the notice to abate makes a written request for hearing within the notice period, then the city shall immediately schedule a hearing during a regular business day within ten (10) calendar days from the receipt of the written request.

The hearing shall be conducted by a designated hearing officer appointed by the city manager who shall not be a supervisor or subordinate of the officer who issued the notice to abate or conducted the investigation. The hearing officer shall receive evidence, review the investigation and prepare a written order. The order shall be sent by certified mail to all relevant parties within ten (10) days of the hearing, unless otherwise stated at the hearing and prior to the city taking any action to abate the violation. The order shall describe the relevant facts relied upon, state the specific code provisions being relied upon should a violation be found, and state any such other stipulations, methods of abatement or orders as deemed necessary by the hearing officer. (Ord. 08-109 § 7, 2008; Ord. 97-97 § 2, 1997; Ord. 90-22 § 2, 1990.)

6.09.105 Annual Notice of Weed Removal. Repealed 7/15/97. (Ord. 97-97 § 2, 1997; Ord. 94-09 § 1, 1994.)

6.09.110 Abatement by the City. If the property owner or other responsible person fails to request a hearing and fails to abate the violations within the notice period, then the city shall go onto the property to abate the violation in a reasonable manner.

The city shall not be responsible for damage to property due to reasonable methods of gaining entrance onto the property or for damages to property in the reasonable exercise of its duty to the public to abate the violations. The city may use its own employees or contract for services to abate violations of this chapter. Any authorized officer or agent of the city shall be allowed to relocate or remove any trash, debris, limbs or brush, building materials or other such items if such relocation or removal is reasonably necessary to abate the violation. (Ord. 08-109 § 8, 2008; Ord. 97-97 § 2, 1997; Ord. 90-22 § 2, 1990.)

6.09.120 Notice of Cost; Assessment and Collection.

(a) If the city takes action to abate the violation, it shall provide a notice of costs to the property owner or other responsible person. The notice of costs shall be delivered by certified mail, return receipt requested, at the last known mailing address; or if the property is vacant or unoccupied, the notice of costs may also be posted on the property in a reasonable manner. The notice of costs shall state:

(1) The common or legal description of the property, or both;
(2) The nature of the violation, including relevant ordinances;
(3) The nature of the work performed to abate the violation;
(4) The costs incurred for the abatement of the violations in either a lump sum or in itemized form;
(5) That the notice is a demand for payment within thirty (30) days from the date of the notice;
(6) That failure to pay the entire amount within thirty (30) days shall allow the city to file a tax lien against the property or to pursue litigation for the recovery of the costs, or both;
(7) That such additional remedies to recover costs shall include additional amounts, including additional administrative costs, attorneys' fees when applicable, and interest;
(8) That payments shall be made by check or money order made payable to the city, with no post-dating of the check, and sent to the address stated within the notice, with a written indication of the purpose for the payment and the address of the property where the violations occurred. Partial payments will not be accepted and shall be considered as non-payments.

(b) If the payment of costs is not made within the 30-day period, the city may levy a special assessment for such cost against the lot or piece of land. The city clerk, at the time of certifying other city taxes to the county clerk, shall certify the aforesaid costs, and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.

Provided further, the city may collect the costs in the manner provided at K.S.A. 12-1,115, as amended, by bringing an action in the appropriate court as a personal debt. The city may pursue both assessment and collection at the same time until the full cost, including applicable interest, court costs, attorneys' fees and administrative costs have been paid in full. (Ord. 08-109 § 9, 2008; Ord. 97-97 § 2, 1997; Ord. 90-22 § 2, 1990.)

6.09.130 Exceptions. This chapter shall not be made applicable to:

(a) The growing of brome, alfalfa, timothy, clover or other grasses for hay purposes within any residential or agricultural zoned district on a property in excess of three (3) acres in size.

(b) Undeveloped parcels zoned other than for agricultural uses if such parcel is one contiguous parcel, not intersected by any public roadway, and is greater than ten (10) acres, and contiguous undeveloped parcels not adjacent to any developed parcel. Provided, however, on any such parcel no excessive growth of vegetation shall be allowed in any area within fifty (50) feet from the curb or edge of any public roadway, or within fifty (50) feet of the property line adjacent to any other public roadway, or of the property line of any property being used for residential or commercial purposes.

(c) Waterways, any areas protected by local, state or federal regulations, natural or xeri-scaped areas approved by the Development Services Director or City Engineer, or their designee, provided those areas are kept free of all noxious weeds and "Best Management Practices" are followed.

(d) Tree preservation areas where physical characteristics inhibit normal mowing practices.

Provided further, however, that the city reserves its right of abatement under this chapter whenever it determines that any excessive growth of vegetation creates or enhances an identifiable health or safety problem, including, but not limited to, proliferation of rats, mosquitoes and/or vermin, or creates a fire hazard. (Ord. 08-109 § 10, 2008; Ord. 97-97 § 2, 1997; Ord. 90-22 § 2, 1990.)

6.09.140 Right of Entry. Any authorized officer or agent of the city, pursuant to this chapter, shall be allowed to enter onto any land within the city limits to investigate violations of this chapter or for the abatement of violations pursuant to this chapter. (Ord. 97-97 § 2, 1997; Ord. 90-22 § 2, 1990.)

6.09.150 Action in Municipal Court. If an authorized public officer determines that a violation of this chapter exists, the officer may file a complaint with the Municipal Court for such violation. No other procedures are required as a prerequisite to the filing of a complaint. (Ord. 08-109 § 11, 1997; Ord. 97-97 § 2, 1997; Ord. 90-22 § 2, 1990.)

6.09.160 Penalty.

(a) Any property owner or other responsible person found in violation of this chapter shall be subject to prosecution in the Olathe Municipal Court. Any person found guilty of violating the provisions of this chapter shall be subject to a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00);

(b) Any person found guilty of violating this chapter two (2) or more times within any one-year period, or determined by the Municipal Court to be a perennial violator shall be fined not less than Two Hundred and Fifty Dollars ($250.00) nor more than Five Hundred Dollars ($500.00);

(c) Prosecution of any offender under this chapter does not limit the city's right to pursue assessment or collection of costs as stated in this act, or by other laws;

(d) Each day that any violation of this chapter shall continue shall constitute a separate offense;

(e) The city shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provision of this chapter and to seek civil penalties, and to abate nuisances maintained in violation thereof, and in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceedings to prevent such unlawful excessive growth of vegetation. (Ord. 08-109 § 12, 2008; Ord. 97-97 § 2, 1997; Ord. 90-22 § 2, 1990.)

CHAPTER 6.12. Health Nuisances. Repealed. (Ord. 90-21 § 1, 1990; Prior code § 7-101, 102, 103.)

CHAPTER 6.16. Inoperable Vehicles. Repealed. (Ord. 90-21 § 1, 1990; Ord. 87-30 § 25, 1987; Ord. 807 § 1, 2, 1979; Ord. 111 § 1-9, 1972.)

CHAPTER 6.18

NOISE CONTROL

Sections:

6.18.010 Short Title and Scope.
6.18.020 Definitions.
6 18.030 Powers/Duties of Noise Control Officer.
6.18.040 Prohibited Acts.
6.18.050 Variances.
6.18.060 Sound Levels By Receiving Land Use.
6.18.070 Motor Vehicle Maximum Sound Levels.
6.18.080 Immediate Threats to Health and Welfare.
6.18.090 Compliance Required--Violation--Penalty.
6.18.100 Manner of Enforcement.
6.18.110 Injunction.
6.18.120 Other Remedies.
6.18.130 Liability.
6.18.140 Separability.

6.18.010 Short Title and Scope. This ordinance may be cited as the "Noise Control Ordinance of the City of Olathe" and it shall apply to the control of all noise and sound originating within the limits of the City of Olathe. (Ord. 85-13 § 1, 1985.)

6.18.020 Definitions. For the purpose of this chapter, the following items have the meaning ascribed to them as hereinafter defined, unless where otherwise expressly stated or where the context clearly defines a different meaning.

Words used in the present tense include the future, words in the singular include the plural, and words in the plural include the singular; the words "shall" or "must" are mandatory; and the term "used for" includes the meaning "designated for" or "intended for." All terminology used in this ordinance, not defined as follows, shall be in conformance with the American National Standards Institute (ANSI) document: American National Acoustical terminology ANSI S1.1 1994 (R1997) or the latest approved revision thereof.

(a) "A-weighted sound level" means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dba.

(b) “Background Noise” means noise which exists at a point as a result of a combination of many distant sources individually indistinguishable.

(c) "Commercial area" means a district that has been assigned a zoning designation of District C-0, C-1, C-2 or C-3 in accordance with Chapters 19.32, 19.34, 19.36, and 19.38 of the Olathe Municipal Code.

(d) "Construction" means any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or of public or private rights-of-way, structures, buildings, utilities or similar property.

(e) "Decibel (dB)" means a unit for measuring the level of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the RMS pressure of the sound measured to the RMS reference pressure, which is 20 micropascals (20 micronewtons per square meter.)

(f) "Demolition" means any dismantling, intentional destruction or removal of structures, buildings, utilities, public or private right-of-way surfaces or similar property.

(g) "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

(h) "Emergency work" means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

(i) "Equivalent A-weighted sound level (Leq)" means the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. For the purposes of this ordinance, a time period of not less than ten (10) minutes, and representative of the noise condition of interest, shall be used, unless otherwise specified.

(j) "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

(k) "Impulsive sound" means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

(l) "Industrial area" means a district that has been assigned a zoning designation of District M-1, M-2 or M-3 in accordance with Chapters 19.42; 19.44; and 19.46 of the Olathe Municipal Code.

(m) "Motor carrier vehicle engaged in interstate commerce" means any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

(n) "Motor vehicle" means every vehicle which operates on land, other than a motorcycle, which is self-propelled as defined in K.S.A. 8-126.

(o) "Motorboat" means any vessel which operates in or on water, propelled by machinery, whether or not such machinery is the principal source of propulsion as defined in K.S.A. 32-1102. Such a vessel would include, but is not limited to, boats, barges, amphibious craft, water ski towing devices and hovercraft.

(p) "Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor", as defined in K.S.A. 8-126.

(q) "Muffler or sound dissipative device" means a device for abating the sound of escaping gases of an internal combustion engine, or for abating sound transmitted in a duct, chase, pipe or other opening.

(r) "Noise" means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

(s) "Noise control officer (NCO)" means the designated representative of the director of the Development Services, City of Olathe, where the responsibility for the city noise control program is established.

(t) "Noise disturbance" means any sound which

(a) endangers or injures the safety or health of humans or animals, or
(b) annoys or disturbs a reasonable person of normal sensitivities, or
(c) endangers or injures persons or real property.

(u) "Noise sensitive zone" means any area designated pursuant to Section 6.18.030 (a) (3) of this ordinance for the purpose of ensuring exceptional quiet.

(v) "Person" means any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

(w) "Planned unit development" means a district that has been assigned a zoning designation of District PUD in accordance with Chapter 19.10 of the Olathe Municipal Code.

(x) "Powered model vehicle" means any self-propelled airborne, waterborne, or landborne plane, vessel, or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

(y) "Public right-of-way" means any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

(z) "Public space" means any real property, buildings or structures thereon which are owned or controlled by a governmental entity.

(aa) "Pure tone" means any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this ordinance, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 dB for center frequencies of 500 Hz and above and by 8 dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

(bb) "Real property boundary" means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

(cc) "Recreational aircraft" means flying vehicles which have a primary purpose of sport flying, such as motorized hang gliders, ultralight aircraft and hot air balloons.

(dd) "Residential area" means a district that has been assigned a zoning designation of District R-A, R-A-1, R-1, R-2, R-3, R-4 or R-5 in accordance with Chapters 19.14; 19.16; 19.18; 19.20; 19.22; 19.24; 19.26 and 19.28 of the Olathe Municipal Code.

(ee) "RMS sound pressure" means the square root of the time averaged square of the sound pressure, denoted Prms.

(ff) "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium, and is the objective cause of hearing. The description of sound may include any characteristic of such sound, including duration, level and frequency.

(gg) "Sound level" means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.42 1986 (R 1998) or the latest approved revision thereof). If the frequency weighting is not indicated, the A-weighting shall apply. If the meter time response is not indicated, the "slow" response shall apply.

(hh) "Sound level meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels.

(ii) "Sound pressure" means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

(jj) "Sound pressure level" means 20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals (20 x 10-6 N/m2). The sound pressure level is denoted Lp or SPL and is expressed in decibels.

(kk) "Weekday" means any day Monday through Friday which is not a legal holiday. (Ord. 00-89 § 1, 2000; Ord. 87-30 § 26, 1987)

6.18.030 Powers/Duties of Noise Control Officer (NCO.)

(a) The noise control program established by this ordinance shall be administered by the Department of Development Services. In order to implement and enforce this ordinance, the director of the Development Services will appoint a noise control officer who shall have, in addition to any other authority vested, the power to:

(1) Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or records at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this ordinance may exist.

Such inspection may include administration of any necessary tests.

(2) In consonance with subparagraph (a) (1) preceding; Sections 6.18.130 and 6.18.140; other provisions of this ordinance and the city prosecutor, investigate and pursue possible violations of this ordinance.

(3) Prepare recommendations, to be approved by the Governing Body for the designation of noise-sensitive zones which contain noise-sensitive activities. Existing quiet zones shall be considered noise-sensitive zones until otherwise designated. Noise-sensitive activities include, but are not limited to, operations of schools, libraries open to the public, churches, hospitals, and nursing homes. (Ord. 00-89 § 2, 2000; Ord. 87-30 § 26, 1987; Ord. 85-13 § 1, 1985.)

6.18.040 Prohibited Acts. No person shall unreasonably make, continue, or cause to be made or continued, any noise disturbance. Non-commercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from the operation of this section. The following acts, and the causing thereof, are declared to be in violation of this ordinance:

(a) Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces, or amplifies sound:

(1) Between the hours of 11:00 p.m. and 7:00 a.m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone (except for activities open to the public and for which a permit has been issued by the city clerk.)

(2) In such a manner as to create a noise disturbance at 50 feet (15 meters) from such device, when operated in or on a motor vehicle on a public right-of-way or public space, or in a boat on public waters.

(3) In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier.

(4) This section shall not apply to non-commercial spoken language covered under subparagraph (b) following.

(b) Using or operating loudspeakers/public address systems as follows:

(1) For any non-commercial purpose any loudspeaker, public address system, or similar device between the hours of 11:00 p.m. and 7:00 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.

(2) For any commercial purpose any loudspeaker, public address system, or similar device;

[a] such that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive zone; or

[b] between the hours of 11:00 p.m. and 7:00 a.m. the following day on a public right-of-way or public space.

(c) Offering for sale anything by shouting or outcry within any residential or commercial area of the city (except by permit issued by the city clerk and/or except between the hours of 8:00 a.m. and 7:00 p.m.).

(d) Owning, possessing or harboring any animal or bird which frequently or for continued duration, howls, barks, meows, squawks, or makes other sounds which create a noise disturbance across a residential real property boundary or within a noise sensitive zone.

(e) Loading, unloading, opening, closing or other handling of boxes, crates, containers, trash, building materials or similar objects between the hours of 11:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

(f) Operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work:

(1) Between the hours of 11:00 p.m. and 7:00 a.m. the following day, seven days a week, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone, except for emergency work of public service utilities or by special variance issued pursuant to Section 6.18.050(a.)

(2) At any other time such that the sound level at or across a real property boundary exceeds 65 dba. This subsection shall not apply to construction hand tools (to include power tools) that are mobile in nature and are being used at a field construction site for temporary construction purposes.

(3) This section shall not apply to the use of domestic power tools subject to Section 6.18.040(p.)

(g) Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

(h) Airport and aircraft operations as provided following:

(1) The director of Development Services shall consult with the Johnson County Airport Commission to recommend changes in airport operations to minimize any noise disturbance which the airport manager may have authority to control.

(2) Nothing in this section shall be construed as to prohibit, restrict, penalize, enjoin, or in any manner regulate the movement of aircraft which are in all respects conducted in accordance with, or pursuant to, applicable federal laws or regulations.

(i) Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, or amplifies sound in any place of public entertainment at a sound level greater than 85 dba as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, near each public entrance, stating "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT."

(j) The use or firing of explosives, firearms, or similar devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right-of-way, without first obtaining a special variance issued pursuant to Section 6.18.050(a.). (Such permit need not be obtained for licensed game-hunting activities on property where such activities are authorized.)

(k) Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary, in a public space or within a noise sensitive zone between the hours of 11:00 p.m. and 7:00 a.m. the following day. Maximum sound levels in a public space during the permitted period of operation shall conform to those set forth for residential land use in Section 6.18.060(a) and shall be measured at a distance of 25 feet from any point on the path of the vehicle. Maximum sound levels for residential property and noise sensitive zones, during the permitted period of operation, shall be governed by Section 6.18.060(a) and Section 6.18.040(o) respectively.

(l) Stationary non-emergency signaling devices as provided following:

(1) Sounding or permitting the sounding of a signal from any stationary bell, chime, siren, whistle or similar device, intended primarily for non-emergency or non-warning purposes, from any place between the hours of 11:00 p.m. and 7:00 a.m. the following day and for more than three (3) minutes in any hourly period between the hours of 7:00 a.m. and 11:00 p.m.

(2) Sound sources covered by this provision and not exempted under subparagraph (1) preceding shall be exempted by the director of Development Services using criteria set forth in Section 6.18.050.

(m) Emergency signaling devices as provided following:

(1) The intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil emergency alarm, siren, whistle or similar stationary emergency signaling device, except for emergency or warning purposes or for testing, as provided in subparagraph (2) following:

(2) (a) Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before 7:00 a.m. or after 11:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed 10 minutes.

(b) Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur except as required for training, for testing after repairs or for proper functioning. Such testing shall not occur before 7:00 a.m. or after 11:00 p.m. The time limit specified in subparagraph (a) above shall not apply to such complete system testing.

(n) Operating or permitting the operation of any motorboat in any lake, river, stream, or other waterway in such a manner as to exceed a sound level of 88 dba at 25 feet or the nearest shoreline, whichever distance is less.

(o) The creation or causing of the creation of any sound within any noise sensitive zone designated pursuant to Section 6.18.030(a)(3):

(1) So as to disrupt the activities normally conducted within the zone, provided that conspicuous signs are displayed indicating the presence of the zone; or

(2) Containing a hospital, nursing home, or similar activity, so as to interfere with the functions of such activity or disturb or annoy the patients in the activity, provided that conspicuous signs are displayed indicating the presence of the zone.

(p) Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snowblower, or similar device used outdoors in residential areas between the hours of 11:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary, except for the twenty four (24) hour period immediately following a snowfall or other weather related emergency.

(q) Tampering acts or the causing thereof as follows:

(1) The removal or rendering inoperative by any person other than for purposes of maintenance, repair, or replacement, of any noise control device or element of design or noise label of any product.

(2) The intentional removing or rendering inaccurate or inoperative of any sound monitoring instrument or device positioned by or for the NCO.

(3) The use of a product which has had a noise control device or element of design or noise label removed or rendered inoperative, with knowledge that such action has occurred.

(r) Operating or permitting the operation of any parking lot sweeper or similar device that sweeps clean parking lots or sidewalks of trash, dirt, mud or other debris (exclusive of City street sweeping activities) between the hours of 11:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone. (Ord. 00-89 § 3, 2000; Ord. 85-13 § 1, 1985.)

6.18.050 Variances. The provisions of this ordinance shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or in the performance of emergency work. Variances may be requested as provided following:

(a) Special variances.

(1) The director of Development Services shall have the authority, consistent with this section, to grant special variances which may be requested pursuant to Sections 6.18.040(f) (Construction) and 6.18.040(j) (Explosives, firearms, and similar devices.)

(2) Any person seeking a special variance pursuant to this section shall file an application with the director of Development Services. Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special variance shall terminate it and subject the person holding it to those provisions of this ordinance regulating the source of sound or activity for which the special variance was granted.

(3) Application for extension of time limits specified in special variances or for modification of other substantial conditions shall be treated like applications for initial special variances under subparagraph (2) preceding.

(4) The director of Development Services may issue guidelines defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether to grant a special variance.

(b) Variances for time to comply.

(1) Within 60 days following the effective date of this ordinance, the owner of any commercial or industrial source of sound may apply to the director of Development Services for a variance in time to comply with Section 6.18.060. The director of Development Services shall have the authority, consistent with this section, to grant a variance, not to exceed 180 days from the effective date of this ordinance.

(2) Any person seeking a variance in time to comply shall file an application with the director of Development Services. The application shall contain information which demonstrates that bringing the source of sound or activity for which the variance is sought into compliance with this ordinance prior to the date requested in the application would constitute unreasonable hardship or be extremely difficult to accomplish within the allotted time.

(3) Applicants for variances for time to comply and persons contesting variances may be required to submit any information the director of Development Services may reasonably require. In granting or denying an application, the director of Development Services shall place on public file a copy of the decision and the reasons for denying or granting the variance in time to comply.

(4) Variances for time to comply shall be granted to the applicant containing all necessary conditions, including a schedule for achieving compliance. The variance for time to comply shall not become effective until all conditions are agreed to by the applicant. Non-compliance with any condition of the variance shall terminate the variance and subject the person holding it to those provisions of this ordinance for which the variance was granted.

(5) Application for extension of time limits specified in variances for time to comply or for modification of other substantial conditions shall be treated like applications for initial variances under subparagraph (2) preceding, except that the director of Development Services must find that the need for the extension or modification clearly outweighs any adverse impacts of granting the extension or modification.

(6) The director of Development Services may issue guidelines defining the procedures to be followed in applying for a variance for time to comply and the criteria to be considered in deciding whether to grant a variance.

(c) Appeals. Appeals of an adverse decision of the director of Development Services shall be made to the Board of Zoning Appeals as it is constituted in Section 19.64.020 of the Olathe Municipal Code (OMC). The procedure for filing an appeal with the Board of Zoning Appeals will be the same as provided in Sections 19.64.030 and 19.64.040(a) of the (OMC). The Board of Zoning Appeals, in review of an appeal of the director of Development Services as provided for in this ordinance, will be guided by criteria as developed under subparagraph (6) preceding and their interpretation of this ordinance. Should the appellant desire, the decision of the Board of Zoning Appeals may be further appealed to the District Court of Johnson County for judicial decision. (Ord. 00-89 § 4, 2000; Ord. 85-13 § 1, 1985.)

6.18.060 Sound Levels by Receiving Land Use.

(a) No person shall operate or cause to be operated on private property any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category shown following when measured at or within the property boundary of the receiving land use:

Sound Levels by Receiving Land Use

Receiving land-use category	Time	Sound level limit, dba
R-A, R-A-1, R-1, R-2, R-3, R-4, R-5, PUD, A (Residential, public space, open space or agricultural or institutional)	7:00 a.m.-11:00 p.m.	55
	11:00 p.m.-7:00 a.m.	50

C-O, C-1, C-2, C-3 (Commercial or business)	At all times	65
M-1, M-2, M-3 (Industrial)	At all times	70

(b) For any source of sound which emits a pure tone or impulsive sound, the maximum sound level limits set forth in subparagraph (a) preceding shall be reduced by 5 dba.

(c) The provisions of this section shall not apply to the unamplified human voice, interstate railway locomotives and railway cars, and any agricultural activity.

(d) When background sound levels exceed those Sound Level Limits identified by the table in 6.18.060 (a) due to indistinguishable noise sources (such as but not limited to; freeways, wind, birds, crickets, etc.) a particular sound is not a violation of this Noise Control Ordinance unless it exceeds a Leq of 5 dB(A) above the background sound level. Appropriate noise level measurements will be taken on the receiving property to determine the background noise level and the level of the suspect sound. If the suspect sound is determined to exceed a Leq of 5 dB(A) above the background sound level, the creation of this sound is a violation of the ordinance. (Ord. 00-89 § 5, 2000; Ord. 85-13 § 1, 1985.)

6.18.070 Motor Vehicle Maximum Sound Levels.

(a) No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound emitted by the motor vehicle or motorcycle exceeds the level set forth following:

Motor Vehicle and Motorcycle Sound Limits
(Measured at 50 Feet or 15.2 Meters)

	Sound level in dba		
Vehicle Class	Speed Limit 35 MPH or Less	Speed Limit over 35 MPH	Stationary run-up
All motor vehicles of GVWR or GCWR of 10,000 lbs. or more	88	92	87
Any motorcycle	84	88	84
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	78	82	78

(b) Mufflers and sound dissipative devices.

(1) No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation.

(2) No person shall remove or render inoperative, or cause to be removed or rendered inoperative other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle.

(c) No person shall sound a horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except as provided in K.S.A. 8-1738.

(d) No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (CVWR) in excess of ten thousand (10,000) pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than 30 minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space within 300 feet (92 meters) of a residential area or designated noise sensitive zone, between the hours of 11:00 p.m. and 7:00 a.m. the following day.

(e) No person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted therefrom exceeds the limits set forth following at a distance of 50 feet (15.2 meters) or more from the path of the vehicle when operated on a public space or at or across the boundary of private property when operated on private property. This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or non-commercial racing vehicles, motorcycles, go-carts, snowmobiles, amphibious craft, campers, dune buggies and recreational aircraft, but not including motorboats:

Recreational Motorized Vehicle Sound Limits
(Measured at 50 Feet or 15.2 Meters)

Vehicle Type	Sound Level, dba
Motorcycle	88
Any other vehicle	82

(Ord. 04-121 § 1, 2004; Ord. 00-89 § 6, 2000; Ord. 85-13 § 1, 1985.)

6.18.080 Immediate Threats to Health and Welfare.

(a) The director of Development Services shall order an immediate halt to any sound which exposes any person, except those excluded pursuant to subparagraph (b) following, to continuous sound levels or to impulsive sound levels in excess of those shown in the tables of subparagraph (e) following. Within 10 days following issuance of such an order, the municipal counsel shall apply to the appropriate court for an injunction to replace the order.

(b) No order pursuant to subparagraph (a) preceding shall be issued if the only persons exposed to sound levels in excess of those listed in subsection (e) following are exposed as a result of

(1) trespass:
(2) invitation upon private property by the person causing or permitting the sound; or
(3) employment by the person or a contractor of the person causing or permitting the sound. (Employee exposure at their work place are exempted because employee sound exposure levels are regulated under the Occupational Safety and Health Act.)

(c) Any person subject to an order issued pursuant to subparagraph (a) preceding shall comply with such order until:

(1) the sound is brought into compliance with the order, as determined by the director of Development Services; and
(2) a judicial order has superseded the director of Development Services order.

(d) Any person who violates an order issued pursuant to this section shall, for each day of violation, be fined not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00.)

(e) The tables following list the sound level limits which could pose an immediate threat to public health and welfare, as measured at any point that is normally occupied by a person:

Continuous Sound Levels which Pose an Immediate Threat

Sound Levels Limit, Leq	Duration
90	24 Hours
93	12 Hours
96	6 Hours
99	3 Hours
102	1.5 Hours
105	45 Minutes
108	22 Minutes

Impulsive Sound Levels which Pose an Immediate Threat

Sound Level Limit (dba) (As measured using "impulse" meter time response)	Number of Repetitions per 24 hour period

145	1
135	10
125	100

(Ord. 00-89 § 7, 2000; Ord. 85-13 § 1, 1985.)

6.18.090 Compliance Required--Violation--Penalty. It is unlawful for any person, corporation, association, partnership or individual to fail to comply with any lawful orders issued pursuant to the provisions of this chapter. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding Five Hundred Dollars ($500.00) or be imprisoned in the county jail for a period not exceeding one (1) year or be so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. 85-13 § 1, 1985.)

6.18.100 Manner of Enforcement. Violation of this chapter shall be prosecuted in the same manner as other misdemeanor violations of the city's code; provided, however, that in the event of violation of Sections 6.18.060 and 6.18.070, a written notice of intention to prosecute will be given the alleged violator not less than ten (10) calendar days prior to the issuance of a misdemeanor complaint. No complaint shall be issued in the event the cause of the violation is removed, the condition abated or fully corrected within such ten (10) day period. In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required herein shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his or her last known address or at the place where the violation occurred, in which event the ten (10) day period shall commence on the date of the day following the receipt of such notice. (Ord. 85-13 § 1, 1985.)

6.18.110 Injunction. As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof and which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed, and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by the District Court of Johnson County, Kansas. (Ord. 85-13 § 1, 1985.)

6.18.120 Other Remedies. No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this chapter or from other law. (Ord. 85-13 § 1, 1985.)

6.18.130 Liability. No officer, agent, Governing Body member or employee of the City of Olathe shall render himself or herself personally liable for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his or her duties under this chapter. (Ord. 87-30 § 27, 1987; Ord. 85-13 § 1, 1985.)

6.18.140 Separability. If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof. (Ord. 85-13 § 1, 1985.)

CHAPTER 6.20

INDOOR CLEAN AIR

Sections:

6.20.010	Short Title
6.20.020	Definitions
6.20.030	Prohibition of Smoking in Enclosed Places of Employment and All Enclosed Public Spaces
6.20.040	Responsibilities of Employers, Proprietors, Owners and Managers
6.20.050	Exceptions
6.20.060	Posting of Signs on Buildings or Areas in Which Smoking Is Permitted
6.20.070	Retaliation Prohibited
6.20.080	Enforcement
6.20.090	Penalties
6.20.100	Other Applicable Laws

6.20.010 Short Title. This Chapter shall be known and may be cited as the Olathe Indoor Clean Air Ordinance. (Ord. 10-44 § 1, 2010; Ord. 06-97 § 1, 2006.)

6.20.020 Definitions. For the purposes of this Chapter, the following terms, phrases, words and their derivations shall have the following meaning:

Access point means the area within a ten (10) foot radius outside of any doorway, open window or air intake leading into a building or facility that is not exempted pursuant to Section 6.20.050.

Bar means any indoor area that is operated and licensed for the sale and service of alcoholic beverages, including alcoholic liquor as defined in K.S.A. 41-102, and amendments thereto, or cereal malt beverages as defined in K.S.A. 41-2701, and amendments thereto, for on-premises consumption.

Educational facility means any building used for instruction of enrolled students, including, but not limited to, any day care center, nursery school, public or private school, college, university, medical school, law school, or career and technical education school. Single family "Home Schooling" in a private residence shall not be deemed an educational facility.

Electronic Cigarette means a battery-powered device, whether or not such device is shaped like a cigarette, which can provide inhaled doses of nicotine by delivering a vaporized solution by means of cartridges or other chemical delivery systems.

Employee means any person, who is employed by an employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers their services for a nonprofit entity.

Employer means a person, partnership, corporation, association or organization, including municipal or nonprofit entities, which employs one or more individual persons.

Enclosed area means all space between a floor and ceiling which is enclosed on all sides by solid walls, windows or doorways which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid or similar structures. For purposes of this section, the following shall not be considered an "enclosed area":

A. Rooms or areas, enclosed by walls, windows or doorways, having neither a ceiling nor a roof and which are completely open to the elements and weather at all times; and

B. Rooms or areas, enclosed by walls, fences, windows or doorways and a roof or ceiling, having openings that are permanently open to the elements and weather and which comprise an area that is at least 30% of the total perimeter wall area of such room or area.

Food service establishment means any place in which food is served or is prepared for sale or service on the premises. Such term shall include, but not be limited to, fixed or mobile restaurants, coffee shops, cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich shops, soda fountains, taverns, private clubs, roadside kitchens, commissaries and any other private, public or nonprofit organization or institution routinely serving food and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

Medical care facility means a physician's office, general hospital, special hospital, ambulatory surgery center or recuperation center, as defined by K.S.A. 65-425, and amendments thereto, and any psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto.

Outdoor recreational facility means a hunting, fishing, shooting or golf club, business or enterprise operated primarily for the benefit of its owners, members and their guests and not normally open to the general public.

Place of employment means any enclosed area under the control of a public or private employer, including, but not limited to, work areas, auditoriums, elevators, private offices, employee lounges and restrooms, conference and meeting rooms, classrooms, employee cafeterias, stairwells and hallways, that is used by employees during the course of employment. For purposes of this section, a private residence shall not be considered a ''place of employment'' unless such residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto.

Private club means an outdoor recreational facility operated primarily for the use of its owners, members and their guests that in its ordinary course of business is not open to the general public for which use of its facilities has substantial dues or membership fee requirements for its members.

Proprietor means any person who owns, leases, operates, manages, or otherwise has control of any establishment, building, or enclosed area. The term "proprietor" includes corporations, associations, non-profit entities, or partnerships as well as individuals.

Public building means any building owned or operated by:

A. The state, including any branch, department, agency, bureau, commission, authority or other instrumentality thereof;
B. Any county, city, township, other political subdivision, including any commission, authority, agency or instrumentality thereof; or
C. Any other separate corporate instrumentality or unit of the state or any municipality.

Public meeting means any meeting open to the public pursuant to K.S.A. 75-4317 et seq., and amendments thereto, or any other law of this state.

Public transportation means any air, land, or water vehicle used for the mass transportation of persons in intrastate travel for compensation, including, but not limited to, any airplane, train, bus, or boat that is not subject to federal smoking regulations.

Public places means any enclosed areas open to the public or used by the general public including, but not limited to: Banks, bars, food service establishments, retail service establishments, retail stores, public means of mass transportation, passenger elevators, health care institutions or any other place where health care services are provided to the public, medical care facilities, educational facilities, libraries, courtrooms, public buildings, restrooms, grocery stores, school buses, museums, theaters, auditoriums, arenas and recreational facilities. For purposes of this section, a private residence shall not be considered a ''public place'' unless such residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto.

Recreational facility means, but is not limited to, any enclosed, indoor area used by the general public and used as a sports pavilion, health spa, boxing arena, bowling alley, swimming pool, stadium, arena, roller or ice skating rink, video game facility, senior citizen recreational facility or other similar place where members of the general public assemble either to engage in physical exercise, participate in athletic competition or witness a sporting event.

Smoke or smoking means possession of a lighted cigarette, cigar, pipe or any other lighted smoking equipment burning tobacco in any other form or device designed for the use of tobacco or use of an electronic or battery-powered vaporizer (such as e-cigarette/electronic cigarette) that simulates tobacco smoking by producing an aerosol that resembles smoke.

Substantial dues or membership fee requirements means initiation costs, dues or fees proportional to the cost of membership in similarly-situated outdoor recreational facilities that are not considered nominal and implemented to otherwise avoid or evade restrictions of a statewide ban on smoking.

Tobacco shop means any indoor area operated primarily for the retail sale of tobacco, tobacco products or smoking devices or accessories, and which derives not less than eighty (80%) of its gross receipts from the sale of tobacco.

Vapor retailer means any indoor area operated primarily for the retail sale of an electronic or battery-powered vaporizer and vapor-related accessories, and which derives not less than eighty (80%) of its gross receipts from the sale of electronic or battery-powered vaporizers and vapor-related accessories. (Ord. 15-10 § 1, 2015; Ord. 10-44 § 1, 2010; Ord. 06-97 § 1, 2006.)

6.20.030 Prohibition of Smoking in Enclosed Places of Employment and All Enclosed Public Spaces. It shall be unlawful, with no requirement of a culpable mental state, to smoke in an enclosed area or at a public meeting including, but not limited to:

A. Public places;

B. Any vehicle of public transportation, including but not limited to buses, taxicabs and limousines;

C. Restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-residential facilities;

D. Restrooms, lobbies and other common areas in hotels and motels and in at least eighty percent (80%) of the sleeping quarters within a hotel or motel that may be rented to guests;

E. Access points of all buildings and facilities not exempted pursuant to Section 6.20.050; and

F. Any place of employment. (Ord. 12-37 § 1, 2012; Ord. 10-44 § 1, 2010; Ord. 06-97 § 1, 2006.)

6.20.040 Responsibilities of Employers, Proprietors, Owners and Managers.

A. The proprietor or other person in charge of the premises of a public place, or other area where smoking is prohibited, shall post or cause to be posted in a conspicuous place signs displaying the international no smoking symbol and clearly stating that smoking is prohibited by state law.

B. Each employer having a place of employment that is an enclosed area shall provide a smoke-free workplace for all employees. Such employer shall also adopt and maintain a written smoking policy which shall prohibit smoking without exception in all areas of the place of employment. Such policy shall be communicated to all current employees within one (1) week of its adoption and shall be communicated to all new employees upon hiring. Each employer shall provide a written copy of the smoking policy upon request to any current or prospective employee.

C. Notwithstanding any other provision of this section, the proprietor or other person in charge of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, or a medical care facility, may designate a portion of such adult care home, or the licensed long-term care unit of such medical care facility, as a smoking area, and smoking may be permitted within such designated smoking area. (Ord. 10-44 § 1, 2010; Ord. 06-97 § 1, 2006.)

6.20.050 Exceptions. The provisions of this Chapter shall not apply to:

A. The outdoor areas of any building or facility beyond the access points of such building or facility;

B. Private homes or residences, except when such home or residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto;

C. A hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty percent (20%);

D. The gaming floor of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto;

E. That portion of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, that is expressly designated as a smoking area by the proprietor or other person in charge of such adult care home pursuant to Section 6.20.040 C and that is fully enclosed and ventilated;

F. That portion of a licensed long-term care unit of a medical care facility that is expressly designated as a smoking area by the proprietor or other person in charge of such medical care facility pursuant to Section 6.20.040 C and that is fully enclosed and ventilated and to which access is restricted to the residents and their guests;

G. Tobacco shops;

H. A class “A” or class “B” club as defined in K.S.A. 41-2601, and amendments thereto, which:

1. Held a license pursuant to K.S.A. 41-2606 et seq., and amendments thereto, as of January 1, 2009; and

2. Notifies the secretary of health and environment in writing, not later than ninety (90) days after the effective date of the Kansas Clean Air Act, that it wishes to continue to allow smoking on its premises;

I. A private club in designated areas where minors are prohibited; and

J. Vapor retailers. (Ord. 15-10 § 2, 2015; Ord. 10-44 § 1, 2010; Ord. 06-97 § 1, 2006.)

6.20.060 Posting of Signs on Buildings or Areas in Which Smoking is Permitted. The proprietor of any building or area in which smoking is not prohibited by this Chapter who allows smoking in any building or area or part thereof shall post and properly maintain signs in an appropriate place on such building or area, in a clear, conspicuous, and prominent manner, stating **"Warning: Smoking Permitted."** This section shall not be construed as requiring the posting of signs on private homes, private residences or private automobiles. (Ord. 10-44 § 1, 2010; Ord. 06-97 § 1, 2006.)

6.20.070 Retaliation Prohibited. No employer shall discharge, refuse to hire or in any manner retaliate against an employee, applicant for employment or customer because that employee, applicant or customer reports or attempts to prosecute a violation of any of the provisions of Sections 6.20.030 and 6.20.040. (Ord. 10-44 § 1, 2010; Ord. 06-97 § 1, 2006.)

6.20.080 Enforcement.

A. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, to fail to comply with all or any of the provisions of Sections 6.20.030 and/or 6.20.040.

B. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, to allow smoking to occur where prohibited by law. Any such person shall be deemed to allow smoking to occur under this subsection if such person:

1. Has knowledge that smoking is occurring; and
2. Acquiesces to the smoking under the totality of the circumstances.

C. It shall be unlawful for any person, with no requirement of a culpable mental state, to smoke in any area where smoking is prohibited by the provisions of Sections 6.20.030 and/or 6.20.040.

D. The authority to administer the provisions of this Chapter is vested in the Fire Chief and his/her duly authorized representatives.

E. Whenever the need arises, the Fire Chief may call upon the fire and police departments and other departments of the City to aid in the enforcement of the provisions of this Chapter.

F. Any citizen who desires to register a complaint under this Chapter may initiate enforcement with the Fire Chief. (Ord. 12-37 § 2, 2012; Ord. 10-44 § 1, 2010; Ord. 06-97 § 1, 2006.)

6.20.090 Penalties.

A. Any person who violates any provision of Sections 6.20.030 and/or 6.20.040, shall be guilty of a cigarette or tobacco infraction punishable by a fine:

1. Not exceeding $100 for the first violation;
2. Not exceeding $200 for a second violation within a one (1) year period after the first violation; or
3. Not exceeding $500 for a third or subsequent violation within a one (1) year period after the first violation.

For purposes of this subsection, the number of violations within a year shall be measured by the date the smoking violations occur.

B. Each individual allowed to smoke by a person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, in violation of Section 6.20.080 B shall be considered a separate violation for purposes of determining the number of violations under Section 6.20.090. (Ord. 10-44 § 1, 2010; Ord. 06-97 § 1, 2006.)

6.20.100 Other Applicable Laws. This Chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. (Ord. 10-44 § 1, 2010; Ord. 06-97 § 1, 2006.)

TITLE 7

LIQUOR LAWS

CHAPTERS:

7.02 General Provisions
7.04 Retail Liquor Stores
7.06 Drinking Establishments
7.08 Private Clubs
7.10 Caterers
7.12 Temporary Permits
7.14 Cereal Malt Beverages
7.16 Suspension and Revocation
7.18 Penalty
7.20 The Sunday Sale and Holiday Sale of Alcoholic Liquor and Cereal Malt Beverage

CHAPTER 7.02

GENERAL PROVISIONS

Sections:

7.02.010 Definitions
7.02.020 Restriction on Location
7.02.030 Minors on Premises
7.02.040 Consumption on Public Property (Repealed 3/17/15)
7.02.050 Possession on Public Property (Repealed 3/17/15)
7.02.060 Consumption on Private Property (Repealed 3/17/15)
7.02.070 Possession on Private Property (Repealed 3/17/15)
7.02.080 Sale of Liquor to Incapacitated or Intoxicated Persons (Repealed 3/17/15)
7.02.090 Purchase or Consumption of Alcoholic Beverages by Minor; Penalty (Repealed 10/21/03)
7.02.100 Permitting Possession or Consumption of Alcohol or Cereal Malt Beverage on Licensed Premises by a Minor Prohibited.
7.02.110 Open Saloon (Repealed 3/17/15)
7.02.120 Standards of Conduct
7.02.130 Prohibited Acts
7.02.140 Regulation of Nude Dancing
7.02.150 Sanitary Conditions Required
7.02.160 License Limited to Premises
7.02.170 Right of Entry and Inspection
7.02.180 Habitual Public Nuisance

7.02.010 Definitions. As used in this Title, the words and phrases herein defined shall have the following meanings:

"Alcoholic Liquor" includes the four varieties of liquor; namely, alcohol, spirits, wine and beer, and every liquid or solid, patented or not containing alcohol, spirits, wine or beer, capable of being consumed as a beverage by a human being, but shall not include cereal malt beverage.

"Caterer" means an individual, partnership or corporation licensed pursuant to Article 26 of Chapter 41 of the Kansas Statutes Annotated which sells alcoholic liquor by the individual drink, and provides services relating 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.

"Cereal Malt Beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt substitute, but does not include any such liquor which is more than three and two-tenths percent (3.2%) alcohol by weight.

"Class A Club" means a premises licensed pursuant to Article 26 of Chapter 41 of the Kansas Statutes Annotated and which is owned or leased by a corporation, partnership, business, trust or association and which is operated thereby as a bonafide non-profit social, fraternal or war veterans' club, as determined by the director of Alcohol Beverage Control of the Kansas Department of Revenue, 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.

"Class B Club" means a premises licensed pursuant to Article 26 of Chapter 41 of the Kansas Statutes Annotated and which is operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverage and for entertainment.

"Club" means a Class A or Class B Club.

"Club and Drinking Establishment Act" means the provisions of Article 26 of Chapter 41 of the Kansas Statutes Annotated and any amendments thereto.

"Drinking Establishment" means premises licensed pursuant to Article 26 of Chapter 41 of the Kansas Statutes Annotated and which may be open to the general public, where alcoholic liquor by the individual drink is sold.

“Individual Drink” means a beverage containing alcoholic liquor or cereal malt beverage served to an individual for consumption by such individual or another individual, but which is not intended to be consumed by two or more individuals. The term “individual drink” includes beverages containing not more than: (1) Eight ounces of wine; (2) thirty-two ounces of beer or cereal malt beverage; or (3) four ounces of a single spirit or a combination of spirits.

“Legal Age of Consumption of Cereal Malt Beverages” means twenty-one (21) years of age; except that “Legal Age of Consumption for Cereal Malt Beverage” shall mean eighteen (18) years of age if at any time the provisions of PL98-363 penalizing states for permitting persons under twenty-one (21) years of age to consume cereal malt beverage are repealed or otherwise invalidated or nullified.

“Licensee” is any person who applies for and receives a license which allows the licensee to sell alcoholic liquor or cereal malt beverages.

"Person" includes any natural person, corporation, partnership or association.

“Place of Business” means any place at which alcoholic liquor or cereal malt beverages are sold.

“Premises” means the specific area described in the license application and approved as the location upon which the cereal malt beverages and/or alcoholic liquor may be sold and/or consumed under the license.

"Retailer" means a person who sells, or offers for sale, alcoholic liquors or cereal malt beverages for use and consumption and not for resale in any form.

"Sale" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and included and means all sales made by any person, whether principal, proprietor, agent, servant or employee.

‘‘Powdered Alcohol’’ means alcohol that is prepared in a powdered or crystal form for either direct use or for reconstitution in a nonalcoholic liquid.

“Public Venue" means an arena, stadium, hall or theater, used primarily for athletic or sporting events, live concerts, live theatrical productions or similar seasonal entertainment events, not operated on a daily basis, and containing:

1. Not less than 4,000 permanent seats; and
2. not less than two private suites, which are enclosed or semi-enclosed seating areas, having controlled access and separated from the general admission areas by a permanent barrier.

“Sample’’ means a serving of alcoholic liquor which contains not more than: (1) One-half ounce of distilled spirits; (2) one ounce of wine; or (3) two ounces of beer or cereal malt beverage. A sample of a mixed alcoholic beverage shall contain not more than one-half ounce of distilled spirits.

"School" means any institution of learning, whether public or private. This definition includes, but is not limited to, a nursery school, kindergarten, elementary school, junior high school, senior high school, college and university. However, for the purposes of this Title, any institution of learning whether public or private located within a typically enclosed mall with a climate-controlled walkway between two facing strips of stores will not be considered a school.

"Temporary Permit" means a temporary permit issued pursuant to Article 26 of Chapter 41 of the Kansas Statutes Annotated.

"To Sell" includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell. (Ord. 15-63 § 1, 2015; Ord. 15-23 § 1, 2015; Ord. 14-14 § 1, 2014; Ord. 06-109 § 1, 2006; Ord. 05-141 § 1, 2005; Ord. 01-64 § 1, 2001; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.02.020 Restriction on Location

A. No alcoholic liquor or cereal malt beverage shall be sold or served by a person holding a license or permit from the City whose place of business or other premises are located within two hundred (200) feet of any church or school, said distance to be measured from the nearest property line of such church or school to the nearest portion of the building occupied by the premises; provided, however, that if such school or church is established within two hundred (200) feet of any licensed premises after the premises has been licensed, or such church or school provides written consent approved by its governing authority, the premises shall continue to be an eligible location for an alcoholic liquor license.

B. No license or permit shall be issued for the sale of alcoholic liquor or cereal malt beverage if the building or use does not meet the zoning ordinance requirements of the City or conflicts with the other City laws, including building, fire and health codes. (Ord. 16-07 § 1, 2016; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.02.030 Minors on Premises.

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

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

C. This Section shall not apply if:

1. The person under the age of twenty-one (21) years is accompanied by his or her parent or guardian, or
2. The licensed or permitted premises derives not less than fifty percent (50%) of its gross receipts in each calendar year from the sale of food for on-premises consumption; or
3. The primary purpose of the licensed or permitted premises is a public golf course or art studio. (Ord. 16-07 § 2, 2016; Ord. 09-30 § 2, 2009; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.02.040 Consumption on Public Property. Repealed 3/17/15. (Ord. 15-23 § 2, 2015; Ord. 13-64 § 1, 2013; Ord. 08-102 § 1, 2008; Ord. 01-54 § 1, 2001; Ord. 97-51 § 2, 1997; Ord. 89-150 § 1, 1990; Ord. 88-121 § 1, 1988; Ord. 87-139 § 1, 1987.)

7.02.050 Possession on Public Property. Repealed 3/17/15. (Ord. 15-23 § 3, 2015; Ord. 13-64 § 2, 2013; Ord. 08-102 § 2, 2008; Ord. 01-54 § 2, 2001; Ord. 97-51 § 2, 1997; Ord. 89-150 § 2, 1990; Ord. 88-121 § 2, 1988.)

7.02.060 Consumption on Private Property--Exceptions. Repealed 3/17/15. (Ord. 15-23 § 4, 2015; Ord. 97-51 § 2, 1997; Ord. 89-150 § 3, 1990; Ord. 88-121 § 3, 1988; Ord. 87-139 § 1, 1987.)

7.02.070 Possession on Private Property. Repealed 3/17/15. (Ord. 15-23 § 5, 2015; Ord. 97-51 § 2, 1997; Ord. 89-150 § 4, 1990; Ord. 88-121 § 4, 1988; Ord. 87-139 § 1, 1987.)

7.02.080 Sale of Liquor to Incapacitated or Intoxicated Person. Repealed 3/17/15. (Ord. 15-23 § 6, 2015; Ord. 97-51 § 2, 1997; Ord. 89-150 § 5, 1990; Ord. 87-139 § 1, 1987.)

7.020.090 Purchase or Consumption of Alcoholic Beverage by Minor; Penalty. Repealed 10/21/03. (Ord. 03-91 § 1, 2003; Ord. 01-56 § 1, 2001; Ord. 00-44 § 1, 2000; Ord. 97-51 § 2, 1997; Ord. 89-150 § 6, 1990; Ord. 88-121 § 5, 1988; Ord. 87-139 § 1, 1987.)

7.02.100 Permitting Possession or Consumption of Alcohol or Cereal Malt Beverage on Licensed Premises by a Minor Prohibited.

A. No licensee or permit holder, or any owner, officer or employee thereof, shall knowingly or unknowingly permit the possession or consumption of alcoholic liquor or cereal malt beverage by a minor on premises where alcoholic beverages are sold by such licensee or permit holder, except that a licensee's or permit holder's employee who is not less than 18 years of age may serve alcoholic liquor or cereal malt beverage under the on-premises supervision of the licensee or permit holder, or an employee who is 21 years of age or older.

B. The minimum penalty shall be:

1. Upon a first violation, a fine of Two Hundred Fifty Dollars ($250.00);
2. Upon a second violation charged within a three (3) year period of a prior violation, a fine of Five Hundred Dollars ($500.00);
3. Upon a third violation charged within a three (3) year period of a prior violation, a fine of Seven Hundred Fifty Dollars ($750.00), and
4. Upon a fourth violation charged within a three (3) year period of a prior violation, a fine of One Thousand Dollars ($1,000.00) and revocation of City license.
5. The three (3) year time period is calculated from the date the Police Chief or designated representative issues an order that a first violation occurred. Any violation charged during the ensuing three (3) year time period (irrespective of the date the Police Chief or designated representative issues the order that another violation has occurred) is calculated towards the enhanced penalty.

C. It shall be a defense to a civil fine under this section if:

1. The licensee or permit holder, or any owner, officer or employee permitted the minor to possess or consume the alcoholic liquor or cereal malt beverage with reasonable cause to believe that the minor was 21 or more years of age; and
2. To possess or consume the alcoholic liquor or cereal malt beverage, the minor exhibited to the licensee or permit holder, or any owner, officer or employee a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was 21 or more years of age.

D. This section shall not apply to the furnishing of cereal malt beverage by a parent or legal guardian to such parent's child or such guardian's ward. (Ord. 15-23 § 7, 2015; Ord. 13-08 § 1, 2013; Ord. 97-51 § 2, 1997; Ord. 89-150 § 7, 1990.)

7.02.110 Open Saloon. Repealed 3/17/15. (Ord. 15-23 § 8, 2015; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.02.120 Standards of Conduct. It shall be unlawful for any licensee or holder of temporary permit under this title to:

A. Employ any person under the age of eighteen (18) years in connection with the serving of alcoholic liquor.

B. Employ knowingly or continue in employment any person in connection with the dispensing or serving of alcoholic liquor or the mixing of drinks containing alcoholic liquor who have been adjudged guilty of a felony or of any crime involving a morals charge in this or any other state, or of the United States.

C. Knowingly employ or continue to employ any person in connection with the dispensing or serving of alcoholic liquor, or the mixing of drinks containing alcoholic liquor, who has been adjudged guilty of two or more violations of K.S.A. 2012 Supp. 21-5607, and amendments thereto, furnishing alcoholic liquor to minors or a similar law of any other state, or of the United States, pertaining to furnishing alcoholic liquor to minors within the immediately preceding five (5) years, or who has been adjudged guilty of three or more violations of any intoxicating liquor law of this or any other state, or of the United States, not involving the furnishing of alcoholic liquor to minors within the immediately preceding five years.

D. In the case of a club, fail to maintain at the licensed premises a current list of all members and their residence addresses, or refuse to allow any law enforcement officer to inspect such list.

E. Purchase alcoholic liquor from any person except from a person authorized by law to sell such alcoholic liquor to such licensee or permit holder.

F. Permit any employee of the licensee or permit holder who is under the age of twenty-one (21) years to work on premises where alcoholic liquor is sold by such licensee or permit holder at any time when not under the on-premises supervision of either the licensee or permit holder, or an employee who is twenty-one (21) years of age or over.

G. Employ any person under twenty-one (21) years of age in connection with the mixing or dispensing of drinks containing alcoholic liquor.

H. Allow, without preventing or suppressing, any violent quarrel, disorder, brawl, fight or other unlawful conduct of any person on the premises. As used in this section, “premises” includes the licensed premises and the parking lots and areas around the business which are owned, used or maintained as part of the business.

I. Fail to immediately report to the police any illegal or violent act committed on the premises when the licensee or the licensee’s employee knew or should have known that the act occurred on the premises.

J. Fail to cooperate fully with law enforcement authorities during an investigation of an illegal or violent act committed on the premises.

K. Operate the business in such a manner that it constitutes a nuisance or keeping a disorderly premises.

L. Fail to take appropriate and necessary steps to supervise the outdoor area of the premises including keeping the area free from litter and preventing the parking area from becoming a gathering place for customers of the business.

M. Fail to comply with all provisions of this Chapter and this Code.

N. Fail to prominently post the occupancy of the licensed premises. (Ord. 14-14 § 2, 2014; Ord. 05-141 § 2, 2005; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.02.130 Prohibited Acts.

A. No club, drinking establishments, cereal malt beverage licensee, caterer or holder of a temporary permit, or any person acting as an employee or agent thereof, shall:

1. Offer or serve any free cereal malt beverage or alcoholic liquor in any form to any person;
2. Offer to serve to any person an individual drink at a price that is less than acquisition cost of the individual drink to the licensee or permit holder; (KSA 41-2640 2012)
3. Sell, offer to sell or serve to any person an unlimited number of individual drinks during any set period of time for a fixed price, except at private functions not open to the general public or to the general membership of a club;
4. Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of individual drinks as prizes;
5. Sell, offer to sell or serve free of charge any form of powdered alcohol, as defined in K.S.A. 41-102, and amendments thereto;
6. Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections A 1 through 4; or
7. Sell, give away, dispose of, exchange or deliver any cereal malt beverage or alcoholic liquor to or for any person who is an incapacitated person, or any person who is physically or mentally incapacitated by the consumption of alcoholic liquor or cereal malt beverage.
8. It shall be unlawful for an owner, operator, manager or employee of any business establishment that is licensed or holds a permit to sell alcoholic liquor or cereal malt beverages for consumption upon the premises, to permit or allow the making or continuing of any noise upon said licensed premises in violation of Chapter 6.18 and/or Section 9.11.150 of the Olathe Municipal Code. There shall be a rebuttable presumption that the making or continuing of any noise upon licensed premises has been permitted or allowed by the owner, operator, manager and employee of said licensed premises.

B. A public venue, club, drinking establishment, caterer or holder of temporary permit may:

1. Offer free food or entertainment at any time;
2. Sell or deliver wine by the bottle or carafe;
3. Sell, offer to sell and serve individual drinks at different prices throughout any day;
4. Sell or serve beer or cereal malt beverage in a pitcher capable of containing not more than 64 fluid ounces;
5. Offer samples of alcoholic liquor free of charge as authorized by the Club and Drinking Establishment Act; or
6. Sell or serve margarita, sangria, daiquiri, mojito or other mixed alcoholic beverages as approved by the state director of Alcoholic Beverage Control.

C. A hotel of which the entire premises is licensed as a drinking establishment may, in accordance with rules and regulations adopted by the Kansas Secretary of Revenue, distribute to its guests coupons redeemable on the hotel premises for drinks containing alcoholic liquor. The hotel shall remit liquor drink tax in accordance with the provisions of the liquor drink tax act, K.S.A. 79-41a01 et seq., and amendments thereto, on each drink served based on a price which is not less than the acquisition cost of the drink.

D. A hotel of which the entire premises is not licensed as a drinking establishment may, in accordance with rules and regulations adopted by the secretary, through an agreement with one or more clubs or drinking establishments, distribute to its guests coupons redeemable at such clubs or drinking establishments for drinks containing alcoholic liquor. Each club or drinking establishment redeeming coupons issued by a hotel shall collect from the hotel the agreed price, which shall be not less than the acquisition cost of the drink plus the liquor drink tax for each drink served. The club or drinking establishment shall collect and remit the liquor drink tax in accordance with the provisions of the liquor drink tax act, K.S.A. 79-41a01 et seq., and amendments thereto.

E. A public venue, club or drinking establishment may offer customer self-service of wine from automated devices on licensed premises so long as the licensee monitors and has the ability to control the dispensing of such wine from the automated devices. (Ord. 15-63 § 2, 2015; Ord. 14-14 § 3, 2014; Ord. 09-30 § 2, 2009; Ord. 05-141 § 3, 2005; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.02.140 Regulation of Nude Dancing. It is unlawful for any licensee, operator, manager, employee, customer or contractor of any Class A Club, Class B Club, Drinking Establishment, Caterer, Temporary Permit Holder or Cereal Malt Beverage Licensee, to provide entertainment to members or other patrons of said establishments, in such a manner as to expose to said members or patrons or other persons:

(1) His or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
(2) Any device, costume or covering which gives the appearance or simulates the genitals, pubic hair or buttocks, perineum, anal or pubic hair region;
(3) Any portion of the areola of the female breast; or
(4) Exhibit or perform with their genitals in a state of discernible sexual stimulation or arousal even if their genitals are completely and opaquely covered. (Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.02.150 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 comply with all of the city's building and health code requirements for restroom facilities, but in no event shall such premises have less than one restroom for each sex easily accessible at all times to its patrons and employees. Each 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 time be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspection by the city or county health officer or designee. (Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.02.160 License Limited to Premises. It shall be unlawful to operate a club, drinking establishment or cereal malt beverage establishment at any other premises than specified in the license. (Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.02.170 Right of Entry and Inspection.

A. The right of immediate entry to and inspection of any premises where alcoholic liquor or cereal malt beverages are sold by a licensee or holder of a temporary permit, or any premises subject to the control of any licensee or temporary permit holder, at any time by any duly authorized officer or agent of the City,

or by any law enforcement officer, shall be a condition on which every license or temporary permit is issued, and the application for and acceptance of any license or temporary permit shall conclusively be deemed to be the consent of the applicant and licensee or permit holder to such immediate entry and inspection. Such consent shall not be revocable during term of the license or temporary permit. Refusal of such entry shall be grounds for revocation of the license or temporary permit. Upon the refusal of any licensee to permit immediate entry and inspection as said above, the Police Chief shall report such refusal to the State Director of Alcoholic Beverage Control.

B. Every person holding a license to operate an establishment under this Chapter shall at all times maintain in the place of the establishment a current list of all officers, directors, stockholders, owners and members and the name of the manager, if any, subject to inspections by any authorized officer or agent. (Ord. 09-30 § 3, 2009; Ord. 05-141 § 20, 2005.)

7.02.180 Habitual Public Nuisance.

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. 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.

C. 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.

D. 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.

E. Nothing in this Chapter 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. (Ord. 09-30 § 4, 2009)

CHAPTER 7.04

RETAIL LIQUOR STORES

Sections:

7.04.010 License Required
7.04.020 License Application
7.04.030 Occupation Tax - Penalty for Non-payment
7.04.040 Issuance of License
7.04.050 Occupation Tax - Display of Receipt

7.04.010 License Required. It is unlawful for any person to sell, keep for sale or offer for sale any alcoholic liquor as a retailer except on premises licensed for such sales under K.S.A. Chapter 41, this Title, and this Chapter. (Ord. 05-141 § 4, 2005; Ord. 04-142 § 1, 2004; Ord. 97-51 § 2, 1997; Ord. 88-121 § 6, 1988.)

7.04.020 License Application. Any person desiring to secure a license or renew an existing license under the provision of this Chapter shall make a verified application with the City Clerk. Such application shall be upon a form provided by the City Clerk and shall contain:

A. The name and address of the applicant.
B. The address and legal description of the premises for which the license is desired.
C. The name and address of the owner of the premises upon which the business is located, if different from the applicant.
D. The name and address of all officers, director, stockholders, owners, members, employees and the manager, if any.

A copy of the state license shall be attached to the City application. Such application shall be accompanied by the Occupational Tax required by Section 7.04.030. (Ord. 09-30 § 5, 2009; Ord. 05-141 § 5, 2005; Ord. 97-51 § 2, 1997.)

7.04.030 Occupation Tax--Penalty for Nonpayment.

(a) There is hereby levied a biennial occupation tax in the amount of Six Hundred Dollars ($600.00) on each retailer of alcoholic liquor who has a retailer's license issued under the provisions of K.S.A. Chapter 41. The tax shall be paid before business is begun under an original state license and within five (5) days after each renewal of a state license.

(b) It is unlawful for any person to fail or refuse to pay the occupation tax, and upon conviction thereof, shall be fined not more than One Hundred Dollars ($100.00).

(c) Nothing in this Chapter shall be construed to prohibit the City from collecting the occupation tax by any procedure authorized by law. (Ord. 10-61 § 1, 2010; Ord. 97-51 § 2, 1997; Ord. 88-121 § 6, 1988.)

7.04.040 Issuance of License. All applications for new or renewal city licenses shall be submitted to the City Clerk for approval. Upon presentation of a state license, payment of the City's Occupational Tax, and a determination that the proposed location of the retail establishment does not conflict with or violate any city zoning ordinance, building, health, or fire codes, or the alcoholic beverage ordinances of the City, the City Clerk shall issue a city license for the period covered by the state license. This license period shall extend for the period covered by the state license. No Occupational Tax shall be refunded for any reason. (Ord. 05-141 § 6, 2005; 1997; Ord. 97-51 § 2, 1997.)

7.04.050 Occupation Tax--Display of Receipt. Every licensee shall cause the city occupation tax receipt to be placed in plain view next to or below the state license on the licensed premises. (Ord. 97-51 § 2, 1997; Ord. 88-121 § 6, 1988.)

CHAPTER 7.06

DRINKING ESTABLISHMENTS

Sections:

7.06.010 License Required
7.06.020 License Application
7.06.030 License Fee
7.06.040 Issuance of License
7.06.050 Business Regulations

7.06.010 License Required. It shall be unlawful for any person granted a drinking establishment licensed by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a city license from the city clerk. (Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.06.020 License Application. Any person desiring to secure a license or renew an existing license under the provisions of this Chapter shall make a verified application with the City Clerk. Such application shall be upon a form provided by the City Clerk and shall contain:

A. The name and address of the applicant.

B. The address and legal description of the place for which the license is desired.

C. A drawing of the premises for which the license is desired showing the location of the proposed premises in relation to other buildings, structures, parking areas, public or private streets, and sidewalks within 200 feet. Sufficient dimensions shall be included to indicate the relationship between the premises and such other buildings, structures, parking areas, etc. The number of parking spaces the premises will use to comply with City parking requirements shall be clearly shown on the drawing.

D. The name of the owner of the premises upon which the place of business is located, if different from the applicant.

E. A disclosure statement listing each officer, manager, director, trustee, grantor, beneficiary, owner, stockholder owning a beneficial interest in a corporation, partner, and the spouses of these individuals. The disclosure statement shall certify that all the individuals listed are not disqualified from obtaining a drinking establishment license as provided in K.A.R. 14-21-3.

F. A disclosure statement listing all personnel who will be mixing or dispensing alcoholic liquor.

G. A statement of gross receipts showing the ratio of food sales to alcoholic beverage sales is not less than thirty percent (30%). Upon the filing of the statement, a license which authorizes the operation of the premises as an establishment may be issued, if the applicant otherwise qualifies for said license. Thereafter, an annual determination of eligibility for the license shall be made on each such establishment as follows: At least fifteen (15) days, but no sooner than thirty (30) days, prior to the expiration of a City license issued hereunder, the owner of such establishment, or authorized representative, shall make available to the City, adequate evidence of the establishment's gross sales, with sales of food broken out into a separate category. Such evidence shall cover the period from the date of granting of the license through a period no more than thirty (30) days prior to the expiration of such license. After receipt of such evidence, the City shall submit the same to the Director of Resource Management or designee. Upon a determination by the Director of Resource Management or designee that food sales are less than thirty percent (30%) of the total gross sales, said license shall not be renewed. Drinking establishments desiring to provide food service to unaccompanied minors must also comply with the provisions outlined in Section 7.02.030 C.

This information on gross sales shall not be available for inspection except to the Director of Resource Management or designee, who shall report, in writing, his/her findings in reference to the percentage of gross sales to the Governing Body for consideration prior to the renewing or non-renewing of each license. For the purpose of this Section, the term food shall not include cereal malt beverages.

A copy of the state license shall be attached to the City application. Such application shall be accompanied by the license fee required by Section 7.06.030. (Ord. 09-56 § 1, 2009; Ord. 09-30 § 6, 2009; Ord. 05-141 § 7, 2005; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.06.030 License Fee.

(a) There is hereby levied a biennial license fee on each drinking establishment located in the City which has a drinking establishment license issued by the state director of Alcoholic Beverage Control, which fee shall be paid before business is begun under an original state license and within five (5) days after any renewal of a state license.

(b) Such license fee shall be adopted by the Governing Body of the City by resolution. (Ord. 10-62 § 1, 2010; Ord. 02-130 § 1, 2002; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.06.040 Issuance of License.

A. All applications for new or renewal City licenses shall be submitted to the Governing Body for approval. Upon presentation of a state license, payment of the City license fee and a determination that the proposed location of the drinking establishment does not conflict with or violate any City zoning ordinances, building, health or fire codes or these alcoholic beverage ordinances of the City, the Governing Body may authorize the City Clerk to issue a City license for the period covered by the state license. The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.

B. The Governing Body may require additional conditions for the issuance of a City license or continued retention of existing City license for a drinking establishment, upon a finding that the public health, safety and welfare require such conditions. The City Manager 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. Requiring security measures inside and/or outside the premises.
6. Requiring additional parking, restricting parking, requiring additional safety measures to access city streets from parking facilities.
7. Such other conditions as may be appropriate for the protection and preservation of public health, safety or welfare.

C. Additional requirements for City licensure of a drinking establishment as set out above 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.

D. 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.

E. 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. (Ord. 09-30 § 7, 2009; Ord. 05-141 § 8, 2005; Ord. 97-51 § 2, 1997.)

7.06.050 Business Regulations.

A. No drinking establishment 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.

B. No drinking establishment licensed hereunder shall allow anyone except employees to remain on the premises of said drinking establishment between the hours of two o'clock (2:00) a.m. and nine o'clock (9:00) a.m. of any day of the week, except, that drinking establishments may operate between five o'clock (5:00) a.m. and nine o'clock (9:00) a.m. for the sole purpose of food and non-alcoholic beverage sales.

C. Cereal malt beverage may be sold on premises licensed for the 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.

D. No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under twenty-one (21) years of age.

E. Every licensee shall cause the City drinking establishment license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises. (Ord. 09-30 § 8, 2009; Ord. 97-51 § 2, 1997.)

CHAPTER 7.08

PRIVATE CLUBS

SECTIONS:

7.08.010 License Required
7.08.020 License Application
7.08.030 License Fee
7.08.040 Issuance of License
7.08.050 Business Regulations

7.08.010 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. (Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.08.020 License Application. Any person desiring to secure a license or renew an existing license under the provisions of this Chapter shall make a verified application with the City Clerk. Such application shall be upon a form provided by the City Clerk and shall contain:

A. The name and address of the applicant.

B. The address and legal description of the place for which the license is desired.

C. A drawing of the premises for which the license is desired showing the location of the proposed premises in relation to other buildings, structures, parking areas, public or private streets, and sidewalks within 200 feet. Sufficient dimensions shall be included to indicate the relationship between the premises and such other buildings, structures, parking areas, etc. The number of parking spaces the premises will use to comply with City parking requirements shall be clearly shown on the drawing.

D. The name of the owner of the premises upon which the place of business is located, if different from the applicant.

E. A disclosure statement listing each officer, manager, director, trustee, grantor, beneficiary, owner, stockholder owning a beneficial interest in a corporation, partner, and the spouses of these individuals. The disclosure statement shall certify that all the individuals listed are not disqualified from obtaining a private club license as provided in K.A.R. 14-21-3.

F. A disclosure statement listing all personnel who will be mixing or dispensing alcoholic liquor.

A copy of the state license shall be attached to the application. Such application shall be accompanied by the license fee required by Section 7.08.030. (Ord. 09-30 § 9, 2009; Ord. 97-51 § 2, 1997.)

7.08.030 License Fee.

(a) There is hereby levied a biennial license fee on each private club located in the City which has a private club license issued by the state director of Alcoholic Beverage Control, which fee shall be paid before business is begun under an original state license and within five (5) days after any renewal of a state license.

(b) Such license fee shall be adopted by the Governing Body of the City by resolution. (Ord. 10-63 § 1, 2010; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.08.040 Issuance of License.

A. All applications for new or renewal City licenses shall be submitted to the Governing Body for approval. Upon presentation of a state license, payment of the City license fee and a determination that the proposed location of the private club does not conflict with or violate any City zoning ordinance, building, health or fire codes or these alcoholic beverage ordinance of the City, the Governing Body shall authorize the City Clerk to issue a City license for the period covered by the state license.

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

B. 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 upon a finding that the public health, safety and welfare require such conditions. The City Manager 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. Requiring security measures inside and/or outside the premises.
6. Requiring additional parking, restricting parking, requiring additional safety measures to access city streets from parking facilities.
7. Such other conditions as may be appropriate for the protection and preservation of public health, safety or welfare.

C. Additional requirements for City licensure of a private club as set out above 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.

D. 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.

E. 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. (Ord. 09-30 § 10, 2009; Ord. 05-141 § 9, 2005; Ord. 97-51 § 2, 1997.)

7.08.050 Business Regulations.

A. 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.

B. No private club licensed hereunder shall allow anyone except employees to remain on the premises of said club between the hours of two o'clock (2:00) a.m. and nine o'clock (9:00) a.m. of any day of the week, except, that private clubs may operate between five o'clock (5:00) a.m. and nine o'clock (9:00) a.m. for the sole purpose of food and non-alcoholic beverage sales.

C. Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverages for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.

D. No club membership shall be sold to any person under twenty-one (21) years of age, nor shall alcoholic beverage or cereal malt beverage be given, sold or traded to any person under twenty-one (21) years of age.

E. 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.

F. A Class A club shall comply with the provisions of K.S.A. 41-2037, and amendments thereto.

G. A Class B club shall comply with the provisions of K.S.A. 41-2641, and amendments thereto.

H. All clubs shall comply with the provisions of K.S.A. 41-2639, and all amendments thereto. (Ord. 09-30 § 11, 2009; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

CHAPTER 7.10

CATERERS

Sections:

7.10.010 License Required
7.10.020 License Fee
7.10.030 Business Regulations
7.10.040 Notice to Director of Public Safety

7.10.010 License Required. It shall be unlawful for any person licensed by the State of Kansas as a caterer to sell alcoholic liquor by the drink, to sell or serve any liquor by the drink within the city without obtaining a local caterer's license from the city clerk. (Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.10.020 License Fee.

(a) There is hereby levied a biennial license fee on each caterer doing business in the City who has a caterer's license issued by the state director of Alcoholic Beverage Control, which fee shall be paid before business is begun under an original state license and within five (5) days after any renewal of a state license.

(b) The license fee shall be adopted by the Governing Body of the City by resolution.

(c) All applicants 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.

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

(e) Every licensee shall cause the caterer license to be placed in plain view on any premises within the City where the caterer is serving or mixing alcoholic liquor for consumption on the premises. (Ord. 11-22 § 1, 2011; Ord. 02-132 § 1, 2002; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.10.030 Business Regulations. No caterer licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 9:00 a.m. on any day.

No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under twenty-one (21) years of age. (Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.10.040 Notice to Police Chief. Prior to any event at which a caterer will sell or serve alcoholic liquor by the individual drink, the caterer shall provide written notice to the Police Chief at least 48 hours 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 times the caterer will be serving. (Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

CHAPTER 7.12

TEMPORARY PERMITS

SECTIONS:

7.12.010 Permit Required
7.12.020 Permit Fee
7.12.030 City Temporary Permit
7.12.040 Permit Regulations

7.12.010 Permit Required. It shall be unlawful for any person granted a temporary permit by the State of Kansas to sell or serve any alcoholic liquor within the city without first obtaining a local temporary permit from the city clerk. (Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.12.020 Permit Fee.

(a) There is hereby levied a temporary permit fee on each group or individual holding a temporary permit issued by the state director of Alcoholic Beverage Control authorizing sales within the city, which fee shall be paid before the event is begun under the state permit.

(b) Such temporary permit fee shall be adopted by the Governing Body of the City by resolution. (Ord. 02-133 § 1, 2002; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.12.030 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 48 hours before the event. Written application for the local temporary permit shall be made to the city clerk and shall clearly state:

(1) The 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 Police Chief whenever a temporary permit has been issued and forward a copy of the permit and application to the Police Chief.

(d) A temporary permit shall be issued for a period of time not to exceed three (3) consecutive days, the dates and hours of which will be specified in the state permit. Not more than four (4) temporary permits may be issued to any one applicant in a calendar year.

(e) A temporary permit shall not be transferable or assignable. (Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.12.040 Permit Regulations:

(a) No temporary permit holder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 9:00 a.m. at any event for which a temporary permit has been issued.

(b) No alcoholic beverages shall be given, sold or traded to any person under twenty-one (21) years of age. (Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

CHAPTER 7.14

CEREAL MALT BEVERAGES

Sections:

7.14.010 Retailers - Licenses Required – Unlawful Acts.
7.14.020 License Application
7.14.030 License Application Procedure
7.14.040 License Granted; Denied
7.14.050 License To Be Posted.
7.14.060 License - Disqualification
7.14.070 License Fee
7.14.080 Change of Location
7.14.090 Wholesalers and/or Distributors
7.14.100 Business Regulations
7.14.110 Temporary Permit

7.14.010 Retailers - Licenses Required - Unlawful Acts.

(a) It is unlawful for any retailer to sell cereal malt beverage without having first secured a license for each place of business as herein provided.

(b) It is unlawful for any retailer having a license to sell cereal malt beverages only in the original and unopened containers and not for consumption on the premises, to sell any cereal malt beverages in any other manner.

(c) For the purposes of this Chapter, the following definitions shall apply to retailers:

(1) General Retailer is a person with a license to sell cereal malt beverages at retail only for consumption on the licensed premises.

(2) Limited Retailer is a person with a license to sell cereal malt beverages at retail only in original and unopened containers and not for consumption on the premises. (Ord. 05-141 § 10, 2005; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.14.020 License--Application. A 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 the applicant has not within two years immediately preceding the date of making application, been convicted of a felony or any crime involving moral turpitude, or drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor, or operating or attempting to operate a motor vehicle while the alcohol concentration in the person's blood or breath is .08 or more, as measured from samples taken within two (2) hours after the person operated or attempted to operate the vehicle, or the violation of any other law of this City or state or any other city or state or of the United States pertaining to alcoholic liquor or cereal malt beverages or non-alcoholic malt beverages.

(f) Each application for a general retailer's license shall be accompanied by a drawing of the premises for which the license is desired showing the location of the proposed premises in relation to other buildings, structures, parking areas, public or private streets, and sidewalks within 200 feet. Sufficient dimensions shall be included to indicate the relationship between the premises and such other buildings, structures, parking areas, etc. The number of parking spaces the premises will use to comply with city parking spaces shall be clearly shown on the drawing.

(g) Each 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 Police Department, Fire Department and Development Services Department for investigation of the applicant. It shall be the duty of the Police Department to investigate such applicant to determine whether the applicant is qualified as a licensee under the provisions of this ordinance. It shall be the duty of the Fire Department to inspect the premises to be licensed and inform the City Clerk whether the premises to be licensed complies with the Fire Codes, Life Safety Codes and/or other applicable codes of the City. It shall be the duty of the Development Services Department to inspect the premises to be licensed and inform the City Clerk whether the premises to be licensed complies with the building codes, environmental codes and zoning ordinances of the City. All the Departments shall report to the City Clerk no later than five (5) 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 requests established by law; provided, however, that the license application shall be scheduled for consideration before the Governing Body and either approved or disapproved within thirty (30) days from the date the application is received by the City Clerk, irrespective of whether the City Clerk has received timely reports from the Police, Fire or Development Services Departments. (Ord. 05-141 § 11, 2005; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.14.030 License Application Procedure.

(a) All applications for a new or renewed cereal malt beverage license shall be submitted to the city clerk at least fifteen (15) days in advance of the Governing Body meeting at which they will be considered.

(b) The city clerk shall notify the holder of an existing license thirty (30) days in advance of its expiration.

(c) The city clerk shall provide copies of all applications to the Police Chief, to the Fire Marshal, and to the Chief Building Inspector, Health Department, when they are received. The Police Chief shall run a records check on all applicants and the fire marshal and chief building inspector will inspect the premises in accordance with city building, health and fire codes and/or ordinances. They will then recommend approval, or disapproval, of applicants within five (5) working days of the receipt of the application.

(d) The Governing Body will not consider any application for a new or renewed license that has not been submitted fifteen (15) days in advance and been reviewed by the above city departments.

(e) An applicant who does not hold a cereal malt beverage license in the city shall attend the Governing Body meeting when the application for a new license will be considered. (Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.14.040 License Granted; Denied.

(a) The record of the Governing Body meeting 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. (Ord. 05-141 § 12, 2005; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.14.050 License To Be Posted. Each license shall be posted in a conspicuous place in the place of business for which the license is issued. (Ord. 97-51 § 2, 1997; Ord. 96-10 § 1, 1996; Ord. 87-139 § 1, 1987.)

7.14.060 License--Disqualification. No license shall be issued to:

(a) A person who has not been a resident in good faith of the State of Kansas for at least one year immediately preceding application and a resident of Johnson County for at least six (6) months prior to filing of such application.

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

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

(d) 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, or has been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor, or operating or attempting to operate a motor vehicle while the alcohol concentration in the person's blood or breath is .08 or more, as measured from samples taken within two (2) hours after the person operated or attempted to operate the vehicle, or the violation of any other law of this City or state or any other city or state or of the United States pertaining to alcoholic liquor or cereal malt beverages or non-alcoholic malt beverages.

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

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

(g) 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.

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

(i) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, retailer residency requirements or age, except that this subsection (i) shall not apply in determining eligibility for a renewal license. (Ord. 05-141 § 13, 2005; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.14.070 License Fee. The license fee for general retail sales and limited retail sales of cereal malt beverages shall be adopted by the Governing Body of the City by resolution. The full amount of the license fee shall be required regardless of the time of the year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued. (Ord. 02-134 § 1, 2002;Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.14.080 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. The fee for change of location shall be adopted by the Governing Body of the City by resolution. 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. (Ord. 08-83 § 1, 2008; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.14.090 Wholesalers and/or Distributors. It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver cereal malt beverages within the city, to persons authorized under this ordinance to sell the same within the city unless such wholesaler and/or distributor has first secured a license from the State of Kansas authorizing such sales. (Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.14.100 Business Regulations. It shall be the duty of every retailer licensee to observe the following regulations:

A. The place of business licensed and operation under this Title shall at all times have a front and rear exit unlocked when opened 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 midnight 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 or as allowed by Chapter 7.20.

D. All patrons or customers of any place of business licensed as a general retailer shall exit and be off the premises of the place of business prior to and not later than one hour after the legal hour of closing; provided, however, that those establishments which derive at least thirty percent (30%) of their income from the sale of food and are food service establishments may continue to supply only food and food service after the legal hour of closing as long as no cereal malt beverages are sold or dispensed; provided, further, that this Subsection shall not apply to validly licensed private clubs.

E. Cereal malt beverages may be sold on premises which are both licensed pursuant to this Chapter and at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. 41-2701, et seq., and licensed as a club by the State of Kansas.

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 of Kansas shall be opened 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 under the legal age for consumption.

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 shall employ any person who has been judged guilty of a felony.

M. No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply to premises also licensed as a club pursuant to the Club and Drinking Establishment Act.

N. No licensee shall permit a person under the legal age for consumption of cereal malt beverage to consume; or purchase cereal malt beverage in or about a place of business, and no licensee shall permit a person under the legal age for consumption of cereal malt beverage to possess cereal malt beverage in or about a place of business, except that a licensee's employee who is not less than eighteen (18) years of age may dispense or sell cereal malt beverages if:

1. The licensee's place of business is licensed only to sell cereal malt beverage at retail in original and unopened containers and not for consumption on the premises; or

2. The licensee's place of business is a licensed food service establishment as defined by K.S.A. 36-501 and amendments thereto, and either:

a. not less than fifty percent (50%) of the gross receipts from the licensee's place of business is derived from the sale of food or consumption on the premises of the licensed place of business, or

b. the primary purpose of such licensed food service establishment is a public golf course or an art studio.

O. No person shall have alcoholic liquor in such person's possession while in a place of business, unless the premises are currently licensed as a club or drinking establishment pursuant to the Club and Drinking Establishment Act. (Ord. 16-07 § 3, 2016; Ord. 05-141 § 14, 2005; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.14.110 Temporary Permit. A temporary permit for the sale of cereal malt beverage may be issued by the Governing Body for the purpose of selling cereal malt beverage at special events authorized pursuant to Chapter 5.05, Special Event Permit. The term of the temporary permit shall not exceed three (3) days. Applicants for temporary permits must meet the license requirements set forth herein. In addition, applicants for temporary permits shall provide a diagram accurately describing the premises and/or property where cereal malt beverage will be sold, served, dispersed or consumed during the special event and a statement describing the security for the special event. (Ord. 05-141 § 21, 2005.)

*****Numerous sections regarding cereal malt beverages have been repealed. Additional history regarding cereal malt beverages can be found in the following ordinances - (Ord. 96-10, 1996; Ord. 89-150, 1989; Ord. 88-122, 1988; Ord. 87-139, 1987.)

CHAPTER 7.16

SUSPENSION AND REVOCATION

Sections:

7.16.010 Suspension or Revocation of License and/or Imposition of Civil Fine
7.16.020 Complaint
7.16.030 Notice of Hearing
7.16.040 Hearing Procedure
7.16.050 Finding of Fact-Order
7.16.060 Orders - Suspension or Revocation
7.16.070 Appeal
7.16.080 Chief of Police Authority Where There is Immediate Threat to Public Safety

7.16.010 Suspension or Revocation of License and/or Imposition of Civil Fine.

A. The City Clerk shall immediately suspend or revoke the license of any licensee whenever the state license of the licensee is suspended or revoked by the state for any reason.

B. The Police Chief or designated representative upon five (5) days written notice to the licensee, after conducting a hearing, will suspend or revoke such license and/or impose a civil fine against the licensee for the following reasons:

1. If the licensee has fraudulently obtained the license by giving false information in the application therefor or any hearing thereon.
2. If the licensee has become ineligible to obtain a license under this Title.
3. The nonpayment of any license fee payable pursuant to this Chapter.
4. For failure to maintain sufficient records to determine the percentage of gross business obtained from the sale of cereal malt beverages or alcoholic liquor.
5. For failure to permit the inspection of such records at all times during business hours by proper agents of the City.
6. If the licensee, manager, employee, agent, entertainer or performer is convicted of any of the following public offenses, including conspiracy or attempt, if the offense was committed upon the licensed premises:

6.06.040 Unlawful Acts.
6.18.040 Prohibited Acts.
9.04.010 Assault.
9.04.020 Assault of a Law Enforcement Officer.
9.04.030 Battery.
9.04.040 Battery against a Law Enforcement Officer.
9.04.050 Unlawful Interference with a Firefighter or a Person Who Provides Emergency Medical Treatment.
9.04.060 Terroristic Threat.
9.04.070 Interference with Parental Custody.
9.04.090 Criminal Restraint.
9.04.110 Extortion.
9.05.020 Lewd and Lascivious Behavior.
9.05.060 Prostitution.
9.05.070 Promoting Prostitution.
9.05.080 Patronizing a Prostitute.
9.05.090 Criminal Sodomy.
9.05.100 Sexual Battery.
9.05.110 Soliciting for Immoral Purposes.
9.06.010 Endangering a Child.

9.06.020 Furnishing Alcoholic Liquor or Cereal Malt Beverage to a Minor.
9.06.040 Contributing to a Child's Misconduct or Deprivation.
9.07.010 Theft.
9.07.030 Theft of Lost or Mislaid Property.
9.07.040 Theft of Services.
9.07.060 Criminal Deprivation of Property.
9.07.070 Fraudulently Obtaining Execution of a Document.
9.07.080 Criminal Damage to Property.
9.07.090 Criminal Trespass.
9.07.170 Criminal Use of a Financial Card.
9.07.180 Unlawful Manufacture or Disposal of False Tokens.
9.07.200 Automobile Master Key Violation.
9.07.250 Theft of Cable Television Services.
9.07.260 Tampering with Utility Equipment or Service.
9.08.030 Obstructing Legal Process or Official Duty.
9.08.040 Disobeying the Lawful Order of a Police Officer.
9.08.050 Failure to Obey Citation.
9.08.070 Failure to Appear.
9.08.090 Falsely Reporting a Crime or Public Offense.
9.08.180 Resisting Arrest.
9.08.190 Possession of False Identification Documents.
9.10.040 Denial of Civil Rights.
9.11.010 Disorderly Conduct.
9.11.040 Riot.
9.11.060 Maintaining a Public Nuisance.
9.11.070 Permitting a Public Nuisance.
9.11.090 Giving a False Alarm.
9.11.120 Harassment by Telephone.
9.11.150 Unlawful Neighborhood Disturbance.
9.11.180 Keeping Disorderly Premises.
9.12.020 Criminal Use of Weapons.
9.12.030 Criminal Disposal of Firearms.
9.12.040 Criminal Possession of a Firearm.
9.12.050 Unlawful Discharge of Firearms.
9.12.060 Air Gun, Air Rifle, Bow and Arrow, Slingshot.
9.12.160 Carrying Concealed Explosives.
9.13.010 Promoting Obscenity.
9.13.020 Prohibition of Sex Bookstores, Coin-operated Motion Picture Devices Showing Sex Movies, and Eating or Drinking Establishments Featuring Nude or Semi-nude Dancers, Strippers or Similar Entertainment.
9.13.030 Promoting Obscenity to Minors.
9.13.033 Material or Performances Harmful to Minors.
9.13.035 Promoting Sexual Performance by a Minor.
9.13.050 Gambling.
9.13.060 Illegal Bingo Operation.
9.13.070 Commercial Gambling.
9.13.080 Permitting Premises to be Used for Commercial Gambling.
9.13.110 Public Indecency.
9.14.070 Obstructing Streets or Sidewalks.
9.14.130 Alcohol without Liquid Prohibited.
9.15.030 Knowingly Employing an Illegal Alien.
9.16.040 Police Communication.
9.17.010 Possession of Marijuana, Controlled Substances; Penalties.
9.17.030 Use or Possession of Simulated Controlled Substances and Drug Paraphernalia, Penalties.

7. If the licensee, manager, employee or agent has violated any of the provisions of this Chapter;

8. Drunkenness of a person holding such license, drunkenness of licensee's manager or employee while on the premises for which said license is issued, or for a licensee whose manager or employee permits any intoxicated person to remain in such place selling alcoholic liquor;

9. The sale or gift of cereal malt beverage or alcoholic liquor to a minor by a licensee, manager or employee;

10. If the licensee or manager or employee or agent, has knowingly permitted any disorderly person to remain on premises where cereal malt beverage or alcoholic liquor is sold by such licensee;

11. For employing a person who has been adjudged guilty of a felony, a violation of an offense involving a morals charge, or a violation of intoxicating liquor or drug law. The Chief of Police may require any employee of a licensee to submit to fingerprinting to determine if a violation of this section has occurred, and the failure of an employee to submit to fingerprinting if required by the Chief of Police shall be prima facie evidence that the employee is ineligible for employment under the provisions of this section; or

12. For knowingly selling or providing alcoholic liquor to any person who is intoxicated.

13. Determination that private club or drinking establishment is a habitual public nuisance as defined by Section 7.02.180 of this Chapter. (Ord. 15-23 § 9, 2015; Ord. 09-30 § 12, 2009; Ord. 05-141 § 15, 2005; Ord. 97-51 § 2, 1997.)

7.16.020 Complaint. Whenever the Police Chief has reason to believe that the licensee has violated any of the provisions of this Title, he or she will file a written complaint, specifically setting forth the violations, with the Police Chief or designated representative. Such complaint will be substantially the following form:

BEFORE THE POLICE CHIEF OR DESIGNATED REPRESENTATIVE OF THE CITY OF OLATHE, KANSAS:

In the matter of the Suspension or Revocation and/or Imposition of a Civil Fine Against the Licensee of _____ No. _____.

COMPLAINT

Pursuant to the provisions of Section _____ of the Olathe Municipal Code, I, the undersigned, Police Chief for the City of Olathe, Kansas, having reason to believe that _____, hereinafter referred to as "licensee", has violated the provisions of said Section _____ and that a hearing on such violation would be in the public interest, hereby issue this Complaint and state the reason for such issuance to be as follows:

1. Violation was _____.

2. Date of violation was_____, _____.

3. Facts of the violation

_____
_____
_____
_____.

WHEREFORE, this Complaint requests that

(__) the license issued to this licensee be suspended

(__) the license issued to this licensee be revoked

(__) a fine be imposed against the licensee.

DATED this _____ day of _____, ____.

_____
POLICE CHIEF

STATE OF _____)
) SS.
COUNTY OF _____)

Subscribed and sworn to before me, a Notary Public this
_____day of _____, ____.

_____
Notary Public

My Appointment Expires:

(Ord. 15-23 § 10, 2015; Ord. 05-141 § 16, 2005; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.16.030 Notice of Hearing. If the Police Chief or designated representative finds that there are reasonable grounds to believe that the licensee has violated the provisions of this Title, the Police Chief or designated representative will set the matter for hearing by issuing and serving a notice upon the licensee. Such notice will be in writing, will state the charges or complaints the licensee is called upon to answer, will state the date, time and place where the hearing will be held and will be served personally or by mailing the same to the address designated in the license by certified mail, postage prepaid, return receipt requested. Such notice will be in substantially the following form:

BEFORE THE POLICE CHIEF OR DESIGNATED REPRESENTATIVE OF THE CITY OF OLATHE, KANSAS:

In the Matter of the Suspension or Revocation of the License of _____ No. _____ and/or Imposition of a Fine Against the Licensee of _____ No. _____.

NOTICE

You are hereby notified that a Complaint has been filed with the Police Chief or designated representative of the City of Olathe, Kansas, alleging that you have violated Section _____ of the Olathe Municipal Code. Such allegations are more particularly described in the verified Complaint, which Complaint is attached hereto and served herewith.

You are hereby notified that you are to appear before the Police Chief or designated representative of the City of Olathe, Kansas, at the hour of _____ o'clock ____. M., _____, _____, at _____ Room of the Olathe, Kansas, City Hall, 100 East Santa Fe Street, Olathe, Kansas at which time the allegations found in the Complaint will be heard, witnesses produced, and determination made as to the allegations made in the Complaint.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Olathe, Kansas, this _____ day of _____, _____.

_____
City Clerk

(SEAL)

(Ord. 15-23 § 11, 2015; Ord. 05-141 § 17, 2005; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.16.040 Hearing Procedure. The Governing Body shall adopt rules and regulations as it shall deem necessary to govern the procedure in such hearing and which will provide a fair hearing. Such rules shall include but not be limited to:

(a) A record of the entire hearing made by simple minutes and tape recordings;

(b) The right to call and examine witnesses on any matter relevant to the issues of the hearing;

(c) To introduce documentary and physical evidence;

(d) To allow any relevant evidence to be admitted if it is of the type upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state;

(e) The exclusion of irrelevant and unduly repetitious evidence;

(f) To allow hearsay evidence for the purpose of supplementing or explaining any direct evidence, but not for the purpose of supporting a finding itself unless it would be admissible in the courts of competent jurisdiction in this state;

(g) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;

(h) To impeach any witness regardless of which party first called him to testify;

(i) To rebut any evidence;

(j) To allow the respondent to represent himself or to be represented by anyone of his choice who is lawfully permitted to do so;

(k) To allow official notice of any fact which may be judicially noticed by the courts of this state or of official ordinances, records or rules and regulations of the City of Olathe. (Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.16.050 Findings of Fact – Order. Following the presentation of evidence, the Police Chief or designated representative will render his or her decision. Such decision will be either to dismiss the Complaint or to order the license to be suspended or revoked and/or imposition of a fine against the licensee. Such decision will be reduced to writing in substantially the following form:

BEFORE THE POLICE CHIEF OR DESIGNATED REPRESENTATIVE OF THE CITY OF OLATHE, KANSAS:

In the matter of the Suspension or Revocation of the Licensee and/or Imposition of a Fine Against the Licensee of _____ No. _____ .

DECISION

This proceeding was commenced by virtue of a complaint filed on the _____ day of_____, _____, against _____.

The complaint alleges that the licensee acted in violation of Section _____ of the Olathe Municipal Code, in what licensee did on or about _____, _____, at which hearing evidence was adduced by the complainant and licensee in their respective behalf.

Based upon the evidence introduced at the hearing I find the following facts:

CONCLUSION

On the _____ day of _____, _____, the licensee (did or did not) violate Section _____by_____.

ORDER

On the basis of the entire record in this case, the Police Chief or designated representative orders the License to be suspended for a period of _____ days beginning on the _____ day of _____, ____ or revoked as of the date of the order and/or imposition of a fine against the licensee in the amount of _____.

(or)

On the basis of the entire record in this case, the Police Chief or designated representative orders this matter to be dismissed.

IT IS SO ORDERED this _____ day of _____, _____.

_____
POLICE CHIEF OR
DESIGNATED
REPRESENTATIVE

ATTEST:

_____
CITY CLERK

A copy of the decision will be delivered to the licensee personally or sent to him or her by certified mail, postage prepaid, return receipt requested. (Ord. 15-23 § 12, 2015; Ord. 05-141 § 18, 2005; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.16.060 Orders--Suspension or Revocation.

(a) Any order requiring the suspension of a liquor license shall not take effect until five (5) days after the licensee receives a copy of the order. No person who has proprietary interest in a liquor license that has been revoked, or any person acting for or on his behalf, shall be granted a license for the sale of liquor within the city for a period of six (6) months following the date of revocation. No person who has a proprietary interest in a liquor license that has been revoked shall be employed in a place of business which sells or distributes liquor for consumption on the premises for a period of six (6) months following the date of renovation.

(b) Any order requiring the revocation of a liquor license shall not go into effect until five (5) days after the licensee receives a copy of the order. No person who has a proprietary interest in a liquor license that has been revoked, or any person acting for or on his behalf, shall be granted a license for sale of alcoholic liquor or cereal malt beverages within the city for a period of six (6) months following the date of revocation. No person who has a proprietary interest in a liquor license that has been revoked shall be employed in a place of business which sells or distributes alcoholic liquor or cereal malt beverages for consumption on the premises for a period of six (6) months following the date of revocation. (Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.16.070 Appeal. If the Police Chief or designated representative issues an order suspending or revoking a license, the licensee, up to but not more than fifteen (15) days after the order, may appeal to the City Manager or designated representative. If the City Manager or designated representative issues an order upholding the suspension or revocation of the license, the licensee, up to but not more than thirty (30) days after the order, may appeal to the district court of Johnson County. Any appeal taken under this section will stay the order of suspension or revocation of the license of any licensee. (Ord. 15-23 § 13, 2015; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.16.080 Chief of Police Authority Where There is Immediate Threat to Public Safety.

A. The Chief of Police, or designee, may require a licensee to close down operations and disperse all patrons whenever conduct by disorderly patrons reaches a magnitude that presents an immediate threat to the public safety and well-being of the patrons and general public in the vicinity. The operations shall remain closed until the threat has passed.

B. It is unlawful for any person to fail to comply with any directive issued by the Chief of Police, or designee, under authority of Section 7.16.080 A. (Ord. 05-141 § 22, 1997.)

CHAPTER 7.18

PENALTY

Sections:

7.18.010 Penalty
7.18.020 Injunction Proceedings

7.18.010. Penalty. Any person or licensee violating any of the provisions of this Title will be punished, subject to the penalties otherwise provided in the Olathe Municipal Code, and will be punished by a fine of not more than One Thousand Dollars ($1,000.00). (Ord. 15-23 § 14, 2015; Ord. 05-141 § 19, 2005; Ord. 97-70 § 1, 1997; Ord. 97-51 § 2, 1997; Ord. 87-139 § 1, 1987.)

7.18.020 Injunction Proceedings. The City Attorney, or his duly authorized representative, shall have the power to enjoin any party from selling alcoholic liquor or cereal malt beverages with the city notwithstanding said party has a license and permit if it shall appear that the licensee has violated any provisions of this title or the laws of the state of Kansas. Injunction proceedings shall be the same as are now prescribed for the enjoining of intoxicating liquor nuisances under state law. (Ord. 97-51 § 2, 1997.)

CHAPTER 7.20

THE SUNDAY SALE AND HOLIDAY SALE OF ALCOHOLIC LIQUOR AND CEREAL MALT BEVERAGE

Sections:

7.20.010 Sunday Sale and Holiday Sale of Alcoholic Liquor at Retail in the Original Package
7.20.020 Sunday Sale and Holiday Sale of Cereal Malt Beverage at Retail in the Original Package

7.20.010 Sunday Sale and Holiday Sale of Alcoholic Liquor at Retail in the Original Package. Pursuant to 2005 Kan. Sess. Laws, Ch. 201, the sale at retail of alcoholic liquor in the original package is allowed within the City of Olathe on Memorial Day, Independence Day, Labor Day and on any Sunday, except Easter. Sales are not allowed on Thanksgiving Day or Christmas Day. The Sunday sale at retail of alcoholic liquor in the original package is only allowed between the hours of 12 noon and 8 pm. (Ord. 05-65 § 1, 2005.)

7.20.020 Sunday Sale and Holiday Sale of Cereal Malt Beverages at Retail in the Original Package. Pursuant to 2005 Kan. Sess. Laws, Ch. 201, the sale at retail of cereal malt beverage in the original package is allowed within the City of Olathe on Memorial Day, Independence Day, Labor Day and on any Sunday, except Easter. The Sunday sale at retail of cereal malt beverage in the original package is only allowed between the hours of 12 noon and 8 p.m. (Ord. 05-65 § 1, 2005.)

TITLE 8

ANIMALS

CHAPTERS:

8.01 Animal Control and Protection (Repealed 12/22/87)
8.02 General Provisions
8.04 Animal Control Officers
8.06 Licenses
8.08 Proper Care of Animals
8.10 Animal Nuisances
8.12 Impoundment, Redemption and Adoption
8.14 Enforcement and Penalties

CHAPTER 8.01. Animal Control & Protection. Repealed 12/22/87. (Ord. 87-173 § 1, 1987; Ord. 83-46 § 2, 1983; Ord. 824 § 1, 1979; Ord. 409 § 2, 1976.)

CHAPTER 8.02

GENERAL PROVISIONS

Sections:

8.02.010 Purpose.
8.02.020 Definitions.

8.02.010 Purpose. The purpose of this chapter is to promote harmonious relationships in the interaction between man and animal by:

(a) Protecting animals from improper use, abuse, neglect, exploitation, inhumane treatment and health hazards;

(b) Delineating the animal owner's or harborer's responsibility for the acts and behavior of his animal at all times;

(c) Providing security to residents from annoyance, intimidation, injury and health hazards by animals; and

(d) Encouraging responsible pet ownership. (Ord. 87-173 § 2, 1987.)

8.02.020 Definitions. For the purposes of this title, the following terms, phrases, words and their derivations shall have the meaning given in this section:

“Abandon” means leaving a domestic animal within Olathe City limits without attempting to reclaim it or take responsibility for costs incurred. This includes failure to reclaim an animal from a veterinarian’s office or animal hospital within the City limits of Olathe, and failure to reclaim an animal from the Shelter. (See 08.08.060 for time limits).

"Animal" means any live, vertebrate creature, domestic or wild, other than humans.

"Animal control officer" is a duly authorized person employed by the City who is charged with the duties of enforcing this title and who is educated in the care, seizure, custody and confinement of animals.

"Animal Shelter" means any premises designated by the City for the purpose of impounding and caring for animals held under the authority of this ordinance.

"At Large" means an animal running at will, acting on its own initiative and not secured by a leash or lead, unless the animal shall be on the premises of the owner and under control of a responsible person and obedient to that person's command.

"Bite" is any contact between an animal's mouth and teeth and the skin of a bite victim which causes visible trauma and bleeding, such as a puncture wound, laceration, abrasion, or other piercing of the skin.

"Cat" means any member of the animal species, Felis Catus.

"Control" or “controlled” means that an animal is held by a person with the physical capacity to stop the animal from chasing people or other animals on a leash not more than eight (8) feet in length; is under voice control in the presence of a competent person; is on or within a vehicle being driven or parked; or is within the property limits of its owner or harborer or upon the premises of another person with the consent of that person.

"Dangerous Animal" means and includes any wild mammal, reptile or fowl which is not naturally tame or gentle but is of a wild nature or disposition and which, because of its size, vicious nature or other characteristics, would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters.

"Dangerous Dog" means a dog which:

1. Has attacked or bitten a human being or domestic animal on public or private property;
2. Has chased or approached a person, including a person on a conveyance, upon the streets, sidewalks, or any public or private property, in an apparent attitude of attack; or
3. Has a known propensity, tendency or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

No dog may be declared dangerous if any injury or damage is sustained by a person who at the time such injury or damage was sustained, was committing, or attempting to commit, a willful trespass or other unlawful activity upon premises occupied by the owner or harborer of the dog, or was physically abusing or assaulting the dog.

No dog may be declared dangerous if any injury or damage was sustained by a domestic animal which, at the time such injury or damage was sustained, was attacking or assaulting the dog.

No dog may be declared dangerous if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

"Dog" means any member of the animal species Canis Familiaris.

"Domestic Animal" includes dogs, cats, domesticated sheep, horses, cattle, goats, swine, fowl, ducks, geese, turkeys, confined domestic hares and rabbits, pheasants and other birds and animals raised and/or maintained in confinement.

"Enclosure" means an escape-proof structure of at least six (6) feet in height, forming or causing an enclosure suitable to prevent the entry of young children and suitable to confine a dangerous or vicious dog in conjunction with other measures which may be taken by the owner or harborer. Such enclosure shall have secured sides and a secured top, shall be securely enclosed and locked and designed to prevent the animal from escaping from the enclosure. If such enclosure has no bottom secured to the sides, the sides must be embedded into the ground no less than two (2) feet deep.

"Euthanasia" means the humane intravenous anesthetic destruction of an animal by a veterinarian or Animal Control Officer certified in humane euthanasia accomplished by a method which produces instantaneous unconsciousness and immediate death without visible evidence of pain or distress.

"Harborer" is any person who provides food and shelter or otherwise accepts any responsibility for the care or control of a domesticated animal.

"Impound" means to seize summarily, confine, or restrain in custody.

"Inoculation, vaccination, or vaccination for rabies" means the inoculation of an animal with a vaccine approved by the State of Kansas for use in the prevention of rabies, by a licensed veterinarian.

"Kennel" means the house, store, yard, enclosure or place where five or more animals are harbored or kept for temporary boarding purposes or for showing or selling; provided, however, this definition shall not apply to animal shelters or to animal hospitals operated by veterinarians duly licensed under the laws of the State for treatment or boarding.

"Large Animal" means any swine, dairy cows, beef cattle, goats, sheep and other large domestic animal of similar size.

“Licensed Animal” is an animal licensed in compliance with this ordinance.

“License Tag" is a permanent metal tag evidencing a licensed animal. It is issued by the City with the purchase of the animal’s first license and renewed in accordance with Section 8.06.080 thereafter.

“Neglect” means failing to provide an animal with: adequate care; adequate food; adequate water; adequate health care; adequate shelter, adequate shelter should be clean, dry, and compatible with the condition, age and species; and/or adequate daily exercise, adequate daily exercise requires that an owner or harborer must offer some freedom from continuous chaining, stabling and tethering. Neglect shall also mean failing to keep the area where animals are kept free from unsanitary conditions and vermin-harboring debris.

“Non-domesticated Animal” shall means any animal not kept as a pet or livestock.

"Own" means and includes own, keep, harbor, or have charge, custody or control of an animal.

"Owner" means any person or persons, firm, association, partnership or corporation owning, keeping or harboring an animal. A parent or legal guardian shall be deemed to be an owner of animals owned or maintained by children upon their premises.

"Person" means any individual, firm, corporation, association or partnership.

“Police Canine” means any dog actively in use for law enforcement purposes. Police canines are exempt from this title.

"Scratch" means any contact between an animal's claws and the skin of a scratch victim which causes visible trauma, such as a puncture wound, laceration or abrasion, bruise or other piercing of the skin.

"Small Animal" means any animal except swine, dairy cows, beef cattle, goats, sheep, or other large domestic animals of similar size.

"Trap" means any mechanical device or snare which seeks to hold, capture or kill an animal.

"Trapping" means the setting or laying or otherwise using a trap. "Veterinary Hospital" means any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of disease and injury of animals.

“Vicious Dog” means a dog which has:

1. Inflicted substantial bodily harm on a human being on public or private property;
2. Killed a domestic animal without provocation while off the owner’s or harborer’s property; or
3. Been found to be dangerous and after the owner or harborer has notice that the dog is dangerous, the dog aggressively bites, attacks or endangers the safety of humans or domestic animals.

No dog may be declared vicious if any injury or damage is sustained by a person who at the time such injury or damage was sustained, was committing, or attempting to commit, a willful trespass or other unlawful activity upon premises occupied by the owner or harborer of the dog, or was physically abusing or assaulting the dog.

No dog may be declared vicious if any injury or damage was sustained by a domestic animal which, at the time such injury or damage was sustained, was attacking or assaulting the dog.

No dog may be declared vicious if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

"Voice Control" means that an animal;

1. Is physically capable of hearing normal commands;
2. Is at the time under consideration, within reasonable proximity to the controller so that shouting or excessively loud commands are not necessary;
3. Has been adequately trained in obedience so as to be capable of understanding control commands; and
4. Either continually demonstrates, or is able to demonstrate on demand, response to a command that will cause the animal to immediately come into close proximity to the controller and cease any kind of aggressive behavior or action that would be offensive to other persons or animals.

"Work Dog" is any member of the animal species Canis Familiaris trained for and actively engaged in rescue, war work, or as a guide for the blind or deaf, or certified service dog. (Ord. 16-52 § 1, 2016; Ord. 10-31 § 1, 2010; Ord. 05-131 § 1, 2005; Ord. 97-118 § 1, 1997; Ord. 88-120 § 1, 1988; Ord. 87-173 § 1 1987.)

CHAPTER 8.04

ANIMAL CONTROL OFFICER

Sections:

8.04.010 Position Established.
8.04.020 Duties.
8.04.030 Powers.

8.04.010 Position Established. There is hereby established the position of animal control officer in the Public Safety Department. (Ord. 87-173 § 1, 1987.)

8.04.020 Duties. The animal control officers of the city are hereby charged with the duties of enforcing this title and no person shall interfere with, hinder, molest or abuse such officers in the exercise of their powers. (Ord. 87-173 § 2, 1987.)

8.04.030 Powers. The animal control officer of the city may:

(a) Enter without a warrant upon private property to regulate or prohibit the running at large of any animal or the creation of an animal nuisance where such animal is found in plain sight, other than in a residence structure and to seize such animal from said private property;

(b) Enter without warrant upon private property to apprehend a vicious animal, a wild creature or an animal suspected of being infected with rabies where such animal is found in plain sight other than in a residential structure and to seize such animal from said property; and

(c) Enter upon private property to investigate cruelty to animals. (Ord. 87-173 § 2, 1987.)

CHAPTER 8.06

LICENSES

Sections:

8.06.010 License Required.
8.06.020 Nonresidents.
8.06.030 Application.
8.06.040 Rabies Inoculation Required.
8.06.050 Certificate of Vaccination.
8.06.060 License Fee.
8.06.070 License Fee; Exception.
8.06.080 License Period; Authority to Issue.
8.06.090 License Issuance.
8.06.100 License Tags.
8.06.110 Wearing of License Tags Required.

8.06.010 License Required. It shall be unlawful for any person to own, keep or harbor any dog or cat over six (6) months old unless such dog or cat is licensed as provided herein. (Ord. 88-120 § 2, 1988; Ord. 87-173 § 2, 1987.)

8.06.020 Nonresidents. This chapter shall not apply to any nonresident owner or keeper of a dog or cat while such nonresident is passing through the city, provided such dog or cat shall remain on a leash or otherwise effectively physically restrained as in a closed vehicle. (Ord. 87-173 § 2, 1987.)

8.06.030 Application. Written application for a license shall be made by the owner online or on a form provided by the City. The owner shall be identified by name, address and telephone number and the dog or cat by sex, age, breed, color and call name and the rabies inoculation certificate number, date and administering veterinarian given. (Ord. 10-31 § 2, 2010; Ord. 87-173 § 2, 1987.)

8.06.040 Rabies Inoculation Required. It shall be unlawful for any owner to own, keep or harbor any dog or cat over four (4) months old unless such dog or cat has been inoculated for rabies. (Ord. 87-173 § 2, 1987.)

8.06.050 Certificate of Vaccination. The rabies inoculation receipt issued by a veterinarian at the time of vaccination shall remain current during the term of the City license and shall be carefully preserved by the owner or custodian of the dog or cat and exhibited promptly upon request for inspection by the animal control officer. (Ord. 10-31 § 3, 2010; Ord. 87-173 § 2, 1987)

8.06.060 License Fee.

(a) A license shall be issued after payment of a license fee. The license fee shall be adopted by the Governing Body of the City by resolution.

(b) The license fees shall be applied only upon presentation of a written certificate by a licensed veterinarian that the dog or cat has been neutered or spayed. (Ord. 02-135 § 1, 2002; Ord. 89-148, § 1, 1990; Ord. 87-173 § 2, 1987.)

8.06.070 License Fee; Exemption. Any person owning, keeping or harboring a work dog shall be exempt from the license fee payment upon submittal of adequate proof that the dog is fully trained as a work dog and is used regularly as a work dog. (Ord. 87-173 § 2, 1987.)

8.06.080 License Period; Authority to Issue.

A. Licenses shall be issued for a period of either one (1), two (2) or three (3) years from the date of issuance, and shall coincide with a current rabies vaccination.

B. Licenses may be purchased at Olathe Municipal Services, Olathe animal shelter, online, or by mail. (Ord. 11-36 § 1, 2011; Ord. 10-31 § 4, 2010; Ord. 87-173 § 2, 1987.)

8.06.090 Licenses Issuance. A license shall be issued only upon completion of the application form, the proof of current rabies inoculation and the payment of the license fee, unless exempted under Section 8.06.070 above. (Ord. 10-31 § 5, 2010; Ord. 87-173 § 2, 1987.)

8.06.100 License Tags. Licenses shall be issued in the form of a durable tag which shall be fastened to the dog's or cat's collar or harness and worn at all times when the dog or cat is not within the structure or dwelling of the owner or custodian, except as provided by Section 8.06.110. License tags shall not be transferable. If a tag is lost, a duplicate tag will be issued for a fee as adopted by the Governing Body by resolution. (Ord. 10-31 § 6, 2010; Ord. 87-173 § 2, 1987.)

CHAPTER 8.08

PROPER CARE OF ANIMALS

Sections:

8.08.010 Responsible Animal Care.
8.08.015 Proper Animal Restraint
8.08.020 Cruelty to Animals.
8.08.025 Police Dog. (Repealed 4/6/2004)
8.08.030 Exceptions.
8.08.040 Custody of Animal; Disposition; Damages for Killing; When; Expense of Care Assessed Owner; When.
8.08.050 Animal Care While The Owner Disabled; Procedure.
8.08.060 Disposal or Adoption.
8.08.070 Trapping Prohibited.
8.08.080 Exceptions.
8.08.090 Pens, Cages, Yards, Runs, Kennels.
8.08.095 Chaining, Tethering or Picketing of Dogs.
8.08.100 Fences.
8.08.110 Performing Animal Exhibitions.
8.08.120 Compliance With Federal Regulations.
8.08.130 Dead Animals Removal or Disposition.
8.08.140 Injured or Ill Animals.

8.08.010 Responsible Animal Care. It shall be unlawful for any owner or harborer of a domestic animal not to provide for his animal:

(a) Sufficient quantity of good and wholesome food and water;

(b) Proper protection and shelter from the weather;

(c) Veterinary care when needed to prevent suffering;

(d) Humane treatment; and

(e) Prompt removal and sanitary disposal of all excreta deposited by his animal in the city.

8.08.015 Proper Animal Restraint. It shall be unlawful for any person to place a restraint on any animal that permits the animal to be tangled or injured by the restraint. (Ord. 00-119 § 1, 2000.)

8.08.020 Cruelty to Animals.

A. It is unlawful for any person 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; drive over or otherwise set an animal upon another animal, except that reasonable force may be employed to drive off vicious or trespassing animals.

B. It is unlawful for any person to drive or work any animal cruelly.

C. It is unlawful for any person to fail, refuse or neglect to provide any animal in his charge or custody as owner or otherwise with proper food, drink, shade, care or shelter, or carry or leave any animal in or upon any vehicle in a cruel or inhumane manner. Any animal kept outside shall be provided with structurally sound weatherproof enclosure, large enough to accommodate the animal.

D. It is unlawful for any person to abandon any animal within the City limits.

E. It is unlawful for any person 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.

F. It is unlawful for any person to permit any dog fight as defined in Olathe Municipal Code Section 9.14.020, cockfight, bullfight, or other combat between animals or between animals and humans.

G. It shall be unlawful for any person except a licensed veterinarian to crop animal ears or dock animal tails.

H. No person shall 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.

I. Any person who, as the operator or a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such 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.

J. A violation of this section is a class A public offense. (Ord. 11-36 § 2, 2011; Ord. 10-31 § 7, 2010; Ord. 97-118 § 2, 1997; Ord. 87-173 § 2, 1987.)

8.08.025 Police Dog. Repealed 4/6/2004. (Ord. 04-39 § 1, 2004; Ord. 97-118 § 3, 1997.)

8.08.030 Exceptions. Nothing in Section 8.08.020 shall be deemed to prohibit any action by a licensed veterinarian done in accordance with accepted standards of veterinary medicine. Nothing in Section 8.08.020 shall be deemed to prohibit experiments on animals for bonafide scientific purposes by a recognized research facilities under the Animal Welfare Act, but no experiment on animals shall inflict intense and prolonged pain or suffering or intense and frequently repeated pain and suffering on any animal. Nothing in Section 8.08.020 shall be interpreted as prohibiting any act done in self-defense or done to defend another person. (Ord. 87-173 § 2, 1987.)

8.08.040 Custody of Animal; Disposition; Damages for Killing, When; Expense of Care Assessed Owner; When.

(1) Any public health officer, animal control officer, law 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 in Section 8.08.020 of the Olathe Municipal Code, during the pendency of the matter before a court of competent jurisdiction. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if appears, as determined by a veterinarian, that the animal is diseased or disabled beyond recovery for any useful purpose, for euthanasia.

(2) The owner or custodian of an animal euthanized pursuant to subsection (1) of this section shall not be entitled to recover damages for the euthanization of such animal unless the owner proves that such euthanization was unreasonable and unwarranted.

(3) Expenses incurred for the care, treatment or boarding of any animal taken into custody pursuant to subsection (1) of this section pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals as defined in Section 8.08.020 of the Olathe Municipal Code, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

(4) If a person is adjudicated guilty of the crime of cruelty to animals as defined in Section 8.08.020 of the Olathe Municipal Code and the court is satisfied that an 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 or licensed veterinarian for sale, adoption or other disposition. (Ord. 87-173 § 2, 1987.)

8.08.050 Animal Care While Owner Disabled; Procedure. It shall be the policy of the city that whenever it is deemed necessary for any persons to be removed from their living accommodation for any purpose, and they shall have any animals that will not be properly cared for as a result of their absence from their home, then the following procedure shall be followed:

(a) The person so removed shall be contacted to determine his or her desires concerning the care of said animal or animals;

(b) Any known friends or relatives of the owner shall be contacted to determine if they will care for said animals; and

(c) If the individuals mentioned above are unable or unwilling to provide for said animals, the city shall remove said animals to the animal shelter. The owner of said animal or animals shall be required to pay any fees for the keep of the animals before he or she may remove them from the animal shelter. (Ord. 87-173 § 2, 1987.)

8.08.060 Disposal or Adoption. If the owner of any such animal impounded by the City shall fail to make arrangements to care for such animal within five (5) days of the time the City takes possession of the animal, the City shall notify the owner in writing that, if the owner does not make arrangements to care for the animal within three (3) days, the animal will be placed for adoption or destroyed as an abandoned animal.

The three (3) days shall be counted beginning at the conclusion of the initial five (5) day period. If the owner fails to make such arrangements within such time, the animal shall be placed for adoption or destroyed is accordance with applicable City ordinances and the owner will be responsible for all costs incurred during the eight (8) day period outlined herein. (Ord. 10-31 § 8, 2010; Ord. 87-173 § 2, 1987.)

8.08.070 Trapping Prohibited. No person, firm, corporation or association shall do any trapping anywhere in the city. (Ord. 87-173 § 2, 1987.)

8.08.080 Exceptions.

(a) The provisions of Section 8.08.070 do not apply to the use of any trap specifically designed to kill rats, mice, gophers or moles with the consent of the owner or occupant of the property where the trap is set.

(b) The provisions of Section 8.08.070 do not apply to the use of cage-type live traps employed for the control of nuisance animals as long as such traps are tended each 12 hours.

(c) The provisions of Section 8.08.070 do not apply to actions authorized under state wildlife guidelines for the control of nuisance animals. (Ord. 97-118 § 4, 1997; Ord. 87-173 § 2, 1987.)

8.08.090 Pens, Yards or Runs.

(a) No dog house, pen or kennel shall be maintained closer than forty (40) feet to any apartment house, residential condominium, hotel, restaurant, boarding house, retail food store, building used for school, religious or hospital purposes, or residence other than that occupied by the owner or occupant of the premises upon which said dogs are kept.

(b) All pens, yards or run or other structures wherein any animal is kept shall be of such construction so as to be easily cleaned and kept in good repair.

(c) Every pen, run, cage or other yard establishment wherein any dog is kept shall be maintained so that no offensive, disagreeable or noxious smell or odor shall arise therefrom to the injury, annoyance or inconvenience of any neighbor.

(d) All manure accumulations in any pen, run, cage or yard establishment wherein a dog is kept shall be removed or disposed of in such manner as to prevent the breeding of flies. (Ord. 87-173 § 2, 1987.)

8.08.095 Chaining, Tethering or Picketing of Dogs.

(a) It shall be unlawful for any person to attach chains, tethers, restraints or implements directly to a dog 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.

(b) For the purpose of tethering a dog, a chain, leash, rope or tether shall be at least ten (10) feet in length.

(c) Any dog chained, tethered or picketed on private property shall be restricted from movement closer than ten (10) feet to the property line of the premises or any public sidewalk or right-of-way.

(d) No person shall:

(1) Continuously tether a dog for more than one (1) continuous hour, except that tethering of the same dog may resume after a hiatus of three (3) continuous hours, for up to three (3) hours total time on tether per day; or

(2) Use a tether or any assembly or attachments thereto or any combination thereof to tether a dog that shall weigh more than one eighth (1/8) of the animal's total body weight, or due to weight, inhibit the free movement of the animal within the area tethered; or

(3) Tether a dog on a choke chain or any other choke collar or in such a manner as to cause injury, strangulation, or entanglement of the dog on trees, fences, or other natural or man-made obstacles; or

(4) Tether a dog without securing its water supply so that it cannot be tipped over; or

(5) Tether a dog without access to shade when sunlight is likely to cause overheating, or access to appropriate shelter to provide insulation and protection against cold and dampness when the atmospheric temperature falls below forty (40) degrees Fahrenheit, or

(6) Tether a dog in an open area where it can be teased by persons or an open area that does not provide the dog protection from attack by other animals; or

(7) Tether an animal in an area where bare earth is present and no steps have been taken to prevent the surface from becoming wet and muddy in the event of precipitation unless access to dry area or dry shelter is provided. (Ord. 06-115 § 3, 2006.)

8.08.100 Fences. Fences which are intended as enclosures for any animal shall be securely constructed, shall be adequate for the purpose, kept in good repair and shall not be allowed to become unsightly. (Ord. 87-173 § 2, 1987.)

8.08.110 Performing Animal Exhibitions.

(a) No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical or manual devices in a manner which will cause, or is likely to cause, physical injury or suffering.

(b) All equipment used on performing animal shall fit properly and be in good working condition. (Ord. 87-173 § 2, 1987.)

8.08.120 Compliance With Federal Regulations. It shall be unlawful for any person, firm or corporation to buy, sell or offer for sale a native or foreign species or sub-species of mammal, bird amphibian, or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969. (Ord. 87-173 § 2, 1987.)

8.08.130 Dead Animals Removal or Disposition.

A. Olathe residents requesting disposal of small dead domestic animals may do so by delivering the animal to an animal control officer and paying a fee, as adopted in the Governing Body by resolution.

B. All large dead domestic animals shall be removed by the owner or proprietor of the premises within twelve (12) hours after the death of such animal. If not so removed, such animal may be removed by the animal control officer and the owner or proprietor of the premises may be cited for failure to properly dispose of the animal. Costs arising therefrom shall be charged to the animal's owner or custodian or property owner or proprietor.

C. For the removal of small dead animals from animal hospitals, commercial establishments and other similar places where animals are kept for commercial purposes, and from private premises, the fee for each animal shall be as established in accordance with Section 8.14.010.

D. Charges for removal of dead animals, as required in subsections B and C of this section, are due and payable upon billing by the City. Unpaid bills shall become a lien against the property when certified and processed as provided by law. The animal control officer may refuse to collect dead animals from commercial establishments as provided in subsection C of this section for failure to pay for previous billings.

E. On occupied property, the owner and/or tenant thereof shall provide easy access to the subject animal for purposes of its removal. (Ord. 10-31 § 9, 2010; Ord. 87-173 § 2, 1987.)

8.08.140 Injured or Ill Animals. Whenever the animal control officer or any other law enforcement officer encounters a stray or abandoned animal suffering pain, he or she may take the animal to a veterinarian approved by the City of Olathe where the cost of any care or treatment shall be borne by the owner. If the ownership of the animal cannot be determined, the animal control officer shall act in accordance with state law and have a licensed veterinarian assess the animal’s condition. If the veterinarian determines the animal is diseased or disabled beyond recovery for any useful purpose, the veterinarian may humanely euthanize the animal or may authorize the animal to be humanely euthanized by an animal control officer trained to perform euthanasia. (Ord. 10-31 § 10, 2010; Ord. 87-173 § 2, 1987.)

CHAPTER 8.10

ANIMAL NUISANCES

Sections:

8.10.010 Nuisance Prohibited.
8.10.020 Excrement.
8.10.030 Female in Heat.
8.10.040 Diseased Animals.
8.10.050 Injury to Property.
8.10.060 Limitations on Ownership.
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8.10.080 Strays.
8.10.090 Guard Dogs and Attack Dogs.
8.10.100 Animals Biting or Scratching Persons Report--Impoundment and Examination.
8.10.110 Dangerous or Vicious Dogs.

8.10.010 Nuisance Prohibited.

(A) It shall be unlawful for the owner or harborer of any animal to cause or permit such animal to perform, create or engage in any animal nuisance. Any animal found acting in any way forbidden by this title, in the determination of the animal control officer, shall hereby be declared a nuisance and its owner or harborer shall be subject to citation.

(B) “Scheduled Animal Nuisance" is when:

(1) A dog is in public and not controlled;
(2) An animal molests or disturbs persons by chasing, barking, or lunging;
(3) An animal creates noxious or offensive odors;
(4) An animal is on public property and obstructs or interferes with vehicular or pedestrian traffic;
(5) An animal impedes solid waste collection by ripping a solid waste bag or tipping over a solid waste container; or
(6) Any violation of O.M.C. 8.06.010, 8.06.100, 8.08.095, 8.10.020 or 8.10.030 occurs.

(C) “Animal Nuisance" is when:

(1) an animal barks, whines, howls, brays, cries or makes other noises excessively so as to cause annoyance, disturbance or discomfort to any reasonable person of normal auditory sensitivity who resides in a residence structure which is within one thousand (1000) yards of the property on which the animal is kept or harbored;
(2) an animal creates an insect breeding and/or attraction site due to an accumulation of excreta;
(3) an animal threatens or causes a condition which endangers public health, safety, or welfare;
(4) an animal attacks other animals; or
(5) any other violation of this title, which is not a scheduled nuisance as defined in subsection (B), occurs. (Ord. 16-52 § 2, 2016; Ord. 87-173 § 2, 1987.)

8.10.020 Excrement.

(a) It shall be unlawful for any person to appear with an animal upon the public ways, within public places or upon the property of another, absent that person's consent, without some means for removal of excrement.

(b) It shall be unlawful for any person to fail to remove any excrement deposited by his animal upon any public or private property, other than the property of the owner of the animal. This section shall not apply to a blind person while walking his or her work dog. (Ord. 87-173 § 2, 1987.)

8.10.030 Female In Heat. All female animals in heat shall be confined in a building in such a manner that the animal cannot come into contact with a male animal except for planned breeding. (Ord. 87-173 § 2, 1987.)

8.10.040 Diseased Animals. It shall be unlawful for the owner of any domestic animal to knowingly cause or allow the same to run at large or be exposed in any public place anywhere in the city; or to ship or remove such animal from the owner's premises when same is afflicted with a contagious or infectious disease except under the supervision of the health officer. It shall be the duty of the health officer to order the deposition of such diseased animal and treatment of the affected premises to prevent the communication and spread of contagious or infection except in cases where the state veterinarian is empowered to act and does act. (Ord. 87-173 § 2, 1987.)

8.10.050 Injury to Property. It shall be unlawful for any person owning or harboring a dog or cat to permit such dog or cat to damage any property other than that of the owner or harborer, including, but not limited to, going upon any sidewalk, parkway, or private lands or premises without the permission of the owner of such premises and breaking, bruising, tearing up, crushing or injuring any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever. (Ord. 16-52 § 3, 2016; Ord. 87-173 § 2, 1987.)

8.10.060 Limitations Upon Ownership. No person, residential premises or household shall have, hold, maintain or contain more than a combined total of four (4) dogs and cats over (4) months of age within the City of Olathe, except as authorized by Special Use Permit. (Ord. 87-173 § 2, 1987.)

8.10.070 Keeping of Dangerous Animals.

A. No person shall keep or permit to be kept on his premises any dangerous animal for display or for exhibition purposes whether gratuitously or for a fee. This section will not be construed to apply to zoological parks, performing animal exhibitions or circuses, bonafide licensed veterinary hospital for treatment, bonafide educational or medical institutions, museums, or any other place where they are kept as live exhibits or for study.

B. No person shall keep or permit to be kept any dangerous animal as a pet.

C. Upon the written complaint of any person that a person owns or is keeping or harboring a dangerous animal on premises in the City, the Chief of Police or designee 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 or designee shall forthwith send written notice to such person requiring such person to safely remove said animal from the city within three (3) days 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 designee 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.

D. The Chief of Police or designee shall forthwith cause to be seized and impounded any dangerous animal where the person owning, keeping or harboring such animal has failed to comply with the notice sent. Upon a seizure and impoundment said animal 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.

If, during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, such person or persons authorized by the Chief of Police or designee may render said animal immobile by means of tranquilizers or other safe drugs or if that is not safely possible, then said animal may be killed.

E. Any reasonable costs incurred by the Chief of Police or designee in seizing, impounding and for confining any dangerous or wild animal shall be charged against the owner, keeper, or harborer of such animal. Such charges shall be in addition to any fine or penalty provided for violating this ordinance. (Ord. 10-31 § 11, 2010; Ord. 97-118 § 5, 1997; Ord. 87-173 § 2, 1987.)

8.10.080 Strays. It shall be unlawful to permit any cattle, horse, swine, sheep, goats, or poultry to run at large in the city; any such animal running at large in any public place in the city shall be impounded in the manner provided in this ordinance. It shall further be unlawful to picket or tie any such animal in any of the streets of the city for the purpose of grazing or feeding. (Ord. 87-173 § 2, 1987.)

8.10.090 Guard Dogs and Attack Dogs. No person shall leave any guard dog or attack dog unattended in any place in or out of any building unless a warning sign has been placed in a clearly visible location at the premises, located so that it can be seen by any person before entering the place to which the dog has access, warning that a guard dog or attack dog is present. As used in this section, the term guard dog or attack dog means any dog intended to attack intruders, whether the dog has been trained to do so or the dog does so without training. No guard dog or attack dog shall be left unattended in any place except inside a building or out of doors in a fenced yard, with a fence adequate to prevent the dog from leaving the yard. (Ord. 87-173 § 2, 1987.)

8.10.100 Animals Biting or Scratching Persons Report--Impoundment and Examination.

A. When any animal subject to rabies has bitten, scratched or attacked any person, or when an animal is suspected of having rabies, it shall be the duty of any person having knowledge of such facts to report the same immediately to the animal control officer. Such report shall be made to the Olathe Police Department.

Such animal shall not be killed but shall be confined for a period of ten (10) days at the Olathe animal shelter or upon the premises of a duly licensed veterinarian located within the corporate limits of the City of Olathe, Kansas.

No person shall release from confinement any such animal or remove such animal from its place of confinement to another place without the consent of the animal control officer. The confinement of the animal shall be at the expense of the owner or custodian of such animal. Following consultation with a licensed veterinarian, if the animal control officer has reasonable cause to believe the animal is diseased, or upon exigent circumstances, the animal control officer shall be empowered to order examination of such animal to determine whether it may have rabies. No person shall refuse to surrender any animal for quarantine when demand is made by the order of the animal control officer. If the animal dies or is killed, a laboratory examination of the head shall be made at the expense of the animal's owner or custodian.

B. As an alternative to subsection A, the animal control officer may authorize the confinement of the animal on the owner’s premises if at the time of the bite, scratch or attack the animal was not running at large as defined by Section 8.02.020 and if the owner produces a current rabies vaccination certificate showing that the animal has been vaccinated. The expiration date of the rabies vaccination shall be recorded on the vaccination certificate along with positive identification of the animal for which such certificate is issued. The owner of the animal must sign a written agreement to keep the animal confined as directed by the animal control officer and further agrees to allow the animal to be examined periodically to determine its physical condition during the confinement period. The animal must be confined as directed by the animal control officer.

C. The provisions of Section 8.10.100 do not apply to police dogs.

D. Any person refusing or failing to comply with the provisions of this section or with the order or directives of the animal control officer relating thereto shall be guilty of the commission of a Class B public offense. (Ord. 10-31 § 12, 2010; Ord. 97-45 § 1, 1997; Ord. 95-47 § 1, 1995; Ord. 88-120 § 3, 1988; Ord. 87-173 § 2, 1987.)

8.10.110 Dangerous or Vicious Dogs.

A. Determination of a Dangerous or Vicious Dog. In the event that the animal control officer has probable cause to believe that a dog is dangerous or vicious, as defined in Section 8.02.020 and upon submission of a probable cause affidavit by the City Prosecutor's Office, the Municipal Judge shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared dangerous or vicious.

The City Prosecutor shall notify the owner or harborer of the dog that a hearing will be held, at which time he or she may have the opportunity to present evidence why the dog should not be declared dangerous or vicious. The hearing shall be held promptly within no less than five (5) nor more than fourteen (14) days after service of notice upon the owner or harborer of the dog. The failure of the owner or harborer to attend or participate in the hearing shall not prevent the Municipal Judge from hearing evidence in the matter and entering a determination whether the dog is dangerous or vicious as alleged or from entering further orders pursuant to such finding. The hearing shall be informal and shall be open to the public.

If the owner or harborer fails to appear for the hearing, the animal control officer or law enforcement officer may seize and impound the dog. The dog may be impounded by the animal control officer for a period not to exceed thirty (30) days. At the end of the thirty (30) day period pursuant to a Municipal Court order, the dog may be euthanized. The owner or harborer shall pay all costs of said confinement and euthanization. Such costs shall be assessed as Court costs.

If, prior to such hearing, the owner or harborer of the dog voluntarily causes the animal to be euthanized, such action shall be deemed a stipulation that the dog was, in fact, a dangerous or vicious dog as alleged. The Municipal Court may enter such finding without further evidentiary hearing.

If, prior to such hearing, the owner or harborer of the dog voluntarily removes the animal from the City limits, such action shall be deemed a stipulation that the dog is, in fact, a dangerous or vicious dog as alleged. The Municipal Court may enter such finding without further evidentiary hearing. The owner or harborer shall provide the Municipal Court with the exact location, address, and contact information for the new owner or harborer of the dog. The Olathe Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a dangerous or vicious dog. If such dog is found by the Municipal Judge to be dangerous, such animal shall not be returned to the City until a compliance hearing is requested and held in the Municipal Court and it is established that the owner or harborer is in full compliance with the requirements of Section 8.10.110 C 1-8. If such dog is found by the Municipal Judge to be vicious, the dog shall not be returned within the City limits at any time thereafter. It shall be unlawful for the owner or harborer of a dangerous or vicious dog to maintain such animal in violation of the Court's order.

After the hearing, the owner or harborer of the dog and the City Prosecutor shall be notified by the Court in writing within ten (10) business days of the determination. If a determination is made that the dog is dangerous or vicious, the owner or harborer shall comply with the provisions of this title as directed by the Municipal Judge in accordance with a time table established by the Municipal Judge, but in no case more than thirty (30) days subsequent to the date of the determination. If the owner or harborer of the dog contests the determination, he or she may within ten (10) days, exclusive of Saturdays, Sundays and holidays, of such determination appeal to the district court.

In the event that the animal control officer or law enforcement officer has probable cause to believe that the dog in question is dangerous or vicious, and may pose a threat of serious harm to human beings or other domestic animals, the animal control officer or law enforcement officer may seize and impound the dog pending the aforesaid Municipal Court determination and/or the findings of any appeals taken. Upon the Court's determination that the impounded dog is dangerous or vicious, the owner or harborer of the dog shall be liable to the City where the dog is impounded for the costs and expenses of keeping such dog.

In the event of impoundment by the City, the aforesaid Municipal Court hearing must be scheduled within sixty (60) days of such impoundment.

B. A dog which has been adjudicated by another jurisdiction based on its behavior to be dangerous, vicious or a comparable designation shall not be relocated to Olathe; residence shall not be prohibited solely by breed.

C. Control of Dangerous Dog. If the Municipal Court Judge determines that a dog is dangerous, the owner or harborer of such dog shall comply with the following:

1. Confinement. A dangerous dog shall be confined to the interior of its residence or confined within an enclosure as defined in Section 8.02.020 at all times except as set out below:

a. The dangerous dog may be in a fenced yard when securely muzzled and under the direct supervision and in the immediate presence of a responsible adult capable of controlling the dog.

b. The dangerous dog may be walked when securely leashed and securely muzzled. The leash must be under the control of an adult capable of exercising control over the dog. The animal shall not be leashed to an inanimate object.

c. If it is necessary for the owner or harborer to obtain veterinary care for the dangerous dog or to take the animal for professional training or to sell or give away the dangerous dog or to comply with commands or directions of an animal control officer, the dangerous dog must be securely muzzled and securely leashed or securely muzzled and crated.

To be securely leashed the dangerous dog must be on a leash no longer than four (4) feet in length. Any muzzle used to securely muzzle a dangerous dog must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent the dog from biting any human or animal.

2. Confinement Indoors. No dangerous dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

3. Signs. The owner or harborer of a dangerous dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a dangerous dog on the premises. A similar sign is required to be posted on the enclosure. Such sign shall conform to the size requirements established by administrative regulations under Section 8.14.010.

4. Microchip Identification. The owner or harborer of a dangerous dog must have a microchip implanted in the dog for identification, and the name of the microchip manufacturer and identification number of the microchip must be provided to the animal control officer. If the microchip is not implanted by the owner or harborer, it may be implanted by the animal control officer. In either case, all costs related to the purchase and implantation of the microchip must be borne by the dog's owner or harborer.

5. Dangerous Dog License Fees. All dangerous dog owners or harborers shall pay a license fee which shall be renewed annually no later than one year from the date of previous issuance. The license fee shall be adopted by the Governing Body of the City by resolution.

6. Mandatory Spay and Neuter. All dangerous dogs shall be required to be spayed or neutered.

7. Training. All dangerous dogs shall be required to be enrolled in a behavior modification program administered by a licensed animal behaviorist prior to the compliance hearing. Verification of successful completion of said program must be provided to the animal control officer at the annual license review.

8. Insurance. The owner or harborer of a dangerous dog is required to present to the Municipal Court proof that the owner or harborer has procured liability insurance in the amount of at least One Hundred Thousand Dollars ($100,000), covering any damage or injury which may be caused by such dangerous dog during the twelve (12) month period for which licensing is sought. The policy shall contain a provision requiring the City to be named as additional insured for the sole purpose of notification to the City by the insurance company of any cancellation, termination or expiration of the liability insurance policy.

The owner or harborer shall maintain and not voluntarily cancel the liability insurance required by the Court during each annual license period for which licensing is sought, unless the owner or harborer shall cease to own or keep the dangerous dog prior to expiration of such license.

9. Compliance Hearing. In the event that a dog has been determined to be dangerous, the Municipal Court Judge shall set a compliance hearing within forty (40) days of said determination. The owner or harborer of said dog shall provide verification of full compliance with Section 8.10.110 C 1–12 at said hearing. In the event the Court finds the owner or harborer is not in full compliance, the dangerous dog shall be impounded by the animal control officer for a period not to exceed thirty (30) days. The owner or harborer shall pay all costs of said confinement. Such costs shall be assessed as Court costs. If full compliance is not verified to the Court within that thirty (30) day period, the dangerous dog shall be euthanized or the owner or harborer of the dog shall remove the dog from the City limits and shall provide the Municipal Court with the exact location, address, and contact information for the new owner or harborer where the dog has been moved. The Olathe Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a dangerous animal.

10. At least thirty (30) days prior to the relocation of a dog previously determined to be dangerous, the owner or harborer of the dog shall notify the Olathe Municipal Court and Animal Control of the proposed location. The Olathe Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a dangerous dog.

11. Prior to the annual renewal of any dangerous dog license issued hereunder and at least once annually after the issuance of any such license or after its renewal, the animal control officer or designated representative is authorized to inspect the premises subject to such license to determine whether the person to whom it has been issued is continuing to comply with all of the conditions specified in this Chapter. In addition, the animal control officer may investigate the past history of the license holder to determine whether during the past license period the license holder was in compliance with all of the conditions specified in this Chapter. The investigation may include a review of department records and interviews with the license holder and neighbors. If the animal control officer determines during any such inspection and investigation that any of the conditions therein specified are being violated or have been noted as having been violated during the past licensed period, he/she shall deny renewal of any such license and/or revoke such license 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 animal control officer shall report to the City Prosecutor that the dangerous animal license has been renewed or that the renewal application has been denied. If the application was denied, a copy of the report shall be given to the owner or harborer of the dangerous dog. The report shall include the basis for the denial. The owner or harborer shall have the right to appeal the denial to the Olathe Municipal Court. The decision of the Olathe Municipal Court shall be final and binding.

12. Dangerous Dog Designation Review. Beginning one (1) year after a dog is declared a dangerous dog, an owner or harborer may request annually that the Municipal Court review the designation. The owner or harborer must provide evidence that the dog is no longer dangerous due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the animal control officer finds sufficient evidence that the dog's behavior has changed, the Municipal Judge may rescind that dangerous dog designation.

D. Disposition of Vicious Dogs. If the Municipal Court Judge determines that a dog is vicious, the dog shall be euthanized or the owner or harborer of such dog shall remove the dog from the City limits and shall provide the Municipal Court with the exact location, address, and contact information for the new owner or harborer where the dog has been moved. The Olathe Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a vicious dog. The dog shall not be returned to the City limits after removal. It shall be unlawful for the owner or harborer of a vicious dog to maintain such animal in violation of the Court's order. (Ord. 14-36 § 1, 2014; Ord. 10-31 § 13, 2010; Ord. 06-115 § 1, 2006; Ord. 05-131 § 2, 2005; Ord. 97-118 § 6, 1997; Ord. 87-173 § 2, 1987.)

CHAPTER 8.12

IMPOUNDMENT, REDEMPTION AND ADOPTION

Sections:

8.12.010 Impoundment, Redemption and Disposition of Animals Running at Large or Involved In Biting Persons or Other Animals.
8.12.020 General Policy Regarding Adoption.
8.12.030 Dog and Cat Adoption.
8.12.040 Cat Adoption. (Repealed 9/2/97)
8.12.050 Shelter Hours for Adoption.
8.12.060 Holding Animals in Shelter.

8.12.010 Impounding, Redemption and Disposition of Animals Running at Large or Involved in Biting Persons or Other Animals. The animal control officer is authorized to receive and dispose of (pursuant to the adoption guidelines of this Chapter), dogs, cats or other small animals, and to impound, offer for adoption or destroy any animal running at large in violation of the terms of this Chapter, or any animal that has bitten a person or another animal, or any animal suspected of having a disease transmissible to human beings. Such animals may be taken or impounded even though no citizen makes a complaint and even though the animal control officer issues no notice to appear. Impoundment shall be subject to the following:

A. The animal control officer shall notify the owner of an animal, identifiable by a tag or other approved method, which is impounded under this Chapter, by telephone or personal service.

B. Such animal shall be confined in the approved shelter for a period of three (3) days, such period of time beginning at nine a.m. on the morning following the day of impoundment as provided in subsection A of this section. If the owner does not reclaim his or her animal during the three (3) day period, or if the animal control officer or animal shelter is unable to locate and notify the owner after making a good faith effort to do so within the three (3) day period, then the animal shelter may offer for adoption or destroy such animal.

If the animal is not identifiable by a tag or other approved method, no notice is required and such animal shall be confined for a period of three (3) days beginning at nine a.m. of the morning following its capture; after such time the animal shelter may dispose of the animal.

Notwithstanding the above and as provided in Section 8.10.100, any animal impounded pursuant to a report that any person or other animal has been bitten by that animal, shall be held for a period of at least ten (10) days for the purpose of observing such animal for symptoms of rabies disease; after such time the animal shelter may dispose of the animal.

C. Any animal licensed or unlicensed, as required in this Chapter may be claimed by its owner upon the payment of an impoundment fee which shall be adopted by the Governing Body of the City by resolution. Each animal impoundment is a separate and subsequent impoundment regardless of animal ownership in prior impoundments.

D. Fees.

1. Boarding fee: a fee for maintaining and caring for the animal shall be adopted by the Governing Body of the City by resolution.

2. Vaccination Deposit: A vaccination deposit shall be adopted by the Governing Body of City by resolution. Such amount shall be as deposit for vaccination for rabies vaccination, redeemable when proof of vaccination is received from any veterinarian approved by the City of Olathe; said deposit to be forfeited to the City of Olathe if proof of vaccination is not received by the City within five (5) consecutive business days commencing the day following the making of said deposit. An absence of proof of vaccination shall be deemed evidence that no rabies vaccination has been obtained.

3. License fee for dogs and cats: fee equal to an amount due in accordance with the schedule in Section 8.06.060.

4. Any and all fees or costs incurred by the City for impounding and/or boarding animals shall be paid for by the owner of such animal before the animal is released to the owner. The fees and costs for impounding animals shall be adopted by the Governing Body of the City by resolution.

E. All animals not claimed within the period provided in this section may be adopted or destroyed.

F. All animals impounded for reasons of suspected disease may be reclaimed by their owners upon evaluation and treatment by a veterinarian approved by the City of Olathe who shall certify, in writing, the disease-free release of such animal. (Ord. 14-53 § 1, 2014; Ord. 10-31 § 14, 2010; Ord. 02-136 § 1, 2002; Ord. 00-119 § 2, 2000; Ord. 97-118 § 7, 1997; Ord. 92-19 § 1, 1992; Ord. 88-120 § 4, 1988; Ord. 87-173 § 2, 1987.)

8.12.020 General Policy Regarding Adoption. The city's main concerns with respect to adoption of a cat or dog from the shelter are:

(a) That the dog or cat be in good health, that all dogs be immunized against rabies, licensed, not vicious by nature; and

(b) That the dog or cat will be assured of a good home under the control of a responsible person. (Ord. 87-173 § 2, 1987.)

8.12.030 Dogs and Cats.

A. Qualifications for adoption:

1. Good Health.
2. Not vicious.
3. Vaccinated.
4. Licensed (when place of residence is within the City).
5. In the case of a licensed dog or cat turned in at the shelter by the owner of record or his authorized representative, said owner or representative must give a release in writing for the animal's disposal or adoption.
6. Any dog or cat picked up by the animal control officer as a stray or while running at large, or in response to a complaint, the dog will not be available for adoption (other qualifications being met) until the prescribed waiting period of three (3) days has expired and the owner has failed to claim it; or the owner has given written consent to the adopter for its adoption; or the adopter (after the waiting period) certifies that efforts to locate the owner were unsuccessful.
7. The adopting party must sign an agreement to have the dog or cat spayed or neutered and vaccinated for rabies prior to the adopting party taking possession of the adopted animal.
8. Adopted animals over four (4) months old will be sterilized and vaccinated by the contract veterinarian(s) prior to being released to the adopter. It shall be the responsibility of the adopter to redeem the animal from the Olathe Animal Shelter following the surgery and vaccination of the animal. Failure to redeem the animal will result in forfeiture of all rights to said animal and any monies paid. The adopted animal remains the property of the City of Olathe until the spay/neuter surgery is completed and the new adopter takes possession of the adopted animal from the Olathe Animal Shelter.

B. Fees associated with adoption: The adopter will be required to pay an adoption fee, spay/neuter fee, vaccination fees, and license fee. Such fees shall be adopted by the Governing Body of the City by resolution. (Ord. 13-20 § 1, 2013; Ord. 04-05 § 1, 2004; Ord. 02-136 § 2, 2002; Ord. 97-118 § 8, 1997; Ord. 92-19 § 2, 1992; Ord. 88-120 § 5, 1988; Ord. 87-173 § 2, 1987.)

8.12.040 Cat Adoption. Repealed 9/2/97. (Ord. 97-118 § 9, 1997; Ord. 88-120 § 6, 1988; Ord. 87-173 § 2, 1987.)

8.12.050 Holding Animals in Shelter. An animal considered by the animal control officer to be suitable for adoption shall be held in the shelter for at least four (4) calendar days following the mandatory retention period if not claimed by the owner during the retention period. The animal control officer may hold the animal in the shelter beyond four (4) days if there is sufficient capacity and ability to do so. (Ord. 10-31 § 15, 2010; Ord. 97-118 § 10, 1997; Ord. 92-19 § 3, 1992; Ord. 88-120 § 6, 1988; Ord. 87-173 § 2, 1987.)

CHAPTER 8.14

ENFORCEMENT AND PENALTIES

Sections:

8.14.010 Chapter Administration.
8.14.020 Nuisance Injunction.
8.14.025 Collection of Fees.
8.14.030 Penalties.

8.14.010 Chapter Administration. The city manager is authorized to develop administrative regulations necessary to implement the provisions of this chapter, including procedures for animal enumerations, animal shelter operation, and such other fees required by this title but not specified herein. (Ord. 97-118 § 11, 1997; Ord. 87-173 § 2, 1987.)

8.14.020 Nuisance, Injunction. In addition to any other relief provided by this ordinance, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this ordinance. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction. (Ord. 16-52 § 4, 2016; Ord. 97-118 § 11, 1997; Ord. 87-173 § 2, 1987.)

8.14.025 Collection of Fees.

A. The City of Olathe may recover all costs incurred in caring for any animal impounded, held pursuant to or associated with the provisions of this title including but not limited to the cost for necessary veterinarian care, euthanasia of any animal, decapitation fee for rabies test, surrender of any animal to the animal shelter, impoundment administration, and the renting of any animal trap. Said fees shall be in addition to any fine imposed for violation of the provisions of this chapter. Fees shall be established by resolution of the Governing Body.

B. The City of Olathe may charge fees for any veterinarian clinic or services offered to the public including, but not limited to, microchipping, vaccinations and medical tests. Fees shall be established by resolution of the Governing Body. (Ord. 13-20 § 2, 2013; Ord. 05-127 § 1, 2005; Ord. 00-119 § 3, 2000; Ord. 97-118 § 11, 1997)

8.14.030 Penalties.

(A) Nuisance Violations – Scheduled nuisance. A commission of any of the offenses listed in O.M.C. 8.10.010(B) shall:

(1) Be fined Twenty-Five Dollars ($25.00) for the first offense;
(2) Be fined Fifty Dollars ($50.00) for the second offense within twenty-four months of a prior conviction;
(3) Be fined not less than Two Hundred Dollars ($200.00) nor more than Three Hundred Fifty Dollars ($350.00) for the third offense within a consecutive twenty-four (24) month period; or
(4) Be fined not less than Three Hundred Fifty Dollars ($350.00) nor more than Five Hundred Dollars ($500.00) and may be ordered to remove such animal permanently from the City within forty-eight (48) hours of such order for the fourth or any subsequent offense within a consecutive twenty-four (24) month period.
(5) For the third and any subsequent offense within a consecutive twenty-four (24) month period, a court appearance shall be mandatory.

(B) Penalties for Non Compliance with Section 8.10.110 Dangerous or Vicious Dogs.

(1) Any animal which is not contained or controlled as ordered pursuant to Section 8.10.110 shall be confiscated by an animal control officer and may be destroyed in an expeditious and humane manner after the expiration of a five (5) day waiting period, exclusive of weekends and holidays. In addition, the owner or harborer shall be fined not less than Two Hundred Fifty Dollars ($250.00) and not more than One Thousand Dollars ($1,000.00).

(2) If any dangerous or vicious dog shall, when unprovoked, attack, wound or kill or assist in killing or wounding any animal, the owner or harborer of said dog shall pay a fine not less than Two Hundred Fifty Dollars ($250.00) and not more than One Thousand Dollars ($1,000.00) and the animal control officer is empowered to confiscate and after the expiration of a five (5) day waiting period, exclusive of weekends and holidays, shall destroy said dangerous or vicious dog.

(3) If any dangerous or vicious dog shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human being, the owner or harborer shall pay a fine not less than Five Hundred Dollars ($500.00) and not more than One Thousand Dollars ($1,000.00) and the animal control officer is empowered to confiscate the dangerous or vicious dog and after the expiration of a five (5) day waiting period, exclusive of weekends and holidays, shall destroy said dangerous or vicious dog.

(4) If the owner or harborer of a dog impounded for an alleged violation shall believe that there has not have been a violation of Section 8.10.110, such owner or harborer may petition the Municipal Court, praying that the impounded dog not be destroyed. The impounded dog shall not be destroyed pending resolution of such owner's or harborer’s petition if the petition shall have been filed within five (5) days exclusive of weekends and holidays of impoundment of such dog and notice shall have been served within five (5) days exclusive of weekends and holidays of the impoundment of such dog upon the City Prosecutor and animal control officer of the animal shelter. The hearing shall be conducted within seven (7) business days from serving of the notice. The dog shall remain impounded pending the Municipal Court proceedings. The decision of the Municipal Court shall be final and conclusive upon all the parties thereto.

(C) Other Violations. Any person found guilty of violating any other provision of this Title that does not specify a penalty shall be fined not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00) for each offense. A court appearance shall be mandatory for any person charged with violating a provision of this title, which is not a scheduled nuisance pursuant to subsections (A)(1) or (2). A separate offense shall be held to have been committed each day that such violation shall occur or continue. Upon the fourth or subsequent conviction of any one provision of this title, the Court may order the animal removed permanently from the City within forty-eight (48) hours of such order.

(D) Mediation, Diversion or Other Alternative Dispute Remedies. The City Prosecutor may offer mediation, diversion or other alternative dispute remedies for violations of this title. (Ord. 16-52 § 5, 2016; Ord. 10-31 § 16, 2010; Ord. 05-131 § 3, 2005; Ord. 97-118 § 11, 1997; Ord. 87-173 § 2, 1987.)

TITLE 9

OLATHE PUBLIC OFFENSE CODE

CHAPTERS:

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CHAPTER 9.01

SCOPE AND APPLICATION

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9.01.030 Application; Kansas Criminal Code.
9.01.040 Civil Remedies Preserved.
9.01.050 Territorial Applicability.
9.01.060 Public Offenses Defined; Classes of Offenses.
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9.01.090 Effect of Former Prosecution.
9.01.100 Defendant Presumed Innocent; Reasonable Doubt as to Guilt.
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9.01.010 Title and Construction. This code is called and may be cited as the City of Olathe public offense code. (Ord. 83-75 § 2, 1983.)

9.01.020 Scope and Application.

(1) No conduct constitutes a crime against the City of Olathe unless it is made criminal in this code or in another ordinance of this city, but where an offense is denounced by any ordinance of this city, but not defined, the definition of such offense at common law shall be applied.

(2) Unless expressly stated otherwise, or the context otherwise requires, the provisions of this code apply to offenses created by ordinance other than in this code.

(3) This code does not affect the power of the municipal court to punish for contempt or to employ any sanction authorized by law for the enforcement of a conviction, judgment, order or sentence.

(4) This code has no application to offenses committed prior to its effective date. An offense is committed prior to the effective date of the code if any of the essential elements of the offense as then defined occurred before that date. Prosecutions for prior offenses shall be governed, prosecuted and punished under the laws existing at the time such offenses were committed. (Ord. 83-75 § 2, 1983.)

9.01.030 Application; Kansas Criminal Code. The provisions of the Kansas Criminal Code and amendments thereto which are in their nature applicable to the jurisdiction of the City of Olathe and in respect to which no special provision is made by ordinance of the city are applicable to this public offense code. (Ord. 83-75 § 2, 1983.)

9.01.040 Civil Remedies Preserved. This code does not bar, suspend or otherwise affect any civil right or remedy, authorized by law to be enforced in a civil action, based upon conduct which this code makes punishable; and the civil injury caused by criminal conduct is not merged in the offense. (Ord. 83-75 § 2, 1983.)

9.01.050 Territorial Applicability.

(1) A person is subject to prosecution and punishment under the law of this city if:

(a) Such person commits an offense wholly or partly within the corporate limits of this city; or

(b) Being outside the city, such person counsels, aids, abets, or conspires with another to commit an offense within this city; or

(c) Being outside the city, such person commits an act which constitutes an attempt to commit an offense within this city.

(2) An offense is committed partly within the city if either an act which is a constituent and material element of the offense, or the proximate result of such act, occurs within the city.

(3) An offense which is based on an omission to perform a duty imposed by the law of this city, is committed within the city, regardless of the location of the person omitting to perform such duty at the time of the omission.

(4) It is not a defense that the defendant's conduct is also violative of the laws of the State of Kansas or of another state or of the United States or of another country.

(5) This city includes the land and water and air space above such land and water with respect to the limits and boundaries of the City of Olathe. (Ord. 07-135 § 1, 2007; Ord. 83-75 § 2, 1983.)

9.01.060 Public Offenses Defined; Classes of Offenses. A public offense is an act or omission defined by law and for which, upon conviction, a sentence of imprisonment or fine, or both imprisonment and fine, is authorized.

Offenses are classified as Class A, B, C and unclassified public offenses. (Ord. 83-75 § 2, 1983.)

9.01.070 Time Limitations.

1. Except as otherwise provided in this section, a prosecution for all other offenses must be commenced within five (5) years after it is committed.

2. The period within which a prosecution must be commenced shall not include any period in which:

A. The accused is absent from the state;

B. The accused is concealed within the state so that process cannot be served upon the accused;

C. The fact of the offense is concealed;

D. A prosecution is pending against the defendant for the same conduct, even if the notice to appear and/or complaint which commences the prosecution is quashed or the proceedings thereon are set aside, or are reversed on appeal.

3. An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing offense plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time begins to run on the day after the offense is committed.

4. A prosecution is commenced when a notice to appear and/or complaint is filed and a warrant thereon is delivered to the Police Department or an officer for execution, or a notice to appear is delivered to the Police Department for service upon the accused, or when the accused has been served with a notice to appear and the complaint is filed with the municipal court. (Ord. 14-26 § 1, 2014; Ord. 83-75 § 2, 1983.)

9.01.080 Multiple Prosecutions for Same Act.

(1) When the same conduct of a defendant may establish the commission of more than one offense under the laws of the city, the defendant may be prosecuted for each of such offenses. Each of such offenses may be alleged as a separate count in a single complaint and/or notice to appear.

(2) Upon prosecution for an offense, the defendant may be convicted of either the offense charged or an included offense, but not both. An included offense may be any of the following:

(a) A lesser degree of the same offense;
(b) An attempt to commit the offense charged;
(c) An attempt to commit a lesser degree of the offense charged; or
(d) An offense necessarily proved if the offense charged were proved.

Whenever charges are filed against a person, accusing such person of an offense which includes another offense of which the person has been convicted, the conviction of such included offense shall not bar prosecution or conviction of the offense charged if such offense charged was not consummated at the time of conviction of the included offense, but the conviction of such included offense shall be annulled upon the filing of such charges. Evidence of such person's plea or any admission or statement made by such person in connection therewith in any of the proceedings which resulted in such person's conviction of the included offenses shall not be admissible at the trial of the offense charged. If such person is convicted of the offense charged, or of an included offense, the person so convicted shall receive credit against any sentence imposed or fine to be paid for the period of confinement actually served or the amount of any fine actually paid under the sentence imposed for such annulled conviction. (Ord. 83-75 § 2, 1983.)

9.01.090 Effect of Former Prosecution.

(1) A prosecution is barred if the defendant was formerly prosecuted for the same offense, based upon the same facts, if such former prosecution:

(a) Resulted in either a conviction or an acquittal or in a determination inconsistent that the evidence was insufficient to warrant a conviction; or
(b) Was terminated by a final order or judgment, even if entered before trial, which required a determination inconsistent with any fact or legal proposition necessary to a conviction in the subsequent prosecution; or
(c) Was terminated without the consent of the defendant after the defendant had been placed in jeopardy, except where such termination shall have occurred by reason of the illness or death of an indispensable party. A defendant is in jeopardy when he or she is put on trial in a court of competent jurisdiction upon an indictment, information, complaint and/or notice to appear, sufficient in form and substance to sustain a conviction or where the case is tried to the court, when the court has begun to hear evidence.

A conviction of an included offense is an acquittal of the offense charged.

(2) A prosecution is barred if the defendant was formerly prosecuted for a different offense, or for the same crime based upon different facts, if such former prosecution:

(a) Resulted in either a conviction or an acquittal and the subsequent prosecution is for an offense or offenses of which evidence has been admitted in the former prosecution and which might have been included as other counts in the complaint and/or notice to appear, indictment or information filed in such former prosecution or upon which the prosecution then might have elected to reply; or was for a crime which involves the same conduct, unless each prosecution requires proof of a fact not required in the other prosecution, or the offense was not consummated when the former trial began; or
(b) Was terminated by a final order or judgment, even if entered before trial, which required a determination inconsistent with any fact necessary to a conviction in the subsequent prosecution; and
(c) Was terminated without the consent of the defendant after the defendant had been placed in jeopardy, except where such termination shall have occurred by reason of the illness or death of an indispensable party.

(3) A prosecution is barred if the defendant was formerly prosecuted in a district court of the United States or in a court of proper jurisdiction of a sister state or in the municipal court of another city or a district court of Kansas for a crime which is within the concurrent jurisdiction of this city, if such former prosecution:

(a) Resulted in either a conviction or an acquittal, and the subsequent prosecution is for the same conduct, unless each prosecution requires proof of a fact not required in the other prosecution, or the offense was not consummated when the former trial began; or

(b) Was terminated by a final order of judgment, even if entered before trial, which required a determination inconsistent with any fact necessary to a conviction in the prosecution in this state.

(4) A prosecution is not barred under this section:

(a) By a former prosecution before a court which lacked jurisdiction over the defendant or the offense; or

(b) By a former prosecution procured by the defendant without the knowledge of a prosecuting officer authorized to commence a prosecution for the maximum offense which might have been charged on the facts known to the defendant, and with the purpose of avoiding the sentence which otherwise might be imposed; or

(c) If subsequent proceedings resulted in the invalidation, setting aside, reversal or vacating of the conviction, unless the defendant was adjudged not guilty.

(5) In no case where a conviction for a lesser included crime has been invalidated, set aside, reversed or vacated shall the defendant be subsequently prosecuted for a higher degree of the crime for which such defendant was originally convicted. (Ord. 83-75 § 2, 1983.)

9.01.100 Defendant Presumed Innocent; Reasonable Doubt as to Guilt. A defendant is presumed to be innocent until the contrary is proved. When there is a reasonable doubt as to his guilt, he must be acquitted. When there is a reasonable doubt as to which of two or more degrees of an offense he is guilty, he may be convicted of the lowest degree only. (Ord. 83-75 § 2, 1983.)

9.01.110 General Definitions. The following definitions shall apply when the words and phrases defined are used in this Title, except when a particular context clearly requires a different meaning.

Act: Shall also include a failure or omission to take action.

Air Gun or Rifle: Any device whether or not in the shape and form commonly associated with the terms pistol, sidearm, small arm, rifle, shotgun, or any other type of gun designed to forcibly expel from an opening therein any pellet or BB shot, and whether operating from and upon compressed air or mechanical or elastic springwork or otherwise.

Alcohol Concentration: The number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

Alcohol Without Liquid Machine: A device designed or marketed for the purpose of mixing alcohol with oxygen or another gas to produce a mist for inhalation for recreational purposes.

Alcoholic Liquor or Alcoholic Beverage: Includes the four varieties of liquor, namely alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer capable of being consumed as a beverage by a human being, but shall not include cereal malt beverage.

Animal: Any live, vertebrate creature, domestic or wild, other than humans.

Another: A person or persons as defined in this Title other than the person whose act is claimed to be an offense.

Audiovisual Recording Function: The capability of a device to record or transmit a motion picture or any part thereof by means of any technology now known or later developed.

Beer: A beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

Body Piercing: 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 shall not be included in this definition.

Cardholder: The person or entity to whom or for whose benefit a financial card is issued.

Caterer: 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.

Cereal Malt Beverage: Means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt substitute, but does not include any such liquor which is more than three and two-tenths percent (3.2%) alcohol by weight.

Cigarette: Any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient if the wrapper is in greater part made of any material except tobacco.

City or this City: The City of Olathe, Kansas, and all land and water within the corporate limits of the City of Olathe and the air space above such land and water.

City or County Correctional Officer or Employee: Any correctional officer or employee of the City or county or any independent contractor, or any employee of such contractor, working at a City holding facility or county jail facility.

Conduct: An act or series of acts, and the accompanying mental state.

Conviction: A judgment of guilt entered upon a plea or finding of guilty.

Court Appointed Guardian: One who is appointed by a court and has legal authority and duty to care for another person, especially because of the other's infancy, incapacity or disability.

Deception: Knowingly creating or reinforcing a false impression, including false impressions as to law, value, intention or other state of mind. Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that such person did not subsequently perform the promise. Falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive reasonable persons, is not deception.

Deprive Permanently:

A. To take from the owner the possession, use or benefit of his or her property without an intent to restore the same; or

B. To retain property without intent to restore the same or with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or

C. To sell, give, pledge or otherwise dispose of any interest in property or subject it to the claim of a person other than the owner.

Distribute: The actual or constructive transfer from one person to another of some item whether or not there is an agency relationship. **Distribute** includes, but is not limited to, sale, offer for sale, furnishing, buying for, delivering, giving, or any act that causes or is intended to cause some item to be transferred from one person to another. **Distribute** 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.

Drinking Establishment: Premises which may be open to the general public, where alcoholic liquor by the individual drink is sold. Drinking establishment includes a railway car.

Dwelling: A building or portion thereof, a tent, a vehicle or other enclosed space which is used or intended for use as a human habitation, home or residence.

Dwelling Unit: A single-family residence, multiple-family residence and each living unit in a mixed-use building.

Electronic Cigarette: A battery-powered device, whether or not such device is shaped like a cigarette, that can provide inhaled doses of nicotine by delivering a vaporized solution by means of cartridges or other chemical delivery systems.

Equine: A horse, pony, mule, jenny, donkey or hinny.

Farm Animal: An animal raised on a farm or ranch and used or intended for use as food or fiber.

Fighting Words: Words that by their very utterance inflict injury or tend to incite the listener to an immediate breach of the peace.

Financial Card: An identification card, plate, instrument, device or number issued by a business organization authorizing the cardholder to purchase, lease or otherwise obtain money, goods, property or services or to conduct other financial transactions.

Fire Department: A public fire department under the control of the governing body of a city, township, county, fire district or benefit district or a private fire department operated by a nonprofit corporation providing fire protection services for a city, township, county, fire district or benefit district under contract with the governing body of the city, township, county or district.

Firearm: Any weapon designed or having the capacity to propel a projectile by force of an explosion or combustion.

Funeral: The ceremonies, processions, and memorial services held in connection with the burial or cremation of a person.

Gamecock: A domesticated fowl that is reared or trained for the purpose of fighting with other fowl.

Health Care Facility: Any licensed medical care facility, certificated health maintenance organization, licensed mental health center, or mental health clinic, licensed psychiatric hospital or other facility or office where services of a health care provider are provided directly to patients.

Health Care Provider: Any person:

A. Licensed to practice a branch of the healing arts;
B. Licensed to practice psychology;
C. Licensed to practice professional or practical nursing;
D. Licensed to practice dentistry;
E. Licensed to practice optometry;
F. Licensed to practice pharmacy;
G. Registered to practice podiatry;
H. Licensed as a social worker; or
I. Registered to practice physical therapy.

Identification Document: Any card, certificate or document which identifies or purports to identify the bearer of such document, whether or not intended for use as identification, and includes, but is not limited to, documents purporting to be driver's licenses, non-driver's identification cards, birth certificates, social security cards and employee identification cards.

Intent to Defraud: An intention to deceive another person, and to induce such other person, in reliance upon such deception, to assume, create, transfer, alter or terminate a right, obligation or power with reference to property.

Juvenile Detention Facility Officer or Employee: Any officer or employee of a juvenile detention facility as defined in K.S.A. 38-2302, and amendments thereto.

Knife: A cutting instrument, including a sharpened or pointed blade, a dagger, dirk, switchblade, stiletto, straight-edged razor or any other dangerous or deadly cutting instrument of like character.

Law Enforcement Officer:

A. Any person who by virtue of such person's office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses whether that duty extends to all offenses or is limited to specific offenses.
B. Any university police officer or campus police officer, as defined in K.S.A. 22-2401a, and amendments thereto.

Maliciously: A state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

Motion Picture Theater: A movie theater, screening room or other venue when used primarily for the exhibition of a motion picture.

Motor Vehicle: Every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled.

Motorboat: Any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion.

Obtain: To bring about a transfer of interest in or possession of property, whether to the offender or to another.

Obtains or Exert Control over Property: Includes but is not limited to, the taking, carrying away, or the sale, conveyance, or transfer of title to, interest in or possession of property.

Ordinance Cigarette or Tobacco Infraction: A violation of an ordinance that proscribes the same behavior as proscribed by Subsection (m) or (n) of K.S.A. 79-3321 and amendments thereto.

Owner: A person who has an interest in property.

Paint Ball Gun: Any device whether or not in the shape and form commonly associated with the terms pistol, sidearm, small arm, rifle, shotgun, or any other type of gun designed to forcibly expel from an opening therein any paint ball, and whether operating from and upon compressed air or mechanical or elastic springwork or otherwise.

Person: An individual, public or private corporation, government, partnership, or unincorporated association.

Personal Property: Goods, chattels, effects, evidences of rights in action and all written instruments by which any pecuniary obligation, or any right or title to property, real or personal, shall be created, acknowledged, assigned, transferred, increased, defeated, discharged, or dismissed.

Police Dog: Any dog which is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws or apprehension of offenders.

Possession: Having joint or exclusive control over an item with knowledge of or 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.

Private Place: A place where one may reasonably expect to be safe from uninvited intrusion or surveillance.

Property: Anything of value, tangible or intangible, real or personal.

Prosecution: All legal proceedings by which a person's liability for an offense is determined.

Public Employee: A person employed by or acting for the state or the City or by or for a county, another municipality or other subdivision or governmental instrumentality of the state for the purpose of exercising their respective powers and performing their respective duties, and who is not a public officer.

Public Offense or Offense: An act or omission defined by this Title which, upon conviction, is punishable by fine, confinement or both fine and confinement.

Public Officer: Includes the following, whether elected or appointed:

A. An executive or administrative officer of the City or of the state, or a county, another municipality or other subdivision or governmental instrumentality of or within the state.
B. A member of the legislature or the governing body or of a governing board of a county, municipality, or other subdivision of or within the city or state.
C. A judicial officer, which shall include a judge of the district or municipal court, juror, master or any other person appointed by a judge or court, to hear or determine a cause or controversy.
D. A hearing officer, which shall include any person authorized by law or private agreement, to hear or determine a cause or controversy and who is not a judicial officer.
E. A law enforcement officer.
F. Any other person exercising the functions of a public officer under color of right or law.

Railroad Property: Includes, but is not limited to, any train, locomotive, railroad car, caboose, rail-mounted work equipment, rolling stock, work equipment, safety device, switch, electronic signal, microwave communication equipment, connection, railroad track, rail, bridge, trestle, right-of-way or other property that is owned, leased, operated or possessed by a railroad company.

Real Property or Real Estate: Every estate, interest and right in lands, tenements and hereditaments.

Retail Dealer: A person, other than a vending machine operator, in possession of cigarettes or electronic cigarettes for the purpose of sale to a consumer.

Runaway: A child under 18 years of age who is voluntarily absent from:

A. The child's home without the consent of the child's parent or other custodian; or
B. A court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee.

Sail Board: A surfboard using for propulsion a free sail system comprising one or more swivel-mounted rigs (mast, sail and booms) supported in an upright position by the crew and the wind.

Sailboat: Any vessel, other than a sail board, that is designed to be propelled by wind action upon a sail for navigation on the water.

Sample: Cigarettes or tobacco products distributed to members of the general public at no cost for purposes of promoting the product.

School Employee: Any employee of a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12.

Scrap Metal Dealer: Any person that operates a business out of a fixed location, and that is also either:

A. Engaged in the business of buying and dealing in regulated scrap metal;
B. Purchasing, gathering, collecting, soliciting or procuring regulated scrap metal; or
C. Operating, carrying on, conducting, or maintaining a regulated scrap metal yard or place where regulated scrap metal is gathered together and stored or kept for shipment, sale, or transfer.

Sexual Intercourse: Any penetration of the female sex organ by a finger, the male sex organ or any object. Any penetration, however slight, is sufficient to constitute sexual intercourse. Sexual Intercourse does not include penetration of the female sex organ by a finger or object in the course of the performance of:

A. Generally recognized health care practices; or
B. A body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto.

Smoke Detector: A device or combination of devices which operate from a power supply in the dwelling unit or at the point of installation for the purpose of detecting visible or invisible particles of combustion. Such term shall include smoke detectors approved or listed for the purpose for which they are intended by an approved independent testing laboratory.

Sodomy: Oral contact or oral penetration of the female genitalia or oral contact of the male genitalia; anal penetration, however slight, of a male or female by any body part or object; or oral or anal copulation or sexual intercourse between a person and an animal. Sodomy does not include penetration of the anal opening by a finger or object in the course of the performance of:

A. Generally recognized health care practices; or

B. A body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto.

Solicit or Solicitation: To command, authorize, urge, incite, request or advise another to commit an offense.

Spouse: A lawful husband or wife, unless the couple is living apart in separate residences or either spouse has filed an action for annulment, separate maintenance or divorce or for relief under the protection from abuse act.

State or this State: The State of Kansas and all land and water in respect to which the State of Kansas has either exclusive or concurrent jurisdiction, and the air space above such land and water.

State Correctional Officer or Employee: Any officer or employee of the Kansas department of corrections or any independent contractor, or any employee of such contractor, working at a correctional institution.

Stolen Property: Property over which control has been obtained by theft.

Tattooing: 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.

Telecommunications Device: Includes telephones, cellular telephones, telefacsimile machines and any other electronic device which makes use of an electronic communication service, as defined in K.S.A. 22-2514, and amendments thereto.

Telefacsimile Communication: The use of electronic equipment to send or transmit a copy of a document via telephone line.

Temporary Permit: A temporary permit issued pursuant to K.S.A. 41-2645, and amendments thereto.

Threat: A communicated intent to inflict physical or other harm on any person or on property.

Throwing Star: Any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape, manufactured for use as a weapon for throwing.

Tobacco Products: Cigars, cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. Tobacco products do not include cigarettes.

Toxic Vapors: Vapors from the following substances or products containing such substances:

A. Alcohols, including, but not limited to, methyl, isopropyl, propyl, or butyl;
B. Aliphatic acetates, including ethyl, methyl, propyl, or methyl cellosolve acetate;
C. Acetone;
D. Benzene;
E. Carbon tetrachloride;
F. Cyclohexane;
G. Freons, including, but not limited to, Freon 11, Freon 12, and other halogenated hydrocarbons;

H. Hexane;
I. Methyl ethyl ketone;
J. Methyl isobutyl ketone;
K. Naptha;
L. Perchlorethylene;
M. Toluene;
N. Trichloroethane; or
O. Xylene.

Unlawful Sexual Act: Any lewd and lascivious behavior or sexual battery as defined in this Title.

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

Wildlife: Any member of the animal kingdom, including, without limitation, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg or offspring thereof, or the dead body or parts thereof. Wildlife does not include agricultural livestock (cattle, swine, sheep, goats, horses, mules and other equines) and poultry (domestic chickens, turkeys and guinea fowl).

Written instrument: Any paper, document or other instrument containing written or printed matter or the equivalent thereof, used for purposes of reciting, embodying, conveying or recording information, and any money, token, stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person. (Ord. 15-66 § 1, 2015; Ord. 14-63 § 1, 2014; Ord. 14-42 § 1, 2014; Ord. 12-38 § 1, 2012; Ord. 09-59 § 1, 2009; Ord. 07-135 § 2, 2007; Ord. 99-24 § 1, 1999; Ord. 93-09 § 1, 1993; Ord. 87-30 § 28, 1987; Ord. 83-75 § 2, 1983.)

CHAPTER 9.02

PRINCIPLES OF CRIMINAL LIABILITY

Sections:

9.02.010 Criminal Intent.
9.02.020 Criminal Intent; Exclusions.
9.02.030 Ignorance or Mistake.
9.02.040 Absolute Liability.
9.02.050 Liability for Offenses of Another.
9.02.060 Corporations; Criminal Responsibility.
9.02.070 Individual Liability for Corporate Crime.
9.02.080 Intoxication.
9.02.090 Compulsion.
9.02.100 Entrapment.
9.02.110 Force.

9.02.010 Criminal Intent.

(1) Except as otherwise provided, a criminal intent is an essential element of every crime defined by this code. Criminal intent may be established by proof that the conduct of the accused person was intentional or reckless. Proof of intentional conduct shall be required to establish criminal intent, unless the statute defining the crime expressly provides that the prohibited act is criminal if done in a reckless manner.

(2) Intentional conduct is conduct that is purposeful and intentional and not accidental. As used in this code, the terms "knowing", "willful", "purposeful", and "on purpose" are included within the term "intentional".

(3) Reckless conduct is conduct done under circumstances that show a realization of the imminence of danger to the person of another and a wanton disregard or complete indifference and unconcern for the probable consequences of such conduct. The terms "gross negligence," "culpable negligence," "wanton negligence" and "wantonness" are included within the term "recklessness" as used in this code. (Ord. 93-09 § 2, 1993; Ord. 83-75 § 2, 1983.)

9.02.020 Criminal Intent; Exclusions.

(1) Proof of criminal intent does not require proof of knowledge of the existence or constitutionality of the ordinance section under which the accused is prosecuted, or the scope or meaning of the terms used in that ordinance section.

(2) Proof of criminal intent does not require proof that the accused had knowledge of the age of a minor, though age is a material element of the crime with which he is charged. (Ord. 83-75 § 2, 1983.)

9.02.030 Ignorance or Mistake.

A. A person's ignorance or mistake as to a matter of either fact or law, except as provided in Section 9.02.020, is a defense if it negatives the existence of the mental state which the statute prescribes with respect to an element of the crime.

B. A person's reasonable belief that his conduct does not constitute a crime is a defense if:

1. He acts in reliance upon a statute or ordinance which later is determined to be invalid; or
2. He acts in reliance upon an order of the Olathe municipal court, opinion of the district court, supreme court of Kansas or an United States appellate court later overruled or reversed; or

3. He acts in reliance upon an official interpretation of a statute, regulation, ordinance or order defining the crime made by a public officer or agency legally authorized to interpret such statute; or

4. The crime is defined by an administrative regulation or order which is not known to him and has not been published in the Kansas administrative regulations or an annual supplement thereto, as provided by law; and he could not have acquired such knowledge by the exercise of due diligence pursuant to facts known to him.

C. Although a person's ignorance or mistake of fact or law, or reasonable belief, as described in subsection B. of this section, is a defense to the crime charged, he may be convicted of an included crime of which he would be guilty if the fact or law were as he believed it to be. (Ord. 14-63 § 2, 2014; Ord. 83-75 § 2, 1983.)

9.02.040 Absolute Liability. A person may be guilty of an offense without having criminal intent if the ordinance section defining the offense clearly indicates a legislative purpose to impose absolute liability for the conduct described. (Ord. 83-75 § 2, 1983.)

9.02.050 Liability for Offenses of Another.

(1) A person is criminally responsible for an offense committed by another if such person intentionally aids, abets, advises, hires, counsels or procures the other to commit the offense.

(2) A person liable under subsection (1) hereof is also liable for any other offense committed in pursuance of the intended offense if reasonably foreseeable by such person as a probable consequence of committing or attempting to commit the offense intended.

(3) A person liable under this section may be charged with and convicted of the offense although the person alleged to have directly committed the act constituting the offense lacked criminal capacity or has not been convicted or had been acquitted or has been convicted of some other degree of the offense or of some other offense based on the same act. (Ord. 07-135 § 3, 2007; Ord. 83-75 § 2, 1983.)

9.02.060 Corporations; Criminal Responsibility.

(1) A corporation is criminally responsible for acts committed by its agents when acting within the scope of their authority.

(2) "Agent" means any director, officer, servant, employee or other person who is authorized to act in behalf of the corporation. (Ord. 83-75 § 2, 1983.)

9.02.070 Individual Liability for Corporate Offenses.

(1) An individual who commits public offenses, or causes public offenses to be performed, in the name of or on behalf of a corporation, is legally responsible to the same extent as if such acts were in his/her own name or on his/her own behalf.

(2) An individual who has been convicted of an offense based on conduct performed by the individual for and on behalf of a corporation is subject to punishment as an individual upon conviction of such an offense although a lesser or different punishment is authorized for the corporation (Ord. 07-135 § 4, 2007; Ord. 83-75 § 2, 1983.)

9.02.080 Intoxication.

(1) The fact that a person charged with an offense was in an intoxicated condition at the time the alleged offense was committed is a defense only if such condition was involuntarily produced and rendered such person substantially incapable of knowing or understanding the wrongfulness of his conduct and of conforming his conduct to the requirements of law.

(2) An act committed while in a state of voluntary intoxication is not less offensive by reason thereof, but when a particular intent or other state of mind is a necessary element to constitute a particular offense, the fact of intoxication may be taken into consideration in determining such intent or state of mind. (Ord. 83-75 § 2, 1983.)

9.02.090 Compulsion.

(1) A person is not guilty of an offense by reason of conduct which he performs under the compulsion or threat of the imminent infliction of death or great bodily harm, if he reasonably believes that death or great bodily harm will be inflicted upon him or upon his spouse, parent, child, brother or sister if he does not perform such conduct.

(2) The defense provided by this section is not available to one who willfully or wantonly places himself in a situation in which it is probable that he will be subjected to compulsion or threat. (Ord. 83-75 § 2, 1983.)

9.02.100 Entrapment. A person is not guilty of an offense if his criminal conduct was induced or solicited by a public officer or his agent for the purposes of obtaining evidence to prosecute such person, unless:

(a) The public officer or his agent merely afforded an opportunity or facility for committing the offense in furtherance of a criminal purpose originated by such person or a co-conspirator; or

(b) The offense was of a type which is likely to occur and recur in the course of such person's business, and the public officer or his agent in doing the inducing or soliciting did not mislead such person into believing his conduct to be lawful. (Ord. 83-75 § 2, 1983.)

9.02.110 Force. The provisions of the Kansas Criminal Code and amendments thereto relating to the use of force in defense of a person; use of force in defense of dwelling; use of force in defense of property other than a dwelling; use of force by an aggressor; law enforcement officer's use of force in making arrest; private person's use of force in making arrest; and use of force in resisting arrest, are hereby incorporated by reference as though set forth fully in this code. (Ord. 83-75 § 2, 1983.)

CHAPTER 9.03

PROHIBITED CONDUCT

Sections:

9.03.010 Attempt.
9.03.020 Conspiracy.

ANTICIPATORY OFFENSES

9.03.010 Attempt.

(1) An attempt is any overt act toward the perpetration of an offense done by a person who intends to commit the said offense but fails in the perpetration thereof or is prevented or intercepted in executing the said offense.

(2) It shall not be a defense to a charge of attempt that the circumstances under which the act was performed or the means employed or the act itself were such that the commission of the offense was not possible.

(3) An attempt to commit a Class A Public Offense is a Class B Public Offense. An attempt to commit a Class B or C Public Offense is a Class C Public Offense. (Ord. 83-75 § 2, 1983.)

9.03.020 Conspiracy.

A. A conspiracy is an agreement with another person to commit an offense or to assist to commit an offense. No person may be convicted of a conspiracy unless an overt act in furtherance of such conspiracy is alleged and proved to have been committed by such person or by a conspirator.

B. It is immaterial to the criminal liability of a person charged with conspiracy that any other person with whom the accused person conspired lacked the actual intent to commit the underlying crime provided that the accused person believed the other person did have the actual intent to commit the underlying crime.

C. It shall be a defense to a charge of conspiracy that the accused voluntarily and in good faith withdrew from the conspiracy, and communicated the fact of such withdrawal to one or more of the accused person's co-conspirators, before any overt act in furtherance of the conspiracy was committed by the accused or by a co-conspirator.

D. A conspiracy to commit a public offense is a Class C Public Offense. (Ord. 12-38 § 2, 2012; Ord. 07-135 § 5, 2007; Ord. 83-75 § 2, 1983.)

CHAPTER 9.04

OFFENSES AGAINST PERSONS

Sections:

9.04.010 Assault.
9.04.020 Assault of a Law Enforcement Officer.
9.04.030 Battery.
9.04.035 Domestic Battery.
9.04.040 Battery Against a Law Enforcement Officer.
9.04.050 Unlawful Interference with a Firefighter or Person Who Provides Emergency Medical Treatment.
9.04.060 Terroristic Threat. (Repealed 2/16/99)
9.04.070 Interference with Parental Custody.
9.04.080 Interference with Custody of Committed Person.
9.04.090 Criminal Restraint.
9.04.100 Mistreatment of a Confined Person.
9.04.110 Extortion.
9.04.115 Violation of Protection from Abuse Order.
9.04.120 Violation of a Protective Order.
9.04.130 Criminal Defamation.
9.04.140 Unlawful Administration of a Substance.
9.04.150 Battery Against a School Employee.
9.04.160 Promoting or Permitting Hazing.
9.04.170 Mistreatment of a Dependent Adult.

9.04.010 Assault. Assault is knowingly placing another person in reasonable apprehension of immediate bodily harm. Assault is a Class B Public Offense. (Ord. 11-47 § 1, 2011; Ord. 03-78 § 1, 2003; Ord. 93-09 § 3, 1993; Ord. 83-75 § 2, 1983.)

9.04.020 Assault of a Law Enforcement Officer. Assault of a law enforcement officer is an assault, as defined in Section 9.04.010, committed against a uniformed or properly identified state, county or city law enforcement officer while such officer is engaged in the performance of his or her duty. Assault of a law enforcement officer is a Class A Public Offense. (Ord. 03-78 § 2, 2003; Ord. 99-24 § 2, 1999; Ord. 83-75 § 2, 1983.)

9.04.030 Battery. Battery is

(1) Intentionally or recklessly causing bodily harm to another person; or

(2) intentionally causing physical contact with another person when done in a rude, insulting or angry manner. Battery is a Class A Public Offense. (Ord. 93-09 § 4, 1993; Ord. 83-75 § 2, 1983.)

9.04.035 Domestic Battery.

A. Domestic battery is:

1. knowingly or recklessly causing bodily harm by a family or household member against a family or household member; or
2. knowingly causing physical contact with a family or household member by a family or household member when done in a rude, insulting or angry manner.

B. 1. Upon a first conviction of a violation of domestic battery, a person shall be guilty of a Class B violation and sentenced to not less than 48 consecutive hours nor more than six months' imprisonment and fined not less than $200, nor more than $500. The court may enter an order which requires the offender to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, or in the alternative, the court may require the offender to enroll in and successfully complete a domestic violence prevention program or an anger control program.

2. If, within five years immediately preceding commission of the instant crime, the offender was convicted of a violation of domestic battery, then upon a second conviction, such offender shall be guilty of a Class A violation and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than $500 nor more than $1,000. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the person shall be required to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, unless otherwise ordered by the court.

C. As used in this section:

1. Family or household member means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or who have lived together at any time. Family or household member also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and

2. for the purpose of determining whether a conviction is a first or second conviction in sentencing under this section:

a. Conviction includes being convicted of a violation of this section or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;

b. Conviction includes being convicted of a violation of a law of another state, or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;

c. Only convictions occurring in the immediately preceding five years shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first or second offender, whichever is applicable; and

d. It is irrelevant whether an offense occurred before or after conviction for a previous offense.

e. A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section or an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits only twice during any five-year period. (Ord. 12-38 § 3, 2012; Ord. 10-71 § 5, 2010.)

9.04.040 Battery Against a Law Enforcement Officer.

A. Battery against a law enforcement officer is a battery, as defined in OMC 9.04.030, committed against:

1. a uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;

2. a uniformed or properly identified state, county or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee, or a juvenile detention facility officer or employee, while such officer is engaged in the performance of such officer's duty.

3. judge, while such judge is engaged in the performance of such judge's duty;

4. attorney, while such attorney is engaged in the performance of such attorney's duty; or

5. community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty.

B. As used in this Section:

1. **Judge** means a duly elected or appointed justice of the supreme court, judge of the court of appeals, judge of any district court of Kansas, district magistrate judge or municipal court judge;

2. **Attorney** means a:

a. city attorney, assistant city attorney, special assistant city attorney, city prosecutor, assistant city prosecutor, special prosecutor, county attorney, assistant county attorney, special assistant county attorney, district attorney, assistant district attorney, special assistant district attorney, attorney general, assistant attorney general or special assistant attorney general; and

b. public defender, assistant public defender, contract counsel for the state board of indigents' defense services or an attorney who is appointed by the court to perform services for an indigent person as provided by article 45 of chapter 22 of the Kansas Statutes Annotated and amendments thereto;

3. **Community Corrections Officer** means an employee of a community correctional services program responsible for supervision of adults or juveniles as assigned by the court to community corrections supervision and any other employee of a community correctional services program that provides enhanced supervision of offenders such as house arrest and surveillance programs; and

4. **Court Services Officer** means an employee of the Kansas judicial branch, local judicial district, or City responsible for supervising, monitoring or writing reports relating to adults or juveniles as assigned by the court, or performing related duties as assigned by the court.

C. Battery against a law enforcement officer is a Class A Public Offense. (Ord. 15-66 § 2, 2015; Ord. 06-71 § 1, 2006; Ord. 03-78 § 3, 2003; Ord. 99-24 § 3, 1999; Ord. 83-75 § 2, 1983.)

9.04.050 Unlawful Interference with a Firefighter or a Person Who Provides Emergency Medical Treatment. Unlawful interference with a firefighter or a person who provides emergency medical treatment is knowingly and intentionally interfering with, molesting or assaulting, as defined in Section 9.04.010, any firefighter or a person who provides emergency medical treatment while engaged in the performance of his or her duties, or knowingly and intentionally obstructing, interfering with or impeding the efforts of any firefighter or a person who provides emergency medical treatment while engaged in the performance of his or her duties, or knowingly and intentionally obstructing, interfering with or impeding the efforts of any firefighter or a person who provides emergency medical treatment to reach the location of a fire or accident. Unlawful interference with a firefighter or a person who provides emergency medical treatment is a Class B Public Offense. (Ord. 03-78 § 4, 2003; Ord. 83-75 § 2, 1983.)

9.04.060 Terroristic Threat. Repealed 2/16/99. (Ord. 99-24 § 35, 1999; Ord. 83-75 § 2, 1983.)

9.04.070 Interference with Parental Custody.

A. Interference with parental custody is leading, taking, carrying away, decoying or enticing away any child under the age of sixteen (16) years, with the intent to detain or conceal such child from its parent, guardian, or other person having the lawful charge of such child.

B. It is not a defense to a prosecution under this section that the accused is a parent entitled to joint custody of the child either on the basis of a court order or by virtue of the absence of a court order.

C. Interference with parental custody is a Class A Public Offense if the perpetrator is a parent entitled to joint custody of the child either on the basis of a court order or by virtue of the absence of a court order. (Ord. 03-78 § 5, 2003; Ord. 87-149 § 1, 1987; Ord. 83-75 § 2, 1983.)

9.04.080 Interference with Custody of Committed Person. Interference with custody of a committed person is knowingly taking or enticing any committed person away from the control of his or her lawful custodian without privilege to do so. A committed person is any person committed other than by criminal process to any institution or other custodian by any court or other officer or agency authorized by law to make such commitment. Interference with custody of a committed person is a Class A Public Offense. (Ord. 03-78 § 6, 2003; Ord. 83-75 § 2, 1983.)

9.04.090 Criminal Restraint.

(1) Criminal restraint is knowingly and without legal authority restraining another so as to interfere substantially with his or her liberty.

(2) This section shall not apply to acts done in the performance of duty by any law enforcement officer of the State of Kansas, City of Olathe or the United States of America.

(3) Any merchant, or a merchant's agent or employee, who has probable cause to believe that a person has actual possession of and has wrongfully taken, or is about to wrongfully take merchandise from a mercantile establishment, may detain such person on the premises or in the immediate vicinity thereof, in a reasonable manner and for a reasonable period of time for the purpose of investigating the circumstances of such possession. Such reasonable detention shall not constitute an arrest nor criminal restraint. Criminal restraint is a Class A Public Offense. (Ord. 03-78 § 7, 2003; Ord. 83-75 § 2, 1983.)

9.04.100 Mistreatment of a Confined Person. Mistreatment of a confined person is the intentional abuse, neglect or ill-treatment of any person who is detained or confined and who is physically disabled, or mentally ill or retarded or whose detention or confinement is involuntary, by any law enforcement officer or by any person in charge of or employed by the owner or operator of any correctional institution or any public or private hospital or nursing home. Mistreatment of a confined person is a Class A Public Offense. (Ord. 87-149 § 2, 1987; Ord. 83-75 § 2, 1983.)

9.04.110 Extortion. Extortion is verbally or by written or printed communication and with intent to extort or gain any thing of value from another or to compel another to do an act against his will:

(a) Accusing or threatening to accuse any person of a crime or conduct which would tend to degrade and disgrace the person accused; or

(b) Exposing or threatening to expose any fact, report or information concerning any person which would in any way subject such person to the ridicule or contempt of society, coupled with the threat that such accusation or exposure will be communicated to a third person or persons unless the person threatened or some other person pays or delivers to the accuser or some other person something of value or does some act against his will. Extortion is a Class A Public Offense. (Ord. 83-75 § 2, 1983.)

9.04.115 Violation of Protection from Abuse Order.

A. If a person enters or remains on premises or property violating an order issued pursuant to K.S.A. Supp. 60-3107(a)(2), and amendments thereto, such violation shall constitute criminal trespass.

B. If a person abuses, molests or interferes with the privacy or rights of another violating an order issued pursuant to K.S.A. Supp. 60-3107(a)(1), and amendments thereto, such violation may constitute assault, battery, or domestic battery and violation of a protective order. (K.S.A. Supp. 60-3107).

C. Violation of a Protection from Abuse Order is a Class A Public Offense. (Ord. 12-38 § 14, 2012)

9.04.120 Violation of a Protective Order.

A. Violation of a protective order is knowingly or intentionally violating:

1. A protection from abuse order issued pursuant to K.S.A. 60-3105, 60-3106, or 60-3107, and amendments thereto;
2. A protective order issued by a court or tribunal of any state or Indian tribe that is consistent with the provisions of 18 U.S.C. 2265, and amendments thereto;
3. A restraining order issued pursuant to K.S.A. 2012 Supp. 23-2707, K.S.A. 38-2243, 38-2244 or 38-2255, and amendments thereto, or 60-1607, prior to its transfer;
4. An order issued in this city or state or any other city or state as a condition of pretrial release, diversion, probation, suspended sentence, post-release supervision or at any other time during the criminal case that orders the person to refrain from having any direct or indirect contact with another person or persons; or
5. An order issued in this city or state or any other city or state as a condition of release after conviction or as a condition of a supersedeas bond pending disposition of an appeal, that orders the person to refrain from having any direct or indirect contact with another person or persons; or
6. A protection from stalking order issued pursuant to K.S.A. 2002 Supp. 60-31a05 or K.S.A. 2002 Supp. 60-31a06, and amendments thereto.

B. As used in this section, ‘order’ includes any order issued by a municipal or district court.

C. No protective order, as set forth in this section, shall be construed to prohibit an attorney, or any person acting on the attorney’s behalf, who is representing the defendant in any civil or criminal proceeding, from contacting the protected party for a legitimate purpose within the scope of the civil or criminal proceedings. The attorney, or person acting on the attorney’s behalf, shall be identified in any such contact.

D. Violation of a protective order is a Class A Public Offense. (Ord. 13-33 § 1, 2013; Ord. 08-111 § 1, 2008; Ord. 07-135 § 6, 2007; Ord. 03-78 § 8, 2003; Ord. 99-24 § 4, 1999; Ord. 93-09 § 5, 1993.)

9.04.130 Criminal Defamation.

(a) Criminal defamation is communicating to a person orally, in writing, or by any other means, information, knowing the information to be false and with actual malice, tending to expose another living person to public hatred, contempt or ridicule; tending to deprive such person of the benefits of public confidence and social acceptance; or tending to degrade and vilify the memory of one who is dead and to scandalize or provoke surviving relatives and friends.

(b) In all prosecution under this section the truth of the information communicated shall be admitted as evidence. It shall be a defense to a charge of criminal defamation if it is found that such matter was true. (K.S.A. 21-4004). Criminal defamation is a Class A Public Offense. (Ord. 99-24 § 5, 1999)

9.04.140 Unlawful Administration of a Substance.

(1) Unlawful administration of a substance is the intentional and knowing administration of a substance to another person without consent for the purpose of impairing such other person's physical or mental ability to appraise or control such person's conduct.

(2) "Unlawful administration of a substance" means any method of causing the ingestion by another person of a controlled substance, including gamma hydroxybutyric acid, or any controlled substance analog, as defined in K.S.A. 65-4101, of gamma hydroxybutyric acid, including gamma butyrolactone; butyrolactone; butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone with CAS No. 96-48-0; 1,4 butanediol; butanediol; butane-1,4-diol; 1,4-butylene glycol; butylene glycol; 1,4-dihydorxybutane; 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene 1,4-diol, into any food, beverage or other consumable that the person knows, or should know, would be consumed by such other person.

(3) This section shall not prohibit administration of any substance described in subsection (b) for lawful medical or therapeutic treatment.

(4) Unlawful administration of a substance is a Class A Public Offense. (Ord. 03-78 § 9, 2003; Ord. 00-102 § 1, 2000; Ord. 99-24 § 5, 1999.)

9.04.150 Battery Against a School Employee.

A. Battery against a school employee is a battery, as defined in Olathe Municipal Code Section 9.04.030, and amendments thereto, committed against a school employee in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through twelve or at any regularly scheduled school sponsored activity or event, while such employee is engaged in the performance of such employee's duty.

B. Battery against a school employee is a Class A Public Offense. (Ord. 15-66 § 3, 2015; Ord. 03-78 § 10, 2003.)

9.04.160 Promoting or Permitting Hazing.

A. No social or fraternal organization shall promote or permit hazing.

B. Hazing is intentionally, coercing, demanding or encouraging another person to perform as a condition of membership in a social or fraternal organization, any act which could reasonably be expected to result in great bodily harm, disfigurement or death or which is done in a manner whereby great bodily harm, disfigurement or death could be inflicted.

C. Promoting or permitting hazing is a Class B Public Offense. (Ord. 03-78 § 11, 2003.)

9.04.170 Mistreatment of a Dependent Adult.

1. Mistreatment of a dependent adult is knowingly and intentionally committing one or more of the following acts:

a. Taking unfair advantage of a dependent adult's physical or financial resources for another individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense by a caretaker or another person if the aggregate amount of the value of the resources is less than One Thousand Dollars ($1,000.00); or

b. Omitting or depriving treatment, goods or services by a caretaker or another person which are necessary to maintain physical or mental health of a dependent adult.

2. No dependent adult is considered to be mistreated for the sole reason that such dependent adult relies upon or is being furnished treatment by spiritual means through prayer in lieu of medical treatment in accordance with the tenets and practices of a recognized church or religious denomination of which such dependent adult is a member or adherent.

3. For purposes of this section: "Dependent adult" means an individual 18 years of age or older who is unable to protect their own interest. Such term shall include:

a. Any resident of an adult care home including but not limited to those facilities defined by K.S.A. 39-923 and amendments thereto;

b. Any adult cared for in a private residence;

c. Any individual kept, cared for, treated, boarded or otherwise accommodated in a medical care facility;

d. Any individual with mental retardation or a developmental disability receiving services through a community mental retardation facility or residential facility licensed under K.S.A. 75-3307b and amendments thereto;

e. Any individual with a developmental disability receiving services provided by a community service provider as provided in the developmental disability reform act; or

f. Any individual kept, cared for, treated, boarded or otherwise accommodated in a state psychiatric hospital or state institution for the mentally retarded.

4. Mistreatment of a dependent adult is a Class A Public Offense. (Ord. 06-71 § 2, 2006; Ord. 03-78 § 12, 2003.)

CHAPTER 9.05

SEX OFFENSES

Sections:

9.05.010 Definitions.
9.05.020 Lewd and Lascivious Behavior.
9.05.030 Enticement of a Child. (Repealed 2/16/93)
9.05.040 Indecent Solicitation of a Child. (Repealed 2/16/99)
9.05.050 Sexual Exploitation of a Child. (Repealed 2/16/93)
9.05.060 Selling Sexual Relations.
9.05.070 Promoting Prostitution. (Repealed 12/15/15)
9.05.080 Buying Sexual Relations.
9.05.090 Criminal Sodomy.
9.05.100 Sexual Battery.
9.05.110 Soliciting for Immoral Purposes.

9.05.010 Definitions. The following definition shall apply in this Chapter unless a different meaning is plainly required:

"Public place" means any area generally visible to public view, and includes, but is not limited to, streets, sidewalks, bridges, alleys, plazas, parks, public restrooms, driveways, parking lots, automobiles (whether moving or not) and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorways and entrances to those buildings or dwellings and the grounds enclosing them. (Ord. 15-66 § 4, 2015; Ord. 03-81 § 1, 2003; Ord. 83-75 § 2, 1983.)

9.05.020 Lewd and Lascivious Behavior.

A. It shall be unlawful for any person in a public place, or in any other place under circumstances where such act could be observed by any member of the public, to intentionally:

1. Perform an otherwise lawful act of sexual intercourse or sodomy; or
2. Fondle or caress his or her genitals or the genitals of another person of the same or opposite sex; or
3. Expose a sex organ in the presence of a person who has not consented thereto with intent to arouse or gratify the sexual desires of the offender or another.

B. Lewd and lascivious behavior is a Class A Public Offense if committed in the presence of a person sixteen (16) or more years of age. (Ord. 14-63 § 3, 2014; Ord. 07-135 § 7, 2007; Ord. 03-73 § 1, 1993; Ord. 93-09 § 6, 1993; Ord. 83-75 § 2, 1983.)

9.05.030 Enticement of a Child. Repealed 2/16/93. (Ord. 93-09 § 38, 1993; Ord. 83-75 § 2, 1983.)

9.05.040 Indecent Solicitation of a Child. Repealed 2/16/99. (Ord. 99-24 § 35, 1999; Ord. 83-75 § 2, 1983.)

9.05.050 Sexual Exploitation of a Child. Repealed 2/16/93. (Ord. 93-09 § 38, 1993; Ord. 89-151 § 1, 1990; Ord. 87-149 § 3, 1987; Ord. 83-75 § 2, 1983.)

9.05.060 Selling Sexual Relations.

A. **Selling Sexual Relations** is performing for hire, or offering or agreeing to perform for hire where there is an exchange of value, any of the following acts:

1. Sexual intercourse; or
2. Sodomy; or
3. Manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another.
4. It shall be an affirmative defense to any prosecution under this Section that the defendant committed the violation of this Section because such defendant was subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. Supp. 21-6422, and amendments thereto.

B. Prostitution is a Class A Public Offense. (Ord. 15-66 § 5, 2015; Ord. 83-75 § 2, 1983.)

9.05.070 Promoting Prostitution. Repealed 12/15/15 (Ord. 15-66 § 6, 2015; Ord. 99-24 § 6, 1999; Ord. 83-75 § 2, 1983.)

9.05.080 Buying Sexual Relations.

A. Buying sexual relations is knowingly:

1. Entering or remaining in a place where sexual relations are being sold or offered for sale with intent to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act with a person selling sexual relations who is 18 years of age or older; or
2. hiring a person selling sexual relations who is 18 years of age or older to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or an unlawful sexual act.

B. Buying Sexual Relations is a Class A Public Offense on conviction of a first offense. In addition to any other sentence imposed, a person convicted under this Section shall be fined $2,500. All fines collected pursuant to this Subsection shall be remitted to the human trafficking victim assistance fund. (Ord. 15-66 § 7, 2015; Ord. 83-75 § 2, 1983.)

9.05.090 Criminal Sodomy. Criminal sodomy is sodomy between a person and an animal. Criminal sodomy is a Class A Public Offense. (Ord. 03-73 § 2, 1993; Ord. 93-09 § 7, 1993; Ord. 83-75 § 2, 1983.)

9.05.100 Sexual Battery.

(1) Sexual battery is the intentional touching of the person of another who is sixteen (16) or more years of age, who is not the spouse of the offender and who does not consent thereto, with the intent to arouse or satisfy the sexual desires of the offender or another.

(2) Sexual battery is a Class A Public Offense. (Ord. 93-09 § 8, 1993; Ord. 83-75 § 2, 1983.)

9.05.110 Soliciting for Immoral Purposes.

A. Soliciting for immoral purposes is soliciting any person in a public place to engage in buying sexual relations, selling sexual relations, lewd and lascivious behavior or sodomy for hire.

B. Soliciting for immoral purposes is a Class A Public Offense. (Ord. 15-66 § 8, 2015; Ord. 03-81 § 2, 2003; Ord 89-151 § 2, 1990.)

CHAPTER 9.06

OFFENSES AFFECTING FAMILY RELATIONSHIPS AND CHILDREN

Sections:

9.06.010 Endangering a Child.
9.06.020 Furnishing Alcoholic Liquor or Cereal Malt Beverage to a Minor.
9.06.021 Consumption on Public Property.
9.06.022 Possession on Public Property.
9.06.023 Consumption on Private Property – Exceptions.
9.06.024 Possession on Private Property.
9.06.025 Sale of Liquor to Incapacitated or Intoxicated Person.
9.06.026 Open Saloon.
9.06.030 Furnishing Cereal Malt Beverage to a Minor (Repealed 10/21/03).
9.06.040 Contributing to a Child's Misconduct or Deprivation.
9.06.050 Tattoos and Body Piercing.
9.06.060 Purchase or Possession of Cigarettes, Electronic Cigarettes, Liquid Nicotine or Tobacco Products by a Minor.
9.06.070 Selling, Giving or Furnishing Cigarettes, Electronic Cigarettes, Liquid Nicotine, or Tobacco Products to a Minor.
9.06.080 Purchase or Consumption of Alcoholic or Cereal Malt Beverage by Minor; Penalty.
9.06.090 Unlawful Hosting

9.06.010 Endangering a Child.

(1) Endangering a child is intentionally and unreasonably causing or permitting a child under the age of eighteen (18) years to be placed in a situation in which the child's life, body or health may be injured or endangered.

(2) Nothing in this section shall be construed to mean a child is endangered for the sole reason the child's parent or guardian, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

(3) Endangering a child is a Class A Public Offense. (Ord. 03-90 § 1, 2003; Ord. 93-09 § 9, 1993; Ord. 83-75 § 2, 1983.)

9.06.020 Furnishing Alcoholic Liquor or Cereal Malt Beverage to a Minor.

A. Furnishing alcoholic liquor or cereal malt beverage to a minor is directly or indirectly, selling to, buying for, giving or furnishing any alcoholic liquor or cereal malt beverage to any person under 21 years of age.

B. Except as provided by subsections D and E, furnishing alcoholic liquor or cereal malt beverage to any person under 21 years of age is a Class A Public Offense for which the minimum fine is:

1. Upon a first violation, a fine of Two Hundred Fifty Dollars ($250.00);
2. Upon a second violation charged within a three (3) year period of a prior violation, a fine of Five Hundred Dollars ($500.00);
3. Upon a third violation charged within a three (3) year period of a prior violation, a fine of Seven Hundred Fifty Dollars ($750.00), and
4. Upon a fourth violation charged within a three (3) year period of a prior violation, a fine of One Thousand Dollars ($1,000.00).

5. The three (3) year time period is calculated from the date the defendant is found guilty of the first violation. Any violation charged during the ensuing three (3) year time period (irrespective of the date the defendant is found guilty) is calculated towards the enhanced penalty.

C. As used in this section, terms have the meanings provided by K.S.A. 41-102, 41-2601 and 41-2701, and amendments thereto.

D. It shall be a defense to a prosecution under this section if:

1. The defendant is a licensed retailer, club, drinking establishment or caterer or holds a temporary permit, or an employee thereof; and
2. The defendant sold the alcoholic liquor or cereal malt beverage to the minor with reasonable cause to believe that the minor was 21 or more years of age or of legal age for the consumption of alcoholic liquor or cereal malt beverage; and
3. To purchase the alcoholic liquor or cereal malt beverage, the person exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document, containing a photograph of the minor and purporting to establish that such minor was 21 or more years of age or of legal age for the consumption of alcoholic liquor or cereal malt beverage. (K.S.A. 21-3610).

E. This section shall not apply to the furnishing of cereal malt beverage by a parent or legal guardian to such parent's child or such guardian's ward.

F. Upon a conviction, plea of no contest, or guilty plea for a violation of this section, the municipal judge may order such person to complete an alcohol intervention program that trains individuals to serve and/or sell alcohol responsibly in any setting. The municipal judge may order such person to complete Training for Intervention Procedures on Premise (TIPS) or a similar alcohol intervention program. (Ord. 15-24 § 1, 2015; Ord. 13-08 § 2, 2013; Ord. 10-52 § 1, 2010; Ord. 03-90 § 2, 2003; Ord. 99-24 § 7, 1999; Ord. 93-09 § 10, 1993; Ord. 88-123 § 1, 1988; Ord. 83-75 § 2, 1983.)

9.06.021 Consumption on Public Property.

A. It shall be unlawful for any person to drink or consume alcoholic liquor or cereal malt beverages upon the public streets, alleys, roads or highways or inside vehicles while on the public streets, alleys, roads or highways.

B. It shall be unlawful for any person to drink or consume any alcoholic liquor or cereal malt beverages on City-owned property. However, this prohibition shall not apply to the Mahaffie House and Farmstead, which is located on property owned by the City legally described as Tracts A and B, MAHAFFIE HOUSE ADDITION, a subdivision in the City of Olathe, Johnson County, Kansas, according to the recorded plat thereof, to the Heritage Center, which is located on property owned by the City legally described as Lot 1, MAHAFFIE HOUSE EAST ADDITION, a subdivision in the City of Olathe, Johnson County, Kansas, according to the recorded plat thereof, or to the Olathe Community Center, which is located on property owned by the City legally described as Lot 1, KANSAS CITY ROAD PARK SOUTH, a subdivision in the City of Olathe, Johnson County, Kansas, according to the recorded plat thereof, or on City-owned property or City right-of-way, if such real property is actually being used in association with a City-issued caterer or temporary event permit, or on real property leased by the City to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes, or purposes incidental thereto.

C. Upon a conviction, plea of no contest, or guilty plea for a violation of this Section by a person 18 or more years of age but less than 21 years of age, the municipal judge shall order such person to submit to and complete an alcohol and drug evaluation with an approved provider licensed by the behavioral sciences regulatory board pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee to the provider at the time of service not to exceed the fee established by that statute for such evaluation. If the person is indigent, the court may order the evaluation fee to be paid to the provider as part of the judgment. The person must comply with the recommendations of the alcohol and drug evaluation as directed by the court.

D. Violation of any provision of this Section is an Unclassified Public Offense, punishable by a fine of not less than Fifty Dollars ($50.00) or more than Two Hundred Dollars ($200.00) or by imprisonment for not more than six (6) months, or both. (Ord. 15-66 § 9, 2015; Ord. 15-24 § 2, 2015.)

9.06.022 Possession on Public Property.

A. It shall be unlawful for any person to have in his or her possession any open container of alcoholic liquor or cereal malt beverage upon the public streets, alleys, roads or highway.

B. It shall be unlawful for any person to have in his or her possession any open container of alcoholic liquor or cereal malt beverage on City-owned property. However, this prohibition shall not apply to the Mahaffie House and Farmstead, which is located on property owned by the City legally described as Tracts A and B, MAHAFFIE HOUSE ADDITION, a subdivision in the City of Olathe, Johnson County, Kansas, according to the recorded plat thereof, to the Heritage Center, which is located on property owned by the City legally described as Lot 1, MAHAFFIE HOUSE EAST ADDITION, a subdivision in the City of Olathe, Johnson County, Kansas, according to the recorded plat thereof, or to the Olathe Community Center, which is located on property owned by the City legally described as Lot 1, KANSAS CITY ROAD PARK SOUTH, a subdivision in the City of Olathe, Johnson County, Kansas, according to the recorded plat thereof, or on City-owned property or City right-of-way, if such real property is actually being used in association with a City-issued caterer or temporary event permit, or on real property leased by the City to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes, or purposes incidental thereto.

C. Upon a conviction, plea of no contest, or guilty plea for a violation of this Section by a person 18 or more years of age but less than 21 years of age, the municipal judge shall order such person to submit to and complete an alcohol and drug evaluation with an approved provider licensed by the behavioral sciences regulatory board pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee to the provider at the time of service not to exceed the fee established by that statute for such evaluation. If the person is indigent, the court may order the evaluation fee to be paid to the provider as part of the judgment. The person must comply with the recommendations of the alcohol and drug evaluation as directed by the court.

D. Violation of any provision of this Section is an Unclassified Public Offense, punishable by a fine of not less than Fifty Dollars ($50.00) or more than Two Hundred Dollars ($200.00) or by imprisonment for not more than six (6) months, or both. (Ord. 15-66 § 10, 2015; Ord. 15-24 § 3, 2015.)

9.06.023 Consumption on Private Property--Exceptions. It shall be unlawful for any person to consume or drink alcoholic liquor or cereal malt beverage on private property except:

A. On premises where the sale of liquor or cereal malt beverage by the individual drink is authorized by the Club and Drinking Establishment Act and this Title;

B. Upon private property by a person occupying such property as an owner or lessee of an owner 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, or for 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 or cereal malt beverage in violation of K.S.A. 41-2704, and amendments thereto, takes place;

C. 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 an organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803 or cereal malt beverage in violation of K.S.A. 1988 Supp. 41-308b, and amendments thereto, takes place; or

D. On the premises of a microbrewery or farm winery, if authorized by K.S.A. 41-803a or K.S.A. 41-308b.

E. Upon a conviction, plea of no contest, or guilty plea for a violation of this section by a person 18 or more years of age but less than 21 years of age, the municipal judge shall order such person to submit to and complete an alcohol and drug evaluation with an approved provider licensed by the behavioral sciences regulatory board pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee to the provider at the time of service not to exceed the fee established by that statute for such evaluation. If the person is indigent, the court may order the evaluation fee to be paid to the provider as part of the judgment. The person must comply with the recommendations of the alcohol and drug evaluation as directed by the court.

F. Violation of any provision of this section is an Unclassified Public Offense, punishable by a fine of not less than Fifty Dollars ($50.00) or more than Two Hundred Dollars ($200.00) or by imprisonment for not more than six (6) months, or both. (Ord. 15-24 § 4, 2015)

9.06.024 Possession on Private Property. It shall be unlawful for any person to have in his or her possession any open alcoholic liquor or cereal malt beverage on private property, except:

A. On premises where the sale of liquor or cereal malt beverage by the individual drink is authorized by the Club and Drinking Establishment Act;

B. Upon private property by a person occupying such property as an owner or lessee of an owner or 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, or for any substance mixed with alcoholic liquor or cereal malt beverage and if no sale of alcoholic liquor in violation of K.S.A. 41-803 or cereal malt beverage in violation of K.S.A. 41-2704, and amendments thereto, takes place;

C. In a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guest 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, or for 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 or cereal malt beverage in violation of K.S.A. 41-2704, and amendments thereto, takes place;

D. 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 an organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803 or cereal malt beverage in violation of K.S.A. 41-2704 and amendments thereto, takes place; or

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

F. Upon a conviction, plea of no contest, or guilty plea for a violation of this section by a person 18 or more years of age but less than 21 years of age, the municipal judge shall order such person to submit to and complete an alcohol and drug evaluation with an approved provider licensed by the behavioral sciences regulatory board pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee to the provider at the time of service not to exceed the fee established by that statute for such evaluation. If the person is indigent, the court may order the evaluation fee to be paid to the provider as part of the judgment. The person must comply with the recommendations of the alcohol and drug evaluation as directed by the court.

G. Violation of any provision of this section is an Unclassified Public Offense, punishable by a fine of not less than Fifty Dollars ($50.00) or more than Two Hundred Dollars ($200.00) or by imprisonment for not more than six (6) months, or both. (Ord. 15-24 § 5, 2015)

9.06.025 Sale of Liquor to Incapacitated or Intoxicated Person.

A. It shall be unlawful for any person to knowingly sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor or cereal malt beverage, to any person who is an incapacitated person, or any person who is physically or mentally incapacitated by the consumption of such alcoholic liquor or cereal malt beverage.

B. Upon a conviction, plea of no contest, or guilty plea for a violation of this section, the municipal judge may order such person to complete an alcohol intervention program that trains individuals to serve and/or sell alcohol responsibly in any setting. The municipal judge may order such person to complete Training for Intervention Procedures on Premise (TIPS) or a similar alcohol intervention program.

C. Violation of any provision of this section is an Unclassified Public Offense, punishable by a fine of not less than One Hundred Dollars ($100.00) or more than Two Hundred Dollars ($200.00) or by imprisonment for not more than thirty (30) days, or both. (Ord. 15-24 § 6, 2015)

9.06.026 Open Saloon.

A. It is unlawful for any person to own, maintain, operate or conduct, either directly or indirectly, an open saloon.

B. For the purpose of this section, the words "Open Saloon" mean any place, public or private, where alcoholic liquor is sold or offered or kept for sale by the drink or in any quantity of less than one hundred millimeters (3.4 fluid ounces) or sold or offered or kept for sale for consumption on the premises where sold, but does not include any premises where the sale of liquor is authorized by the Club and Drinking Establishment Act or this Title.

C. Any violation of the provisions of this section is a misdemeanor punishable by a fine of not more than Five Hundred Dollars ($500.00) and by imprisonment for not more than ninety (90) days. (Ord. 15-24 § 7, 2015)

9.06.030 Furnishing Cereal Malt Beverage to a Minor. Repealed 10/21/2003. (Ord. 03-90 § 6, 1999; Ord. 99-24 § 8, 1999; Ord. 93-09 § 11, 1993.)

9.06.040 Contributing to a Child's Misconduct or Deprivation. The

A. Contributing to a child's misconduct or deprivation is:

1. Knowingly causing or encouraging a child under eighteen (18) years of age to become or remain a child in need of care as defined by the Kansas code for care of children; or

2. Knowingly causing or encouraging a child under eighteen (18) years of age to commit a traffic infraction or an act which, if committed by an adult, would be a misdemeanor or public offense, or to violate the provisions of K.S.A. 41-727 or subsection (j) of K.S.A. 74-8810 and amendments thereto; or

3. Failure to reveal, upon inquiry by a uniformed or properly identified law enforcement officer engaged in the performance of such officer's duty, any information one has regarding a runaway, with intent to aid the runaway in avoiding detection or apprehension; or

4. Knowingly causing or encouraging a child to violate the terms or conditions of the child's probation or conditional release pursuant to subsection (a) (1) of K.S.A. 38-2361, and amendments thereto. (K.S.A. 21-5603 and amendments thereto).

B. A person may be found guilty of contributing to a child's misconduct or deprivation even though no prosecution of the child whose misconduct or deprivation the defendant caused or encouraged has been commenced in municipal or district court.

C. Contributing to a child's misconduct or deprivation is a Class A Public Offense. (Ord. 15-66 § 11, 2015; Ord. 14-63 § 4, 2014; Ord. 03-90 § 3, 2003; Ord. 99-24 § 9, 1999; Ord. 93-09 § 12, 1993; Ord. 83-75 § 2, 1983.)

9.06.050 Tattoos and Body Piercing.

(1) 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.

(2) 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 act 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.

(3) Definitions as used in this section, unless the context otherwise requires:

(a) "Body Piercing" means 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 shall not be included in this definition.

(b) "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.

(c) "Tattooing" means 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.

(4) A violation of this section is a Class A Public Offense. (Ord. 07-135 § 8, 2007; Ord. 05-103 § 1, 2005; Ord. 99-24 § 10, 1999; Ord. 96-24 § 1, 1996).

9.06.060 Purchase or Possession of Cigarettes, Electronic Cigarettes, Liquid Nicotine or Tobacco Products by a Minor.

A. It shall be unlawful for any person who is under eighteen (18) years of age to possess or attempt to possess cigarettes, electronic cigarettes, liquid nicotine or tobacco products (K.S.A. 79-3321, as amended).

B. It shall be unlawful for any person who is under twenty-one (21) years of age to purchase or attempt to purchase cigarettes, electronic cigarettes, liquid nicotine or tobacco products.

C. For the purposes of this Section, the terms are defined in K.S.A. 79-3301 and amendments thereto, except liquid nicotine which is the active ingredient of the tobacco plant (nicotine) in liquefied form suitable for the induction of nicotine, whether by nasal spray, ingestion, smoking or other means, into the human body.

D. Violation of this Section is a cigarette or tobacco infraction for which the fine shall be Twenty-five Dollars ($25.00). The judge will require a person charged with violating this Section to appear in court and may require completion of a tobacco education program. (Ord. 16-09 § 1, 2016; Ord. 12-38 § 4, 2012; Ord. 99-24 § 11, 1999; Ord. 96-82 § 1, 1996.)

9.06.070 Selling, Giving or Furnishing Cigarettes, Electronic Cigarettes, Liquid Nicotine, or Tobacco Products to a Minor.

A. It shall be unlawful for any person, directly or indirectly, to:

1. Sell, give or furnish any cigarettes, electronic cigarettes, liquid nicotine or tobacco products to any person under twenty-one (21) years of age; or
2. Buy any cigarettes, electronic cigarettes, liquid nicotine or tobacco products for any person under twenty-one (21) years of age.

B. It shall be a defense to a prosecution under this subsection if:

1. The defendant is a licensed retail dealer or employee thereof, or a person authorized by law to distribute samples; and
2. The defendant sold, furnished or distributed the cigarettes, electronic cigarettes, liquid nicotine or tobacco products to the person under twenty-one (21) years of age with reasonable cause to believe the person was of legal age to purchase or receive cigarettes, electronic cigarettes, liquid nicotine or tobacco products; and
3. To purchase or receive the cigarettes, electronic cigarettes, liquid nicotine or tobacco products, the person under twenty-one (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, liquid nicotine or tobacco products.

C. It shall be a defense to a prosecution under this subsection if:

1. The defendant engages in the lawful sale, furnishing or distribution of cigarettes, electronic cigarettes, liquid nicotine or tobacco products by mail; and
2. The defendant sold, furnished or distributed the cigarettes, electronic cigarettes, liquid nicotine 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, and amendments thereto, that the person was twenty-one (21) or more years of age. (K.S.A. 79-3322, as amended).

D. For the purposes of this Section, the terms are defined in K.S.A. 79-3301, and amendments thereto, except liquid nicotine which is the active ingredient of the tobacco plant (nicotine) in liquefied form suitable for the induction of nicotine, whether by nasal spray, ingestion, smoking or other means, into the human body.

E. For purposes of this Section, the person who violates this Section shall be the individual directly selling, furnishing or distributing the cigarettes, electronic cigarettes, liquid nicotine or tobacco products to any person under twenty-one (21) years of age or the retail dealer who has actual knowledge of such selling, furnishing or distributing by such individual or both.

F. Violations of this Section shall constitute a Class B public offense punishable by a minimum fine of Two Hundred Dollars ($200.00). The court shall order the offender to complete a training program, approved by the Secretary of Revenue or the Secretary's designee, in avoiding sale, furnishing or distribution of cigarettes, electronic cigarettes, liquid nicotine and tobacco products to persons less than twenty-one (21) years of age. (Ord. 16-09 § 2, 2016; Ord. 14-63 § 5, 2014; Ord. 12-38 § 5, 2012; Ord. 03-90 § 4, 2003; Ord. 99-24 § 12, 1999; Ord. 96-82 § 2, 1996)

9.06.080 Purchase or Consumption of Alcoholic or Cereal Malt Beverage by Minor; Penalty.

A. Except with regard to serving of alcoholic liquor or cereal malt beverage as permitted by K.S.A. 41-308a, 41-308b, 41-727a, 41-2610, 41-2652, 41-2704 or 41-2727, and amendments thereto, and subject to any rules and regulations adopted pursuant to such statutes, no person under 21 years of age shall possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage except as authorized by law.

B. Upon a conviction, plea of no contest, or guilty plea for violation of this section by a person 18 or more years of age but less than 21 years of age, the municipal judge shall order such person to submit to and complete an alcohol and drug evaluation with an approved provider licensed by the behavioral sciences regulatory board pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee to the provider at the time of service not to exceed the fee established by that statute for such evaluation. If the person is indigent, the court may order the evaluation fee to be paid to the provider as part of the judgment. The person must comply with the recommendations of the alcohol and drug evaluation as directed by the court.

C. In addition to or in lieu of any other penalty provided for a violation of this section:

1. The court may order the offender to do either or both of the following:
   a. Perform 40 hours of public service; or
   b. Attend and satisfactorily complete a suitable educational or training program dealing with the effects of alcohol or other chemical substances when ingested by humans.

2. Upon a first conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for thirty (30) days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 30 days whether or not that person has a driver's license.

3. Upon a second conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for ninety (90) days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for ninety (90) days whether or not that person has a driver's license.

4. Upon a third or subsequent conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for one (1) year. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for one (1) year whether or not that person has a driver's license.

D. This section shall not apply to the possession and consumption of cereal malt beverage by a person under the legal age for consumption of cereal malt beverage when such possession and consumption is permitted and supervised, and such beverage is furnished, by the person's parent or legal guardian.

E. Violation of this section by a person 18 or more years of age but less than 21 years of ageis a Class C Public Offense for which the minimum fine is Two Hundred Dollars ($200.00).

F. 1. A person and, if applicable, one or two other persons acting in concert with such person are immune from criminal prosecution for a violation of this Section, if such person:

a. i. Initiated contact with law enforcement or emergency medical services and requested medical assistance on such person's behalf because such person reasonably believed such person was in need of medical assistance; and

ii. Cooperated with emergency medical services personnel and law enforcement officers in providing such medical assistance;

b. i. Initiated contact with law enforcement or emergency medical services, or was one of one or two other persons who acted in concert with such person, and requested medical assistance for another person who reasonably appeared to be in need of medical assistance;

ii. Provided their full name, the name of one or two other persons acting in concert with such person, if applicable, and any other relevant information requested by law enforcement or emergency medical services;

iii. Remained at the scene with the person who reasonably appeared to be in need of medical assistance until emergency medical services personnel and law enforcement officers arrived; and

iv. Cooperated with emergency medical services personnel and law enforcement officers in providing such medical assistance; or

c. i. Was the person who reasonably appeared to be in need of medical assistance as described in subsection (F)(1)(b) but did not initiate contact with law enforcement or emergency medical services; and

ii. Cooperated with emergency medical services personnel and law enforcement officers in providing such medical assistance.

2. A person shall not be allowed to initiate or maintain an action against a law enforcement officer, or such officer's employer, based on the officer's compliance or failure to comply with this subsection. (Ord. 16-47 § 1, 2016; Ord. 15-24 § 8, 2015; Ord. 04-85 § 1, 2004; Ord. 03-90 § 5, 2003)

9.06.090 Unlawful Hosting.

A. It shall be unlawful to host minors consuming alcoholic liquor or cereal malt beverages by intentionally or recklessly permitting a person's residence or any land, building, structure or room owned, occupied or procured by such person to be used by an invitee of such person or an invitee of such person's child or ward, in a manner that results in the possession or consumption therein of alcoholic liquor or cereal malt beverages by a minor.

B. The provisions of this section shall not be deemed to create any civil liability for any lodging establishment, as defined in K.S.A. 36-501, and amendments thereto. (K.S.A. 21-3610c, as amended)

C. Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage is a Class A Public Offense, for which the minimum fine is One Thousand Dollars ($1,000.00). If the court sentences the offender to perform community or public service work as a condition of probation as described in K.S.A. 21-4610 (c) (10), and amendments thereto, the court shall consider ordering the offender to serve the community or public service at an alcohol treatment facility.

D. As used in this section, terms have the meanings provided by K.S.A. 41-102, and amendments thereto, except for the purposes of this section, "minor" means a person under the age of twenty-one (21) years of age. (Ord. 09-59 § 2, 2009;Ord. 07-135 § 9, 2007; Ord. 06-71 § 3, 2006; Ord. 04-85 § 3, 2004)

CHAPTER 9.07

OFFENSES AGAINST PROPERTY

Sections:

9.07.010 Theft.
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9.07.340 Unlawfully Selling Scrap Metal. (Repealed 12/15/15)
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9.07.360 Serial Numbers.

9.07.010 Theft. Theft is any of the following acts done with the intent to deprive the owner permanently of the possession, use or benefit of the owner's property or services:

A. Obtaining or exerting unauthorized control over property or services;

B. Obtaining by deception control over property or services;

C. Obtaining by threat control over property or services;

D. Obtaining control over stolen property or services knowing the property or services to have been stolen by another;

E. Knowingly dispensing motor fuel into a storage container or the fuel tank of a motor vehicle at an establishment in which motor fuel is offered for retail sale and leaving the premises of the establishment without making payment for the motor fuel; or

F. Obtaining services by coercion, stealth, mechanical tampering, or use of false token or device.

G. Theft of property or services of the value of less than $1,500 is a Class A Public Offense except:

1. When the theft is of property or services of the value of at least $50 but less than $1,500 if committed by a person who has, within five years immediately preceding commission of the crime, excluding any period of imprisonment, been convicted of theft two or more times;
2. When the theft is of property or services of the value of less than $1,500 from three (3) separate mercantile establishments within a period of seventy-two (72) hours as part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct; or
3. When theft is of property which is a firearm.

In such cases theft is a felony under state statues.

H. Nothing herein shall prohibit the removal in a lawful manner, by towing or otherwise, of personal property unlawfully placed or left upon real property.

I. In any prosecution under this section, the existence of any of the connections of meters, alterations or use of unauthorized or unmeasured electricity, natural gas, telephone service or cable television service, shall be prima facie evidence of intent to violate the provisions of this section by the person or persons using or receiving the direct benefits from the use of the electricity, natural gas, telephone service or cable television service passing through such connections or meters, or using the electricity, natural gas, telephone service or cable television service which has not been authorized or measured.

J. As used in this section:

1. “Convicted” includes being convicted of a violation of K.S.A 21-3701, prior to its repeal, this section or a municipal ordinance which prohibits the acts that this section prohibits;
2. “Regulated scrap metal” means the same as in K.S.A. 50-6,109, and amendments thereto. If the property which is the subject of a theft is regulated scrap metal, “value” means the value of the property or the cost to restore the site of the theft of such regulated scrap metal to its condition at the time immediately prior to the theft of such regulated scrap metal, whichever is greater.
3. “Services” within the meaning of this section, includes, but is not limited to, labor, professional service, cable television service, public or municipal utility or transportation service, telephone service, lodging, entertainment and the supplying of equipment for use.
4. “Tampering” within the meaning of this section includes but is not limited to:

(a) Making a connection of any wire, conduit or device, to any service or transportation line owned by a public or municipal utility, or by a cable television provider;
(b) Defacing, puncturing, removing, reversing or altering any meter or any connections, for the purpose of securing unauthorized or unmeasured electricity, natural gas, telephone service or cable television services;
(c) Preventing any such meters from properly measuring or registering;

(d) Knowingly taking, receiving, using or converting to such person's own use, or the use of another, any electricity, or natural gas, which has not been measured; or any telephone or cable television service which has not been authorized; or

(e) Causing, procuring, permitting, aiding or abetting any person to do any of the preceding acts. (Ord. 16-47 § 2, 2016; Ord. 14-63 § 6, 2014; Ord. 11-47 § 2, 2011; Ord. 07-135 § 10, 2007; Ord. 04-109 § 1, 2004; Ord. 88-123 § 3, 1988; Ord. 83-75 § 2, 1983.)

9.07.020 Prima Facie Evidence of Intent to Permanently Deprive Owner or Lessor of Possession, Use or Benefit of Property.

A. In any prosecution under this Public Offense Code, the following shall be prima facie evidence of intent to permanently deprive the owner or lessor of property of the possession, use or benefit thereof:

1. The giving of a false identification or fictitious name, address or place of employment at the time of buying, selling, leasing, trading, gathering, collecting, soliciting, procuring, receiving, dealing or otherwise obtaining or exerting control over the property;

2. The failure of a person who leases or rents personal property to return the same within ten (10) days after the date set forth in the lease or rental agreement for the return of said property, if notice is given to the person renting or leasing the property to return the property within seven (7) days after receipt of said notice, in which case the subsequent return of the property within the seven day period shall exempt such transaction from consideration as prima facie evidence as provided in this Section;

3. Destroying, breaking or opening a lock chain, key switch, enclosure or other device used to secure the property in order to obtain control over the property;

4. Destruction of or substantially damaging or altering the property so as to make the property unusable or unrecognizable in order to obtain control over the property.

5. The failure of a person who leases or rents from a commercial renter a motor vehicle under a written agreement that provides for the return of the motor vehicle to a particular place at a particular time, if notice has been given to the person renting or leasing the motor vehicle to return such vehicle within three calendar days from the date of the receipt or refusal of the demand.

In addition, if such vehicle has not been returned after demand, the lessor may notify the Olathe Police Department of the failure of the lessee to return such motor vehicle and the Olathe Police Department shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles; or

6. The failure of a person who is provided with a use of a vehicle by the owner of the vehicle to return it to the owner pursuant to a written instruction specifying:

a. The time and place to return the vehicle; and

b. that failure to comply may be prosecuted as theft, and such instructions are delivered to the person by the owner at the time the person is provided with possession of the vehicle. In addition, if such vehicle has not been returned pursuant to the specifications in such instructions, the owner may notify the Olathe Police Department of the failure of the person to return such motor vehicle and the Olathe Police Department shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles.

7. removing a theft detection device, without authority, from merchandise or disabling such device prior to purchase.

B. In any prosecution, under this Public Offense Code in which the object of the alleged theft is a book or other material borrowed from a library, it shall be prima facie evidence of intent to permanently deprive the owner of the possession, use or benefit thereof if the defendant failed to return such book or material within thirty (30) days after receiving notice from the library requesting its return, in which case the subsequent return of the book or material within the thirty (30) day period shall exempt such transaction from consideration as prima facie evidence as provided in this Section.

C. The word “notice” as used herein shall be construed to mean notice in writing and such notice in writing will be presumed to have been given three (3) days following deposit of the notice as registered or certified matter in the United States mail, addressed to such person who has leased or rented the personal property or borrowed the library material at the address as it appears in the information supplied by such person at the time of such leasing, renting or borrowing, or such person’s last known address.

D. In a prosecution for theft as defined in OMC Section 9.07.010, and such theft is of regulated scrap metal as defined in K.S.A. 2014 Supp. 50-6,109, and amendments thereto, either in whole or in part, the failure to give information or the giving of false information to a scrap metal dealer pursuant to the requirements of the scrap metal theft reduction act, the transportation of regulated scrap metal outside the county from where it was obtained, the transportation of regulated scrap metal across state lines or the alteration of any regulated scrap metal prior to any transaction with a scrap metal dealer shall be prima facie evidence of intent to permanently deprive the owner of the regulated scrap metal of the possession, use or benefit thereof. (Ord. 15-66 § 12, 2015; Ord. 08-111 § 2, 2008; Ord. 99-24 § 13, 1999; Ord. 87-149 § 4, 1987; Ord. 83-75 § 2, 1983.)

9.07.030 Theft of Lost or Mislaid or Delivered by Mistake Property.

A. Theft of lost or mislaid or delivered by mistake property is failure to take reasonable measures to restore lost or mislaid or delivered by mistake property to the owner by a person who has obtained control of such property who knows or learns the identity of the owner thereof, and who intends to deprive the owner permanently of the possession, use or benefit of the property.

B. As used in this Section, property delivered by mistake includes, but is not limited to, a mistake as to the: 1) nature or amount of the property; or 2) identity of the recipient of the property.

C. Theft of lost or mislaid or delivered by mistake property is a Class A Public Offense if the value of the property is less than $1,000. (Ord. 14-63 § 7, 2014; Ord. 83-75 § 2, 1983.)

9.07.040 Theft of Services. Repealed 9/20/16. (Ord. 16-47 § 4, 2016; Ord. 04-109 § 2, 2004; Ord. 03-117 § 1, 2003; Ord. 99-24 § 14, 1999; Ord. 88-123 § 4, 1988; Ord. 83-75 § 2, 1983.)

9.07.050 Defrauding an Innkeeper.

(1) Defrauding an innkeeper is obtaining any food, lodging, or other accommodation at any inn, restaurant, hotel, boarding house, apartment house, dwelling unit or rooming house by means of any trick, deception or false representation, statement or pretense, with intent to defraud the owner or keeper thereof.

(2) As used in this section, "Dwelling Unit" means a structure or a part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

(3) The following shall be prima facie evidence of the intent to defraud an owner or innkeeper as provided in this section:

(a) Obtaining lodging, food or other accommodations by false pretense or by false or fictitious show or pretense of any baggage or other property;

(b) Paying for such food, lodging or other accommodation by a check or other negotiable paper on which payment had been refused;

(c) Leaving the inn, restaurant, hotel, boarding house, apartment house, dwelling unit or rooming house without paying or offering to pay for such food, lodging or other accommodation;

(d) Surreptitiously removing or attempting to remove baggage or other property;

(e) Registering under a fictitious name.

Defrauding an innkeeper of the value of less than Five Hundred Dollars ($500.00) is a Class A Public Offense. (Ord. 03-117 § 2, 2003; Ord. 87-149 § 5, 1988; Ord. 83-75 § 2, 1983.)

9.07.060 Criminal Deprivation of Property.

A. Criminal deprivation of property is obtaining or exerting unauthorized control over property, with intent to deprive the owner of the temporary use thereof, without the owner's consent but not with the intent of depriving the owner permanently of the possession, use or benefit of such owner's property.

B. Criminal deprivation of property that is a motor vehicle, as defined in K.S.A. 8-1437 and amendments thereto, upon a first or second conviction is a Class A public offense. Upon a first conviction of this subsection, a person shall be sentenced to not less than thirty (30) days nor more than one (1) year's imprisonment and fined not less than One Hundred Dollars ($100). Upon a second or subsequent conviction of this subsection, a person shall be sentenced to not less than sixty (60) days nor more than one year's imprisonment and fined not less than Two Hundred Dollars ($200). The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. The mandatory provisions of this subsection shall not apply to any person where such application would result in a manifest injustice.

C. Criminal deprivation of property other than a motor vehicle, as defined in K.S.A. 8-1437, and amendments thereto, is a Class A public offense. Upon a second or subsequent conviction of this subsection, a person shall be sentenced to not less than thirty (30) days imprisonment and fined not less than $100, except that the provisions of this subsection relating to a second or subsequent conviction shall not apply to any person where such application would result in a manifest injustice.

D. Criminal deprivation of property that is a firearm is a felony. (Ord. 14-63 § 8, 2014; Ord. 08-111 § 3, 2008; Ord. 00-45 § 1, 2000; Ord. 93-09 § 13, 1993; Ord. 83-75 § 2, 1983.)

9.07.070 Fraudulently Obtaining Execution of a Document. Fraudulently obtaining execution of a document is causing another, by deception or threat, to execute a document disposing of property or a document by which a pecuniary obligation is incurred. Fraudulently obtaining execution of a document is a Class A Public Offense. (Ord. 83-75 § 2, 1983.)

9.07.080 Criminal Damage to Property.

(1) Criminal damage to property is, by means other than by fire or explosive:

(a) Intentionally injuring, damaging, mutilating, defacing, destroying, or substantially impairing the use of any property in which another has an interest without the consent of such other person; or

(b) Injuring, damaging, mutilating, defacing, destroying, or substantially impairing the use of any property with intent to injure or defraud an insurer or lien-holder.

(2) Criminal damage to property is a Class A Public Offense if the property damaged is of the value of less than One Thousand Dollars ($1,000.00) or is of the value of One Thousand Dollars ($1,000.00) or more and is damaged to the extent of One Thousand Dollars ($1,000.00) or less. (Ord. 06-71 § 4, 2006; Ord. 99-24 § 15, 1999; Ord. 83-75 § 2, 1983.)

9.07.090 Criminal Trespass.

A. Criminal trespass is:

1. Entering or remaining upon or in any land, non-navigable body of water, structure, vehicle, aircraft or watercraft other than railroad property as defined in Section 9.07.095 by a person with knowledge that such person is not authorized or privileged to do so, and:

a. Such person enters or remains therein in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person; or

b. Such premises or property are posted as provided in K.S.A. 32-1013, and amendments thereto, or in any other manner reasonably likely to come to the attention of intruders, or are locked or fenced or otherwise enclosed, or shut or secured against passage or entry; or

c. Such person enters or remains therein in defiance of a restraining order issued pursuant to K.S.A. 2002 Supp. 60-31a05, K.S.A. 2002 Supp. 60-31a06, K.S.A. 60-1607, 60-3105, 60-3106 or 60-3107 or K.S.A. 38-1542, 38-1543 or 38-1563, and amendments thereto, Section 9.04.120 of the Olathe Municipal Code, or a court of competent jurisdiction and the restraining order has been personally served upon the person so restrained; or

2. Entering or remaining upon or in any public or private land or structure in a manner that interferes with access to or from any health care facility by a person who knows such person is not authorized or privileged to do so and such person enters or remains thereon or therein in defiance of an order not to enter or to leave such land or structure personally communicated to such person by the owner of the health care facility or other authorized person.

B. 1. Criminal trespass is a Class B Public Offense.

2. Upon a conviction of a violation of Subsection A.1. c., a person shall be sentenced to not less than 48 consecutive hours of imprisonment which must be served either before or as a condition of any grant of probation or suspension, reduction of sentence or parole.

C. This Section shall not apply to:

1. a land surveyor, licensed pursuant to article 70 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, and such surveyor's authorized agents and employees who enter upon lands, waters, and other premises in the making of a survey.

2. railroad property as defined in K.S.A. 2014 Supp. 21-5809, and amendments thereto, or nuclear generating facility as defined in K.S.A. 2014 Supp. 66-2302, and amendments thereto. (Ord. 15-66 § 13, 2015; Ord. 14-63 § 9, 2014; Ord. 13-33 § 2, 2013; Ord. 03-117 § 3, 2003; Ord. 99-24 § 16, 1999; Ord. 93-09 § 14, 1993; Ord. 83-75 § 2, 1983.)

9.07.095 Trespass on Railroad Property.

A. It shall be unlawful for any person to:

1. Without consent of the owner or the owner's agent, enter or remain on railroad property, knowing that it is railroad property; or

2. Recklessly cause in any manner the derailment of a train, railroad car or rail-mounted work equipment.

B. Subsection A. shall not be construed to interfere with the lawful use of a public or private crossing.

C. Nothing in this Section shall be construed as limiting a representative or member of a labor organization which represents or is seeking to represent the employees of the railroad, from conducting such business as provided under the Railway Labor Act (45 U.S.C. 151, et seq.) and other federal labor laws. (Ord. 15-66 § 14, 2015; Ord. 14-63 § 10, 2014; Ord. 99-24 § 17, 1999.)

9.07.100 Prowling. Prowling is willfully entering upon property owned or occupied by another with the intent of observing, looking or peeping into any window, door, skylight, or other opening in a house, room or building, or to remain in a public street, alley, parking lot or other parking place with the intent of wrongfully observing the actions of occupants of any such house, room, building or structure occupying an area where one would reasonably expect privacy and safety from uninvited intrusion or surveillance. Prowling is a Class A Public Offense. (Ord. 83-75 § 2, 1983.)

9.07.110 Unauthorized Presence. Unauthorized presence is entering or remaining upon or in any public parking area, lot or business premises in violation of restrictions upon access plainly posted, in a manner reasonably likely to come to the attention of the public, indicating restricted business hours, restrictions upon public presence, intrusion, permissible activity or other limitations upon public access to the posted area or premises. Unauthorized presence is an unclassified Public Offense. (Ord. 83-75 § 2, 1983.)

9.07.120 Trespassing for Purpose of Parking Vehicle. Trespassing for the purpose of parking a vehicle is the going upon the property owned or occupied by another person for the purpose of parking any vehicle upon such property, without the authority to enter upon the premises. Trespassing for the purpose of parking a vehicle is a Class C Public Offense. (Ord. 83-75 § 2, 1983.)

9.07.130 Littering. Littering is intentionally or 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, except by direction of some public officer or employee authorized by law to direct or permit such acts;

(b) Any private or public lake, river, stream, ditch, watercourse, retention or detention basin or other body of water that regularly or periodically carries surface water; or

(c) Any private property without the consent of the owner or occupant of such property. Littering is a Class C Public Offense. (Ord. 03-117 § 4, 2003; Ord. 93-56 § 1, 1993; Ord. 83-75 § 2, 1983.)

9.07.140 Tampering with a Landmark. Tampering with a landmark is willfully and maliciously:

(1) Removing any monument of stone or other durable material, established or created for the purpose of designating the corner of or any other point upon the boundary of any lot or tract of land, or of the state, or any legal subdivision thereof; or

(2) defacing or altering marks upon any tree, post or other monument, made for the purpose of designating any point on such boundary; or

(3) cutting down or removing any tree, post or other monument upon which any such marks shall be made for such purpose, with intent to destroy such marks; or

(4) breaking, destroying, removing or defacing any mile post, mile stone or guide board erected by authority of law on any public highway or road; or

(5) defacing or altering any inscription on any such marker or monument; or

(6) altering, removing, damaging or destroying any public land survey corner or accessory without complying with the provisions of K.S.A. 58-2011. (Ord. 93-09 § 15, 1993; (Ord. 83-75 § 2, 1983.)

9.07.150 Tampering with a Traffic Signal. Tampering with a traffic signal is intentionally manipulating, altering, destroying or removing any light, sign, marker, railroad switching device or other signal device erected or installed for the purpose of controlling or directing the movement of motor vehicles, railroad trains, aircraft or watercraft. Tampering with a traffic signal is a Class B Public Offense. (Ord. 03-117 § 5, 2003; Ord. 83-75 § 2, 1983.)

9.07.160 Unlawful Hunting.

A. It shall be unlawful for any person to fish, shoot, hunt or pursue any bird or animal within the City of Olathe unless that person:

1. Is in possession of either a valid Kansas hunting license or other permit authorizing the taking of wildlife or a valid Kansas fishing license (unless exempt); and
2. Is hunting or fishing on land that is primarily rural or devoted to agricultural use or fishing on City of Olathe lakes designated for fishing; and
3. For private lands is in possession of the written permission of the landowner where the hunting or fishing is occurring; and
4. When on land that contains less than forty (40) acres has in their possession the written permission of all landowners or persons in possession of land contiguous to the land where the hunting is occurring.

B. Unlawful hunting is a Class C Public Offense. (Ord. 14-63 § 11, 2014; Ord. 99-24 § 18, 1999; Ord. 83-75 § 2, 1983.)

9.07.170 Criminal Use of a Financial Card.

A. Criminal use of a financial card is any of the following acts done with intent to defraud and for the purpose of obtaining money, goods, property, services or communication services, other than the telecommunication services as defined by K.S.A. 21-3745 and amendments thereto:

1. Using a financial card without the consent of the cardholder; or
2. knowingly using a financial card, or the number or description thereof, which has been revoked or canceled; or
3. using a falsified, mutilated, altered or nonexistent financial card or a number or description thereof.

B. For the purposes of Subsection A.2. hereof, a financial card shall be deemed canceled or revoked when notice in writing thereof has been received by the named holder thereof as shown on such financial card or by the records of the company.

C. Criminal use of a financial card is a Class A Public Offense if the money, goods, property, services or communication services obtained within a seven-day period is of value of less than One Thousand Dollars ($1,000.00). (Ord. 15-66 § 15, 2015; Ord. 06-71 § 5, 2006; Ord. 93-09 § 16, 1993; Ord. 83-75 § 2, 1983.)

9.07.180 Unlawful Manufacture or Disposal of False Tokens.

(1) The unlawful manufacture or disposal of false tokens is manufacturing, offering for sale, or giving away any false token, slug, substance, false or spurious coin or other device intended or calculated to be placed or deposited in any automatic vending machine, coin-operated telephone, parking meter or other such receptacle with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of such automatic vending machine, coin-operated telephone, parking meter or other receptacle designed to receive coins or currency of the United States of America in connection with the sale, use or enjoyment of property or services.

(2) The manufacture, advertising, offering for sale or distribution of any such false token, slug, substance, false or spurious coin or other device or substance shall be prima facie evidence of an intent to cheat or defraud within the meaning of this section.

(3) Unlawful manufacture or disposal of false tokens is a Class B Public Offense. (Ord. 99-24 § 19, 1999; Ord. 83-75 § 2, 1983.)

9.07.190 Criminal Use of Noxious Matter.

(1) Criminal use of noxious matter is the possession, manufacture or transportation of any noxious matter with intent to use such matter for an unlawful purpose, or the use or attempt to use noxious matter to the injury of persons and property, or the placing or depositing of such matter upon or about the premises of another person without the consent of such person.

(2) "Noxious matter," as used in this section, means any bomb, compound or substance which may give off dangerous or disagreeable odors or cause distress to persons exposed thereto.

(3) Criminal use of noxious matter is a Class A Public Offense. (Ord. 83-75 § 2, 1983.)

9.07.200 Automobile Master Key Violation.

(1) Automobile master key violation is either

(a) Selling or offering to sell a motor vehicle master key knowingly designed to fit the ignition switch of more than one motor vehicle to a person who is not regularly carrying on the business of garage proprietor or locksmith or employed as a law enforcement officer; or

(b) Possession of a motor vehicle master key designed to fit the ignition switch of more than one motor vehicle by a person knowing it to be such a key who is not regularly carrying on the business of garage proprietor or locksmith or employed as a law enforcement officer.

(2) It shall not be unlawful for the owner of two (2) or more vehicles to possess a motor vehicle master key for any or all of the motor vehicles so owned, nor shall the sale of such master keys to such owner be unlawful.

(3) Automobile master key violation is a Class B Public Offense. (Ord. 83-75 § 2, 1983.)

9.07.210 Posting of Advertisements. Unlawful posting of advertisements is the putting up, affixing or fastening of either or both a picture or an advertisement to a telegraph, telephone, electric light or power pole or any sign or structure owned or maintained by the City of Olathe.

Unlawful posting of pictures and advertisements is an Unclassified Public Offense. (Ord. 83-75 § 2, 1983.)

9.07.220 Opening, Damaging or Removing Coin-operated Machines. Opening, damaging or removing coin-operated machines is willfully and knowingly opening, removing or damaging any parking meter, coin telephone, vending machine dispensing goods or services, money changer or any other device designed to receive money in the sale, use or enjoyment of property or services or any part thereof, with intent to commit theft.

Opening, damaging or removing coin-operated machines is a Class A Public Offense. (Ord. 83-75 § 2, 1983.)

9.07.230 Possession of Tools for Opening, Damaging or Removing Coin-operated Machines. Possession of tools for opening, damaging or removing coin-operated machines is the possession of any key, tool, instrument or other device, or any drawing, print or mold of a key or other device or any explosive specifically designed for or suitable for use in opening or breaking into any parking meter, coin telephone, vending machine dispensing goods or services, money changer or any other device designed to receive money in the sale, use or enjoyment of property or services with intent to commit theft.

Possession of tools for opening, damaging or removing coin-operated machines is a Class B Public Offense. (Ord. 83-75 § 2, 1983.)

9.07.240 Unlawful Throwing of Objects. Unlawful throwing of objects is intentionally throwing, pushing, pitching or otherwise casting any rock, stone or other object, matter or thing onto a street, road, highway, railroad right-of-way, or upon any vehicle, engine or car or any train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock. Unlawful throwing of objects is a Class A Public Offense. Any person violating this section who injures another person, upon conviction, is guilty of a felony. (Ord. 03-117 § 6, 2003; Ord. 99-24 § 20, 1999; Ord. 83-75 § 2, 1983.)

9.07.250 Theft of Cable Television Services. Theft of cable television services is obtaining cable television services, including internet services, from another by means of threat, deception, electrical or mechanical tampering or electronic tampering. Theft of cable television services is a Class A Public Offense. (Ord. 03-117 § 6, 2003; Ord. 83-75 § 2, 1983.)

9.07.260 Tampering with Utility Equipment or Service.

(1) It shall be unlawful for any person to commit, authorize, solicit, aid, abet or attempt any of the following acts:

(a) Divert, or cause to be diverted, utility services by any means whatsoever; or

(b) Make, or cause to be made, any connection or reconnection with property owned or used by a utility to provide utility service without the authorization or consent of the utility; or

(c) Prevent any utility meter, or other device used in determining the charge for utility services, from accurately performing its measuring function by tampering or by other means; or

(d) Tamper with any property owned or used by a utility to provide utility services; or

(e) Use or receive the direct benefit of all, or a portion, of a utility service with knowledge of, or reason to believe that the diversion, tampering, or unauthorized connection existed at the time of the use, or that the use or receipt, was without the authorization or consent of the utility; or

(f) Publish the number or code of an existing, canceled, revoked or nonexistent telephone number, credit number or other credit device or method of numbering or coding which is employed in the issuance of telephone numbers, credit numbers or other credit devices under circumstances evidencing an intent to have the telephone number, credit number, credit device or method of numbering or coding used to avoid the payment of a lawful charge for any telecommunication service, or knowing or having reason to believe that the same may be used to avoid the payment of any such charge; or

(g) Obtain credit for or purchase any utility service by the use of any false, fictitious or counterfeit telephone number, credit number or other credit device, or by the use of any telephone number, credit number or other credit device without the authority of the person to whom the number or device was issued, or by the use of any telephone number, credit number or other credit device knowing that such number or device has been revoked; or

(h) Avoid the lawful charges, in whole or in part, for a utility service, by the use of any fraudulent scheme, device, means or method.

(2) Definitions. As used in this act:

(a) "Customer" means the person in whose name a utility service is provided.

(b) "Divert" means to change the intended course or path of electricity, gas, or water without the authorization or consent of the utility.

(c) "Person" means any individual, partnership, firm, association or corporation.

(d) "Reconnection" means the commencement of utility service, other than by a utility, to a customer or other person after service has been discontinued by the utility.

(e) "Tamper" means to rearrange, injure, alter, interfere with or otherwise to prevent from performing normal or customary function.

(f) "Utility" means any "public utility" as defined in K.S.A. and also includes any electrical, gas or water system operated by any public or private agency.

(g) "Utility service" means the provision of electricity, gas, water, telecommunication or any other service or commodity furnished by the utility for compensation.

(h) "Telecommunication service" means any telephone service or the transmission of a message, signal or other communication by telephone or telegraph or over telephone or telegraph facilities.

(3) Tampering with utility equipment or service is a Class A Public Offense. (Ord. 83-75 § 2, 1983.)

9.07.270 Criminal Trespass on Public Property.

A. Criminal Trespass on public property is entering or remaining upon or in any public property in violation of restrictions upon access plainly posted, in a manner reasonably likely to come to the attention of the public, indicating restricted hours, restrictions upon public presence, intrusion, permissible activity or other limitations upon public access to the posted area or premises. Criminal trespass on public property is a Class B Public Offense.

B. It shall be unlawful for any person to criminally trespass on public property.

C. Criminal trespass on public property is entering or remaining upon or in any land, structure, vehicle, aircraft, or watercraft owned or controlled by a public entity, including but not limited to, cities, school districts, counties, a taxing subdivision of the state, or any agency thereof, by any person who knows, or reasonably should know, that he or she is not authorized or privileged to do so; and:

1. Such person enters or remains thereof in defiance of an order not to enter or to leave such premises or property personally communicated to such person by any law enforcement officer or authorized person;

2. Such premises or property are posted in a manner reasonably likely to come to the attention of intruders or are locked or fenced or otherwise enclosed or shut or secured against passage or entry or such property is reasonably identifiable as property of a public entity due to physical markings or equipment on or in such property; or

3. Such person enters or remains therein in defiance of any order by a court.

D. This Section shall not interfere with the enforcement of any other ordinance, rule or regulation concerning the use or control of public property. (Ord. 14-63 § 12, 2014; Ord. 87-149 § 6, 1987.)

9.07.280 Unlawful Juvenile Activity.

(a) It shall be unlawful for any juvenile to loiter on or about any street, road, highway, sidewalk, curb gutter, building, parking lot, alley, vacant lot, park, playground or yard, whether public or private, without the consent or permission of the owner or occupant thereof, during the hours between 11 P.M. and 6 A.M. unless accompanied by a parent, legal guardian, or other adult person over the age of twenty-one (21) years, who has been given custody or control over the juvenile by the juvenile's parent or legal guardian.

(b) It shall be unlawful for the parent, legal guardian, or any other person having custody or control of any juvenile to permit, or by insufficient control, to allow such juvenile to violate subsection (a) of this section.

(c) As used in this section:

"Loiter" shall mean remaining idle in essentially one location, to be dilatory, to tarry, to dawdle and shall include but be not limited to standing around, hanging out, sitting, kneeling sauntering and prowling.

"Juvenile" shall mean any person under the age of eighteen (18) years.

(d) Violation of this Section is a Class B Public Offense. (Ord. 93-64 § 1, 1993)

9.07.290 Unlawful Acts Concerning Computer.

A. It is unlawful for any person to:

1. Knowingly and without authorization, disclose a number, code, password or other means of access to a computer, computer network, social networking website or personal electronic content; or

2. Knowingly and without authorization, access or attempt to access any computer, computer system, social networking website, computer network or computer software, program, documentation, data or property contained in any computer, computer system or computer network.

B. As used in this section:

1. Access means to instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system or computer network.

2. Computer means an electronic device which performs work using programmed instruction and which has one or more of the capabilities of storage, logic, arithmetic or communication and includes all input, output, processing, storage, software or communication facilities which are connected or related to such a device in a system or network.

3. Computer Network means the interconnection of communication lines, including microwave or other means of electronic communication, with a computer through remote terminals, or a complex consisting of two or more interconnected computers.

4. Computer Program means a series of instructions or statements in a form acceptable to a computer which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system.

5. Computer Software means computer programs, procedures and associated documentation concerned with the operation of a computer system.

6. Computer System means a set of related computer equipment or devices and computer software which may be connected or unconnected.

7. Financial Instrument means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card, debit card or marketable security.

8. Personal electronic content means the electronically stored content of an individual including, but not limited to, pictures, videos, email and other data files.

9. Property includes, but is not limited to, financial instruments, information, electronically produced or stored data, supporting documentation and computer software in either machine or human readable form.

10. Services includes, but is not limited to, computer time, data processing and storage functions and other uses of a computer, computer system or computer network to perform useful work.

11. Social networking website means a privacy-protected internet website which allows individuals to construct a public or semi-public profile within a bounded system created by the service, create a list of other users with whom the individual shares a connection within the system and view and navigate the list of users with whom the individual shares a connection and those lists of users made by others within the system.

12. Supporting Documentation includes, but is not limited to, all documentation used in the construction, classification, implementation, use or modification of computer software, computer programs or data.

C. Unlawful Acts Concerning Computer is a Class A Public Offense. (Ord. 14-63 § 13, 2014;Ord. 99-24 § 21, 1999.)

9.07.300 Counterfeiting.

(1) Counterfeiting is intentionally manufacturing, using, displaying, advertising, distributing, offering for sale, selling or possessing with intent to sell or distribute any item or services bearing or identified by a counterfeit mark.

(2) A person having possession, custody or control of more than 25 items bearing a counterfeit mark shall be presumed to possess such items with intent to sell or distribute.

(3) Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.

(4) As used in this section:

(a) “Counterfeit mark” means:

1) Any unauthorized reproduction or copy of intellectual property; or

2) Intellectual property affixed to any item knowingly sold, offered for sale, manufactured or distributed, or identifying services offered or rendered, without the authority of the owner of the intellectual property.

(b) “Intellectual property” means any trademark, service mark or trade name as such terms are defined in K.S.A. 2005 Supp. 81-202, and amendments thereto.

(c) “Retail value” means the counterfeiter’s regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter’s regular selling price of the finished product on or in which the component would be utilized.

(d) The quantity or retail value of items or services shall include the aggregate quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells, or possesses.

(5) Counterfeiting of the retail value of less than One Thousand Dollars ($1,000.00) is a Class A Public Offense. (Ord. 06-71 § 6, 2006; Ord. 00-102 § 2, 2000.)

9.07.310 Failing to Pay for Motor Fuel; Penalties.

(a) Any person who leaves the premises of an establishment at which motor fuel offered for retail sale was dispensed into the fuel tank of a motor vehicle by driving away in that motor vehicl without having made due payment or authorized charge for the motor fuel so dispensed, shall be guilty of a class A public offense and upon any subsequent conviction, the Division shall:

(1) Upon a person's second conviction, suspend the person's driving privileges for six months; and

(2) Upon a person's third or subsequent conviction, suspend the person's driving privileges for one year.

(b) The failure to replace or reattach the nozzle and hose of the pump used for the dispensing of motor fuels or placing such nozzle and hose on the ground or pavement shall be prima facie evidence of the intent to defraud under the provisions of subsection (a).

(c) Any person whose driving privileges have been suspended under subsection (a) shall pay a reinstatement fee in the amount of $100 to the Division. The Division of Vehicles shall, at least monthly, deposit such fees with the State Treasurer, who shall credit such moneys to the State Highway Fund.

(d) As used in this section:

(1) "Division" means the Division of Vehicles of the Department of Revenue;

(2) "Conviction" means a final conviction without regard whether sentence was suspended or probation granted after such conviction. Forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction. (Ord. 01-93 § 1, 2001.)

9.07.320 Withholding Possession of Public Property. It shall be unlawful for any person to unlawfully take possession of any property, real or personal belonging to the City, or to the possession of which the City shall be entitled or to commit any trespass thereon or to unlawfully withhold any property from the City. The unlawful withholding of the possession of any property belonging to the City after demand therefore has been made under the direction of the Governing Body of the City shall be deemed a new and separate offense for each day the possession is withheld after such demand. Withholding possession of public property is a Class C Public Offense. (Ord. 03-117 § 8, 2003.)

9.07.330 Personal Conduct Limitations and Animal Restrictions on Public Grounds.

(A) No person shall climb upon or hang over any rotunda, hall or portico, railing, or stair railing located in or upon any city property.

(B) No person shall run up or down the halls or stairways or crowd, push or shove any other person upon the stairways located on city property.

(C) No person shall swim or wade in any fountain located on the grounds of city property, nor shall any person permit any animal under the person's care to enter the fountain.

(D) Except for guide dogs, hearing assistance dogs, service dogs and the animal control facilities, no person shall bring any animals into any city building.

A person convicted of violating this section shall be guilty of a Class C Public Offense. (Ord. 04-109 § 4, 2004.)

9.07.340 Unlawfully Selling Scrap Metal. Repealed 12/15/15. (Ord. 15-66 § 16, 2015; Ord. 11-47 § 3, 2011; Ord. 09-59 § 3, 2009; Ord. 08-111 § 9, 2008.)

9.07.350 Unlawfully Buying Scrap Metal. Repealed 12/15/15. (Ord. 15-66 § 17, 2015; Ord. 12-38 § 6, 2012; Ord. 11-47 § 4, 2011; Ord. 09-59 § 4, 2009; Ord. 08-111 § 10, 2008.)

9.07.360 Serial Numbers.

A. It shall be unlawful for any person to willfully change, cover, alter, remove, obliterate or deface any serial numbers or other manufacturer's numbers or any identification letters, words, or numbers of any machine, apparatus, or article that carries a manufacturer's serial number or any other identification letters, words or numbers, with the intent to conceal the identity of such machine, apparatus, or article from the rightful owner thereof or from law enforcement personnel.

B. It shall be unlawful for any person to knowingly buy, sell, receive, barter, trade, dispose of or have in his or her possession any articles, devices, apparatuses, or machines from which the manufacturer's number or identification letters, words or numbers have been changed, covered, altered, removed, obliterated, defaced or destroyed with the intent to conceal the identity thereof from the rightful owner or from law enforcement personnel.

C. Possession of any of a manufacturer's articles, devices, apparatuses or machines from which the manufacturer's serial number of other manufacturer's number or identification mark, or the name of the manufacturer or make or model, or any other identification letters, words, or numbers have been changed, covered, altered, removed, obliterated, defaced, or destroyed shall be prima facie evidence that the possessor has changed, covered, altered, removed, obliterated, defaced or destroyed the same with the intent to cancel, destroy or misrepresent the identity or type, or ownership of such machine, apparatus, or article.

D. Violation of this Section is a Class B Public Offense. (Ord. 14-63 § 14, 2014.)

CHAPTER 9.08

OFFENSES AFFECTING GOVERNMENTAL FUNCTIONS

Sections:

9.08.010 Perjury. (Repealed 2/16/99)
9.08.020 Compounding a Crime.
9.08.030 Interference with Law Enforcement.
9.08.040 Disobeying the Lawful Order of a Police Officer.
9.08.050 Failure to Obey Citation.
9.08.060 Escape from Custody.
9.08.070 Failure to Appear.
9.08.080 Interference with the Administration of Justice.
9.08.090 Falsely Reporting a Crime or Public Offense.
9.08.100 Performance of an Unauthorized Official Act.
9.08.110 Simulating Legal Process.
9.08.120 Tampering with a Public Record.
9.08.130 Tampering with Public Notice.
9.08.140 False Signing of a Petition.
9.08.150 False Impersonation.
9.08.160 Interference with Conduct of Public Business in Public Buildings, Facilities or on Public Lands.
9.08.170 Dealing in False Identification Documents. (Repealed 2/16/99)
9.08.180 Resisting Arrest.
9.08.190 Possession of False Identification Documents.
9.08.200 Witness or Victim Intimidation, Definitions.
9.08.210 Crime of Intimidation of a Witness or Victim.
9.08.220 Civil Remedies, Court Orders Authorized.
9.08.230 Violation of Court Orders, Penalties.
9.08.240 Law Enforcement Canines and Fire Enforcement Canines.
9.08.250 Harassment of a Court by Telefacsimile Communication.

9.08.010 Perjury. Repealed 2/16/99. (Ord. 99-24 § 35, 1999; Ord. 93-09 § 17, 1993; Ord. 89-151 § 3, 1990; Ord. 83-75 § 2, 1983.)

9.08.020 Compounding a Crime.

(1) Compounding a crime is accepting or agreeing to accept anything of value as consideration for a promise:

(a) Not to initiate or aid in the prosecution of a person who has committed a crime; or
(b) to intentionally conceal or destroy evidence of a crime.

(2) Compounding a crime is a Class A Public Offense. (Ord. 93-09 § 18, 1993; Ord. 83-75 § 2, 1983.)

9.08.030 Interference with Law Enforcement. Interference with law enforcement is:

A. Falsely reporting to a law enforcement officer, law enforcement agency or state investigative agency:

1. That a particular person has committed a crime, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information; or
2. any information, knowing that such information is false and intending to influence, impede or obstruct such officer's or agency's duty; or

3 any information for the purpose of hindering the apprehension, prosecution, conviction or punishment of any person for a crime; or

4. that a crime has been committed or any information concerning a crime or suspected crime, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;

B. Concealing, materially altering or destroying evidence or tampering with a witness, informant, document or other source of information, regardless of its admissibility in evidence with the intent to prevent or hinder the apprehension, prosecution, conviction or punishment of any person; or

C. Knowingly and willfully obstructing, resisting or opposing any person authorized by law to serve process in the service or execution or in the attempt to serve or execute any writ, warrant, process or order of a court, or in the discharge of any official duty; or

D. Knowingly and willfully obstructing, resisting or opposing any properly identified law enforcement officer in the discharge of any official duty or investigation; or

E. Providing a false name, address, birth date, driver's license or other identification document to a law enforcement officer engaged in the discharge of any official duty or investigation.

F. Interference with Law Enforcement is a Class A Public Offense. (Ord. 13-33 § 3, 2013; Ord. 12-38 § 7, 2012; Ord. 83-75 § 2, 1983.)

9.08.040 Disobeying the Lawful Order of a Police Officer. No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer while the said officer is engaged in directing, controlling or regulating traffic during an emergency or accident investigation. Disobeying the lawful order of a police officer is a Class C Public Offense. (Ord. 83-75 § 2, 1983.)

9.08.050 Failure to Obey Citation. It shall be unlawful for any person to violate his or her written promise to appear given to a law enforcement officer upon the issuance of a Uniform Complaint and Notice to Appear regardless of the disposition of the charge for which such complaint and notice to appear was originally issued.

Failure to obey citation is a Class C Public Offense. (Ord. 83-75 § 2, 1983.)

9.08.060 Escape from Custody.

A. Escape from custody is escaping while held in lawful custody on a charge, arrest for or conviction of a public offense, or on a charge, arrest or adjudication as a juvenile offender, where the act, if committed by an adult, would constitute a public offense, or on a commitment to the state security hospital as provided in K.S.A. 22-3428 and amendments thereto based on a finding that the person committed an act constituting a public offense or by a person 18 years of age or over who is being held in lawful custody on an adjudication of a misdemeanor or public offense.

B. As used in this section:

1. Custody means arrest; detention in a facility for holding persons charged with or convicted of offenses or charged or adjudicated as a juvenile offender, where the act, if committed by an adult, would constitute an offense; detention in a facility for holding persons adjudicated as juvenile offenders; detention for extradition or deportation; detention in a hospital or other facility pursuant to court order, imposed as a specific condition of probation or parole or imposed as a specific condition of assignment to a community correctional services program; commitment to the state security hospital as provided in K.S.A. 22-3428 and amendments thereto; or any other detention for law enforcement purposes. Custody does not include general supervision of a person on probation or parole or constraint incidental to release on bail.

2. "Escape" means departure from custody without lawful authority or failure to return to custody following temporary leave lawfully granted pursuant to express authorization of law or order of a court.

3. As used in this section, the term charge shall not require that the offender was held on a written charge contained in a complaint, information or indictment, if such offender was arrested prior to such offender's escape from custody.

C. Escape from custody is a Class A Public Offense. (Ord. 12-38 § 8, 2012; Ord. 99-24 § 22, 1999; Ord. 83-75 § 2, 1983.)

9.08.070 Failure to Appear.

(1) Failure to appear is intentionally incurring a forfeiture of an appearance bond and failing to surrender oneself within thirty (30) days following the date of such forfeiture by one who is charged with a public offense and has been released on bond for appearance before the municipal court of Olathe, for trial or other proceeding prior to conviction, or willfully incurring a forfeiture of an appearance bond and failing to surrender oneself within thirty (30) days after his or her conviction of a public offense has become final by one who has been released on an appearance bond by the municipal court of Olathe.

(2) Any person who is released upon his or her own recognizance, without surety, or who fails to appear in response to a summons or traffic citation, shall be deemed a person released on bond for appearance within the meaning of subsection (1) of this section.

(3) The provisions of subsection (1) of this section shall not apply to any person who forfeits a cash bond supplied pursuant to law upon an arrest for a traffic offense.

Failure to appear is a Class B Public Offense. (Ord. 04-38 § 1, 2004; Ord. 83-75 § 2, 1983.)

9.08.080 Interference with the Administration of Justice.

(1) Interference with the administration of justice is communicating in any manner a threat of violence to any judicial officer or any prosecuting attorney or harassing a judicial officer or a prosecuting attorney by repeated vituperative communication, or picketing, parading or demonstrating in or near a building housing a judicial officer or a prosecuting attorney or near such officer's or prosecuting attorney's residence or place of abode, with intent to influence, impede or obstruct the prosecution, finding, decision, ruling, order, judgment or decree of such judicial officer or prosecuting attorney on any matter then pending before the officer or prosecuting attorney.

(2) Nothing in this section shall limit or prevent the exercise by any court of this city or state of its power to punish for contempt.

(3) Interference with the administration of justice is a Class A Public Offense.

(4) As used in this section, 'prosecuting attorney' has the meaning ascribed thereto in K.S.A. 22-2202, and K.S.A. 12-4110 and amendments thereto. (Ord. 99-24 § 23, 1999; Ord. 83-75 § 2, 1983.)

9.08.090 Falsely Reporting a Crime or Public Offense. Falsely reporting a crime or public offense is informing a law enforcement officer that a crime has been committed, knowing that such information is false and intending that the officer shall act in reliance upon such information. Falsely reporting a crime is a Class A Public Offense. (Ord. 04-38 § 2, 2004; Ord. 83-75 § 2, 1983.)

9.08.100 Performance of an Unauthorized Official Act.

(1) Performance of an unauthorized official act is knowingly and without lawful authority:

(a) Conducting a marriage ceremony; or
(b) Certifying an acknowledgment of the execution of any document which by law may be recorded.

(2) Performance of an unauthorized official act is a Class B Public Offense. (Ord. 83-75 § 2, 1983.)

9.08.110 Simulating Legal Process.

A. Simulating legal process is:

1. Distributing to another any document which simulates or purports to be, or is reasonably designed to cause others to believe it to be, a summons, petition, complaint, or other judicial process, with intent thereby to mislead the recipient and cause the recipient to take action in reliance thereon; or
2. Printing, distributing or offering for sale any such document, knowing or intending that it shall be so used.

B. Subsection A. of this section does not apply to the printing, distribution or sale of blank forms of legal documents intended for actual use in judicial proceedings.

C. Simulating legal process is a Class A Public Offense. (Ord. 12-38 § 9, 2012; Ord. 83-75 § 2, 1983.)

9.08.120 Tampering with a Public Record. Tampering with a public record is knowingly and without lawful authority altering, destroying, defacing, removing or concealing any public record.

Tampering with a public record is a Class A Public Offense. (Ord. 83-75 § 2, 1983.)

9.08.130 Tampering with Public Notice. Tampering with public notice is knowingly and without lawful authority altering, defacing, destroying, removing or concealing any public notice posted according to law, during the time said notice is required or authorized to remain posted.

Tampering with public notice is a Class C Public Offense. (Ord. 83-75 §, 1983.)

9.08.140 False Signing of a Petition. False signing of a petition is the affixing of any fictitious or unauthorized signature to any petition, memorial or remonstrance, intended to be presented to the Governing Body of the City of Olathe, or to any agency or officer of the City of Olathe.

False signing of an official petition is a Class C Public Offense. (Ord. 83-75 § 2, 1983.)

9.08.150 False Impersonation. False impersonation is representing one's self to be a public officer or public employee or a person licensed to practice or engage in any profession or vocation for which a license is required by the laws of the State of Kansas, with knowledge that such representation is false;

False impersonation is a Class A Public Offense. (Ord. 93-09 § 19, 1993; Ord. 83-75 § 2, 1983.)

9.08.160 Interference with Conduct of Public Business in Public Buildings, Facilities or on Public Lands.

A. Interference with the conduct of public business in public buildings, facilities, or on public lands is:

1. Conduct at or in any public building, facility or on land owned, operated or controlled by the county, state or the City so as to intentionally deny to any public official, public employee, or any invitee on such premises, the lawful rights of such official, employee, or invitee to enter, to use, or to leave, any such public building, facility or land; or
2. intentionally impeding any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion, or intimidation or by force and violence or threat thereof; or
3. intentionally refusing or failing to leave any such public building, facility or land upon being requested to do so by a law enforcement officer or the City Manager, or designee, charged with maintaining order in such public building, facility or land if such person is committing, threatens to commit, or incites others to commit, any act which did or would if completed, disrupt, impair, interfere with, or obstruct the lawful missions, processes, procedures, or functions being carried on in such public building, facility or land; or
4. intentionally impeding, disrupting or hindering the normal proceedings of any meeting or session conducted by any judicial or legislative body or official at any public building, facility or land by any act of intrusion into the chamber or other areas designated for the use of the body, or official conducting such meeting or session, or by any act designed to intimidate, coerce or hinder any member of such body, or any official engaged in the performance of duties at such meeting or session; or
5. intentionally impeding, disrupting or hindering, by any act of intrusion into the chamber or other areas designed for the use of any executive body or official, the normal proceedings of such body or official.

B. Interference with the conduct of public business in public buildings is a Class A Public Offense. (Ord. 14-63 § 15, 2014; Ord. 12-38 § 10, 2012; Ord. 04-38 § 3, 2004; Ord. 83-75 § 2, 1983.)

9.08.170 Dealing in False Identification Documents. Repealed 2/16/99. (Ord. 99-24 § 35, 1999; Ord. 83-75 § 2, 1983.)

9.08.180 Resisting Arrest. Resisting arrest is knowingly and intentionally obstructing, resisting, opposing or interfering with a law enforcement officer while such officer is engaged in making an arrest. Resisting arrest is a Class B Public Offense. (Ord. 83-75 § 2, 1983.)

9.08.190 Possession of False Identification Documents.

(a) It shall be unlawful for any person to possess or have under such person's control or display a false document which

(1) simulates, purports to be or is designed so as to cause others reasonably to believe it to be an identification document; and
(2) bears a fictitious name or other false information.

(b) As used in this section, 'identification document' means any card, certificate or document which identifies or purports to identify the bearer of such document, whether or not intended for use as identification, and includes, but is not limited to, documents purporting to be drivers' licenses, nondrivers' identification cards, motor vehicle liability insurance cards, birth certificates, Social Security cards and employee identification cards.

(c) Dealing in false identification documents is an unclassified public offense.

(d) This section shall not apply to law enforcement officers acting within their scope of employment. (Ord. 00-45 § 2, 2000.)

9.08.200 Witness or Victim Intimidation, Definitions.

(a) "Civil injury or loss" means any injury or loss for which a civil remedy is provided under the laws of this state, any other state or the United States.

(b) "Malice" means an intent to vex, annoy, harm or injure in any way another person or an intent to thwart or interfere in any manner with the orderly administration justice.

(c) "Victim" means any individual: (1) Against whom any crime under the laws of this state, any other state or the United States is being, has been or is attempted to be committed; or (2) who suffers a civil injury or loss.

(d) "Witness" means any individual:

(1) Who has knowledge of the existence or nonexistence of facts relating to any civil or criminal trial, proceeding or inquiry authorized by law;
(2) whose declaration under oath is received or has been received as evidence for any purpose;
(3) who has reported any crime or any civil injury or loss to any law enforcement officer, prosecutor, probation officer, parole officer, correctional officer, community correctional services officer or judicial officer;
(4) who has been served with a subpoena issued under the authority of a municipal court or any court or agency of this state, any other state or the United States; or
(5) who would be believed by any reasonable person to be an individual described in paragraph (1), (2), (3) or (4). (Ord. 04-38 § 4, 2004.)

9.08.210 Crime of Intimidation of a Witness or Victim. Intimidation of a witness or victim is knowingly and maliciously preventing or dissuading, or attempting to prevent or dissuade:

(a) Any witness or victim from attending or giving testimony at any civil or criminal trial, proceeding or inquiry authorized by law; or

(b) Any witness, victim or person acting on behalf of a victim from:

(1) Making any report of the victimization of a victim to any law enforcement officer, prosecutor, probation officer, parole officer, correctional officer, community correctional services officer or judicial officer;
(2) causing a complaint, indictment or information to be sought and prosecuted, or causing a violation of probation, parole, or assignment to a community correctional services program to be reported and prosecuted, and assisting in its prosecution;
(3) causing a civil action to be filed and prosecuted and assisting in its prosecution; or
(4) arresting or causing or seeking the arrest of any person in connection with the victimization of a victim.

(c) Intimidation of a witness or victim is a Class B Public Offense. (Ord. 04-38 § 5, 2004.)

9.08.220 Civil Remedies, Court Orders Authorized.

(a) In its discretion and upon good cause (which may include but is not limited to the declaration of a party's attorney) to believe that intimidation or dissuasion of any victim or witness has occurred or is reasonably likely to occur, the court may issue any reasonable order necessary to remedy or prevent the intimidation or dissuasion, including but not limited to an order that:

(1) Any person before the court, including but not limited to a party, subpoenaed witness or other person entering the courtroom of the court, not violate any provision of this code;

(2) Any person described in this section maintain a prescribed geographic distance from any specified witness or victim;

(3) Any person described in this section have no communication whatsoever with any specified witness or victim, except through an attorney under such reasonable restrictions as the court imposes;

(4) calls for a hearing to determine if an order described in subsection (1), (2) or (3) should be issued; or

(5) A particular law enforcement agency within the jurisdiction of the court provide protection for a victim or witness.

(b) Actions by a law enforcement agency pursuant to an order issued under subsection (a)(5) are considered to be police protection within the exemption from liability under the Kansas Tort Claims Act for damages resulting from the failure to provide, or the method of providing, police protection. (Ord. 04-38 § 6, 2004.)

9.08.230 Violation of Court Orders, Penalties. Violation of an order entered pursuant to 9.08.220 may be punished in any of the following ways:

(a) In the manner provided by 9.08.210 when applicable.

(b) As a contempt of the court making the order. No finding of contempt shall be a bar to prosecution for a violation of 9.08.210, but:

(1) Any person held in contempt shall be entitled to have any punishment imposed for contempt to be credited against any sentence imposed upon conviction of a violation of 9.08.210; and

(2) Any conviction or acquittal of a violation of 9.08.210 shall be a bar to subsequent punishment for contempt arising out of the same act.

(c) By revocation of any form of pretrial release of a criminal defendant or by the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding the defendant into custody. After a hearing and upon a showing by clear and convincing evidence, the court, in its sound discretion, may order the revocation whether the violation was committed by the defendant personally or in any way caused or encouraged it to be committed. (Ord. 04-38 § 7, 2004.)

9.08.240 Law Enforcement Canines and Fire Enforcement Canines.

A. All canines used by the City Police Department or Fire Department, whether owned, leased, rented or borrowed for the purposes of aiding law enforcement officers in their duties shall be considered the property and responsibility of the Police Department canine unit or the Fire Department canine unit and shall be designated law enforcement or fire enforcement canines.

B. It shall be unlawful for any person:

1. to strike, tease, torment, harass, or assault a law enforcement or fire enforcement canine whether or not the dog is being used in an official capacity; or

2. to interfere or attempt to interfere with a law enforcement or fire enforcement canine or its handler in such a manner as to inhibit, restrict or impede the dog in accomplishing its law enforcement or fire enforcement purpose or the handler in the control of the law enforcement or fire enforcement canine; or

3. to inflict harm, disability or death to a law enforcement or fire enforcement canine. Inflicting harm, disability or death is knowingly and intentionally and without lawful cause or justification poisoning, inflicting bodily harm, permanent disability or death, upon a law enforcement or fire enforcement canine.

C. Penalties. Violations of Sections B.1. and B.2. are unclassified public offenses. Violations of Section B.3. are a Class A Public Offense. (Ord. 14-63 § 16, 2014; Ord. 04-38 § 8, 2004.)

9.08.250 Harassment of a Court by Telefacsimile Communication.

(a) Harassment of a court by telefacsimile communication is the use of telefacsimile communication to send or transmit such communication to a court in the state of Kansas for a use other than court business.

(b) As used in this section, telefacsimile communication means the use of electronic equipment to send or transmit a copy of a document via telephone line.

(c) Harassment by telefacsimile communication is a Class A Public Offense. (Ord. 05-103 § 2, 2005.)

CHAPTER 9.09

OFFENSES AFFECTING PUBLIC TRUSTS

Sections:

9.09.010 Official Misconduct.
9.09.020 Compensation for Past Official Acts.
9.09.030 Presenting a False Claim.
9.09.040 Permitting a False Claim.
9.09.050 Discounting a Public Claim.
9.09.060 Unlawful Interest in Insurance Contract.
9.09.070 Unlawful Procurement of Insurance Contract.
9.09.080 Unlawful Use of City Postage.

9.09.010 Official Misconduct.

(a) Official misconduct is any of the following acts committed by a public officer or employee in his public capacity or under color of his office or employment:

(1) Using or authorizing the use of any aircraft, as defined by K.S.A. 3-201, and amendments thereto, vehicle, as defined by K.S.A. 8-1485, and amendments thereto, or vessel, as defined by K.S.A. 32-1102, and amendments thereto, under the officer's or employee's control or direction, or in the officer's or employee's custody, exclusively for the private benefit or gain of the officer or employee or another.

(2) Knowingly and willing failing to serve civil process when required by law.

(3) Using confidential information acquired in the course of and related to the officer's or employee's office or employment for the private benefit or gain of the officer or employee or another or to maliciously cause harm to another. As used in this section, "confidential" means any information that is not subject to mandatory disclosure pursuant to K.S.A. 45-221, and amendments thereto.

(4) Except as authorized by law, knowingly, willfully and with the intent to reduce or eliminate competition among bidders or prospective bidders on any contract or proposed contract:

(A) Disclosing confidential information regarding proposals or communications from bidders or prospective bidders on any contract or proposed contract;

(B) Accepting any bid or proposal on a contract or proposed contract after the deadline for acceptance of such bid or proposal; or

(C) Altering any bid or proposal submitted by a bidder on a contract or proposed contract.

(5) Except as authorized by law, knowingly destroying, tempering with or concealing evidence of a crime.

(6) Knowingly and willfully submitting to a governmental entity a claim for expenses which is false or duplicates expenses for which a claim is submitted to such governmental entity, another governmental or private entity.

(b) The provisions of subsection (a)(1) shall not apply to any use of persons or property which:

(1) At the time of the use, is authorized by law or by formal written policy of the governmental entity; or

(2) Constitutes misuse of public funds, as defined in K.S.A. 21-3910 and amendments thereto.

(c) (1) Official misconduct as defined in subsections (a)(1) through (a)(4) is a Class A Public Offense.

(2) Official misconduct as defined in subsection (a)(5) is a Class A Public Offense if the evidence is evidence of a crime which is a misdemeanor.

(3) Official misconduct as defined in subsection (a)(6) is a Class A Public Offense for a claim of less than One Thousand Dollars ($1,000.00).

(4) Upon conviction of official misconduct a public officer or employee shall forfeit such officer or employee's office or employment. (Ord. 06-71 § 7, 2006; Ord. 83-75 § 2, 1983.)

9.09.020 Compensation for Past Official Acts.

(1) Compensation for past official acts is giving or offering to give to any public officer or employee any benefit, reward or consideration for having given, in his official capacity as such public officer or employee, a decision, opinion, recommendation or vote favorable to the person giving or offering such benefit, reward or consideration, or for having performed an act of official misconduct.

(2) Subsection (1) of this section shall not apply to the following:

(a) Gifts or other benefits conferred on account of kinship or other personal, professional or business relationships independent of the official status of the receiver; or

(b) Trivial benefits incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality.

(3) Compensation for past official acts is a Class B Public Offense. (Ord. 83-75 § 2, 1983.)

9.09.030 Presenting a False Claim. Presenting a false claim is knowingly and with intent to defraud presenting a claim or demand which is false in whole or in part, to a public officer or body authorized to audit, allow or pay such claim.

Presenting a false claim for less than One Thousand Dollars ($1,000.00) is a Class A Public Offense. (Ord. 06-71 § 8, 2006; Ord. 83-75 § 2, 1983.)

9.09.040 Permitting a False Claim. Permitting a false claim is the auditing, allowing, or paying of any claim or demand made upon the City of Olathe or other municipal governmental instrumentality within the city by a public officer or employee who knows such claim or demand is false or fraudulent in whole or in part.

Permitting a false claim for less than One Thousand Dollars ($1,000.00) is a Class A Public Offense. (Ord. 06-71 § 9, 2006; Ord. 83-75 § 2, 1983.)

9.09.050 Discounting a Public Claim. Discounting a public claim is the act of a public officer or employee, who in his private capacity either directly or indirectly, purchases for less than full value or discounts any claim held by another against the City of Olathe or a municipal subdivision thereof.

Discounting a public claim is a Class A Public Offense. (Ord. 83-75 § 2, 1983.)

9.09.060 Unlawful Interest in Insurance Contract.

(1) An unlawful interest in an insurance contract is the act of a public officer or employee who:

(a) Represents in any capacity or divides commissions with any surety company or other writer of a surety bond in the writing of any bond or contract subject to the approval of such public officer or employee; or

(b) Represents in any capacity or divides commissions with an insurance company or other insurer in the writing of any policy of fire, casualty, workmen's compensation or other insurance which is paid for from the public funds of the political unit served by such officer or employee.

(2) Unlawful interest in an insurance contract is a Class A Public Offense. (Ord. 83-75 § 21, 1983.)

9.09.070 Unlawful Procurement of Insurance Contract. An unlawful procurement of an insurance contract is the act of any surety company or other writer of surety bonds or any insurance company or other insurer who employs or contracts with a public officer or employee to represent such writer of surety bonds or insurer in any capacity or to share commissions on any surety bond or contract subject to the approval of such public officer or employee, or any policy of fire, casualty, workmen's compensation or other insurance which is paid for from the public funds of the political unit served by such officer or employee.

Unlawful procurement of an insurance contract is a Class A Public Offense. (Ord. 83-75 § 2, 1983.)

9.09.080 Unlawful Use of City Postage.

(a) It shall be unlawful for any person to use for such person's personal use, or to allow any unauthorized person to use, any form of postage paid for with city funds.

(b) Violation of this section shall constitute a Class C Public Offense. (Ord. 83-75 § 2, 1983.)

CHAPTER 9.10

OFFENSES INVOLVING VIOLATIONS OF PERSONAL RIGHTS

Sections:

9.10.010 Eavesdropping. (Repealed 11-1-2011)
9.10.020 Breach of Privacy.
9.10.030 Smoking In a Public Place. (Repealed 8-15-2006)
9.10.040 Denial of Civil Rights.

9.10.010 Eavesdropping. Repealed 11-1-2011. (Ord. 11-47 § 5, 2011; Ord. 04-109 § 3, 2004; Ord. 00-102 § 3, 2000; Ord. 83-75 § 2, 1983.)

9.10.020 Breach of Privacy.

A. Breach of privacy is knowingly and without lawful authority:

1. Intercepting, without the consent of the sender or receiver, a message by telephone, telegraph, letter or other means of private communication;

2. Divulging, without the consent of the sender or receiver, the existence or contents of such message if such person knows that the message was illegally intercepted, or if such person illegally learned of the message in the course of employment with an agency in transmitting it;

3. Entering or peeping into a private place with intent to listen surreptitiously to private conversation or to observe the personal conduct of any other person or persons therein;

4. Installing or using inside or outside a private place any device for hearing, recording, amplifying or broadcasting sounds originating in such place, which sounds would not ordinarily be audible or comprehensible without the use of such device, without the consent of the person or persons entitled to privacy therein; or

5. Installing or using any device or equipment for the interception of any telephone, telegraph, or other wire or wireless communication without the consent of the person in possession or control of the facilities for such communication.

B. Subsection A.1. of this Section shall not apply to messages overheard through a regularly installed instrument on a telephone party line or on an extension.

C. The provisions of this section shall not apply to:

1. An operator of a switchboard, or any officer, employee or agent of any public utility providing telephone communications service, whose facilities are used in the transmission of a communication, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity which is incident to the rendition of public utility service or to the protection of the rights of property of such public utility;

2. a provider of an interactive computer service, as defined in 47 U.S.C. § 230, for content provided by another person;

3. a radio common carrier, as defined in K.S.A. 66-1,143, and amendments thereto; or

4. a local exchange carrier or telecommunications carrier as defined in K.S.A. 66-1,187, and amendments thereto.

D. Breach of privacy is a Class A Public Offense. (Ord. 16-47 § 3, 2016; Ord. 15-66 § 18, 2015; Ord. 11-47 § 6, 2011; Ord. 04-85 § 2, 2004; Ord. 83-75 § 2, 1983.)

9.10.030 Smoking In a Public Place. Repealed 8-15-2006. (Ord. 06-97 § 2, 2006; Ord. 87-149 § 7, 1987; Ord. 83-75 § 2, 1983.)

9.10.040 Denial of Civil Rights. Denial of civil rights is denying to another, on account of the race, color, ancestry, national origin, age, sex, disability or religion of such other:

(1) The full and equal use and enjoyment of the services, facilities, privileges and advantages of any institution, department or agency of the State of Kansas or any political subdivision or municipality thereof;

(2) The full and equal use and enjoyment of the goods, services, facilities, privileges, advantages and accommodations or any establishment which provides lodging to transient guest(s) for hire, or any establishment which is engaged in selling food or beverage to the public for consumption upon the premises, or any place of recreation, amusement, exhibition or entertainment which is open to members of the public;

(3) The full equal use and enjoyment of the services, privileges and advantages of any facility for the public transportation of persons or goods;

(4) The full and equal use and enjoyment of the services, facilities, privileges and advantages of any establishment which offers personal or professional services to members of the public.

(5) The full and equal exercise of the right to vote in any election held pursuant to the laws of Kansas. (K.S.A. 21-4003).

(6) Denial of civil rights is a Class A Public Offense. (Ord. 99-24 § 24, 1999; Ord. 93-09 § 20, 1993.)

CHAPTER 9.11

OFFENSES AGAINST THE PUBLIC PEACE

Sections:

9.11.010 Disorderly Conduct.
9.11.020 Unlawful Assembly.
9.11.030 Remaining At An Unlawful Assembly.
9.11.040 Riot.
9.11.050 Incitement to Riot. (Repealed 2/16/99)
9.11.060 Maintaining a Public Nuisance.
9.11.070 Permitting a Public Nuisance.
9.11.080 Unlawful Begging.
9.11.090 Giving a False Alarm.
9.11.100 Criminal Desecration.
9.11.110 Desecrating a Dead Body.
9.11.120 Harassment by Telecommunications Device.
9.11.130 Desecration of Flags. (Repealed 2/16/93)
9.11.140 Desecrating a Cemetery. (Repealed 2/16/93)
9.11.145 Loud Sound Amplification Systems Prohibited. (Repealed 2/16/99)
9.11.150 Unlawful Noise Disturbance.
9.11.160 Stalking.
9.11.170 Funeral Privacy; Unlawful Acts; Penalty.
9.11.180 Keeping Disorderly Premises
9.11.190 Reporting Nuisance and Disorderly Premises Convictions to Licensing Authorities of Clubs, Drinking Establishments and Cereal Malt Beverage Retailers.

9.11.010 Disorderly Conduct.

A. Disorderly conduct is, with knowledge or probable cause to believe that such acts will alarm, anger or disturb others or provoke an assault or other breach of the peace:

1. Brawling or fighting; or

2. Disturbing an assembly, meeting, or procession, not unlawful in its character; or

3. The use of offensive, obscene, abusive, combative or fighting language or engaging in noisy conduct tending reasonably to arouse alarm, anger, resentment or combat in others.

B. Disorderly conduct is a Class B Public Offense. (Ord. 15-66 § 19, 2015; Ord. 83-75 § 2, 1983.)

9.11.020 Unlawful Assembly. Unlawful assembly is the meeting or coming together of not less than five (5) persons with the intent to engage in conduct constituting either disorderly conduct, as defined by Section 9.11.010, or a riot, as defined by Section 9.11.040, or when in a lawful assembly of not less than five (5) persons, agreeing to engage in conduct constituting disorderly conduct or riot.

Unlawful assembly is a Class B Public Offense. (Ord. 11-47 § 7, 2011; Ord. 83-75 § 2, 1983.)

9.11.030 Remaining At An Unlawful Assembly. Remaining at an unlawful assembly is intentionally failing to depart from the place of an unlawful assembly after being directed to leave by a law enforcement officer. Remaining at an unlawful assembly is a Class A Public Offense. (Ord. 11-47 § 8, 2011; Ord. 99-24 § 25, 1999; Ord. 83-75 § 2, 1983.)

9.11.040 Riot. Riot is any use of force or violence which produces a breach of the public peace, or any threat to use such force or violence against any person or property if accompanied by power or apparent power of immediate execution, by five (5) or more persons acting together and without authority of law.

Riot is a Class A Public Offense. (Ord. 83-75 § 2, 1983.)

9.11.050 Incitement to Riot. Repealed 2/16/99. (Ord. 99-24 § 35, 1999; Ord. 83-75 § 2, 1983.)

9.11.060 Maintaining a Public Nuisance. Maintaining a public nuisance is knowingly causing or permitting a condition to exist which injures or endangers the public health, safety or welfare. Maintaining a public nuisance is a Class B Public Offense. (Ord. 11-47 § 9, 2011; Ord. 83-75 § 2, 1983.)

9.11.070 Permitting a Public Nuisance. Permitting a public nuisance is knowingly permitting property under the control of the offender to be used to maintain a public nuisance, as defined in Section 9.11.060. Permitting a public nuisance is a Class B Public Offense. (Ord. 83-75 § 2, 1983.)

9.11.080 Unlawful Begging. Unlawful begging is the begging or solicitation of funds, United States currency, or other thing of value in a public building, public thoroughfare, transportation terminal, residential neighborhood or other place open to the public. Unlawful begging is a Class C Public Offense. (Ord. 83-75 § 2, 1983.)

9.11.090 Giving a False Alarm. The giving a false alarm is:

(1) Initiating or circulating a report or warning of an impending bombing or other crime or catastrophe, knowing that the report or warning is baseless and under such circumstances that it is likely to cause evacuation of a building, place of assembly, or facility of public transport or to cause public inconvenience or alarm;

(2) Transmitting in any manner to the fire department of any city, township or other municipality a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or

(3) Making a call in any manner for emergency service assistance, including police, fire, medical or other emergency service provided under K.S.A. 12-5301, et seq., and amendments thereto, knowing at the time of such call there is no reasonable ground for believing such assistance is needed.

(4) Giving a false alarm is a Class A Public Offense. (Ord. 93-09 § 21, 1993; Ord. 83-75 § 2, 1983.)

9.11.100 Criminal Desecration. Criminal desecration is:

(1) Obtaining or attempting to obtain unauthorized control of a dead body or remains of any human being or the coffin, urn or other article containing a dead body or remains of any human being or the coffin, urn or other article containing a dead body or remains of any human being.

(2) By means other than by fire or explosive:

(a) Damaging, defacing or destroying the flag, ensign or other symbol of the United States or the state in which another has a property interest without the consent of other such persons;

(b) Damaging, defacing or destroying any public monument or structure;

(c) Damaging, defacing or destroying any tomb, monument, memorial, marker, grave, vault, crypt, gate, tree, shrub, plant or other property in a cemetery; or

(d) Damaging, defacing or destroying any place of worship.

(3) Criminal desecration as described in subsections (2)(b), (2)(c) and (2)(d) is a Class A Public Offense if the property is damaged to the extent of less than One Thousand Dollars ($1,000.00).

(4) Criminal desecration as described in Section (1) and subsection (2)(a) is a Class A Public Offense. (Ord. 06-71 § 10, 2006; Ord. 05-103 § 3, 2005; Ord. 93-09 § 22, 1993; Ord. 83-75 § 2, 1983.)

9.11.110 Desecrating a Dead Body. Desecrating a dead body is knowingly and without authorization of law:

(a) Opening a grave or other place of interment or sepulcher with intent to remove the dead body or remains of any human being or any coffin, vestment or other article interred with such body; or

(b) Removing the dead body or remains of any human being, or the coffin, vestment or other article interred with such body, from the grave or other place of interment or sepulcher; or

(c) Receiving the dead body or remains of any human being knowing the same to have been disintered unlawfully.

Desecrating a dead body is a Class A Public Offense. (Ord. 83-75 § 2, 1983.)

9.11.120 Harassment by Telecommunications Device. Harassment by telecommunications is the use of:

A. A telecommunications device to:

1. knowingly make or transmit any comment, request, suggestion, proposal, image or text which is obscene, lewd, lascivious, or indecent;
2. make or transmit a call, whether or not conversation ensues, with the intent to abuse, threaten or harass any person at the receiving end;
3. make or transmit any comment, request, suggestion, proposal, image or text with the intent to abuse, threaten or harass any person at the receiving end;
4. make or cause to a telecommunication device to repeatedly ring or activate with the intent to harass any person at the receiving end;
5. knowingly play any recording on a telephone, except recordings such as weather information or sports information, when the number thereof is dialed, unless the person or group playing the recording shall be identified and state that it is a recording; or
6. knowingly permit any telecommunications device under one's control to be used in violation of this Section.

B. Telefacsimile communication to send or transmit such communication to a court in the state of Kansas for a use other than court business, with no requirement of culpable mental state.

Harassment by telecommunications device is a Class A Public Offense. (Ord. 15-66 § 20, 2015; Ord. 11-47 § 10, 2011; Ord. 93-09 § 23, 1993; Ord. 83-75 § 2, 1983.)

9.11.130 Desecration of Flags. Repealed 2/16/93. (Ord. 93-09 § 38, 1993; Ord. 83-75 § 2, 1983.)

9.11.140 Desecrating a Cemetery. Repealed 2/16/93. (Ord. 93-09 § 38, 1993; Ord. 83-75 § 2, 1983.)

9.11.145 Loud Sound Amplification Systems Prohibited. Repealed 2/16/99. (Ord 99-24 § 25, 1999; Ord. 95-50 § 1, 1995.)

9.11.150 Unlawful Noise Disturbance.

A. It shall be unlawful for any person to make, continue, maintain, authorize or cause to be made or continued any excessive, unnecessary, unreasonable or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the City of Olathe.

B. It shall be unlawful for any person to use, operate or permit the use or operation of any electronic device, radio receiving set, musical instrument, phonograph, loud speaker or other machine or device for the producing, reproducing, or amplification of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. "Neighboring inhabitants" shall include persons living or occupying single or multiple-family dwellings, including but not limited to, inhabitants, guests or occupants of apartments, high-density residential districts, hotels, motels and other places of temporary housing or lodging.

C. Prima facie violation. The operation of any electronic device, set, instrument, television, phonograph, machine or other sound-producing, reproducing or amplification device at any time between the hours of 10:00 p.m. and 10:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) or more feet from the sound source or plainly audible at the adjacent property line, whether such adjacent property consists of single or multi-family dwellings, including, but not limited to, multiple-unit dwellings, apartments, high-density residential districts, hotels, motels and other places of temporary housing or lodging, shall be prima facie evidence of a violation of this section. “Plainly audible” shall mean any sound which can be heard at a distance of fifty (50) feet or more by the auditory senses. Words or phrases need not be discernible and bass reverberations are an included sound source.

D. Upon a first conviction, Unlawful Noise Disturbance is a Class C Public Offense punishable by a fine of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine or imprisonment.

E. Upon a second or subsequent conviction, Unlawful Noise Disturbance is a Class B Public Offense and shall be punishable by a fine of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00), or by imprisonment in the county jail for not more than one hundred eighty (180) days, or by both such fine or imprisonment. (Ord. 09-31 § 1, 2009; Ord. 83-75 § 2, 1983.)

9.11.160 Stalking.

A. Stalking is:

1. Recklessly engaging in a course of conduct targeted at a specific person which would cause a reasonable person in the circumstances of the targeted person to fear for such person’s safety, or the safety of a member of such person’s immediate family and the targeted person is actually placed in such fear.

2. Engaging in a course of conduct targeted at a specific person which the individual knows will place the targeted person in fear for such person’s safety or the safety of a member of such person’s immediate family.

3. After being served with, or otherwise provided notice of, any protective order included in K.S.A. 21-3843, prior to its repeal or K.S.A. 2012 Supp. 21-5924, and amendments thereto, that prohibits contact with a targeted person, recklessly engaging in at least one act listed in subsection (f)(1) that violates the provisions of the order and would cause a reasonable person to fear for such person's safety, or the safety of a member of such person's immediate family and the targeted person is actually placed in fear.

B. Upon a first conviction, stalking as described in subsection A.1. or A.2. is a Class A public offense. Second or subsequent convictions constitute felonies. Stalking as described in subsection A.3. is a felony.

C. For the purposes of this section, a person served with a protective order as defined by K.S.A. 21-3843, and amendments thereto, or a person who engaged in acts which would constitute stalking, after having been advised by a uniformed law enforcement officer, that such person's actions were in violation of this section, shall be presumed to have acted intentionally as to any like future act targeted at the specific person or persons named in the order or as advised by the officer.

D. In a criminal proceeding under this section, a person claiming an exemption, exception or exclusion has the burden of going forward with evidence of the claim.

E. The present incarceration of a person alleged to be violating this section shall not be a bar to prosecution under this section.

F. As used in this section:

1. **Course of conduct** means two or more acts over a period of time, however short, which evidence a continuity of purpose. A course of conduct shall not include constitutionally protected activity nor conduct that was necessary to accomplish a legitimate purpose independent of making contact with the targeted person. A course of conduct shall include, but not be limited to, any of the following acts or a combination thereof:

a. Threatening the safety of the targeted person or a member of such person's immediate family;
b. Following, approaching or confronting the targeted person or a member of such person's immediate family;
c. Appearing in close proximity to, or entering the targeted person's residence, place of employment, school or other place where such person can be found, or the residence, place of employment or school of a member of such person's immediate family;
d. Causing damage to the targeted person's residence or property or that of a member of such person's immediate family;
e. Placing an object on the targeted person's property or the property of a member of such person's immediate family, either directly or through a third person;
f. Causing injury to the targeted person's pet or a pet belonging to a member of such person's immediate family; or
g. Any act of communication.

2. **Communication** means to impart a message by any method of transmission, including, but not limited to: telephoning, personally delivering, sending or having delivered, any information or material by written or printed note or letter, package, mail, courier service or electronic transmission, including electronic transmissions generated or communicated via a computer.
3. **Computer** means a programmable, electronic device capable of accepting and processing data.
4. **Conviction** includes being convicted of a violation of this section or being convicted of a law of another state which prohibits the acts that this section prohibits.

5. **Immediate family** means father, mother, stepparent, child, stepchild, sibling, spouse or grandparent of the targeted person; any person residing in the household of the targeted person; or any person involved in an intimate relationship with the targeted person. (Ord. 14-63 § 17, 2014; Ord. 09-59 § 5, 2009; Ord. 08-111 § 11, 2008; Ord. 99-24 § 35, 1999; Ord. 94-89 § 1, 1994; Ord. 93-09 § 24, 1993.)

9.11.170 Funeral Privacy; Unlawful Acts; Penalty.

A. This section shall be known as and may be cited as the Olathe Funeral Privacy Act.

B. The Governing Body finds that:

1. Family members have a personal stake in honoring and mourning their dead and objecting to unwarranted public exploitation that, by intruding upon their own grief, tends to degrade the rites and respect they seek to accord to the deceased person who was once their own.
2. The state has a substantial interest in protecting the legitimacy of funerals and ensuring freedom from disturbance.
3. Due to the nature of funerals, the funeral attendees constitute a captive audience.
4. Full opportunity exists under the terms and provisions of this section for the exercise of freedom of speech and other constitutional rights at times other than within one hour prior to, the scheduled commencement of a funeral, during a funeral, or within two hours following the completion of a funeral.

C. The purposes of this section are to:

1. Protect the privacy of grieving families; and
2. preserve the substantial privacy interest in funerals.

D. As used in this section:

1. "Funeral" means the ceremonies, processions and memorial services held in connection with the burial or cremation of a person.
2. "Public demonstration" means:

a. Any picketing or similar conduct, or
b. any oration, speech, use of sound amplification equipment or device, or similar conduct that is not part of a funeral.

E. It is unlawful for any person to:

1. Engage in a public demonstration at any public location within 150 feet of any entrance to any cemetery, church, mortuary or other location where a funeral is held or conducted, within one hour prior to the scheduled commencement of a funeral, during a funeral or within two hours following the completion of a funeral;
2. knowingly obstruct, hinder, impede or block another person's entry to or exit from a funeral; or
3. knowingly impede vehicles which are part of a funeral procession.

A violation of this subsection is a class B public offense. Each day on which such violation occurs shall constitute a separate offense.

F. If any provision of this section or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provisions or application. To this end the provisions of this section are severable. (Ord. 11-47 § 11, 2011; Ord. 09-59 § 6, 2009; Ord. 08-111 § 4, 2008; Ord. 99-24 § 26, 1999)

9.11.180 Keeping Disorderly Premises. A person commits the crime of keeping a disorderly premises if he/she shall permit, allow or encourage any offense against the public peace, as defined in Section 9.11.010, to occur or continue on premises owned or controlled by him. Keeping disorderly premises is a Class A Public Offense. (Ord. 04-88 § 1, 2004)

9.11.190 Reporting Nuisance and Disorderly Premises Convictions to Licensing Authorities of Clubs, Drinking Establishments and Cereal Malt Beverage Retailers.

(a) Upon a conviction of a violation of Olathe Municipal Code Sections 9.11.060, 9.11.070 or 9.11.180, and amendments thereto, for keeping disorderly premises for maintaining or permitting a public nuisance on the premises of a club or drinking establishment licensed under the club and drinking establishment act, the court shall report such conviction to the director of alcoholic beverage control.

(b) Upon a conviction of a violation of Olathe Municipal Code Sections 9.11.060, 9.11.070 or 9.11.180, and amendments thereto, for keeping disorderly premises or for maintaining or permitting a public nuisance on the premises of a retailer licensed under Chapter 7.14 of the Olathe Municipal Code and K.S.A. 41-2701 et seq., and amendments thereto, the court shall report such conviction to the Governing Body of the city which issued the license. (Ord. 05-103 § 4, 2005.)

CHAPTER 9.12

OFFENSES AGAINST THE PUBLIC SAFETY

Sections:

9.12.010 Definitions.
9.12.020 Criminal Use of Weapons.
9.12.030 Criminal Disposal of Firearms.
9.12.040 Criminal Possession of a Firearm.
9.12.050 Unlawful Discharge of Firearms.
9.12.060 Air Gun, Air Rifle, Bow and Arrow; Slingshot.
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9.12.090 Possession of a Firearm by a Minor Prohibited; Exceptions. (Repealed 6/17/14)
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9.12.120 Failure to Register Sale of Explosives.
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9.12.160 Carrying Concealed Explosives.
9.12.170 Unlawful Failure to Report Lost or Stolen Explosives.
9.12.180 Creating a Hazard.
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9.12.210 Drawing a Weapon Upon Another.
9.12.220 Sending or Placing a Hoax or Facsimile Explosive Device.
9.12.230 Carry Concealed Weapons; Prohibited Acts.
9.12.240 Carry Unconcealed Firearm; Prohibited Acts.
9.12.250 Liability.

9.12.010 Definitions. For the purposes of this chapter, the following terms shall have the meaning ascribed to them in this section:

'Explosives' means any chemical compound, mixture or device, of which the primary purpose is to function by explosion, and includes but is not limited to dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord and igniters.

'Firearm' means any loaded or unloaded pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosion, expanding gases or other combustion. This definition shall include devices using a fuelant and ignition device to launch or shoot a potato or other projectile from a cylinder or similar device, commonly known as 'spud or potato guns.' This term shall not include a firearm which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841, *et seq.*, and any amendments thereto.

‘Knife’ means a cutting instrument, including a sharpened or pointed blade, a dagger, dirk, switchblade, stiletto, straight-edged “razor or any other dangerous or deadly cutting instrument of like character.

'Minor' means a person who is under the age of eighteen (18) years.

'Weapon' means any instrument used or designed to be used to injure or kill someone, including, but not limited to, any explosives, firearm, throwing star, or other instrument identified in Sections 9.12.020 or 9.12.060. (Ord. 14-42 § 2, 2014; Ord. 13-22 § 1, 2013; Ord. 94-08 § 2, 1994; Ord. 83-75 § 2, 1983.)

9.12.020 Criminal Use of Weapons.

A. Criminal use of weapons is knowingly:

1. selling, manufacturing, purchasing, possessing any bludgeon, sandclub, metal knuckles or throwing star;
2. possessing with intent to use the same unlawfully against another, a billy, blackjack, slungshot, martial arts fighting sticks, or any other dangerous or deadly weapon or instrument of like character;
3. setting a spring gun; or
4. possessing or transporting any incendiary or explosive material, liquid, solid or mixture, equipped with a fuse, wick or any other detonating device, commonly known as a Molotov cocktail or a pipe bomb.

B. Subsections A 1, 2, 3, and 4 shall not apply to or affect any of the following:

1. law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
2. wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails or other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;
3. members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or
4. manufacture of, transportation to, or sale of weapons to a person authorized under 1 through 3 of this subsection to possess such weapons.

C. Criminal use of weapons is a Class A Public Offense. (Ord. 16-27 § 1, 2016; Ord. 14-42 § 3, 2014; Ord. 13-33 § 4, 2013; Ord. 10-71 § 1, 2010; Ord. 09-59 § 7, 2009; Ord. 06-44 § 1, 2006; Ord. 05-58 § 1, 2005; Ord. 99-24 § 27, 1999; Ord. 94-08 § 2, 1994; Ord. 87-149 § 8, 1987; Ord 83-75 § 2, 1983; Ord. 93-09 § 25, 1993.)

9.12.030 Criminal Disposal of Firearms.

A. Criminal disposal of firearms is knowingly:

1. Selling, giving or otherwise transferring any firearm with a barrel less than 12 inches long to <u>any person under 18 years of age</u>;
2. Selling, giving or otherwise transferring any firearms to any person who is both addicted to and an unlawful user of a controlled substance;
3. Selling, giving or otherwise transferring any firearm to any person who, within the preceding five years, has been convicted of a felony, other than those specified in subsection 6, under the laws of this or any other jurisdiction or has been released from imprisonment for a felony and was found not to have been in possession of a firearm at the time of the commission of the offense;
4. Selling, giving or otherwise transferring any firearm to any person who, within the preceding 10 years, has been convicted of a felony to which this subsection applies, but was not found to have been in the possession of a firearm at the time of the commission of the offense, or has been released from imprisonment for such a crime, and has not had the conviction of such crime expunged or been pardoned for such crime; or

5. Selling, giving or otherwise transferring any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction and was found to have been in possession of a firearm at the time of the commission of the offense.

6. Subsection 4 shall apply to a felony under K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716, K.S.A. 2009 Supp. 21-36a05 or 21-36a06, and amendments thereto or K.S.A. 65-4127a, 65-4127b, or 65-4159 through 65-4165, and 65-7006, prior to such section's repeal, or a crime under a law of another jurisdiction which is substantially the same as such felony.

B. Criminal disposal of firearms is a Class A Public Offense. (Ord. 14-42 § 4, 2014; Ord. 10-71 § 2, 2010; Ord. 09-59 § 8, 2009; Ord. 99-24 § 28, 1999; Ord. 94-89 § 2, 1994; Ord. 94-08 § 2, 1994; Ord. 93-09 § 26 1993; Ord. 83-75 § 2, 1983.)

9.12.040 Criminal Possession of a Firearm.

A. Criminal carrying of a weapon is knowingly carrying:

1. Any bludgeon, sandclub, metal knuckles or throwing star;

2. Concealed on one's person, a billy, blackjack, slungshot or any other, dangerous or deadly weapon or instrument of like character;

3. On one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance.

B. Subsection A. shall not apply to:

1. Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

2. Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

3. Members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or

4. The manufacture of, transportation to, or sale of weapons to a person authorized under subsections B.1, B.2 and B.3 to possess such weapons.

C. Criminal carrying of a weapon is a Class A violation. (Ord. 16-27 § 2, 2016; Ord. 15-66 § 21, 2015; Ord. 14-42 § 5, 2014; Ord. 10-71 § 3, 2010; Ord. 09-59 § 9, 2009; Ord. 94-89 § 3, 1994; Ord. 94-08 § 2, 1994; Ord. 93-09 § 27, 1993; Ord. 83-75 § 2, 1983.)

9.12.050 Unlawful Discharge of Firearms.

A. Unlawful discharge of firearms is the reckless discharging or firing of any gun, rifle, pistol, revolver or other firearm within the City. This section shall not be construed to apply:

1. To the discharge of firearms by any duly authorized law enforcement officer when necessary in the discharge of his official duties;

2. To the discharge of a firearm by authorized law enforcement officers, animal control officers or a person who has a wildlife control permit issued by the Kansas department of wildlife, parks and tourism;

3. To the discharge of firearms in any licensed private or public shooting gallery or range;

4. To a legitimate gunsmith in pursuit of his trade;

5. To any duly licensed hunter to fire or discharge only a pistol, revolver, rifle of not more than .22 caliber or shotgun provided the requirements of 9.07.160 are complied with;

6. To firing squads for ceremonials or in connection with a public event if the firearms will only discharge blank ammunition and provided that the Chief of Police pursuant to subsection B approves the discharge of firearms;

7. To the discharge of a firearm in the lawful defense of one's person, another person or one's property; or

8. To the discharge of a firearm in lawful self-defense or defense of another person against an animal attack.

B. Approval for ceremonial firing squads or public events shall be issued by the Chief of Police or a designated representative upon application by the person, organization or sponsor of the ceremonial or public event. The permit shall set forth with particularity the date and place the event is to be held, the type of firearm, ammunition to be used and the time the discharge will occur. The information must be provided to the Chief of Police at least twenty-four hours prior to the proposed date of the firearms discharge provided the Chief of Police may approve the discharge on an emergency basis as he or she deems appropriate. (Ord. 14-42 § 6, 2014; Ord. 13-33 § 5, 2013; Ord. 99-24 § 29, 1999; Ord. 94-08 § 2, 1994; Ord. 83-75 § 2, 1983.)

9.12.060 Air Gun, Air Rifle, Bow and Arrow, Slingshot, BB Gun, Blowgun, Blowdart Gun. The unlawful operation of an air gun, air rifle, bow and arrow, slingshot, BB gun, blowgun, or blowdart gun is the shooting, discharging or operating of any air gun, air rifle, bow and arrow, slingshot, BB gun, blowgun, or blowdart gun within the City, except within the confines of the building or other structure from which the projectiles cannot escape or during participation in an accredited educational or instructional program. Unlawful operation of an air gun, air rifle, bow and arrow, slingshot, BB gun, blowgun, or blowdart gun is a Class C Public Offense. (Ord. 15-66 § 22, 2015; Ord. 94-08 § 2, 1994; Ord. 83-75 § 2, 1983.)

9.12.070 Seizure of Weapon. The Chief of Police of the City or his or her duly authorized representative is hereby empowered to seize and hold any air gun, air rifle, bow and arrow, slingshot, BB gun, blowgun, or blowdart gun used in violation of Section 9.12.060 and is further empowered to seize and hold as evidence pending a hearing before a court of competent jurisdiction any air gun, air rifle, bow and arrow, slingshot, BB gun, blowgun, or blowdart gun used in violation of Section 9.12.060. (Ord. 15-66 § 23, 2015; Ord. 94-08 § 2, 1994; Ord. 93-09 § 28, 1993.)

9.12.080 Unlawful Aiding, Abetting.

(1) It shall be unlawful for any person to conspire to or aid and abet in the operation or discharging or causing to be operated or discharged any air gun, air rifle, bow and arrow, BB gun or slingshot except as provided in Section 9.12.060 within the City, whether individually or in connection with one or more persons or as principal, agent or accessory, and it is further unlawful for every parent or guardian of a minor child who willfully or knowingly permits or directs the operation or discharge of any air gun, air rifle, bow and arrow, BB gun or slingshot by such minor child within the City except as provided in Section 9.12.060.

(2) Violation of this Section is a Class C Public Offense. (Ord. 94-08 § 2, 1994; Ord. 93-09 § 29, 1993.)

9.12.090 Possession of a Firearm by a Minor Prohibited, Exceptions. Repealed 6/17/2014. (Ord. 14-42 § 7, 2014; Ord. 94-08 § 1, 1994.)

9.12.100 Defacing Identification Marks of a Firearm. Repealed 11/4/08. (Ord. 08-111 § 5, 2008; Ord. 94-08 § 2, 1994; Ord. 83-75 § 2, 1983.)

9.12.110 Confiscation and Disposition of Weapons. Repealed 12/15/15. (Ord. 15-66 § 24, 2015; Ord. 14-42 § 8, 2014; Ord. 99-24 § 30, 1999; Ord. 94-08 § 2, 1994; Ord. 83-75 § 2, 1983.)

9.12.120 Failure to Register Sale of Explosives.

(1) Failure to register sale of explosives is the omission, by the seller of any explosive or detonating substance, to keep a register of every sale or other disposition of such explosives made by him as required by this Section.

(2) The register of sales required by this Section shall contain the date of the sale or other disposition, the name, address, age and occupation of the person to whom the explosive is sold or delivered, the kind and amount of explosive delivered, the place at which it is to be used and for what purposes it is to be used. Said register and said record of sale or other disposition shall be open for inspection by any law enforcement officer, mine inspector or fire marshal of this state for a period of not less than one (1) year after said sale or other disposition.

(3) Failure to register sale of explosives is a Class A public Offence. (Ord. 94-08 § 2, 1994; Ord. 83-75 § 2, 1983.)

9.12.130 Failure to Register Receipt of Explosives. Failure to register receipt of explosives is the omission, by any person to whom delivery of any quantity of explosive or other detonating substance is made, to acknowledge the receipt thereof by signing his name in the register provided in Section 9.12.120 on the page where the record of such delivery is entered.

Failure to register receipt of explosives is a Class B Public Offense. (Ord. 94-08 § 2, 1994; Ord. 83-75 § 2, 1983.)

9.12.140 Criminal Disposal of Explosives. Repealed 2/16/99. (Ord. 99-24 **§** 35, 1999; Ord. 94-89 § 4, 1994; Ord. 94-08 § 2, 1994; Ord. 93-09 § 30, 1993; Ord. 83-75 § 2, 1983.)

9.12.150 Criminal Possession of Explosives. Repealed 2/16/99. (Ord. 99-24 § 35, 1999; Ord. 94-08 § 2, 1994; Ord. 93-09 § 31, 1993; Ord. 83-75 § 2, 1983.)

9.12.160 Carrying Concealed Explosives. Carrying concealed explosives is carrying any explosive or detonating substance on the person in a wholly or partly concealed manner.

Carrying concealed explosives is a Class A Public Offense. (Ord. 12-38 § 11, 2012; (Ord. 94-08 § 2, 1994; Ord. 83-75 § 2, 1983.)

9.12.170 Unlawful Failure to Report Lost or Stolen Explosives. Unlawful failure to report lost or stolen explosives is the failure by and owner, seller or other custodian of explosives, to report lost, misplaced or stolen explosives or explosives otherwise unaccounted for, within ten (10) days of discovering the loss or theft of said explosives. Unlawful failure to report lost or stolen explosives is a Class B Public Offense. (Ord. 94-08 § 2 1994; Ord. 83-75 § 2, 1983.)

9.12.180 Creating a Hazard.

(1) Creating a hazard is:

(a) Storing or abandoning in any place accessible to children, a container which has a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside, and failing to remove the door, lock, lid or fastening device on such contained; or

(b) Being the owner or otherwise having possession of property upon which a cistern, well or cesspool is located, and knowingly failing to cover the same with protective covering of sufficient strength and quality to exclude human beings and domestic animals therefrom; or

(c) Exposing, abandoning or otherwise leaving any explosive or dangerous substance in a place accessible to children.

(2) Creating a hazard is a Class B Public Offense. (Ord. 94-08 § 2, 1994; Ord. 83-75 § 2, 1983.)

9.12.185 Endangerment. Endangerment is recklessly exposing another person to a danger of great bodily harm or death.

Endangerment is a Class A Public Offense. (Ord. 12-38 § 15, 2012)

9.12.190 Unlawful Failure to Report a Wound.

(1) Unlawful failure to report a wound is the failure by an attending physician or other person to report to the Police Department his or her treatment of:

(a) Any bullet wound, gunshot wound, powder burn or other injury arising from or caused by the discharge of a firearm; or

(b) Any wound which is likely to or may result in death and is apparently inflicted by a knife, ice pick or other sharp or pointed instrument.

(2) Unlawful failure to report a wound is a Class C Public Offense. (Ord. 94-08 § 2, 1994; Ord. 93-09 § 32, 1993; Ord. 83-75 § 2, 1983.)

9.12.200 Criminal Use of Explosives. (Ord. 99-24 § 35, 1999; Ord. 94-89 § 5, 1994; Ord. 94-08 § 2, 1994; Ord. 83-75 § 2, 1983.)

9.12.210 Drawing a Weapon Upon Another.

(a) Drawing a weapon upon another is the drawing of a pistol, revolver, knife or other deadly weapon upon another person by a person not an officer of the law in execution of his or her duty.

(b) It shall be a defense that the defendant was acting within the scope of K.S.A. 21-3211, K.S.A. 21-3212, K.S.A. 21-3213, K.S.A. 21-3215 or K.S.A. 21-3216.

(c) Drawing a weapon upon another is a Class A Public Offense. (Ord. 99-24 § 31, 1999)

9.12.220 Sending or Placing a Hoax or Facsimile Explosive Device.

(1) It shall be unlawful:

(a) for any person to send, give, mail or cause to be delivered any facsimile or hoax explosive device to another person, or cause such device to be placed in a public or private place; or

(b) for any person to possess any facsimile or hoax device with the intent to cause another person to fear for their personal safety or the safety of others.

(2) Sending or placing a hoax or facsimile explosive device is a Class A Public Offense. (Ord. 99-24 § 32, 1999)

9.12.230 Carry Concealed Firearm; Prohibited Acts.

A. The carrying of a concealed handgun shall not be prohibited in a municipal building unless such building has adequate security measures to ensure that no weapons are permitted to be carried into such building and the building is conspicuously posted in accordance with K.S.A. 2013 Supp. 75-7c10, and amendments thereto.

B. Any municipal building which contains both public access entrances and restricted access entrances shall provide adequate security measures at the public access entrances in order to prohibit the carrying of any weapons into such building.

C. No municipality shall prohibit an employee from carrying a concealed handgun at the employee's work place unless the building has adequate security measures and the building is conspicuously posted in accordance with K.S.A. 2013 Supp. 75-7c10, and amendments thereto.

D. It shall not be a violation of the personal and family protection act for a person to carry a concealed handgun into a municipal building so long as that person has authority to enter through a restricted access entrance into such building which provides adequate security measures and the building is conspicuously posted in accordance with K.S.A. 2013 Supp. 75-7c10, and amendments thereto.

E. A municipality which provides adequate security measures in a municipal building and which conspicuously posts signage in accordance with K.S.A. 2013 Supp. 75-7c10, and amendments thereto, prohibiting the carrying of a concealed handgun in such building shall not be liable for any wrongful act or omission relating to actions of persons carrying a concealed handgun concerning acts or omissions regarding such handguns.

F. A municipality which does not provide adequate security measures in a municipal building and which allows the carrying of a concealed handgun shall not be liable for any wrongful act or omission relating to actions of persons carrying a concealed handgun concerning acts or omissions regarding such handguns.

G. Nothing in this act shall limit the ability of a corrections facility, a jail facility or a law enforcement agency to prohibit the carrying of a handgun or other firearm concealed or unconcealed by any person into any secure area of a building located on such premises, except those areas of such building outside of a secure area and readily accessible to the public shall be subject to the provisions of Subsection B.

H. Nothing in this Section shall limit the ability of the chief judge of each judicial district to prohibit the carrying of a concealed handgun by any person into courtrooms or ancillary courtrooms within the district provided that other means of security are employed such as armed law enforcement or armed security officers.

I. The governing body or the chief administrative officer, if no governing body exists, of a municipal building, may exempt the building from this Section until January 1, 2014, by notifying the Kansas attorney general and the law enforcement agency of the local jurisdiction by letter of such exemption. Thereafter, such governing body or chief administrative officer may exempt a municipal building for a period of only four years by adopting a resolution, or drafting a letter, listing the legal description of such building, listing the reasons for such exemption, and including the following statement: ''A security plan has been developed for the building being exempted which supplies adequate security to the occupants of the building and merits the prohibition of the carrying of a concealed handgun.'' A copy of the security plan for the building shall be maintained on file and shall be made available, upon request, to the Kansas attorney general and the law enforcement agency of local jurisdiction. Notice of this exemption, together with the resolution adopted or the letter drafted, shall be sent to the Kansas attorney general and to the law enforcement agency of local jurisdiction. The security plan shall not be subject to disclosure under the Kansas open records act.

J. The governing body or the chief administrative officer, if no governing body exists, of any of the following institutions may exempt any building of such institution from this Section for a period of only four years by stating the reasons for such exemption and sending notice of such exemption to the Kansas attorney general:

1. A municipal-owned medical care facility, as defined in K.S.A. 65-425, and amendments thereto;

2. a municipal-owned adult care home, as defined in K.S.A. 39-923, and amendments thereto;

3. a community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto;

4. an indigent health care clinic, as defined by K.S.A. 2013 Supp. 65-7402, and amendments thereto; or

5. a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto, including any buildings located on the grounds of such institution and any buildings leased by such institution.

K. The provisions of this Section shall not apply to any building located on the grounds of the Kansas state school for the deaf or the Kansas state school for the blind.

L. For purposes of this Section:

1. ‘‘Adequate security measures’’ means the use of electronic equipment and personnel at public entrances to detect and restrict the carrying of any weapons into the municipal building, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes to ensure that weapons are not permitted to be carried into such building by members of the public. Adequate security measures for storing and securing lawfully carried weapons, including, but not limited to, the use of gun lockers or other similar storage options may be provided at public entrances.

2. The terms ‘‘municipality’’ and ‘‘municipal’’ are interchangeable and have the same meaning as the term ‘‘municipality’’ is defined in K.S.A. 75-6102, and amendments thereto, but does not include school districts.

3. ‘‘Restricted access entrance’’ means an entrance that is restricted to the public and requires a key, keycard, code, or similar device to allow entry to authorized personnel.

4. ‘‘State’’ means the same as the term is defined in K.S.A. 75-6102, and amendments thereto.

5. ‘‘Municipal building’’ means a building owned or leased by such public entity. It does not include a building owned by a municipality which is leased by a private entity whether for profit or not-for-profit or a building held in title by a municipality solely for reasons of revenue bond financing. (Ord. 15-66 § 25, 2015; Ord. 14-42 § 9, 2014; Ord. 07-135 § 11, 2007; Ord. 06-44 § 2, 2006.)

9.12.240 Carry Unconcealed Firearm; Prohibited Acts.

A. Provided that the building is conspicuously posted in accordance with rules and regulations adopted by the attorney general as a building where carrying an unconcealed firearm is prohibited, it shall be unlawful to carry an unconcealed firearm into such building.

B. Nothing in this section shall be construed to prohibit a law enforcement officer, as defined in K.S.A. 22-2202, and amendments thereto, from acting within the scope of such officer’s duties.

C. It shall be a violation of this section to carry an unconcealed firearm if the building is posted in accordance with rules and regulations adopted by the attorney general pursuant to subsection D. Any person who violates this section shall not be subject to a criminal penalty but may be subject to denial to such premises or removal from such premises.

D. 1. The attorney general shall adopt rules and regulations prescribing the location, content, size and other characteristics of signs to be posted on a building where carrying an unconcealed firearm is prohibited pursuant to subsection A. Such regulations shall prescribe, at a minimum, that:

a. The signs be posted at all exterior entrances to the prohibited buildings;

b. the signs be posted at eye level of adults using the entrance and not more than 12 inches to the right or left of such entrance;

c. the signs not be obstructed or altered in any way;

d. signs which become illegible for any reason be immediately replaced; and

e. except as provided in paragraph 2, signs shall include the following, which shall be printed in large, conspicuous print: ‘‘The open carrying of firearms in this building is prohibited.

2. Such rules and regulations shall provide that the same signage used to prohibit the carrying of concealed handguns under K.S.A. 75-c01 et seq., and amendments thereto, may be used to also prohibit the carrying of unconcealed firearms. (Ord. 14-42 § 10, 2014.)

9.12.250 Liability. Neither the City, its employees, members of the City Council, employees from other cities or county, or volunteers, shall be liable for any wrongful act or omission relating to the actions of any person carrying a firearm, including employees of such municipality, concerning acts or omissions regarding such firearm. (Ord. 14-42 § 11, 2014.)

CHAPTER 9.13

OFFENSES AGAINST THE PUBLIC MORALS

Sections:

9.13.010 Promoting Obscenity.
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9.13.010 Promoting Obscenity.

A. Promoting obscenity is knowingly or recklessly:

1. Manufacturing, issuing, selling, giving, providing, lending, mailing, delivering, transmitting, publishing, distributing, circulating, disseminating, presenting, exhibiting or advertising any obscene material; or obscene devices; or
2. Possessing any obscene material or obscene device with intent to issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit or advertise such material or device; or
3. Offering or agreeing to manufacture, issue, sell, give, provide, lend, mail, deliver, transmit, publish, distribute, circulate, disseminate, present, exhibit or advertise any obscene material or obscene device; or
4. Producing, presenting or directing an obscene performance or participating in a portion thereof which is obscene or which contributes to its obscenity.

B. Evidence that materials or devices were promoted to emphasize their prurient appeal shall be relevant in determining the question of the obscenity of such materials, or devices. There shall be a presumption that a person promoting obscene materials or obscene devices did so knowingly or recklessly if:

1. The materials or devices were promoted to emphasize their prurient appeal; or
2. The person is not a wholesaler or promotes the materials or devices in the course of the person's business.

C. 1. Any material or performance is "obscene" if:

a. The average person applying contemporary community standards would find that the material or performance, taken as a whole, appeals to the prurient interest;

b. The average person applying contemporary community standards would find that the material or performance has patently offensive representations or descriptions of

(1) Ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse or sodomy, or

(2) Masturbation, excretory functions, sadomasochistic abuse or lewd exhibition of genitals; and

c. Taken as a whole, a reasonable person would find that the material or performance lacks serious literary, educational, artistic, political or scientific value.

2. "Material" means any tangible thing which is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound or other manner.

3. "Obscene Device" means a device, including a dildo or artificial vagina designed or marketed as useful primarily for the stimulation of human genital organs, except such devices disseminated or promoted for the purpose of medical or psychological therapy.

4. "Performance" means any play, motion picture, dance or other exhibition performed before an audience.

5. "Wholesaler" means a person who sells, distributes or offers for sale or distribution obscene materials or devices only for resale and not to the consumer and who does not manufacture, publish or produce such materials or devices.

D. It is a defense to a prosecution for obscenity that:

1. The persons to whom the allegedly obscene material was disseminated, or the audience to an allegedly obscene performance, consisted of persons or institutions having scientific, educational or governmental justification for possessing or viewing the same;

2. The defendant is an officer, director, trustee or employee of a public library and the allegedly obscene material was acquired by such library and was disseminated in accordance with regular library policies approved by its governing body; or

3. The allegedly obscene material or obscene device was purchased, leased or otherwise acquired by a public, private or parochial school, college or university, and that such material was either sold, leased, distributed or disseminated by a teacher, instructor, professor or other faculty member or administrator of such school as a part of or incident to an approved course or program of instruction at such school.

E. The provisions of this Section prescribing a criminal penalty for exhibit of any obscene motion picture shown in a commercial showing to the general public shall not apply to a projectionist, or assistant projectionist, if such projectionist or assistant projectionist has no financial interest in the show or in its place of presentation other than regular employment as a projectionist or assistant projectionist and no personal knowledge of the contents of the motion picture. The provisions of this Section shall not exempt any projectionist or assistant projectionist from criminal liability for any act unrelated to projection of motion pictures in commercial showings to the general public.

F. Promoting obscenity is a Class A Public Offense on conviction of the first offense. Conviction of second or subsequent offense is a felony. (Ord. 15-66 § 26, 2015; Ord. 08-111 § 6, 2008; Ord. 06-71 § 11, 2006; Ord. 06-20 § 1, 2006; Ord. 88-123 § 6, 1988; Ord. 87-149 § 9, 1987; Ord. 83-75 § 2, 1983.)

9.13.020 Prohibition of Sex Bookstores, Coin-operated Motion Picture Devises Showing Sex Movies, and Eating or Drinking Establishments Featuring Nude or Semi-nude Dancers, Strippers or Similar Entertainment.

(1) Purpose and intent. It is declared to be the purpose and intent of this section to protect the public health, safety, welfare and morals of the community to promote the stability of property values, and impose restrictions upon those activities which pander to gross sexuality in a manner that would detract from the neighborhood, adversely affect the property values, increase crime and violence, and be repugnant to the morals of the community.

In recognition of the protections afforded to the citizens under the First and Fourteenth Amendments, it is not the intent of this section to inhibit freedom of speech or the press, but rather to deter those of low morals from imposing their lack of morals upon the rest of the community; and further recognizing that those parts of a community, which become centers of loose moral conduct, frequently become places of rowdiness, criminality, and indecent behavior. It is further the belief that just as advertising is designed to stimulate one's appetite for desiring goods or a service, an over-abundance of preoccupation with sexual displays or material arouses the appetites of those so preoccupied and encourages violations of the criminal statutes involving sexual offenses and is contrary to the health, safety and welfare of the community.

(2) Definitions.

(a) For the purpose of this section, "specified sexual activities" is defined as:

(1) Human genitals in a state of sexual stimulation or arousal;
(2) Acts of human masturbation, sexual intercourse or sodomy;
(3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(b) For the purposes of this section, "specified anatomical areas", is defined as:

(1) Less than completely and opaquely covered:

(a) Human genitals, pubic region,
(b) Buttock, and
(c) Female breast below a point immediately above the top of the areola; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(c) For the purpose of this section, "eating or drinking establishments" are defined as: any premises which may be open to the general public in which any food as defined by K.S.A. 36-501 or any beverage is sold, distributed or consumed or any premises operated for profit by a corporation, partnership or individual, to which members of such establishment may resort for the consumption of food or any beverage and/or for entertainment.

(d) Book sales. No person, firm or corporation shall establish any bookstore or book department of a store in which a substantial or significant portion of its stock in trade is in books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

(e) Mini-motion picture displays. No person, firm or corporation shall offer for viewing, for money consideration, movie or video films or pictures or other materials distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as herein specified for observation by patrons therein.

(f) Eating or drinking establishments. No person, firm or corporation shall feature or permit dancers or any other employee or persons to be engaged in specified sexual activities or to expose to view or display specified anatomical areas.

(g) Any person, firm or corporation violating any provision of this section shall be guilty of a Class A Public Offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 93-09 § 33, 1993; Ord. 83-75 § 2, 1983.)

9.13.030 Promoting Obscenity to Minors.

(1) Promoting obscenity to minors is promoting obscenity as defined by Section 9.13.010 and amendments thereto, where the recipient of the obscene material or obscene device or a member of the audience of an obscene performance is a child under the age of 18 years.

(2) It shall be an affirmative defense to any prosecution under this section that:

(a) The defendant had reasonable cause to believe that the minor involved was 18 years old or over, and such minor exhibited to the defendant a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was 18 years old or more.

(b) The allegedly obscene material was purchased, leased or otherwise acquired by a public, private or parochial school, college or university, and that such material was either sold, leased, distributed or disseminated by a teacher, instructor, professor or other faculty member or administrator of such school as part of or incident to an approved course or program of instruction at such school.

(c) The defendant is an officer, director, trustee or employee of a public library and the allegedly obscene material was acquired by a public library and was disseminated in accordance with regular library policies approved by its governing body.

(d) An exhibition in a state of nudity is for a bona fide scientific or medical purpose, or for an educational or cultural purpose for a bona fide school, museum or library.

(3) Promoting obscenity to minors is a Class A Public Offense on conviction of the first offense. Conviction of second or subsequent offense is a felony. (Ord. 08-111 § 7, 2008; Ord. 06-20 § 2, 2006; Ord. 87-149 § 10, 1987; Ord. 83-75 § 2, 1983.)

9.13.033 Material or Performances Harmful to Minors.

A. No person having custody, control or supervision of any commercial establishment shall knowingly:

1. Display any material which is harmful to minors in such a way that minors, as a part of the invited general public will be exposed to view such materials;
2. Sell, furnish, present, distribute or disseminate to a minor, or otherwise allowing a minor to view, with or without consideration, any material which is harmful to minors; or
3. Present to a minor, or participate in presenting to a minor, with or without consideration, any performance which is harmful to a minor; or
4. Display, sell, furnish, present, distribute or disseminate to a minor or otherwise allow a minor to view, with or without consideration, any device designed or marketed as useful primarily for the stimulation of human genital organs.

B. Violation of subsection A. is a Class A Public Offense.

C. Notwithstanding the provisions of K.S.A. 21-5204 and amendments thereto to the contrary, it shall be an affirmative defense to any prosecution under this section that:

1. The allegedly harmful material or device was purchased, leased or otherwise acquired by a public, private or parochial school, college or university, and that such material or device was either sold, leased, distributed by a teacher, instructor, professor or other faculty member or administrator of such school as part of or incidental to an approved course or program or instruction at such school.

2. The defendant is an officer, director, trustee or employee of a public library and the allegedly harmful material or device was acquired by a public library and was disseminated in accordance with regular library policies approved by its governing body.

3. An exhibition in a state of nudity is for a bona fide scientific or medical purpose, or for an educational or cultural purpose for a bona fide school, museum or library.

4. With respect to a prosecution for an act described by subsection A.1., the allegedly harmful material was kept behind blinder racks.

5. With respect to a prosecution for an act described by subsection A.1. or A.3., the defendant had reasonable cause to believe that the minor was eighteen (18) years old or over, and such minor exhibited to the defendant a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was eighteen (18) years old or more.

6. With respect to a prosecution for an act described by subsection A.3., the allegedly harmful performance was viewed by the minor in the presence of such minor's parent or parents of such minor's legal guardian.

7. With respect to prosecution for an act described by subsection 4., the minor (i) presented to the defendant a prescription indicating that the device designed or marketed as useful primarily for the stimulation of human genital organs was needed for medical or psychological therapy; or (ii) the device was viewed by the minor in the presence of such minor’s parent or legal guardian.

D. As used in this section:

1. "Blinder Rack" means device in which material is displayed in such a manner that the lower two thirds of the material is not exposed to view.

2. "Harmful to Minors" means that quality of any description, exhibition, presentation or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse when the material or performance, taken as a whole or, with respect to a prosecution for an act described by subsection A.1., that portion of the material that was actually exposed to the view of minors, has the following characteristics:

a. The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest in sex to minors;

b. The average adult person applying contemporary community standards would find that the material or performance depicts or describes nudity, sexual conduct, sexual excitement or sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and

c. A reasonable person would find that the material or performance lacks serious literary, scientific, educational, artistic or political value for minors.

3. "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape or videotape.

4. "Minor" means any unmarried person under eighteen (18) years of age.

5. "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering; the showing of the female breasts with less than a full opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernible state of sexual excitement.

6. "Performance" means any motion picture, film, videotape, played record, phonograph, tape recording, preview, trailer, play, show, skit, dance or other exhibition performed or presented to or before an audience of one or more, with or without consideration.

7. "Sadomasochistic Abuse" means flagellation or torture by or upon a person clad in undergarments, in a mask or bizarre costume or in the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

8. "Sexual Conduct" means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals or pubic area or buttocks or with a human female's breast.

9. "Sexual Excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

E. The provisions of this act shall not apply to a retail sales clerk if such clerk has no financial interest in the materials or performance or in the commercial establishment displaying or selling, furnishing, presenting, distributing or disseminating such materials or presenting such performance other than regular employment as a retail sales clerk. The provisions of this section shall not exempt any retail sales clerk from criminal liability for any act unrelated to regular employment as a retail sales clerk.

F. If any provisions or clause of this section or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provisions or application, and to this end the provisions of this section are declared to be severable. (Ord. 14-63 § 18, 2014; Ord. 06-20 § 3, 2006; Ord. 93-09 § 34, 1993; Ord. 88-123 § 6, 1988.)

9.13.035 Promoting Sexual Performance by a Minor. Promoting sexual performance by a minor is promoting any performance that includes sexually explicit conduct by a child under 18 years of age, knowing the character and content of the performance.

Promoting sexual performance by a minor is a Class A Public Offense. (Ord. 87-149 § 11, 1987.)

9.13.040 Gambling, Definitions.

A. A "bet" is a bargain in which the parties agree that, dependent upon chance, one stands to win or lose something of value specified in the agreement. A bet does not include:

1. Bona fide business transactions which are valid under the law of contracts, including, but not limited to, contracts for the purchase or sale at a future date of securities or other commodities, and agreements to compensation for loss caused by the happening of the chance, including, but not limited to, contracts of indemnity or guaranty and life or health and accident insurance;
2. Offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength or endurance, or to the bona fide owners of animals or vehicles entered in such a contest;
3. A lottery as defined in this Section;
4. Any bingo game by or for participants managed, operated or conducted in accordance with the laws of the State of Kansas by an organization licensed by the State of Kansas to manage, operate or conduct games of bingo;
5. A lottery operated by the state pursuant to the Kansas Lottery Act; or
6. Any system of pari-mutuel wagering managed, operated and conducted in accordance with the Kansas Pari-mutuel Racing Act;
7. Tribal gaming;
8. Charitable raffles as defined by Section 3 of Senate Sub. For HB 2155, and amendments thereto; or
9. A fantasy sports league as defined in this Section.

B. A "lottery" is an enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance. As used in this Subsection, a lottery does not include a lottery operated by the state pursuant to the Kansas Lottery Act or tribal gaming.

C. "Consideration" as used in this Section means anything which is a commercial or financial advantage to the promoter or a disadvantage to the promoter or a disadvantage to any participant. Mere registration without purchase of goods or services; personal attendance at places or events, without payment of an admission price or fee; listening to or watching radio and television programs; answering the telephone or making a telephone call and acts of like nature are not consideration. As used in this Subsection, consideration does not include:

1. sums of money paid by or for participants in any bingo game managed, operated or conducted in accordance with the laws of the State of Kansas by any bona fide nonprofit religious, charitable, fraternal, educational or veteran organization licensed to manage, operate or conduct bingo games under the laws of the State of Kansas and it shall be conclusively presumed that such sums paid by or for such participants were intended by such participants to be for the benefit of the sponsoring organizations for the use of such sponsoring organizations in furthering the purposes of such sponsoring organizations, as set forth in the appropriate paragraphs of Subsection (c) or (d) of Section 501 of the Internal Revenue Code of 1986 and as set forth in K.S.A. 79-4701 and amendments thereto;

2. Sums of money paid by or for participants in any lottery operated by the state pursuant to the Kansas Lottery Act;

3. Sums of money paid by or for participants in any system of pari-mutuel wagering managed, operated and conducted in accordance with the Kansas Pari-mutuel Racing Act; and

4. Sums of money paid by or for a person to participate in tribal gaming.

D. ‘‘Fantasy sports league’’ means any fantasy or simulation sports game or contest in which no fantasy or simulation sports team is based on the current membership of an actual team that is a member of an amateur or professional sports organization and that meets the following conditions:

1. All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants;

2. all winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individual athletes in multiple real-world sporting events; and

3. no winning outcome is based:

a. On the score, point spread or any performance or performances of any single real-world team or any combination of such teams; or

b. solely on any single performance of an individual athlete in any single real-world sporting event.

E. 1. “Gambling device” means:

a. Any so-called “slot machine” or any other machine, mechanical device, electronic device or other contrivance an essential part of which is a drum or reel with insignia thereon, and (i) which when operated may deliver, as a result of chance, any money or property, or (ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property.

b. Any other machine, mechanical device, electronic device or other contrivance (including, but not limited to, roulette wheels and similar devices) which is equipped with or designed to accommodate the addition of a mechanism that enables accumulated credits to be removed, is equipped with or designed to accommodate a mechanism to record the number of credits removed or is otherwise designed, manufactured or altered primarily for use in connection with gambling, and (i) which when operated may deliver, as the result of chance, any money or property, or (ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

c. Any subassembly or essential part intended to be used in connection with any such machine, mechanical device, electronic device or other contrivance, but which is not attached to any such machine, mechanical device, electronic device or other contrivance as a constituent part; or

d. Any token, chip, paper, receipt or other document which evidences, purports to evidence or is designed to evidence participation in a lottery or the making of a bet.

The fact that the prize is not automatically paid by the device does not affect its character as a gambling device.

2. Gambling device does not include:

a. Any machine, mechanical device, electronic device or other contrivance used or for use by a licensee of the Kansas racing commission as authorized by law and rules and regulations adopted by the commission or by the Kansas lottery or Kansas lottery retailers as authorized by law and rules and regulations adopted by the Kansas lottery commission;

b. Any machine, mechanical device, electronic device or other contrivance, such as a coin-operated bowling alley, shuffleboard, marble machine (a so called pinball machine), or mechanical gun, which is not designed and manufactured primarily for use in connection with gambling, and (i) which when operated does not deliver, as a result of chance, any money, or (ii) by the operation of which a person may not become entitled to receive, as the result of the application of an element of chance, any money;

c. Any so-called claw, crane, or digger machine and similar devices which are designed and manufactured primarily for use at carnivals or county or state fairs; or

d. Any machine, mechanical device, electronic device or other contrivance used in tribal gaming.

F. A "gambling place" is any place, room, building, vehicle, tent or location which is used for any of the following:

Making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling devises. Evidence that the place has a general reputation as a gambling place or that, at or about the time in question, it was frequently visited by persons known to be commercial gamblers or known as frequenters of gambling places is admissible on the issue of whether it is a gambling place.

G. “Tribal gaming” has the meaning provided by K.S.A. 74-9802 and amendments thereto.

H. “Tribal gaming commission” has the meaning provided by K.S.A. 74-9802 and amendments thereto. (Ord. 15-66 § 27, 2015; Ord. 06-20 § 4, 2006; Ord. 89-151 § 4, 1990; Ord. 83-75 § 2, 1983.)

9.13.050 Gambling. Gambling is:

(a) Making a bet; or

(b) Entering or remaining in a gambling place with intent to make a bet, to participate in a lottery, or to pay a gambling device.

Gambling is a Class B Public Offense. (Ord. 83-75 § 2, 1983.)

9.13.060 Illegal Bingo Operation.

(1) Illegal bingo operation is the management, operation or conduct of games of bingo in violation of the laws of the State of Kansas pertaining to the regulation, licensing and taxing of games of bingo or rules and regulations, adopted pursuant thereto.

(2) Illegal bingo operation is a Class A Public Offense. (Ord. 06-20 § 5, 2006; Ord. 83-75 § 2, 1983.)

9.13.070 Commercial Gambling. Commercial gambling is:
(a) Operating or receiving all or part of the earnings of a gambling place; or
(b) Receiving, recording, or forwarding bets or offers to bet or, with intent to receive, record, or forward bets or offers to bet, possessing facilities to do so; or
(c) For gain, becoming a custodian of anything of value bet or offered to be bet; or
(d) Conducting a lottery, or with intent to conduct a lottery possessing facilities to do so; or
(e) Setting up for use or collecting the proceeds of any gambling device.
Commercial gambling is a Class A Public Offense. (Ord. 83-75 § 2, 1983.)

9.13.080 Permitting Premises to be Used for Commercial Gambling. Permitting premises to be used for commercial gambling is intentionally:

(a) Granting the use or allowing the continued use of a place as a gambling place; or

(b) Permitting another to set up a gambling device for use in a place under the offender's control.

Permitting premises to be used for commercial gambling is a Class B Public Offense. (Ord. 83-75 § 2, 1983.)

9.13.090 Dealing in Gambling Devices; Defense. Repealed 2/16/99. (Ord. 99-24 § 35, 1999; Ord. 89-151 § 5, 1990; Ord. 83-75 § 2, 1983.)

9.13.100 Possession of a Gambling Device; Defense.

(1) Possession of a gambling device is knowingly possessing or having custody or control, as owner, lessee, agent, employee, bailee, or otherwise, of any gambling device.

(2) It shall be a defense to a prosecution under this section that the gambling device is an antique slot machine and that the antique slot machine was not operated for gambling purposes while in the owner's or the defendant's possession. A slot machine shall be deemed an antique slot machine if it was manufactured prior to the year 1950.

(3) It shall be a defense to a prosecution under this section that the gambling device is possessed or under custody or control of a manufacturer registered under the Federal Gambling Devices Act of 1962 (15 U.S.C. 1171, et seq.) or a transporter under contract with such manufacturer with intent to transfer for use:

(a) By the Kansas lottery or Kansas lottery retailers as authorized by law and rules and regulations adopted by the Kansas Lottery Commission;
(b) by a licensee of the Kansas Racing Commission as authorized by law and rules and regulations adopted by the Commission; or
(c) in a state other than the State of Kansas; or
(d) in tribal gaming.

(4) Possession of a gambling device is a Class B Public Offense. (Ord 06-20 § 6, 2006; Ord 89-151 § 6, 1990; Ord. 83-75 § 2, 1983.)

9.13.110 Public Indecency.

(1) It shall be unlawful for any person to knowingly or intentionally appear in a state of nudity in a public place.

(2) "Nudity" means the showing of the human male or female: genitals, pubic hair, buttocks, anus, anal regions, natal cleft, perineum, or pubic hair region with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering below a point immediately above the top of the areola; the showing of the covered male genitals in a discernibly turgid state; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum, anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast which device simulates and give the realistic appearance of nipples and/or areola.

(3) "Public Place" means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), bottle clubs, hotels, motels, restaurants, night clubs, country clubs, cabarets and meeting facilities utilized by any religious, social, fraternal or similar organizations. Premises used solely as a private residence whether permanent or temporary in nature shall not be deemed a public place. Public place shall not include enclosed single sex public restrooms, enclosed single sex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein; nor shall it include a person appearing in a state of nudity in a modeling class operated by: (1) a proprietary school, licensed by the State; a college, junior college or university supported entirely or partly by taxation; or (2) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation or an accredited private college.

(4) The prohibition set forth in subsection (1) shall not apply to:

(a) Any child under ten (10) years of age; or

(b) Any individual exposing a breast in the process of breastfeeding an infant under three (3) years of age.

(c) Any theatrical production performed in a theater by a professional or amateur theatrical or musical company which has serious artistic merit.

(5) Public Indecency is a Class B Public Offense. (Ord 00-102 § 4, 2000.)

9.13.120 Mixed Sex Nudity.

(1) It is unlawfully for any person to engage in the business of providing saunas, bathing, soaking or hot tubs, showers, whirlpools or exercise equipment where persons of both sexes may use the same facility or separate facilities in view of each other, at the same time while in the nude.

(2) This section shall not apply to licensed hotels or motels which provide tubs or showers in private hotel or motel rooms for incidental use by persons who rent such rooms. (Ord 07-135 § 12, 2007.)

9.13.130 Cockfighting.

A. Unlawful possession of cockfighting paraphernalia is possession of spurs, gaffs, swords, leather training spur covers, or anything worn by a gamecock during a fight to further the killing power of such gamecock.

B. Unlawful attendance of cockfighting is entering or remaining on the premises where the unlawful conduct of cockfighting is occurring. (K.S.A. 21-431 9, as amended)

Unlawful possession of cockfighting paraphernalia is a Class A violation.

Unlawful attendance of cockfighting is a Class B violation. (Ord. 09-59 § 14, 2009)

CHAPTER 9.14

MISCELLANEOUS PROVISIONS

Sections:

9.14.010 False Membership Claim.
9.14.020 Unlawful Dog Fighting.
9.14.030 Open Burning Prohibited.
9.14.040 Burning on Streets Prohibited.
9.14.050 Obstructing Fire Hydrant.
9.14.060 Unattended Children in Vehicles.
9.14.070 Obstructing Streets or Sidewalks.
9.14.080 Encroachments Upon Public Lands.
9.14.090 Train Blocking Crossings. (Repealed 2/16/93)
9.14.100 Urination or Defecation in Public Prohibited.
9.14.110 Urban Deer Management
9.14.120 Traffic Control Sign Preemption Devices. (Repealed 12/4/07)
9.14.130 Alcohol without Liquid Prohibited

9.14.010 False Membership Claim. A false membership claim is falsely representing oneself to be a member of a fraternal, veteran's organization or a private club, licensed to serve alcoholic liquors for consumption upon the premises, pursuant to the laws of the State of Kansas.
False membership claim is a Class C Public Offense. (Ord. 83-75 § 2, 1983.)

9.14.020 Unlawful Dog Fighting.

A. Unlawful dog fighting is:

1. Causing, for amusement or gain, any dog to fight with or injure another dog;
2. Knowingly permitting such fighting or injuring on premises under one's ownership, charge or control; or
3. Training, owning, keeping, transporting or selling any dog for the purpose or with the intent of having it fight with or injure another dog.

B. Unlawful possession of dog fighting paraphernalia is possession of any braking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia together with evidence that the paraphernalia is being used or is intended for use in the unlawful conduct of dog fighting.

C. Unlawful attendance of dog fighting is entering or remaining on the premises where the unlawful conduct of dog fighting is occurring.

D. Unlawful conduct of dog fighting is a Class A Public Offense.

E. Unlawful possession of dog fighting paraphernalia is a Class A Public Offense.

F. Unlawful attendance of dog fighting is a Class B Public Offense. (Ord. 09-59 § 10, 2009; Ord. 93-09 § 35, 1993; Ord. 83-75 § 2, 1983.)

9.14.030 Open Burning Prohibited.

(a) It shall be unlawful for any person to dispose of refuse by open burning or to cause, allow or permit open burning within the city.

(b) This section shall apply to the disposal of trade wastes or any refuse by open burning by commercial facilities as well as residential or private entities.
Open burning is an Unclassified Public Offense. (Ord. 83-75 § 2, 1983.)

9.14.040 Burning on Streets Prohibited. No person shall burn any combustible matter of any kind on any paved street within the city. No person shall throw or place any gasoline, kerosene or any substance likely to damage any paved street upon any street within the city. Burning on streets is an Unclassified Public Offense. (Ord. 83-75 § 2, 1983.)

9.14.050 Obstructing Fire Hydrant. No person shall place or cause to be placed upon or about any fire hydrant any rubbish, building material, fence or other obstruction in any manner to obstruct, hinder or delay the Fire Department in the performance of its duties. Nor shall any person hitch or cause to be hitched to any fire hydrant any animal, nor fasten to the hydrant any guy rope or brace, nor back or stand any wagon, truck, automobile or other vehicle within fifteen (15) feet of any such hydrant. Obstructing a fire hydrant is an Unclassified Public Offense. (Ord. 83-75 § 2, 1983.)

9.14.060 Unattended Children in Vehicles. No child under the age of eighteen (18) years of age shall be locked in an unattended vehicle by any adult unless such child has the present ability to release himself from such vehicle. Violation of this section shall be an Unclassified Public Offense. (Ord. 83-75 § 2, 1983.)

9.14.070 Obstructing Streets or Sidewalks. It shall be unlawful for any person to obstruct in any manner any street, alley or sidewalk within the city. This section applies to the placing of benches or other obstructions upon sidewalks. Obstructing streets or sidewalks is an Unclassified Public Offense. (Ord. 83-75 § 2, 1983.)

9.14.080 Encroachments Upon Public Lands.

(a) **Violation.** It is unlawful for any person to install, erect, construct, maintain or permit an encroachment structure (as defined herein) or to place manmade or natural materials (as defined in Section 12.21.010 of the Olathe Municipal Code) in, upon, under or over public lands, including, but not limited to, a public street, public highway, public right-of-way, public building, public park(s) and recreational area(s), or other public property. It shall be the duty and responsibility of any person responsible for the installation, erection, construction, or maintenance of an encroachment structure to remove such structures from public lands and restore the public lands to its original condition. In addition, any encroachment that is not removed as provided by this section is hereby declared a nuisance.

(b) **Definition.** "Encroachment structures" shall include but not be limited to any tower, pole, poleline, pipe, pipeline, fence, billboard stand or building, retaining wall, play court, play field, playground equipment, irrigation structure or sprinkler system, trench, storage structure, garden, landscaping, trampoline, gazebo, swimming pool, curbing, paving, or other object, structure, or personal property.

(c) **Application.** This section shall not apply to any encroachment structure installed, erected, constructed or maintained with approval of the Governing Body.

(d) **Right of Entry.** Any authorized officer or agent of the City, pursuant to this chapter, shall be allowed to enter onto any land within the City limits to investigate violations of this chapter or for the abatement of violations pursuant to this chapter.

(e) **Responsible Party.** The owner, representative, tenant or occupant of real property to which the encroachment structure is appurtenant, or the person responsible for installing, erecting, constructing or maintaining encroachment structures on public lands shall be responsible for the abatement of any unlawful acts defined by Section 9.14.080 (a).

(f) **Public Officer; Notice to Abate.** The City Manager shall designate a public officer to be charged with the administration and enforcement of this section. The public officer shall authorize the investigation of violations of this section. If it is determined that a violation of this section exists, then the officer or authorized designee shall send a notice to remove the encroachment structure to the responsible party by certified mail, return receipt requested, to the last known address of such responsible party.

(g) **Notice Requirements.** The notice to remove the encroachment structure shall state:

(1) A common and/or legal description of the property adjacent to the encroachment structure and aerial photo of such property and the encroachment structure;

(2) The encroachment is in violation of the provisions of this section;

(3) A description of the nature of the violation that would reasonably allow the responsible party to determine the nature of the violation to allow for self-abatement;

(4) The responsible party [in accordance with Section 9.14.080 (e)] shall have ten (10) days from the date of the mailing of the notice to either remove and abate the violation of this section or request a hearing before the City's designated representative on the matter;

(5) Upon written request received prior to the expiration of the notice period, the responsible party may request a hearing before a designated hearing officer of the City;

(6) If the responsible party fails to correct the violation or request a hearing within ten (10) days of the mailing of notice, the City or its authorized agent will remove and abate the violation of this section by reasonable means and assess the costs of removal, including reasonable administrative costs, against such person. Notice of the total cost of such abatement shall be provided to the responsible party by certified mail, return receipt requested, or personal service. Total costs include, but are not limited to boundary surveys, construction permit fees, engineering or architectural fees, contracts, City staff time, demolition, removal, restoration, two-year maintenance costs, legal fees and accrued interest if payment is not received within thirty (30) days of invoice;

(7) If the total costs of removal are not paid within thirty (30) days, the costs will be added to the property tax of the responsible party as a special assessment in accordance with Charter Ordinance No. 71 ; and

(8) If any special assessments levied by the City in accordance with this chapter and Charter Ordinance No. 71 remain unpaid for a period of one (1) year or more after their initial levy, the City may collect the amount due in the same manner as a personal debt of the property owner to the City by bringing an action in the Johnson County District Court. Such actions may be maintained, prosecuted and all proceedings taken, including any award of post-judgment interest, in accordance with K.S.A. 16-204, and amendments thereto, to the same effect and extent as for the enforcement of an action for debt. All provisional remedies available in such actions shall be available to the City in the enforcement of the payment of such obligations. In such actions the City also shall be entitled to recover interest at the rate provided in K.S.A. 79-2968, and amendments thereto, from and after the date a delinquency occurs in the payment of special assessments levied under this chapter. The City may pursue collection both by levying a special assessment and in the manner provided by this section, but only until the full cost and any applicable interest has been paid in full. The City may collect the costs in the manner provided at K.S.A. 12-1,115, as amended, by bringing an action in the appropriate court as a personal debt. The City may pursue both assessment and collection at the same time until the full cost, including applicable interest, court costs, attorneys' fees and administrative costs have been paid in full.

(h) **Abatement of Immediate Threat to the Public Health, Safety, and/or Welfare.** When in the opinion of the public officer an immediate threat to the public health, safety, and/or welfare exists as a result of the existence and condition of an encroachment structure such officer may erect barricades or cause the encroachment structure to be taken down or otherwise made safe without delay and such action may, under such circumstances, be taken without prior notice to or hearing of the owners, agents or lienholders. The costs of any such action shall be assessed and paid in the manner set out in this section.

(i) **Abatement Hearing.** If the responsible party makes a written request for hearing within the notice period, then the City shall immediately schedule a hearing during a regular business day within ten (10) calendar days from the receipt of the written request. The hearing shall be conducted by a designated hearing officer appointed by the City Manager who shall not be a subordinate of the officer who issued the notice of removal or conducted the investigation. The hearing officer shall receive evidence, review the investigation and prepare a written order. The order shall be sent by certified mail to all relevant parties within ten (10) days of the hearing (unless otherwise stated at the hearing) and prior to the City taking any action to abate the violation. The order shall describe the relevant facts relied upon, state the specific code provisions being relied upon should a violation be found, and state any such other stipulations, methods of abatement or orders as deemed necessary by the hearing officer.

In the event that the property boundary is disputed, the property owner may, at the owner's expense, commission a boundary survey by a licensed and qualified surveyor. If there is a bona fide dispute as to the boundary, the City shall wait a reasonable time for the survey to be completed.

(j) **Abatement by City.** If the responsible party fails to request a hearing and fails to remove the violations within the notice period, then the City shall go onto the property to remove the violation in a reasonable manner. The City shall not be responsible for damage to property due to reasonable methods of gaining entrance onto the property or for damages to property in the reasonable exercise of its duty to the public to remove the violations. The City may use its own employees or contract for services to abate violations of this section.

(k) **Action in Municipal Court.** If an authorized public officer determines that a violation of this section exists, the officer may file a complaint with the Olathe Municipal Court for such violation. No other procedures are required as a prerequisite to the filing of a complaint.

(l) **Penalty.**

(1) Violation of this section shall be a Class B Public Offense.

(2) Prosecution of any offender under this section does not limit the City's right to pursue assessment or collection of costs as stated in this section, or by other laws.

(3) Each day that any violation of this section continues shall constitute a separate offense.

(4) The City shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provision of this section and to seek civil penalties, and to abate nuisances maintained in violation thereof, and in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceedings to prevent such unlawful nuisance or condition. (Ord. 13-23 § 1, 2013; Ord. 88-123 § 7, 1988; Ord. 83-75 § 2, 1983.)

9.14.090 Trains Blocking Crossings. Repealed 2/16/93. (Ord. 93-09 § 38, 1993; Ord. 83-75 § 2, 1983.)

9.14.100 Urination or Defecation in Public Prohibited. It is unlawful for any person to urinate or defecate upon any street, highway, alley, or upon the premises of any public place or building, or upon any private property in open view of any person, except if such public place, building or private property has been designated and designed as a restroom, lavatory or water closet. Urination in public is a Class C Public Offense. (Ord. 14-63 § 19, 2014; Ord. 83-75 § 2, 1983.)

9.14.110 Urban Deer Management. It shall be lawful to hunt deer in Olathe with a bow and arrow under the following circumstances:

(1) The use of a bow and arrow to hunt deer will only be allowed on property approved by the Governing Body. All requests for the hunting of deer with a bow and arrow shall be submitted to the Governing Body by August 1st of each calendar year and, upon meeting the requirements established in subsection (2) and (3) of this Ordinance, the Governing Body may approve by resolution the property for the hunting of deer by bow and arrow.

(2) Prior to the issuance of a City Permit, the property owner must provide to the Olathe Police Department a written report from the Kansas Department of Wildlife and Parks that makes a determination that the property owner has a deer overpopulation, that the deer have caused property damage and that they would recommend bow hunting to reduce the deer population and property damage.

(3) The City of Olathe Police Department is authorized to issue City deer hunting permits. A permit will not be issued and no hunting will be allowed without possessing the following and meeting the conditions listed below:

(a) A Deer Hunting License and a Kansas Deer Tag issued by the State of Kansas (the "State Permit").

(b) Only the owner of the designated property or persons with the owner's written permission shall be eligible to receive a City Permit to bow hunt.

(c) The application for a City Permit shall be accompanied by a copy of the State License, Deer Tag and an application fee. The application fee shall be adopted by the Governing Body of the City by resolution.

(d) A Permit shall not be approved unless the Chief of Police or his or her designee finds that the hunting will be in compliance with the ordinance.

(e) Hunting shall only be by those persons listed on the City Permit.

(f) No person shall make any payment to any person for the right to hunt or be listed on the State License and City Permit.

(g) Persons shall at all times when hunting, pursuant to the City Permit, carry valid photo identification and a copy of the City Permit and the State License.

(h) No arrow or other object used to hunt deer pursuant to the City Permit may be discharged or projected at such an angle or distance as to land on public or private property not described in the Permit.

(i) Issuance of the City Permit may be limited to a time and area more restrictive than the State License allows.

(j) Any activity performed in conjunction with the issuance of the Permit, including but not limited to field dressing or other handling of carcass, must occur on the property specified in the City Permit.

(k) The transportation of a carcass along any public right-of-way, is prohibited, unless it is covered and transported in a motor vehicle.

(l) All hunting shall be conducted from an elevated tree stand that is fifteen (15) feet or more in height and faces the interior of the property identified by resolution for deer hunting and is approved by the Police Department. The tree stands and shooting lanes will be located in such a way as to direct arrows to the interior of the property and to prevent any arrow from landing closer than fifty (50) yards to any property line identified by resolution for deer hunting.

(m) No bow hunting will be allowed unless the Police Department establishes a marked zone that clearly defines where the bow hunting can occur including marking the tree stands and shooting lanes.

(n) No bow hunting will be allowed if any person that has been granted a State License and City Permit has consumed cereal malt beverages, alcoholic liquor or any controlled substances defined in Chapter 9.17 of the Olathe Municipal Code two hours prior to hunting or during hunting activities.

(o) All adjacent property owners must be notified in writing that hunting will occur.

(p) Bow hunting will be allowed one half hour before sunrise to one half hour after sunset.

(q) No City Permit will be issued to any person under the age of eighteen (18).

(r) No person shall leave the property identified by resolution for deer hunting to pursue any wounded deer.

(s) It shall be the responsibility of a bow hunter to inform the Police Department by telephone that a wounded deer has left the property identified by resolution for deer hunting and to inform the Police Department of the deer's location.

(t) All wounded deer that exit the property identified by resolution for deer hunting shall be retrieved by the Olathe Police Department. Upon retrieval, the Police Department will allow the bow hunter to take possession of the deer as long as the deer was hunted in compliance with this Ordinance.

(u) The Olathe Police Department, the Olathe Park Ranger and the State Wildlife official shall have access to the property during all hunting hours.

(v) All property owners shall submit to the Olathe Police Department a written report within thirty (30) days of the completion of the permit period indicating the number of deer harvested, specifying the number of antlered and antlerless deer, the date the deer were harvested and the person that harvested the deer.

(w) At no time can a hunter remove more antlered deer than antlerless deer on the property identified by resolution for deer hunting in compliance with this ordinance.

(x) Whenever deer hunting will take place adjacent to public property, open space, trails or easements, or adjoining private property, the permittee shall post signs warning the public that deer hunting is taking place. Such signs shall be posted prior to hunting and shall be approved by the Police Chief.

(y) Permits to bow hunt in the City shall correspond to the archery and firearm season as determined by the Kansas Department of Wildlife and Parks.

(z) City permits are not transferable.

(aa) Failing to comply with the ordinance requirements may result in the denial of future permits.

(4) The Police Department may revoke the City Hunting Permit if a hunter violates any part of this ordinance. Upon revocation of the Permit, the permittee may appeal the decision to the City Manager.

(5) This ordinance shall supercede all other ordinances with which it may conflict.

(6) Violation of this Section is a Class C Public Offense. (Ord. 09-43 § 1, 2009; Ord. 05-52 § 1, 2005; Ord. 04-120 § 1, 2004; Ord. 04-57 § 1, 2004; Ord. 03-82 § 1, 2003; Ord. 02-103 § 1, 2002.)

9.14.120 Traffic Control Signal Preemption Devices. Repealed 12/4/07 (Ord. 07-135 § 13, 2007; Ord. 04-85 § 4, 2004)

9.14.130 Alcohol without Liquid Prohibited.

(a) It shall be unlawful for any person to:

(1) Use any alcohol without liquid machine to inhale alcohol vapor or otherwise introduce alcohol in any form into the human body; or

(2) Purchase, sell or offer for sale an alcohol without liquid machine.

(b) Violation of this section is a Class A Public Offense.

As used in this section, "alcohol without liquid machine" means a device designed or marketed for the purpose of mixing alcohol with oxygen or another gas to produce a mist for inhalation for recreational purposes. (Ord. 05-58 § 2, 2005)

CHAPTER 9.15

OFFENSES AFFECTING BUSINESS AND COMMERCE

Sections:

9.15.010 Debt Adjusting.
9.15.020 Deceptive Commercial Practices.
9.15.030 Knowingly Employing an Illegal Alien.
9.15.040 Wasting Utilities.
9.15.050 Unlawful Tampering with Sewers.

9.15.010 Debt Adjusting.

(1) Debt adjusting is engaging in the business of making contracts, express or implied, with a debtor whereby the debtor agrees to pay a certain amount of money periodically to the person engaging in the debt adjusting business who shall for a consideration distribute the same among certain specified creditors.

(2) The provisions of this act shall not apply to those situations involving debt adjusting, as defined here, which is incidental to the lawful practice of law in this state.

(3) Debt adjusting is a Class B Public Offense. (Ord. 83-75 § 2, 1983.)

9.15.020 Deceptive Commercial Practices.

(1) A deceptive commercial practice is the act, use or employment by any person of any deception, fraud, false pretense, false promise, or knowing misrepresentation of a material fact, with the intent that others shall rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived or damaged thereby.

(2) The following definitions shall be applicable to this section:

(a) "Merchandise" means any objects, wares, goods, commodities, intangibles, real estate or services.

(b) "Person" means any natural person or his legal representative, partnership, corporation (domestic or foreign), company, trust business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestui que trust thereof.

(c) "Sale" means any sale, offer for sale, or attempt to sell any merchandise for any consideration.

(3) This section shall not apply to the owner or publisher of any newsletter, magazine, or other printed matter wherein an advertisement appears, or to the owner or operator of a radio or television station which disseminates an advertisement, when such owner, publisher or operator had no knowledge of the intent, design or purpose of the advertisement.

(4) A deceptive commercial practice is a Class A Public Offense. (Ord. 83-75 § 2, 1983.)

9.15.030 Knowingly Employing an Illegal Alien.

(a) Knowingly employing an alien illegally within the territory of the United States is the employment of such alien within the City of Olathe by an employer who knows such person to be illegally within the territory of the United States. The provisions of this section shall not apply to aliens who have entered the United States illegally and thereafter are permitted to remain within the United States, temporarily or permanently, pursuant to federal law.

(b) Knowingly employing an alien illegally within the territory of the United States is a Class B Public Offense. (Ord. 83-75 § 2, 1983.)

9.15.040 Wasting Utilities. Wasting water, gas, etc., is willfully causing the waste of any water, gas, steam or hot air conveyed by or through any pipe without the consent of the person owning or having control of such pipe.

Wasting utilities is a Class B Public Offense. (Ord. 83-75 § 2, 1983.)

9.15.050 Unlawful Tampering with Sewers. It shall be unlawful for any person willfully to injure or destroy, or attempt to injure or destroy any public sewer, or to molest any sewer or any part thereof by removing the cover of any flush tank, manhole or any part of the public sewer system of the city without authority.

Unlawful tampering with sewers is a Class B Public Offense. (Ord. 83-75 § 2, 1983.)

CHAPTER 9.16

LAW ENFORCEMENT COMMUNICATIONS SECURITY

Sections:

9.16.010 Police Monitors.
9.16.020 Police Monitors Permits Required.
9.16.030 Permits not Transferrable.
9.16.040 Police Communication.

9.16.010 Police Monitors. It is unlawful for any person to install, equip or operate any motor vehicle within this city with a police monitor, unless such motor vehicle is being used by the federal, state, county or city government in the conduct of official business, a law enforcement officer, or unless a permit for such police monitor has been issued as hereinafter prescribed. "Police monitor" means any high frequency radio receiving set, either permanently installed or portable, capable of receiving or intercepting any signal, message or communication sent out by any law enforcement radio station. "Person" means any person, firm, partnership, corporation, association or any other organization.

Violation of this section shall be a Class C Public Offense. (Ord. 83-75 § 2, 1983.)

9.16.020 Police Monitors--Permits Required.

(a) Any person desiring a permit to operate a police monitor in a motor vehicle in this city shall file an application with the Police Department in writing, stating the name, address, telephone number, date of birth, occupation, criminal history and other identification data of the applicant; the license number, engine number and make and model of the motor vehicle in which it is desired to install such police monitor; a recent photograph of the applicant and his fingerprints. The application shall also state the reason(s) why it is desired to install such police monitor. The applicant shall pay an annual fee for administrative costs of processing said application which shall be submitted at the time an application is filed. Such fee shall be adopted by the Governing Body of the City by resolution.

(b) If the Police Department finds that the police monitor will be used for a lawful purpose, the department shall issue a permit authorizing installation and use of the police monitor. A new application must be filed and a new permit obtained for each year a police monitor is used. The permit must be carried by the permittee at all times such person is operating the motor vehicle which is equipped with or which contains an authorized police monitor.

(c) The Police Department shall not issue a permit to any person having been convicted, within the immediately preceding five (5) year period or subject to probation or parole at time of application, for commission of any of the following offenses:

(1) A felony;
(2) Burglary;
(3) Theft or Larceny;
(4) Breaking and Entering; or
(5) Prowling.

(d) The Police Department shall not issue a permit to any person submitting false statements or representations in an application required pursuant to this section. (Ord. 02-137 § 1, 2002; Ord. 00-120 § 1, 2000; Ord. 83-75 § 2, 1983.)

9.16.030 Permits Not Transferrable. Any permit issued under the provisions of Section 9.16.020 shall not be transferable to any other person and any police monitor authorized to be installed and used by any such permit shall not be placed in any other motor vehicle than the one described in the application for such permit without first filing a new application and securing a new permit. In case of a change in the license number of any motor vehicle for which a permit has been issued, the owner of such vehicle shall inform the Police Department of such change within five (5) days after the change is made. Provided, that no fee shall be charged when a permittee requests a new permit to have a previously authorized monitor placed in a different motor vehicle. (Ord. 00-120 § 2, 2000; Ord. 83-75 § 2, 1983.)

9.16.040 Police Communication. It is unlawful for any person, other than city employees and Police Department officers in the line of duty, to respond or answer police radio calls, or to in any way interfere with police radio calls, or to in any way interfere with police officers answering such radio police calls. (Ord. 00-120 § 3, 2000; Ord. 83-75 § 2, 1983.)

CHAPTER 9.17

CONTROLLED SUBSTANCES

Sections:

9.17.010	Possession of Marijuana; Controlled Substance; Penalties.
9.17.020	Control of Instruments Used for Inhaling or Ingestion of Controlled Substances or Drugs and Control of Simulated Drugs and Simulated Controlled Substances (Repealed).
9.17.030	Use or Possession of Controlled Substances, Simulated Controlled Substances and Drug Paraphernalia; Penalties.
9.17.040	Inhalation of Certain Elements.
9.17.050	Unlawfully Obtaining a Prescription-Only Drug.

9.17.010 Possession of Marijuana; Controlled Substance; Penalties.

(a) It shall be unlawful for any person to manufacture, possess, have under such person's control, administer, deliver, distribute, dispense or compound marijuana.

(b) As used in this section, '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, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.

(c) Upon a conviction, plea of no contest or guilty for violation of this section, the municipal judge shall order such person 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 that statute for such evaluation. A diversion agreement based upon a violation of this section shall also require a person 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. If the judge finds that person is indigent, the fee may be waived.

(d) Any person who violates this section shall be guilty of a Class A Public Offense. (Ord. 99-24 § 33, 1999; Ord 89-151 § 7, 1990; Ord. 83-75 § 2, 1983.)

9.17.020 Control of Instruments Used for Inhaling or Ingestion of Controlled Substances or Drugs and Control of Simulated Drugs and Simulated Controlled Substances. Repealed. (Ord. 89-151 § 15, 1990; Ord. 83-75 § 2, 1983.)

9.17.030 Use or Possession of Controlled Substances, Simulated Controlled Substances and Drug Paraphernalia; Penalties.

A. Definitions. As used in this section:

1. "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 amendments thereto.

2. "Deliver" or "delivery" means actual, constructive or attempted transfer from one person to another, whether or not there is an agency relationship.

3. "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 the Uniform Controlled Substance Act. "Drug paraphernalia" shall include, but is not limited to:

a. 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 controlled substance can be derived.

b. Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.

c. Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance.

d. Testing equipment used or intended for use in identifying or analyzing the strength, effectiveness of purity of controlled substances.

e. Scales and balances used or intended for use in weighing or measuring controlled substances.

f. Diluents and adulterants such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, which are used or intended for use in cutting controlled substances.

g. Separation gins and sifters used or intended for use in removing twigs and seeds from or otherwise cleaning or refining marijuana.

h. Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances.

i. Capsules, balloons, envelopes, bags and other containers used or intended for use in packaging small quantities of controlled substances.

j. Containers and other objects used or intended for use in storing or concealing controlled substances.

k. Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body.

l. 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:

(1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(2) Water pipes, bongs or smoking pipes designed to draw smoke through water or another cooling device;

(3) 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;

(4) Smoking and carburetion masks;

(5) 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;

(6) Miniature cocaine spoons and cocaine vials;

(7) Chamber smoking pipes;

(8) Carburetor smoking pipes;

(9) Electric smoking pipes;

(10) Air-driven smoking pipes;

(11) Chillums;

(12) Bongs;
(13) Ice pipes or chillers;
(14) Any smoking pipe manufactured to disguise its intended purpose;
(15) Wired cigarette papers; or
(16) Cocaine freebase kits.

4. "Person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate trust, partnership, association or other legal entity.

5. "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.

B. Except as authorized by the Uniform Controlled Substances Act, K.S.A. 65-4101, et. seq., or any amendments thereto, and as defined therein, it is unlawful for any person to manufacture, possess, have under such person's control, ingest, inhale, inject or otherwise introduce into the body, prescribe, administer, deliver, distribute, dispense, compound, sell, offer for sale or have in such person's possession with intent to sell, any controlled substance.

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

1. Statements by an owner or person in control of the object concerning its use.
2. Prior convictions, if any, of an owner or person in control of the object, under any state or federal law relating to any controlled substance.
3. The proximity of the object in time and space, to a direct violation of the uniform controlled substances act.
4. The proximity of the object to controlled substances.
5. The existence of any residue of controlled substances on the object.
6. Direct or circumstantial evidence of the intent of an owner or person in control of the object, to deliver it to a person, the owner or person in control of the object knows or should reasonably know, intends to use the object to facilitate a violation of the Uniform Controlled Substances Act. The innocence of an owner or person in control of the object as to a direct violation of the Uniform Controlled Substances Act shall not prevent a finding that the object is intended for use as drug paraphernalia.
7. Oral or written instructions provided with the object concerning its use.
8. Descriptive materials accompanying the object which explain or depict its use.
9. National and local advertising concerning the object's use.
10. The manner in which the object is displayed for sale.
11. Whether the owner or person in control of the object is a legitimate supplier of similar or related items to the community, such as a distributor or dealer of tobacco products.
12. Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise.
13. The existence and scope of legitimate uses for the object in the community.
14. Expert testimony concerning the object's use.
15. Any evidence that alleged paraphernalia can or has been used to store a controlled substance or to introduce a controlled substance into the human body as opposed to any legitimate use for the alleged paraphernalia.
16. 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.

The fact that the 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.

D. Sale and Display Prohibited.

1. It shall be unlawful for any person, firm or corporation to sell, offer to sell, dispense, give away or display any instrument or simulated controlled substance or simulated drug in or upon any premises which:

a. Are premises open to minors;
b. Are places of display; or
c. Are in close proximity to a school.

Provided, however, that display of any such items at a place of display for educational or scientific purposes shall not be unlawful.

2. A violation of Section 9.17.030 D. is declared to be a public nuisance and shall be subject to abatement as provided by law.

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

1. Any simulated controlled substances; or
2. Any drug paraphernalia to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Act.
3. Any drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, sell or distribute a controlled substance is a violation of the Uniform Controlled Substance Act.
4. Upon a conviction, plea of no contest or guilty for violation of this section by a person 18 or more years of age, but less than 21 years of age, the municipal judge shall order such person 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 that statute for such evaluation. If the judge finds that person is indigent, the fee may be waived. Violation of E. 1. and E. 2. is a Class A Public Offense. Violation of E. 3. is a Class A Public Offense if it involves the possession of drug paraphernalia for the planting, propagation, growing or harvesting of less than five (5) marijuana plants.

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

1. Any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of K.S.A. 65- 416, and amendments thereto. Violation of this section is a Class A Public Offense.

G. No person shall place or cause to be placed in any newspaper, magazine, handbill or other publication distributed in this state, or received by mail in this state, any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of:

1. A simulated controlled substance; or
2. objects designed or intended for use as drug paraphernalia.

H. No person shall knowingly deliver or cause to be delivered in this City any substance which is not a controlled substance:

1. Upon an express representation that the substance is a controlled substance or that the substance is of such nature or appearance that the recipient will be able to distribute the substance as a controlled substance;
2. Under circumstances which would give a reasonable person reason to believe that the substance is a controlled substance; or
3. If any one of the following factors is established, there shall be a presumption that delivery of a substance was under circumstances which would give a reasonable person to believe that a substance is a controlled substance:

a. The substance was packaged in a manner normally used for the illegal delivery of controlled substances.
b. The delivery of the substance included an exchange of or demand for money or other consideration for delivery of the substance, and the amount of the consideration was substantially in excess of the reasonable value of the substance.
c. The physical appearance of the capsule or other material containing the substance is substantially identical to a specific controlled substance.

4. This section shall not control if any person 18 or more years of age who violates this section by delivering or causing to be delivered in this state a substance to a person under 18 years of age and who is at least three years older than the person under 18 years of age to whom the delivery is made.

5. Violation of this section is a Class A Public Offense. (Ord. 12-38 § 12, 2012; Ord. 09-59 § 11, 2009; Ord. 06-71 § 12, 2006; Ord. 89-151 § 8, 1990; Ord. 87-149 § 12, 1987.)

9.17.040 Inhalation of Certain Elements.

A. It shall be unlawful for any person within the City limits to:

1. Smell or inhale the Toxic Vapors from any elements, compounds or combinations of both elements and compounds as defined in subsection B of this section, for the purpose of causing a condition of euphoria, exhilaration, intoxication, hallucination, inebriation, excitement, stupefaction or the dulling of the brain or nervous systems;
2. Use or possess for the purpose of using any of the elements, compounds or combination of both elements and compounds as defined in subsection B of this section;
3. Sell, give or offer to sell or give to any other person any of the elements, compounds or combinations of both elements and compounds as defined in subsection B of this section if the person has knowledge that the product sold, given or offered to be sold or given will be used for the purpose set forth in 9.17.040 A 1;
4. Nothing in this section shall be interpreted as applying to the inhalation of any anesthesia or other substances for medical or dental purposes as prescribed or administered by duly authorized personnel.

B. For purposes of this section, elements, compounds or combinations of both elements and compounds shall be defined as any material in a liquid, solid or gaseous state, which contains one or more of the following chemical materials: Hydrocarbons, to include but not limited to: propane, benzene, or toluene; alcohols, to include but not limited to: methyl, ethyl, isopropyl, proyl, or butyl; volatile esters, to include but not limited to: ethyl, acetate, butyl acetate, amyl acetate, ketones, to include but not limited to: acetone, methyl ethyl ketone, methyl isobutyl keotone; halogenated hydrocarbons, to include but not limited to: chloroform, ethylene dichloride, Freon, including Freon 11 and Freon 12; halogenated derivatives of hydrocarbons, to include but not limited to pentachlorophenol; aliphatic acetates, including but not limited to ethyl, methyl, propyl or methyl cellosolve acetate; ethers, to include but not limited to ethyl ethers; carbon tetrachloride; cyclohexane; hexane; naptha; perchlorethylene; trichlorethylene; xylene and any elements, compounds or combination of both elements and compounds that produce a condition of intoxication, hallucination, inebriation, excitement, stupefaction or the dulling of his brain or nervous system.

C. In a prosecution for a violation of this section, evidence that a container lists one or more of the substances described in subsection B as one of the ingredients shall be prima facie evidence that the substance in such container contains toxic vapors.

D. Penalty: Upon a conviction, plea of no contest or guilty for violation of this section, the municipal judge shall order such person 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 that statute for such evaluation. A diversion agreement based upon a violation of this section shall also require a person 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 that statute for such evaluation.

E. Any person who violates this section shall be guilty of a Class B Public Offense. (Ord. 09-59 § 12, 2009; Ord. 99-24 § 34, 1999)

9.17.050 Unlawfully Obtaining a Prescription-Only Drug.

A. Unlawfully obtaining a prescription-only drug is:

1. Making, altering or signing of a prescription order by a person other than a practitioner or mid-level practitioner;
2. Distribution of a prescription order, knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner;
3. Possession of a prescription order with intent to distribute it and knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner;
4. Possession of a prescription-only drug knowing it to have been obtained pursuant to a prescription order made, altered or signed by a person other than a practitioner or a mid-level practitioner; or
5. Providing false information to a practitioner or mid-level practitioner for the purpose of obtaining a prescription-only drug.

B. As used in this Section:

1. Pharmacist, practitioner, mid-level practitioner and prescription-only drug shall have the meanings ascribed thereto by K.S.A. 65-1626 and amendments thereto.
2. Prescription order means a written, oral or telephone order for a prescription-only drug to be filled by a pharmacist. Prescription order does not mean a drug dispensed pursuant to such an order.

3. "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" includes, but is not limited to, sale, offer for sale or any act that causes some item to be transferred from one person to another. "Distribute" 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.

4. "Drug" means:

a. Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them;

b. substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals;

c. substances, other than food, intended to affect the structure or any function of the body of man or animals; and

d. substances intended for use as a component of any article specified in subparagraph a., b. or c. It does not include devices or their components, parts or accessories.

C. The provisions of this Section shall not be applicable to prosecutions involving prescription-only drugs which could be brought under the Uniform Controlled Substances Act and to which the provisions of K.S.A. 65-4127a or 65-4127b, or K.S.A. Supp. 65-4160 through 65-4164 and amendments thereto, would be applicable. (K.S.A. Supp. 21-5708)

D. Unlawfully obtaining a prescription-only drug is a Class A Public Offense for the first offense. (Ord. 15-66 § 28, 2015; Ord. 12-38 § 16, 2012.)

CHAPTER 9.18

CLASSIFICATION OF PUBLIC OFFENSES AND PENALTIES

Sections:

9.18.010 Classification of Public Offenses; Terms of Confinement and Fines.

9.18.010 Classification of Public Offenses; Terms of Confinement and Fines.

A. For the purpose of sentencing, the following classes of public offenses and penalties authorized for each class are established:

1. Class A, the sentence for which shall be a definite term of confinement in jail which shall be fixed by the court and shall not exceed one year (365 days), or a fine not to exceed Two Thousand, Five Hundred Dollars ($2,500.00), or both;
2. Class B, the sentence for which shall be a definite term of confinement in jail which shall be fixed by the court and shall not exceed One Hundred Eighty (180) days, or a fine not to exceed One Thousand Dollars ($1,000.00), or both;
3. Class C, the sentence for which shall be a definite term of confinement in jail which shall be fixed by the court and shall not exceed thirty (30) days, or a fine not to exceed Five Hundred Dollars ($500.00), or both.
4. Unclassified Public Offenses, which shall include all offenses declared to be public offenses without specification as to class, the sentence for which shall be in accordance with the sentence specified in the ordinance section that defines the public offense; if no penalty is provided in such section, the sentence shall be a definite term of confinement in jail which shall not exceed One Hundred Eighty (180) days, or a fine not to exceed Five Hundred Dollars ($500.00), or both. (Ord. 15-24 § 9, 2015; Ord. 97-11 § 1, 1997; Ord. 83-75 § 2, 1983.)

CHAPTER 9.19

PUBLIC SAFETY PROCEDURE

Sections:

9.19.010 Criminal Identification.

9.19.010 Criminal Identification.

(1) The Police Department shall cause, make, maintain, file and report fingerprint impressions as authorized and required by K.S.A. 21-2501 and amendments thereto, and for violations of city ordinances which prohibit the same or similar acts as authorized and required by K.S.A. 21-2501, K.S.A. 12-4106 and amendments thereto.

(2) The Police Department may upon arrest of any person or persons wanted for the commission of a Class A Public Offense cause fingerprint impressions and photographs to be made of such person or persons which shall be filed with a comprehensive description and such other data and information as may be necessary to properly identify such person or persons, maintained in the Police Department of this city. The aforementioned criminal identification fingerprint impressions, photographs, description or other data may be used only for the purpose of criminal identification and investigation by members of the Olathe Police Department, in accordance with federal and state enactments controlling dissemination of criminal history and identification data. (Ord. 95-48 § 1, 1995; Ord. 93-09 § 36, 1993; Ord. 83-75 § 2, 1983.)

CHAPTER 9.20

AUTHORIZED DISPOSITIONS

Sections:

9.20.010 Diversion; Definitions.
9.20.020 Diversion Agreements Authorized; Policies and Guidelines by Prosecuting Attorney.
9.20.025 Municipal Court Diversion; Factors to Consider; When Prohibited.
9.20.030 Provision of Diversion Agreement; Waiver of Certain Rights; Effect of Failure to Fulfill or Accept Agreement; Duties of City Attorney and Division of Vehicles.
9.20.040 Failure to Fulfill Diversion Agreement; Satisfactory Fulfillment; Records.

9.20.010 Diversion; Definitions.

(1) "Prosecuting Attorney" means any attorney representing the City of Olathe in criminal proceedings in the municipal court or upon appeal taken therefrom.

(2) "Complaint" means complaint, citation or notice to appear.

(3) "Diversion" means referral of a defendant in a criminal case to a supervised performance program prior to adjudication.

(4) "Diversion Agreement" means the specification of formal terms and conditions which a defendant must fulfill in order to have the charges against him or her dismissed. (Ord. 89-151 § 9, 1990; Ord. 83-75 § 2, 1983.)

9.20.020 Diversion Agreements Authorized; Policies and Guidelines by Prosecuting Attorney.

(1) After a complaint has been filed in the municipal court charging a defendant with commission of a public or traffic offense and prior to conviction thereof, after the city prosecutor has considered the factors listed in Municipal Code Section 9.20.025, if it appears that diversion of the defendant would be in the interests of justice and of benefit to the defendant and the community, the prosecuting attorney may offer, in his discretion, a Diversion Agreement to the defendant.

(2) The eligibility criterion and terms of each Diversion Agreement shall be established by the Olathe prosecuting attorney.

(3) The prosecuting attorney may require any defendant requesting diversion to provide information regarding prior criminal charges, education, work experience and training, family, residence in the community, medical history, including any psychiatric or psychological treatment or counseling, and other information relating to the diversion program. In all cases, the defendant shall be present and shall have the right to be represented by counsel during any diversion conference with the prosecuting attorney.

(4) As used in this section, "complaint" includes a citation or notice to appear. (Ord 89-151 § 10, 1990; Ord. 83-75 § 2, 1983.)

9.20.025 Municipal Court Diversion; Factors to Consider; When Prohibited.

A. In determining whether diversion of a defendant is in the interests of justice and of benefit to the defendant and the community, the City Attorney shall consider at least the following factors among all factors considered:

1. The nature of the crime charged and the circumstances surrounding it;
2. any special characteristics or circumstances of the defendant;
3. whether the defendant is a first-time offender of an alcohol related offense and if the defendant has previously participated in diversion, according to the certification of the division of vehicles of the State Department of Revenue;
4. whether there is a probability that the defendant will cooperate with and benefit from diversion;
5. whether there is a probability that the defendant committed such crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder or traumatic brain injury, connected to service in a combat zone, as defined in section 112 of the federal internal revenue code of 1986, in the armed forces of the United States of America;
6. if subsection A.5. applies to the defendant, whether there is a probability that the defendant will cooperate with and benefit from inpatient or outpatient treatment from any treatment facility or program operated by the United States department of defense, the United States department of veterans affairs or the Kansas national guard with the consent of the defendant, as a condition of diversion;
7. whether the available diversion program is appropriate to the needs of the defendant;

8. the impact of the diversion of the defendant upon the community;
9. recommendations, if any, of the involved law enforcement agency;
10. recommendations, if any, of the victim;
11. provisions for restitution; and
12. any mitigating circumstances.

B. A City Attorney shall not enter into a diversion agreement in lieu of further criminal proceedings on a complaint alleging an alcohol related offense if the defendant:

1. Has previously participated in diversion of an alcohol related offense;
2. has previously been convicted of or pleaded nolo contendere to an alcohol related offense in this state or has previously been convicted of or pleaded nolo contendere to a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2015 Supp. 8-1025, and amendments thereto or of a law of another state, or of a political subdivision thereof, which prohibits the acts prohibited by those statutes; or
3. during the time of the alleged alcohol related offense was involved in a motor vehicle accident or collision resulting in personal injury or death. (Ord. 16-26 § 1, 2016; Ord. 13-33 § 6, 2013; Ord. 89-151 § 11, 1990.)

9.20.030 Provision of Diversion Agreement; Waiver of Certain Rights; Effect of Failure to Fulfill or Accept Agreement; Duties of City Attorney and Division of Vehicles.

(1) A diversion agreement shall provide that if the defendant fulfills the obligations of the program described therein, as determined by the City Attorney, the City Attorney shall act to have the criminal charges against the defendant dismissed with prejudice. The diversion agreement shall include specifically the waiver of all rights under the law or the Constitution of Kansas or of the United States to counsel, a speedy arraignment, a speedy trial, and the right to trial by jury. The diversion agreement may include, but is not limited to, provisions concerning payment of restitution, including court costs and diversion costs, residence in a specified facility, maintenance or gainful employment, and participation in programs offering medical, educational, vocational, social and psychological services, corrective and preventive guidance and other rehabilitative services. The diversion agreement shall state:

(a) The defendant's full name;
(b) The defendant's full name at the time the complaint was filed, if different from the defendant's current name;
(c) The defendant's sex, race and date of birth;
(d) The crime with which the defendant is charged;
(e) The date the complaint was filed; and
(f) The municipal court with which the agreement is filed.

(2) If a diversion agreement is entered into in lieu of further criminal proceedings on a complaint alleging an alcohol related offense, the diversion agreement shall include a stipulation, agreed to by the defendant and the City Attorney, of the facts upon which the charge is based and a provision that if the defendant fails to fulfill the terms of the specific diversion agreement and the criminal proceedings on the complaint are resumed, the proceedings, including any proceedings on appeals, shall be conducted on the record or the stipulation of facts relating to the complaint. In addition, the agreement shall include a requirement that the defendant:

(a) Pay a fine specified by the agreement in an amount equal to an amount authorized by K.S.A. 8-1567, and amendments thereto, for a first offense or, in lieu of payment of the fine, perform community service specified by the agreement, consistent with K.S.A. 8-1567, and amendments thereto; and
(b) enroll in and successfully complete an alcohol and drug safety action program or a treatment program, or both, as provided in K.S.A. 8-1008, and amendments thereto, and specified by the agreement, and pay the assessment required by K.S.A. 8-1008, and amendments thereto.

(3) If the person entering into a diversion agreement is a nonresident, the City Attorney shall transmit a copy of the diversion agreement to the division. The division shall forward a copy of the diversion agreement to the motor vehicle administrator of the person's state of residence.

(4) If the City Attorney elects to offer diversion in lieu of further criminal proceedings on the complaint and the defendant agrees to all of the terms of the proposed agreement, the diversion agreement shall be filed with the Municipal Court and the Municipal Court shall stay further proceedings on the complaint. If the defendant declines to accept diversion, the Municipal Court shall resume the criminal proceedings on the complaint.

(5) The City Attorney shall forward to the Division of Vehicles of the State Department of Revenue a copy of the diversion agreement at the time such agreement is filed with the Municipal Court. The copy of the agreement shall be made available upon request to any county, district or city attorney or court. (Ord. 93-09, § 37, 1993; Ord. 89-151 § 12, 1990; Ord. 83-75 § 2, 1983.)

9.20.040 Failure to Fulfill Diversion Agreement; Satisfactory Fulfillment; Records.

(1) If the city prosecutor finds at the termination of the diversion period or any time prior thereto or within ninety (90) days after the end of the termination of the diversion period that the defendant has failed to fulfill the terms of the specific diversion agreement, the prosecuting attorney shall inform the municipal court of such finding and the municipal court, after finding probable cause that the defendant has failed to fulfill the terms of the specific diversion agreement at a hearing thereon, shall resume the criminal proceedings on the complaint.

(2) If the defendant has fulfilled the terms of the diversion agreement, the municipal court shall dismiss with prejudice the criminal charges filed against the defendant.

(3) The city attorney shall forward to the division of vehicles of the State Department of Revenue a record of the fact that a defendant did or did not fulfill the terms of a diversion agreement required to be filed under subsection (d) of K.S.A. 12-4416 and amendments thereto. Such record shall be made available to any county, district or city attorney or court.

(4) A record of the fact that an individual is and has participated in diversion shall be forwarded to the Olathe Police Department. (Ord 89-151 § 13, 1990; Ord. 83-75 § 2, 1983.)

CHAPTER 9.21

SEVERABILITY AND REPEAL

Sections:

9.21.010 Severability.
9.21.020 Previous Violations; Affect of Repeal.

9.21.010 Severability. If any provision of this title or public offense code is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the code and the applicability thereof to other persons and circumstances shall not be affected thereby. (Ord. 83-75 § 2, 1983.)

9.21.020 Previous Violations; Affect of Repeal. Repeal of prior public offense ordinance, codes or code sections does not affect or bar prosecution for offenses under the repealed sections, committed while the said sections were in force. A public offense committed while an ordinance section creating it was in force is not affected by the repeal of such ordinance section; the violation may be dealt with and punished in all respects as if the ordinance section had remained in full force. (Ord. 83-75 § 2, 1983.)

CHAPTER 9.25

AUTOMATIC ALARM SYSTEMS

Sections:

9.25.010 Definitions
9.25.020 Registration Required; Application Fee; Transferability; False Statements
9.25.030 Alarm Registration Duration and Renewal
9.25.040 Duties of the Alarm User
9.25.050 Duties of Alarm Installation Company and Monitoring Company
9.25.060 Duties and Authority of the Alarm Administrator
9.25.070 False Alarms, Fees Required
9.25.080 Notification
9.25.090 Suspension of Response
9.25.100 Appeals
9.25.110 Reinstatement
9.25.120 Penalty
9.25.130 Government Immunity
9.25.140 Severability

9.25.010 Definitions. In this ordinance, the following terms and phrases shall have the following meanings:

(A) Alarm Administrator means a Person or Persons designated by the governing authority to administer, control and review False Alarm reduction efforts and administer the provisions of this ordinance.

(B) Alarm Installation Company means a Person in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing an Alarm System in an Alarm Site.

(C) Alarm Dispatch Request means a notification to a law enforcement agency that an alarm, either manual or automatic, has been activated at a particular Alarm Site.

(D) Alarm Registration (or Permits) means an authorization granted by the Alarm Administrator to an Alarm User to operate an Alarm System.

(E) Alarm Site means a single fixed premise or location served by an Alarm System or Systems. Each unit, if served by a separate Alarm System in a multi-unit building or complex, shall be considered a separate Alarm Site.

(F) Alarm System means a device or series of devices, including, but not limited to, hardwired systems and systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual or electronic signal indicating an alarm condition and intended to summon law enforcement response, including Local Alarm Systems. Alarm System does not include an alarm installed in a vehicle or on someone's Person unless the vehicle or the personal alarm is permanently located at a site.

(G) Alarm User means any Person who (which) has contracted for Monitoring, repair, installation or maintenance service from an Alarm Installation Company or Monitoring Company for an alarm system, or who (which) owns or operates an Alarm System which is not monitored, maintained or repaired under contract.

(H) Alarm User Awareness Class means a class conducted for the purpose of educating Alarm Users about the responsible use, operation, and maintenance of Alarm Systems and the problems created by False Alarms.

(I) Arming Station means a device that allows control of an Alarm System.

(J) Automatic Voice Dialer means any electrical, electronic, mechanical, or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio or other communication system, to a law enforcement, public safety or emergency services agency requesting dispatch.

(K) Cancellation means the process where response is terminated when a Monitoring Company (designated by the Alarm User) for the Alarm Site notifies the responding law enforcement agency that there is not an existing situation at the Alarm Site requiring law enforcement agency response after an alarm dispatch request.

(L) Conversion means the transaction or process by which one Alarm Installation Company or Monitoring Company begins the servicing and/or Monitoring of a previously unmonitored Alarm System or an Alarm System previously serviced and/or monitored by another alarm company.

(M) Duress Alarm means a silent Alarm System signal generated by the entry of a designated code into an Arming Station in order to signal that the Alarm User is being forced to turn off the system and requires law enforcement response.

(N) False Alarm means an Alarm Dispatch Request to a law enforcement agency, when the responding law enforcement officer finds no evidence of a criminal offense or attempted criminal offense after having completed a timely investigation of the Alarm Site.

(O) Holdup Alarm means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

(P) Law Enforcement Authority means the Chief of Police or other authorized representative of the Olathe Police Department.

(Q) Local Alarm System means any Alarm System, which is not monitored, that annunciates an alarm only at the Alarm Site.

(R) Monitoring means the process by which a Monitoring Company receives signals from an Alarm System and relays an Alarm Dispatch Request to the municipality for the purpose of summoning law enforcement to the Alarm Site.

(S) Monitoring Company means a Person in the business of providing Monitoring services.

(T) One Plus Duress Alarm means the manual activation of a silent alarm signal by entering at an Arming Station a code that adds one (1) to the last digit of the normal arm/disarm code (e.g., normal code = 1234, One Plus Duress Code = 1235).

(U) Panic Alarm means an audible Alarm System signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring law enforcement response.

(V) Person means an individual, corporation, partnership, association, organization or similar entity.

(W) Responder means an individual capable of reaching the Alarm Site within twenty (20) minutes and having access to the Alarm Site, the code to the Alarm System and the authority to approve repairs to the Alarm System.

(X) SIA Control Panel Standard CP-01 means the ANSI – American National Standard Institute approved Security Industry Association – SIA CP-01 Control Panel Standard, as may be updated from time to time, that details recommended design features for security system control panels and their associated arming and disarming devices to reduce the incidence of False Alarms. Control panels built and tested to this standard by Underwriters Laboratory (UL), or other nationally recognized testing organizations, will be marked to state: "Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction".

(Y) Takeover means the transaction or process by which an Alarm User takes over control of an existing Alarm System, which was previously controlled by another Alarm User.

(Z) Verify means an attempt by the Monitoring Company, or its representative, to contact the Alarm Site and/or Alarm User by telephone and/or other electronic means, whether or not actual contact with a Person is made, to determine whether an alarm signal is valid before requesting law enforcement dispatch, in an attempt to avoid an unnecessary Alarm Dispatch Request. For the purpose of this ordinance, telephone verification shall require, as a minimum that a second call be made to a different number if the first attempt fails to reach an Alarm User who can properly identify themselves to determine whether an alarm signal is valid before requesting law enforcement dispatch.

(AA) Zones mean division or devices into which an Alarm System is divided to indicate the general location from which an Alarm System signal is transmitted. (Ord. 05-154 § 2, 2005; Ord. 94-04 § 2, 1994; Ord. 84-46 § 1, 1984.)

9.25.020 Registration Required; Application; Fee; Transferability; False Statements.

A. It shall be unlawful for an Alarm User to operate, or cause to be operated, an Alarm System at its Alarm Site without a valid Alarm Registration. A separate Alarm Registration is required for each Alarm Site.

B. There is no fee to process an Alarm Registration application or renewal.

C. Upon receipt of a completed Alarm Registration application form the Alarm Administrator shall register the applicant unless the applicant has:

1. Failed to pay a fine or fee assessed pursuant to Section 9.25.070; or
2. Had an alarm registration for the Alarm Site suspended or revoked, and the violation causing the suspension or revocation has not been corrected.

D. Each Alarm Registration application must include the following information:

1. The name, complete address (including apartment/suite number), and telephone numbers of the Person who will be the registration holder and be responsible for the proper maintenance and operation of the Alarm System and payment of fees assessed under this chapter;
2. The classification of the Alarm Site as either residential (includes apartment, condominium, mobile home, etc.) or commercial;
3. For each Alarm System located at the Alarm Site, the classification of the Alarm System (i.e. burglary, Holdup, Duress, Panic Alarms or other) and for each classification whether such alarm is audible or silent;
4. Mailing address, if different from the address of the Alarm Site;
5. Any dangerous or special conditions present at the Alarm Site;
6. Names and telephone numbers of at least two individuals who are able and have agreed to:

a. Receive notification of an Alarm System activation at any time;
b. Respond to the Alarm Site within twenty (20) minutes at any time; and
c. Upon request, can grant access to the Alarm Site and deactivate the Alarm System, if necessary;

7. Type of business conducted at a commercial Alarm Site;
8. Signed certification from the Alarm User stating the following:

a. The date of Installation, Conversion or Takeover of the Alarm System, whichever is applicable;
b. The name, address, and telephone number of the Alarm Installation Company or companies performing the Alarm System Installation, Conversion or Takeover and of the Alarm Installation Company responsible for providing repair service to the Alarm System;
c. The name, address, and telephone number of the Monitoring Company, if different from the Alarm Installation Company;
d. That a set of written operating instructions for the Alarm System, including written guidelines on how to avoid False Alarms, have been left with the applicant by the Alarm Installation Company; and
e. That the Alarm Installation Company has trained the applicant in proper use of the Alarm System, including instructions on how to avoid False Alarms.

9. That law enforcement response may be influenced by factors including, but not limited to the availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels, etc.

E. Any false statement of a material fact made by an applicant for the purpose of obtaining an alarm registration shall be sufficient cause for refusal to issue a registration.

F. An Alarm Registration cannot be transferred to another Person or Alarm Site. An Alarm User shall inform the Alarm Administrator of any change that alters any of the information listed on the Alarm Registration application within five (5) business days of such change.

G. All fines and fees owed by an applicant must be paid before an Alarm Registration may be issued or renewed. (Ord. 10-38 § 1, 2010; Ord. 05-154 § 2, 2005.)

9.25.030 Alarm Registration Duration and Renewal. An Alarm Registration shall be granted for the calendar year for which issued and will expire on December 31st of each calendar year. It must be renewed each calendar year by submitting an updated application. The Alarm Registration shall only be valid for the remainder of the calendar year issued. The Alarm Administrator shall notify each Alarm User of the need to renew thirty (30) days prior to the expiration of the registration. It is the responsibility of the Alarm User to submit an application prior to the registration expiration date. Failure to renew will be classified as use of a non-registered Alarm System and citations and penalties shall be assessed without waiver. (Ord. 10-38 § 2, 2010; Ord. 05-154 § 2, 2005.)

9.25.040 Duties of the Alarm User.

(A) An Alarm User shall:

(1) Maintain the Alarm Site and the Alarm System in a manner that will minimize or eliminate False Alarms;
(2) Make every reasonable effort to have a Responder to the Alarm System's location within twenty (20) minutes when requested by the law enforcement agency in order to:

(a) Deactivate an Alarm System;
(b) Provide access to the Alarm Site; and/or
(c) Provide alternative security for the Alarm Site.

(3) Not activate an Alarm System for any reason other than an occurrence of an event that the Alarm System was intended to report.

(B) An Alarm User shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an Alarm Site will sound for no longer than ten (10) minutes after being activated.

(C) An Alarm User shall have an Alarm Installation Company inspect the Alarm System after three (3) False Alarms in a one (1) year period. The Alarm Administrator may waive a required inspection if it determines that a False Alarm(s) could not have been related to a defect or malfunction in the Alarm System. After five (5) False Alarms within a one (1) year period, the Alarm User must have a Alarm Installation Company modify the Alarm System to be more False Alarm resistant or provide additional user training as appropriate.

(D) An Alarm User shall not use Automatic Voice Dialers.

(E) An Alarm User shall maintain at each Alarm Site, a set of written operating instructions for each Alarm System.

(F) It is unlawful to violate the duties of an Alarm User. (Ord. 05-154 § 2, 2005.)

9.25.050 Duties of Alarm Installation Company and Monitoring Company.

(A) The Alarm Installation Company shall provide written and oral instructions to each of its Alarm Users in the proper use and operation of their Alarm Systems. Such instructions will specifically include all instructions necessary to turn the Alarm System on and off and to avoid False Alarms.

(B) Upon the effective date of this ordinance, Alarm Installation Companies shall not program Alarm Systems so that they are capable of sending One Plus Duress Alarms. Monitoring Companies may continue to report One Plus Duress Alarms received from Alarm Systems programmed with One Plus Duress Alarms prior to enactment of this ordinance. However, upon the effective date of this ordinance, when a Takeover or Conversion occurs or if an Alarm User requests an Alarm System inspection or modification pursuant to Section 9.25.040 (C) of this ordinance, an Alarm Installation Company must remove the One Plus Duress Alarm capability from such Alarm Systems.

(C) Upon the effective date of this ordinance, Alarm Installation Companies shall not install a device to activate a Holdup Alarm, which is a single action, non-recessed button.

(D) Ninety (90) days after enactment of this ordinance, the Alarm Installation Companies shall, on new installations, use only alarm control panel(s) which meet SIA Control Panel Standard CP-01.

(E) An alarm company shall not use Automatic Voice Dialers.

(F) After completion of the installation of an Alarm System, an Alarm Installation Company employee shall review with the Alarm User the Customer False Alarm Prevention Checklist.

(G) The Monitoring Company shall not make an Alarm Dispatch Request of a law enforcement agency in response to a burglar alarm signal, excluding Panic, Duress and Holdup signals, during the first seven (7) days following an Alarm System installation. The Alarm Administrator may grant an Alarm User's request for an exemption from this waiting period based upon a determination that special circumstances substantiate the need for the exemption.

(H) A Monitoring Company shall:

(1) Report alarm signals by using telephone numbers designated by the Alarm Administrator;

(2) Verify every alarm signal, except Duress or Holdup Alarm activation, before requesting a law enforcement response to an Alarm System signal;

(3) Communicate Alarm Dispatch Requests to the municipality;

(4) Communicate Cancellations to the municipality;

(5) Ensure that all Alarm Users of the Alarm Systems equipped with a Duress, Holdup or Panic Alarm are given adequate training as to the proper use of the Duress, Holdup or Panic Alarm;

(6) Communicate any available information (north, south, front, back, etc.) about the location on all alarm signals related to the Alarm Dispatch Request;

(7) Communicate type of alarm activation (silent or audible, interior or perimeter);

(8) Provide an Alarm User registration number when requesting law enforcement dispatch;

(9) After an Alarm Dispatch Request, promptly advise the law enforcement agency if the Monitoring Company knows that the Alarm User or the Responder is on the way to the Alarm Site:

(10) Attempt to contact the Alarm User or Responder within twenty four (24) hours via fax, telephone or other electronic means when an Alarm Dispatch Request is made; and

(11) Upon the effective date of this ordinance, Monitoring Companies must maintain for a period of at least one (1) year from the date of the Alarm Dispatch Request, records relating to Alarm Dispatch Requests. Records must include the name, address and telephone number of the Alarm User, the Alarm System Zone(s) activated, the time of Alarm Dispatch Request and evidence of an attempt to Verify. The Alarm Administrator may request copies of such records for individually named Alarm Users. If the request is made within sixty (60) days of an Alarm Dispatch Request, the Monitoring Company shall furnish requested records within three (3) business days of receiving the request. If the records are requested between sixty (60) days to one (1) year after an Alarm Dispatch Request, the Monitoring Company shall furnish the requested records within thirty (30) days of receiving the request.

(I) An Alarm Installation Company and/or Monitoring Company that purchases Alarm System accounts from another Person shall notify the Alarm Administrator of such purchase and provide details as may be reasonably requested by the Alarm Administrator. (Ord. 05-154 § 2, 2005.)

9.25.060 Duties and Authority of the Alarm Administrator.

(A) The Alarm Administrator shall:

(1) Designate a manner, form and telephone numbers for the communication of Alarm Dispatch Requests; and

(2) Establish a procedure to accept Cancellation of Alarm Dispatch Requests.

(B) The Alarm Administrator shall establish a procedure to record such information on Alarm Dispatch Requests necessary to permit the Alarm Administrator to maintain records, including, but not limited to, the information listed below.

(1) Identification of the registration number for the Alarm Site;
(2) Identification of the Alarm Site;
(3) Date and time Alarm Dispatch Request was received, including the name of the Monitoring Company and the Monitoring operator name or number;
(4) Date and time of law enforcement officer arrival at the Alarm Site;
(5) Zone and Zone description, if available;
(6) Weather conditions;
(7) Name of Alarm User's representative at Alarm Site, if any;
(8) Identification of the responsible Alarm Installation Company or Monitoring Company;
(9) Whether law enforcement officer was unable to locate the address of the Alarm Site;
(10) Cause of alarm signal, if known.

(C) The Alarm Administrator shall establish a procedure for the notification to the Alarm User of a False Alarm. The notice shall include the following information:

(1) The date and time of law enforcement response to the False Alarm;
(2) The identification number of the responding law enforcement officer;
(3) A statement urging the Alarm User to ensure that the Alarm System is properly operated, inspected, and serviced in order to avoid False Alarms and resulting fines.

(D) The Alarm Administrator may require a conference with an Alarm User and the Alarm Installation Company and/or Monitoring Company responsible for the repair or monitoring of the Alarm System to review the circumstances of each False Alarm.

(E) The Alarm Administrator may create and implement an Alarm User Awareness Class. The Alarm Administrator may request the assistance of Association, alarm companies and law enforcement agencies in developing and implementing the class. The class shall inform Alarm Users of the problems created by False Alarms and teach Alarm Users how to avoid generating False Alarms.

(F) The Alarm Administrator may require an Alarm User to remove a Holdup Alarm that is a single action, non-recessed button, if a False Holdup Alarm has occurred.

(G) The Alarm Administrator will make a copy of this ordinance and/or an ordinance summary sheet available to the Alarm User. (Ord. 05-154 § 2, 2005.)

9.25.070 False Alarms, Fines Required.

(A) Any Alarm User which has recorded more than one (1) False Alarm within a calendar year will be subject to False Alarm fees. The fees of this section shall be adopted by resolution of the Governing Body.

(B) In addition, any Person operating a non-registered Alarm System will be subject to a fee for each False Alarm in addition to any other fines or fees. The Alarm Administrator may waive this additional fee for a non-registered system if the Alarm User submits an application for Alarm Registration within ten (10) days after notification of such violation.

(C) An Alarm User may have the option of attending an Alarm User Awareness Class in lieu of paying one prescribed fee per calendar year.

(D) If Cancellation occurs prior to law enforcement arriving at the scene, this is not a False Alarm for the purpose of fee, and no fee will be assessed.

(E) The Alarm Installation Company shall be assessed a fee if the officer responding to the False Alarm determines that an on-site employee of the Alarm Installation Company directly caused the False Alarm. In this situation, the False Alarm will not be counted against the Alarm User.

(F) The Monitoring Company shall be issued a fee for each failure to Verify Alarm System signals as specified in Section 9.25.050.

(G) The Alarm Installation Company shall be issued a fee if the Alarm Administrator determines that an Alarm Installation Company employee knowingly made a false statement concerning the inspection of an Alarm Site or the performance of an Alarm System.

(H) Notice of the right of appeal under this ordinance will be included with any fines or fees.

(I) Failure of an Alarm User to appeal a fee assessment as provided in Section 9.25.070 or to otherwise satisfy the fee assessment as required in Section 9.25.070 of this chapter shall create a prima facie case that the alarm signal at issue is a False Alarm and that such Alarm User is in violation of this chapter.

(J) Failure to pay False Alarm fees is a violation of this chapter. Nothing contained in this section shall prohibit prosecution in Municipal Court for violation of any sections of this chapter and assessment of any and all other penalties as provided by law. (Ord. 05-154 § 2, 2005.)

9.25.080 Notification.

(A) The Alarm Administrator shall notify the Alarm User in writing after each False Alarm.

(1) The notification shall include the amount of the fee for the False Alarm;
(2) Notice that the Alarm User can attend Alarm User Awareness Class to waive a fee;
(3) The fact that response will be suspended after the tenth (10th) False Alarm, excluding Duress, Holdup and Panic Alarms; and
(4) A description of the appeals procedure available to the Alarm User.

(B) The Alarm Administrator will notify the Alarm User and the Alarm Installation Company or Monitoring Company in writing after alarm response has been suspended, except to Duress, Holdup and Panic Alarms. This notice of suspension will also include the amount of the fine for each False Alarm and a description of the appeals procedure available to the Alarm User and the Alarm Installation Company or Monitoring Company. (Ord. 05-154 § 2, 2005.)

9.25.090 Suspension of Response.

A. The Alarm Administrator may suspend law enforcement response to an Alarm Site by revoking the Alarm Registration if it is determined that:

1. The Alarm User has ten (10) or more False Alarms in a calendar year;
2. There is a statement of a material fact known to be false in the application for a registration;
3. The Alarm User has failed to make timely payment within thirty (30) days of a fee assessed under Section 9.25.070; or
4. The Alarm User has failed to submit a written certification from an Alarm Installation Company that complies with the requirements of this chapter, stating that the Alarm System has been inspected and repaired (if necessary) and/or additional training has been conducted by the Alarm Installation Company.

B. A Person commits an offense if he/she operates an Alarm System during the period in which the alarm registration is revoked and is subject to enforcement and penalties set forth in Section 9.25.070. A Monitoring Company commits an offense if it continues Alarm Dispatch Requests to an Alarm Site after notification by the Alarm Administrator that the registration has been revoked and is subject to enforcement and penalties set forth in Section 9.25.070.

C. Unless there is separate indication that there is a crime in progress, the Law Enforcement Authority will refuse law enforcement response to an Alarm Dispatch Request at an Alarm Site for which the Alarm Registration is revoked. (Ord. 10-38 § 3, 2010; Ord. 05-154 § 2, 2005.)

9.25.100 Appeals.

(A) If the Alarm Administrator assesses a fine or denies the issuance, renewal or reinstatement of an Alarm Registration, the Alarm Administrator shall send written notice of the action and a statement of the right to an appeal to either the affected applicant or Alarm User and the Alarm Installation Company and/or Monitoring Company.

(B) The Alarm User, Alarm Installation Company or Monitoring Company may appeal an assessment of a fine for the revocation of an Alarm Registration to the Alarm Administrator by setting forth in writing the reasons for the appeal within fifteen (15) business days after receipt of the fine or notice of revocation.

(C) The Alarm User or the Alarm Installation Company or Monitoring Company may appeal the decision of the Alarm Administrator to the Law Enforcement Authority as follows:

(1) The applicant, Alarm User, Alarm Installation Company or the Monitoring Company may file a written request for a review setting forth the reasons for the appeal within twenty (20) business days after the date of notification of the decision from the Alarm Administrator.

(2) The Law Enforcement Authority shall conduct a formal hearing within thirty (30) days of the receipt of the request and consider the evidence by any interested Person(s). The Law Enforcement Authority shall make its decision on the basis of the preponderance of evidence presented at the hearing. The Law Enforcement Authority must render a decision within fifteen (15) days after the date of the hearing. The Law Enforcement Authority shall affirm or reverse the decision of the Alarm Administrator.

(D) Filing of a request for appeal shall stay the action by the Alarm Administrator revoking an Alarm Registration or requiring payment of a fine, until the Law Enforcement Authority has completed its review. If a request for appeal is not made within the twenty (20) business day period, the action of the Alarm Administrator is final.

(E) Alarm Administrator or Law Enforcement Authority may adjust the count of False Alarms based on:

(1) Evidence that a False Alarm was caused by an act of God;

(2) Evidence that a False Alarm was caused by action of the telephone company;

(3) Evidence that a False Alarm was caused by a power outage lasting longer than four (4) hours;

(4) Evidence that the Alarm Dispatch Request was not a False Alarm; and/or

(5) In determining the number of False Alarms, multiple alarms occurring in any twenty four (24) hour period shall be counted as one False Alarm; to allow the Alarm User time to take corrective action unless the False Alarms are directly caused by the Alarm User.

(F) With respect to the fees of an Alarm Installation Company or Monitoring Company, the Alarm Administrator or Law Enforcement Authority may take into consideration whether the alarm company had engaged in a consistent pattern of violations. (Ord. 05-154 § 2, 2005.)

9.25.110 Reinstatement.

A. A Person whose Alarm Registration has been revoked may, at the discretion of the Alarm Administrator or the Law Enforcement Authority, have the Alarm Registration reinstated by the Alarm Administrator or the Law Enforcement Authority if the Person:

1. Submits a new application;
2. Pays, or otherwise resolves, all outstanding citations and fines; and
3. Submits a certification from an Alarm Installation Company stating that the Alarm System has been inspected and repaired (if necessary) by the Alarm Installation Company;

B. In addition, the Alarm Administrator may require one or more of the following as a condition to reinstatement;

1. Proof that an employee of the Alarm Installation Company or Monitoring Company caused the False Alarm;
2. A certificate showing that the Alarm User has successfully completed the Alarm User Awareness Class as provided pursuant to Section 9.25.060.
3. Upgrade the alarm control panel to meet SIA Control Panel Standard CP-01;
4. A written statement from an Alarm Installation Company that the Alarm System has been inspected and is in good working order.

In the interest of public safety, all information contained in and gathered through the Alarm Registration applications and applications for appeals shall be held in confidence by all employees or representatives of the municipality and by any third-party administrator or employees of a third-party administrator with access to such information. (Ord. 10-38 § 4, 2010; Ord. 05-154 § 2, 2005.)

9.25.120 Penalty. Any person or entity violating any provision of this chapter shall, upon conviction, be punished by a fine of not less than One Hundred Dollars ($100.00) or more than Five Hundred Dollars ($500.00). Each day that any violation occurs or continues constitutes a separate offense. (Ord. 05-154 § 2, 2005; Ord. 94-04 § 2, 1994; Ord. 84-46 § 1, 1984.)

9.25.130 Government Immunity. Alarm Registration is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an Alarm Registration, the Alarm User acknowledges that law enforcement response may be influenced by factors such as: the availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history. (Ord. 05-154 § 2, 2005.)

9.25.140 Severability. The provisions of this ordinance are severable. If a Court determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid or that the application of any part of the provision to any Person or circumstance is invalid, the remaining provisions and the application of those provisions to other Persons or circumstances are not affected by that decision. (Ord. 05-154 § 2, 2005.)

CHAPTER 9.40

MOB ACTION

Sections:

9.40.010 Emergency--Proclamation of Regulations.
9.40.020 Emergency Proclamation--Effective Date.
9.40.030 Emergency Proclamation--Termination.
9.40.040 Emergency--Trespassing on Property Unlawful.

9.40.010 Emergency--Proclamation of Regulations. Whenever, in the judgment of the mayor or, in the event of his or her inability to act, the vice-chairman of the Governing Body, it is determined that an emergency exists, as a result of mob action, civil disobedience, or disaster within the corporate limits of the City of Olathe, Kansas, causing danger of injury to or damage to persons or property, he or she shall have the power to impose by proclamation any or all of the following regulations necessary to preserve the peace and order of the City:

A. To impose a curfew upon all or any portion of the City thereby requiring all persons in such designated curfew areas to forthwith remove themselves, and/or their motor vehicles, from the public streets, alleys, public parking lots, parks or other public places; provided however, that physicians, nurses and ambulance operators preforming medical services, utility personnel maintaining essential public services, firemen and City authorized or requested law enforcement officers and personnel may be exempted from such curfew;

B. To order the closing of any business establishment anywhere within the City for the period of the emergency, such businesses to include, but not be limited to, those selling intoxicating liquors, cereal malt beverages, or gasoline;

C. To designate any public street, thoroughfare or vehicle parking area closed to motor vehicles and pedestrian traffic;

D. To call upon regular, reserve and auxiliary law enforcement agencies and organizations within the City, including the sheriff's department under provisions of mutual emergency police protection compact to assist in preserving and keeping the peace within the City. To request assistance from all law enforcement and related agencies outside the City;

E. That any and all of the regular, reserve and auxiliary law enforcement agencies, organizations and their individual officers shall have the full power and authority to make arrests and to act on behalf of the City in order to enforce the provisions provided for herein and any and all other City ordinances that might be violated as a result of any mob action or other civil disobedience;

F. The mayor is hereby authorized to enter into a mutual emergency police protection compact with any and all governing bodies of Johnson County, Kansas, and any other duly authorized governing body within the Kansas City standard metropolitan area. (Ord. 14-42 § 12, 2014; Ord. 67-C § 1, 1967.)

9.40.020 Emergency Proclamation--Effective Date. The proclamation of emergency provided herein shall become effective upon its issuance and dissemination to the public by appropriate news media, or by posting the proclamation of emergency at three public places within the city limits, or by other means reasonably calculated to inform persons affected. (Ord. 67-C § 2, 1967.)

9.40.030 Emergency Proclamation--Termination. Any emergency proclaimed in accordance with the provisions of this chapter shall terminate after forty-eight hours from the issuance thereof, or upon the issuance of a proclamation determining an emergency no longer exists, whichever occurs first; provided, however, that such emergency may be extended for such additional periods of time as determined necessary by resolution of the Governing Body. (Ord. 67-C § 3, 1967.)

9.40.040 Emergency--Trespassing on Property Unlawful. During the time of an emergency proclaimed by the mayor as provided by this chapter, it shall be unlawful for any person to voluntarily enter into, upon or over any property without the consent of the owner or persons in charge thereof. (Ord. 121-C § 1, 1968.)

CHAPTER 9.42. PUBLIC SAFETY SERVICES. Repealed 2/16/93. (Ord. 93-09 § 38, 1993; Ord. 84-06 § 1, 1984.)

CHAPTER 9.48. CRIMINAL TRESPASS. Repealed 2/16/93. (Ord. 93-09 § 38, 1993; Ord. 114 § 1 & 2, 1972.)

CHAPTER 9.50

ETHNIC INTIMIDATION OR BIAS CRIMES

Sections:

9.50.010 Ethnic Intimidation or Bias Crimes
9.50.020 Penalty
9.50.030 Police Department Record Keeping

9.50.010 Ethnic Intimidation or Bias Crimes.

A. Any person who violates or attempts to violate any of the following ordinances of the City of Olathe Public Offense Code, and any amendments thereto, by reason of any motive or intent relating to, or any antipathy, animosity or hostility based upon, the race, color, sex, religion, national origin, age, ancestry, disability, or handicap of another individual or group of individuals shall be guilty of a public offense:

1. Chapter 9.04, Offenses Against Persons;
2. Chapter 9.11, Offenses Against the Public Peace;
3. Section 9.07.080, Criminal Damage to Property;
4. Section 9.07.090, Criminal Trespass;
5. Section 9.12.020, Criminal Use of Weapons.

B. Any person who, by reason of any motive or intent relating to, or any antipathy, animosity or hostility based upon, the race, color, sex, religion, national origin, age, ancestry, disability, or handicap of another individual or group of individuals knowingly assemble with four or more persons and agree with such persons to violate any of the criminal laws of the state of Kansas or of the United States with force or violence shall be guilty of a public offense. No person may be convicted of subsection B of this section unless an overt act in furtherance of the violation of this section is alleged and proved to have been committed by one of the individuals assembled.

9.50.020 Penalty.

A. Upon a first conviction of a violation of the provisions of this chapter, a person shall be deemed guilty of a Class A Public Offense and shall be punished by a fine of not less than Two Hundred Fifty Dollars ($250.00) nor more than Two Thousand Five Hundred Dollars ($2,500.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

B. On a second or subsequent conviction of a violation of the provisions of this chapter, a person shall be deemed guilty of a Class A Public Offense and shall be sentenced to imprisonment of not less than five (5) days nor more than one (1) year and a fine of not less than Five Hundred Dollars ($500.00) nor more than Two Thousand Five Hundred Dollars ($2,500.00).

9.50.030 Police Department Record Keeping. The Police Department shall, on a quarterly basis, prepare a statistical summary concerning all criminal acts and ordinance violations committed within the City of Olathe during the previous month which there is reason to believe have been committed as a result of any motive or intent relating to any antipathy, animosity or hostility based upon the race, color, sex, religion, national origin, age, ancestry, disability or handicap of an individual or group of individuals. A copy of the summary shall be forwarded to the City Manager. The summary shall not contain the names of persons who are suspected or accused of having committed crimes or ordinance violations.

TITLE 10

VEHICLES AND TRAFFIC

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CHAPTER 10.01

OLATHE TRAFFIC ORDINANCE

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ARTICLE 1. DEFINITIONS

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

ALCOHOLIC BEVERAGE. Any alcoholic liquor, as defined by K.S.A. 41-102 and amendments thereto, or any cereal malt beverage, as defined by K.S.A. 41-2701 and amendments thereto.

ALCOHOL CONCENTRATION. The number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

ALCOHOLIC LIQUOR. 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 beer or cereal malt beverage containing not more than 3.2% alcohol by weight.

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

ALL-TERRAIN VEHICLE. Any motorized non-highway vehicle 50 inches or less in width, having a dry weight of 1,500 pounds or less, traveling on three or more non-highway tires.

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

AUTHORIZED EMERGENCY VEHICLE. Such fire department vehicles, police bicycles or police vehicles which are publicly owned; motor vehicles operated by ambulance services permitted by the emergency medical services board under the provisions of K.S.A. 65-6101, et. seq., and amendments thereto; wreckers, tow trucks or car carriers, as defined by K.S.A. 66-1329, and amendments thereto, having a certificate of public service from the state corporation commission, and when operating under the direction of a duly authorized law enforcement officer; and such other publicly or privately owned vehicles which are designated as emergency vehicles pursuant to K.S.A. 8-2010 and amendments thereto.

AUTOCYCLE. A three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it.

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

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

BUSINESS DISTRICT. The territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks or office buildings, railroad stations and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

CANCELLATION OF A DRIVER'S LICENSE. Cancellation of a driver's license means the annulment or termination by formal action of the Division of a person's driver's license because of some error or defect in the license or because the licensee is not entitled to such license, but the cancellation of a license is without prejudice; and application for a new license may be made at any time after such cancellation.

CEREAL MALT BEVERAGE. Any fermented but undistilled liquor brewed or made from malt or from a mixture of malt and/or malt substitute, but not including any such liquor which is more than 3.2% alcohol by weight.

CHIEF OF POLICE. The Chief of Police of the City, or any member of the police department of the City designated by the Chief of Police to act in his or her place.

CHURCH BUS. Every bus owned by a religious organization, and operated for the transportation of persons to or from services or activities of such religious organization. As used in this Section, religious organization means any organization, church, body of communicants or group, gathered in common membership for mutual edification in piety, worship and religious observances, or a society of individuals united for religious purposes at a definite place.

CITY OR THIS CITY. The City of Olathe, Kansas.

CITY TRAFFIC ENGINEER. The Chief Traffic Engineer for the City or any member of the City Traffic Department designated by the Chief Traffic Engineer to act in his or her place.

COMMERCIAL MOTOR VEHICLE. A motor vehicle designed or used to transport passengers or property, if:

(a) The vehicle has a gross vehicle weight rating of 26,001 or more pounds or such lesser rating, as determined by rules and regulations adopted by the Secretary, but shall not be more restrictive than the federal regulation;
(b) The vehicle is designed to transport 16 or more passengers, including the driver; or
(c) The vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. § 172, subpart F, effective January 1, 1991.

COMMISSION. The Secretary of Transportation.

COMPRESSION RELEASE ENGINE BRAKING SYSTEM. A hydraulically operated device that converts a power producing diesel engine into a power absorbing retarding mechanism.

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

CROSSWALK.

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

DAY CARE PROGRAM. Those which provide day service for development in self-help, social, recreational and work skills for people with intellectual and other disabilities, giving priority to providing services for young people with severe intellectual and other disabilities.

DAY CARE PROGRAM BUS. Every bus used primarily to carry out functions of a day care program or used by a child care facility licensed by the Kansas department of health and environment who provides transportation for children six (6) through eighteen (18) years of age.

DIRECTOR. The director of vehicles.

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

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

DRAG RACE. The operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit.

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

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

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

DRIVER'S LICENSE. Any license to operate a motor vehicle issued under the laws of this state, or any other state.

ELECTRIC-ASSISTED BICYCLE. A bicycle with two or three wheels, a saddle, fully operative pedals for human propulsion, and an electric motor. The electric-assisted bicycle's electric motor must have a power output of no more than 1,000 watts, be incapable of propelling the device at a speed of more than 20 miles per hour on level ground and incapable of further increasing the speed of the device when human power alone is used to propel the device beyond 20 miles per hour.

ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE. A self-balancing two non-tandem wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

ELECTRIC VEHICLE. A vehicle that is powered by an electric motor drawing current from rechargeable storage batteries or other portable electric energy storage devices, provided the recharge energy must be drawn from a source off the vehicle, such as, but not limited to:

(a) Residential electric service;
(b) an electric vehicle charging station, also called an EV charging station, an electric recharging point, a charging point, EVSE (Electric Vehicle Supply Equipment) or a public charging station.

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

EXHIBITION OF SPEED OR ACCELERATION. Those acts which cause or create unnecessary rapid acceleration, unnecessary tire squeal, skid, smoke, or slide upon acceleration or stopping including the casting of tread, gravel, dirt or other road surface materials from the tires; acts that simulate a temporary race; acts that cause the vehicle to unnecessarily turn abruptly, sway or lose traction with the road surface.

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

FARM TRACTOR. Every motor vehicle designed and used as a farm implement power unit operated with or without other attached farm implements, such as drawing plows, mowing machines and other implements of husbandry, in any manner consistent with the structural design of such power unit.

FLAMMABLE LIQUID. Any liquid which has a flash point of 70 degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed cup test device.

GOLF CART. A motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be and is operated at not more than 25 miles per hour and is designed to carry not more than four persons including the driver.

GOVERNING BODY. The Mayor and Council of this City.

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

HIGHWAY. See Street or Highway.

HOUSE TRAILER.

(a) A trailer or semi-trailer which is designed, constructed and equipped as a dwelling place, living abode or sleeping place, either permanently or temporarily, and is equipped for use as a conveyance on streets and highways; or

(b) A trailer or a semi-trailer whose chassis and exterior shell is designed and constructed for use as a house trailer, as defined in paragraph (a), but which is used instead permanently or temporarily for the advertising, sales, display or promotion of merchandise or services, or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

(c) House trailer does not include a manufactured home or a mobile home, as such terms are defined in K.S.A. 58-4202.

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

IGNITION INTERLOCK DEVICE. A device which uses a breath analysis mechanism to prevent a person from operating a motor vehicle if such person has consumed an alcoholic beverage.

IMPLEMENT OF HUSBANDRY. Every vehicle designed or adapted and used exclusively for agricultural operations, including feedlots and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to, a farm tractor; a self-propelled farm implement; a fertilizer spreader, nurse tank or truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership; a truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung; a mixer-feed truck owned and used by a feedlot, as defined by K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing feed to livestock in such feedlot.

INTERSECTION.

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict; or

(b) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highway shall be regarded as a separate intersection. The junction of an alley with a street or highway shall not constitute an intersection.

INTERSTATE SYSTEM. The national system of interstate and defense highways.

INTOXICATING LIQUOR. Any alcoholic liquor, beer, cereal malt beverage, nonalcoholic malt beverage, spirit or wine.

LANED ROADWAY. A roadway which is divided into two or more clearly marked lanes for vehicular traffic.

LICENSE OR LICENSE TO OPERATE A MOTOR VEHICLE. Any driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:

(a) Any temporary license or instruction permit;

(b) The privilege of any person to drive a motor vehicle whether or not such person holds a valid license; and

(c) Any non-resident's operating privilege.

LIGHT TRANSMISSION. The ratio of the amount of total light to pass through a product or material including any safety glazing material to the amount of the total light falling on the product or material and the glazing.

LITTER. As defined in Section 10.01.105.

LOW PRESSURE TIRE. Any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 12 inches or less, and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

LOW-SPEED VEHICLE. Any four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured in compliance with the National Highway and Traffic Safety Administration standards for low-speed vehicles in 49 C.F.R. 571.500.

LUMINOUS REFLECTANTS. The ratio of the amount of total light that is reflected outward by the product or material to the amount of the total light falling on the product or material.

MAIL. To deposit in the United States mail properly addressed and with postage prepaid.

MANUFACTURER. Every person engaged in the business of manufacturing motor vehicles, trailers or semi trailers.

METAL TIRE. Every tire the surface of which, in contact with the highway, is wholly or partly of metal or other hard non-resilient material.

MICRO UTILITY TRUCK. Any motor vehicle which is not less than forty-eight (48) inches in width, has an overall length, including the bumper, of not more than one hundred sixty (160) inches, has an unladen weight, including fuel and fluids, of more than one thousand five hundred (1,500) pounds, can exceed forty (40) miles per hour as originally manufactured and is manufactured with a metal cab. *Micro utility truck* does not include a work-site utility vehicle or recreational off-highway vehicle.

MOTOR HOME. Every motor vehicle designed to provide temporary living quarters for recreational, camping or travel use.

MOTOR VEHICLE. Every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled.

MOTORCYCLE. Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground including, but not limited to, vehicles commonly known as autocycles, pocket bikes, miniature motorcycles, miniature choppers and similar motorized vehicles, but excluding a tractor.

MOTOR-DRIVEN CYCLE. Every motorcycle, including every motor scooter, with a motor which produces not to exceed five brake horsepower, and every bicycle with motor attached except a motorized bicycle, a low power cycle or an electric-assisted bicycle.

MOTORIZED BICYCLE. Every device having two tandem wheels or three wheels, which may be propelled by either human power or helper motor, or by both, and which has: (1) A motor which produces not more than 3.5 brake horsepower; (2) a cylinder capacity of not more than 130 cubic centimeters; (3) an automatic transmission; and (4) the capability of a maximum design speed of no more than thirty miles per hour.

MOTORIZED SCOOTER. Any tandem-wheeled device powered by a gas or electric motor that has a skateboard-type deck and handlebars, and either is designed to be stood upon by the operator, or one with a seat mounted on the deck designed to be sat upon by the operator. Motorized scooters shall be considered skateboards for purposes of Section 10.01.136.

MOTORIZED SKATEBOARD. A self-propelled device which has a motor or engine, a deck on which a person may ride and at least two wheels in contact with the ground. Motorized skateboards shall be considered skateboards for purposes of Section 10.01.136.

MOTORIZED WHEELCHAIR. Any self-propelled vehicle, designed specifically for use by a physically disabled person that is incapable of a speed in excess of 15 miles per hour.

NARROW WIDTH LANE. A lane that is too narrow for a bicycle and a vehicle to travel safely side-by-side within the lane.

NON-HIGHWAY TIRE. Any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 14 inches or less.

NON-HIGHWAY VEHICLE. Non-highway vehicle shall not include an implement of husbandry, as defined in K.S.A. 8-126, and amendments thereto.

NON-REFLECTIVE. A product or material designed to absorb light rather than to reflect it.

NON-RESIDENT. Every person who is not a resident of this state.

NON-RESIDENT'S OPERATING PRIVILEGE. The privilege conferred upon a nonresident by the laws of this state pertaining to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in this state.

OFFICIAL TIME STANDARD. Whenever certain hours are specified they shall mean standard time or daylight-saving time as may be in current use in this City.

OFFICIAL TRAFFIC-CONTROL DEVICES. All signs, signals, markings, and devices, not inconsistent with this Chapter, placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic.

OFFICIAL TRAFFIC-CONTROL SIGNAL. Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

ORDINANCE TRAFFIC INFRACTION. Is a violation of any Section of this Chapter 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. Supp. 8-2118, as amended.

OTHER COMPETENT EVIDENCE. Includes:

(a) Alcohol concentration tests obtained from samples taken three (3) hours or more after the operation or attempted operation of a vehicle; and/or
(b) readings obtained from a partial alcohol concentration test on a breath testing instrument.

OWNER. A person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement or the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or in the event a vehicle is subject to a lease of thirty (30) days or more with an immediate right of possession vested in the lessee; or in the event a party having a security interest in a vehicle is entitled to possession, then such conditional vendee or lessee or secured party shall be deemed the owner for the purpose of this Chapter.

PARK OR PARKING. The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

PASSENGER CAR. Every motor vehicle, except motorcycles and motor-driven cycles, designed for carrying 10 passengers or less and used for the transportation of persons.

PASSENGER VEHICLE. Every motor vehicle, as herein defined which is designed primarily to carry ten (10) or fewer passengers, and which is not used as a truck.

PEDESTRIAN. Any person afoot or any person in a wheelchair, either manually or mechanically propelled, or other low powered, mechanically propelled vehicle designed specifically for use by a physically disabled person, or any person using an electric personal assistive mobility device.

PERSON. Every natural person, firm, association, partnership or corporation.

PERSON WITH A DISABILITY. Person with a disability means any individual who:

(a) Has a severe visual impairment;
(b) Cannot walk 100 feet without stopping to rest;
(c) Cannot walk without the use of or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair or other assistive device;
(d) Is restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than 60 mm/hg on room air at rest;
(e) Uses portable oxygen;

(f) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association; or

(g) Is severely limited in such person's ability to walk at least 100 feet due to an arthritic, neurological or orthopedic condition.

PNEUMATIC TIRE. Every tire in which compressed air is designed to support the load.

POLE TRAILER. Any vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

POLICE OFFICER. Every law enforcement officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

PRIVATE ROAD OR DRIVEWAY. Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

RACING. The use of one or more vehicles in an attempt to out-gain, out-distance or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles, or to test the physical stamina or endurance of drivers over long distance driving routes.

RAILROAD. A carrier of persons or property upon cars operated upon stationary rails.

RAILROAD SIGN OR SIGNAL. Any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

RAILROAD TRAIN. A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

RECREATIONAL OFF-HIGHWAY VEHICLE. Any motor vehicle greater than 50 inches but not greater than 64 inches in width, having a dry weight greater than 1,500 pounds but not greater than 2,000 pounds, traveling on four or more non-highway tires, having a non-straddle seat and steering wheel for steering control.

RECREATIONAL VEHICLE. A vehicular-type unit built on or for use on a chassis and designed primarily as living quarters for recreational, camping, vacation or travel use and which has its own motive power or is mounted on or drawn by another vehicle, and which has a body width not exceeding eight feet and a body length not exceeding 40 feet; but such term shall not include a unit which has no electrical system which operates above 12 volts and has no provisions for plumbing, heating, and any other component or feature for which a standard is adopted by the state uniform standards code for mobile homes and recreational vehicles.

REGISTRATION. The registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of vehicles.

RESIDENCE DISTRICT. The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of 300 feet or more is improved in the main with residences or residences and buildings in use for business.

REVOCATION OF DRIVER'S LICENSE. The termination by formal action of the Division of a person's license or privilege to operate a motor vehicle on the highways, which termination shall not be subject to renewal or restoration except that an application for a new license may be presented and acted upon by the Division after the expiration of the applicable period of time prescribed by state law.

RIGHT-OF-WAY. The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

ROAD CONSTRUCTION ZONE. That portion of the highway which is identified by posted or moving signs as being a construction or maintenance work area. The zone starts at the first sign identifying the zone and continues until a posted or moving sign indicates the road construction zone has ended.

ROADWAY. That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

SAFETY HITCH. A chain, cable, or other material of sufficient weight which will prevent the towed vehicle from breaking loose in the event the tow bar or drawbar fails or becomes disconnected.

SAFETY ZONE. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

SAMPLES. Includes breath supplied directly for testing, which breath is not preserved.

SCHOOL BUS. Every motor vehicle defined and designated as a school bus in Subsection (g)(1) of K.S.A. 72-8301 as amended.

SCHOOL CROSSING GUARD. A person 18 years of age and older acting with or without compensation and who is authorized under K.S.A. 8-15,104 and amendments thereto, to supervise, direct, monitor, or otherwise assist school children at a street or intersection in the vicinity of a school crosswalk or bus stop.

SECRETARY. The Secretary of the Kansas Department of Transportation.

SEMI-TRAILER. Every vehicle, with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

SIDEWALK. That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

SOLID RUBBER TIRE. Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

SPECIAL MOBILE EQUIPMENT. Every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: Ditch digging apparatus, well boring apparatus and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carry-alls and scrapers, power shovels and drag lines, and self-propelled cranes and earth moving equipment. The term does not include house trailers, dump trucks, truck mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

SPECIALLY CONSTRUCTED VEHICLE. Every vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

STAND OR STANDING. The halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

STATE. The State of Kansas.

STOP. When required means complete cessation from movement.

STOP OR STOPPING. When prohibited means any halting, even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

STREET OR HIGHWAY. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. Where the word “highway” or the word “street” is used in this Chapter, it shall mean street, avenue, boulevard, thoroughfare, traffic way, alley and other public way for vehicular travel by whatever name unless the context clearly indicates otherwise.

SUN SCREENING DEVICES. A film material or device that is designed to be used in conjunction with motor vehicle safety glazing materials for reducing the effects of the sun.

SUSPENSION OF A DRIVER’S LICENSE. The temporary withdrawal by formal action of the Division of a person’s license or privilege to operate a motor vehicle on the highways.

THROUGH HIGHWAY. Every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on such highway in obedience to either a stop sign, yield sign or other traffic-control device, when such signs or devices are erected as provided in this Chapter.

TOW BAR. A rigid piece of material which is structurally adequate to hold any weight vehicle towed and which is properly and securely mounted to the towed vehicle without excessive slack but with sufficient play to allow for universal action of the connection and which is equipped with a suitable locking device to prevent accidental separation of the towing vehicle and the towed vehicle.

TOXIC VAPORS. The following substances or products containing such substances:

(a) alcohols, including methyl, isopropyl, propyl, or butyl;
(b) aliphatic acetates, including ethyl, methyl, propyl, or methyl cellosive acetate;
(c) acetone;
(d) benzene;
(e) carbon tetrachloride;
(f) cyclohexane;

(g) freons, including freon 11, freon 12 and other halogenated hydrocarbons;
(h) hexane;
(i) methyl ethyl ketone;
(j) methyl isobutyl ketone;
(k) naptha;
(l) perchlorethylene;
(m) toluene;
(n) trichloroethane; or
(o) xylene.

TRAFFIC. Pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using any highway for purposes of travel.

TRAFFIC-CONTROL SIGNAL. Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

TRAFFIC-CONTROL SIGNAL PREEMPTION DEVICE. Any device, instrument, or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

TRAFFIC INFRACTION. A violation of any of the statutory provisions listed in Subsection (c) of K.S.A. Supp. 8-2118 as amended.

TRAILER. Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that no part of its weight rests upon the towing vehicle.

TRUCK. A motor vehicle which is used for the transportation or delivery of freight and merchandise or more than ten (10) passengers.

TRUCK-CAMPER. Any structure designed, used or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office or commercial space.

TRUCK TRACTOR. Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle or load so drawn.

URBAN DISTRICT. The territory contiguous to and including any street which is built up with structures devoted to business, industry or dwelling houses, situated at intervals of less than 100 feet for a distance of a quarter of a mile or more.

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.

WIDE-BASE SINGLE TIRES. All tires having a section width, as specified by the manufacturer, of 14 inches or more.

WIRELESS COMMUNICATION DEVICE. Any wireless electronic communication device that provides for voice or data communication between two or more parties, including but not limited to, a mobile or cellular telephone, a text messaging device, a personal digital assistant that sends or receives messages, an audio-video player that sends or receives messages or a laptop computer. Wireless communication device **does not** include a device which is voice-operated and which allows the user to send or receive a text based communication without the use of either hand, except to activate or deactivate a feature or function.

WORK-SITE UTILITY VEHICLE. Any motor vehicle which is not less than forty-eight (48) inches in width, has an overall length, including the bumper, of not more than one hundred thirty-five (135) inches, has an un-laden weight, including fuel and fluids, of more than eight hundred (800) pounds and is equipped with four (4) or more low pressure tires, a steering wheel and a bench or bucket-type seating allowing at least two (2) people to sit side-by-side, and which may be equipped with a bed or cargo box for hauling materials. Work-site utility vehicle does not include a micro utility truck or recreational off-highway vehicle.

WRECKER OR TOW TRUCK. Any motor vehicle equipped with booms, winches or similar equipment specifically designed for recovery or towing of vehicles.

WRITE, SEND OR READ A WRITTEN COMMUNICATION. Using a wireless communication device to manually type, send or read a written communication, including, but not limited to, a text message, instant message or electronic mail. (Ord. 15-64 § 1, 2015; Ord. 14-57 § 1, 2014; Ord. 11-48 § 1, 2011; Ord. 10-70 § 1, 2010; Ord. 09-60 § 1, 2009; Ord. 08-112 § 1, 2008; Ord. 07-136 § 1, 2007; Ord. 06-36 § 1, 2006; Ord. 05-59 § 1, 2005; Ord. 04-141 § 1, 2004; Ord. 03-111 § 1, 2003; Ord. 01-89 § 2, 2001.)

ARTICLE 2. SCOPE OF ORDINANCE

10.01.002 Provisions of Chapter Refer to Vehicles upon the Streets and Highways. The provisions of this Chapter refer to vehicles and the operation of vehicles upon all highways, rights-of-way and areas of public access, within the City of Olathe, Kansas, including public or private parking lots, private roadways and privately owned property and elsewhere throughout the City. (Ord. 01-89 § 2, 2001.)

10.01.003 Emergency, Temporary and Experimental Regulations. The Chief of Police or City Traffic Engineer is hereby empowered to make regulations necessary to make effective the provisions of this and other traffic ordinances of the City, to establish no parking zones on special occasions to expedite traffic or for safety purposes, signs being properly posted, to make and enforce temporary or experimental regulations to cover emergencies or special conditions or to determine the advisability of permanent regulations for recommendation to the Governing Body, and test traffic-control devices under actual conditions of traffic. No temporary or experimental regulation shall remain in force for more than ninety (90) days. (Ord. 01-89 § 2, 2001.)

10.01.004 Authority of Police and Traffic Engineer.

(a) Police officers of the City shall at all times be empowered to enforce the provisions of this and other traffic ordinances of this City and temporary and emergency rules and regulations of the Chief of Police, and may at any time direct and control traffic in person or by visible or audible signals: provided, that in the event of fire, temporary traffic congestion or other emergency, or to expedite the flow of traffic or to safeguard pedestrians, officers may direct traffic as conditions require notwithstanding the provisions of this ordinance and other traffic ordinances.

(b) Authority and duties of Traffic Engineer.

(1) The Traffic Engineer shall determine the installation and proper timing and maintenance of traffic-control devices; conduct engineering analysis of traffic accidents and devise remedial measures; conduct engineering investigations of traffic conditions; plan the operation of traffic on the streets and highways of this City; cooperate with other City officials in the development of ways and means to improve traffic conditions; and carry out the additional powers and duties imposed by ordinances of this City.

(2) The Traffic Engineer shall place, maintain, change and remove traffic-control signs, signals and devices when and as required under the traffic ordinances of this City to make effective and carry out the provisions of said ordinances and may place, maintain, change and remove such additional traffic-control devices as he or she may deem necessary to regulate traffic or to warn or to guide traffic, including but not limited to, the authority to establish, designate and mark school zones within the City of Olathe, Kansas.

(3) Any reference in this ordinance or amendments relating to the authority of the "Chief of Police" in establishing traffic regulations, traffic-control signs, signals and devices shall be construed as referring to the "Traffic Engineer" with the exception of the powers and duties and authority granted to the "Chief of Police" to establish emergency, temporary and experimental regulations as set forth in Section 10.01.003 of this ordinance. (Ord. 01-89 § 2, 2001.)

ARTICLE 3. OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

10.01.005 Required Obedience to Traffic Laws. It is unlawful for any person to do any act forbidden or fail to perform any act required in this ordinance. (Ord. 01-89 § 2, 2001.)

10.01.006 Obedience to Authorized Persons Directing Traffic. No person shall willfully fail or refuse to comply with any lawful order or direction of any law enforcement officer or firefighter of this City invested by law with authority to direct, control or regulate traffic. (Ord. 01-89 § 2, 2001.)

10.01.006.1 Compliance with Lawful Order or Direction of Uniformed School Crossing Guards. No person shall willfully fail or refuse to comply with any lawful order or direction of any uniformed school crossing guard invested by law with authority to direct control or regulate traffic. . (Ord. 06-70 § 6, 2006.)

10.01.007 Persons Riding Animals or Driving Animal-Drawn Vehicles. Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this ordinance, except those provisions of this ordinance which by their very nature can have no application. (Ord. 01-89 § 2, 2001.)

10.01.008 Persons Working On Highways; Exceptions. Unless specifically made applicable, the provisions of this ordinance, except those contained in 10.01.029 to 10.01.031, inclusive, shall not apply to persons, motor vehicles and equipment while actually engaged in work upon a highway, but shall apply to such persons and vehicles when traveling to or from such work. (Ord. 01-89 § 2, 2001.)

10.01.009 Public Officers and Employees to Obey Ordinance; Exceptions. The provisions of this ordinance applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this state or any county, city or any other political subdivision of the state, subject to such specific exceptions as are set forth in this ordinance. (Ord. 01-89 § 2, 2001.)

10.01.010 Authorized Emergency Vehicles.

(a) The driver of any authorized emergency vehicle when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this Section, but subject to the conditions herein stated.

(b) The driver of an authorized emergency vehicle may:

(1) Park or stand, irrespective of the provisions of this Chapter.

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.

(3) Exceed the maximum speed limits so long as such driver does not endanger life or property.

(4) Disregard regulations governing direction of movement or turning in specified directions.

(5) Proceed through toll booths on roads or bridges without stopping for payment of tolls, but only after slowing down as may be necessary for safe operation and the picking up or returning of toll cards.

(c) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of an audible signal meeting the requirements of Section 10.01.174 and visual signals meeting the requirements of Section 10.01.160, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of reckless disregard for the safety of others. (Ord. 15-64 § 2, 2015; Ord. 01-89 § 2, 2001.)

ARTICLE 4. TRAFFIC SIGNS, SIGNALS AND MARKERS

10.01.011 Manual and Specifications for Traffic-Control Devices. All traffic-control devices shall conform to the state manual and specifications with the exception of handicapped parking signs as defined in 10.01.087. (Ord. 14-57 § 2, 2014; Ord. 01-89 § 2, 2001.)

10.01.012 Obedience to and Required Traffic-Control Devices; Presumption of Legality.

(a) The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this ordinance, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this ordinance.

(b) No provision of this ordinance for which official traffic-control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic-control devices are required, such section shall be effective even though no devices are erected or in place.

(c) Whenever official traffic-control devices are placed in position approximately conforming to the requirements of this ordinance, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(d) Any official traffic-control device placed pursuant to the provisions of this ordinance and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this ordinance, unless the contrary shall be established by competent evidence. (Ord. 01-89 § 2, 2001.)

10.01.013 Traffic-Control Signal Legend. Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(a) **Green Indication.**

(1) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left, unless a sign at such place prohibits either such turn; but vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(2) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may enter the intersection cautiously only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(3) Unless otherwise provided by a pedestrian-control signal, as provided in 10.01.014, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(b) **Steady Yellow Indication.**

(1) Vehicular traffic facing a steady circular yellow or yellow arrow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

(2) Pedestrians facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian-control signal as provided in 10.01.014, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(c) **Steady Red Indication.**

(1) Vehicular traffic facing a steady circular red or red arrow signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then before entering the intersection, and shall remain standing until an indication to proceed is shown, except as provided in paragraphs (2), (3) and (4) of this subsection. Any turn provided for in paragraphs (2), (3) and (4) shall be governed by the applicable provisions of 10.01.049.

(2) Unless a sign is in place prohibiting a turn, vehicular traffic facing a steady circular red or red arrow signal may cautiously enter the intersection to make a right turn after stopping as required by paragraph (1) of this subsection. After stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Such vehicular traffic shall yield the right-of-way to pedestrians then entering or lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(3) Unless a sign is in place prohibiting a turn, vehicular traffic on a roadway restricted to one-way traffic facing a steady red signal at the intersection of such roadway with another roadway restricted to one-way traffic which is proceeding to the left of such vehicular traffic, may cautiously enter the intersection to make a left turn after stopping as required by paragraph (1) of this subsection. After stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of the roadways. Such vehicular traffic shall yield the right-of-way to pedestrians then entering lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(4) The driver of a motorcycle or person riding a bicycle facing any steady red signal, which fails to change to a green light within a reasonable period of time because of a signal malfunction or because the signal has failed to detect the arrival of the motorcycle or bicycle because of its size or weight, shall have the right to proceed subject to the rules stated herein. After stopping, the driver or rider shall yield the right-of-way to any vehicle in or near the intersection or approaching on a roadway so closely as to constitute an immediate hazard during the time such driver or rider is moving across or within the intersection or junction of roadways. Such motorcycle or bicycle traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(5) Unless otherwise directed by a pedestrian-control signal as provided in 10.01.014, pedestrians facing a steady circular red or red arrow signal alone shall not enter the roadway.

(d) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal. (Ord. 11-48 § 2, 2011; Ord. 01-89 § 2, 2001.)

10.01.013.1 Traffic Control Signal Preemption Devices.

(a) Except as provided in Subsection (c), it shall be unlawful for any person to knowingly possess a traffic control signal preemption device.

(b) A person convicted of violating Subsection (a) shall be guilty of an ordinance violation and subject to a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment of not more than six (6) months or by both such fine and imprisonment.

(c) The provisions of this Section shall not apply to the operator, passenger, or owner of any of the following authorized emergency vehicles, in the course of such person's emergency duties:

(1) Publicly owned fire department vehicles;
(2) Publicly owned police vehicles; or
(3) Motor vehicles operated by ambulance services permitted by the emergency medical services board. (Ord. 15-64 § 3, 2015; Ord. 07-136 § 17, 2007.)

10.01.014 Pedestrian-Control Signals. Whenever special pedestrian-control signals exhibiting the words "walk" or "don't walk" or symbols of "walking person" or "upraised palm" are in place, such signals shall indicate as follows:

(a) **Flashing or steady walk or walking person.** Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(b) **Flashing or steady don't walk or upraised palm.** No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his or her crossing on the "walk" or "walking person" signal shall proceed to a sidewalk or safety island while the "don't walk" or "upraised palm" signal is showing. (Ord. 01-89 § 2, 2001.)

10.01.015 Flashing Signals. Whenever an illuminated flashing red or yellow light is used in a traffic signal or with a traffic sign, it shall require obedience by vehicular traffic as follows:

(a) **Flashing Red (Stop Signal).** When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) **Flashing Yellow (Caution Signal).** When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in 10.01.076. (Ord. 01-89 § 2, 2001.)

10.01.016 Lane-Direction-Control Signals. When lane-direction- control signals are placed over the individual lanes of a street or highway, such signals shall indicate and apply to drivers of vehicles as follows:

(a) **Green indication**. Vehicular traffic may travel in any lane over which a green signal is shown.

(b) **Steady yellow indication**. Vehicular traffic is thereby warned that a lane control change is being made.

(c) **Steady red indication**. Vehicular traffic shall not enter or travel in any lane over which a red signal is shown.

(d) **Flashing yellow indication**. Vehicular traffic may use the lane only for the purpose of approaching and making a left turn. (Ord. 01-89 § 2, 2001.)

10.01.017 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. (Ord. 01-89 § 2, 2001.)

10.01.018 Interference with Official Traffic-Control Devices or Railroad Signs or Signals. No person, without lawful authority, shall attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof. (Ord. 01-89 § 2, 2001.)

10.01.019 Designation of Crosswalks and Safety Zones. The City Traffic Engineer may designate and maintain by appropriate devices, marks or lines on the surface of the roadway, crosswalks at intersections where in his or her opinion there is particular danger to pedestrians crossing the roadway and at such other places as may be deemed necessary. He or she may also establish and mark safety zones of such kind and character and at such places as may be deemed necessary for the protection of pedestrians. (Ord. 01-89 § 2, 2001.) See: 10.01.070

10.01.020 Play Streets, Temporary.

(a) The Chief of Police shall have authority to declare any street or part thereof a temporary play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.

(b) Whenever authorized signs are erected indicating any street or part thereof as a temporary play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any such driver shall exercise the greatest care in driving upon any such street or portion thereof. (Ord. 04-31 § 1, 2004; Ord. 01-89 § 2, 2001.)

10.01.021 Traffic Lanes. The City Traffic Engineer is hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is deemed necessary. (Ord. 01-89 § 2, 2001.)

ARTICLE 5. ACCIDENTS AND ACCIDENT REPORTS; DUTIES

10.01.023 Accident Involving Death or Personal Injuries; Duties of Drivers, Reports; Penalties.

(a) The driver of any vehicle involved in an accident resulting in injury to, great bodily harm to or death of any person or damage to any attended vehicle or property shall immediately stop such vehicle at the scene of such accident, or as close thereto as possible, but shall then immediately return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of Section 10.01.025. Every such stop shall be made without obstructing traffic more than is necessary.

(b) A person who violates Subsection (a) when an accident results in:

(1) Total property damages of less than One Thousand Dollars ($1,000.00) shall be punished as provided in Section 10.01.201.

(2) A person who violates this Section which results in injury to any person or property damages in excess of One Thousand Dollars ($1,000.00) shall, upon conviction, be punished by imprisonment for not more than one (1) year or by a fine of not more than Two Thousand Five Hundred Dollars ($2,500.00), or by both such fine and imprisonment. See: 10.01.002 & K.S.A. 8-1602. See: 10.01.002 & K.S.A. 8-254

(c) The driver shall comply with the provisions of Section 10.01.026.1. (Ord. 15-64 § 4, 2015; Ord. 14-57 § 3, 2014; Ord. 11-48 § 3, 2011; Ord. 06-66 § 1, 2006; Ord. 01-89 § 2, 2001.)

10.01.024 Accident Involving Damage to Vehicle or Other Property. Repealed 10/7/14. (Ord. 14-57 § 4, 2014; Ord. 09-60 § 2, 2009; Ord. 01-89 § 2, 2001.)

10.01.025 Duty of Driver to Give Certain Information after Accident; Failure to Provide Proof of Liability Insurance or Financial Security; Duty to Render Aid after Accident; Proof of Liability Insurance or Financial Security by Electronic Means, Restrictions.

(a) (1) The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any attended vehicle or property shall give such driver's name, address, and the registration number of the vehicle such driver is driving, and upon request shall exhibit such driver's license or permit to drive, the name of the company with which there is in effect a policy of motor vehicle liability insurance covering the vehicle involved in the accident and the policy number of such policy to any person injured in such accident or to the driver or occupant of or person attending any vehicle or other property damaged in such accident and shall give such information and upon request exhibit such license or permit and the name of the insurer and policy number to any police officer at the scene of the accident or who is investigating the accident.

(2) Such driver, insofar as possible, shall immediately make efforts to determine whether any person involved in such accident was injured or killed, and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

(b) If no police officer is present, the driver of any vehicle involved in such accident, or any occupant of such vehicle 18 years of age or older, shall immediately report such accident by the quickest available means of communication, to the nearest office of a duly authorized police authority if:

(1) There is apparently property damage of One Thousand Dollars ($1,000.00) or more;

(2) Any person involved in the accident is injured or killed; or

(3) The persons specified in Subsection (a) are not present or in condition to receive such information.

(c) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with failing to provide the name of such person's insurance company and policy number as required in Subsection (a), shall be convicted if such person produces in court, within ten (10) days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. For the purpose of this Subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number, make and year of the vehicle and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance. Such evidence also may be produced by displaying on a cellular phone or other type of portable electronic device evidence of financial security required by this Subsection. Any person to whom such evidence of financial security is displayed shall view only such evidence of financial security. Such person shall be prohibited from viewing any other content or information stored on such cellular phone or other portable electronic device.

(d) If the owner of any vehicle that has been involved in a reportable accident, as referenced in Subsection (b), while the vehicle was being driven or was under the physical control of any person other than the owner, the owner shall report the accident to the Olathe Police Department. Notwithstanding this duty to report the accident, the owner shall cooperate with any police investigation and disclose to the Olathe Police Department all known information about the driver of the vehicle at the time of the accident, or any other relevant information. (Ord. 15-64 § 5, 2015; Ord. 14-57 § 5, 2014; Ord. 11-48 § 4, 2011; Ord. 01-89 § 2, 2001.)

10.01.026 Duty upon Striking Unattended Vehicle or Other Property.

(a) The driver of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended, resulting in any damage to such other vehicle or property, shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or other property of such driver's name, address, registration number and insurance company name and policy information of the vehicle such person was driving, or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving such driver's name, address, registration number and insurance company name and policy information of the vehicle such driver was driving, and without unnecessary delay shall notify the nearest office of an authorized police department.

(b) The driver under Subsection (a), if possible, shall comply with the provisions of Section 10.01.025. (K.S.A. 8-1604, as amended). See: 10.01.002.

(c) If the owner of any vehicle that has been involved in a reportable accident, as referenced in Section 10.01.025(b), while the vehicle was being driven or was under the physical control of any person other than the owner, the owner shall report the accident to the Olathe Police Department. Notwithstanding this duty to report the accident, the owner shall cooperate with any police investigation and disclose to the Olathe Police Department all known information about the driver of the vehicle at the time of the accident, or any other relevant information. (Ord. 15-64 § 6, 2015; Ord. 14-57 § 6, 2014; Ord. 09-60 § 3, 2009; Ord. 01-89 § 2, 2001.)

10.01.026.1. Removal of Vehicle from Roadway after Accident.

(a) Except in the case of an accident involving death or apparent injury of any person, or the transportation of hazardous material, the owner or driver of a vehicle which obstructs the regular flow of traffic on any interstate highway, U.S. highway, or any multi-lane or divided roadway, shall make every reasonable effort to move the vehicle from the roadway, if, moving the vehicle may be done safely, does not require towing and may be operated under its own power without further damage to the vehicle or the roadway and without endangering other vehicles or persons upon the roadway.

(b) Except in the case of an accident involving death or apparent injury of any person or the transportation of hazardous material, authorized employees or agents of the Kansas Department of Transportation, Kansas Highway Patrol, or other law enforcement agency without the consent of the driver or owner of the vehicle or property, may require, assist in or cause the removal from the roadway any vehicle, debris or any other property which is obstructing the regular flow of traffic, creating or aggravating an emergency situation or otherwise endangering public safety.

(c) No state, county, or municipal agency nor their authorized employees or agents shall be held liable for any damages resulting from the reasonable exercise of authority granted under this section.

(d) Notwithstanding the provisions of this section, a driver is required to comply with the applicable provisions of K.S.A. 8-1601 *et seq.*, and amendments thereto.

(e) **Prior to July 1, 2010,** a law enforcement officer shall issue a warning citation to anyone violating subsection (a). (2009 Session Laws of Kansas, Chapter 6). (Ord. 09-60 § 9, 2009.)

10.01.027 Duty to Report Accidents.

(a) The driver of a vehicle involved in an accident resulting in injury to, or great bodily harm to, or death of any person or total damage to all property to an apparent extent of One Thousand Dollars ($1,000.00) or more shall give notice immediately of such accident by the quickest means of communication to the police department.

(b) Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident as required in subsection (a), and there was an occupant eighteen (18) years of age or older in the vehicle at the time of the accident capable of doing so, such occupant shall give or cause to be given the notice not given by the driver.

(c) Whenever the driver of a vehicle is involved in an accident resulting in property damage of One Thousand Dollars ($1,000.00) or more and such driver believes conduct of other individual(s) causing or involved in such accident would place such driver in imminent danger of bodily injury by such individual(s), such driver shall be required to provide the notice required by subsection (a) as soon as the imminent danger has passed. See: 10.01.002

(d) Any person violating the requirements of this section shall, upon conviction, be punished by imprisonment for not more than one (1) year or by a fine of not more than Two Thousand Five Hundred Dollars ($2,500.00) or by both such fine and imprisonment. See: 10.01.002 (Ord. 07-136 § 2, 2007; Ord. 06-66 § 2, 2006; Ord. 01-89 § 2, 2001.)

10.01.028 False Reports. A person shall not give information in oral or written reports, as required in this ordinance, knowing or having reason to believe that such information is false. (Ord. 01-89 § 2, 2001.) See: 10.01.002

ARTICLE 6. SERIOUS TRAFFIC OFFENSES

10.01.029 Reckless Driving; Penalties.

(a) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(b) Every person convicted of reckless driving shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days or by a fine of not less than Twenty-five Dollars ($25.00) nor more than Five Hundred Dollars ($500.00) or by both such fine and imprisonment and on a second or subsequent conviction shall be punished by imprisonment of not less than ten (10) days nor more than six (6) months or by a fine of not less than Fifty Dollars ($50.00) nor more than One Thousand Dollars ($1,000.00) or by both such fine and imprisonment. (Ord. 01-89 § 2, 2001.)

10.01.029.1 Careless Driving; Penalties.

(a) No person shall operate or halt any vehicle in such a manner as to indicate a careless or heedless disregard for the rights or safety of others or in such a manner as to endanger or be likely to endanger any person or property.

(b) Every person convicted of careless driving shall be fined in an amount not to exceed One Thousand Dollars ($1,000.00) or shall be imprisoned for a period not to exceed ten (10) days or shall be both so fined and imprisoned. (Ord. 01-89 § 2, 2001.)

10.01.030 Driving Under the Influence of Intoxicating Liquor or Drugs; Penalties.

(a) Driving under the influence is operating or attempting to operate any vehicle within this City while:

(1) The alcohol concentration in the person's blood or breath as shown by any competent evidence including other competent evidence as defined in paragraph (1) of Subsection (f) of K.S.A. 8-1013, and amendments thereto, is .08 or more;

(2) The alcohol concentration in the person's blood or breath, as measured within three (3) hours of the time of operating or attempting to operate a vehicle, is .08 or more;

(3) Under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;

(4) Under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle; or

(5) Under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle.

(b) (1) Driving under the influence is:

(A) On a first conviction a class B, non-person public offense. The person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion 100 hours of public service, and fined not less than $750 nor more than $1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the remainder of the sentence only after such person has served 48 consecutive hours imprisonment. In addition to any fines imposed, the court shall order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted;

(B) On a second conviction a class A, non-person public offense. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than $1,250 nor more than $1,750. In addition to any fines imposed, the court shall order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this Subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the five days imprisonment mandated by this Subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours; and

(C) On a third conviction a class A, non-person public offense, except as provided in K.S.A. 8-1567. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than $1,750 nor more than $2,500. In addition to any fines imposed, the court shall order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this Subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day.

The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the 90 days imprisonment mandated by this Subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours.

(2) In addition, for any conviction pursuant to Subsection (b)(1)(C), upon a grant of probation to an offender, the court shall order the offender, upon release from imprisonment, to be supervised by Olathe Court Services for a mandatory one-year period of supervision, which such period of supervision shall not be reduced. The risk and needs of the offender shall be determined by use of a risk assessment tool specified by the Kansas sentencing commission. During such supervision, the person shall be required to participate in a multidisciplinary model of services for substance use disorders to include assessment and, if appropriate, referral to a community based substance use disorder treatment including recovery management and mental health counseling as needed. Any violation of the conditions of such supervision may subject such person to revocation of supervision and imprisonment in jail for the remainder of the period of imprisonment, the remainder of the supervision period, or any combination or portion thereof.

(3) In addition, for any conviction pursuant to Subsection (b)(1)(C), at the time of the filing of the judgment form or journal entry as required by K.S.A. 22-3426 or K.S.A. 2011 Supp. 21-6711, and amendments thereto, the court shall cause a certified copy to be sent to the officer having the offender in charge. The court shall determine whether the offender, upon release from imprisonment, shall be supervised by community correctional services or court services based upon the risk and needs of the offender. The risk and needs of the offender shall be determined by use of a risk assessment tool specified by the Kansas sentencing commission. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall cause a certified copy of the judgment form or journal entry to be sent to the supervision office designated by the court and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the supervision office appointed by the court. After the term of imprisonment imposed by the court, the person shall be placed on supervision to community correctional services or court services, as determined by the court, for a mandatory one-year period of supervision, which such period of supervision shall not be reduced. During such supervision, the person shall be required to participate in a multidisciplinary model of services for substance use disorders facilitated by a department of social and rehabilitation services designated care coordination agency to include assessment and, if appropriate, referral to a community based substance use disorder treatment including recovery management and mental health counseling as needed. The multidisciplinary team shall include the designated care coordination agency, the supervision officer, the social and rehabilitation services department designated treatment provider and the offender. Any violation of the conditions of such supervision may subject such person to revocation of supervision and imprisonment in jail for the remainder of the period of imprisonment, the remainder of the supervision period, or any combination or portion thereof.

(4) In addition, prior to sentencing for any conviction pursuant to Subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

(c) Any person convicted of violating this Section or an ordinance which prohibits the acts that this Section prohibits who had one or more children under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this Section or an ordinance which prohibits the acts that this Section prohibits. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

(d) If a person is charged with a violation of this Section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(e) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this Section. Any assessments and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(f) In lieu of payment of a fine imposed pursuant to this Section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to $5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(g) (1) Upon the filing of a complaint, citation or notice to appear alleging a person has violated the acts prohibited by this Section and prior to conviction thereof, the City prosecutor shall request and shall receive from the:

(A) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(B) Kansas Bureau of Investigation central repository all criminal history record information concerning such person.

(2) If the elements of such ordinance violation are the same as the elements of a violation of this Section that would constitute, and be punished as a felony, the City prosecutor shall refer the violation to the appropriate county or district attorney for prosecution.

(h) The court shall electronically report every conviction of a violation of this Section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this Section to the division. Prior to sentencing under the provisions of this Section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(i) For the purpose of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under this Section:

(1) Convictions for a violation of this Section, K.S.A. 8-1567, and amendments thereto or a violation of an ordinance of any city or resolution of any county which prohibits the acts that this Section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;

(2) Any convictions for a violation of the following Sections occurring during a person's lifetime shall be taken into account: (A) refusing to submit to a test to determine the presence of alcohol or drugs, as provided in K.S.A. 8-1567, and amendments thereto or Section 30.2.1, and amendments thereto; (B) driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto; (C) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto; (D) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or Subsection (a)(3) of K.S.A. 2011 Supp. 21-5405, and amendments thereto; and (E) aggravated battery as described in Subsection (b)(3) of K.S.A. 2012 Supp. 21-5413, and the amendments thereto: and (F) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) ''Conviction'' includes: (A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in Subsection (i)(2); (B) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another state which would constitute a crime described in Subsection (i)(1) or (i)(2); and (C) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in Subsection (i)(1) or (i)(2) if committed off a military reservation in this state;

(4) Multiple convictions of any crime described in Subsection (i)(1) or (i)(2) arising from the same arrest shall only be counted as one conviction;

(5) It is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(6) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this Section, and amendments thereto, or an ordinance which prohibits the acts of this Section, and amendments thereto, only once during the person's lifetime.

(j) Upon conviction of a person of a violation of this Section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this Section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

(k) (1) Nothing contained in this Section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this Chapter as unlawful or prohibited in such city or county and prescribing penalties for violation thereof.

(2) The minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this Section for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation.

(3) Any such ordinance or resolution shall authorize the court to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted. Any person diverted in lieu of further proceedings may be required to pay restitution to any victim who suffered loss due to the violation for which the person was diverted.

(l) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this Section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this Section, to avoid the mandatory penalties established by this Section or by the Chapter. For the purpose of this Subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not constitute plea bargaining.

(m) The alternatives set out in Subsections (a)(1), (a)(2) and (a)(3) may be pleaded in the alternative, and the City, may, but shall not be required to, elect one or two of the three prior to submission of the case to the fact finder.

(n) As used in this Section:

(1) ''Alcohol concentration'' means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath;

(2) ''Imprisonment'' shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city; and

(3) ''Drug'' includes toxic vapors as such term is defined in K.S.A. 21-5712, and amendments thereto. (Ord. 15-64 § 7, 2015; Ord. 14-54 § 7, 2014; Ord. 12-39 § 1, 2012; Ord. 12-18 § 1, 2012; Ord. 11-16 § 1, 2011; Ord. 09-60 § 4, 2009; Ord. 07-136 § 3, 2007; Ord. 03-18 § 1, 2003; Ord. 01-89 § 2, 2001.)

10.01.030.1 Driving a Commercial Motor Vehicle Under the Influence; Penalties.

(a) Driving a commercial motor vehicle under the influence is operating or attempting to operate any commercial motor vehicle, as defined in K.S.A. 8-218, and amendments thereto, within this City while:

(1) The alcohol concentration in the person's blood or breath, as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of Subsection (f) of K.S.A. 8-1013, and amendments thereto, is .04 or more;

(2) The alcohol concentration in the person's blood or breath, as measured within three (3) hours of the time of driving a commercial motor vehicle, is .04 or more; or

(3) Committing a violation of Subsection (a) of Section 10.01.030 of this Chapter, and amendments thereto.

(b) (1) Driving a commercial motor vehicle under the influence is:

(A) On a first conviction a class B, non-person public offense. The person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion, 100 hours of public service, and fined not less than $750 nor more than $1,000. In addition to any fines imposed, the court shall order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation, suspension or reduction of sentence or parole or other release;

(B) On a second conviction a class A, non-person public offense. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than $1,250 nor more than $1,750. In addition to any fines imposed, the court shall order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted. The person convicted shall serve at least five consecutive days imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this Subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement.

Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the five days imprisonment mandated by this Subsection only after such person has served 48 consecutive hours imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours; and

(2) In addition, prior to sentencing for any conviction pursuant to Subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

(c) Any person convicted of a violation of this Section, who had one or more children under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment shall be served consecutively to any other minimum mandatory penalty imposed for a violation of this Section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

(d) If a person is charged with an ordinance violation involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(e) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this Section. Any assessment(s) and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(f) In lieu of payment of a fine imposed pursuant to this Section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to $5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(g) (1) Upon the filing of a complaint, citation or notice to appear alleging a person has violated the acts prohibited by this Section, and prior to conviction thereof the City prosecutor shall request and shall receive from the:

(A) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(B) Kansas Bureau of Investigation central repository all criminal history record information concerning such person.

(2) If the elements of such ordinance violation are the same as the elements of a violation of this Section that would constitute, and be punished as, a felony, the City prosecutor shall refer the violation to the appropriate county or district attorney for prosecution. The county or district attorney shall accept such referral and pursue a disposition of such violation, and shall not refer any such violation back to the City prosecutor.

(h) The court shall electronically report every conviction of a violation of this Section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this Section to the division. Prior to sentencing under the provisions of this Section, the court shall request and shall receive from the:

(1) Division a record of all prior convictions obtained against such person for any violation of any of the motor vehicle laws of this state; and

(2) Kansas Bureau of Investigation central repository all criminal history record information concerning such person.

(i) Upon conviction of a person of a violation of this Section, the division, upon receiving a report of conviction, shall:

(1) Disqualify the person from driving a commercial motor vehicle under K.S.A. 8-2,142, and amendments thereto; and

(2) Suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

(j) If the elements of such ordinance violation are the same as the elements of a violation of K.S.A. 8-1567 that would constitute, and be punished as, a felony, the City prosecutor shall refer the violation to the appropriate county or district attorney for prosecution. The county or district attorney shall accept such referral and pursue a disposition of such violation, and shall not refer any such violation back to the City prosecutor.

(k) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this Section to avoid the mandatory penalties established by this Section.

(l) The alternatives set out in Subsections (a)(1), (a)(2) and (a)(3) may be pleaded in the alternative, and the City may, but shall not be required to, elect one or two of the three prior to submission of the case to the fact finder.

(m) For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this Section:

(1) Convictions for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such Section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;

(2) Any convictions for a violation of the following Sections occurring during a person's lifetime shall be taken into account: (A) this Section or K.S.A. 8-2,144, and amendments thereto; (B) refusing to submit to a test to determine the presence of alcohol or drugs, as provided in K.S.A. 8-1567, and amendments thereto or Section 30.2.1, and amendments thereto;

(C) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto; (D) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 2014 Supp. 21-5405(a)(3), and amendments thereto; and (E) aggravated battery as described in K.S.A. 2014 Supp. 21-5413(b)(3), and amendments thereto; and (F) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) ''Conviction'' includes: (A) entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in Subsection (m)(2); (B) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another state which would constitute a crime described in Subsection (m)(1) or (m)(2); and (C) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in Subsection (m)(1) or (m)(2) if committed off a military reservation in this state;

(4) It is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(5) Multiple convictions of any crime described in Subsection (m)(1) or (m)(2) arising from the same arrest shall only be counted as one conviction.

(n) For the purpose of this Section, *drive* means to drive, operate or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic and includes operation or physical control of a motor vehicle anywhere in the City.

(o) For the purpose of this Section, *commercial motor vehicle* shall not include:

(1) Farm vehicles, defined as follows:

(A) Registered as a farm truck or truck tractor under K.S.A. 8-143, and amendments thereto;

(B) Used to transport agricultural products, farm machinery, farm supplies, or both, to or from a farm;

(C) Not used in the operations of a common or contract motor carrier; and

(D) Used within 150 air miles of any farm or farms owned or leased by the registered owner of such farm vehicle;

(2) Vehicles operated by firefighters and other persons which are necessary to the preservation of life or property or the execution of emergency government functions are equipped with audible and visual signals and are not subject to normal traffic regulation. These vehicles include fire trucks, hook and ladder trucks, foam or water transport trucks, police SWAT team vehicles, ambulances or other vehicles that are used in response to emergencies;

(3) Military vehicles which are operated by military personnel in pursuit of military purposes and all non-civilian operators of equipment owned or operated by the United States Department of Defense. This applies to any active duty military personnel and members of the reserves and national guard on active duty, including personnel on full-time national guard duty, personnel on part-time training and national guard military technicians, civilians who are required to wear military uniforms and are subject to the code of military justices; and

(4) Motor vehicles, which would otherwise be considered commercial motor vehicles, if such vehicles are used solely and exclusively for private non-commercial use and any operator of such vehicles.

(p) For the purpose of this Section:

(1) ‘‘Alcohol concentration’’ means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath;

(2) ‘‘Imprisonment’’ shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city; and

(3) ‘‘Drug’’ includes toxic vapors as such term is defined in K.S.A. Supp. 21-5712, and amendments thereto. (Ord. 15-64 § 8, 2015; Ord. 14-57 § 8, 2014; Ord. 12-39 § 2, 2012; Ord. 12-18 § 2, 2012; Ord. 11-48 § 5, 2011; Ord. 11-16 § 2, 2011; Ord. 07-136 § 4, 2007; Ord. 06-66 § 3, 2006; Ord. 01-89 § 2, 2001.)

10.01.030.2 Preliminary Breath Test.

(a) Any person who operates or attempts to operate a vehicle within this state is deemed to have given consent to submit to a preliminary screening test of the person’s breath subject to the provisions set out in subsection (b).

(b) A law enforcement officer may request a person who is operating or attempting to operate a motor vehicle within this state to submit to a preliminary screening test of the person’s breath to determine the alcohol concentration of the person’s breath if the officer has reasonable suspicion to believe that the person has been operating or attempting to operate a vehicle while under the influence of alcohol and drugs or both alcohol and drugs.

(c) At the time the test is requested, the person shall be given oral notice that:

(1) There is no right to consult with an attorney regarding whether to submit to testing;

(2) Refusal to submit to testing is a traffic infraction; and

(3) Further testing may be required after the preliminary screening test.

Failure to provide the notice shall not be an issue or defense in any action. The law enforcement officer then shall request the person to submit to the test.

(d) Refusal to take and complete the test as requested is a traffic infraction. If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made and whether to request the tests authorized by K.S.A. 8-1001 and amendments thereto. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results shall not be admissible in any civil or criminal action concerning the operation of or attempted operation of a vehicle except to aid the court or hearing officer in determining a challenge to the validity of the arrest or the validity of the request to submit to a test pursuant to K.S.A. 8-1001 and amendments thereto. Following the preliminary screening test, additional tests may be requested pursuant to K.S.A. 8-1001 and amendments thereto. (Ord. 06-114 § 1, 2006; Ord. 06-66 § 4, 2006; Ord. 01-89 § 2, 2001.)

10.01.030.3 Ignition Interlock Devices; Tampering.

(a) No person shall:

(1) Tamper with an ignition interlock device, circumvent it or render it inaccurate or inoperative;

(2) Request or solicit another to blow into an ignition interlock device, or start a motor vehicle equipped with such device, providing an operable motor vehicle to a person whose driving privileges have been restricted to driving a motor vehicle equipped with such device;

(3) Blow into an ignition interlock device, or start a motor vehicle equipped with such device, providing an operable motor vehicle to a person whose driving privileges have been restricted to driving a motor vehicle equipped with such device; or

(4) Operate a vehicle not equipped with an ignition interlock device while such person's driving privileges have been restricted to driving a motor vehicle equipped with such device.

(b) Violation of this section is a class A, non-person public offense and shall be punishable by a fine of not more than Two Thousand Five Hundred Dollars ($2,500.00) or by imprisonment for not more than one year or by both such fine and imprisonment. See: 10.01.002 & K.S.A. Supp. 8-1017.

(c) In addition to any other penalties provided by law:

(1) (A) On a first conviction of a violation of subsection (a)(1) or (a)(2), the division shall extend the ignition interlock restriction period on the person's driving privileges for an additional 90 days; and

(B) On a second or subsequent conviction of a violation of subsection (a)(1) or (a)(2), the division shall restart the original ignition interlock restriction period on the person's driving privileges; and

(2) On a conviction of a violation of subsection (a)(4), the division shall restart the original ignition interlock restriction period on the person's driving privileges (Ord. 11-16 § 3, 2011; Ord. 01-89 § 2, 2001.)

10.01.030.4 Impounded Motor Vehicle; Disposition; When. If the owner of a motor vehicle which has been impounded pursuant to Section 10.01.030 or Section 10.01.105, refuses to pay any towing, impoundment, storage, or other fees relating to the impoundment or immobilization of such vehicle or fails to take possession of such vehicle within thirty (30) days following the date of the expiration of the impoundment or immobilization period, such vehicle shall be deemed abandoned and the vehicle may be disposed of by the person having possession of such vehicle. If the person having possession of such vehicle is a public agency, disposition of such vehicle shall be in compliance with the procedures for notice and public auction provided by paragraph (2) of subsection (a) of K.S.A. 8-1102, and amendments thereto. If the person having possession of such vehicle is not a public agency, disposition of such vehicle shall be in compliance with K.S.A. 8-1103 through 8-1108, and amendments thereto. (Ord. 07-136 § 18, 2007.)

10.01.030.5 Commercial Driver's Licenses; Diversion Agreements Not Allowed.

(a) A driver or a holder of a commercial driver's license may not enter into a diversion agreement in lieu of further criminal proceedings that would prevent such person's conviction for any violation, in any type of motor vehicle, of a state or local traffic control law, except a parking violation, from appearing on the person's record, whether the person was convicted for an offense committed in the state where the person is licensed or another state.

(b) For purposes of subsection (a), a person shall be considered a holder of a commercial driver's license if the person was a holder of a commercial driver's license at the time the person was arrested or was issued a citation and shall remain a holder of a commercial driver's license even if the person surrenders the commercial driver's license after the arrest or citation. (Ord. 10-70 § 2, 2010; Ord. 07-136 § 19, 2007.)

10.01.030.6 Refusing to Submit to Test(s) to Determine the Presence of Alcohol or Drugs.

(a) Refusing to submit to a test to determine the presence of alcohol or drugs is refusing to submit to or complete a test or tests deemed consented to under K.S.A. 8-1001(a), and amendments thereto, if such person has:

(1) Any prior test refusal as defined in K.S.A. 8-1013, and amendments thereto, which occurred: (A) on or after July 1, 2001; and (B) when such person was 18 years of age or older; or

(2) Any prior conviction for a violation of K.S.A. 8-1567 or 8-2,144, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such Section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, which occurred: (A) on or after July 1, 2001; and (B) when such person was 18 years of age or older.

(b) (1) Refusing to submit to a test to determine the presence of alcohol or drugs is:

(A) On a first conviction a class A, non-person misdemeanor. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than $1,250 nor more than $1,750. In addition to any fines imposed, the court shall order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this Subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2011 Supp. 21-6609, and amendments thereto, to serve the five days' imprisonment mandated by this Subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours;

(B) On a second conviction, if the first conviction occurred more than ten (10) years prior, a class A, non-person misdemeanor. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than $1,750 nor more than $2,500. In addition to any fines imposed, the court shall order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this Subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2011 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this Subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location.

The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours;

(2) In addition, for any conviction pursuant to Subsection (b)(1)(B), at the time of the filing of the judgment form or journal entry as required by K.S.A. 22-3426 or K.S.A. 2011 Supp. 21- 6711, and amendments thereto, the court shall cause a certified copy to be sent to the officer having the offender in charge. The court shall determine whether the offender, upon release from imprisonment, shall be supervised by community correctional services or court services based upon the risk and needs of the offender. The risk and needs of the offender shall be determined by use of a risk assessment tool specified by the Kansas sentencing commission. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall cause a certified copy of the judgment form or journal entry to be sent to the supervision office designated by the court and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the supervision office appointed by the court. After the term of imprisonment imposed by the court, the person shall be placed on supervision to community correctional services or court services, as determined by the court, for a mandatory one-year period of supervision, which such period of supervision shall not be reduced. During such supervision, the person shall be required to participate in a multidisciplinary model of services for substance use disorders facilitated by a department of social and rehabilitation services designated care coordination agency to include assessment and, if appropriate, referral to a community based substance use disorder treatment including recovery management and mental health counseling as needed. The multidisciplinary team shall include the designated care coordination agency, the supervision officer, the social and rehabilitation services department designated treatment provider and the offender. Any violation of the conditions of such supervision may subject such person to revocation of supervision and imprisonment in jail for the remainder of the period of imprisonment, the remainder of the supervision period, or any combination or portion thereof.

(3) In addition, prior to sentencing for any conviction pursuant to Subsection (b)(1)(A), the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

(c) Any person convicted of violating this Section who had one or more children under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this Section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

(d) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this Section. Any assessments and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(e) In lieu of payment of a fine imposed pursuant to this Section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to $5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(f) The court shall electronically report every conviction of a violation of this Section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this Section to the division. Prior to sentencing under the provisions of this Section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(g) For the purpose of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under this Section:

(1) Convictions for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such Section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring: (A) On or after July 1, 2001; and (B) when such person was 18 years of age or older. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;

(2) Any convictions for a violation of the following Sections which occurred during a person's lifetime shall be taken into account, but only convictions occurring when such person was 18 years of age or older: (A) this Section; (B) driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto; (C) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto; (D) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, K.S.A. 2014 Supp. 21-5405(a)(3), and amendments thereto; and (E) aggravated battery as described in K.S.A. 2014 Supp. 51-5413(b)(3). and amendments thereto: and (F) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) ''Conviction'' includes: (A) entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in Subsection (g)(2); (B) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another state which would constitute a crime described in Subsection (g)(1) or (g)(2); and (C) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in Subsection (g)(1) or (g)(2) if committed off a military reservation in this state;

(4) It is irrelevant whether an offense occurred before or after conviction for a previous offense;

(5) Multiple convictions of any crime described in Subsection (g)(1) or (g)(2) arising from the same arrest shall only be counted as one conviction;

(6) The prior conviction that is an element of the crime of refusing to submit to a test to determine the presence of alcohol or drugs shall not be used for the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this Section and shall not be considered in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offense; and

(7) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this Section, or an ordinance which prohibits the acts of this Section, only once during the person's lifetime.

(h) Upon conviction of a person of a violation of this Section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this Section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

(i) (1) Upon the filing of a complaint, citation or notice to appear alleging a person has violated the acts prohibited by this Section, and prior to conviction thereof, the City prosecutor shall request and shall receive from the:

(A) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(B) Kansas Bureau of Investigation central repository all criminal history record information concerning such person.

(2) If the elements of such ordinance violation are the same as the elements of a violation of this Section that would constitute, and be punished as, a felony, the City prosecutor shall refer the violation to the appropriate county or district attorney for prosecution.

(j) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this Section or resolution of any county in this state which prohibits the acts prohibited by this Section, to avoid the mandatory penalties established by this Section or by the ordinance. For the purpose of this Subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 *et seq*. or 22-2906 *et seq*., and amendments thereto, shall not constitute plea bargaining.

(k) As used in this Section, ‘‘imprisonment’’ shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city. (Ord. 15-64 § 9, 2015; Ord. 14-57 § 9, 2014; Ord. 12-18 § 7, 2012.)

10.01.031 Fleeing or Attempting to Elude a Police Officer.

(a) (1) Any driver of a motor vehicle who willfully fails or refuses to bring such driver’s vehicle to a stop for a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c).

(2) Any driver of a motor vehicle who willfully otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c).

(3) It shall be an affirmative defense to any prosecution under paragraph (1) of this subsection that the driver’s conduct in violation of such paragraph was caused by such driver’s reasonable belief that the vehicle or bicycle pursuing such driver’s vehicle is not a police vehicle or police bicycle.

(b) The signal given by the police officer may be by hand, voice, emergency light, or siren:

(1) if the officer giving such signal is within or upon an official police vehicle or police bicycle at the time the signal is given, the vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle; or

(2) If the officer giving such signal is not utilizing an official police vehicle or police bicycle at the time the signal is given, the officer shall be in uniform, prominently displaying such officer’s badge of office at the time the signal is given.

(c) Every person convicted of violating subsection (a) shall upon:

(1) First conviction be imprisoned for not more than six (6) months or fined not to exceed One Thousand Dollars ($1,000.00), or both.

(2) Second conviction be punished by imprisonment not to exceed one (1) year or fined not to exceed Two Thousand Five Hundred Dollars ($2,500.00) or both.

(3) Third or subsequent convictions are a severity level 9, person felony.

(d) For the purpose of this section:

(1) "conviction" means a final conviction without regard for whether sentence was suspended or probation granted after such conviction; also forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction. For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section it is irrelevant whether an offense occurred before or after conviction for a previous offense.

(2) "Appropriately marked" official police vehicle or police bicycle shall include, but not be limited to, any police vehicle or bicycle equipped with functional emergency lights or siren or both and which the emergency lights or siren or both have been activated for the purpose of signaling a driver to stop a motor vehicle. (K.S.A. 8-1568, as amended). (Ord. 14-57 § 10, 2014; Ord. 09-60 § 2, 2009; Ord. 01-89 § 2, 2001.)

ARTICLE 7. SPEED REGULATIONS

10.01.032 Speed Limitations; Basic Rule. No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching or crossing an intersection or railroad grade crossing, when approaching or going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions. (K.S.A. 8-1557) (Ord. 01-89 § 2, 2001.)

10.01.033 Maximum Speed Limits.

(a) Except as provided in subsection (b), or when a special condition or hazard exists that requires a lower speed for compliance with O.M.C. 10.01.032, the limits specified in this section or established as authorized by law shall be maximum lawful speeds, and no person shall drive a vehicle on a highway at a speed in excess of such maximum limits.

(1) In any business district, all vehicles twenty (20) miles per hour, unless posted otherwise.

(2) In any residence district, all vehicles twenty-five (25) miles per hour, unless posted otherwise.

(3) In any posted school zone on any day school is in session during those time periods set forth on erected signs or during those times a flashing yellow beacon is in operation with an erected sign, all vehicles twenty-five (25) miles per hour, unless posted otherwise; except for between the hours of 7:00 A.M. and 9:30 P.M. seven days a week for the Kansas School for the Deaf.

(4) On any separated multilane highway as designated and posted by the Secretary of Transportation, all vehicles seventy-five (75) miles per hour.

(5) On any county or township highway, all vehicles 55 miles per hour.

(6) On all other highways unless posted otherwise, all vehicles 65 miles per hour.

(7) In any park under the jurisdiction of this City, all vehicles 20 miles per hour.

(b) No person shall drive a school bus to or from school, or interschool or intraschool functions or activities, at a speed in excess of the maximum speed limits provided in subsection (a), except that the board of education of any school district may establish by board policy lower maximum speed limits for the operation of such district's school buses. The provisions of this subsection shall also apply to buses used for the transportation of students enrolled in community colleges or area vocational schools when such buses are transporting students to or from school functions or activities.

(c) The maximum speed limits established by or pursuant to this section may be altered as authorized in K.S.A. 8-1559, 8-1560, and 8-2002, and amendments thereto.

(d) Whenever the City Traffic Engineer shall determine upon the basis of an engineering and traffic investigation that any speed limit hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist upon any part of a street, the said City Traffic Engineer shall determine and declare a reasonable and safe speed limit thereon which shall be effective at all times during the daytime or nighttime when appropriate signs giving notice thereof are erected on such streets, pursuant to K.S.A. 8-1560 and 8-2002. As used in this section, daytime means from a half hour before sunrise to a half hour after sunset; nighttime means any other hour.

(e) The maximum speed to be posted within each school zone shall be determined by the City Traffic Engineer provided the speed limit shall not be less than 20 miles per hour. The City Traffic Engineer shall determine the school zone times within the City. (Ord. 16-48 § 1, 2016;Ord. 14-57 § 11, 2014; Ord. 08-51 § 1, 2008; Ord. 07-136 § 5, 2007; Ord. 01-89 § 2, 2001.)

10.01.034 Minimum Speed Regulations.

(a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with the law.

(b) Whenever the Governing Body determines on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway consistently impede the normal and reasonable movement of traffic, the Governing Body may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with the law, and that limit shall be effective when posted upon appropriate fixed or variable signs. (Ord. 01-89 § 2, 2001.)

10.01.035 Special Speed Limitation on Motor-Driven Cycle. No person shall operate any motor-driven cycle at any time mentioned in 10.01.144 at a speed greater than 35 miles per hour unless such motor-driven cycle is equipped with a head lamp or lamps which are adequate to reveal a person or vehicle at a distance of 300 feet ahead. (Ord. 01-89 § 2, 2001.)

See: 10.01.182 & 10.01.187

10.01.036 Charging Speed Violations. In every charge of violation of 10.01.033, 10.01.034 and 10.01.035, the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the speed limit applicable within the district or at the location. (Ord. 01-89 § 2, 2001.)

10.01.037 Racing on Highways.

(a) No person shall drive any vehicle in any race, speed competition or contest, drag race or acceleration contest, or for the purpose of making a speed record, and no person shall in any manner participate in any such race, competition, contest, test or exhibition.

(b) No person shall operate any motor vehicle in a manner that unnecessarily causes an exhibition of speed or acceleration.

(c) "Drag race" is defined as the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other, or the operation of one or more vehicles over a common selected course, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit.

(d) "Racing" is defined as the use of one or more vehicles in an attempt to out-gain, outdistance or prevent another vehicle from passing to arrive at a given destination ahead of another vehicle or vehicles.

(e) Exhibition of speed or acceleration is defined as the operation of a motor vehicle in such a manner that causes an unnecessary rapid acceleration of the vehicle as evidenced by any or all of the following physical manifestations of acceleration:

(1) Unnecessary tire squeal at the time of acceleration;
(2) Observation of smoke from tires of the vehicle at the time of acceleration;
(3) Observation of the tires of the vehicle losing traction with the road surface;
(4) Observation of the front part of the vehicle being elevated at the time of acceleration;
(5) Observation of the vehicle moving laterally at the time of acceleration;
(6) Loud engine noise at the time of acceleration; and/or
(7) Observation of dirt and other road surface materials being thrown by the tires of the vehicle at the time of acceleration. (Ord. 14-57 § 12, 2014; Ord. 01-89 § 2, 2001.)

ARTICLE 8.
DRIVING ON RIGHT SIDE OF ROADWAY; OVERTAKING AND PASSING; USE OF ROADWAY

10.01.038 Driving on Right Side of Roadway; Exceptions.

(a) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movements;

(2) When an obstruction exists making it necessary to drive to the left of center of the highway; except that any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

(3) Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or

(4) Upon a roadway restricted to one-way traffic.

(b) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction, or when preparing for a left turn at an intersection or into a private road or driveway.

(c) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic-control devices, designating certain lanes to the left of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (a)(2) hereof. However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road, driveway or parking lot. (Ord. 01-89 § 2, 2001.) See: 10.01.046

10.01.039 Passing Vehicles Proceeding in Opposite Directions. Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction, each driver shall give to the other at least one-half of the main traveled portion of the roadway as nearly as possible. (Ord. 01-89 § 2, 2001.)

10.01.040 Overtaking a Vehicle or Bicycle on the Left. The following rules shall govern the overtaking and passing of vehicles and bicycles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

(a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(c) (1) The driver of a vehicle overtaking a bicycle proceeding in the same direction shall pass to the left thereof at a distance of not less than three (3) feet and shall not again drive to the right side of the roadway until safely clear of the overtaken bicycle.

(2) The driver of a vehicle may pass a bicycle proceeding in the same direction in a no-passing zone with the duty to execute the pass only when it is safe to do so. See: 10.01.042 for limitations. (Ord. 11-48 § 6, 2011; Ord. 01-89 § 2, 2001.)

10.01.041 When Passing on the Right is Permitted.

(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(1) When the vehicle overtaken is making or about to make a left turn;

(2) Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle; or

(3) A transit bus authorized under and being operated in accordance with the provisions of K.S.A. 75-5091, and amendments thereto.

(b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement shall not be made by driving off the roadway, except as authorized under K.S.A. 75-5091, and amendments thereto. (Ord. 14-57 § 13, 2014; Ord. 01-89 § 2, 2001.)

10.01.042 Limitations on Overtaking on the Left. Except as otherwise provided in this ordinance no vehicle shall be driven to the left of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and, in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within 200 feet of any approaching vehicle. (Ord. 01-89 § 2, 2001.)

See: 10.01.040

10.01.043 Further Limitations on Driving on Left of Center of Roadway.

(a) No vehicle shall be driven to the left side of the roadway under the following conditions:

(1) When approaching or upon the crest of a grade or curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction; or

(2) When approaching within 100 feet of or traversing any intersection or railroad grade crossing; or

(3) When the driver's view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel.

(b) The foregoing limitations shall not apply upon a one-way roadway nor under the conditions described in 10.01.038(a)(2), nor to the driver of a vehicle turning left into or from an alley, private road, driveway or parking lot. (Ord. 14-57 § 14, 2014; Ord. 01-89 § 2, 2001.)

10.01.044 No-Passing Zones.

(a) Whenever signs or markings are in place to define a no-passing zone and clearly visible to an ordinarily observant person no driver shall at any time drive on the left side of the roadway within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.

(b) This section shall not apply under the conditions described in 10.01.038(a)(2), nor to the driver of a vehicle turning left into or from an alley, private road, driveway or parking lot. (Ord. 01-89 § 2, 2001.)

10.01.045 One-Way Roadways and Rotary Traffic Islands.

(a) When official traffic-control devices indicate that vehicular traffic shall proceed in one direction upon any highway, roadway, part of a roadway or specific lanes, a vehicle shall be driven only in the direction designated at all or such times as shall be indicated by such device.

(b) A vehicle passing around a rotary traffic island shall be driven only to the right of such island. (Ord. 01-89 § 2, 2001.)

10.01.046 Driving on Roadways Laned for Traffic. Whenever any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

(a) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first signaled the movement, either by activating the appropriate turn signal or by hand signals and ascertained that such movement can be safely made.

(b) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.

(c) Official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device.

(d) Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the direction of every such device. (Ord. 01-89 § 2, 2001.)

See: 10.01.038

10.01.047 Following Too Closely.

(a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the highway.

(b) The driver of any truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another truck or motor vehicle drawing another vehicle shall leave sufficient space, whenever conditions permit, so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a truck or motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.

(c) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions. (Ord. 01-89 § 2, 2001.)

10.01.048 Driving on Divided Highways; Left and U Turns; Controlled-Access Highways. No person shall:

(a) Drive a vehicle over, upon or across any intervening space, physical barrier or a clearly indicated dividing section so constructed as to impede vehicular traffic between roadways on divided highways;

(b) Make a left turn or a semicircular or “U” turn on the interstate system;

(c) Make a left turn or a semicircular or “U” turn over, across or within any intervening space, physical barrier or a clearly indicated dividing section so constructed as to impede vehicular traffic between roadways on a divided highway, except this subsection (c) does not prohibit making a left turn or a semicircular or “U” turn through an opening provided and surfaced for the purpose of public use for such turning movements;

(d) Make a left turn or a semicircular or "U" turn on a divided highway wherever such turn is specifically prohibited by a sign or signs placed by the authority having jurisdiction over that highway;

(e) Drive any vehicle on a divided highway except on the proper roadway provided for that purpose and in the proper direction and to the right of the intervening space, physical barrier or a clearly indicated dividing section so constructed as to impede vehicular traffic between roadways unless directed or permitted to use another roadway by official traffic-control devices or police officers;

(f) Drive any vehicle onto or from any controlled-access highway except at such entrances and exits as are established by the authority having jurisdiction over such highway;

(g) Use controlled-access highway right-of-way for parking vehicles or mobile equipment, or stacking of materials or equipment, for the purpose of servicing adjacent property; or

(h) Stop, stand or park vehicles on the right-of-way of a controlled-access highway except for:

(1) Stopping of disabled vehicles;
(2) Stopping to give aid in an emergency;
(3) Stopping in compliance with directions of a police officer or other emergency or safety officials;
(4) Stopping due to illness or incapacity of driver; or
(5) Parking in designated parking or rest areas. (Ord. 01-89 § 2, 2001.)

See: 10.01.050 & 10.01.051

ARTICLE 9. TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING

10.01.049 Turning.

(a) The driver of a vehicle intending to turn shall do so as follows:

(1) **Right Turns**. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or the edge of the roadway.
(2) **Left Turns**. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable a left turn at an intersection shall be made to the left of the center of the intersection, and any left turn shall be made so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.

(b) **Two-Way Left Turn Lanes**. Where a special lane for making left turns by drivers proceeding in opposite directions has been indicated by official traffic-control devices:

(1) A left turn shall not be made from any other lane;
(2) A vehicle shall not be driven in the lane except when preparing for or making a left turn from or into the roadway or when preparing for or making a U turn when otherwise permitted by law.

(c) When official traffic-control devices are placed within or adjacent to intersections requiring and directing that a different course from that specified in this section be traveled by vehicles turning at an intersection, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such devices. (Ord. 01-89 § 2, 2001.)

10.01.050 Right, Left and U Turns at Intersections; Obedience To.

(a) The City Traffic Engineer is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U turn, and shall place or cause to be placed proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or the signs may be removed when such turns are permitted.

(b) Whenever authorized signs are erected or temporarily displayed on a movable standard indicating that no right or left or U turn is permitted, no driver of a vehicle shall disobey the directions of any such sign. (Ord. 01-89 § 2, 2001.)

10.01.051 U Turns; Where Prohibited. The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district, when posted, nor upon any other street unless such movement can be made in safety without interfering with other traffic. (Ord. 01-89 § 2, 2001.)

See: 10.01.048 and 10.01.050

10.01.052 Turning on Curve or Crest of Grade Prohibited. No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to, or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred (500) feet. (Ord. 01-89 § 2, 2001.)

10.01.053 Starting Parked Vehicle. No person shall start a vehicle which is stopped, standing or parked unless and until such movement can be made with reasonable safety. (Ord. 01-89 § 2, 2001.)

10.01.054 Turning Movements and Required Signals.

(a) No person shall turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety, nor without giving an appropriate signal in the manner hereinafter provided.

(b) A signal of intention to turn or move right or left when required shall be given continuously during not less than the last one hundred (100) feet traveled by a vehicle before turning.

(c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein, to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(d) The signals required on vehicles by 10.01.149(b) shall not be flashed on one side only on a disabled vehicle, flashed as a courtesy or “do pass” signal to operators of other vehicles approaching from the rear nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section. (Ord. 14-57 § 15, 2014; Ord. 01-89 § 2, 2001.)

10.01.055 Signals by Hand and Arm or Signal Lamps. The driver of any motor vehicle or combination of vehicles which is required to be equipped with electric turn signal lamps by 10.01.149 shall give any required notice of intention to turn by means of electric turn signals meeting the requirements of 10.01.161(b). The driver of any other motor vehicle or combination of vehicles shall give such notice by means of hand and arm signals, as provided in 10.01.056, or by such electric turn signals. (Ord. 01-89 § 2, 2001.)

10.01.056 Methods of Giving Signals. All signals herein required to be given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

(1) Left turn -- hand and arm extended horizontally.
(2) Right turn -- hand and arm extended upward.
(3) Stop or decrease of speed -- hand and arm extended downward. (Ord. 01-89 § 2, 2001.)

ARTICLE 10. RIGHT-OF-WAY

10.01.057 Vehicles Approaching or Entering Intersection.

(a) When two vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(b) The right-of-way rule declared in subsection (a) is modified at through highways and otherwise as hereinafter stated in this ordinance. (Ord. 01-89 § 2, 2001.)

10.01.058 Vehicle Turning Left. The driver of a vehicle intending to turn to the left within an intersection or into any alley, private road, driveway or parking lot shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. (Ord. 15-64 § 10, 2015; Ord. 01-89 § 2, 2001.)

10.01.059 Stop Signs and Yield Signs.

(a) Preferential right-of-way may be indicated by stop signs or yield signs.

(b) Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways. Such driver shall yield the right-of-way to pedestrians within an adjacent crosswalk.

(c) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways. Such driver shall yield the right-of-way to pedestrians within an adjacent crosswalk. If a driver is involved in a collision with a vehicle in the intersection or junction of roadways or with a pedestrian in an adjacent crosswalk, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of the driver's failure to yield right-of-way. (Ord. 01-89 § 2, 2001.)

10.01.060 Vehicle Entering Roadway. The driver of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right-of-way to all vehicles approaching on the roadway to be entered or crossed. (Ord. 01-89 § 2, 2001.)

See: 10.01.080

10.01.061 Operation of Vehicles on Approach of Authorized Emergency Vehicles.

(a) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal meeting the requirements of subsection (d) of 10.01.174 and visual signals meeting the requirements of 10.01.160 of this ordinance or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall do the following unless otherwise directed by a police officer:

(1) Yield the right-of-way;

(2) Immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway clear of any intersection; and

(3) Stop and remain in such position until the authorized emergency vehicle has passed.

(b) The driver of a motor vehicle upon approaching a stationary authorized emergency vehicle, when the authorized emergency vehicle is making use of visual signals meeting the requirements of 10.01.160, or subsection (d) of 10.01.162, shall do either of the following:

(1) If the driver of the motor vehicle is traveling on a highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible and with due regard to the road, weather and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary authorized emergency vehicle; or

(2) If the driver is not traveling on a highway of a type described in paragraph (1), or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle and maintain a safe speed for the road, weather and traffic conditions.

(c) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway. (K.S.A. 8-1530, as amended) (Ord. 01-89 § 2, 2001.)

Ref.: 10.01.010

10.01.061.1 Passing When Near Stationary Authorized Emergency Vehicle. The driver of a vehicle shall not overtake and pass another vehicle when approaching within one hundred (100) feet of:

(a) a stationary authorized emergency vehicle on a highway that consists of two lanes carrying traffic in opposite directions, when the authorized emergency vehicle is making use of visual signals meeting the requirements of 10.01.160, or subsection (d) of 10.01.162.

(b) a stationary authorized vehicle which is obviously and actually engaged in work on a highway that consists of two lanes carrying traffic in opposite directions, when such vehicle displays flashing lights meeting the requirements of 10.01.172. (Ord. 07-136 § 6, 2007; Ord. 06-70 § 1, 2006; Ord. 01-89 § 2, 2001.)

10.01.062 Highway Construction and Maintenance.

(a) It shall be unlawful for any person to fail, neglect or refuse to comply with restrictions or traffic regulations in road construction zones or fail to comply with traffic orders or traffic directions by a flagman in a road construction zone.

(b) The driver of a vehicle shall yield the right-of-way to any authorized vehicle or pedestrian actually engaged in work upon a highway within any highway construction or maintenance area indicated by official traffic-control devices.

(c) The driver of a vehicle shall yield the right-of-way to any authorized vehicle which is obviously and actually engaged in work upon a highway whenever such vehicle displays flashing lights meeting the requirements of 10.01.172.

(d) The driver of a motor vehicle upon approaching a stationary authorized vehicle which is obviously and actually engaged in work upon a highway, when such authorized vehicle is displaying flashing lights meeting the requirements of 10.01.172, and amendments thereto, shall do either of the following:

(1) If the driver of the motor vehicle is traveling on a highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible and with due regard to the road, weather and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary authorized vehicle; or

(2) If the driver is not traveling on a highway of a type described in paragraph 1, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle and maintain a safe speed for the road, weather and traffic conditions.

(e) This section shall not operate to relieve the driver of an authorized vehicle from the duty to drive with due regard for the safety of all persons using the highway. (Ord. 07-136 § 7, 2007; Ord. 06-70 § 2, 2006; Ord. 01-89 § 2, 2001.)

ARTICLE 11. PEDESTRIANS

10.01.063 Pedestrians; Obedience to Traffic-Control Devices and Traffic Regulations.

(a) A pedestrian shall obey the instructions of any official traffic-control device specifically applicable to him or her, unless otherwise directed by a police officer.

(b) Pedestrians shall be subject to traffic and pedestrian-control signals as provided in 10.01.013 and 10.01.014.

(c) At all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this ordinance. (Ord. 01-89 § 2, 2001.)

10.01.064 Pedestrians' Right-of-Way in Crosswalks; Control Signals.

(a) When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian entering or crossing the roadway within a crosswalk.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk, jog, or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(c) Subsection (a) of this section shall not apply under the conditions stated in 10.01.065(b).

(d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle. (Ord. 01-89 § 2, 2001.)

10.01.064.1 School Crossing Guard; Disobeying. No person shall willfully fail or refuse to comply with any lawful order or directions of any uniformed school crossing guard invested by law with authority to direct, control, or regulate traffic. (Ord. 07-136 § 20, 2007.)

10.01.065 Crossing at Other Than Crosswalks; Jaywalking.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements. (Ord. 01-89 § 2, 2001.)

10.01.066 Drivers to Exercise Due Care. Notwithstanding other provisions of this ordinance every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian, and shall give warning by sounding the horn when necessary, and shall exercise proper precaution upon observing any child or any obviously confused or incapacitated person. (Ord. 01-89 § 2, 2001.)

See: 10.01.002

10.01.067 Pedestrians to Use Right Half of Crosswalks. Pedestrians shall move, whenever practicable, upon the right half of crosswalks. (Ord. 01-89 § 2, 2001.)

10.01.068 Pedestrians on Highways.

(a) Where a sidewalk is provided and its use is practicable it shall be unlawful for any pedestrian to walk, jog or run along and upon an adjacent roadway.

(b) Where a sidewalk is not available, any pedestrian walking, jogging or running along and upon a highway shall walk, jog or run only on a shoulder, as far as practicable from the edge of the roadway.

(c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking, jogging or running along and upon a highway shall walk, jog or run as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk, jog or run only on the left side of the roadway.

(d) Except as otherwise provided in this ordinance, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway. (Ord. 01-89 § 2, 2001.)

10.01.069 Pedestrians Soliciting Rides or Business.

(a) No person shall stand upon or along a street or highway for the purpose of soliciting a ride.

(b) No person shall stand on a highway for the purpose of soliciting employment, business or contributions from the occupant of any vehicle.

(c) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

(d) The soliciting of contributions under subsection (b) shall not be prohibited if such person or organization has first obtained a permit authorizing such soliciting from the City. (Ord. 01-89 § 2, 2001.)

10.01.070 Driving Through Safety Zone Prohibited. No vehicle shall at any time be driven through or within a safety zone. (Ord. 01-89 § 2, 2001.)

10.01.071 Pedestrians Right-of-Way on Sidewalks. The driver of a vehicle shall yield the right-of-way to any pedestrian on a sidewalk. (Ord. 01-89 § 2, 2001.)

10.01.072 Pedestrians Yield to Authorized Emergency Vehicles.

(a) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal meeting the requirements of 10.01.174(d) and visual signals meeting the requirements of 10.01.160, or of a police vehicle properly and lawfully making use of an audible signal only, every pedestrian shall yield the right-of-way to the authorized emergency vehicle.

(b) This section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian. (Ord. 01-89 § 2, 2001.)

10.01.073 Blind Pedestrian Right-of-Way. The driver of a vehicle shall yield the right-of-way to any blind pedestrian carrying a clearly visible white cane or accompanied by a guide dog. (Ord. 01-89 § 2, 2001.)

10.01.074 Pedestrian Under Influence of Alcohol or Drugs. A pedestrian who is under the influence of alcohol or any drug to a degree which renders such pedestrian a hazard shall not walk or be upon a highway except on a sidewalk. (Ord. 15-64 § 11, 2015; Ord. 01-89 § 2, 2001.)

10.01.075 Bridge or Railroad Signals.

(a) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.

(b) No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed. (Ord. 01-89 § 2, 2001.)

ARTICLE 12. SPECIAL STOPS REQUIRED

10.01.076 Obedience to Signal Indicating Approach of Train.

(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until he or she can do so safely. The foregoing requirements shall apply when:

(1) a clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

(2) a crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

(3) a railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or

(4) an approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. (Ord. 01-89 § 2, 2001.)

10.01.077 All Vehicles Must Stop at Certain Railroad Grade Crossings. When the Secretary of Transportation or Governing Body of this City with the approval of the Commission, has designated a particularly dangerous highway-grade crossing of a railroad and erected a stop sign thereat, the driver of any vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad and shall proceed only upon exercising due care. (Ord. 01-89 § 2, 2001.)

10.01.078 Certain Vehicles Must Stop at All Railroad Grade Crossings.

(a) Except as provided in subsection (b), the driver of any vehicle described in rules and regulations issued by the Secretary of Transportation in conjunction with the State Corporation Commission, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, and shall not proceed until such driver can do so safely. After stopping as required and upon proceeding when it is safe to do so, the driver of any vehicle shall cross only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing such crossings and the driver shall not manually shift gears while crossing the track or tracks.

(b) This section shall not apply at:

(1) Any railroad grade crossing at which traffic is controlled by police officer or human flagman;

(2) Any railroad grade crossing at which traffic is controlled by a functioning highway traffic signal transmitting a green indication which, under local law, permits a vehicle to proceed across the railroad tracks without slowing or stopping;

(3) Any abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned;

(4) Any industrial or spur line railroad grade crossing marked with a sign reading "Exempt." Such exempt signs shall be erected only by or with the consent of the appropriate state or local authority;

(5) A railroad grade crossing used exclusively for industrial switching purposes, within a business district. (Ord. 01-89 § 2, 2001.)

10.01.079 Moving Heavy Equipment at Railroad Grade Crossing.

(a) No person shall operate or move any crawler type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of ten (10) or less miles per hour, or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this Section.

(b) Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.

(c) Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen (15) feet nor more than fifty (50) feet from the nearest rail of such railroad, and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(d) No such crossing shall be made when warning is given by automatic signal or crossing gates or flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under the direction of the flagman. (Ord. 15-64 § 12, 2015; Ord. 01-89 § 2, 2001.)

10.01.080 Emerging from Alley or Private Driveway or Building. The driver of a vehicle emerging from an alley, building, parking lot, private road or driveway within a business or residence district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, parking lot, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon. (Ord. 01-89 § 2, 2001.)

See: 10.01.002 & 10.01.060

10.01.081 Overtaking and Passing School Bus.

(a) The driver of a vehicle meeting or overtaking from either direction any school bus stopped on the highway shall stop before reaching such school bus when there is in operation on the school bus the flashing red lights specified in 10.01.170(a), and the driver shall not proceed until such school bus resumes motion or the flashing red lights and the stop signal arm are no longer actuated.

(b) Every school bus shall be equipped with red visual signals meeting the requirements of 10.01.170(a), which may be actuated by the driver of the school bus whenever but only whenever such vehicle is stopped on the highway for the purpose of receiving or discharging school children. A school bus driver shall not actuate the special visual signals:

(1) At intersections or other places where traffic is controlled by traffic-control signals or police officers; or

(2) In designated school bus loading areas where the bus is entirely off the roadway.

(c) Every school bus shall bear upon the front and rear thereof plainly visible:

(1) Signs containing the words “School Bus” in letters not less than eight inches in height. When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or to or from interschool or intraschool functions or activities, or for maintenance, repair or storage purposes, all markings thereon indicating “school bus” shall be covered or concealed.

(d) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway, and where pedestrians are not permitted to cross the roadway.

(e) The provisions of this section shall be subject to the provisions contained in K.S.A. Supp.8-2009a, and amendments thereto. (K.S.A. 8-1556) (Ord. 07-136 § 8, 2007; Ord. 01-89 § 2, 2001.)

10.01.082 Overtaking and Passing Church Bus or Day Care Program Bus.

(a) The driver of a vehicle meeting or overtaking from either direction any church bus or day care program bus stopped on the highway shall stop before reaching such church bus or day care program bus when there is in operation on said church bus or day care program bus the flashing red lights specified in Section 10.01.170(a), and said driver shall not proceed until such church bus or day care program bus resumes motion or said driver is signaled by the church bus or day care program bus driver to proceed or the flashing red lights and stop signal arm are no longer actuated.

(b) If a church bus or day care program bus is equipped with visual signals permitted by Section 10.01.171(c), such signals may be actuated by the driver of said church bus or day care program bus only when such vehicle is stopped on the highway for the purpose of receiving or discharging passengers. A church bus or day care program bus shall not actuate said special visual signals:

(1) At intersections or other places where traffic is controlled by traffic-control signals or police officers; or

(2) In designated loading areas where the bus is entirely off the roadway.

(c) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a church bus or day care program bus which is on a separate roadway or when upon a controlled-access highway and the church bus or day care program bus is stopped in a loading zone which is part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway. (Ord. 15-64 § 13, 2015; Ord. 01-89 § 2, 2001.)

ARTICLE 13. STOPPING, STANDING OR PARKING

10.01.083 Stopping, Standing or Parking Outside Business or Residence Districts.

(a) Outside a business or residence district, no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the roadway when it is practicable to stop, park or so leave such vehicle off the roadway, but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicle shall be available from a distance of two hundred (200) feet in each direction upon such highway.

(b) This section, 10.01.085, and 10.01.086 shall not apply to the driver of any vehicle which is disabled in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position. (Ord. 01-89 § 2, 2001.)

10.01.084 Removal of Vehicles.

(A) Officers Authorized to Remove Vehicles.

(1) Whenever any police officer finds a vehicle in violation of any of the provisions of Section 10.01.083, such officer is hereby authorized to move such vehicle or require the driver or other person in charge of the vehicle to move the same to a position off the roadway.

(2) Any police officer is hereby authorized to remove or cause to be removed to a place of safety any unattended vehicle illegally left standing upon any highway, bridge, causeway or in any tunnel and in such position or under such circumstances as to obstruct the normal movement of traffic.

(3) Any police officer is hereby authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway when:

(a) Report has been made that such vehicle has been stolen or taken without the consent of its owner;

(b) The person or persons in charge of such vehicle are unable to provide for its custody or removal; or

(c) When the person driving or in control of such vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before the municipal judge without unnecessary delay.

(4) Any unoccupied motor vehicle left parked continuously upon any street of the City or City-owned parking lot for forty-eight (48) hours or more is declared to be a public nuisance. It shall be the duty of the Police Chief to cause such motor vehicle to be removed and impounded.

(5) Any unoccupied motor vehicle that is found parked in or upon any regularly designated parking space, or in or upon any street, sidewalk or alley in violation of any of the provisions of this Chapter or any other traffic ordinance of the City, is declared to be a public nuisance and may be removed and impounded upon the order of the Police Chief.

(6) In any proceeding for a violation of this Section, the registration plate displayed upon the motor vehicle in violation shall constitute in evidence a prima facie presumption that the registered owner of such motor vehicle was the person who parked or placed such motor vehicle at the place where the violation occurred.

(B) Notice Prior to Removal.

(1) Vehicles which are authorized to be impounded in any of the provisions of this Section may be impounded without notice to the owner or lawful custodian of such vehicle only in the following instances:

(a) Whenever any unattended vehicle is illegally left standing upon any highway, bridge, causeway or in any tunnel and in such position or under such circumstances as to obstruct the normal movement of traffic or otherwise creates a traffic hazard;

(b) When report has been made that such vehicle has been stolen or taken without the consent of its owner and the owner/agent cannot be contacted at that time;

(c) When the driver of a vehicle is arrested, except, provided the driver is not in an impaired condition, the vehicle may be released to the custody of another person present upon the authority of the arrestee/driver;

(d) Accident cases where the driver is injured and is unable to designate to an officer disposition of the vehicle.

(2) Vehicles which are subject to being impounded under any other provision of this Chapter may not be towed until the owner or person entitled to lawful custody has been notified and given an opportunity to remove said vehicle within a reasonable time; provided, however, that where the owner or person entitled to custody cannot be located after a bona fide effort has been made to do so, then such vehicle may be towed.

(a) For purposes of this Subsection, “a bona fide effort” includes, but is not limited to, a check of the license tag of the vehicle with the Department of Motor Vehicle Registration; and a vehicle identification number search through the Department of Motor Vehicle Registration.

(C) Notice after Removal.

(1) Any motor vehicle which has been impounded under the provisions of this Section for thirty (30) days or more shall be disposed of in the following manner:

If such motor vehicle has displayed thereon a registration plate issued by the Division of Motor Vehicles and has been registered with the Division, a notice shall be sent 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, stating that if the owner or lien holder does not claim such motor vehicle and pay the removal and storage charges incurred by such public agency on it within fifteen (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 public agency shall use reasonable diligence in determining the title owner, reasonable diligence includes, but is not limited to, a check of the license tag of the vehicle with the Department of Motor Vehicle Registration and/or a vehicle identification number search through the Department of Motor Vehicle Registration.

Such notification shall include the rights of hearing set out in Subsection (D) hereof. If the owner or person entitled to custody thereof does not take action within the time period set out in Subsection (C) (1), the vehicle will be disposed of by sale at public auction pursuant to the procedures set out in K.S.A. 8-1102 and amendments thereto.

(2) Upon any motor vehicle being impounded under the provisions of this Chapter, such motor vehicle shall be surrendered to the duly identified owner upon the payment of storage charges and towing fees which have been incurred in the removal and impounding of such motor vehicle. The impounding fees and costs herein provided for shall be cumulative of any and all other penalties that are provided in this Chapter.

(D) Hearing to Contest Removal.

(1) Owners or persons entitled to lawful custody of impounded vehicles who wish to contest the payment of any fees or charges incurred in the towing or storage of any vehicle may do so and a hearing for such purpose shall be provided within four (4) working days after such hearing is requested. The request for hearing must be made within ten (10) days of the vehicle's impoundment.

(2) Such hearings shall be held by the municipal court at times to be set by the municipal court.

(3) Pending such hearing, the owner or person lawfully entitled to custody of any impounded vehicle may retrieve the impounded vehicle upon posting a cash or surety bond in the amount of towing fees and storage charges due and if such bond is posted, the vehicle will be released immediately upon proof of entitlement thereof. If the owner or person lawfully entitled to custody of any vehicle does not post bond, then such vehicle will remain in storage until a hearing is held.

(4) If after hearing, the court determines that there was no factual basis for the impoundment of said vehicle, then the vehicle will be released to the owner or person lawfully entitled to custody thereof without costs, and any bond, if posted, will be returned. If after hearing it is determined that the vehicle was lawfully towed, then all charges shall be paid by the owner or person having lawful custody of vehicle; such charges may be paid for partly or in whole by the bond, if cash, and any surplus bond money will be returned.

(E) Wrecker or Towing Services and Towing Procedure.

(1) Whenever a tow truck is required for any reason, the police officer will contact the owner or his or her representative when one is available to determine preference as to which tow service will be called to tow the vehicle. If the owner or his or her representative has a preference, the dispatcher will be advised to order the preferred tow service. Where no preference is indicated, then the next tow service on the rotation list described in Subsection (2) of this Section shall be contacted.

(2) The Police Chief shall approve any person, firm, partnership or corporation desiring to perform wrecker or towing service for the Olathe Police Department for removal of vehicles as authorized herein. If such vehicle or towing service meets the requirements of this Section, in which case such wrecker or towing service shall be eligible to be placed on the list of companies authorized to respond for wrecker or towing service requested by the Olathe Police Department on a rotation basis.

(a) Requirements for Approval. The following requirements and criteria shall be met by any wrecker or towing service seeking approval to be authorized and listed as eligible to respond to requests for towing service by the Olathe Police Department:

(i) Exclusive of legal holidays, each wrecker or towing service shall be open and have a representative actually on the premises of the location or area where towed vehicles are stored or kept ten (10) hours per day, from 8:00 a.m. to 6:00 p.m. Monday through Friday, and a representative shall be available when called between 8:00 a.m. and 12:00 noon on Saturdays.

(ii) Each wrecker or towing service shall allow the owner of a vehicle towed access to personal property in such vehicle for forty-eight (48) hours after such vehicle has been towed and such personal property shall be released to the owner.

(iii) Wrecker or towing service drivers must be available twenty-four (24) hours a day, seven (7) days a week.

(iv) Each wrecker or towing service must have adequate storage facilities. The wrecker or towing service must have outside storage areas, which must be surround by a fence which is at least six (6) feet high.

(v) Each wrecker or towing service must have available storage area which is totally enclosed within a building for the protection and security of recovered stolen property to be processed and valuable property left in vehicles.

(vi) Each wrecker or towing service must have available at least one (1) sixteen (16) ton capacity wrecker or wrecker vehicle with greater capacity.

(vii) Each wrecker or towing service must handle and tow abandoned vehicles in proportion to the number of tow requests received from the Olathe Police Department for damaged or disabled vehicles.

(viii) Each wrecker or towing service must provide the City with proof of adequate insurance coverage under the following policies:

(aa) Garage Keeper's Policy. A garage keeper's liability policy providing the following coverages: fire, theft, wind, water, vandalism and explosion with a minimum limit of Seventy-Five Thousand Dollars ($75,000.00) per garage.

(bb) Liability Policies. Liability policies covering the premises and operation of the owner's business, equipment and motor vehicles for property damage and bodily injury shall be maintained by the owner. These policies shall provide coverage limits at or equivalent to Five Hundred Thousand Dollars ($500,000.00) per occurrence combined single limit for property damage and bodily injury; on-hook/cargo coverage for vehicles that are being towed with a minimum of Fifty Thousand Dollars ($50,000.00).

(cc) Endorsement. Each policy required herein must contain an endorsement providing the City and the insured thirty (30) days' notice of any material change in coverage or cancellation of the policy.

(ix) Each towing or wrecker service shall provide the Olathe Police Department with information relating to ownership and availability of the equipment and facilities required by the foregoing paragraphs (i) and (viii).

(x) The wrecker or towing service shall notify the Olathe Police Department of the location of the towed vehicle within two (2) hours of such tow. 10.60 January 2016

(xi) The requirements set forth in paragraphs (i) through (x) shall not apply when the person whose vehicle is to be towed shall indicate a preference as to which wrecker or towing service is to be utilized or when the person whose vehicle is to be towed shall request a specific wrecker or towing service.

(b) Fees and Charges. All wrecker or towing services shall charge for towing services and storage fees, such fees and charges as are adopted by the Governing Body of said City by resolution. (Such fees and charges shall apply only as to vehicles towed and stored in response to a request by the Olathe Police Department). Wrecker and towing services may submit charges to the Governing Body for approval, but the charges as approved shall be uniform for all services.

(c) Release of Towed Vehicle. No wrecker or towing service, or owner, employee or agent thereof, shall release any towed or stored vehicle without proper authorization from the Olathe Police Department, or a designated representative, who shall be responsible for approving the owner's identification and proof of title and registration.

(d) Enforcement Authority. The Governing Body may establish, distribute and cause the enforcement of reasonable rules and regulations for wrecker or towing services, subject to the provisions of this Section, as from time to time it deems appropriate for the safety, well-being and protection of citizens and their property within the City of Olathe, Kansas.

(e) Suspension or Revocation of Approval and Authorization; Grounds. The Police Chief may order that the approval and authority of a wrecker or towing service to respond to the request of the Olathe Police Department be suspended or revoked and order such wrecker or towing service removed from the rotational call list. Any such suspension shall be effective until the deficiency is corrected or for a maximum of sixty (60) days, said period to be determined by the Police Chief.

If such approval and authority is revoked, such wrecker or towing service shall not be eligible for reinstatement for at least one (1) year from the date of revocation.

Such suspension or revocation shall be preceded by written notice to the wrecker or towing service advising such service of its failure to comply with any of the requirements of this Chapter or of the violation by such wrecker or towing service of the following provisions upon which a suspension or revocation may be based:

(i) Obtaining the approval and authority by fraudulent conduct, false statements or intentional omission;

(ii) The wrecker or towing service violated the fee and charges schedule;

(iii) Such wrecker or towing service consistently refuses to respond to requests for such service by the Olathe Police Department or consistent failure to answer telephone inquiries and requests for towing services;

(iv) The wrecker or towing service responds to the scene of an accident, emergency, or impoundment situation, when not specifically called to do so, and solicits wrecker or towing business;

(v) The City is not satisfied with the general services of the owner and/or employees or with the cooperation it has received from such wrecker or towing service or other justifiable cause; or

(vi) The wrecker or towing service fails to comply with any rule or regulation governing the City's rotational tow service agreement.

As to requirements or criteria for approval and authorization, only one written notice shall be given and the wrecker or towing service shall be allowed a reasonable time to correct any deficiency which was detailed in the written notice. Any wrecker or towing service which violates any of the provisions of this Section may be subject to a suspension or revocation of said approval and authority.

(f) Appeal of Suspension or Revocation. Any wrecker or towing service's approval and authority to respond to police requests which are suspended or revoked by the Police Chief may appeal such suspension or revocation to the Governing Body which shall have the power to reverse, alter, modify, uphold or increase any suspension or revocation ordered by the Police Chief.

(F) Wrecker or Tow Service Foreclosure of Lien.

(1) Any person or commercial towing service that tows and impounds a motor vehicle pursuant to this Chapter, or any other legal request for towing and impounding by a law enforcement officer of the City shall have a possessory lien as provided for in K.S.A. 8- 1103 et seq., and amendments thereto. Wrecker or tow service operators shall comply with the notice and disposition procedures for foreclosure of the lien as set forth in K.S.A. 8-1103 through 8-1108, and amendments thereto.

(2) Prior to any sale by a person or commercial tow service of a vehicle towed or impounded at the request of the Olathe Police Department, the person or tow service must notify the Olathe Police Department in writing that they intend to foreclose a lien they have perfected on said vehicle and they intend to sell the vehicle at public auction pursuant to the provisions of K.S.A. 8-1103 through K.S.A. 8-1108, and amendments thereto. No person will sell such vehicle until they have complied with all notices required by law.

(3) After any sale foreclosing a lien created by K.S.A. 8-1103 et seq., and amendments thereto, the person or tow service conducting the sale shall deliver a copy of the bill of sale, signed by the purchaser, indicating the date of the sale, vehicle description and vehicle identification number and amount the vehicle was purchased for and an itemized list of tow and storage charges accrued for the vehicle. This information must be submitted to the Olathe Police Department within seven days of the date of the sale. All monies derived from the sale of motor vehicles pursuant to this paragraph, which were towed and impounded at the request of the Olathe Police Department, less any amount of the lien for towing and storage and expenses of sale and shall be paid to the lien holder of record on the vehicle and if there is no lien holder of record, shall be paid to the owner of record. If no lien holder or owner can be identified, the person or tow service shall pay the funds to the City Clerk within ten (10) days, and such funds will be equitably divided among the companies on the rotation tow list at the end of each calendar year. Persons or tow services shall proportionately share in such proceeds based on how many months out of the year they were listed on the rotation tow list. (Ord. 16-48 § 2, 2016; Ord. 15-64 § 14, 2015; Ord. 14-70 § 1, 2014; Ord. 12-10 § 1, 2012; Ord. 01-89 § 2, 2001.)

10.01.085 Stopping, Standing or Parking Prohibited in Specified Places. Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:

(a) Stop, stand or park a vehicle:

(1) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
(2) On a sidewalk;
(3) Within an intersection;
(4) On a crosswalk:
(5) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
(6) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
(7) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
(8) On any railroad tracks;
(9) On any controlled-access highway;
(10) In the area between roadways of a divided highway, including crossovers;
(11) At any place where official signs prohibit stopping;
(12) So as to block a sidewalk or access to a sidewalk whether parked on private or public property; or
(13) So as to block access to a streetside mailbox between the hours of 8:00 a.m. and 5:00 p.m. Monday through Saturday.

(b) Stand or park a vehicle, whether occupied or not except momentarily to pick up or discharge a passenger or passengers:

(1) In front of a public or private driveway;
(2) Within 15 feet of a fire hydrant;
(3) Within 20 feet of a crosswalk at an intersection;
(4) Within 30 feet upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the side of a roadway;
(5) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance, when properly sign-posted; or
(6) At any place when official signs prohibit standing.

(c) Park a vehicle, whether occupied or not, except temporarily for the purpose of, and while actually engaged in, loading or unloading property or passengers:

(1) Within 50 feet of the nearest rail of a railroad crossing; or
(2) At any place where official signs prohibit parking.

(d) Move a vehicle not lawfully under his or her control into any such prohibited area or away from a curb such a distance as is unlawful.

(e) Stand or park a vehicle in areas designated as fire lanes upon public or private property. (Ord. 15-64 § 15, 2015; Ord. 14-57 § 16, 2014; Ord. 01-89 § 2, 2001.)

10.01.086 Stopping or Parking on Roadways.

(a) Except where angle parking is permitted by ordinance every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked with the right-hand wheels parallel to and within 12 inches of the right-hand curb or as close as practicable to the right-hand edge of the right-hand shoulder.

(b) Except when otherwise provided by ordinance, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within 12 inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder or with its left-hand wheels within 12 inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder. 10.63 January 2016

(c) The Governing Body may by ordinance permit angle parking on any roadway, except that angle parking shall not be permitted on any federal-aid or state highway unless the Commission has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(d) Except as provided in O.M.C. 10.01.098, every person, firm or corporation operating any truck, truck tractor, transport vehicle, farm tractor, industrial tractor, road tractor, trailer, trailer house, semitrailer, farm machinery or industrial machinery shall provide off-street parking for such vehicles whenever such vehicles are parked for two hours or longer.

(e) Except as provided in O.M.C. 10.01.098, it is unlawful for any person, firm or corporation to park any of the vehicles named in subsection (d) on the front parking or paved portion of any street of the city between the hours of six P.M. and five fifty-nine A.M., except that transient trucks and vehicles may be parked during the nighttime parallel to the curb in any area where diagonal parking is provided between the hours of ten A.M. and eight A.M. (Ord. 16-48 § 3, 2016; Ord. 01-89 § 2, 2001.)

10.01.087 Accessible Parking.

(a) No person shall stop, stand or park any vehicle in a parking space, whether on public or private property, which is clearly marked as being reserved for the use of persons with a disability or persons responsible for the transportation of persons with a disability unless such vehicle bears a special license plate, permanent placard or temporary placard issued pursuant to K.S.A. 8-161 or K.S.A. 8-1,125, and amendments thereto, and is being operated by or used for the transportation of a person with a disability or disabled veteran. In addition to the temporary placard, a person issued such temporary placard shall carry the state or county receipt showing the name of the person who is issued such temporary placard. If a parking space on private property is clearly marked as being reserved for the use of a specified person with a disability it shall be unlawful for any other person to park in such space.

(b) When a motor vehicle which bears a special license plate or placard issued pursuant to K.S.A. 8-1,125, and amendments thereto, is being operated by or used for the transportation of a person with a disability, such motor vehicle:

(1) May be parked in any parking space, whether on public or private property, which is clearly marked as being reserved for the use of persons with a disability or persons responsible for the transportation of a person with a disability, except a parking space on private property which is clearly marked as being reserved for the use of a specified person with a disability;

(2) May be parked for a period of time not to exceed twenty four (24) hours in any parking zone which is restricted as to the length of parking time permitted, except where stopping, standing or parking is prohibited to all vehicles, where parking is reserved for special types of vehicles or where parking would clearly present a traffic hazard; and

(3) Shall be exempt from any parking meter fees of the state or any city, county or other political subdivision~~.~~ ;

(4) May park without charge in any parking space in a public parking facility or public parking lot if such parking space is clearly marked as being reserved for the use of persons with a disability or persons responsible for the transportation of a person with a disability and such public parking facility or public parking lot employs persons who are parking attendants to collect payment. Any parking occurring under the provisions of this subparagraph shall also comply with all regulations and restrictions posted at the entrance of the public parking facility or public parking lot by its management.

(c) Official identification devices issued to persons with a disability by any other state, district, or territory subject to the laws of the United States, or any foreign jurisdiction, shall be recognized as acceptable identification in the state of Kansas. Motor vehicles bearing a valid device from such jurisdiction shall be accorded the parking privileges contained in Subsection (b), except that if such person becomes a resident of the state of Kansas, such identification devices shall not be recognized as acceptable identification sixty (60) days after such person becomes a resident of this state and such devices shall be deemed expired. Possession of an identification device deemed to have expired shall be subject to the provisions of Subsection (f) (1) herein.

(d) (1) Notwithstanding the provisions of K.S.A. 8-2003, and amendments thereto, each designated accessible parking space shall be clearly marked by vertically mounted signs bearing the international symbol of access.

(2) All parking shall conform to Title II or Title III, as required by the Americans with Disabilities Act of 1990, 42 USCA 12101, et seq. and 28 CFR Parts 35 and 36.

(e) (1) At no time, except when necessary to avoid conflict with other traffic, or in compliance with the law or the directions of a law enforcement officer or official traffic-control device, shall a person:

(A) Stop, stand or park a vehicle in any parking space designated as accessible parking without displaying a special license plate, permanent placard or disabled veteran license plate and an individual identification card, or a valid temporary placard. Placards shall be displayed in accordance with Subsection (a) K.S.A. 8-1,125, and amendments thereto; or

(B) Stop, stand or park a vehicle so that it blocks an access entrance; or

(C) Stop, stand or park a vehicle so that it blocks a disabled parking stall; or

(D) Stop, stand or park a vehicle so that it blocks an access aisle; or

(E) Stop, stand or park a vehicle in an access aisle between or beside a designated accessible parking space.

(2) Each violation of Subsection (e) (1) is punishable by a fine of not less than One Hundred Dollars ($100.00) nor more than Two Hundred Fifty Dollars ($250.00).

(3) The provisions of Subsection (e) (1) shall be enforced by law enforcement officers on public and private property.

(f) (1) Any person who willfully and falsely represents that such person has the qualifications to obtain a special license plate, a permanent placard and an individual identification card, or temporary placard, shall be guilty of a violation of this Chapter and shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not more than one (1) month or by both such fine and imprisonment.

(2) Any person authorized to certify a person with a disability under Subsection (a) of K.S.A. 8-1,125, and amendments thereto who willfully and falsely certifies that a person has the qualifications to obtain a special license plate, a permanent placard and an individual identification card or temporary placard shall be guilty of a violation of this Chapter and shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not more than one (1) month or by both such fine and imprisonment. (Ord. 15-64 § 16, 2015; Ord. 01-89 § 2, 2001.)

10.01.087.1 Accessible Parking; Revoked or Suspended Devices.

(a) Any person who has in such person's possession any accessible parking identification device which has expired or has been revoked or suspended shall be guilty of a violation of this ordinance and shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Three Hundred Dollars ($300.00).

(b) Any person who utilizes any accessible parking identification device issued to another person, an agency or a business, to park in any parking space specified in K.S.A. 8-1,126, and amendments thereto, which could be utilized by a person with a disability, except when transporting or arriving to transport a person with a disability to whom or for whom the identification device was issued shall be guilty of a violation of this ordinance and shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Three Hundred Dollars ($300.00). (K.S.A. Supp. 8-1,130a) (Ord. 07-136 § 9, 2007; Ord. 01-89 § 2, 2001.)

10.01.088 Parking for Certain Purposes Prohibited. No person shall park a vehicle upon any roadway for the principal purpose of:

(a) Displaying such vehicle for sale.

(b) Washing, greasing or repairing such vehicle except repairs necessitated by an emergency. (Ord. 01-89 § 2, 2001.)

10.01.089 Stall Parking. Where parking stalls or spaces are marked or designated on the pavement or curb, vehicles shall be parked or stopped within such stalls or spaces in the direction of the flow of traffic or at the angle indicated by the markings. (Ord. 01-89 § 2, 2001.)

10.01.090 Blocking Traffic; Narrow Streets; Stopping; When. No person shall stop, stand or park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations or traffic signs or signals by a police officer. (Ord. 01-89 § 2, 2001.)

10.01.091 Parking on Narrow Streets; Signs. When signs prohibiting parking are erected on narrow streets, no person shall park or stand a vehicle in any such designated place. The City Traffic Engineer is authorized to erect signs indicating "no parking" upon both sides of any street when the width of the roadway does not exceed 20 feet, or upon one side of a street when the width of the roadway does not exceed 30 feet. (Ord. 01-89 § 2, 2001.)

10.01.092 Parking in Alley.

(a) No person shall park any vehicle in any alley except for the purpose of loading or unloading.

(b) No person shall park any vehicle in any alley for any time of greater duration than reasonably necessary for the expeditious loading or unloading of materials. (Ord. 01-89 § 2, 2001.)

10.01.093 Parking Disabled and Other Vehicles.

(a) No person shall park or store any farm machinery, trailer or semi-trailer of any kind, or parts of the same, or any damaged or disabled motor vehicle or farm machinery or trailer, or semi-trailer of any kind, in the roadway of any highway, or between the property line or sidewalk and the curb line of any street.

(b) 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 having jurisdiction of such highway or other property open to use by the public, after 48 hours or when the motor vehicle interferes with public highway operations, may remove and impound the motor vehicle. (Ord. 15-64 § 17, 2015; Ord. 14-57 § 17, 2014; Ord. 01-89 § 2, 2001.)

10.01.094 Parking Adjacent to Schools; Signs. When official signs or markings are placed indicating no parking upon any street adjacent to any school property, no person shall park a vehicle in any such designated place. The City Traffic Engineer is hereby authorized to erect signs indicating "no parking" upon either or both sides of any street adjacent to any school property when such parking would unreasonably interfere with traffic or create a hazard to traffic in such places. (Ord. 01-89 § 2, 2001.)

10.01.095 Stopping or Parking in Hazardous or Congested Places; Signs. When signs are erected upon approach to hazardous or congested places, no person shall stop, stand or park a vehicle in any such designated place. The City Traffic Engineer is authorized to determine and designate by proper signs those places where the stopping or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic. (Ord. 01-89 § 2, 2001.)

10.01.096 Parking Prohibited at All Times in Designated Places. When authorized signs are erected giving notice thereof, no person shall park a vehicle at any time upon that portion of any of the streets so posted or signed for "no parking." (Ord. 01-89 § 2, 2001.)

10.01.097 Limited Time Parking Zones. Whenever any appropriate sign shall be placed and maintained by lawful authority of the City giving notice that the street, highway, or City-owned parking lot may be used for parking or standing vehicles for a limited time only, it shall be unlawful for any person to fail or refuse to comply with such sign. (Ord. 01-89 § 2, 2001.)

10.01.098 Commercial and Delivery Vehicles: Loading and Unloading; Blocking Traffic; Removal of Vehicle; Duty of Police Department. Subject to any provision prohibiting parking at all times or during specified hours, vehicles used for the transportation of merchandise or materials may stand or be parked at the curb to take on or discharge loads on any street marked for parallel parking: provided, that such vehicles may be backed into any curb at such times and places when and where the same may not interfere with or become a hazard to vehicular traffic on such street within the block: provided further, that traffic may be temporarily blocked by any such vehicle backed into any curb to load or unload when the same may be necessary during such times as loading or unloading shall be undertaken in an expeditious manner without any delay, upon prior notice to and under the direction and supervision of the Police Department: provided further, that the driver or some person in charge of such vehicle shall constantly be present or available to remove such vehicle in an emergency and the vehicle shall be removed immediately upon the same being loaded or unloaded as the case may be. The Chief of Police may place suitable warning signs to direct or control traffic during the time any street may be blocked or traffic restricted from its normal flow or course. (Ord. 01-89 § 2, 2001.)

10.01.099 Loading, Unloading or Special Zones. Whenever any appropriate sign shall be placed or marked along any street or highway by lawful authority of the City giving notice of any special use of the roadway adjacent thereto for the loading or unloading of merchandise or passengers or the standing of taxicabs, buses or for other authorized purposes, it shall be unlawful for any person to refuse or fail to comply with such sign. (Ord. 01-89 § 2, 2001.)

10.01.100 Citation on Illegally Parked Vehicles. Whenever any motor vehicle without driver is found parked, standing or stopped in violation of this ordinance, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a traffic citation. (Ord. 01-89 § 2, 2001.)

10.01.101 Failure to Comply With Traffic Citation Attached to Parked Vehicle. If a violator of restrictions on stopping, standing or parking does not appear in response to a traffic citation affixed to such motor vehicle within a period of five (5) days, the clerk of the court, shall send to the owner of the motor vehicle to which the traffic citation was affixed a letter informing the owner of the violation and warning the owner that in the event such letter is disregarded for a period of five (5) days, a warrant of arrest will be issued. (Ord. 15-64 § 18, 2015; Ord. 01-89 § 2, 2001.)

10.01.102 Presumption in Reference to Illegal Parking.

(a) In any prosecution charging a violation of any law or regulation governing the stopping, standing or parking of a vehicle, proof that the particular vehicle described in the complaint was in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of the violation the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

(b) The foregoing stated presumption shall apply only when the procedure as prescribed in 10.01.100 and 10.01.101 has been followed. (Ord. 01-89 § 2, 2001.)

ARTICLE 14. MISCELLANEOUS RULES

10.01.103 Using Headphones or Television Receivers in Vehicles. Repealed 12/4/07. (Ord. 07-136 § 22, 2007; Ord. 01-89 § 2, 2001.)

10.01.104 Inattentive Driving. Every driver whose vehicle, because of his or her driving error or negligent inattention, collides with another vehicle, a person or fixed object, shall be guilty of inattentive driving and in violation of this section. (Ord. 01-89 § 2, 2001.)

10.01.104.1 Allowing Use of Motor Vehicle in Violation of K.S.A. 8-1014.

(a) It shall be unlawful for the owner of a motor vehicle to allow a person to drive such vehicle when such owner knows or reasonably should have known such person was driving in violation of K.S.A. 8-1014, and amendments thereto.

(b) Violation of this Section is punishable by a fine of not less than $500 nor more than $1,000. In addition to the fine imposed upon a person convicted of a violation of this Section, the court may order that the convicted person's motor vehicle or vehicles be impounded or immobilized for a period not to exceed one year and that the convicted person pay all towing, impoundment, and storage fees or other immobilization costs. Prior to ordering the impoundment or immobilization of any such motor vehicle, the court shall consider the factors established in Subsection (g) of K.S.A. 8-1567, and amendments thereto. Any personal property in a vehicle impounded or immobilized pursuant to this Section may be retrieved prior to or during the period of such impoundment or immobilization. (K.S.A. Supp. 8-1022) (Ord. 15-64 § 38, 2015)

10.01.105 Littering from a Motor Vehicle. It shall be unlawful for any person to litter from a motor vehicle, motorized bicycle, motorcycle or moped within the corporate City limits. Littering is dumping, throwing, placing, depositing, or leaving or causing to be dropped, dumped, thrown, placed, deposited, or left any refuse of any kind or any object or substance which pollutes, mars, defaces, or clutters any parking lot, public street, highway, alley, road, right-of-way, park or other public place or any lake, stream, watercourse, or any body of water or upon any private property without the consent of the owner or occupant of such property. (Ord. 01-89 § 2, 2001.)

10.01.106 Transportation of Alcoholic Beverage.

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

(1) In the original unopened package or container, the seal of which has not been broken and from which the original cap, cork or other means of closure has not been removed;

(2) (a) In the locked rear trunk or rear compartment, or any locked outside compartment which is not accessible to any person in the vehicle while it is in motion; or

(b) If a motor vehicle is not equipped with a trunk, behind the last upright seat or in an area not normally occupied by the driver or passenger; or

(3) In the exclusive possession of a passenger in a vehicle which is a recreational vehicle or a bus, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.

(b) Violation of this section is punishable by a fine of not more than Two Hundred Dollars ($200.00) or by imprisonment for not more than six (6) months, or both.

(c) Except as provided in subsection (e) upon conviction or adjudication of a second or subsequent violation of this section, the judge, in addition to any other penalty or disposition ordered pursuant to law, shall suspend the person's driver's license or privilege to operate a motor vehicle on the streets and highways of this state for one year.

(d) Upon suspension of a license pursuant to this section, the court shall require the person to surrender the license to the court, which shall transmit the license to the Division of Motor Vehicles of the Department of Revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the Division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.

(e) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person convicted of violating this section, as provided in subsection (c), the judge of the court in which such person was convicted may enter an order which places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year for a second violation.

Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the Division of Vehicles, together with a copy of the order. Upon receipt thereof, the Division of Vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a non-resident, the judge shall cause a copy of the order to be transmitted to the Division and the Division shall forward a copy of it to the Motor Vehicle Administrator, of such person's state of residence.

Such judge shall furnish to a person whose driver's license has had conditions imposed on it under this section a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the Division shall issue the restricted license provided for in this section.

Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the Division for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the Division for a new license, which shall be issued immediately by the Division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this subsection, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than sixty (60) days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

(f) It shall be an affirmative defense to any prosecution under this section that an occupant of the vehicle other than the defendant was in exclusive possession of the alcoholic beverage.

(g) The court shall report to the Division every conviction of a violation of this section. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(h) For the purpose of determining whether a conviction is a first, second or subsequent conviction in sentencing under this section:

(1) Conviction includes being convicted of a violation of an ordinance of any city, or resolution of any county, which prohibits the acts that K.S.A. 41-804, as amended, prohibits;

(2) Only convictions occurring in the immediately preceding five (5) years shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second or subsequent offender, whichever is applicable; and

(3) It is irrelevant whether an offense occurred before or after conviction for a previous offense. (K.S.A. Supp. 41-804) (Ord. 06-70 § 3, 2006; Ord. 01-89 § 2, 2001.)

10.01.107 Unattended Motor Vehicle; Ignition; Key and Brakes. No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway. (K.S.A. 8-1573)

For the purposes of this section, unattended shall not be construed to mean a motor vehicle with an engine that has been activated by a remote starter system, when the motor vehicle is locked and when the ignition keys are not in the motor vehicle. (Ord. 07-136 § 10, 2007; Ord. 01-89 § 2, 2001.)

10.01.108 Obstruction of Driver's View or Driving Mechanism.

(a) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his or her control over the driving mechanism of the vehicle. (Ord. 01-89 § 2, 2001.)

10.01.109 Coasting.

(a) The driver of any motor vehicle when traveling upon a down grade shall not coast with the gears of such vehicle in neutral.

(b) The driver of a truck or bus when traveling upon a down grade shall not coast with the clutch disengaged. (Ord. 01-89 § 2, 2001.)

10.01.109.1 Motorized Skateboards.

(a) It shall be unlawful for any person to operate a motorized skateboard on any street, road, highway, recreational path or trail in this City.

(b) It shall be unlawful for any person to operate a motorized skateboard upon a sidewalk or sidewalk area:

(1) At a speed in excess of fifteen (15) miles per hour; or

(2) Without caution and due regard to conditions then existing, including, but not limited to, fixed or moving objects, parked or moving bicycles, pedestrians, animals, surface hazards, or narrow areas that make it unsafe to continue along the sidewalk or sidewalk area; or

(3) All persons under the age of eighteen (18) who operate or ride upon a motorized skateboard shall wear an approved bicycle helmet that is properly fitted and is fastened securely by a neck or chin strap while the motorized skateboard is in motion. (Ord. 06-36 § 4, 2006.)

10.01.110 Following Fire Apparatus Prohibited. The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or stop such vehicle within 500 feet of any fire apparatus stopped in answer to a fire alarm. (Ord. 01-89 § 2, 2001.)

10.01.111 Crossing Fire Hose. No vehicle shall be driven over any unprotected hose of a Fire Department when laid down on any street or private road, or driveway, to be used at any fire or alarm of fire, without the consent of the Fire Department official in command. (Ord. 14-57 § 18, 2014; Ord. 01-89 § 2, 2001.)

10.01.112 Putting Glass, Etc., on Highway Prohibited.

(a) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or damage any vehicle upon such highway.

(b) Any person who drops or throws, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.

(c) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. (Ord. 01-89 § 2, 2001.)

10.01.113 Stop When Traffic Obstructed. No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or railroad grade crossing to accommodate the vehicle he or she is operating without obstructing the passage of other vehicles, pedestrians or railroad trains, notwithstanding any traffic-control signal indication to proceed. (Ord. 01-89 § 2, 2001.)

10.01.114 Snowmobile Operation Limited. No person shall operate a snowmobile on any controlled-access highway. No person shall operate a snowmobile on any other highway, except when crossing the highway at a right angle, or when use of the highway by other motor vehicles is impossible because of snow, or when such operation is authorized by the Governing Body. (Ord. 01-89 § 2, 2001.)

10.01.114.1 Unlawful Operation of All-Terrain Vehicle or Recreational Off-highway Vehicle.

(a) Except as provided in Subsection (b), it shall be unlawful for any person to operate an all-terrain vehicle or a recreational off-highway vehicle:

(1) On any interstate highway, federal highway or state highway; or

(2) Within the corporate limits of the City of Olathe, unless operated on private property with the consent of the property owner for non-recreational property maintenance and/or agricultural purposes, or operated by the City of Olathe or any unified school district for public safety and/or property maintenance purposes.

(b) Notwithstanding the provisions of Subsection (a), all-terrain vehicles or recreational off-highway vehicles owned, operated or contracted by a county noxious weed department or the Kansas Department of Transportation may be used for the eradication of noxious weeds. The Kansas Department of Transportation may be allowed to operate such all-terrain vehicles or recreational off-highway 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 or recreational off-highway vehicles may be operated incidentally thereto upon such federal highway or state highway.

(c) No all-terrain vehicle or recreational off-highway 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. (Ord. 15-64 § 19, 2015; Ord. 14-20 § 1, 2014; Ord. 01-89 § 2, 2001.)

10.01.114.2 Unlawful Operation of Low-Speed Vehicle.

(a) It shall be unlawful for any person to operate a low-speed vehicle on any street or highway with a posted speed limit greater than 40 miles per hour.

(b) The provisions of subsection (a), shall not prohibit a low-speed vehicle from crossing a street or highway with a posted speed limit in excess of 40 miles per hour. (Ord. 01-89 § 2, 2001.)

10.01.114.3 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) On any public highway or street within the corporate limits of the City of Olathe unless authorized by the City.

(b) No micro utility truck shall 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 and amendments thereto.

(c) The provisions of subsection (a), shall not prohibit a micro utility truck from crossing a federal or state highway. (Ord. 09-60 § 6, 2009; Ord. 08-112 § 2, 2008; Ord. 07-136 § 21, 2007.)

10.01.114.4 Unlawful Operation of a Golf Cart.

(a) It shall be unlawful for any person to operate a golf cart:

(1) On any interstate highway, federal highway, or state highway; or
(2) On any public highway or street within the corporate limits of the City of Olathe unless authorized by the City.
(3) On any street or highway with a posted speed limit greater than 30 miles per hour.

(b) The provisions of Subsection (1) shall not prohibit a golf cart from crossing a federal or state highway or a street or highway with a posted speed limit in excess of 30 miles per hour.

(c) A golf cart shall be operated on any public street or highway only during the hours between sunrise and sunset. (Ord. 15-64 § 20, 2015; Ord. 09-60 § 10, 2009.)

10.01.114.5 Unlawful Operation of a Work-Site Utility Vehicle.

(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 the City of Olathe unless authorized by the 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. (2009 Session Laws of Kansas, Chapter 119). (Ord. 09-60 § 11, 2009.)

10.01.115 Unlawful Riding on Vehicles; Persons 14 Years of Age and Older.

(a) It shall be unlawful for any person 14 years of age or older to ride on any vehicle or upon any portion thereof not designed or intended for use of passengers when the vehicle is in motion.

(b) It shall be unlawful for the operator of any vehicle to allow any person 14 years of age or older to ride on any vehicle or upon any portion thereof not designed or intended for the use of passengers when the vehicle is in motion.

(c) This section shall not apply to:

(1) An employee engaged in the necessary discharge of the employee's duty within truck bodies in space intended for merchandise or cargo; or

(2) When the vehicle is being operated in parades, caravans or exhibitions which are officially authorized or otherwise permitted by law. (Ord. 01-89 § 2, 2001.)

Ref. For Persons Under 14 Years of Age see 10.01.182(b).

10.01.116 Driving Upon Sidewalk. No person shall drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway. (Ord. 01-89 § 2, 2001.)

10.01.117 Limitations on Backing.

(a) The driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic.

(b) The driver of a vehicle shall not back the same upon any shoulder or roadway of any controlled-access highway. (Ord. 01-89 § 2, 2001.)

10.01.118 Driving Through or On Private Property to Avoid Traffic- Control Devices. No person shall drive through the property of a gasoline service station or the service entrance of any public or private property adjacent to any street intersection to avoid any official traffic- control device or short cut from one street to another. (Ord. 01-89 § 2, 2001.)

10.01.119 Parades and Processions. No funeral procession or parade of persons or vehicles, excepting the military forces of the United States, the military forces of the State of Kansas, or the forces of the City police and fire departments, shall occupy, march or proceed along any highway until the Chief of Police shall have been notified by the person or persons in charge thereof and until the Chief shall have made provision for such purpose together with a police escort if he or she deems such escort necessary. (Ord. 01-89 § 2, 2001.)

10.01.120 Driving through Procession. It shall be unlawful for the driver of any vehicle to drive between the vehicles comprising a funeral or other authorized procession while they are in motion provided such vehicles are conspicuously so designated. This section shall not apply at intersections where traffic is controlled by traffic-control devices or police officers. (Ord. 01-89 § 2, 2001.)

10.01.121 Military Forces. The military forces of the United States and the State of Kansas, while on any authorized duty involving controlled movement of military convoys, critical supplies or equipment, or during any national or state emergency, shall not be restricted by traffic regulations, and shall have the right-of-way on any street or highway through which they may pass against all except carriers of the United States mail and other emergency vehicles. (Ord. 01-89 § 2, 2001.)

10.01.122 Street Barriers. Whenever any street or alley or part thereof is closed for repair, rebuilding, construction or reconstruction and suitable warning signs and barricades, which so advise the public, are erected at intersections of the closed street or alley with all other streets and alleys, it shall be unlawful for any person without authority from the proper official to:

(1) Destroy or remove any barricade, warning sign, light or torch used to close the street or alley or warn the public of the closing.

(2) Drive on that portion of the street or alley that is closed: provided, however, that nothing in this Section shall be construed as prohibiting the regular authorities of the City, state or federal government from having free access to the work at all times. (Ord. 15-64 § 21, 2015; Ord. 01-89 § 2, 2001.)

10.01.123 Opening and Closing Vehicle Doors. No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers. (Ord. 01-89 § 2, 2001.)

10.01.124 Riding in House Trailer or Mobile or Manufactured Home Prohibited. No person or persons shall occupy a house trailer, manufactured home, as defined in Subsection (a) of K.S.A. 58-4202, or mobile home, as defined in Subsection (b) of K.S.A. 58-4202 while it is being moved upon a public street or highway. (Ord. 15-64 § 22, 2015; Ord. 14-57 § 19, 2014; Ord. 01-89 § 2, 2001.)

10.01.125 Driving Across Lawns, Sidewalks, Yards, Crops, Etc. It shall be unlawful for any person to drive a motor vehicle upon, across or onto the lawn, sidewalk, yard, farmland, crops or fences or other real or personal property of another person, intentionally damaging the same. (Ord. 01-89 § 2, 2001.)

10.01.126 Removal of Traffic Hazards.

(a) It shall be the duty of the owner of real property to remove from such property any tree, plant, shrub or other obstruction, or part thereof, which, by obstructing the view of any driver, constitutes a traffic hazard.

(b) When the Governing Body determines upon the basis of an engineering and traffic investigation that such a traffic hazard exists, it shall notify the owner and order that the hazard be removed within ten (10) days.

(c) The failure of the owner to remove such traffic hazard within ten (10) days shall constitute an offense punishable by a penalty of Ten Dollars ($10.00) and every day said owner shall fail to remove it shall be a separate and distinct offense. (Ord. 01-89 § 2, 2001.)

10.01.126.1 Obstructing License Plates. It shall be unlawful for any person to attach and display on any vehicle a license plate, as required under Article 1 of Chapter 8 of the Kansas Statutes Annotated, which is covered, in whole or in part, with any clear or opaque material or any other plastic-like material that affects the plate's visibility or reflectivity. (Ord. 10-70 § 6, 2010.)

10.01.126.2 Use of Wireless Communication Devices.

(a) Except as provided in subsections (b) and (c), no person shall operate a motor vehicle on a public road or highway while using a wireless communications device to write, send or read a written communication.

(b) The provisions of subsection (a) shall not apply to:

(1) A law enforcement officer or emergency service personnel acting within the course and scope of the law enforcement officer's or emergency service personnel's employment;
(2) a motor vehicle stopped off the regular traveled portion of the roadway;
(3) a person who reads, selects or enters a telephone number or name in a wireless communications device for the purpose of making or receiving a phone call;
(4) a person who receives an emergency, traffic or weather alert message; or
(5) a person receiving a message related to the operation or navigation of the motor vehicle.

(c) The provisions of subsection (a) shall not prohibit a person from using a wireless communications device while operating a moving motor vehicle to:

(1) Report current or ongoing illegal activity to law enforcement;
(2) prevent imminent injury to a person or property; or
(3) relay information between transit or for-hire operator and the operator's dispatcher, in which the device is permanently affixed to the motor vehicle.

(d) Prior to January 1, 2011, a law enforcement officer shall issue a warning citation to anyone violating subsection (a). (Ord. 10-70 § 7, 2010.)

10.01.126.3 Vehicle Identification Number Offenses; Possession Without Original VIN; Penalties; Vehicle Seizure and Disposition.

(a) It is unlawful to knowingly own or have the custody or possession of a motor vehicle, trailer or semitrailer, the original vehicle identification number of which has been destroyed, removed, altered or defaced, except as contemplated by K.S.A. 8-116a, and amendments thereto, when no part of the motor vehicle, trailer or semitrailer has been stolen and a vehicle identification number has been assigned to the motor vehicle according to law. Violation of this subsection is a class C misdemeanor.

(b) Every law enforcement officer in this state having knowledge of a motor vehicle, trailer or semitrailer, the vehicle identification number of which has been destroyed, removed, altered or defaced, shall seize and take possession of such motor vehicle, trailer or semitrailer, arrest the owner or custodian thereof and cause prosecution to be brought in a court of competent jurisdiction. The provisions of K.S.A. 22-2512, and amendments thereto, shall apply to any motor vehicle, trailer or semitrailer seized under this section.

(c) No law enforcement agency or employee of such agency acting within the scope of employment shall be liable for damages resulting from the adoption or enforcement of any policy adopted under this section. (Ord. 14-57 § 20, 2014.)

ARTICLE 15
OPERATION OF BICYCLES, LOW POWER CYCLES AND PLAY VEHICLES

10.01.127 Effect of Regulations.

(a) It is unlawful for any person to do any act forbidden or fail to perform any act required in 10.01.128 to 10.01.133, inclusive.

(b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of 10.01.128 to 10.01.133, inclusive.

(c) The provisions of 10.01.128 to 10.01.133, inclusive, which are applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles, subject to those exceptions stated herein. (Ord. 01-89 § 2, 2001.)

10.01.128 Traffic Laws Apply to Persons Riding Bicycles. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this ordinance, except as otherwise provided in 10.01.127 to 10.01.133, inclusive, of this ordinance and except as to those provisions of this ordinance which by their nature can have no application. (Ord. 01-89 § 2, 2001.)

10.01.129 Riding on Bicycles; Seats; Riders Limited.

(a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped. (Ord. 01-89 § 2, 2001.)

10.01.130 Clinging to Vehicles. No person riding upon any bicycle, coaster, roller skates, roller blades, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway. (Ord. 16-48 § 4, 2016; Ord. 01-89 § 2, 2001.)

10.01.131 Riding on Roadways and Bicycle Paths.

(a) Every person operating a bicycle or a moped upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as near to the right side of the roadway as practicable, except under any of the following situations when:

(1) Overtaking and passing another bicycle or vehicle proceeding in the same direction;

(2) preparing for a left turn at an intersection or into a private road or driveway; or

(3) reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving bicycles, pedestrians, animals, surface hazards or narrow width lanes that make it unsafe to continue along the right-hand edge of the roadway.

(b) Any person operating a bicycle or a moped upon a one-way highway with two or more marked traffic lanes may ride as near to the left side of the roadway as practicable.

(c) Persons riding bicycles upon a roadway shall not ride more than two abreast, except on paths or parts of roadways set aside for the exclusive use of bicycles.

(d) Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway. (Ord. 15-64 § 23, 2015; Ord. 01-89 § 2, 2001.)

10.01.132 Carrying Articles. No person operating a bicycle shall carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars. (Ord. 01-89 § 2, 2001.)

10.01.133 Lamps and Other Equipment on Bicycles.

(a) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the Division which shall be visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(b) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(c) No person shall sell a pedal for use on a bicycle, unless such pedal is equipped with a reflector of a type approved by the secretary of transportation which is visible from the front and rear of the bicycle to which it is attached during darkness from a distance of 200 feet, and no person shall sell a new bicycle, unless it is equipped with pedals meeting the requirements of this Subsection. (K.S.A. 8-1592) (Ord. 15-64 § 24, 2015; Ord. 01-89 § 2, 2001.)

10.01.134 Application of 10.01.127 through 10.01.133 to Motorized Bicycles.

(a) The provisions of 10.01.127, through 10.01.133 inclusive, shall be applicable to motorized bicycles and every person operating a motorized bicycle shall be subject to the provisions thereof.

(b) Every owner of a motorized bicycle shall provide insurance coverage on each motorized bicycle such person owns in the amount of not less than Twenty Five Thousand Dollars ($25,000.00) because of bodily injury to, or death of, one person in any one accident and, subject to the limit for one person, to a limit of not less than Fifty Thousand Dollars ($50,000.00) because of bodily injury to, or death of, two or more persons in any one accident and to a limit of not less than Ten Thousand Dollars ($10,000.00) because of harm to or destruction of property of others in one accident. In addition, the policy shall insure the person named and any other person, as insured, using any such vehicle with the expressed or implied consent of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of any such vehicle.

(c) Any person operating a motorized bicycle upon a highway or upon property open to use by the public shall display, upon demand, evidence of insurance coverage to any law enforcement officer.

(d) No person shall operate a motorized bicycle upon a highway unless such person: (1) has a valid driver's license which entitles the licensee to drive a motor vehicle in any class or classes; (2) is at least 15 years of age and has passed the written and visual examinations required for obtaining a class C driver's license; (3) has not had their driving privileges suspended, for a violation other than a violation of K.S.A. 8-2,144, and amendments thereto, or a second or subsequent violation of K.S.A. 8-1567 or 8-1567a or as provided in the 2012 Session Laws of Kansas, Chapter 172, Section 2, and amendments thereto; or (4) has had their driving privileges revoked under K.S.A. 8-286, and amendments thereto, has not had a test refusal or test failure or alcohol or drug-related conviction, as those terms are defined in K.S.A. 8-1013, and amendments thereto, in the last five years, has not been convicted of a violation of subsection (b) of K.S.A. 8-1568, and amendments thereto, in the last five years, and without the same being insured as provided in subsection (b).

(e) Regardless of the design capability, motorized bicycles shall only be used to transport one person (the operator).

(f) Motorized bicycles shall not be operated on any highway having a posted speed limit in excess of 35 miles per hour unless said highway shall consist of four or more lanes. In no event shall a motorized bicycle be operated upon a highway having a speed limit greater than 45 miles per hour.

(g) In no event shall any motorized bicycle be operated on the federal interstate highway systems within this City. (Ord. 12-39 § 3, 2012; Ord. 12-18 § 3, 2012; Ord. 01-89 § 2, 2001.)

10.01.135 Electric-Assisted Bicycles, Traffic Law Application. Vehicle registration and driver's license shall not be required for operation of an electric-assisted bicycle. Traffic regulations applicable to bicycles shall apply to electric-assisted bicycles, except tricycles with no brake horsepower. (K.S.A. 8-1592b, as amended) (Ord. 01-89 § 2, 2001.)

10.01.136 Use of Coasters, Roller Skates and Similar Devices Restricted.

(A) No person upon roller skates, or riding in or by means of any coaster, roller blades, skateboard, toy vehicle, or similar device shall operate such a device on:

(1) any sidewalk or public or private parking lot in the area bounded by the following: Poplar Street on the North; Water Street on the East; Cedar Street on the South; and the BNSF Railway Company right of way on the West;

(2) any roadway, except:

(a) where no sidewalk or useable path for their operation has been provided adjacent to such roadway;

(b) when the roadway is temporarily designated as a play street; or

(c) while crossing a street at a crosswalk;

(3) any public tennis court;

(4) public parking area or lot; or

(5) any private parking area, lot, or sidewalk where signs are posted giving notice that operation of such devices is prohibited. The provisions of this subsection shall not be applicable to any private parking lot or area unless the following signage is clearly and properly posted at all entrances to said parking lot, sidewalk or area, to wit:

NOTICE

Pursuant to Olathe Municipal Code Section 10.01.136, no roller skates, coaster, roller blades, skateboard, toy vehicle or similar device may be operated in this parking lot, sidewalk, or area. Conviction of a violation of this section shall result in a fine of $25.00.

(6) any private parking area, lot or sidewalk where the building used for conducting business on the premises is not occupied by an ongoing business enterprise, unless with the written permission of the property owner. The provisions of this subsection shall not be applicable unless the following signage is posted on the property in a location clearly observable to the public to wit:

NOTICE

Pursuant to Olathe Municipal Code Section 10.01.136, no roller skates, coaster, roller blades, skateboard, toy vehicle or similar device may be operated in this parking lot, sidewalk, or area without the written permission of the property owner. Conviction of a violation of this section shall result in a fine of $25.00.

(B) Whenever any person is operating such a device upon a useable path for their operation or sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(C) Any person found guilty of a violation of this section shall be fined Twenty-Five Dollars ($25.00). (Ord. 16-48 § 5, 2016; Ord. 01-89 § 2, 2001.)

ARTICLE 16. SPECIAL RULES FOR MOTORCYCLES

10.01.137 Traffic Laws Apply to Persons Operating Motorcycles. Every person operating a motorcycle shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this ordinance, except as provided in 10.01.138 to 10.01.142, inclusive, and except as to those provisions of this ordinance which by their nature can have no application. (Ord. 01-89 § 2, 2001.)

10.01.138 Riding on Motorcycles or Autocycles.

(a) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.

(b) A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle. This Subsection shall not apply to any person riding within an autocycle.

(c) No person shall operate a motorcycle while carrying any package, bundle or other article which prevents him or her from keeping both hands on the handlebars.

(d) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

(e) It shall be unlawful for any person to operate a motorcycle, autocycle, motor-driven cycle, motor vehicle or motorized bicycle upon any public or private park property or upon any public or private property without the express consent of the owner or person in charge thereof or except upon and within any dedicated road right-of-way. (Ord. 15-64 § 25, 2015; Ord. 01-89 § 2, 2001.)

10.01.139 Operating Motorcycles on Roadways Laned for Traffic.

(a) All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection shall not apply to motorcycles operated two abreast in a single lane.

(b) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(c) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

(d) Motorcycles shall not be operated more than two abreast in a single lane.

(e) Subsections (b) and (c) shall not apply to police officers in the performance of their official duties. (Ord. 01-89 § 2, 2001.)

10.01.140 Clinging to Other Vehicles. No person riding upon a motorcycle shall attach himself or herself or the motorcycle to any other vehicle on a roadway. (Ord. 01-89 § 2, 2001.)

10.01.141 Motorcycle Footrests and Seat. Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, shall be equipped with a seat and footrests for such passenger. (Ord. 14-57 § 21, 2014; Ord. 06-66 § 5, 2006; Ord. 01-89 § 2, 2001.)

10.01.142 Equipment for Motorcycle Operator or Rider.

(a) No person under the age of 18 years shall operate or ride upon a motorcycle, motor-driven cycle or a motorized bicycle unless wearing a helmet which complies with minimum guidelines established by the National Highway Traffic Safety Administration pursuant to the National Traffic and Motor Vehicle Safety Act of 1966 for helmets designed for use by motorcyclists and other motor vehicle users.

(b) No person shall allow or permit any person under the age of 18 years to:

(1) Operate a motorcycle or motorized bicycle or to ride as a passenger upon a motorcycle or motorized bicycle without being in compliance with the provisions of Subsection (a); or

(2) operate a motorcycle or to ride as a passenger upon a motorcycle without being in compliance with the provisions of Subsection (c).

(c) (1) No person shall operate a motorcycle unless he or she is wearing an eye protective device which shall consist of protective glasses, goggles or transparent face shields which are shatter proof and impact resistant except when the motorcycle is equipped with a wind screen which has a minimum height of ten (10) inches measured from the center of the handlebars.

(2) No person under the age of 18 years shall ride as a passenger on a motorcycle unless such person is wearing an eye-protective device which shall consist of protective glasses, goggles or transparent face shields which are shatter proof and impact resistant.

(d) This Section shall not apply to persons riding within a closed cab, an autocycle, or on a golf cart, nor shall it apply to any person operating or riding any industrial or cargo-type vehicle having three (3) wheels and commonly known as a truckster. (Ord. 15-64 § 26, 2015; Ord. 10-70 § 3, 2010; Ord. 01-89 § 2, 2001.)

ARTICLE 17. LIGHTS, BRAKES, HORNS AND OTHER EQUIPMENT

10.01.143 Scope and Effect of Regulations.

(a) It is unlawful for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved on any highway, any vehicle or combination of vehicles which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this ordinance, or which is equipped in any manner in violation of this ordinance, or for any person to do any act forbidden or fail to perform any act required under this ordinance.

(b) Nothing contained in this ordinance shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this ordinance.

(c) The provisions of this ordinance with respect to equipment required on vehicles shall not apply to implements of husbandry, road machinery, road rollers or farm tractors except as specifically made applicable in this ordinance.

(d) The provisions of this ordinance with respect to equipment required on vehicles shall not apply to motorcycles or motor-driven cycles, except as specifically made applicable by law.

(e) A low-speed vehicle which is in compliance with the equipment requirements in 49 C.F.R. 571.500 shall be deemed to be in compliance with the provisions of this ordinance. (Ord. 07-136 § 11, 2007; Ord. 01-89 § 2, 2001.)

10.01.144 When Lighted Lamps Required; Visibility Distance and Mounted Height of Lamps.

(a) Every vehicle, except as provided in subsection (b), upon a highway within this state, at all times shall display lighted head and other lamps and illuminating devices as required for different classes of vehicles, subject to exceptions with respect to parked vehicles:

(1) From sunset to sunrise;

(2) When due to insufficient light or unfavorable atmospheric conditions, including smoke or fog, persons and vehicles on the highway are not clearly discernible at a distance of 1,000 feet ahead; or

(3) When windshield wipers are in continuous use as a result of rain, sleet or snow.

Stop lights, turn signals and other signaling devices shall be lighted as prescribed for the use of such devices.

(b) Motorcycles, motor-driven cycles and motorized bicycles manufactured after January 1, 1978, shall display lighted head and tail lights at all times that such vehicles are operated on any highway.

(c) Law enforcement officers shall issue a warning citation to anyone violation subsection (a)(3). (Ord. 06-66 § 6, 2006; Ord. 01-89 § 2, 2001.)

10.01.145 Visibility Distance and Mounted Height of Lamps.

(a) Whenever any requirement is declared in this ordinance as to the distance from which certain lamps and devices shall render objects visible or within such lamps or devices shall be visible, said provisions shall apply, during the times stated in 10.01.144 in respect to a vehicle without load upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.

(b) Whenever any requirement is declared in this ordinance as to the mounted height of lamps or devices, it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load. (Ord. 01-89 § 2, 2001.)

See: 10.01.157

10.01.146 Head Lamps on Motor Vehicles.

(a) Every motor vehicle shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this ordinance.

(b) Every head lamp upon every motor vehicle manufactured or assembled after July 1, 1959, shall be located at a height of not more than 54 inches nor less than 24 inches to be measured as set forth in 10.01.145. (Ord. 01-89 § 2, 2001.)

10.01.147 Tail Lamps.

(a) Every motor vehicle, trailer, semi-trailer and pole trailer, and any other vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least two tail lamps mounted on the rear, which, when lighted as required in Section 10.01.144, shall emit a red light plainly visible from a distance of 1,000 feet to the rear, except that passenger cars manufactured or assembled prior to July 1, 1959, shall have at least one tail lamp. On a combination of vehicles, only the tail lamps on the rearmost vehicle need actually be seen from the distance specified. On vehicles equipped with more than one tail lamp, the lamps shall be mounted on the same level and as widely spaced laterally as practicable.

(b) Every tail lamp upon every vehicle shall be located at a height of not more than 72 inches nor less than 15 inches.

(c) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever head lamps or auxiliary driving lamps are lighted. (Ord. 15-64 § 27, 2015; Ord. 01-89 § 2, 2001.)

10.01.148 Reflectors.

(a) Every motor vehicle, trailer, semi-trailer and pole trailer shall carry on the rear, either as a part of the tail lamps or separately, two or more red reflectors meeting the requirements of this section; provided, that vehicles of the types mentioned in 10.01.153(a) shall be equipped with reflectors meeting the requirements of 10.01.154(a).

(b) Every such reflector shall be mounted on the vehicle at a height not less than 15 inches nor more than 60 inches measured as set forth in 10.01.145(b) and shall be of such size and characteristics and so mounted as to be visible at night from all distances within 600 feet to 100 feet from such vehicle when directly in front of lawful lower beams of head lamps, except that reflectors on vehicles manufactured or assembled prior to January 1, 1970, shall be visible at night from all distances within 350 feet to 100 feet when directly in front of lawful upper beams of head lamps. (Ord. 01-89 § 2, 2001.)

10.01.149 Stop Lamps and Turn Signals.

(a) Every motor vehicle, trailer, semi-trailer and pole trailer shall be equipped with two or more stop lamps meeting the requirements of 10.01.161(a), except that passenger cars manufactured or assembled prior to January 1, 1953, shall be equipped with at least one stop lamp. On a combination of vehicles, only the stop lamps on the rearmost vehicle need actually be seen from the distance specified in 10.01.161(a).

(b) Every motor vehicle, trailer, semi-trailer and pole trailer shall be equipped with electric turn signal lamps meeting the requirements of 10.01.161(b), except that passenger cars and trucks less than 80 inches in width, manufactured or assembled prior to January 1, 1953, and vehicles registered under K.S.A. 8-194, need not be equipped with electric turn signal lamps. (Ord. 01-89 § 2, 2001.)

10.01.150 Application of Succeeding Sections. Sections 10.01.151 to 10.01.155, inclusive, relating to clearance lamps, marker lamps and reflectors, shall apply as stated in said sections to vehicles of the type therein enumerated, namely buses, trucks, truck tractors, motor homes, motor vehicles with mounted truck-campers, and trailers, semi-trailers and pole trailers, respectively, when operated upon any highway, and said vehicle shall be equipped as required and all lamp equipment required shall be lighted at the times mentioned in 10.01.144. For purposes of the sections enumerated above, a truck-camper, when mounted upon a motor vehicle, shall be considered part of the permanent structure of that motor vehicle. (Ord. 01-89 § 2, 2001.)

10.01.151 Additional Equipment Required on Certain Vehicles. In addition to other equipment required by this ordinance, the following vehicles shall be equipped as herein stated.

(a) Buses, trucks, motor homes, and motor vehicles with mounted truck-camper, 80 inches or more over-all width:

(1) On the front, two clearance lamps, one at each side, and on vehicles manufactured or assembled after July 1, 1959, three identification lamps meeting the specifications of subsection (f).

(2) On the rear, two clearance lamps, one at each side, and on vehicles manufactured or assembled after July 1, 1959, three identification lamps meeting the specifications of subsection (f).

(3) On each side, two side marker lamps, one at or near the front and one at or near the rear.

(4) On each side, two reflectors, one at or near the front and one at or near the rear.

(b) Trailers and semi-trailers 80 inches or more in over-all width, except boat trailers and house trailers for which special permits are required for movement:

(1) On the front, two clearance lamps, one at each side.

(2) On the rear, two clearance lamps, one at each side, and on vehicles manufactured or assembled after July 1, 1959, three identification lamps meeting the specifications of subsection (f).

(3) On each side, two side marker lamps, one at or near the front and one at or near the rear.

(4) On each side, two reflectors, one at or near the front and one at or near the rear.

(c) Trailers and semi-trailers except boat trailers and house trailers for which permits are required by K.S.A. 8-1911 for movement of such house trailers on the highway:

On the front, two cab clearance lamps, one at each side, and on vehicles manufactured or assembled after July 1, 1959, three identification lamps meeting the specifications of subsection (f).

(d) Trailers, semi-trailers and pole trailers 30 feet or more in over-all length:

On each side, one amber side marker lamp and one amber reflector, centrally located with respect to the length of the vehicle.

(e) Pole trailers:

(1) On each side, one amber marker lamp at or near the front of the load.

(2) One amber reflector at or near the front of the load.

(3) On the rearmost support for the load, one combination marker lamp showing amber to the front and red to the rear and side, mounted to indicate maximum width of the pole trailer.

(f) Whenever required or permitted by this ordinance, identification lamps shall be grouped in a horizontal row, with lamp centers spaced not less than 6 nor more than 12 inches apart, and mounted on the permanent structure of the vehicle as close as practicable to the vertical center line: provided, that where the cab of a vehicle is not more than 42 inches wide at the front roof line, a single identification lamp at the center of the cab shall be deemed to comply with the requirements for front identification lamps.

(g) Boat trailers 80 inches or more in over-all width:

(1) On each side, at or near the midpoint, one clearance lamp performing the function of both a front and rear clearance lamp.

(2) On each side, two side marker lamps, one at or near the front and one at or near the rear.

(3) On each side, two reflectors, one at or near the front and one at or near the rear. (Ord. 01-89 § 2, 2001.)

See: 10.01.153 & 10.01.154

10.01.152 Color of Clearance Lamps, Identification Lamps, Side Marker Lamps, Backup Lamps and Reflectors.

(a) Front clearance lamps, identification lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.

(b) Rear clearance lamps, identification lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color. (Ord. 01-89 § 2, 2001.)

10.01.153 Mounting of Reflectors, Clearance Lamps and Side Marker Lamps.

(a) Reflectors when required by 10.01.151 shall be mounted at a height not less than 24 inches and not more than 60 inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than 24 inches the reflector at such point shall be mounted as high as the part of the permanent structure will permit.

The rear reflectors on a pole trailer may be mounted on each side of the bolster or load.

Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but such reflector shall meet the other reflector requirements of this ordinance.

(b) Clearance lamps, so far as is practicable, shall be mounted on the permanent structure of the vehicle in such a manner as to indicate the extreme height and width of the vehicle, except that when rear identification lamps are required and are mounted as high as is practicable, rear clearance lamps may be mounted at optional height and when the mounting of front clearance lamps results in such lamps failing to indicate the extreme width of the trailer, such lamps may be mounted at optional height but must indicate, as near as practicable, the extreme width of the trailer. Clearance lamps on truck tractors shall be located so as to indicate the extreme width of the truck tractor cab. Clearance lamps and side marker lamps may be mounted in combination if illumination is given as required herein with reference to both. (Ord. 01-89 § 2, 2001.)

See: 10.01.151

10.01.154 Visibility of Reflectors, Clearance Lamps, and Marker Lamps.

(a) Every reflector upon any vehicle referred to in Section 10.01.151 shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within 600 feet to 100 feet from the vehicle when directly in front of lawful lower beams of head lamps, except that the visibility of reflectors on vehicles manufactured or assembled prior to January 1, 1970, shall be measured in front of lawful upper beams of head lamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.

(b) Front and rear clearance lamps and identification lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the time lights are required at all distances between 500 feet and 50 feet from the front and rear, respectively, of the vehicle.

(c) Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at all distances between 500 feet and 50 feet from the side of the vehicle on which mounted. (Ord. 15-64 § 28, 2015; Ord. 01-89 § 2, 2001.)

10.01.155 Obstructed Lights Not Required. Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp (except tail lamps) which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, need not be lighted, but this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicles required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted. (Ord. 15-64 § 29, 2015; Ord. 01-89 § 2, 2001.)

10.01.156 Lamps or Flags on Projecting Loads.

(a) Whenever the load upon any vehicle extends more than six inches beyond the sides or four feet or more beyond the rear of the bed or body of such vehicle, there shall be displayed at the extreme rear end of the load, at the times specified in 10.01.144, two red lamps visible from a distance of at least 500 feet to the rear, two red reflectors visible at night from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of head lamps and located so as to indicate maximum width, and on each side one red lamp visible from a distance of at least 500 feet to the side and located so as to indicate maximum overhang. There shall be displayed at all other times on any vehicle having a load which extends beyond its sides or more than four feet beyond its rear, red flags, not less than 12 inches square, marking the extremities of such load, at each point where a lamp would otherwise be required by this section.

(b) No passenger type vehicle shall be operated on any highway with any load carried thereon extending beyond the line of the fenders of the left side of such vehicle nor extending more than six inches beyond the line of the fenders on the right side thereof. (K.S.A. 8-1715) (Ord. 01-89 § 2, 2001.)

10.01.157 Lamps on Parked Vehicles.

(a) Every vehicle shall be equipped with one or more lamps which, when lighted, shall display a white or amber light visible from a distance of 1,000 feet to the front of the vehicle, and a red light visible from a distance of 1,000 feet to the rear of the vehicle. The location of said lamp or lamps always shall be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic.

(b) Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise, and in the event there is sufficient light to reveal persons and vehicles within a distance of 1,000 feet upon such street or highway, no lights need be displayed upon such parked vehicle.

(c) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is insufficient light to reveal any person or object within a distance of 1,000 feet upon such highway, such vehicle so parked or stopped shall be equipped with and shall display lamps meeting the requirements of subsection (a).

(d) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed. (Ord. 01-89 § 2, 2001.)

10.01.158 Lamps on Other Vehicles and Equipment. Every vehicle, including animal-drawn vehicles and vehicles referred to in 10.01.143, not specifically required by the provisions of other sections in this ordinance to be equipped with lamps or other lighting devices, shall be equipped, at all times specified in 10.01.144, with at least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of said vehicle, and also shall be equipped with two lamps displaying red lights visible from a distance of not less than 1,000 feet to the rear, or as an alternative, one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 to 100 feet to the rear when illuminated by the lawful lower beams of head lamps. (Ord. 01-89 § 2, 2001.)

10.01.159 Spot Lamps and Auxiliary Lamps.

(a) **Spot Lamps.** Any motor vehicle may be equipped with not to exceed two spot lamps. Every lighted spot lamp emitting a white light shall be so aimed and used that no part of the high intensity portion of the beam will strike the windshield or any windows, mirror or occupant of another vehicle in motion. The limitations of this subsection shall not apply to a police vehicle used as an authorized emergency vehicle.

(b) **Fog Lamps.** Any motor vehicle may be equipped with not to exceed two fog lamps mounted on the front at a height not less than 12 inches nor more than 30 inches above the level surface upon which the vehicle stands, and so aimed that when the vehicle is not loaded, none of the high-intensity portion of the light to the left of the center of the vehicle shall at a distance of 25 feet ahead project higher than a level of 4 inches below the level of the center of the lamp from which it comes. Lighted fog lamps meeting the above requirements may be used with lower head lamp beams as specified in 10.01.164(a)(2).

(c) **Auxiliary Passing Lamps.** Any motor vehicle may be equipped with not to exceed two auxiliary passing lamps mounted on the front at a height not less than 24 inches nor more than 42 inches above the level surface upon which the vehicle stands. The provisions of 10.01.164 shall apply to any combination of head lamps and auxiliary passing lamps.

(d) **Auxiliary Driving Lamps.** Any motor vehicle may be equipped with not to exceed two auxiliary driving lamps mounted on the front at a height not less than 16 inches nor more than 42 inches above the level surface upon which the vehicle stands. The provisions of 10.01.164 shall apply to any combination of head lamps and auxiliary driving lamps. (Ord. 01-89 § 2, 2001.)

10.01.160 Authorized Emergency Vehicles.

(a) Except as provided in subsection (b), every authorized emergency vehicle, in addition to any other equipment required by this ordinance, shall be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, or in lieu thereof, any such authorized emergency vehicle shall be equipped with at least one rotating or oscillating light, which shall be mounted as high as practicable on such vehicle and which shall display to the front and rear of such vehicle a flashing red light or alternate flashes of red and white lights or red and blue lights in combination. All lights required or authorized by the subsection shall have sufficient intensity to be visible at 500 feet in normal sunlight. Every authorized emergency vehicle may, but need not, be equipped with head lamps which alternately flash or simultaneously flash.

(b) A police vehicle when used as an authorized emergency vehicle may, but need not, be equipped with

(1) head lamps which alternately flash or simultaneously flash;

(2) flashing lights specified in subsection (a) above, but any flashing lights, used on a police vehicle, other than the flashing lights specified in 10.01.162, rotating or oscillating lights or alternately flashing head lamps or simultaneously flashing head lamps, shall be red in color; or

(3) rotating or oscillating lights, which may display a flashing red light or alternate flashes of red and blue lights in combination.

(c) A person, partnership, association, corporation, municipality or public official shall not operate, or cause to be operated upon a public highway, road or street within this City, a motor vehicle with a red light, siren or both unless the vehicle has been designated as an authorized emergency vehicle pursuant to K.S.A. Supp. 8-2010, and amendments thereto. (K.S.A. 8-1720; K.S.A. Supp. 8-2011b) (Ord. 05-59 § 2, 2005; Ord. 01-89 § 2, 2001.)

10.01.161 Signal Lamps and Signal Devices.

(a) Any vehicle may be equipped and when required under this Chapter shall be equipped with a stop lamp or stop lamps on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than 300 feet to the rear in normal sunlight, and which shall be actuated upon application of the service or foot brake, and which may but need not be incorporated with one or more other rear lamps. If a vehicle is equipped with stop lamps on the rear of the vehicle, at least two lighted lamps shall be displayed while braking, one on each side at the rear of the vehicle.

(b) Any vehicle may be equipped and when required under this Chapter shall be equipped with electric turn signals which shall indicate an intention to turn by flashing lights showing to the front and rear of a vehicle or a combination of vehicles on the side of the vehicle or combination toward which the turn is to be made. The lamps showing to the front shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit amber light: provided, that on any vehicle manufactured prior to July 1, 1973, the lamps showing to the front may emit white or amber light, or any shade of light between white and amber. The lamps showing to the rear shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit a red or amber light or any shade of color between red and amber. Turn signal lamps shall be visible from a distance of not less than 500 feet to the front and rear in normal sunlight. Turn signal lamps may but need not be incorporated in other lamps on the vehicle. (Ord. 14-57 § 22, 2014; Ord. 01-89 § 2, 2001.)

10.01.162 Vehicular Hazard Warning Lights.

(a) Any vehicle may be equipped with lamps for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing.

(b) Every bus, truck, truck tractor, trailer, semi-trailer or pole trailer 80 inches or more in overall width or 30 feet or more in overall length shall be equipped with lamps meeting the requirements of this section.

(c) Vehicular hazard warning signal lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing amber light. On any vehicle manufactured prior to January 1, 1969, the lamps showing to the front may display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. Such warning lights shall be visible from a distance of not less than 500 feet in normal sunlight.

(d) Any police vehicle, when used as an authorized emergency vehicle, may be equipped with warning lamps mounted as widely spaced laterally as practicable either inside such vehicle in front of the rear window or on the roof of such vehicle and capable of displaying two alternately flashing amber lights to the rear of such vehicle. Such warning lamps may be used in lieu of or in combination with any other vehicular hazard warning signal lamps used to display such warning to the rear, and shall be visible from a distance of not less than 500 feet in normal sunlight.

(e) Every truck designed and used for collection and disposal of domestic or commercial waste or trash shall be equipped as provided in subsection (c) and shall operate such lamps when collecting or transporting waste or trash and traveling 15 miles per hour or less. (Ord. 01-89 § 2, 2001.)

10.01.163 Additional Lighting Equipment.

(a) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

(b) Any motor vehicle may be equipped with not more than one running board courtesy lamp on each side thereof, which shall emit a white or amber light without glare.

(c) Any motor vehicle may be equipped with one or more back-up lamps, either separately or in combination with other lamps, but any such back-up lamp or lamps shall not be lighted when the motor vehicle is in forward motion.

(d) Any vehicle 80 inches or more in overall width, if not otherwise required by 10.01.151 may be equipped with not more than three identification lamps showing to the front which shall emit an amber light without glare, and not more than three identification lamps showing to the rear which shall emit a red light without glare. Such lamps shall be mounted as specified in 10.01.151(f).

(e) Any vehicle may be equipped with one or more side marker lamps and any such lamp may be flashing in conjunction with turn or vehicular hazard warning signals. Side marker lamps located toward the front of a vehicle shall be amber and side marker lamps located toward the rear shall be red.

(f) Any motor vehicle may be equipped with neon ground effect lighting, except that such lighting shall not flash, be any shade of red nor shall any portion of the neon tubes be visible. "Neon ground effect lighting" means neon tubes placed underneath the motor vehicle for the purpose of illuminating the ground below the motor vehicle creating a halo light effect.

(g) Any motor vehicle may be equipped with head lamps which alternately flash or simultaneously flash when such motor vehicle is being used as the lead motor vehicle of a funeral procession. A funeral hearse may serve as a funeral lead vehicle. (Ord. 05-59 § 3, 2005; Ord. 01-89 § 2, 2001.)

10.01.164 Multiple-Beam Road-Lighting Equipment.

(a) Except as hereinafter provided, the head lamps, or the auxiliary driving lamps or the auxiliary passing lamp or combination thereof, on motor vehicles other than motorcycles shall be so arranged that the driver may select at will between distribution of light projected to different elevations, and such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the following limitations:

(1) There shall be an uppermost distribution of light or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 450 feet ahead for all conditions of loading.

(2) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet ahead; and on a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

(b) Every new motor vehicle registered in this state which has multiple-beam road lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted, it will be readily visible without glare to the driver of the vehicle so equipped. (Ord. 01-89 § 2, 2001.)

10.01.165 Use of Multiple-Beam Road-Lighting Equipment. When a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in Section 10.01.144 the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations.

(a) When the driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in Section 10.01.164(a)(2) or Section 10.01.187(b), shall be dimmed to avoid glare at all times, regardless of road contour and loading.

(b) When the driver of a vehicle approaches another vehicle from the rear, within 300 feet, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this Chapter other than the uppermost distribution of light specified in Section 10.01.164(a)(1) or Section 10.01.187(b).

(c) The requirements in Subsections (a) and (b) shall not apply to:

(1) Authorized emergency vehicles displaying alternately flashing or simultaneously flashing head lamps as provided in 10.01.160; or

(2) School buses displaying alternately flashing or simultaneously flashing head lamps as provided in 10.01.170. (K.S.A. 8-1725, as amended) (Ord. 15-64 § 30, 2015; Ord. 01-89 § 2, 2001.)

10.01.166 Single-Beam Road-Lighting Equipment Permitted on Certain Vehicles. Head lamp systems which provide only a single distribution of light shall be permitted on all farm tractors, regardless of date of manufacture, and on other motor vehicles manufactured and sold prior to July 1, 1938, in lieu of multiple-beam road-lighting equipment herein specified, if the single distribution of light complies with the following requirements and limitations:

(1) The head lamps shall be so aimed that when the vehicle is not loaded, none of the high intensity portion of the light at a distance of 25 feet ahead shall project higher than a level of 5 inches below the level of the center of the lamp from which it comes, and in no case higher than 42 inches above the level on which the vehicle stands at a distance of 75 feet ahead.

(2) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet. (Ord. 01-89 § 2, 2001.)

10.01.167 Alternate Road-Lighting Equipment on Certain Vehicles; Limitations on Speed. Any motor vehicle may be operated under the conditions specified in 10.01.144 when equipped with two lighted lamps upon the front thereof capable of revealing persons and vehicles 100 feet ahead in lieu of lamps required in 10.01.164 or 10.01.166: provided, that at no time shall it be operated at a speed in excess of 25 miles per hour. (Ord. 01-89 § 2, 2001.)

10.01.168 Number of Driving Lamps Required or Permitted.

(a) At all times specified in 10.01.144, at least two lighted head lamps shall be displayed, one on each side at the front of every motor vehicle except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

(b) Whenever a motor vehicle equipped with head lamps as herein required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of an intensity greater than 300 candlepower, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway. (Ord. 01-89 § 2, 2001.)

10.01.169 Special Restrictions on Lamps.

(a) During the time specified in 10.01.144 any lighted lamps or illuminating device upon a motor vehicle other than head lamps, spot lamps, auxiliary lamps, flashing turn signals, vehicular hazard warning lamps, and school bus warning lamps which project a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(b) Except as required or permitted in 10.01.160 and 10.01.170, no person shall drive or move any vehicle or equipment upon any highway with any lamp or device capable of displaying a red light visible from directly in front of the center thereof, nor shall any vehicle or equipment upon any highway have any lamp or device displaying any color of light visible from directly in front of the center thereof except white or amber or any shade of color between white and amber.

(c) Flashing lights are prohibited except as authorized or required in 10.01.160, 10.01.161, 10.01.163(e), 10.01.170, 10.01.171 and 10.01.172.

(d) The flashing lights described in 10.01.160, 10.01.170 and 10.01.171 shall not be used on any vehicle other than a school bus, church bus or day program bus as defined in 10.01.171, or an authorized emergency vehicle.

(e) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop light or other signal device, which may be red, amber or yellow, and except that the light illuminating the license plate shall be white and the light emitted by a back-up lamp shall be white or amber. (Ord. 05-59 § 4, 2005; Ord. 01-89 § 2, 2001.)

10.01.170 School Buses.

(a) Every school bus, in addition to any other equipment and distinctive markings required by this ordinance, shall be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall display to the front two alternately flashing red lights located at the same level and to the rear two alternatively flashing red lights located at the same level, and these lights shall be visible at 500 feet in normal sunlight.

(b) Any school bus, in addition to the lights required by subsection (a), may be equipped with

(1) yellow signal lamps mounted near each of the four red lamps and at the same level but closer to the vertical centerline of the bus, which shall display two alternately flashing yellow lights to the front and two alternately flashing yellow lights to the rear, and these lights shall be visible at 500 feet in normal sunlight. These lights shall be displayed by the school bus driver at least 200 feet, but not more than 1,000 feet, before every stop at which the alternately flashing red lights required by subsection (a) will be actuated.

(2) head lamps which alternately flash on low beam or simultaneously flash on low beam, except such head lamps shall only be activated during daylight hours.

(c) The provisions of this section shall be subject to the provisions contained in K.S.A. 8-2009a. (K.S.A. 8-1730 as amended) (Ord. 01-89 § 2, 2001.)

10.01.171 Lighting Equipment and Warning Devices on Church Buses and Day Care Program Buses. Any church bus, or day care program bus in addition to any other equipment and distinctive markings required by law, shall be equipped with:

(a) Signal lamps which conform to the requirements of 10.01.170, and rules and regulations adopted pursuant thereto; and

(b) a stop signal arm which conforms to requirements therefor applicable to school buses which have been adopted by rules and regulations of the state board of education. (Ord. 15-64 § 31, 2015; Ord. 01-89 § 2, 2001.)

10.01.172 Highway Construction and Maintenance Vehicles. It shall be unlawful to operate any snow removal and other highway maintenance and service equipment on any highway unless the lamps thereon comply with and are lighted when and as required by the standards and specifications adopted by the Secretary. (Ord. 01-89 § 2, 2001.)

10.01.173 Brakes; Performance Requirements.

(a) Every motor vehicle and every combination of vehicles shall have a service braking system which will stop such vehicle or combination within 40 feet from an initial speed of 20 miles per hour on a level, dry, smooth, hard surface.

(b) Every motor vehicle and combination of vehicles shall have a parking brake system adequate to hold such vehicle or combination on any grade on which it is operated under all conditions of loading, on a surface free from snow, ice or loose material.

(c) The provisions of this section shall not apply to vehicles registered pursuant to K.S.A. 8-166 et seq. and any amendments thereto. (Ord. 01-89 § 2, 2001.)

10.01.174 Horns and Warning Devices.

(a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall, when reasonably necessary to insure safe operation, give audible warning with his or her horn, but shall not otherwise use such horn when upon a highway.

(b) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren or bell, except as otherwise permitted in this section.

(c) Any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal. Such a theft alarm signal may use a whistle, bell, horn or other audible signal but shall not use a siren.

(d) Every authorized emergency vehicle shall be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the Commission, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof.

(e) Every truck specifically designed and equipped and used exclusively for garbage, refuse, or solid waste disposal operations shall be equipped with a whistle, bell, or other audible signal. Such whistle, bell, or other audible signal shall be used only when the driver of the truck is backing such truck. Notwithstanding the provisions of this section, the City of Olathe may adopt an ordinance prohibiting the activation of such whistle, bell, or other audible signal during specific periods of time during the day. (Ord. 07-136 § 12, 2007; Ord. 01-89 § 2, 2001.)

10.01.174.1 Flares or Warning Devices; Vehicles Subject to Requirements; Use, When Required; Unlawful Acts; Compliance with Federal Requirements.

(a) No person shall operate any truck, bus or truck tractor, or any motor vehicle towing a trailer, semi-trailer or pole trailer 80 inches or more in width or 30 feet or more in length, upon any highway outside an urban district or upon any divided highway at any time from a half hour after sunset to a half hour before sunrise unless there shall be carried in such vehicles the following equipment, except as provided in subsection (b):

(1) At least three flares or three red electric lanterns or three portable red emergency reflectors, each of which shall be capable of being seen and distinguished at a distance of not less than 600 feet under normal atmospheric conditions at nighttime.

No flare, fusee, electric lantern or warning flag shall be used for the purpose of compliance with the requirements of this section, unless such equipment is of a type which has been submitted to the Secretary of Transportation and approved by the Secretary. No portable reflector unit shall be used for the purpose of compliance with the requirements of this section, unless it is so designed and constructed as to be capable of reflecting red light clearly visible from all distances within 600 feet to 100 feet under normal atmospheric conditions at night when directly in front of lawful lower beams of head lamps, and unless it is of a type which has been submitted to and approved by the Secretary of Transportation.

(2) At least three red-burning fusees, unless red electric lanterns or red portable emergency reflectors are carried.

(b) No person shall operate at the time and under conditions stated in subsection (a) any motor vehicle used for the transportation of explosives or any cargo tank truck used for the transportation of flammable liquids or compressed gasses, unless there shall be carried in such vehicle three red electric lanterns or three portable red emergency reflectors meeting the requirements of subsection (a), and there shall not be carried in any such vehicle, or in any vehicle using compressed gas as a fuel, any flares, fusees or signal produced by flame.

(c) No person shall operate any vehicle described in subsection (a) or (b) upon any highway outside of an urban district or upon a divided highway at any time when lighted lamps are not required by 10.01.144, unless there shall be carried in such vehicle at least two red flags, not less than 12 inches square, with standards to support such flags.

(d) Any person who is subject to requirements of any federal agency with respect to flares, fuses, electric lanterns or warning flags and who is in compliance with such federal regulations shall be deemed to be in compliance with the provisions of this section and 10.01.174.2. (Ord. 01-89 § 2, 2001.)

10.01.174.2 Display of Vehicular Hazard Warning Signal Lamps and Warning Devices by Certain Stopped or Disabled Vehicles.

(a) Whenever any truck, bus, truck tractor, trailer, semi-trailer or pole trailer 80 inches or more in overall width or 30 feet or more in overall length is stopped upon a roadway or adjacent shoulder, the driver immediately shall actuate vehicular hazard warning signal lamps meeting the requirements of 10.01.162. Such lights need not be displayed by a vehicle parked lawfully in an urban district, or stopped lawfully to receive or discharge passengers, or stopped to avoid conflict with other traffic or to comply with the directions of a police officer or an official traffic-control device, or while the devices specified in subsections (b) to (h) are in place.

(b) Whenever any vehicle of a type referred to in subsection (a) is disabled, or stopped for more than ten minutes, upon a roadway outside of an urban district at any time when lighted lamps are required, the driver of such vehicle shall display the following warning devices, except as provided in subsection (c):

(1) A lighted fusee, a lighted red electric lantern or a portable red emergency reflector shall immediately be placed at the traffic side of the vehicle in the direction of the nearest approaching traffic.

(2) As soon thereafter as possible but in any event within the burning period of the fusee, the driver shall place three liquid burning flares, or three lighted red electric lanterns, or three portable red emergency reflectors on the roadway in the following order:

(i) One approximately 100 feet from the disabled vehicle in the center of the lane occupied by such vehicle and toward traffic approaching in that lane.

(ii) One approximately 100 feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by such vehicle.

(iii) One at the traffic side of the disabled vehicle not less than ten feet rearward or forward thereof in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with paragraph (1) of this subsection, it may be used for this purpose.

(c) Whenever any vehicle referred to in this section is disabled, or stopped for more than ten minutes, within 500 feet of a curve, hillcrest or other obstruction to view, the warning device in that direction shall be so placed as to afford ample warning to other users of the highway, but in no case less than 100 feet nor more than 500 feet from the disabled vehicle.

(d) Whenever any vehicle of a type referred to in this section is disabled, or stopped for more than ten minutes, upon any roadway of a divided highway during the time lighted lamps are required, the appropriate warning devices prescribed in subsections (b) and (e) shall be placed as follows: one at a distance of approximately 200 feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane; one at a distance of approximately 100 feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane; one at the traffic side of the vehicle and approximately ten feet from the vehicle in the direction of the nearest approaching traffic.

(e) Whenever any motor vehicle used in the transportation of explosives or any cargo tank truck used for the transportation of any flammable liquid or compressed gas is disabled, or stopped for more than ten minutes, at any time and place mentioned in subsection (b), (c) or (d), the driver of such vehicle shall immediately display red electric lanterns or portable red emergency reflectors in the same number and manner specified therein. Flares, fusees or signals produced by flame shall not be used as warning devices for vehicles of the type mentioned in this subsection nor for vehicles using compressed gas as a fuel.

(f) The warning devices described in subsections (b) to (e) need not be displayed where there is sufficient light to reveal persons and vehicles within a distance of 1,000 feet.

(g) Whenever any vehicle described in this section is disabled, or stopped for more than ten minutes, upon a roadway outside of an urban district or upon the roadway of a divided highway at any time when lighted lamps are not required by 10.01.144, the driver of the vehicle shall display two red flags as follows:

(1) If traffic on the roadway moves in two directions, one flag shall be placed approximately 100 feet to the rear and one flag approximately 100 feet in advance of the vehicle in the center of the lane occupied by such vehicle.

(2) Upon a one-way roadway, one flag shall be placed approximately 100 feet and one flag approximately 200 feet to the rear of the vehicle in the center of the lane occupied by such vehicle.

(h) When any vehicle described in this section is stopped entirely off the roadway and on an adjacent shoulder at any time and place hereinbefore mentioned, the warning devices shall be placed, as nearly as practicable, on the shoulder near the edge of the roadway.

(i) The flares, fusees, red electric lanterns, portable red emergency reflectors and flags to be displayed as required in this section shall conform with the requirements of 10.01.174.1. (Ord. 01-89 § 2, 2001.)

10.01.175 Noise Prevention; Mufflers.

(a) Every vehicle shall be equipped, maintained and operated so as to prevent excessive or unusual noise. Every motor vehicle at all times shall be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation, and no person shall use a straight pipe, muffler cutout, bypass or similar device.

(b) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

(c) For the purposes of this section, a straight pipe does not constitute a muffler or other effective noise suppression system. A “straight pipe” means any straight-through exhaust system that does not contain baffles. (Ord. 06-27 § 1, 2006; Ord. 06-19 § 1, 2006; Ord. 01-89 § 2, 2001.)

10.01.175.1 Engine Noise. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the City any mechanical exhaust device designed to aid in the braking or deceleration of any vehicle which results in the excessive, loud, unusual or explosive noise from such vehicle. Such prohibition shall not apply if an emergency situation exists and the use of mechanical exhaust device is necessary for the protection of persons or property. (Ord. 04-06 § 1, 2004.)

10.01.176 Mirrors.

(a) Every motor vehicle shall be equipped with a mirror mounted on the left side of the vehicle and so located as to reflect to the driver a view of the highway to the rear of the vehicle.

(b) Every motor vehicle, except a motorcycle, shall be equipped with an additional mirror mounted either inside the vehicle approximately in the center or outside the vehicle on the right side and so located as to reflect to the driver a view of the highway to the rear of the vehicle.

(c) All mirrors required by regulations of the United States Department of Transportation shall be maintained in good condition. (Ord. 01-89 § 2, 2001.)

10.01.176.1 Air Conditioning Equipment.

(a) No person shall have for sale, offer for sale, sell or equip any motor vehicle with any air-conditioning equipment unless it complies with the requirements of K.S.A. 8-1747.

(b) No person shall operate on any highway any motor vehicle equipped with any air-conditioning equipment unless said equipment complies with the requirements of K.S.A. 8-1747. (Ord. 01-89 § 2, 2001.)

10.01.176.2 Television Receivers. Repealed 12/4/07. (Ord. 07-136 § 22, 2007; Ord. 01-89 § 2, 2001.)

10.01.177 Windshields Must Be Unobstructed and Equipped With Wipers; Eye Protection.

(a) No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, side wings, side or rear windows of such vehicle which substantially obstructs, obscures or impairs the driver's clear view of the highway or any intersecting highway.

(b) No person shall drive any motor vehicle with a damaged front windshield or side or rear windows which substantially obstructs the driver's clear view of the highway or any intersecting highway.

(c) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

(d) Every windshield wiper upon a motor vehicle shall be maintained in good working order.

(e) The driver of a motor vehicle which is not equipped with a windshield shall wear an eye-protective device. (Ord. 01-89 § 2, 2001.)

10.01.178 Restrictions as to Tire Equipment.

(a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

(b) No person shall operate or move on any highway any motor vehicle, trailer or semi-trailer having any metal tire in contact with the roadway.

(c) No tire on a vehicle moved on a highway shall have on its periphery any protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire except that it shall be permissible to use:

(1) Farm machinery with tires having protuberances which will not injure the highway;

(2) Tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid;

(3) Studded traction equipment upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid; or

(4) Pneumatic tires having metallic or nonmetallic studs designed to improve traction without materially injuring the surface of the highway. To qualify under paragraph (3) or (4), such tires or studded traction equipment shall be approved by the Secretary of Transportation by adoption of rules and regulations, and their use may be limited to certain months or types of vehicles by such rules and regulations.

(d) The Governing Body may issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this ordinance.

(e) It is unlawful for any person to operate a motor vehicle or combination of vehicles having one or more tires in an unsafe condition. A solid rubber tire is in an unsafe condition if it does not comply with the provisions of subsection (a). A pneumatic tire is in an unsafe condition if it has:

(1) Any part of the ply or cord exposed;
(2) Any bump, bulge or separation;
(3) A tread design depth of less than one-sixteenth (1/16) inch measured in any two or more adjacent tread grooves, exclusive of tie bars, or, for those tires with tread wear indicators worn to the level of the tread wear indicators in any two tread grooves;
(4) A marking "not for highway use" or "for racing purposes only" or "unsafe for highway use";
(5) Tread or sidewall cracks, cuts or snags deep enough to expose the body cord;
(6) Been regrooved or recut below the original tread design depth, excepting special taxi tires which have extra undertread rubber and are identified as such; or
(7) Such other conditions as may be reasonably demonstrated to render it unsafe.

(f) The provisions of subsection (e) shall not apply to a vehicle or combination of vehicles being transported by a wrecker or tow truck.

(g) It shall be unlawful for any person to operate a vehicle with a single tire or any hubs configured for a dual tire assembly. The provisions of this subsection shall not apply:

(1) To any truck registered for a gross weight of 20,000 pounds or less;
(2) To any vehicle or combination of vehicles operating with wide-base single tires, as defined in K.S.A. Supp. 8-1742b, and amendments thereto, on any hubs configured for a dual tire assembly;
(3) To any single axle with hubs configured for a dual tire assembly when such single axle does not exceed 9,000 pounds and is a part of a triple-axle combination; or
(4) In cases of emergency.

(h) No person in the business of selling tires shall sell or offer for sale for highway use any tire which is in unsafe condition or which has tread depth of less than one-sixteenth (1/16) inch measured as specified in subsection (e). (K.S.A. Supp. 8-1742; K.S.A. 8-1742a) (Ord. 01-89 § 2, 2001.)

10.01.178.1 Wide-Base Single Tires.

(a) The following shall apply where wide-base single tires are used in the operation of any vehicle or combination of vehicles;

(1) The maximum load for a wide-base single tire on a steering axle shall not exceed 600 pounds per inch of tire section width. The maximum load for a wide-base single tire on any other axle shall not exceed 575 pounds per inch of tire section width;
(2) No wide-base single tire shall exceed the load designated by the manufacturer; and
(3) The maximum tire inflation pressure shall be as designated by the manufacturer.

(b) The provisions of paragraph (1) of subsection (a) shall apply to all wide-base single tires purchased after July 1, 1993.

(c) Any conviction or forfeiture of bail or bond for any violation of this section shall not be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto. (K.S.A. Supp. 8-1742b) (Ord. 01-89 § 2, 2001.)

10.01.179 Spilling Loads on Highways Prohibited, Bond.

(a) No vehicle shall be driven or moved on any street, highway, road or alley of the City of Olathe, Kansas, unless such vehicle is so constructed, or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, and no vehicle shall be driven or moved upon any street, highway, road, or alley in the City of Olathe, Kansas, if such vehicle places mud, dirt, or debris upon any said street, highway, road or alley by reason of mud, debris, or dirt dropping from the tires of said vehicle. The dropping of sand for the purpose of securing traction, or water, or other substances being sprinkled upon any street, highway, road or alley in the cleaning or maintaining of such street, highway, road, or alley is hereby excepted from the provisions of this Section.

(b) Any person who shall operate on any street, highway, road, alley or parking lot of the City of Olathe, any vehicle with a load which has the potential, due to the nature of the load (i.e. dirt, gravel, sand, chat, etc.), to drop, leak, blow, or otherwise escape, shall, in addition to the requirements noted in Subsection (a), be required to have a cover, which cover shall be securely fastened so as to prevent said cover or the load from spilling, dropping, leaking, blowing, becoming loose, detached or in any manner a hazard to other users of the highway.

(c) No person shall operate on any highway any vehicle with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.

(d) Bond. When required. Any person, firm or corporation engaged in the act of moving dirt and other substances upon the public thoroughfares of the City of Olathe, Kansas, shall within the discretion of the Governing Body of the City of Olathe, Kansas, be required to deposit with said Governing Body a bond in the penal sum of Five Hundred Dollars ($500.00) in a form approved by said Governing Body conditioned that the principle under said bond shall save harmless and indemnify the City of Olathe, Kansas. (Ord. 15-64 § 32, 2015; Ord. 01-89 § 2, 2001.)

10.01.180 Trailers and Towed Vehicles; Drawbar Connections and Safety Hitch.

(a) When one vehicle is towing another, the drawbar, tow bar or other connections shall be of sufficient strength to pull, stop and hold all weight towed thereby, and so designed, constructed and installed as to insure that any vehicle or motor vehicle towed on a level, smooth, paved surface will follow in the path of the towing vehicle when it is moving in a straight line. In addition to the drawbar connections between any two such vehicles, there shall be provided an adequate safety hitch.

(b) When one vehicle is towing another and the connection consists of a chain, rope or cable, there shall be displayed upon such connection a white flag or cloth not less than 12 inches square.

(c) Motor vehicles in transit may be transported in combination by means of tow bar, saddlemount or fullmount mechanisms, utilizing the motive power of one of the motor vehicles in such combination, except that not more than two vehicles in any such combination of motor vehicles in transit may be connected by means of a tow bar mechanism. Whenever motor vehicles are transported as authorized in this subsection, such motor vehicles shall be connected securely in combination in accordance with rules and regulations adopted by the Secretary of Transportation, and any combination of such motor vehicles shall comply with the limitations prescribed by K.S.A.8-1904 1983 Supp. and any amendments thereto.

(d) Except as otherwise provided in subsection (c), not more than three vehicles, including the towing vehicle, in any combination of vehicles may be connected by means of a towbar mechanism, and if the three such vehicles are connected by towbar mechanisms, the towbar mechanism between the towing vehicle and the first towed vehicle shall be equipped with an anti-sway mechanism. In addition, the second towed vehicle of every combination of vehicles so connected shall be equipped with service brakes acting on the wheels of at least one axle, and which are of a type approved by the Safety Department of the Department of Transportation and of such character as to be applied automatically and promptly. (Ord. 01-89 § 2, 2001.)

10.01.181 One-Way Glass and Sun Screening Devices.

(a) No motor vehicle required to be registered in this state and which is operated on the highways of this City shall be equipped with one-way glass or any sun screen device, as defined in Section 10.01.001, and used in conjunction with windshields, side wings, side windows or rear windows that do not meet the following requirements:

(1) A sun screening device when used in conjunction with the windshield shall be non-reflective 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 wings or side windows located at the immediate right and left of the driver, the side windows behind the driver and the rear most window shall be non-reflective; and

(3) The total light transmission shall not be less than 35 percent 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 that 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 law.

(d) No motor vehicle required to be registered in this state which is operated on the highways of this City shall be equipped with head lamps which are covered with any sun screening device, adhesive film or other glaze or application which, when such lamps are not in operation, is highly reflective or otherwise nontransparent.

(e) Any person violating the provisions of (a), (c) or (d) of this Section shall be in violation of this Chapter and punished as provided in Section 10.01.201.

(f) Any person who installs a sun screening device on a motor vehicle which is not in compliance with the provisions of this Section, upon conviction, shall be guilty of a violation of this Chapter and shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not more than one (1) month or by both such fine and imprisonment. (K.S.A. 8-1749a; K.S.A. 8-1749c) (Ord. 15-64 § 33, 2015; Ord. 10-70 § 4, 2010; Ord. 01-89 § 2, 2001.)

10.01.182 Child Passenger Safety Restraining System.

(a) Every driver who transports a child under the age of 14 years in a passenger car or an autocycle on a highway shall provide for the protection of such child by properly using:

(1) For a child under the age of four years an appropriate child passenger safety restraining system that meets or exceeds the standards and specifications contained in federal motor vehicle safety standard No. 213; or

(2) For a child four years of age, but under the age of eight years and who weighs less than 80 pounds or is less than 4 feet 9 inches in height, an appropriate child passenger safety restraining system that meets or exceeds the standards and specifications contained in federal motor vehicle safety standard No. 213; or

(3) For a child eight years of age but under the age of 14 years or who weighs more than 80 pounds or is more than 4 feet 9 inches in height, a safety belt manufactured in compliance with federal motor vehicle safety standard No. 208.

(b) If the number of children subject to the requirements of Subsection (a) exceeds the number of passenger securing locations available for use by children affected by such requirements, and all of these securing locations are in use by children, then there is not a violation of this Section.

(c) If a securing location only has a lap safety belt available, the provisions of Subsection (a)(2) shall not apply and the child shall be secured in accordance with the provisions of Subsection (a)(3).

(d) It shall be unlawful for any driver to violate the provisions of Subsection (a) and upon conviction such driver shall be punished by a fine of Sixty Dollars ($60.00). The failure to provide a child safety restraining system or safety belt for more than one child in the same passenger car or autocycle at the same time shall be treated as a single violation. Any conviction under the provisions of this Subsection shall not be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto.

(e) The Sixty Dollar ($60.00) fine provided for in Subsection (a) shall be waived if the driver convicted of violating Subsection (a)(1) or (a)(2) of this Section provides proof to the court that such driver has purchased or acquired the appropriate and approved child passenger safety restraining system. At the time of issuing the citation for a violation of Subsection (a)(1) or (a)(2) and amendments thereto, the law enforcement officer shall notify the driver of the waiver provisions of this Subsection.

(f) No driver charged with violating the provisions of this Section shall be convicted if such driver produces in the office of the arresting officer or in court proof that the child was 14 years of age or older at the time the violation was alleged to have occurred.

(g) Evidence of failure to secure a child in a child passenger safety restraining system or a safety belt under the provisions of this Section shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

(h) For purpose of this Section, “passenger car” means a motor vehicle, manufactured or assembled after January 1, 1968, or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with safety belts, with motive power designed for carrying 10 passengers or fewer, including vans, but excluding motorcycles, trailers, or vehicles construed on a truck chassis registered for a gross weight of more than 12,000 pounds or a farm truck registered for a gross weight of more than 16,000 pounds or a motor vehicle constructed with special features for occasional off-road operation. (Ord. 15-64 § 34, 2015; Ord. 07-136 § 13, 2007; Ord. 06-66 § 7, 2006; Ord. 01-89 § 2, 2001.)

10.01.182.1 Seat Belts.

(a) Except as provided in Section 10.01.182 and in Subsection (b) or (c), each occupant of either a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208 or an autocycle, who is 18 years of age or older, shall have a safety belt properly fastened about such person’s body at all times when the vehicle is in motion.

(b) Each occupant of either a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208 or an autocycle, who is at least 14 years of age but less than 18 years of age, shall have a safety belt properly fastened about such person's body at all times when the passenger car is in motion.

(c) This Section does not apply to:

(1) An occupant of a passenger car who possesses a written statement from a licensed physician that such person is unable for medical reasons to wear a safety belt system;
(2) Carriers of United States mail while actually engaged in delivery and collection of mail along their specified routes;
(3) Newspaper delivery persons while actually engaged in delivery of newspapers along their specified routes; or
(4) An occupant of a passenger car or autocycle required to be protected by a safety restraining system under the child passenger safety act.

(d) Law enforcement officers shall not stop drivers for violations of Subsection (a) by a back seat occupant in the absence of another violation of law. A citation for violation of Subsection (a) by a back seat occupant shall not be issued without citing the violation that initially caused the officer to effect the enforcement stop.

(e) (1) Persons violating Subsection (a) shall be fined Ten Dollars ($10.00); and
(2) Persons violating Subsection (b) shall be fined Sixty Dollars ($60.00).

(f) For purposes of this Section, "passenger car" means a motor vehicle, manufactured or assembled after January 1, 1968, or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with safety belts, with motive power designed for carrying 10 passengers or fewer, including vans, but excluding motorcycles, trailers, or vehicles constructed on a truck chassis registered for a gross weight of more than 12,000 pounds or a farm truck registered for a gross weight of more than 16,000 pounds or a motor vehicle constructed with special features for occasional off-road operation. (K.S.A. 8-2503-2504)

(g) For purposes of this Section, "seat belt properly fastened about such person's body at all times when the vehicle is in motion" means the seat belt is secured across the occupant's lap with the shoulder restraint passing over the occupant's shoulder and across the occupant's chest. (Ord. 15-64 § 35, 2015; Ord. 11-13 § 1, 2011; Ord. 10-43 § 1, 2010; Ord. 07-136 § 14, 2007; Ord. 05-59 § 5, 2005; Ord. 01-89 § 2, 2001.)

10.01.182.2 Unlawful Riding on Vehicles; Persons Under Age 14.

(a) It shall be unlawful for any person under the age of 14 years to ride on any vehicle or upon any portion thereof not designed or intended for use of passengers when the vehicle is in motion.

(b) It shall be unlawful for the operator of any vehicle to allow any person under the age of 14 years to ride on any vehicle or upon any portion thereof not designed or intended for the use of passengers when the vehicle is in motion.

(c) This section shall not apply to:

(1) An employee under the age of 14 years engaged in the necessary discharge of the employee's duty within truck bodies in space intended for merchandise or cargo; or
(2) When the vehicle is being operated in parades, caravans or exhibitions which are officially authorized or otherwise permitted by law.

(d) The provisions of subsections (a) and (b) shall apply only when a vehicle is being operated within the corporate limits of the City. (K.S.A. Supp. 8-1578a) (Ord. 01-89 § 2, 2001.)

Ref: For Persons 14 Years of Age and Older see 10.01.115.

ARTICLE 18. EQUIPMENT ON MOTORCYCLES AND MOTOR-DRIVEN CYCLES

10.01.183 Head Lamps.

(a) Every motorcycle and every motor-driven cycle shall be equipped with at least one head lamp which shall comply with the requirements and limitations of this Chapter.

(b) Every head lamp upon every motorcycle and motor-driven cycle shall be located at a height of not more than 54 inches nor less than 24 inches to be measured as set forth in 10.01.145(b).

(c) Any headlamp, required by this section, may be wired with a headlamp modulation system provided the headlamp modulation system complies with federal standards established by 49 C.F.R. § 571.108. (Ord. 14-57 § 23, 2014; Ord. 01-89 § 2, 2001.)

10.01.184 Tail Lamps.

(a) Every motorcycle and motor-driven cycle shall have at least one tail lamp which shall be located at a height of not more than 72 nor less than 15 inches.

(b) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. Any tail lamp or tail lamps, together with any separate lamp or lamps for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted. (Ord. 01-89 § 2, 2001.)

10.01.185 Reflectors. Every motorcycle and motor-driven cycle shall carry on the rear, either as part of the tail lamp or separately, at least one red reflector meeting the requirements of 10.01.140(b). (Ord. 01-89 § 2, 2001.)

10.01.186 Stop Lamps.

(a) Every motorcycle, motorized bicycle, and motor-driven cycle shall be equipped with at least one stop lamp meeting the requirements of 10.01.161(a).

(b) Every motorcycle manufactured after January 1, 1973, shall be equipped with electric turn signals meeting the requirements of 10.01.161(b). Motor-driven cycles may, but need not, be equipped with electric turn signals.

(c) In addition to the lamps otherwise permitted by this Chapter, a motorcycle may be equipped with lamps on the sides thereof, visible from the side of the motorcycle but not from the front or rear thereof, which lamps, together with mountings or receptacles, shall be set into depressions or recesses in the body or wheel of the motorcycle and shall not protrude beyond or outside the body or wheel of the motorcycle. The light source may emit only white, amber or red light without glare. (Ord. 14-57 § 24, 2014; Ord. 01-89 § 2, 2001.)

10.01.187 Multiple-Beam Road-Lighting Equipment. Every motorcycle, other than a motor-driven cycle, shall be equipped with multiple beam road-lighting equipment. Such equipment shall:

(a) Reveal persons and vehicles at a distance of at least 300 feet ahead when the uppermost distribution of light is selected; and

(b) Reveal persons and vehicles at a distance of at least 150 feet ahead when the lowermost distribution of light is selected, and on a straight, level road under any condition of loading, none of the high intensity portions of the beam shall be directed to strike the eyes of an approaching driver. (Ord. 01-89 § 2, 2001.)

10.01.188 Lighting Equipment for Motor-Driven Cycles. The head lamp or head lamps upon every motor-driven cycle may be of the single-beam or multiple-beam type, but in either event shall comply with the requirements and limitations as follows:

(a) Every such head lamp or head lamps on a motor-driven cycle shall be of sufficient intensity to reveal persons and vehicles at a distance of not less than 100 feet when the motor-driven cycle is operated at any speed less than 25 miles per hour, and at a distance of not less than 200 feet when the motor-driven cycle is operated at a speed of 25 or more miles per hour, and at a distance of not less than 300 feet when the motor-driven cycle is operated at a speed of 35 or more miles per hour.

(b) In the event the motor-driven cycle is equipped with a multiple-beam head lamp or head lamps, such equipment shall comply with the requirements of 10.01.187.

(c) In the event the motor-driven cycle is equipped with a single beam lamp or lamps, such lamp or lamps shall be so aimed that when the vehicle is loaded, none of the high-intensity portion of light, at a distance of 25 feet ahead, shall project higher than the level of the center of the lamp from which it comes. (Ord. 01-89 § 2, 2001.)

See: 10.01.035

10.01.189 Brake Equipment Required. Every motorcycle and motor-driven cycle shall comply with the provisions of 10.01.173(a), except that the wheel of a sidecar attached to a motorcycle or to a motor-driven cycle, and the front wheel of a motor-driven cycle need not be equipped with brakes: provided, that such motorcycle or motor-driven cycle is capable of complying with the performance requirement of this ordinance. (Ord. 01-89 § 2, 2001.)

10.01.189.1 Approval of Braking System by Secretary of Transportation. No person shall operate on any highway any motorcycle or motor driven cycle if the secretary has disapproved the braking system upon such vehicle. (Ord. 14-57 § 25, 2014.)

10.01.190 Performance Ability of Brakes. Upon application of the service brake, every motorcycle and motor-driven cycle, at all times and under all conditions of loading, shall be capable of stopping from a speed of 20 miles per hour in not more than 30 feet, such distance to be measured from the point at which movement of the service brake pedal or control begins.

Tests for stopping distance shall be made on a dry smooth, hard and substantially level surface, not to exceed one percent (1%) grade, that is free from loose material. (Ord. 01-89 § 2, 2001.)

10.01.191 Other Equipment.

(a) Every motorcycle and every motor-driven cycle shall comply with the requirements and limitations of 10.01.174 on horns and warning devices, 10.01.175 on noise prevention and mufflers, 10.01.176 on mirrors and 10.01.178 on tires.

(b) Every motorcycle and every motor-driven cycle shall comply with the requirements and limitations contained in this ordinance, and unless otherwise specifically made applicable, motorcycles and motor-driven cycles shall not be subject to the requirements and limitations imposed elsewhere in this ordinance with respect to equipment on vehicles. (Ord. 01-89 § 2, 2001.)

ARTICLE 19. DRIVER'S LICENSE AND VEHICLE TAGS

10.01.192 Driver's License.

(a) No person, except one expressly exempt by law, shall drive any motor vehicle, motorcycle, motor-driven cycle or motorized bicycle upon any street or highway in this City unless such person has a valid driver's license.

(b) Provided for purposes of this section, a "valid driver's license" shall mean either:

(1) A valid Kansas driver's license, when such person is required to have such license pursuant to Article 2 of Chapter 8, Kansas Statutes Annotated; or
(2) When such person is not required to be licensed under the foregoing provision, a valid license issued by a jurisdiction other than the State of Kansas.

(c) Violation of this section is punishable by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment for not more than six (6) months or by both such fine and imprisonment. (Ord. 14-57 § 26, 2014; Ord. 01-89 § 2, 2001.)

10.01.193 Driver's License in Possession. Every licensee shall have his or her driver's license in his or her immediate possession at all times when operating a motor vehicle or motorized bicycle, and shall display the same upon demand of any law enforcement officer. However, no person charged with violating this section shall be convicted if such person produces in court a driver's license theretofore issued to such person and valid at the time of arrest. (Ord. 01-89 § 2, 2001.)

10.01.193.1 Driver's License - Change of Name/Address. It shall be unlawful for any person to fail to notify the division in writing within ten (10) days of any address or name change on such person's driver's license pursuant to K.S.A. 8-248. (Ord. 14-57 § 27, 2014.)

10.01.194 Driving While License Cancelled, 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 (6) months or fined not to exceed One Thousand Dollars ($1,000.00), or both such fine and imprisonment. On a second or subsequent conviction of a violation of this Section such person shall be punished by imprisonment for not more than one (1) year or fined not to exceed Two Thousand Five Hundred Dollars ($2,500.00), or both such fine and imprisonment.

(2) No such 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 (a)(4) or (b), every person convicted under this Section shall be sentenced, to at least 5 days imprisonment and fined at least One Hundred Dollars ($100.00) and upon a second conviction shall not be eligible for parole until completion of five (5) days imprisonment.

(4) Except as otherwise provided by Subsection (b), 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 Sections 10.01.030, 10.01.030.1 or 10.01.030.6 of the Olathe Traffic Ordinance or K.S.A. 8-2,114, 8-1567 or as provided in the 2012 Session Laws of Kansas, Chapter 172, Section 2 and amendments thereto, or any ordinance of any city or a law of another state, which ordinance or law prohibits the acts prohibited by Olathe Traffic Ordinance Sections 10.01.030, 10.01.030.1 or 10.01.030.6 or K.S.A. 8-2,114, 8-1567 or as provided in the 2012 Session Laws of Kansas, Chapter 172, Section 2 and amendments thereto and

(B) Is or has been also convicted of a violation of Sections 10.01.030, 10.01.030.1 or 10.01.030.6 of the Olathe Traffic Ordinance or K.S.A. 8-2,114, 8-1567 or as provided in the 2012 Session Laws of Kansas, Chapter 172, Section 2 and amendments thereto, or of a municipal ordinance, or resolution of any county or law of another state, which ordinance or law prohibits the acts prohibited by Sections 10.01.030, 10.01.030.1 or 10.01.030.6 of the Olathe Traffic Ordinance or K.S.A. 8-2,114, 8-1567 or as provided in the 2012 Session Laws of Kansas, Chapter 172, Section 2 and amendments thereto, 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 ninety (90) days imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.

(b) A person on a third or subsequent conviction of this Section shall be sentenced to not less than ninety (90) days imprisonment and fined not less than One Thousand Five Hundred Dollars ($1,500.00) if such person's privilege to drive a motor vehicle is cancelled, suspended, or revoked because such person:

(1) Refused to submit and complete any test of blood, breath, or urine requested by law enforcement excluding the preliminary screening test as set forth in Section 10.01.030.2 of the Olathe Traffic Ordinance, K.S.A. 8-1012, and amendments thereto;

(2) Was convicted of violating the provisions of Section 10.01.200 of the Olathe Traffic Ordinance, K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage;

(3) Was convicted of vehicular homicide, K.S.A. 21-3405 or K.S.A. 21-5406, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442 or K.S.A. 21-5405(a)(3), and amendments thereto, or any other murder or manslaughter crime resulting from the operation of a motor vehicle; or

(4) Was convicted of being a habitual violator, Section 10.01.194 of the Olathe Traffic Ordinance, K.S.A. 8-287, and amendments thereto.

(c) The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least ninety (90) days imprisonment. The ninety (90) days imprisonment mandated by this Subsection may be served in a work release program only after such person has served forty eight (48) consecutive hours imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program to serve the remainder of the minimum sentence only after such person has served forty eight (48) consecutive hours imprisonment.

(d) For the purpose of determining whether a conviction is a first, second, third, or subsequent conviction in sentencing under this Chapter, "conviction" includes a conviction of a violation of any ordinance of any city or a law of any state which is in substantial conformity with this Chapter. (Ord. 15-64 § 36, 2015; Ord. 12-39 § 4, 2012; Ord. 12-18 § 4, 2012; Ord. 11-48 § 7, 2011; Ord. 07-136 § 15, 2007; Ord. 06-70 § 4, 2006; Ord. 01-89 § 2, 2001.)

10.01.195 Driving in Violation of Restrictions.

(a) No person shall operate a motor vehicle in violation of the restrictions on any driver's license or permit imposed pursuant to any statute.

(b) Except as provided in subsection (c):

(1) Any person found guilty of violating this section, upon the first conviction, shall be fined not to exceed Two Hundred Fifty Dollars ($250.00) and the court shall suspend such person's privilege to operate a motor vehicle for not less than thirty (30) days and not more than two (2) years.

(2) Any person guilty of violating this section, upon a second or subsequent conviction, shall be fined not to exceed Five Hundred Dollars ($500.00) and the court shall suspend such person's privilege to operate a motor vehicle for not less the ninety (90) days and not more than two (2) years.

(c) Any person guilty of violating this section, for violating restriction on a driver's license or permit imposed pursuant to K.S.A. 8-237, 8-296, Section 1, or Section 2, and amendments thereto:

(1) Upon first conviction, the court shall suspend such person's privilege to operate a motor vehicle for thirty (30) days.

(2) Upon a second conviction, the court shall suspend such person's privilege to operate a motor vehicle for ninety (90) days.

(3) Upon a third conviction, the court shall suspend such person's privilege to operate a motor vehicle for one (1) year.

(d) Nothing in this section shall limit the court in imposing penalties, conditions or restrictions authorized by another ordinance arising from the same occurrence in addition to penalties and suspension imposed under this section. (Ord. 09-60 § 7, 2009; Ord. 01-89 § 2, 2001.)

10.01.195.1 Operation of a Motor Vehicle When a Habitual Violator. Except as allowed under subsection (d)(4) of K.S.A. 8-235, and amendments thereto, operation of a motor vehicle in this state when one's driving privileges are revoked pursuant to K.S.A. 8-286 and amendments thereto shall be punished by imprisonment for not more than one (1) year or fined not to exceed Two Thousand Five Hundred Dollars ($2,500.00), or both such fine and imprisonment. The person found guilty of a third or subsequent conviction of this section shall be sentenced to not less than ninety (90) days imprisonment and fined not less than One Thousand Five Hundred Dollars ($1,500.00). The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least ninety (90) days imprisonment.

The ninety (90) days imprisonment mandated by this subsection may be served in a work release program only after such person has served forty-eight (48) consecutive hours imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program to serve the remainder of the minimum sentence only after such person has served forty-eight (48) consecutive hours imprisonment. (Ord. 12-18 § 5, 2012; Ord. 06-70 § 5, 2006; Ord. 01-89 § 2, 2001.)

10.01.196 Unauthorized Operator. No person shall authorize or knowingly permit a motor vehicle, motorized bicycle or motorized skateboard owned by him or her or under his or her control to be driven upon any highway by any person who has no legal right to do so, or who does not have a valid driver's license. (Ord. 06-36 § 2, 2006; Ord. 01-89 § 2, 2001.)

10.01.197 Unauthorized Minors. No person shall cause or knowingly permit his or her child or ward under the age of 18 years to drive a motor vehicle upon any highway when such minor person is not authorized under the laws of Kansas to drive a vehicle. No person shall cause or knowingly permit his or her child or ward under the age of eighteen (18) years to operate a motorized skateboard upon any highway. (Ord. 06-36 § 3, 2006; Ord. 01-89 § 2, 2001.)

10.01.198 Vehicle License; Illegal Tag.

(a) It shall be unlawful for any person to:

(1) Operate, or for the owner thereof knowingly to permit the operation, upon a highway of any vehicle which is not registered, or for which a certificate of title has not been issued or which does not have attached thereto and displayed thereon the license plate or plates assigned thereto by the Division for the current registration year, including any registration decal required to be affixed to any such license plate pursuant to K.S.A. 8-134, and amendments thereto, subject to the exemptions allowed in K.S.A. 8-135, 8-198 and 8- 1751a, and amendments thereto. A violation of this Subsection (1) by a person unlawfully claiming that a motor vehicle is exempt from registration as a self-propelled crane under K.S.A. 8-128(b) and amendments thereto, shall constitute a violation punishable by a fine of not less than Five Hundred Dollars ($500.00). A person shall not be charged with a violation of this Subsection (1) for failing to display a registration decal on any vehicle except those included under K.S.A. 8-1,101 and K.S.A. 8-143m and 8-1,152, and amendments thereto, up to and including the 10th day following the expiration of the registration if the person is able to produce a printed payment receipt or electronic payment receipt from an online electronic payment processing system for the current 12-month registration period. Any charge for failing to display a registration decal up to and including the 10th day following the expiration of the registration shall be dismissed if the person produces in court a registration receipt for the current 12-month registration period which was valid at the time of arrest.

(2) Display or cause or permit to be displayed, or to have in possession, any registration receipt, certificate of title, registration license plate, registration decal, accessible parking placard or accessible parking identification card knowing the same to be fictitious or to have been canceled, revoked, suspended or altered. A violation of this Subsection (2) shall constitute an ordinance violation punishable by a fine of not less than One Hundred Dollars ($100.00) and forfeiture of the item. A mandatory court appearance shall be required of any person violating this Subsection (2). This Subsection (2) shall not apply to the possession of:

(A) Model year license plates displayed on antique vehicles as allowed under K.S.A. 8-172, and amendments thereto; or

(B) Any Distinctive license plates authorized by the state of Kansas.

(3) Lend to or knowingly permit the use by one not entitled thereto any registration receipt, certificate of title, registration license plate or registration decal issued to the person so lending or permitting the use thereof.

(4) Remove, conceal, mark or deface the license number plate or plates or any other mark of identification upon any vehicle.

(5) Carry or display a registered number plate or plates or registration decal upon any vehicle not lawfully issued for such vehicle.

(6) Have an illegible license plate. License plates shall be kept clean and they shall be placed on all vehicles within the City as required by law so as to be plainly legible.

(b) Any person violating Subsections (1) through (5) shall be punished by a fine not exceeding Two Thousand Five Hundred Dollars ($2,500.00), or by imprisonment for not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment. Any person violating Subsection (6) shall be punished as provided in Section 10.01.201 of this Chapter. (Ord. 16-48 § 6, 2016; Ord. 15-54 § 37, 2015; Ord. 07-136 § 16, 2007; Ord. 01-89 § 2, 2001.)

10.01.199 Unlawful Use of License.

(a) It shall be unlawful for any person, for any purpose to:

(1) Display or cause or permit to be displayed or have in possession any fictitious or fraudulently altered driver's license.

(2) Lend any driver's license to any other person or knowingly permit the use thereof by another.

(3) Display or represent as the person's own, any driver's license not issued to the person.

(4) Fail or refuse to surrender to any police officer upon lawful demand any driver's license which has been suspended, revoked or canceled.

(5) Permit any unlawful use of driver's license issued to the person.

(6) Photograph, photostat, duplicate or in any way reproduce any driver's license or facsimile thereof in such a manner that it could be mistaken for a valid driver's license or display or have in possession any such photograph, photostat, duplicate, reproduction or facsimile unless authorized by law.

(7) Display or possess any photograph, photostat, duplicate or facsimile of a driver's license unless authorized by law.

(8) Display or cause or permit to be displayed any canceled, revoked or suspended driver's license.

(b) Violation of paragraph (1) and (8) of subsection (a) is punishable by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment for not more than six (6) months or by both such fine and imprisonment. Violation of paragraphs (2), (3), (4), (5), (6) or (7) of subsection (a) is punishable by a fine of not more than Two Thousand Five Hundred Dollars ($2,500.00) or by imprisonment for not more than one year or by both such fine and imprisonment.

(c) It shall be unlawful for any person to:

(1) Lend any driver's license to or knowingly permit the use of any driver's license by a person under 21 years of age for use in the purchase of any alcoholic liquor.

(2) Lend any driver's license to or knowingly permit the use of any driver's license by a person under the legal age for consumption of cereal malt beverage for use in the purchase of any cereal malt beverage.

(3) Display or cause to be displayed or have in possession any fictitious or fraudulently altered driver's license by any person under 21 years of age for use in the purchase of any alcoholic liquor or cereal malt beverage.

(d) (1) Upon the first conviction of a violation of any provision of subsection (c) a person shall be sentenced to not less than one hundred (100) hours of public service and fined not less than Two Hundred Dollars ($200.00) nor more than Five Hundred Dollars ($500.00).

(2) On a second or subsequent conviction of a violation of any provision of subsection (c), a person shall be punished by a fine of not more than Two Thousand Five Hundred Dollars ($2,500.00) or by imprisonment for not more than one (1) year or by both such fine and imprisonment.

(e) The provisions of this section shall apply to any driver's license, whether issued under the laws of this state or issued under the laws of another state or jurisdiction. (K.S.A. Supp. 8-260 as amended.) (Ord. 01-89 § 2, 2001.)

10.01.199.1 Unlawful Use of Identification Card. It shall be unlawful for any person to:

(1) Display, cause or permit to be displayed, or have in one's possession, any canceled, fictitious, fraudulently altered or fraudulently obtained identification card.

(2) Lend any identification card to any other person or knowingly permit the use thereof by another.

(3) Display or represent any identification card not issued to the person as being the person's card.

(4) Display or possess any photograph, photostat, duplicate, reproduction, or facsimile of an identification card unless authorized by law.

(5) Lend any identification card to or knowingly permit the use of any identification card by any person under twenty-one (21) years old for use in the purchase of alcoholic liquor.

(6) Lend any identification card or knowingly permit the use of any identification card by any person under the legal age for consumption of cereal malt beverage for use in the purchase of cereal malt beverage.

(7) Lend any identification card, driver's license, or other form of identification card to aid another person in obtaining an identification card or duplicate identification card. (Ord. 01-89 § 2, 2001.)

10.01.200 Motor Vehicle Liability Insurance.

(a) Every owner of a motor vehicle shall provide motor vehicle liability insurance coverage in accordance with the Kansas Automobile Injury Reparation Act, K.S.A. 40-3101 et seq., for every motor vehicle owned by such person unless such motor vehicle is included under an approved self-insurance plan as provided in K.S.A. Supp. 40-3104(f) or is otherwise expressly exempted under the laws of this state.

(b) An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public unless such motor vehicle is expressly exempted from said requirements pursuant to the laws of Kansas.

(c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from said requirements pursuant to the laws of this state.

(d) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer. Such evidence of financial security which meets the requirements of subsection (e) may be displayed on a cellular phone or other type of portable electronic device. The law enforcement officer to whom such evidence of financial security is displayed shall view only such evidence of financial security. Such law enforcement officer shall be prohibited from viewing any other content or information stored on such cellular phone or other portable electronic device. The law enforcement officer shall issue a citation to any person who fails to display evidence of financial security upon such demand. The law enforcement officer shall attach a copy of the insurance verification form prescribed by the Secretary of Revenue to the copy of the citation forwarded to the court. No citation shall be issued to any person for failure to provide proof of financial security when evidence of financial security meeting the standards of subsection (e) is displayed upon demand of a law enforcement officer.

Whenever the authenticity of such evidence is questionable, the law enforcement officer may initiate the preparation of the insurance verification form prescribed by the Secretary of Revenue by recording information from the evidence of financial security displayed. The officer shall immediately forward the form to the Department of Revenue, and the Department of Revenue shall proceed with verification in the manner prescribed in the following paragraph. Upon return of a form indicating that insurance was not in force on the date indicated on the form, the Department of Revenue shall immediately forward a copy of the form to the law enforcement officer initiating preparation of the form.

(e) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with violating subsections (a), (b) or (d) shall be convicted if such person produces in court, within ten (10) days of the date of arrest or of issuance of citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. Such evidence of financial security may be produced by displaying such information on a cellular phone or other type of portable electronic device. Any person to whom such evidence of financial security is displayed on a cellular phone or other type of portable electronic device shall be prohibited from viewing any other content or information stored on such cellular phone or portable electronic device. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the Commissioner of Insurance.

(f) Any person violating any provision of this section shall be guilty of a violation of this Chapter and subject to a fine of not less than Three Hundred Dollars ($300.00) nor more than One Thousand Dollars ($1,000.00) or by imprisonment for a term of not more than six (6) months, or both such fine and imprisonment, except that any person convicted of violating any provision of this section within three (3) years of any such prior conviction shall be guilty of a violation of this Chapter and subject to a fine of not less than Eight Hundred Dollars ($800.00) nor more than Two Thousand Five Hundred Dollars ($2,500.00), or by imprisonment for a term not to exceed one (1) year, or both such fine and imprisonment. (K.S.A. Supp. 40-3104). (Ord. 14-57 § 28, 2014; Ord. 01-89 § 2, 2001.)

ARTICLE 20. PENALTIES GENERALLY

10.01.201 Penalties.

(a) It is unlawful for any person to violate any of the provisions of this Chapter.

(b) The judge in the municipal court shall in the manner prescribed by K.S.A. 12-4305 and amendments thereto establish scheduled fines for violation of any section of this Chapter classified as a traffic infraction by K.S.A. 8-2118 and amendments thereto. Such fines shall be imposed upon a voluntary entry of appearance and upon a plea of guilty or no contest to a complaint alleging such violation and payment of the fine and any court costs.

(c) A person who has been convicted of a traffic infraction may be sentenced to pay a fine which shall be fixed by the court, not exceeding Five Hundred Dollars ($500.00), subject to the penalties otherwise provided in the Olathe Traffic Ordinance.

(d) Any person convicted of a violation of any of the provisions of the Olathe Traffic Ordinance shall be punished, subject to the penalties otherwise provided in the Olathe Traffic Ordinance or this adopting ordinance, by a fine not to exceed Two Thousand Five Hundred Dollars ($2,500.00) or imprisonment in jail for not more than one year, or be both so fined and imprisoned. Each day during or upon which a violation occurs or continues shall constitute a separate offense and shall be punishable as such hereunder. (Ord. 14-57 § 29, 2014; Ord. 01-89 § 2, 2001.)

10.01.201.1 Failure to Comply with Traffic Citation.

(a) It shall be unlawful to fail to comply with a traffic citation. Failure to comply with a traffic citation means failure either to (1) appear before the municipal court in response to a traffic citation and pay in full any fine and court costs imposed or (2) otherwise comply with a traffic citation issued for an ordinance traffic infraction. Failure to comply with a traffic citation shall be unlawful regardless of the disposition of the charge for which such citation was originally issued.

(b) In addition to penalties of law applicable under subsection (a), when a person fails to comply with a traffic citation, except for illegal parking, standing or stopping, the municipal court shall mail notice to the person that if the person does not appear in municipal court or pay all fines, court costs, and any penalties within thirty (30) days from the date of mailing, the Division of Vehicles will be notified to suspend the person's driving privileges. Upon the person's failure to comply within such thirty (30) days, the municipal court shall notify the Division of Vehicles and assess a reinstatement fee of Fifty-Nine Dollars ($59.00) for each charge on which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued. Such reinstatement fee shall be in addition to any fine or court costs and other penalties.

(c) The municipal court shall waive the reinstatement fee provided for in subsection (b), if the failure to comply with a traffic citation was the result of such person enlisting or being drafted into the armed services of the United States, being called into service as a member of a reserve component of the military service of the United States, or volunteering for such active duty, or being called into service as a member of the state of Kansas national guard, or volunteering for such active duty, and being absent from Kansas because of such military service. (Ord. 14-57 § 30, 2014; Ord. 08-112 § 3, 2008; Ord. 01-89 § 2, 2001.)

10.01.202 Parties to a Violation. Every person who commits, attempts to commit, conspires to commit, or aids or abets in the commission of, any act declared herein to be unlawful, whether individually or in connection with one or more other persons or as a principal, agent or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly, or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this ordinance is likewise guilty of such offense. (Ord. 01-89 § 2, 2001.)

10.01.203 Offenses by Persons Owning or Controlling Vehicles. It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle, to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to this ordinance. (Ord. 01-89 § 2, 2001.)

10.01.204 Fines Doubled in Road Construction Zones. Fines listed in the schedule of fines, as established by the municipal court judge, shall be doubled if a person is convicted of an ordinance traffic infraction, which is defined as a moving violation in accordance with rules and regulations adopted pursuant to K.S.A. 8-249, and amendments thereto, committed within any road construction zone. (Ord. 01-89 § 2, 2001.)

10.01.204.5 Fines Doubled in School Zones. Fines listed on the schedule of fines, as established by the Municipal Court Judge relating to exceeding the maximum speed limit, shall be doubled if a person is convicted of exceeding the maximum speed limit in an area designated as a school zone. (Ord. 16-48 § 7, 2016; Ord. 08-112 § 4, 2008; Ord. 04-110 § 1, 2004; Ord. 04-87 § 1, 2004.)

ARTICLE 21. OTHER TRAFFIC RELATED OFFENSES

10.01.205 Loud Sound Amplification Systems Prohibited.

(a) No person operating or occupying a motor vehicle on a street, highway, alley, parking lot or driveway shall operate or permit the operation of any sound amplification system from or upon the vehicle so that the sound is plainly audible at a distance of fifty (50) feet or more from the vehicle.

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

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

(d) It is an affirmative defense to a charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, under any of the following circumstances:

(1) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;

(2) The vehicle was an emergency or public safety vehicle;

(3) The vehicle was owned and operated by the City of Olathe or a gas, electric, communications, utility or refuse company authorized to do business in the City of Olathe, Kansas;

(4) The system was used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in compliance with ordinances of the City of Olathe;

(5) The vehicle was used in authorized public activities, such as parades, which have the approval of the City of Olathe, Kansas.

Each day any violation hereof is found to exist or continues to exist shall be a separate offense. (Ord. 01-89 § 2, 2001.)

10.01.206 Vehicle Height, Weight, Length and Width.

(a) No person, association, firm, partnership, corporation, or other business or commercial entity shall operate a motor vehicle or combination of vehicles the height or length of which, including any load thereon, exceeds the limitations as to such prescribed by K.S.A. 8-1904 (1997 Supp.) or any amendments thereto, which are incorporated by reference as if set out in full herein.

(b) No person, association, firm, partnership, or corporation shall operate a motor vehicle or combination of vehicles the total outside width of which, or any load thereon, exceeds the limitations as to such prescribed by K.S.A. 8-1902 (1977 Supp.) or any amendments thereto, which are incorporated by reference as if set out in full herein.

(c) No person, association, firm, partnership, or corporation shall operate a motor vehicle or combination of vehicles the gross weight of which, as to wheel and axle load, exceeds the limitations as to such prescribed by K.S.A. 8-1908 or any amendments thereto, which are incorporated by reference as if set out in full herein.

(d) No person, association, firm, partnership, or corporation shall operate a motor vehicle or combination of vehicles unless such motor vehicle is registered and licensed according to gross weight as prescribed in K.S.A. 8-143 or any amendments thereto, which are incorporated by reference as if set out in full herein.

(e) No person, association, firm, partnership, or corporation shall operate a motor vehicle or combination of vehicles the gross weight of which exceeds the limitation as to such prescribed by K.S.A. 8-1909 or any amendments thereto, which are incorporated by reference as if set out in full herein.

(f) It shall be unlawful to operate within this City a vehicle or combination of vehicles whose weight, with cargo, is in excess of the gross weight for which the vehicle, truck or truck tractor propelling the same is licensed and registered except as provided by K.S.A. 8-1911 (1997 Supp.), or any amendments thereto and K.S.A. 8-143 or any amendments thereto. Pursuant to 8-1911, all City of Olathe vehicles specifically designed and equipped and used exclusively for garbage, refuse or solid waste disposal operations are hereby granted special permit status to operate anywhere within the corporate City limits of Olathe for any time when the maximum gross weight limitations exceed the limitations contained in 8-1909.

(g) Whenever a police officer, upon weighing a vehicle or combination of vehicles, determines that the weight is unlawful, such officer may require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of such vehicle or combination of vehicles or remove or redistribute the gross weight on any axle or tandem axles to such limits as permitted in this section. All material so unloaded shall be cared for by the owner, lessee, or operator of such vehicle at the risk of such owner, lessee or operator.

(h) Every person, association, firm, partnership, corporation or commercial entity who is convicted of a violation of this section shall be fined according to the following schedule:

Weight up to the first 1000 lbs. over limit - $50.00
-- Per lb. Over 1000 lbs. - $.10
Height, Length, Width over limit - $30.00 plus $1.00 per inch

For a second violation of this section within two (2) years, such person, association, firm, partnership, corporation or commercial entity shall, upon conviction, be fined 1½ times the applicable amount based on the above fine schedule.

For a third violation of this section within two (2) years, such person shall, upon conviction, be fined two times the applicable amount from the above fine schedule. For a fourth and each succeeding violation of this subsection within two (2) years, such person, upon conviction, shall be fined 2½ times the applicable amount from the above fine schedule. (Ord. 01-89 § 2, 2001.)

10.01.207 Exception for Rubber Tired Earth Scrapers. The provisions of 10.01.203 shall not apply to the operation of "rubber tired earth scrapers" that are generally of the type and specifications of the Caterpillar Manufacturing Company rubber tired earth scrapers models 613-687; provided, that the following conditions and standards of operation are complied with:

(a) In advance of the operation of the "rubber tired earth scraper" on the public roadways, notice shall be given to the Police Dispatcher of the Olathe Police Department of the date, time, route, model of vehicle and owner of vehicle.

(b) No rubber tired earth scraper shall be operated on the public roadways during the hours 7 a.m. to 9 a.m., and 4 p.m. to 6:30 p.m.

(c) No rubber tired earth scraper shall be operated on the public roadways while carrying any portion of a load.

(d) All rubber tired earth scrapers operated on the public roadways shall be preceded by a lead vehicle and followed by a trail vehicle bearing operational and operating yellow flashing and rotating warning lights. In addition, these vehicles shall display warning signs indicating the presence of a slow moving vehicle.

(e) All rubber tired earth scrapers shall be operated exclusively on designated truck routes unless written permission for an alternate route is granted by the Chief of Police or his or her designated representative.

(f) All owners and operators of rubber tired earth scrapers on the public roadways shall maintain liability insurance on said vehicles and their operators in an amount required by law for the lawful operation of motor vehicles within the state of Kansas.

(g) No rubber tired earth scraper shall be operated on the public roadways at a speed greater than reasonable considering road conditions, traffic flow, and pedestrian activity; provided that at no time shall any rubber tired earth scraper be operated in excess of 25 miles per hour notwithstanding any posted speed limit in excess of 25 miles per hour. The provisions of this paragraph shall not limit in any way the application of the remaining provisions of Chapter 10.01 to the operation of rubber tired earth scrapers. In addition, nothing in this paragraph shall be construed as exempting rubber tired earth scrapers from the weight limitations on any bridge within the City.

Any person, association, firm, partnership, corporation or other entity operating a rubber tired earth scraper on this public roadway who violates any of the conditions and standards of this section shall be subject to the limitations of height, weight, length and width for vehicles set forth in 10.01.195 and shall be subject to any penalties provided for violation of those provisions. (Ord. 01-89 § 2, 2001.)

10.01.208 Gross Weight Limits on Bridges.

(a) The City Engineer may determine and declare upon the basis of an engineering investigation maximum gross weight limits for any roadway bridge within the City, and these limits shall be effective when posted upon appropriate signs adjacent to said bridges. No person, firm, association, partnership or corporation shall drive a vehicle in excess of the posted gross weight limits upon such bridges.

(b) When the Department of Transportation shall determine upon the basis of an engineering investigation maximum gross weight limits on any bridge which is on a state highway connecting link, said maximum gross weight limits shall be effective at all times when appropriate signs giving notice thereof are erected adjacent to said bridges.

(c) The maximum gross weight limit on any bridge not posted otherwise shall be the maximum gross weight limit as set forth in 10.01.195.

(d) Any person, firm, association, partnership or corporation driving, operating or moving any vehicle, object, or contrivance upon the bridges in this City in violation of the weight restrictions as set forth herein shall be liable for all damages which said bridges or structures may sustain. (Ord. 01-89 § 2, 2001.)

10.01.209 Vehicles Approaching or Entering Intersections when the Official Traffic-Control Signal Is Inoperable. The driver of a vehicle approaching an intersection that has an official traffic-control signal that is inoperative shall bring the vehicle to a complete stop before entering the intersection and may proceed with caution only when it is safe to do so. If two or more vehicles approach an intersection from different streets or highways at approximately the same time and the official traffic-control signal for the intersection is inoperative, the driver of each vehicle shall bring the vehicle to a complete stop before entering the intersection and the driver of the vehicle on the left shall yield the right-of-way to the driver of the vehicle on the right. (Ord. 01-89 § 2, 2001.)

10.01.210 Vehicular Battery in the Second Degree.

(a) Vehicular battery in the second degree is unintentionally causing bodily injury to another human being which is done while committing a violation of K.S.A. 8-1566 or 8-1568 and amendments thereto, or the ordinance of a city which prohibits any of the acts prohibited by those statutes.

(b) As used in this section, "bodily injury" means great bodily harm, disfigurement or dismemberment.

(c) Vehicular battery in the second degree is a Class A Public Offense. (Ord. 01-89 § 2, 2001.)

ARTICLE 22. SEPARABILITY

10.01.211 Separability. If any part or parts of this ordinance shall be held to be invalid, such invalidity shall not affect the validity of the remaining parts of this ordinance. The Governing Body hereby declares that it would have passed the remaining parts of this ordinance if it had known that such part or parts thereof would be declared invalid. (Ord. 01-89 § 2, 2001.)

10.01.211.1 Savings Clause. Neither the adoption of this ordinance nor the repeal or amendment of any ordinance or part or portion thereof shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect. (Ord. 01-89 § 2, 2001.)

ARTICLE 23. TIME LIMITATIONS

10.01.212 Time Limitations.

(a) Except as otherwise provided in this Section, a prosecution for all other offenses must be commenced within five (5) years after it is committed.

(b) The period within which a prosecution must be commenced shall not include any period in which:

(1) The accused is absent from the state;
(2) The accused is concealed within the state so that process cannot be served upon the accused;
(3) The fact of the offense is concealed;
(4) A prosecution is pending against the defendant for the same conduct, even if the notice to appear and/or complaint which commences the prosecution is quashed or the proceedings thereon are set aside, or are reversed on appeal.

(c) An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing offense plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time begins to run on the day after the offense is committed.

(d) A prosecution is commenced when a notice to appear and/or complaint is filed and a warrant thereon is delivered to the Police Department or an officer for execution, or a notice to appear is delivered to the Police Department for service upon the accused, or when the accused has been served with a notice to appear and the complaint is filed with the municipal court. (Ord. 15-64 § 39, 2015.)

Prior to adoption of the Olathe Traffic Ordinance, the Standard Traffic Ordinance for Kansas Cities was adopted and or revised by the following ordinances. (Ord. 01-57 § 1, 2001; Ord. 99-111 § 1, 1999; Ord. 99-106, 1999; Ord. 99-25, 1999; Ord. 97-14, 1997; Ord. 96-09, 1996; Ord. 95-24, 1995; Ord. 94-15, 1994; Ord. 93-111, 1993; Ord. 93-65, 1993; Ord. 93-08, 1993; Ord. 92-05, 1992; Ord. 89-147, 1990; Ord. 88-124, 1988; Ord. 87-140, 1987; Ord. 87-65, 1987; Ord. 86-11, 1986; Ord. 85-149, 1985; Ord. 85-144, 1985; Ord. 85-12, 1985; Ord. 83-127, 1983; Ord. 83-96, 1983; Ord. 81-08, 1981; Ord. 924, 1979; Ord. 914, 1979.)

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CHAPTER 10.08

STREET MAP

Sections:

10.08.010 The Major Street Map Adopted--Copies Certified and Filed.
10.08.015 Pflumm Road Designated as Minor Arterial (Repealed).
10.08.020 Stop Sign Erection.
10.08.030 East Park Street Between Cherry Street and Water Street Designated as a Two-Way Street.

10.08.010 The Major Street Map Adopted--Copies Certified and Filed.

(a) **Major Street Map Adopted.** There is hereby approved and adopted the 2000 Major Street Map, with the attached supplementary documents, also known as the Official Street Map under the Unified Development Ordinance (U.D.O.). Three copies of the map and supplementary documents shall be certified by the city clerk as true copies of the major street system designation and shall be filed with the city clerk's and city engineer's offices.

(b) **Building and Setback Lines.** The building and setback lines and other similar requirements are set out in the U.D.O. and are to be enforced in accordance with the requirements of the U.D.O.

(c) **Enforcement.** The dedication of street or highway right-of-way and the location of building and setback lines are to be enforced in accordance with the requirements of the U.D.O.

(d) **Access Management Policy.** The Planning Commission and Governing Body shall approve the Access Management Policy by resolution. All access, including driveways and public streets, from major arterial streets, minor arterial streets, expressways (also known as highways) and collector streets onto adjacent properties shall conform and be subject to the Access Management Policy.

(e) **Amendment**. The Major Street Map may be amended by resolution in accordance with K.S.A. 12-765. The Access Management Policy may be amended by resolution by the Planning Commission and the Governing Body. Building and setback lines may be amended in accordance with the requirement of the U.D.O. and state statutes on zoning and platting. (Ord. 00-47 § 1, 2000; Ord. 86-96 § 1, 1986; Ord. 85-100 § 1, 1985; Ord. 106 § 1, 1972; Ord. 201-C § 1, 1968.)

10.08.015 Pflumm Road designated as minor arterial. Repealed 12/7/93. (Ord. 93-101 § 1, 1993; Ord. 91-06 § 1, 1991.)

10.08.020 Stop Sign Erection. Stop signs are authorized to be erected at all local streets that intersect with expressway, arterial or collector streets and at the intersection of collector streets. The expressway, arterial or collector streets shall refer to those streets designated as such in the Major Street Map. (Ord. 00-47 § 2, 2000; Ord. 86-96 § 1, 1986; Ord. 106 § 2, 1972; Ord. 201-C § 2, 1968.)

10.08.030 East Park Street Between Cherry Street and Water Street Designated as a Two-Way Street. East Park Street between Cherry Street and Water Street is hereby designated as a two-way street. (Ord. 13-60 § 1, 2013.)

CHAPTER 10.10

MAIN TRAFFICWAYS AND MAIN TRAFFICWAY CONNECTIONS

Sections:

10.10.010 Main Trafficways.
10.10.020 Main Trafficway Connections.

10.10.010 Main Trafficways. The following streets, as located within the City of Olathe, are hereby designated and established as main trafficways, the primary function of which is, or shall be, the movement of through traffic between areas of concentrated activity within the City, or between such areas within the City and traffic facilities outside the City performing the function of a major trafficway. Such designations are made under the authority granted in K.S.A. 12-685:

119th Street
Northgate from Ridgeview Road to Kansas Avenue
127th Street (also known as Harold)
Santa Fe (also known as 135th Street)
143rd Street from 1/4 mile east of Quivira Road to Mur-Len Road
Sheridan Avenue from Mur-Len Road to Ridgeview Road (west of I-35)
Dennis Avenue
151st Street
159th Street
Quivira Road from 143rd Street to 151st Street
Pflumm Road
Black Bob Road
Strang Line Road
Mur-Len Road
Renner Road
Clairborne Road from Santa Fe (aka 135th Street) to Sheridan Road
Ridgeview Road
Nelson Road from Northgate to Kansas City Road
Kansas Avenue from Harold Street to Dennis Avenue
Southgate from Kansas Avenue to Harrison Street
Harrison Street from Southgate to Old 56 Highway
Kansas City Road
K-7 (aka Parker Street) from Spruce Street to Old 56 Highway (Lone Elm intersection)
Lone Elm Road
Woodland Road North of Northgate
Parker (aka Lone Elm) from Harold (aka 127th Street) to 111th Street (aka College Blvd.)
K-7 from Old 56 Highway (Harrison intersection) to South City Limits
Old 56 Highway
Valley Parkway from Cedar Creek Parkway to College Boulevard
Bluestem Parkway from Valley Parkway to Clare Road
Bluestem Parkway from Clare Road to Hedge Lane Terrace
Cedar Creek Parkway from K-10 to College Boulevard
Valley Parkway from Cedar Creek Parkway to Shadow Circle
College Boulevard (aka 111th Street)
Clare Road
103rd Street from Cedar Creek Parkway to Hedge Lane Terrace
Hedge Lane Terrace from 103rd to College (aka 111th Street)
Prairie Star Parkway
K-7 Highway
K-10 Highway

167th Street
175th Street
Hedge Lane from 167th south to 175th.

(Ord. 14-60 § 1, 2014; Ord. 05-74 § 1, 2005; Ord. 97-101 § 1 & 2, 1997; 97-28; 94-55; 94-49; 90-80; 773; 691.)

10.10.020 Main Trafficway Connections. The following streets, as located within the City of Olathe, are hereby designated and established as main trafficway connections, the primary function of which is to provide adequate connections with or between any main trafficways of the City or for the purpose of relieving traffic congestion at certain points on said main trafficways. Such designations are made under the authority granted in K.S.A. 12-686:

Greenwood Street from 111th to 115th Street
115th Street from Greenwood Street to Pflumm Road
Greenwood Street from 119th to 123rd Street
123rd Street from Blackbob Road to Pflumm Road
Greenwood Street from 143rd to 151st Street
146th Terrace from Blackbob Road to Greenwood Street
123rd Street from Strang Line Road to Arapaho Drive
Arapaho Drive from 123rd Street to Indian Creek Parkway
Indian Creek Parkway from Mur-Len Road to Blackbob Road
Brougham Drive from Santa Fe to South City Limits
139th Street from Mur-Len Road to Blackbob Road
147th Terrace from Mur-Len Road to Blackbob Road
Locust Street from 143rd Street to 147th Terrace
Blackfoot Drive from 151st Street to 147th Terrace
153rd Street from Mur-Len Road to Brougham Drive
123rd Street from Ridgeview Road to North Ridge Parkway
North Ridge Parkway from 123rd Street to 125th Street
125th Street from North Ridge Parkway to Kansas City Road
Northview from Mur-Len Road to Rogers Road
Rogers Road from Strang Line Road to Spruce Street
Spruce Street from Rogers Road to Lindenwood
Lindenwood from Rogers Road to Cedar Street
Cedar Street from Clairborne Road to Mur-Len Road
Rogers Road from Clairborne Road to Sheridan Street
Willow Street from Mur-Len Road to College Way
College Way from Rogers Road to Lindenwood Drive
Lindenwood Drive from College Way to 159th Street
Sheridan Bridge Street from Ridgeview Road to Mur-Len Road
157th Street from Ridgeview Road to Lindenwood Drive
155th Street from Lindenwood Drive to Mur-Len Road
Pineview Street from Nelson Road to Ridgeview Road
Church Street from Kansas City Road to Santa Fe
Keeler Street from Santa Fe to Dennis Avenue
Woodland Road from Northgate Street to Santa Fe
Iowa Street from 119th Street to Santa Fe
Spruce Street from K-7 to Kansas City Road
Park Street from K-7 to Ridgeview Road
Loula Street from Montclaire to Ridgeview Road
Southpark Boulevard from 151st Street to K-7
Olathe View Road from Forrest Street to Santa Fe
Montclaire Drive from Santa Fe to Dennis Avenue

Hedge Lane from 127th Street to Santa Fe
Persimmon Drive from Sumac Street to Santa Fe
Ward Cliff from Santa Fe to Dennis Avenue
Lakeshore Drive from Santa Fe to 151st Street
149th Street from Valley Road to Lone Elm Road
Valley Road from 151st Street to 149th Street
Cedar Niles Boulevard from Cedar Creek Parkway to 111th Street
Nelson Road from Harold Street to Northgate
Sunset from 119th Street to 118th Street
118th Street from Sunset to Ridgeview Road
Elm Street from K-7 to Kansas Avenue
Sheridan from K-7 to Grant Street
Grant Street from Elm to Dennis Avenue
Keeler Street from 151st Street to Mahaffie
Mahaffie from 151st Street to 159th Street
Greenwood Street from 127th Street to 138th Street
138th Street from Blackbob Road to Pflumm Road
Blackfoot Drive from 138th Street to 133rd Street
Brougham Drive from 135th (Santa Fe) Street to 133rd Street
133rd Street from Brougham Drive to Pflumm Road
Alden from 133rd Street to 138th Street
Widmer from 133rd Street to 138th Street
146th Terrace from Brougham Drive to Blackbob Road
171st Street from Hedge Lane to Gleason Road
174th Street from Hedge Lane to Gleason Road
Gleason Road from 171st Street to 175th Street
155th Street from Clare Road (Old 56 Highway) west ½ mile
Green Road from 159th Street north ¾ mile.

(Ord. 14-60 § 2, 2014; Ord. 98-17 § 1, 1998; Ord. 97-138 § 1, 1997; Ord. 97-112 § 1, 1997.)

CHAPTER 10.12. Parking. Repealed 10/4/16. (Ord. 16-48; Ord. 13-38; Ord. 11-08; Ord. 03-80; Ord. 02-106; Ord. 00-46; Ord. 97-134; Ord. 96-68; Ord. 93-110; Ord. 90-13; Ord. 89-145; Ord. 87-138; Ord. 87-51; Ord. 87-45; Ord. 86-121; Ord. 86-116; Ord. 86-106; Ord. 86-83; Ord. 86-82; Ord. 86-72; Ord. 86-71; Ord. 86-47; Ord. 86-40; Ord. 86-32; Ord. 85-145; Ord. 85-105; Ord. 84-141; Ord. 84-111; Ord. 83-77; Ord. 83-07; Ord. 82-70; Ord. 81-186; Ord. 81-153; Ord. 81-128; Ord. 81-105; Ord. 81-80; Ord. 80-118; Ord. 80-63; Ord. 80-22; Ord. 837; Ord. 848; Ord. 847; Ord. 746; Ord. 741; Ord. 736; Ord. 344; Ord. 343; Ord. 334; Ord. 325; Ord. 318; Ord. 313; Ord. 309; Ord. 301; Ord. 536-C; Ord. 348-C; Ord. 330-C; Ord. 319-C; Ord. 243-C; Ord. 220-C; Ord. 217-C; Prior codes § 10-306, 305, 304, 303, 302, 301.)

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CHAPTER 10.14

IMMOBILIZATION OF VEHICLES

Sections:

10.14.010 Authorization to Immobilize Certain Vehicles
10.14.020 Notice
10.14.030 Immobilization Fee
10.14.040 Towing of Vehicle
10.14.050 Notice of Towing
10.14.060 Release of Vehicle
10.14.070 Other Fees
10.14.080 Hearing
10.14.090 Removal, Attempted Removal or Causing Unauthorized Removal of Wheel Locks Prohibited

10.14.010 Authorization to Immobilize Certain Vehicles. The Chief of Police, or any duly authorized designee, may immobilize, by the use of wheel locks and/or tow, any vehicle which is in violation of this Chapter and for which there is owed at least One Hundred Dollars ($100) in outstanding, unpaid and overdue parking fines. For the purpose of determining whether a vehicle has had issued against it at least One Hundred Dollars ($100) in parking fines, it shall be sufficient if the license plate number of the vehicle to be immobilized or towed and the license plate number of the vehicle having received the tickets are the same. For the purposes of this Chapter, fines become outstanding, unpaid and overdue thirty (30) days after the last scheduled court appearance date. (Ord. 08-66 § 1, 2008.)

10.14.020 Notice. If a wheel lock is attached to a vehicle, a notice shall be affixed to the windshield or other part of the vehicle so as to be readily visible. The notice shall warn that the vehicle has been immobilized by the City for violations of Chapter 10.14, the date and time the immobilization device was affixed to the vehicle, and that any attempt to move the vehicle may result in damage to the vehicle. The City shall not be responsible for any damage to an immobilized vehicle resulting from unauthorized attempts to free or move the vehicle. The notice will provide the address and telephone number to contact regarding payment of the outstanding, unpaid and overdue parking fines, the immobilization fee, and to schedule authorized removal of the wheel lock. The notice shall further advise that failure to obtain lawful release of the vehicle within seventy-two (72) hours may result in the vehicle being towed and impounded at the owner's expense. (Ord. 08-66 § 1, 2008.)

10.14.030 Immobilization Fee. An immobilization fee shall be charged for the removal of the wheel lock. Such immobilization fee shall be adopted by the Governing Body of the City by resolution. The outstanding, unpaid and overdue parking fines and the immobilization fee shall be paid prior to any authorized removal of the wheel lock. (Ord. 08-66 § 1, 2008.)

10.14.040 Towing of Vehicle. If the outstanding, unpaid and overdue parking fines and the immobilization fee are not paid, or a refundable cash bond is not posted, within seventy-two (72) hours of the attachment of the wheel lock, such vehicle may be towed without further notice to any public or private impoundment lot which complies with the provisions of Section 10.01.084(E)(2) of the Olathe Traffic Ordinance. If a private contractor tows and stores the vehicle, the contractor may impose against the vehicle, City-approved fees and charges for such services. (Ord. 08-66 § 1, 2008.)

10.14.050 Notice of Towing. Once a vehicle has been towed, the Chief of Police, or designee, shall make a reasonable effort to notify the registered owner. "Reasonable effort" means a check of the license tag of the vehicle with the Division of Motor Vehicles or a vehicle identification number search through the Division of Motor Vehicles to determine the identity of the registered owner. A telephone call shall be placed to the registered owner at any listed telephone number. If no such number is available, the sending of a written notice to the last known address, or addresses, reported to the City by the Division of Motor Vehicles shall constitute "reasonable effort. (Ord. 08-66 § 1, 2008.)

10.14.060 Release of Vehicle. Upon payment of all outstanding, overdue and unpaid parking fines issued for the vehicle and all other charges authorized by this Chapter, including immobilization, towing and storage fees, and upon the showing of proof of ownership and current valid vehicle insurance, the vehicle shall be released to the owner, or to any other person legally entitled to claim possession of the vehicle through a power of attorney, or any other legally sufficient document that entitles the person to possession of the vehicle. Any person who obtains release of the vehicle pursuant to this Section shall be entitled to appeal the amount of the outstanding, unpaid and overdue parking fines, immobilization fee, and/or towing and/or storage fees pursuant to Section 10.14.080. Any monies paid for the vehicle release may be applied as a cash bond pursuant to Section 10.14.080. (Ord. 08-66 § 1, 2008.)

10.14.070 Other Fees. All wrecker or towing services shall charge for towing services and storage fees; such fees and charges as are adopted by the Governing Body of the City by resolution. Such fees and charges shall apply only as to vehicles towed and stored in response to a request by the Olathe Police Department.

All towing and storage fees incurred in connection with the impounded vehicle shall constitute a lien upon such vehicle as provided in K.S.A. 8-1103. (Ord. 08-66 § 1, 2008.)

10.14.080 Hearing. The owner, or any other person lawfully entitled to possession, who wishes to contest the immobilization, and/or impoundment, or any fees and charges incurred in the immobilization, towing and/or storage or the amount of outstanding, unpaid and overdue parking fines owed, may do so and a hearing for such purpose shall be held within ten (10) business days after such hearing is requested. The request for hearing must be made in writing within ten (10) days of the vehicle's immobilization or impoundment. Such hearing shall be held by the Olathe Municipal Court at a time to be set by the Court and shall be limited to the issues set out in this Section. The Court shall have no authority to adjudicate the underlying unresolved parking citation(s) which resulted in immobilization or impoundment.

Pending such hearing, the owner or person lawfully entitled to custody of any immobilized and/or impounded vehicle who has not retrieved the vehicle pursuant to Section 10.14.060 may retrieve such vehicle upon posting a cash bond in the total amount of the outstanding, unpaid and overdue parking fines, immobilization fee, and/or towing fees and/or storage charges. Once such bond is posted, upon the showing of proof of ownership and valid vehicle insurance, the vehicle shall be released to the owner, or any other person legally entitled to claim possession of the vehicle through power of attorney or any other legally sufficient document that entitles the person to possession of the vehicle. If the owner or person lawfully entitled to custody of any vehicle does not obtain a release of the vehicle or post a cash bond, then such vehicle will remain impounded and continue to accrue storage fees until a hearing is held.

If after the hearing, the Court determines that the outstanding, unpaid and overdue parking fines, and/or immobilization fee and/or towing fees and/or storage fees of said vehicle are valid, the vehicle shall be released only upon payment of all such valid charges, proof of ownership or proof of legal possession of the vehicle and proof of valid current insurance. Such payment may be paid for in part or whole by the cash bond, if any, and any surplus bond money will be refunded.

If after the hearing, the Court determines that the immobilization was improper, no immobilization fee shall be assessed.

If the Court determines the towing and/or impoundment of said vehicle was improper, the vehicle will be released to the owner or person lawfully entitled to custody thereof without costs for the improper towing and/or improper impoundment, and any bond, if posted, will be returned less only those fines and/or fees determined by the Court to be valid. (Ord. 08-66 § 1, 2008.)

10.14.090 Removal, Attempted Removal, or Causing Unauthorized Removal of Wheel Locks Prohibited. It shall be unlawful for any person, firm or corporation to remove, attempt to remove or cause the unauthorized removal from a vehicle of a wheel lock affixed thereon pursuant to this Chapter, or to remove from impoundment any vehicle placed therein pursuant to this Chapter without all outstanding, unpaid and overdue parking fines, immobilization fees and other applicable charges having first been paid. Removal, Attempted Removal, or Causing Unauthorized Removal of a Wheel Lock is an unclassified Public Offense, the penalty for which shall be a fine not to exceed Five Hundred Dollars ($500) and/or restitution for any damage to City property. (Ord. 08-66 § 1, 2008.)

CHAPTER 10.20

RAILROAD CROSSINGS

Sections:

10.20.010 Maintenance and Repair Required.
10.20.020 Penalty.
10.20.120 Blocking Traffic Prohibited.

10.20.010 Maintenance and Repair Required. It is made the duty of every person or corporation owning or operating any railroad crossed by public roads or streets within the city limits to maintain and keep in good repair all railroad crossings for the roads or streets, including all of the grading, bridges, ditches and culverts that may be necessary to make a safe railroad crossing for vehicular traffic. (Ord. 30 § 1, 1972.)

10.20.020 Penalty. Failure to maintain and keep in good repair the railroad crossings within the city limits shall subject the person or corporation owning or operating the railroad to a fine and/or penalty. The general penalty provision as provided in Chapter 1.16 shall apply to the enforcement of this chapter. (Ord. 30 § 2, 1972.)

10.20.120 Blocking Traffic Prohibited.

(a) It is hereby declared to be unlawful for any railway company, or any officer, employee or agent of any railway company operating, aiding, abetting or assisting in the operation of any railway train or other appliances upon, over and across any railway track, to place, keep, permit or allow any such car, cars, engine, locomotive, railway train or other appliances to remain standing on or obstruct the passage over any part of any street, avenue or alley crossing for a longer period than five minutes at any one time, except that a moving train composed of more than fifty cars may obstruct the passage over any part of any street for a period not longer than eight minutes at any one time. This section shall have no application in situations where such standing or obstruction was unavoidable; the railroad company shall have the burden of showing that such standing or obstruction was unavoidable.

(b) No railroad company shall be found guilty of violating the foregoing solely by reason of the fact that it owns such engines, cars or other appliances, or the roadbed or tracks upon which such trains, locomotives, engines, cars or other appliances are traveling; however, that any railroad company owning such equipment, roadbed or tracks, upon receipt of a complaint and notice to appear for violation of this section, shall have an affirmative duty to notify the clerk of the municipal court of the name of the railroad company or companies operating or having control over the operation of the train involved in the alleged violation. When such notification is made to the satisfaction of the court clerk, the ticketed railroad company shall be relieved of the obligation to defend such complaint and notice to appear, and an additional complaint and notice to appear shall be issued to the railroad company or companies operating or having control over the operation of the train involved in the alleged violation. Failure to notify the court clerk within five days of receipt of such complaint and notice to appear shall be deemed an admission by the railroad company of responsibility for the alleged violating train.

(c) Violation of any provision of this section shall be deemed a misdemeanor and any railroad company, or any officer, employee or agent thereof, violating any of such provisions shall be punished by a fine of not less than Five Hundred Dollars ($500.00) for the first offense and by a fine of not less than One Thousand Dollars ($1,000.00) for the second offense and by a fine of not less than One Thousand, Five Hundred Dollars ($1,500.00) for a third offense and by a fine of not less than Two Thousand, Five Hundred Dollars ($2,500.00) for each succeeding offense. Each occurrence of blocked crossing shall constitute a separate offense, punishable as a single violation of the provisions of this section, except that not more than one such offense shall be found to have occurred in any one-hour period. (Ord. 909 § 1, 1979.)

CHAPTER 10.24

TRUCK TRAFFIC

Sections:

10.24.010 Definitions.
10.24.020 Specified Truck Traffic Prohibited on Designated Streets.
10.24.025 Posting of Signs.
10.24.030 Penalty.

10.24.010 Definitions.

"Arterial Street" is as defined in Section 10.01.001 of the Olathe Municipal Code and as shown on the major street map.

"Collector Street" is as defined in Section 18.09.020 of the Olathe Unified Development Ordinance and as shown on the major street map.

"Local Street" is as defined in Section 18.09.020 of the Olathe Unified Development Ordinance and as shown on the major street map.

"Prohibited Truck" is any truck, other commercial vehicle, or any combination of vehicles with a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of sixteen thousand (16,000) pounds or more, or any vehicle used in the transportation of hazardous materials in a quantity requiring placards to be displayed. (Ord. 15-65 § 1, 2015; Ord. 13-30 § 1, 2013.)

10.24.020 Specified Truck Traffic Prohibited on Designated Streets.

(a) It is unlawful for any person, firm or corporation to operate a Prohibited Truck upon the following designated streets:

(1) On Ridgeview Road between its intersection with Park Street and Dennis Avenue;
(2) On Dennis Avenue between its intersection with Ridgeview Road and Church Street;
(3) On 111th Street (College Boulevard) between K-7 and ½ mile east of Ridgeview Road;
(4) On 119th Street between K-7 and Woodland Road;
(5) On Woodland Road between K-10 and Northgate Street;
(6) On Iowa Street between Harold Street and 119th Street;
(7) On Lone Elm Road between Harold Street and K-10;
(8) On Dennis Avenue between K-7 and Lakeshore Drive;
(9) On Lakeshore Drive between Dennis Avenue and 151st Street;
(10) On Harold Street between Kansas City Road and K-7;
(11) On Renner Road from 119th Street north to the City limits; and
(12) On all collector and local streets not otherwise designated herein.

(b) This section shall not apply to police, fire or ambulance vehicles; to city, county or franchised utility maintenance vehicles while engaged in repair, maintenance or construction activities; to garbage collection vehicles while engaged in collection activities from premises adjacent to the restricted streets; to U.S. Postal delivery vehicles; or to school buses and school district vehicles; to City or County owned or sponsored public transportation vehicles while engaged in public transportation activities. Nor shall this section apply to moving vans while engaged in moving activities at premises on the restricted streets; or to vehicles involved in delivery or other service activities to premises on restricted streets so long as such moving, delivery, and/or service vehicles take the most direct route when entering or leaving the premises. (Ord. 14-66 § 1, 2014; Ord. 13-30 § 2, 2013; Ord. 05-97 § 1, 2005; Ord. 00-12 § 1, 2000; Ord. 94-46 § 1, 1994; Ord. 93-77 § 1, 1993; Ord. 90-101 § 1, 1990; Ord. 89-79 § 1, 1989; Ord. 88-11 § 1, 1988; Ord. 88-05 § 1, 1988; Ord. 87-135 § 1, 1987; Ord. 87-123 § 1, 1987; Ord. 86-58 § 1, 1986; Ord. 86-60 § 1, 1986; Ord. 83-86 § 2, 1983; Ord. 348 § 1, 1975.)

10.24.025 Posting of Signs. Signs may be posted along designated truck routes as appropriate. The arterial, collector, and local streets identified in Section 10.24.020 (a) shall be identified and posted as no truck routes within the limits and jurisdictions of the City in accordance with the Federal Highway Administration Manual on Uniform Traffic Control Devices. Signs may be posted as necessary on other collector and local streets where excessive truck traffic is observed. (Ord. 13-30 § 3, 2013.)

10.24.030 Penalty. The penalty provisions as provided in Chapter 1.16 of this code shall apply to this chapter. (Ord. 83-86 § 2, 1983; Ord. 195 § 2, 1973; Ord. 194 § 2, 1973.)

CHAPTER 10.25

COMMERCIAL VEHICLE SAFETY ACT

Sections:

10.25.010 Incorporating Federal Motor Carrier Safety Regulations.
10.25.020 Marked Copies of Regulations on File.
10.25.030 Sections Repealed.
10.25.035 Section 390.5 Amended – Definitions.
10.25.040 Section 396.9 Amended – Inspection of Motor Vehicles in Operation.
10.25.050 Exceptions to the Commercial Vehicle Safety Act.
10.25.060 Penalties.
10.25.070 Severability.
10.25.080 Savings Clause.

10.25.010 Federal Motor Carrier Safety Regulations Incorporated. The Federal Motor Carrier Safety Regulations parts 382, 383, 390-397, 1988 Edition, prepared and published in book form by J.J. Keller and Associates, Inc., 3003 W. Breeze Wood Lane, P. O. Box 368, Neenah, Wisconsin 54957-0368 is hereby incorporated by reference and made part of this chapter save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. (Ord. 00-22 § 1, 2000.)

10.25.020 Marked Copies of Regulations on File. There shall not be less than three copies of the standard code adopted by reference in Chapter 10.25 kept on file in the office of the city clerk, to which shall be attached a copy of the incorporating ordinance, shall be marked or stamped, "Official Copies as Incorporated by Ordinance No. 00-22" with all sections or portions thereof intended to be omitted clearly marked to show any such deletion or change, and filed with the city clerk and open to inspection and available to the public at all reasonable hours. The police department, municipal judges and all administrative departments of the city charged with the enforcement of the incorporating ordinance shall be supplied, at the cost of the city, such number of official copies of such standard. (Ord. 00-22 § 1, 2000.)

10.25.030 Sections Repealed. Sections 382.507, 383.53, and 390.37 of the Federal Motor Carrier Safety Regulations as incorporated in 10.25.010 of this Chapter are hereby repealed. (Ord. 00-22 § 1, 2000.)

10.25.035 Section 390.5 Amended – Definitions. Section 390.5 of the Federal Motor Carrier Safety Regulations Handbook entitled “Definitions” is hereby amended and shall read as follows:

Unless specifically defined elsewhere in this subchapter:

Accident means –

(1) Except as provided in paragraph (2) of this definition, an occurrence involving a commercial motor vehicle operating on a highway in interstate or intrastate commerce which results in:

(i) A fatality;
(ii) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
(iii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicles to be transported away from the scene by a tow truck or other motor vehicle.

(2) The term *accident* does not include:

(i) An occurrence involving only boarding and alighting from a stationary motor vehicle; or

(ii) An occurrence involving only the loading or unloading of cargo.

Alcohol concentration (AC) means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

Bus means any motor vehicle designed, constructed, and or used for the transportation of passengers, including taxicabs.

Business district means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

Charter transportation of passengers means transportation, using a bus, of a group of persons who pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin.

Commercial motor vehicle means any self-propelled or towed vehicle used on a highway in interstate or intrastate commerce to transport passengers or property when the vehicle –

(1) Has a gross vehicle weight rating or gross combination weight rating of 4,537 kg (10,001 lb) or more; or

(2) Is designed to transport 16 or more passengers, including the driver; or

(3) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5101 *et seq.*) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR chapter I, subchapter C).

Conviction means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

Direct Assistance means transportation and other relief services provided by a motor carrier or its driver(s) incident to the immediate restoration of essential services (such as, electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as, food and fuel). It does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to life and property has passed.

Disability damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

(1) *Inclusions*. Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

(2) *Exclusions*.

(i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts.

(ii) Tire disablement without other damage even if no spare tire is available.
(iii) Headlamp or taillight damage.
(iv) Damage to turn signals, horn, or windshield wipers which makes them inoperative.

Driveaway-towaway operation means any operation in which a motor vehicle constitutes the commodity being transported and one or more set of wheels of the motor vehicle being transported are on the surface of the roadway during transportation.

Driver means any person who operates any commercial motor vehicle.

Driving a commercial motor vehicle while under the influence of alcohol means committing any one or more of the following acts in a CMV: driving a CMV while the person's alcohol concentration is 0.04 percent or more; driving under the influence of alcohol, as prescribed by State law; or refusal to undergo such testing as is required by any State or jurisdiction in the enforcement of §383.51(b)(2)(i)(A) or (B), or §392.5(a)(2).

Emergency means any hurricane, tornado, storm (e.g. thunderstorm, snowstorm, icestorm, blizzard, sandstorm, etc.), high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, mud slide, drought, forest fire, explosion, blackout or other occurrence, natural or man-made, which interrupts the delivery of essential services (such as, electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as, food and fuel) or otherwise immediately threatens human life or public welfare, provided such hurricane, tornado or other event results in:

(1) A declaration of an emergency by the President of the United States, the Governor of a State, or their authorized representatives having authority to declare emergencies; by the Regional Director of Motor Carriers for the region in which the occurrence happens; or by other Federal, State or local government officials having authority to declare emergencies; or

(2) A request by a police officer for tow trucks to move wrecked or disabled motor vehicles.

Emergency relief means an operation in which a motor carrier or driver of a commercial motor vehicle is providing direct assistance to supplement State and local efforts and capabilities to save lives or property or to protect public health and safety as a result of an emergency as defined in this section.

Employee means any individual, other than an employer, who is employed by an employer and who in the course of his or her employment directly affects commercial motor vehicle safety. Such term includes a driver of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle), a mechanic, and a freight handler. Such term does not include an employee of the United States, any State, any political subdivision of a State, or any agency established under a compact between States and approved by the Congress of the United States who is acting within the course of such employment.

Employer means any person engaged in a business affecting interstate commerce who owns or leases a commercial motor vehicle in connection with that business or assigns employees to operate it, but such term does not include the United States, any state, any political subdivision of a State, or an agency established under a compact between States approved by the Congress of the United States.

Exempt intracity zone means the geographic area of a municipality or the commercial zone of that municipality described by the FHWA in 49 CFR part 372, subpart B. The descriptions are printed in Appendix F to Subchapter B of this Chapter. The term "exempt intracity zone" does not include any municipality or commercial zone in the State of Hawaii.

For purposes of §391.2(d), a driver may be considered to operate a commercial motor vehicle wholly within an exempt intracity zone notwithstanding any common control, management, or arrangement for a continuous carriage or shipment to or from a point without such zone.

Exempt motor carrier means a person engaged in transportation exempt from economic regulation by the Interstate Commerce Commission (ICC) under 49 U.S.C. 10526, "Exempt motor carriers" are subject to the safety regulations set forth in this subchapter.

Farm vehicle driver means a person who drives only a commercial motor vehicle that is –

(1) Controlled and operated by a farmer as a private motor carrier of property;

(a) Being used to transport either –

(2) Agricultural products, or

(3) Farm machinery, farm supplies, or both, to or from a farm;

(a) Not being used in the operation of a for-hire motor carrier;
(b) Not carrying hazardous materials of a type or quantity that requires the commercial motor vehicle to be placarded in accordance with §177.823 of this subtitle; and
(c) Being used within 150 air-miles of the farmer's farm.

Farmer means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock which –

(a) Are owned by that person; or
(b) Are under the direct control of that person.

Fatality means any injury which results in the death of a person at the time of the motor vehicle accident or within 30 days of the accident.

Federal Highway Administrator means the chief executive of the Federal Highway Administration, an agency within the Department of Transportation.

For-hire motor carrier means a person engaged in the transportation of goods or passengers for compensation.

Gross combination weight rating (GCWR) means the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

Gross vehicle weight rating (GVWR) means the value specified by the manufacturer as the loaded weight of a single motor vehicle.

Hazardous material means a substance or material which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated.

Hazardous substance means a material, and its mixtures or solutions, that is identified in the appendix to §172.101, List of Hazardous Substances and Reportable Quantities, of this title when offered for transportation in one package, or in one transport motor vehicle if not packaged, and when the quantity of the material therein equals or exceeds the reportable quantity (RQ).

This definition does not apply to petroleum products that are lubricants or fuels, or to mixtures or solutions of hazardous substances if in a concentration less than that shown in the table in §171.8 of this title, based on the reportable quantity (RQ) specified for the materials listed in the Appendix to §172.101.

Hazardous waste means any material that is subject to the hazardous waste manifest requirements of the EPA specified in 40 CFR Part 262 or would be subject to these requirements absent an interim authorization to a State under 40 CFR Part 123, Subpart F.

Highway means any road, street, or way, whether on public or private property, open to public travel. "Open to public travel" means that the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitive signs, or regulation other than restrictions based on size, weight, or class of registration. Toll plazas of public toll roads are not considered restrictive gates.

Interstate commerce means trade, traffic, or transportation in the United States –

(1) Between a place in a State and a place outside of such State (including a place outside of the United States);

(2) Between two places in a State through another State or a place outside of the United States; or

(3) Between two places in a State as part of trade, traffic, or transportation originating or terminating outside the State or the United States.

Intrastate commerce means any trade, traffic, or transportation any State which is not described in the term "interstate commerce."

Medical examiner means a person who is licensed, certified, and/or registered, in accordance with applicable State laws and regulations, to perform physical examinations. The term includes, but is not limited to, doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic.

Motor carrier means a for-hire motor carrier or a private motor carrier. The term includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of subchapter B, this definition includes the terms **employer** and **exempt motor carrier**.

Motor vehicle means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Federal Highway Administration, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

Multiple-employer driver means a driver, who in any period of 7 consecutive days, is employed or used as a driver by more than one motor carrier.

Operator – see driver.

Other terms – any other term used in this subchapter is used in its commonly accepted meaning, except where such other term has been defined elsewhere in this subchapter. In that event, the definition therein given shall apply.

Out-of-service order means a declaration by an authorized enforcement officer of a Federal, State, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation, is out-of-service pursuant to §§386.72, 392.5, 395.13., 396.9, or compatible laws, or the North American Uniform Out-of-Service Criteria.

Person means any individual, partnership, association, corporation, business trust, or any other organized group of individuals.

Principal place of business means the single location designated by the motor carrier, normally its headquarters, for purposes of identification under this subchapter. The motor carrier must make records required by parts 382, 387, 390, 391, 395, 396, and 397 of this subchapter available for inspection at this location within 48 hours (Saturdays, Sundays, and Federal holidays excluded) after a request has been made by a special agent or authorized representative of the Federal Highway Administration.

Private motor carrier means a person who provides transportation of property or passengers, by commercial motor vehicle, and is not a for-hire motor carrier.

Private motor carrier of passengers (business) means a private motor carrier engaged in the interstate transportation of passengers which is provided in the furtherance of a commercial enterprise and is not available to the public at large.

Private motor carrier of passengers (nonbusiness) means private motor carrier involved in the interstate transportation of passengers that does not otherwise meet the definition of a private motor carrier of passengers (business).

Radar detector means any device or mechanism to detect the emission of radio microwaves, laser beams or any other future speed measurement technology employed by enforcement personnel to measure the speed of commercial motor vehicles upon public roads and highways for enforcement purposes. Excluded from this definition are radar detection devices that meet both of the following requirements:

(1) Transported outside the driver's compartment of the commercial motor vehicle. For this purpose, the *driver's compartment* of a passenger-carrying CMV shall include all space designed to accommodate both the driver and the passengers; and

(2) Completely inaccessible to, inoperable by, and imperceptible to the driver while operating the commercial motor vehicle.

Regional Director of Motor Carriers means the Director of the Office of Motor Carriers, Federal Highway Administration, for a given geographical region of the United States.

Residential district means the territory adjacent to and including a highway which is not a business district and for a distance of 300 feet or more along the highway is primarily improved with residences.

School bus means a passenger motor vehicle which is designed or used to carry more than 10 passengers in addition to the driver, and which the Secretary determines is likely to be significantly used for the purpose of transporting preprimary, primary, or secondary school students to such schools from home or from such schools to home.

School bus operation means the use of a school bus to transport only school children and/or school personnel from home to school and from school to home.

Secretary means the Secretary of Transportation.

Single-employer driver means a driver who, in any period of 7 consecutive days, is employed or used as a driver solely by a single motor carrier. This term includes a driver who operates a commercial motor vehicle on an intermittent, casual, or occasional basis.

Special agent – See Appendix B to Subchapter B – Special Agents.

State means a State of the United States and the District of Columbia and includes a political subdivision of a State.

Trailer includes:

(a) **Full trailer** means any motor vehicle other than a pole trailer which is designed to be drawn by another motor vehicle, and so constructed that no part of its weight, except for the towing device, rests upon the self-propelled towing motor vehicle. A semitrailer equipped with an auxiliary front axle (converter dolly) shall be considered a full trailer.

(b) **Pole trailer** means any motor vehicle which is designed to be drawn by another motor vehicle and attached to the towing motor vehicle by means of a "reach" or "pole," or by being "boomed" or otherwise secured to the towing motor vehicle, for transporting long or irregularly shaped loads such as poles, pipes, or structural members, which generally are capable of sustaining themselves as beams between the supporting connections.

(c) **Semitrailer** means any motor vehicle, other than a pole trailer, which is designed to be drawn by another motor vehicle and is constructed so that some part of its weight rests upon the self-propelled towing motor vehicle.

Truck means any self-propelled commercial motor vehicle except a truck tractor, designed and/or used for the transportation of property.

Truck tractor means a self-propelled commercial motor vehicle designed and/or used primarily for drawing other vehicles.

United States means the 50 States and the District of Columbia. (Ord. 03-25 § 1, 2003.)

10.25.040 Section 396.9 Amended – Inspection of Motor Vehicles in Operation. Section 396.9 of the Federal Motor Carrier Safety Regulations entitled "Inspection of Motor Vehicles" is amended and changed to read as follows:

A. Personnel authorized to perform inspections. Inspections of motor carriers' vehicles in operation shall be conducted by Commercial Vehicle Safety Alliance (CVSA) certified officers. These certified officers are authorized to enter upon and perform inspections of motor carriers' vehicles in operation.

B. Prescribed inspection report. A driver/vehicle examination report shall be used to record results of motor vehicle inspections conducted by authorized City of Olathe personnel.

C. Motor vehicles declared "out of service."

1. Authorized personnel shall declare and mark "out of service" any motor vehicle which by reason of its mechanical condition or loading would likely cause an accident or a breakdown. An "Out of Service Vehicle" sticker, shall be used to mark vehicles "out of service."

2. No motor carrier shall require or permit any person to operate nor shall any person operate any motor vehicle declared and marked, "out of service" until all repairs required by the "out of service notice" have been satisfactorily completed.

The term "operate" as used in this section shall include towing the vehicle, except that vehicles marked "out of service" may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of the emergency towing vehicle and an "out of service" vehicle shall not be operated unless such combination meets the performance requirements of this subchapter except for those conditions noted on the driver equipment compliance check.

3. No person shall remove the "Out of Service Vehicle" sticker from any motor vehicle prior to completion of all repairs required by the "out of service notice."

D. Motor Carrier's disposition.

1. The driver of any motor vehicle receiving an inspection report shall deliver it to the motor carrier operating the vehicle upon his arrival at the next terminal or facility. If the driver is not scheduled to arrive at a terminal or facility of the motor carrier operating the vehicle within 24 hours, the driver shall immediately mail the report to the motor carrier.

2. Motor carriers shall examine the report. Violations or defects noted thereon shall be corrected.

3. Within 15 days following the date of the inspection, the motor carrier shall:

a. Certify that all violations noted have been corrected by completing the "Signature of Carrier Official, Title, and Date Signed" portions of the form; and

b. Return the completed roadside inspection form to the issuing agency at the address indicated on the form and retain a copy at the motor carrier's principal place of business or where the vehicle is housed for 12 months from the date of inspection. (Ord. 00-22 § 1, 2000.)

10.25.050 Exceptions to the Commercial Vehicle Safety Act. Any rules and regulations adopted pursuant to this Chapter shall not apply to the following while engaged in the carriage of intrastate commerce in this state:

A. The owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment.

B. The transportation of children to and from school, or to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities.

C. Motor vehicles carrying tools, property or material belonging to the owner of the vehicle and

(1) Except for motor vehicles under subparagraph (2), motor vehicles with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle, and used in repair, building or construction work, not having been sold or being transported for the purpose of sale, except vehicles transporting hazardous materials which require placards; or

(2) Except vehicles transporting hazardous materials which require placards, motor vehicles with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work and such tools, property or material are being transported to or from an active construction site located within a radius of 25 miles of the principal place of business of the motor carrier.

D. Persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles.

E. The operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers.

F. Motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivisions of this state.

G. Any motor vehicle with a normal seating capacity of not more than the driver and 15 passengers while used for vanpooling or otherwise not for profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity not more than the driver and 15 passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work.

H. Motor vehicles used to transport water for domestic purposes or livestock consumption.

I. The operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state. (Ord. 04-86 § 1, 2004; Ord. 03-25 § 2, 2003; Ord. 00-22 § 1, 2000.

10.25.060 Penalties.

A. It is unlawful for any person to violate any of the provisions of this ordinance.

B. The judge in the municipal court shall in the manner prescribed by K.S.A. 12-4305 and amendments thereto establish scheduled fines for violation of any section of this ordinance. Such fines shall be imposed upon a voluntary entry of appearance and upon a plea of guilty or no contest to a complaint alleging such violation and payment of the fine and any court costs.

C. Any person convicted of a violation of any of the provisions of this ordinance shall be punished, subject to limitations otherwise provided in this adopting ordinance, by a fine not to exceed Five Hundred Dollars ($500.00) or imprisonment in jail for not more than six (6) months, or be both so fined and imprisoned. Each day during or upon which a violation occurs or continues shall constitute a separate offense and shall be punishable as such hereunder -- Ord. 93-08 § 3, 1993 and Ord. 85-144 § 16, 1985. (Ord. 00-22 § 1, 2000.)

10.25.070 Severability. If any provision of this Chapter is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the code and the applicability thereof to other persons and circumstances shall not be affected thereby -- Ord. 83-75 § 2, 1983. (Ord. 00-22 § 1, 2000.)

10.25.080 Savings Clause. Neither the adoption of this ordinance nor the repeal or amendment of any ordinance or part or portion thereof shall in any manner affect the prosecution or civil enforcement for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect. (Ord. 00-22 § 1, 2000.)

CHAPTER 10.26

TRANSPORTATION OF HAZARDOUS MATERIALS

Sections:

10.26.010 Federal Hazardous Materials Transportation Act Regulations Incorporated
10.26.020 Marked Copies of Regulations on File
10.26.030 Section 171.1 Amended – Purpose and Scope
10.26.040 Inspection of Motor Vehicles in Operation
10.26.050 Penalties
10.26.060 Severability
10.26.070 Savings Clause

10.26.010 The Federal Hazardous Materials Transportation Act Incorporated. The Federal Hazardous Materials Transportation Act, 49 CFR parts 171, 172, 173, 177, 178, 179 and 180 of Subchapter C – Hazardous Materials Regulations codified as of October 1, 2001 and prepared and published in book form by Labelmaster, an American Labelmark Company, 5724 N. Pulaski Road, Chicago, IL 60646-6797 is hereby incorporated by reference and made part of this chapter save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. (Ord. 03-93 § 1, 2003.)

10.26.020 Marked Copies of Regulations on File. There shall not be less than three copies of the standard code adopted by referenced in Chapter 10.26 kept on file in the office of the City Clerk, to which shall be attached a copy of the incorporating ordinance, shall be marked or stamped, "Official Copies as Incorporated by Ordinance No. 03-___" with all sections or portions thereof intended to be omitted clearly marked to show any such deletion or change, and filed with the City Clerk and open to inspection and available to the public at all reasonable hours. The Police Department, Municipal Judges and all administrative departments of the City charged with the enforcement of the incorporating ordinance shall be supplied, at the cost of the City, such number of official copies of such standard. (Ord. 03-93 § 1, 2003.)

10.26.030 Section 171.1 Amended – Purpose and Scope. Section 171.1 of the Federal Hazardous Materials Transportation Act entitled "Purpose and Scope" is hereby amended and changed to read as follows:

§171.1 Purpose and scope.

(a) This subchapter prescribes requirements of the Olathe Police Department governing –

(1) The offering of hazardous materials for transportation and transportation of hazardous materials in interstate, intrastate, and foreign commerce by motor vehicle.

(2) The representation that a hazardous material is present in a motor vehicle.

(3) The manufacture, fabrication, marking, maintenance, reconditioning, repairing, or testing of a packaging or container which is represented, marked, certified or sold for use in transportation of hazardous materials.

(4) The use of terms and symbols prescribed in this subchapter for the marking, labeling, placarding and description of hazardous materials and packaging used in their transport.

(b) Any person who, under contract with any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government, transports, or causes to be transported or shipped, a hazardous material or manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person as qualified for use in the transportation of a hazardous material shall be subject to and comply with all provisions of the Federal hazardous materials transportation law, all orders and regulations issued thereunder, and all other substantive and procedural requirements of Federal, State, and local governments and Indian tribes (except any such requirements that have been preempted by the Federal hazardous materials transportation law or any other Federal law), in the same manner and to the same extent as any person engaged in such activities that are in or affect commerce is subject to such provisions, orders, regulations, and requirements. (Ord. 03-93 § 1, 2003.)

10.26.040 Inspection of Motor Vehicles in Operation.

(a) Personnel authorized to perform inspections. Inspections of motor carriers' vehicles in operation shall be conducted by Commercial Vehicle Safety Alliance (CVSA) certified officers. These certified officers are authorized to enter upon and perform inspections of motor carriers' vehicles in operation.

(b) Prescribed inspection report. A driver/vehicle examination report shall be used to record results of motor vehicle inspections conducted by authorized City of Olathe personnel.

(c) Motor vehicles declared "out of service."

(1) Authorized personnel declare and mark "out of service" any motor vehicle which by reason of its mechanical condition or loading would likely cause an accident or a breakdown. An "Out of Service Vehicle" sticker shall be used to mark vehicles "out of service."

(2) No motor carrier shall require or permit any person to operate nor shall any person operate any motor vehicle declared and marked, "out of service" until all repairs required by the "out of service notice" have been satisfactorily completed. The term "operate" as used in this section shall include towing the vehicle, except that vehicles marked "out of service" may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of the emergency towing vehicle and an "out of service" vehicle shall not be operated unless such combination meets the performance requirements of this subchapter except for those conditions noted on the driver equipment compliance check.

(3) No person shall remove the "Out of Service Vehicle" sticker from any motor vehicle prior to completion of all repairs required by the "out of service notice." (Ord. 03-93 § 1, 2003.)

10.26.050 Penalties.

(a) It is unlawful for any person to violate any of the provisions of this chapter.

(b) The Judge in the Municipal Court shall in the manner prescribed by K.S.A. 12-4305 and amendments thereto establish scheduled fines for violation of any section of this ordinance. Such fines shall be imposed upon a voluntary entry of appearance and upon a plea of guilty or no contest to a complaint alleging such violation and payment of the fine and any Court costs.

(c) Any person convicted of a violation of any of the provisions of this ordinance shall be punished, subject to limitations otherwise provided in this adopting ordinance, by a fine not to exceed Five Hundred Dollars ($500.00) or imprisonment in jail for not more than six (6) months, or be both so fined and imprisoned. Each day during or upon which a violation occurs or continues shall constitute a separate offense and shall be punishable as such hereunder. (Ord. 03-93 § 1, 2003.)

10.26.060 Severablity. If any provision of this Chapter is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the code and the applicability thereof to other persons and circumstances shall not be affected thereby. (Ord. 03-93 § 1, 2003.)

10.26.070 Savings Clause. Neither the adoption of this ordinance nor the repeal or amendment of any ordinance or part or portion thereof shall in any manner affect the prosecution or civil enforcement for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect. (Ord. 03-93 § 1, 2003.)

CHAPTER 10.28. School Zones. Repealed 10/4/16. (Ord. 16-48 § 8, 2016; Ord. 14-61 § 1, 2014; Ord. 08-03 § 1, 2008; Ord. 00-13 § 1, 2000; Ord. 99-95 § 1, 1999; Ord. 97-133 § 1, 1997; Ord. 95-97 § 1, 1995; Ord. 92-05 § 1, 1992; Ord. 90-47 § 1, 1990; Ord. 88-160 § 1, 1988; Ord. 87-50 § 1, 1987; Ord. 87-50 § 1, 1987; Ord. 85-146 § 1, 1985; Ord. 83-128 § 1, 1983; Ord. 82-132 § 1, 1982.)

CHAPTER 10.29. School Bus Loading Zones. Repealed 10/4/16. (Ord. 16-48 § 8, 2016; Ord. 84-45 § 1, 1984.)

CHAPTER 10.30. Handicapped Parking Zones. Repealed 10/4/16. (Ord. 16-48 § 8, 2016; Ord. 83-13 § 1, (part), 1983.)

CHAPTER 10.32. Waterworks Park Regulations. Repealed 10/4/16. (Ord. 16-48 § 8, 2016; Ord. 229, 1974.)

CHAPTER 10.36. Lake Olathe Regulations. Repealed 10/4/16. (Ord. 16-48 § 8, 2016; Ord. 243, 1974.)

TITLE 12

PUBLIC PROPERTY

CHAPTERS:

12.04 Street Construction Standards
12.06 Curb, Gutter and Driveway Construction
12.08 Street Regulations
12.10 Signs in the Public Right-of-Way and on Public Property
12.12 Sidewalks
12.16 Trees and Shrubs
12.21 Public Lands
12.22 Swimming Pool Regulations
12.24 City Cemetery
12.26 Community Center

CHAPTER 12.04

STREET CONSTRUCTION STANDARDS

Sections:

12.04.010 Standards on File--Street Width.

12.04.010 Standards on File--Street Width. Minimum standards and specifications for all streets and alleys in the city are to be kept on file in the office of the city engineer and may be changed from time to time in the interest of safety and construction. The width for all streets shall be determined by the Governing Body, which may consider recommendations of the planning commission, except that all streets shall have a minimum width of twenty-eight feet; provided, however, that whenever the Governing Body finds that the strict application of this section will constitute unnecessary hardships upon the abutting property owners, or that the terrain or physical features of the property affected necessitate a narrower width, the Governing Body may authorize a street of less than twenty-eight feet. (Ord. 601 § 1, 1977; prior code § 9-301.)

CHAPTER 12.06

CURB, GUTTER AND DRIVEWAY CONSTRUCTION

Sections:

12.06.010 Definitions.
12.06.020 Crossing, Cutting or Breaking Curbs--Unlawful Acts.
12.06.030 Bridging Curbs--Interference With Gutters--Exceptions.
12.06.040 Driveway Approaches--Unlawful to Extend.
12.06.050 Construction of Driveway Approaches--Permit Required.
12.06.060 Permit Fee.
12.06.070 Conditions of Permits--Rules of Construction.
12.06.080 Disqualification for Permits.
12.06.090 Construction of Driveway Approaches--Regulations.
12.06.100 Design Standards.
12.06.105 Variances.
12.06.110 Standard Plans and Specifications--City Engineer.

12.06.010 Definitions. For the purpose of this chapter, the following items have the meanings ascribed to them as hereinafter defined, unless otherwise expressly stated or the context clearly defines a different meaning:

(1) "Commercial driveway approach" means a driveway approach serving all residential development other than single-family or two-family dwellings, or any commercial establishment;

(2) "Corner" means the point of intersection of the outside lines of the roadway extended into the intersection of roadways;

(3) "Curb opening" means a space provided in a nonmountable curb to permit the entry or departure of a vehicle from the roadway to the driveway approach;

(4) "Curb return" means that portion of the curbing along the edge of any driveway approach which includes the radius of curvature or ramp type lug and which connects the driveway approach to the edge of the roadway;

(5) "Driveway" means a place on private property for the operation of automobiles and other vehicles;

(6) "Driveway approach" means an area between the roadway of the public street and private property intended to provide access for vehicles from the public street to private property;

(7) "Industrial driveway approach" means a driveway approach serving an industrial establishment;

(8) "Parking" means that portion of any public right-of-way between the curb or lateral lines of a roadway and the adjacent property lines not occupied by a sidewalk;

(9) "Property line" means a line dividing two adjacent properties, either both private properties or one private and the other public, or both public properties;

(10) "Residential driveway approach" means a driveway approach serving a single or two-family dwelling;

(11) "Roadway" means that portion of any public right-of-way improved, designed or ordinarily used for vehicular travel;

(12) "Safety island" means that area along the curbline that is between two commercial driveway approaches. (Ord. 759 § 1, 1978.)

12.06.020 Crossing, Cutting or Breaking Curbs--Unlawful Acts. It is unlawful for any person, firm or corporation willfully to drive or cause or permit to be driven, any vehicle or machinery over or across any curb or sidewalk in any street or avenue of the city, or to damage, break or cut any curb, gutter or sidewalk, except as may be authorized under a permit from the city engineer issued in accordance with ordinances of the city relating to street parkings, curbs and gutters, and as hereinafter provided for the construction of driveway entrances. (Ord. 137 § 2, 1973.)

12.06.030 Bridging Curbs--Interference with Gutters--Exceptions. It is unlawful for any person, firm or corporation to bridge across any curb or gutter or fill any gutter with concrete, asphalt or other material for purpose of gaining access to or egress from any driveway or private property, or to obstruct or interfere with the drainage of any gutter or drain at the edge of a roadway by placing therein any concrete, asphalt, planks, stones, earth or other material or substance for such purpose except by written permit of the city engineer; provided, that building materials may be stored in or alongside of any curb and gutter or any street parking in accordance with a permit issued as provided by ordinance relating to the encumbering of streets for certain purposes; provided further, that the city may remove any existing material or any material hereafter placed across any curb or in any gutter or drain in violation of this section. (Ord. 143 § 1, 1973; Ord. 137 § 3, 1973.)

12.06.040 Driveway Approaches--Unlawful to Extend. It is unlawful for any person, firm or corporation to construct, alter or extend, or permit or cause to be constructed, altered or extended any driveway approach which can be used only as a parking space or area between the curb and adjacent property line. (Ord. 137 § 4, 1973.)

12.06.050 Construction of Driveway Approaches--Permit Required. It shall be unlawful for any person, firm or corporation to construct or reconstruct, or cause to be constructed or reconstructed, any driveway approach within the city, without first obtaining a permit therefor from the city engineer; provided, however, no permit will be required under this chapter, when the driveway approach is to be constructed in connection with and simultaneously with the construction of improvements on private property for which a building permit has been issued. (Ord. 137 § 5, 1973.)

12.06.060 Permit Fee. No fee will be required for any permit issued under this chapter. (Ord. 137 § 6, 1973.)

12.06.070 Conditions of Permits--Rules of Construction. All permits granted for the use of public property under the provisions of this chapter shall be granted on condition that the same may be revoked, in the event of violation of any construction regulations enumerated hereafter and no such permit shall be deemed to permit or authorize any violation of other provisions of this code or other ordinances of the city. Any permit issued under this chapter shall be granted on the further condition that the permittee or his successors in title will, upon the abandonment of any driveway approach, restore and reconstruct the curb and gutter to its original condition upon notice from the city engineer, and the city reserves the right to close and charge the cost thereof against the owner; provided, that this chapter shall not be construed to deny or abridge the right of egress and ingress of property owners. (Ord. 137 § 7, 1973.)

12.06.080 Disqualification for Permits. Any person, firm, association or corporation who has previously violated any provision of this chapter shall not be granted any permit under this chapter unless and until the conditions causing the prior violations have been corrected. (Ord. 137 § 8, 1973.)

12.06.090 Construction of Driveway Approaches--Regulations. The following regulations shall apply to any driveway approach hereafter constructed or reconstructed:

(1) Any driveway or approach to be constructed must provide access to private property adjacent to the city street for some definite purpose such as a driveway, a parking area, or a door at least seven feet wide intended and used for the entrance of vehicles, and shall not be used for the parking or servicing of vehicles on street right-of-way;

(2) No driveway approach shall be constructed which will interfere with public facilities including street light poles, traffic signal standards, signs, catchbasins, hydrants, crosswalks, loading zones, utility poles, fire alarm supports, underground pipes or ducts or other necessary street structures without the concurrence in writing of the agency responsible for the affected facility;

(3) Not more than one driveway approach shall be constructed for access to one parcel of residential land less than eighty feet in width, except that driveway approaches may be permitted from each roadway adjacent to a corner lot. Each commercial or industrial property shall be allowed at least one driveway approach, but may have more so long as the total maximum summation of the widths of all driveway approaches upon the property does not exceed twenty percent of the length of the real property that fronts the abutting city street. Should more than one driveway approach be constructed, there shall be not less than ninety feet between the centerlines of each driveway approach;

(4) To prevent encroachment on adjacent property, the entire driveway approach, including the flared portions for turning purposes, must be constructed on the petitioner's property frontage extended; exception may be allowed by written consent of the adjacent affected property owners. Extension of property frontage is to be determined by projecting lines at right angles from the street centerline to the intersection of the abutting property lines with the street right-of-way;

(5) Adequate drainage structures, as approved by the city engineer, shall be provided at entrances by the petitioner;

(6) Safety. Every effort shall be made to select driveway approach locations so that maximum sight distance is possible. Existing medians will not be opened to accommodate abutting property other than crossovers placed by the city as a part of the design plans. No vehicle parking areas will be permitted on the right-of-way, and only those signs approved by the city shall be erected on the right-of-way;

(7) Where a driveway approach is serving more than a driveway or door on the private property, a nonmountable barrier curb shall be constructed and maintained on private property to prevent encroachment of vehicles or equipment upon public property except at the driveway approach;

(8) No driveway approach shall be constructed across any sidewalk unless such sidewalk be constructed or reconstructed in accordance with specifications pertaining to the construction of sidewalks to be used as driveway approaches;

(9) Where no sidewalk exists, that portion of the driveway approach adjacent to the property line shall be constructed as though a sidewalk did exist;

(10) No driveway approach shall be constructed in a manner to change or interfere with the gutter flow line or sidewalk grade where such driveway approach crosses any such gutter or sidewalk;

(11) The sidewalk and curb shall, insofar as possible, be cut and removed at the nearest joint. Upon replacement and reconstruction of a sidewalk as a driveway approach, the construction of the curb return and any pavement in connection with a driveway approach, suitable joints shall be provided and all such spaces shall be filled with a bituminous fibrous compound in accordance with the specifications of the city. When it is not possible to cut and remove at an existing joint, such cutting shall be performed by using a concrete saw;

(12) The cost of construction of all driveway approaches and necessary appurtenances thereto shall be borne by the permittee. (Ord. 759 § 2, 1978.)

12.06.100 Design Standards. The following standards shall be used in designing driveway approaches to be constructed in the city:

(1) Width of Driveway Approach.

(A) Residential driveway approaches: The width of residential driveway approaches shall conform to the widths as indicated in the following table:

Single Family (One-Car Garage)----10 Feet
Single Family (Two-Car Garage)----22 Feet
Single Family (Three-Car Garage)--32 Feet

Duplex (Two, One-Car Garage)-----24 Feet
Duplex (Two, Two-Car Garage)-----44 Feet

Such widths shall be measured parallel to the centerline of the street at the property line.

(B) Commercial driveway approach: The width of commercial driveway approaches shall not exceed thirty-five feet or be less than twenty-five feet measured parallel to the centerline of the street at the property lines for two-way driveway approaches; provided, however, that commercial property may be allowed to have a driveway approach not exceeding fifty-two feet, if said driveway approach does not exceed twenty percent of the length of the real property abutting the adjacent city street and a four-foot raised median is placed within such driveway approach to divide the entrance and exit lane(s). The minimum width of a one-way driveway shall be sixteen feet.

(C) Industrial driveway approach: The width of industrial driveway approaches shall not exceed sixty-five feet or be less than twenty-five feet measured parallel to the centerline of the street at the property lines for two-way driveway approaches; provided that the minimum width for a one-way driveway shall be sixteen feet.

(2) Angle of Entrance. The angular placement of driveway approaches in residential, commercial and industrial areas may vary from forty-five degrees to ninety degrees inclusive. This limitation includes the entire length of the driveway approach. The angle shall be that made by the centerline of the driveway approach with the centerline of the street or with the tangent to the centerline at the point of intersection if located on a curve.

(3) Corner and Adjacent Property Line Offset.

(A) Residential driveway approaches: When residential driveway approaches are located at or near an intersection, in no case shall the distance from the intersection property corner be less than twenty feet to the near line of the driveway approach, extended to the street curb.

(B) Commercial or industrial driveway approach: When commercial or industrial driveway approaches are located at or near a street intersection, in no case shall the distance from the intersection property corner be less than fifty feet to the near line of the nearest driveway approach, as extended to the street curb or pavement edge.

(C) No commercial driveway approach shall be constructed having a tangent length, between the curb return and the property line extended, of less than twelve and one-half feet.

(4) Safety Islands. The minimum lengths of safety islands between entrances shall be twenty-five feet. Lengths of safety islands is the tangent distance between the turning radii as measured along the surface edge or curb line, measured parallel to the centerline of the street.

(5) Turning Radii.

(A) Residential driveway approaches (residential district) - Turning radii shall not exceed two feet;

(B) Commercial and industrial driveway approaches:

(i) Safety islands shall have a minimum radius of fifteen feet;
(ii) Driveway approaches shall have a minimum radius of fifteen feet.

(6) Curb Openings.

(A) Residential driveway approaches: Curb opening for residential driveway approaches shall not exceed the width of the driveway as indicated in Section 12.06.100, Paragraph (1), (A), plus four feet.

(B) Commercial driveway approaches: Curb openings for commercial driveway approaches shall not exceed sixty-five feet. (Ord. 86-55 § 1, 1986; Ord. 759 § 3, 1978.)

12.06.105 Variances.

(a) Any person, firm or corporation desiring to apply for a variance of the curb, gutter and drive-way design standards shall make application therefor on forms provided by the city engineer. Such application shall be accompanied by a sketch showing the following:

(1) Existing topography with contours at two-foot intervals;

(2) The location of all buildings and other structures, parking areas, drives, walks, screening, drainage structures, public streets and any existing easements on the property being remodeled or rehabilitated and on all property within two hundred feet adjacent thereto; and

(3) Sufficient dimensions to indicate relationships between buildings, property lines, parking areas, and other elements included on the sketch.

(b) Such application and sketch shall be forwarded to the city engineer for his consideration. The city engineer may grant a variance whenever the he determines that such variance:

(1) Is necessary because the configurations, locations or topography of the land makes the application of the design standards impractical or impossible; and

(2) Will not hinder traffic safety; and

(3) Will not be injurious to other property in the vicinity in which the property is located.

(c) Every decision of the city engineer shall be in writing. A certified copy shall be sent by mail or otherwise to the applicant.

(d) Any person aggrieved by a decision of the city engineer in the enforcement of this title shall have the right to appeal any such decision in accordance with the following procedures:

(1) A hearing before the Olathe Governing Body may be required within thirty days of a decision of the city engineer. The Governing Body shall consider any information offered by the aggrieved person bearing on the dispute and may either modify or confirm the city engineer's decision.

(2) Any person aggrieved by an final decision of the city engineer following review by the Governing Body may seek review by a court of competent jurisdiction in the manner provided by the laws of the state. (Ord. 86-55 § 2, 1986; Ord. 932 § 1, 1979.)

12.06.110 Standard Plans and Specifications--City Engineer. The city engineer is authorized to prepare standard plans and specifications for the construction of a driveway approaches, sidewalk crossing and interior curbs, all in accordance with the provision contained in this chapter. It shall be the duty of the city engineer to enforce the provisions of this chapter and to supervise all work authorized by a permit. Upon completion of any such work, his approval shall be entered on the permit and he shall preserve a permanent file of his permits issued and agreements entered into under the provisions of this chapter. (Ord. 137 § 11, 1973.)

CHAPTER 12.08

STREET REGULATIONS

Sections:

12.08.010 Obstructions Unlawful.
12.08.020 Excavations--Warning Barricades and Lights.
12.08.030 Excavations--Removal of Barricades.
12.08.040 Cleated or Flanged Wheels on Pavement Prohibited--Exceptions.
12.08.050 Damage to Paving or Curbs.
12.08.060 Storage on Public Property.
12.08.070 Encumbering Streets Under Permit.
12.08.080 Excavation--Permit Required--Excep-tion.
12.08.090 Excavation--Permit--Application--Bond.
12.08.100 Excavation--Permit--Issuance.
12.08.110 Burning on Pavements Unlawful.

12.08.010 Obstructions Unlawful. It is unlawful for any person, firm or corporation to obstruct any street, alley or sidewalk by placing any object, material or vehicle so as to prevent or interrupt traffic thereon unnecessarily. (Prior code § 9-101.)

12.08.020 Excavations--Warning Barricades and Lights. Every person who cuts any pavement or makes any excavation or obstruction in any of the public thoroughfares or public grounds within the city, or so near such public thoroughfares and public grounds as to be dangerous to those traveling upon such streets and grounds, shall establish and maintain sufficient substantial barricades about such cutting or excavation or obstruction to warn the public and prevent users of the sidewalks and public thoroughfares from being damaged because thereof. During the nighttime, such person shall, in addition to such barricades and warning signs, maintain a sufficient number of red lights and/or torches to effectively warn the users of the sidewalks and public thoroughfares of the existence of danger. (Prior code § 9-102.)

12.08.030 Excavations--Removal of Barricades. It is unlawful for any person to move or remove barricades or protective devices placed in accordance with Section 12.08.020 without proper authority. (Prior code § 9-103.)

12.08.040 Cleated or Flanged Wheels on Pavement Prohibited--Exceptions. It is unlawful for any person to drive or operate any vehicle equipped with cleated or flanged wheels upon any of the paved streets or alleys of the city, except that it shall be permissible to use tire chains of reasonable proportion upon any vehicle when required for safety because of snow or ice and except that it shall be permissible to use tires with metallic or nonmetallic studs authorized by the State Highway Commission. (Prior code § 9-104.)

12.08.050 Damage to Paving or Curbs. It is unlawful for any person to break or damage any paving or curb on any street or alley of the city. (Prior code § 9-105.)

12.08.060 Storage on Public Property. It is unlawful for any person, firm or corporation to place, leave or store, or cause to be placed, left or stored, any implements, automobiles or vehicles, tools, boxes, merchandise, goods, trash, cans, crates, or junk upon public property except for the purpose of loading or unloading the same. (Prior code § 9-106.)

12.08.070 Encumbering Streets Under Permit. Nothing in this code shall prevent any person, who may be improving his property, from encumbering the streets, avenues or alleys, under a permit from the proper officers of the city, but in the event of such encumbering of the streets with building material or earth, necessary for the improvement being made, the contractor shall clean up the premises thoroughly within ten days from the completion of the work. (Prior code § 9-107.)

12.08.080 Excavation--Permit Required--Exception.

(a) It is unlawful for any person, firm or corporation to cut pavements or excavate in a street or alley of the city without a permit issued by the Public Works Department.

(b) This section shall not apply to employees of the city or to work performed under a public improvement contract with the city, but shall apply to work performed by public utilities. (Ord. 08-82 § 1, 2008; Ord. 451 § 1, 1976; prior code § 9-108.)

12.08.090 Excavation--Permit--Application--Bond.

A. Any person, firm or corporation finding it necessary to cut any sidewalk or pavement or excavate in any street, alley or public property shall first file an application and bond with the Public Works Department. The application shall set out:

1. The location of the proposed cut or excavation;
2. The purpose of the proposed work; and
3. The estimated time required to complete the work.

B. The bond shall be in the penal sum of One Thousand Dollars ($1,000.00) on a form approved by the City Attorney. The bond shall be conditioned that the applicant will properly barricade and protect the cut or excavation, and that the applicant will indemnify and save harmless the city from any and all loss, damages and expenses arising out of the applicant's work. The bond shall be further conditioned that the applicant will pay to the City the cost of refilling and repairing pavement, if it is not properly done by the applicant.

C. No bond will be required for the replacement of a residential driveway.

D. A permit fee shall be charged in connection with issuing each construction permit to set fixtures in the public right-of-way within the City as provided in K.S.A. 17-1901, and amendments thereto, to compensate the City for issuing, processing, and verifying the permit application. Such permit fee shall be adopted by the Governing Body of the City by resolution. (Ord. 13-41 § 1, 2013; Ord. 08-82 § 2, 2008; Ord. 02-105 § 1, 2002.)

12.08.100 Excavation--Permit--Issuance. Upon the filing of the application and approval of the bond in accordance with Section 12.08.090, the city clerk shall issue a permit to the applicant to proceed with the work. (Ord. 451 § 3, 1976; prior code § 9-110.)

12.08.110 Burning on Pavements Unlawful. It is unlawful for any person to accumulate or burn any leaves, trash or any other combustibles in or upon any street, alley or public way on any pavement or asphaltic surfacing of any kind. (Prior code § 9-111.)

CHAPTER 12.10

SIGNS IN THE PUBLIC RIGHT-OF-WAY AND ON PUBLIC PROPERTY

Sections:

12.10.010 Purpose.
12.10.020 Definitions.
12.10.030 Responsibility for Enforcement.
12.10.040 Permitted Signs in the Public Right-of-Way and on Public Property.
12.10.050 Signs Prohibited in Public Right-of-Way and City Property.
12.10.060 Presumptions.
12.10.070 Removal of Signs.
12.10.080 Penalties.
12.10.090 Severability.

12.10.010 Purpose. The purpose of this Chapter is to distinguish between the types of signs which are permitted and prohibited within the public right-of-way and on public property for the purposes of maintaining the public property through the City of Olathe. This Chapter is written to ensure better communication between people and their environment and to avoid visual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities and community appearance. With these purposes in mind, it is the intent of this Chapter to authorize the use of signs which are (a) compatible with the City of Olathe's existing codes and regulations pertaining to signs and the use of the public right-of-way and public property, and (b) appropriate to the activity that displays them. (Ord. 14-37 § 1, 2014.)

12.10.020 Definitions. The definitions herein are only to be applied in the enforcement of this Chapter, unless specifically stated otherwise.

Commercial message means a message that directs attention to a business, commodity, service or entertainment enterprise which is intended to produce a monetary profit or earnings which may be lawfully inured to the benefit of any private shareholder or individual and the income of which is taxable under the Internal Revenue Code. Any commercial sign permitted under this Chapter or Chapter 18.50 of the Olathe Unified Development Ordinance is allowed to contain a noncommercial message in lieu of any commercial message subject to all applicable restrictions and performance standards.

Living sign means a sign structure, display, drawing, message, plaque or poster held or worn by, under the control of, or attached to a human or animal, located outdoors, for the purpose of advertising or providing information about a for-profit business, commodity, service, product or other commercial activity. A person or animal dressed in a costume for the purpose of advertising or providing information about a business, commodity, service, product or other commercial activity also constitutes a living sign, excluding temporary signage associated with an approved special event permit or parade. Living signs do not include activities or sign structures, displays, drawings, messages, plaques or posters involving a non-commercial message.

Noncommercial message means a message intended to direct attention to a political, social, community or public service issue, event or cause, not intended to produce a monetary profit or earnings which may lawfully inure to the benefit of any private shareholder or individual and any income generated from which is exempt from taxation under the Internal Revenue Code.

Person shall mean an individual, public or private corporation, association, firm, partnership or unincorporated association***, including persons affiliated with a sign***.

Person responsible for placing a sign means, but is not limited to, by rebuttable presumption, any of the following: An individual, public or private corporation, partnership or unincorporated association that owns a particular sign; whose name is advertised or displayed on such sign; whose telephone number or other contact information is displayed on such sign; whose name or service was advertised or displayed on such sign in promotion of that which was advertised or displayed thereon; or who placed or displayed such sign.

Place means to physically place or cause to be physically placed, and shall include, but be not limited to, posting, painting, printing, tacking, nailing, gluing, sticking, carving, or other fastening, affixing or making visible in any manner whatsoever.

Public Property means any personal or real property owned by the City of Olathe, the state of Kansas, Johnson County, or any of the public school districts, colleges or universities located in the City of Olathe.

Public right-of-way means it is a rebuttable presumption that any area within ten (10) feet of the edge or curb of the paved portion of a road or highway maintained by the City, or the area within the edge or curb of the paved portion of a road or highway and the outer edge of a sidewalk, if greater, is public right-of-way.

Sign means any identification, description, illustration, message, symbol, logo or device which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanent or temporary display of merchandise, emblems, corporate flags, pennants or placards, designed to advertise, identify, or convey information, including all supporting structures placed for advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure, or thing whatsoever.

Sign Structure means the base, supports, uprights, braces, framework and face of a sign. (Ord. 14-37 § 1, 2014.)

12.10.030 Responsibility for Enforcement. The City Manager, or duly authorized representative, shall be responsible for enforcement of this Chapter. (Ord. 14-37 § 1, 2014.)

12.10.040 Permitted Signs in the Public Right-of-Way and on Public Property.

A. Emergency warning signs erected by the City or any other governmental agency, (including, but not limited to, the state of Kansas), public utility, or cable TV companies with contract franchises to locate facilities within the public right-of-way, or contractors lawfully permitted to do work in the public right-of-way or on public property.

B. Any public transit company authorized to provide service to or through the City.

C. "Adopt a street or highway" sign acknowledging voluntary efforts to provide landscaping, litter control, or other maintenance, when such signs are installed pursuant to a written policy of the City.

D. Signs, including, but not limited to, banners, flags and pennants that promote or celebrate the City; provided, however, such signs shall be subject to the approval of the City Manager, or duly appointed representative, as to the size, location, and method of erection. Such signs shall not impair the safety and convenience of the use of the public rights-of-ways, or obstruct traffic visibility. Such signs constitute governmental speech and the City does not intend to create a public forum for private speech by erecting such signs.

E. Governmental Signs for the control of traffic and other regulatory purposes, street signs, construction signs, danger signs, railroad crossing signs, and signs of public service companies indicating danger and aids to service or safety which are erected by or on the order of any public official in the performance of his/her duty.

F. Nothing in this Chapter shall be construed as affecting or limiting the City from displaying signs upon the City's right-of-way and City property. (Ord. 14-37 § 1, 2014.)

12.10.050 Signs Prohibited in Public Right-of-Way and City Property. It shall be unlawful for any person to:

A. Place or affix a sign within or project over any public right-of-way. This section shall not be construed so as to prohibit the carrying or displaying of non-commercial signs by any person so long as such signs are not connected or affixed to the real property comprising the public right-of-way or public property, its fixtures or appurtenances;

B. Locate any living sign displaying a commercial message in or above a public easement or within ten (10) feet of the public right-of-way or on public property;

C. Place a sign in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or devise, or obstruct or interfere with a driver's views of approaching, merging or intersecting traffic;

D. Place a sign on any utility pole, light standard, street tree or any other public facility located in the public right-of-way;

E. Place signs which blink, flash or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or be perceived as municipal vehicle warnings lights from a distance;

F. Place a sign on any City-owned property;

G. Place any signs or other material to, or paint, stencil or otherwise mark any sidewalk, curb, gutter, street tree, utility pole, traffic sign, traffic light fixture or equipment, public building, public fence or screening wall, or public structure; provided, however, this section does not apply to governmental signs displayed under governmental authority or the posting, painting, stenciling, or marking of street address numbers onto the curbs.

H. Erect or alter any sign as defined in the Unified Development Ordinance, or make use of a living sign displaying a commercial message, without first obtaining a sign permit in accordance with the requirements of, and procedures set forth in, the Unified Development Ordinance. (Ord. 14-37 § 1, 2014.)

12.10.060 Presumptions. The presence of any signs prohibited in the public right-of-way or on public property by Section 12.10.050 above, creates a rebuttable presumption that:

A. The real estate agent, broker, brokerage firm or other person whose name, address, telephone number or other identifying characteristic or contact information on the sign is the person responsible for placing a sign advertising property for sale, lease or rent.

B. The candidate seeking office is the person responsible for placing a sign promoting the candidate for office.

C. In a campaign regarding a ballot measure, the president of the committee supporting or opposing such ballot measure shall be deemed the person responsible for placing a sign promoting the campaign's viewpoint.

D. The owner, occupant, or lessee if the property is leased, of property used for a yard sale or garage sale is the person responsible for placing a sign advertising a yard or garage sale. In addition, any signs directing the public by way of arrows or other directional symbols or phrases to a particular residence shall be presumed to have been erected by the owner(s) or occupant(s) of said residence.

E. The owner, occupant or lessee if the property is leased, of property used for a commercial activity or event is the person responsible for placing a sign advertising the subject commercial activity or event.

F. The person whose name, telephone number, address or other identifying characteristics or contact information appears as sponsor of a sporting event, concert, theatrical performance, or similar activity or event is the person responsible for placing a sign advertising the subject activity or event.

G. The person whose name, telephone number, address, or other identifying characteristics or contact information appears as the person to contact on any sign posted is the person responsible for placing a sign.

H. If more than one person is named on a sign, there is a rebuttable presumption that each person is individually and severally responsible for placing a sign. (Ord. 14-37 § 1, 2014.)

12.10.070 Removal of Signs. Signs placed contrary to the provisions of this Chapter may be removed by agents and employees of the City, and either stored or destroyed, without liability to the City or its agents or employees. The owner of any sign confiscated by the City may claim the sign, if it remains in the custody of the City, upon the payment to the City of an administrative fee of Twenty-Five Dollars ($25.00) per sign. The payment of the administrative fee does not work as a defense of any sort to a prosecution under this Chapter. (Ord. 14-37 § 1, 2014.)

12.10.080 Penalties.

A. Any person violating any provision of this Chapter and convicted thereof, shall be fined according to the schedule shown below. Each sign placed illegally shall be considered a separate offense. Each day in which the violation shall occur shall constitute a separate offense with the total penalty being the summation of all the individual penalties incurred.

B. Penalty Schedule:

First offense: Written warning, request to cease and desist.
Second offense within any consecutive 12-month period: Not less than $50.00 and not more than $100.00.
Third offense within any consecutive 12-month period: Not less than $100.00 and not more than $250.00.
Fourth offense or subsequent violations within any consecutive 12-month period: Not less than $250.00 and not more than $500.00.
Fifth offense or subsequent violations within any consecutive 12-month period: Not less than $500.00 and not more than $1,000.00.

C. The City may seek such other remedies and use other enforcement powers, as allowed by law.

D. Nothing in this Chapter will be interpreted to prohibit the continuation of previous enforcement actions, undertaken by the City under previous, valid ordinances and laws. (Ord. 14-37 § 1, 2014.)

12.10.090 Severability. In the event that any section of this Chapter shall be declared or judged by a court of competent jurisdiction to be invalid or unconstitutional, such adjudication shall in no manner affect the other sections of this Chapter, which shall be in full force and effect as if the said section or said sections were not originally a part thereof. (Ord. 14-37 § 1, 2014)

CHAPTER 12.12

SIDEWALKS*

Sections:

12.12.010 Property Owners--Dangerous Adjacent Sidewalk Unlawful.
12.12.020 Repair and Construction.
12.12.030 Snow, Ice and Mud--Removal by Owner.
12.12.040 Snow, Ice and Mud--City Removal--Special Assessment.
12.12.050 Use by Service Stations.
12.12.060 Construction--When Required.
12.12.070 Construction on Right-of-way--Application.
12.12.080 Sidewalk Plans and Specifications.
12.12.090 Construction--Approval or Disapproval--Appeal.

12.12.010 Property Owners--Dangerous Adjacent Sidewalk Unlawful. It is unlawful for any owner of property within the city to permit a sidewalk adjacent to his property to remain in bad repair or in such condition as to create a hazard to persons using the sidewalk. (Prior code § 9-205.)

12.12.020 Repair and Construction. Whenever the Governing Body determines that any sidewalk is in need of repair, or that any new sidewalk is necessary, the Governing Body shall proceed in accordance with the provisions of K.S.A. Article 18 of Chapter 12. (Prior code § 9-206.)

12.12.030 Snow, Ice and Mud--Removal by Owner. It is hereby made the duty of the owner or the occupant of any lot or lots abutting upon any sidewalk in the city to cause to be removed from such sidewalks all snow, ice and mud and to keep such sidewalk at all times free from the accumulation of snow, ice and mud. (Prior code § 9-207.)

12.12.040 Snow, Ice and Mud--City Removal--Special Assessment. If any owner or occupant of any lot or lots refuses or neglects to clean or remove from sidewalks abutting the lot or lots all snow, ice or mud, the city may cause all snow, ice or mud to be removed from the sidewalk and shall assess the cost of such removal against such abutting lot or lots and such cost shall be collected in the same manner as is required for the building of sidewalks. (Prior code § 9-208.)

12.12.050 Use by Service Stations. It is unlawful for any person, firm or corporation to supply or sell any gasoline, oil or other service station products, or any service incident thereto, to any motor driven vehicle, or to the owner or operator thereof, when or while the motor vehicle is parked upon or occupying any portion of any public sidewalk adjacent to the service station, nor stretch any gasoline or air hose across the public sidewalk, nor to use the public sidewalk for any purpose interfering with the intended use of the sidewalk as such by pedestrians. (Prior code § 9-209.)

12.12.060 Construction--When Required. Any person, firm or corporation hereinafter applying for a building permit for any structure may be required by the city planning commission to construct sidewalks on one or both sides of streets adjacent to the parcel of land associated with such building permit, when the city planning commission finds any one or more of the following:

(1) No sidewalk exists and the installation of a new sidewalk will promote safety;

(2) The existing sidewalk is inadequate, unsafe, or in a state of disrepair. (Ord. 26-C § 1, 1968; prior code § 9-211.)

12.12.070 Construction on Right-of-way--Application. Any person proposing to construct any sidewalk upon or adjacent to any city right-of-way shall apply to the city engineer for approval of the location, dimensions, design and construction methods and materials of such sidewalk. The application shall be in writing and shall contain such information including maps, plats, diagrams, detailed drawings and specifications as the city engineer may require. (Ord. 26-C § 2, 1968; prior code § 9-212.)

12.12.080 Sidewalk Plans and Specifications.

(1) All sidewalks hereafter constructed, repaired or reconstructed shall be of single course Class "A" Portland cement concrete, and shall have a minimum width of four feet and minimum thickness of four inches.

(2) All sidewalks shall be located in the platted street right-of-way, at least one foot from the edge of the street right-of-way line.

(3) Sidewalks shall be installed on both sides of all thoroughfares and collector streets and on one side of all local residential streets, except that sidewalks shall not be required on local residential streets in large lot subdivisions.
Sidewalks shall be required on peripheral streets in industrial parks. (Ord. 382 § 1, 1975; Ord. 26-C § 3, 1968; prior code § 9-213.)

12.12.090 Construction--Approval or Disapproval--Appeal. If the city engineer finds that any such proposed sidewalk will conform to accepted standards and to existing sidewalks in the same general locality, if any, and will not detract from property values, he shall issue his approval in writing. Otherwise, he shall disapprove such sidewalk in writing. Any interested person may appeal such approval or disapproval to the city planning commission by filing notice with the city clerk within ten days, which in the case of an appeal from an approval of the city engineer shall thereupon suspend such approval. (Ord. 26-C § 4, 1968; prior code § 9-214.)

*For statutory provisions pertaining to sidewalks, see K.S.A. 12-1801 and the sections that follow.

CHAPTER 12.16

TREES AND SHRUBS*

Sections:

12.16.010 Damaging Prohibited.
12.16.020 Trees Overhanging Public Property--Trimming Required.
12.16.030 Trees and Shrubs on Public Property--Duty of Adjacent Property Owner.
12.16.040 Traffic Hazard--Removal Notice.
12.16.050 Traffic Hazard--Failure to Remove--Removal by City--Special Assessment.
12.16.060 Diseased or Infected Trees--Removal--Notice--Special Assessment.
12.16.070 Penalties.

12.16.010 Damaging Prohibited. No person shall willfully, maliciously or without lawful authority, cut down, root up, sever, peel, or otherwise injure or destroy, any fruit tree, shade or ornamental tree, cultivated root, or plant, grape or strawberry vine, shrub or bush whatever, the property of another, or standing on or attached to the land of another, or shall pick, destroy, or carry away therefrom, or in any way interfere with any part of the fruit thereof, or shall trespass upon the premises of another with such unlawful intent, or shall, willfully and without lawful authority, cut down, root up, or destroy, or in any manner injure or destroy any fruit, shade or ornamental tree, shrub or vine, planted or growing on any street, lane, alley or public grounds. (Prior code § 9-401.)

12.16.020 Trees Overhanging Public Property--Trimming Required.

A. It shall be the duty of every owner, agent or occupant of any lot or parcel of land adjoining or contiguous to any street or alley to cause all trees upon such premises which may overhang or project over such street, alley or sidewalk, to be so trimmed and maintained as to not unreasonably obstruct the light from any street lamp, any traffic control device and/or traffic control sign, or the view of any street intersection. The branches of all such trees must be kept to a height of not less than thirteen feet six inches (13’ 6”) from the level of the street or alley and not less than ten (10’) feet from the level of the sidewalk.

B. Any tree or shrub which overhangs any sidewalk, street or public place in the City in such a way as to impede or interfere with vehicular or pedestrian traffic or travel, as described in Section 12.16.020 A., shall be trimmed by the owner of the premises on which such tree or shrub grows so that the obstruction shall cease. Any tree or limb of a tree or dead tree, which has become likely to fall, or has fallen, on or across any public way or place shall be removed by the owner of the premises of which such tree grows or stands. The Public Works Director or designee may trim any such tree or shrub or remove any such tree or branch thereof so that the obstruction or danger to vehicular or pedestrian traffic or travel shall be done away with. (Ord. 15-54 § 1, 2015; Prior code § 9-403, 9-404.)

12.16.030 Trees and Shrubs on Public Property--Duty of Adjacent Property Owner. Any person, firm, partnership or corporation owning any lot, piece or parcel of land shall be required to maintain all trees and shrubbery upon all streets, alleys, avenues and boulevards adjacent and abutting the lot, piece or parcel of land, and shall be further responsible for the treatment of diseased trees and shrubbery or the removal of trees and shrubbery that are dead or have reached a condition where they are dangerous to the public using the streets. (Prior code § 9-405.)

12.16.040 Traffic Hazard--Removal Notice. If the Public Works Director or designee determines that any tree or shrubbery constitutes a traffic hazard by impeding or interfering with vehicular or pedestrian traffic or travel, or by unreasonably obstructing any street lamp, traffic control device and/or traffic control sign, the view of any street intersection, and/or the view of drivers of vehicles entering a street from an intersecting street, he or she shall notify the owner of the property where the tree or shrubbery is located to remove the same, and it shall be the duty of such person to remove the same. (Ord. 15-54 § 2, 2015; Prior code § 9-406.)

12.16.050 Traffic Hazard--Failure to Remove--Removal by City--Special Assessment. If the Governing Body determines that the owner of property abutting upon any street, alley, avenue or parking has failed to comply with the requirements of Section 12.16.040, he shall, after reasonable notice and direction to the owner to comply therewith, cause the work to be done by the city, and the cost of work shall be assessed against the abutting property as a special assessment, to be collected. The city clerk shall certify the same to the county clerk to be entered on the tax rolls and collected in the same manner as real property taxes. Such notice and directions shall be given to the owner of abutting property by the city clerk by mail addressed to the owner's last known address, or if the same is unknown to the city clerk, then by posting such notice on the abutting property.

The city clerk shall prepare a notice in letter form, which notice shall contain the information as to the location of trees or shrubbery and the legal description of adjoining and abutting property. The notice shall contain a statement as to the condition of the tree or shrubbery and whether it shall be trimmed, treated or removed. Such statement shall inform the owners that upon failure to comply with the requirements set forth in the notice, the city will, by its regular departments, trim, treat or remove such tree or shrubbery or contract for such trimming, treatment or removal, as the case may be.

For the purpose of this chapter, the notice required herein shall be ten days and the notice may be either served in person upon a form to be provided by the city clerk on the owner or owners and/or to the registered owner by first-class mail, duly certified or registered. (Prior code § 9-407.)

12.16.060 Diseased or Infected Trees--Removal--Notice--Special Assessment. Whenever any competent city authority, or competent state or federal authority when requested by the Governing Body files with the Governing Body a statement in writing based upon a laboratory test or other supporting evidence that trees or tree materials or shrubs located upon private property within the city are infested with or harbor any tree or plant disease or insect pest or larvae, the uncontrolled presence of which may constitute a hazard to or result in the damage or destruction of other trees or shrubs in the community, describing the same and where located, the Governing Body shall direct the city clerk to issue notice requiring the owner or agent of the owner of the premises to treat or remove any such designated tree, tree material or shrub within a time specified in such notice. The notice shall be served by the city marshal or other police officer by delivering a copy thereof to the owner or agent of such property, or if the same is unoccupied and the owner a nonresident, then the city clerk shall notify the owner by mailing a notice to his last known address. If the owner or agent fails to comply with the requirements of the notice within the time specified in the notice, then the superintendent of streets and parks shall proceed to have the designated tree, tree material or shrub treated or removed and report the cost thereof to the city clerk, and the cost of such treatment or removal shall be paid by the owner of the property or shall be assessed and charged against the lot or parcel of ground on which the tree, tree material or shrub was located. The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. (Prior code § 9-408.)

12.16.070 Penalties. Any person, firm or corporation violating or refusing to perform any of the actions required by any of the provisions of any of the sections in this chapter shall be punished as provided in Section 1.16.010 of this code. (Ord. 765 § 1, 1978.)

*For statutory provisions pertaining to trees and shrubs in streets and alleys, see K.S.A. 12-3201.

CHAPTER 12.21

PUBLIC LANDS

Sections:

12.21.010 Definitions
12.21.020 City Laws Extended to Public Lands
12.21.030 Police Jurisdiction over Public Lands
12.21.040 Rules and Regulations
12.21.050 Preservation of Natural State
12.21.060 Damaging Public Lands
12.21.070 Motor Vehicle Regulations
12.21.080 Swimming, Bathing and Wading in City Water Bodies – Prohibited
12.21.090 Boating – State License Required
12.21.100 Boating – No Wake
12.21.110 Personal Watercraft Prohibited
12.21.120 Boating – Requiring Certain Persons to Wear Lifesaving Devices
12.21.130 Towing – Prohibited
12.21.140 Temporary Suspension of Boating
12.21.150 Weapons – Prohibited. (Repealed 6/17/14)
12.21.160 Hunting – Prohibited
12.21.170 Fishing License; Regulations
12.21.180 Ice Skating and Other Activities
12.21.190 Metal Detectors, Mining and Prospecting – Prohibited
12.21.200 Fires
12.21.210 Camping – Prohibited
12.21.220 Sanitation
12.21.230 Prohibition Against Alcoholic Beverages and Cereal Malt Beverages
12.21.240 Sale of Food, Drink and Merchandise in Parks and Recreational Areas
12.21.250 Unlawful Use of Field or Shelter
12.21.260 Hours of Use – Exceptions
12.21.270 Violations and Penalties
12.21.280 Severability

12.21.010 Definitions. For the purposes of this Chapter, the following words and phrases shall be defined as follows:

"Boat" means any vessel, except personal watercraft, designed to be propelled by human power, machinery, oars, paddles, wind action, or upon a sail for navigation on the water, including, but not limited to, canoes, rafts, sailboats, windsurfing boards, boats with electric trolling motors, boats with motors or unmotorized boats, rowboats, paddle boats or wading tubes.

"Encroachment structures" are as defined in Chapter 9.14 of the Olathe Municipal Code.

"Life saving device" means an United States Coast Guard approved Type I, Type II or Type III personal floatation device.

"Motor vehicles" shall mean every vehicle which is self-propelled and every vehicle which is propelled by electric power including, but not limited to, automobiles, motorcycles, motor-driven cycles, motor homes, and motorized bicycles. Motor vehicles shall include any vehicle licensed to operate on public streets, roads or highways and shall include motorized off-road vehicles including, but not limited to, dirt bikes, go-carts, and snowmobiles. Motor vehicles shall not include motorized wheelchairs designed for and used by physically handicapped persons or segways used by physically handicapped persons when either is incapable of a speed in excess of fifteen (15) miles per hour.

"Natural materials" means, but is not limited to, grass clippings, tree clippings, stumps, yard waste, animal waste, trash items, flowers, vegetables, landscaping, gardens, and wood piles.

"Park Director or Director" means the City of Olathe, Kansas Director of Parks and Recreation or his/her designated representative.

"Park Ranger" means the City of Olathe, Kansas Park Ranger(s).

"Park Superintendent" means the City of Olathe, Kansas Park Superintendent or his/her designated representative.

"Park(s) and recreational area(s)" means all City-owned park properties, to include but not be limited to public buildings, public parking lots, public trails, undeveloped and developed public parks and green spaces, public greenways, public open spaces, indoor or outdoor public recreational facilities, public swimming pools, public shelters, public restroom facilities, public water bodies, and/or other public natural areas.

"Personal Watercraft" means a vessel of less than sixteen (16) feet in length, as manufactured, that uses a motor powering water jet pump as the primary source of motive power and that is designed to be operated by a person or persons sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. The term includes, but is not limited to, Jet Ski, Waverunner and Sea Doo.

"Public Lands" means any public street, public highway, public right-of-way, public building or other public property, including, but not limited to, City-owned park(s) and recreational area(s).

"Smoke or smoking" is as defined in Section 6.20 of the Olathe Municipal Code.

"Water body or bodies" means any lake, pond stream, creek, drainage way, waterway, wetland, or other area where water naturally flows and/or drains, including, but not limited to, water bodies within City-owned park(s) and recreational area(s).

"Weapon" is as defined in Chapter 9.12.010 of the Olathe Municipal Code. (Ord. 14-43 § 1, 2014; Ord. 13-24 § 2, 2013.)

12.21.020 City Laws Extended to Public Lands. The laws of the City shall extend to and be applicable in all Public Lands. (Ord. 13-24 § 2, 2013.)

12.21.030 Police Jurisdiction over Public Lands. The Chief of Police and law enforcement officers of the City shall have full power to enforce City laws governing all Public Lands and shall maintain order therein and thereon. (Ord. 13-24 § 2, 2013.)

12.21.040 Rules and Regulations. The Director is authorized to establish rules and regulations pertaining to the use of park(s) and recreational area(s) and activities therein and thereon. Such rules and regulations may be amended by the Director from time to time. A copy of such rules and regulations shall be available at the office of the Director during regular hours of operation. It shall be unlawful to violate such rules and regulations. (Ord. 13-24 § 2, 2013.)

12.21.050 Preservation of Natural State. It shall be unlawful for any person, except duly authorized City employees or agents acting in the course of their employment, to take, injure, or disturb any live or dead tree, plant, shrub, or flower, or to install any encroachment structure, place any manmade or natural materials on or in Public Lands, or otherwise interfere with the natural state of Public Lands. Violation of this section is a Class B Public Offense. (Ord. 13-24 § 2, 2013.)

12.21.060 Damaging Public Lands. It shall be unlawful for any person, except duly authorized City employees or agents acting in the course of their employment, to willfully or wantonly remove, injure, tarnish, deface or destroy any building, walk, bench, tree or improvement or property of any kind belonging to any Public Lands. Damaging Public Lands is a Class B Public Offense. (Ord. 13-24 § 2, 2013.)

12.21.070 Motor Vehicle Regulations.

A. Regulations:

1. Motor vehicles shall not be operated in City parks and recreational areas except in areas designated by the Director for such use and only when operated in a safe and prudent manner.

2. Except as provided in subsection 4, it shall be unlawful for any person to park any motor vehicle in any area within City parks or recreational areas not designated by signage for such purpose.

3. Except as provided in subsection 4, it shall be unlawful for any person to operate any motor vehicle within any City park(s) or recreational area(s) except upon roads, drives and parking areas established by the City.

4. Subsections 2 and 3 above shall not apply to authorized federal, state or City employees while engaged in law enforcement activities or in the maintenance and care of the parks and recreational areas.

5. It shall be unlawful to operate any motor vehicle in any City park(s) or recreational area(s) at a speed in excess of twenty (20) miles per hour.

6. It shall be unlawful to fail to obey any traffic sign indicating speed, direction, caution, stopping, or parking, and all other signs posted for proper traffic control and to safeguard life and property within Public Lands.

B. The provisions of the Olathe Traffic Ordinance, as set out in Chapter 10.01 of the Olathe Municipal Code, and amendments thereto, shall be applicable where possible in all City parks and recreational areas.

C. The penalties imposed by the Olathe Traffic Ordinance shall apply to any person convicted of violating any of the provisions of Chapter 10.01.

D. The penalties imposed by 12.21.270 of this Chapter shall apply to any person convicted of violating a provision other than the provisions of Chapter 10.01. (Ord. 13-24 § 2, 2013.)

12.21.080 Swimming, Bathing and Wading in City Water Bodies – Prohibited. It is unlawful for any person to swim, bathe or wade in any City water body or bodies, except as provided in subsections A, B and C below:

A. Persons may enter water bodies where designated by official City signage as an approved swimming or wading area.

B. Persons who are equipped with wading gear designed for fishing activities, to include fishing float tubes, may enter water bodies.

C. Persons may enter water bodies by obtaining a special use permit from the Director or the Director's designated representative and then only in conformity with the provisions of the permit. (Ord. 13-24 § 2, 2013.)

12.21.090 Boating – State License Required. It shall be unlawful to operate any boat on any City water body or bodies without having first obtained a required State of Kansas boating license. Operation of a boat shall be allowed between the posted City park opening time and one hour prior to the posted City park closing time. (Ord. 13-24 § 2, 2013.)

12.21.100 Boating – No Wake. It shall be unlawful to operate any boat on any City water body or bodies at a speed which creates a wake or in excess of five (5) miles per hour unless by wind speed alone except for federal, state or City entities in the performance of their official duties. (Ord. 13-24 § 2, 2013.)

12.21.110 Personal Watercraft Prohibited. It shall be unlawful to operate any personal watercraft on any City water body or bodies except for official City, state or federal business. (Ord. 13-24 § 2, 2013.)

12.21.120 Boating – Requiring Certain Persons to Wear Lifesaving Devices. The operator of every boat shall require every person twelve (12) years of age or under to wear an United States Coast Guard approved Type I, Type II or Type III personal floatation device while aboard such boat. A life belt or ring shall not satisfy the requirement of this section. (Ord. 13-24 § 2, 2013.)

12.21.130 Towing – Prohibited.

A. Except as provided in subsection C, it shall be unlawful for the operator of a boat to tow another boat or a person outside the confines of the boat whether by the use of water skis, wakeboard, inner tube, rope or by any other means.

B. Except as provided in subsection C, it shall be unlawful for any person to be towed by a boat while using water skis, wake board, inner tube, or otherwise outside the confines of the boat.

C. Subsections A and B above shall not apply to authorized federal, state or City employees while engaged in the performance of their official duties. (Ord. 13-24 § 2, 2013.)

12.21.140 Temporary Suspension of Boating. Whenever the Director determines that water levels at any City water body or bodies are so low that boating has become unsafe, the Director shall issue an order to stop boating activity. Such order may include motorized boating, non-motorized boating, or both. Such order shall be posted at conspicuous locations at the City water body or bodies at the discretion of the Director. (Ord. 13-24 § 2, 2013.)

12.21.150 Weapons – Prohibited. Repealed 6/17/14. (Ord. 14-43 § 2, 2014; Ord. 13-24 § 2, 2013.)

12.21.160 Hunting – Prohibited. It shall be unlawful for any person to pursue, catch, trap, maim, kill, shoot or take any wildlife, either bird or animal, in any manner at any time while in or on any Public Lands except at the express written direction of the Director, or by a City employee or employees acting at the discretion of the Director or in the performance of their official duties. (Ord. 13-24 § 2, 2013.)

12.21.170 Fishing License; Regulations. Any person fishing in any water body shall not use bank trot or set lines, shall comply with all applicable state fishing laws, including, but not limited to, fishing license regulations pursuant to K.S.A. 32-906, et seq. and as amended; and comply with all state laws regarding fishing regulations and catch and release limits pursuant to K.S.A. 32-1001, et seq. and as amended unless otherwise posted by the Parks and Recreation Department. (Ord. 13-24 § 2, 2013.)

12.21.180 Ice Skating and Other Activities. It shall be unlawful for any person, except duly authorized City employees, to ice skate, ice fish, sled, drive or walk on or in the ice of any City water body. (Ord. 13-24 § 2, 2013.)

12.21.190 Metal Detectors, Mining and Prospecting – Prohibited. It shall be unlawful for any person, except duly authorized City employees to operate a metal detector, or mine or prospect for any mineral or other object, in any Public Lands without the written permission of the Director. (Ord. 13-24 § 2, 2013.)

12.21.200 Fires. It shall be unlawful for any person to build or kindle any fire in any Public Lands except in the fire pits, fire rings, ovens, stoves, or grills provided for that purpose by the City, and such fire must be extinguished by the person, persons or parties starting such fire, immediately after use thereof. (Ord. 13-24 § 2, 2013.)

12.21.210 Camping – Prohibited. Overnight camping is hereby prohibited in or on Public Lands except where posted or by written permission of the Director in designated areas approved by the Parks and Recreation Department. (Ord. 13-24 § 2, 2013.)

12.21.220 Sanitation. All waste material, paper, trash, rubbish, tin cans, bottles, containers, garbage and refuse of any kind whatsoever shall be deposited in disposal containers provided for such purposes. No such waste or contaminating material shall be discarded otherwise. No sticks, stones, trash or other objects shall be thrown or discarded in or on any Public Lands. (Ord. 13-24 § 2, 2013.)

12.21.230 Prohibition Against Alcoholic Beverages and Cereal Malt Beverages. It shall be unlawful for any person or persons to bring, use, consume or possess on the premises of any Public Lands any alcoholic liquor or cereal malt beverage, except as is provided for in Olathe Municipal Code Sections 9.06.021 and 9.06.022. (Ord. 15-67 § 1, 2015; Ord. 13-24 § 2, 2013.)

12.21.240 Sale of Food, Drink and Merchandise in Park(s) and Recreational Areas.

A. No person, firm, corporation, association or other group shall sell any food, food product or drinks of any kind in any City park(s) or recreational area(s).

B. EXCEPTIONS:

1. The Parks and Recreation Department of the City of Olathe may operate food and drink concessions in public park(s) and/or recreational area(s).
2. Any miniature golf course or batting cage concessionaire.
3. Any non-profit firm, corporation, association or civic group which has been granted a temporary concession license by the City Manager, or designee.

C. TEMPORARY CONCESSION LICENSE.

1. Temporary concession licenses may be granted by the City Manager, or his/her designated representative, for special events to any non-profit firm, corporation, association or civic group.
2. Each non-profit, firm, corporation, association, or civic group desiring to apply for a temporary concession license as a concessionaire to sell food, drink or merchandise in any park(s) or recreational area(s) shall file an application therefor with the City Manager, or his/her designated representative. The application shall contain the following information:

(a) The name and address of the applicant. If the applicant represents an organization, then the applicant must also include the name and address of the organization, the name and telephone number of the chief officer of the organization, and if the organization is for profit or not for profit.
(b) The location where the applicant proposes to sell food, drink and/or merchandise.
(c) The types of food, drink or merchandise proposed to be sold.
(d) The reason for the request.
(e) A description of any buildings or equipment owned by the City and desired to be used by the concessionaire.
(f) The equipment which the concessionaire plans to use, including not only food preparation and food serving equipment but also any cart or building proposed to be used in the preparation.
(g) The prices proposed to be charged for the various items of food, drink and/or merchandise.

3. Any non-profit firm, corporation, association or civic group receiving a temporary concession license under this section shall not change any part of the operation described in the application, including equipment, food or drink served, merchandise to be offered for sale, or prices, without applying to the City Manager or his/her designated representative for approval of the change and receiving approval of the change.

4. Each concessionaire shall pay a temporary concession license fee prior to issuance of the license. Such fee shall be adopted by the Governing Body of the City by resolution.

5. The licensee shall comply with all health rules, regulations and laws of the City, county and state concerning the sale and preparation of food and drink.

6. Each temporary license shall be for a specified period of time which shall not be extended and shall not be transferable.

7. The license may be denied or revoked by the City Manager, or his/her designated representative, for any of the following reasons:

(a) If a license was fraudulently obtained by giving false information on any substantial matter in the application;

(b) If the licensee has violated any of the provisions of this section or any other ordinance or any laws of the state relating to the sale of food, drink or merchandise; and/or

(c) For conducting business in an unlawful manner or in a manner constituting a breach of the peace or a menace to the health, safety and general welfare of the public.

8. Any licensee aggrieved by the revocation of his or her license by the City Manager, or his/her designated representative, may appeal to the Governing Body. (Ord. 13-24 § 2, 2013.)

12.21.250 Unlawful Use of Field or Shelter. It shall be unlawful for any person or group to occupy and fail to remove themselves from any field, shelter, or shelter house within or on Public Lands when requested to do so by a person or group with a reservation for that field, shelter or shelter house on that date and time, or when requested to do so by the Park Director, the Park Director's designee, or law enforcement officer of the City. (Ord. 13-24 § 2, 2013.)

12.21.260 Hours of Use – Exceptions. It is unlawful for any person to be in, upon or use any park(s) or recreational area(s) of the City between the hours of midnight and sunrise, or in violation of posted hours or when such park(s) or recreational area(s) is or are closed by order of the Director.

A. This section shall not apply to any City employee or contractor while performing work on behalf of the City.

B. This section shall not apply to any law enforcement officer or public safety personnel while in performance of official duties.

C. This section shall not apply to any park(s) or recreational area(s) where the Director determines that the proposed activity or use of the park(s) or recreational area(s) will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation and that park(s) or recreation area(s) is either so posted or the Director so issues a written exception and authorization for such use. (Ord. 13-24 § 2, 2013.)

12.21.270 Violations and Penalties. It shall be unlawful for any person, firm, corporation or other group to violate any provision of this Chapter.

A. Any person convicted of a violation of this Chapter, as amended, which violation constitutes a violation of the Olathe Traffic Ordinance, shall be penalized as set forth in the Olathe Traffic Ordinance, as amended.

B. Any person, firm, corporation or other group convicted of violating this Chapter, as amended, unless otherwise classified, shall be guilty of an Unclassified Public Offense and shall be punished jointly or severally by a fine not to exceed Five Hundred Dollars ($500) or by a definite period of confinement in jail which shall be fixed by the Court and shall not exceed one hundred eighty (180) days, or both, unless otherwise specifically provided in this Chapter.

C. Each day during or upon which a violation occurs or continues shall constitute a separate offense and shall be punishable as such hereunder. (Ord. 13-24 § 2, 2013.)

12.21.280 Severability. The provisions of this ordinance are severable. If any part of parts of this Chapter shall be held to be invalid, the remaining provisions and the application of those provisions shall not be affected by such invalidity. (Ord. 13-24 § 2, 2013.)

Previously this chapter was titled Parks and Recreational areas and codified with the following ordinances. (Ordinances 08-69; 98-25; 95-22; 92-28; 91-78; 89-129; 89-128; 89-22; 87-40; 85-65; 83-89; 83-35; 83-14; 82-54; 81-87; 80-112; 80-73; 764, 609 and 410.)

CHAPTER 12.22

SWIMMING POOL REGULATIONS

Sections:

12.22.010 Rules and Regulations.
12.22.020 Pool Managers-- Powers and Duties.
12.22.030 Bathing Suits Required.
12.22.040 Diseased Persons Prohibited.
12.22.050 Refusal of Admission.
12.22.060 Throwing Articles Prohibited.
12.22.070 Animals Prohibited.
12.22.080 Children Required to be Accompanied by Adult.
12.22.090 Hours.
12.22.100 Identification Card Required for Admission.
12.22.110 Identification Card Non-transferrable
12.22.115 False Statements on Applications.
12.22.120 Fees
12.22.130 Rules Posted
12.22.140 Violations--Penalty

12.22.010 Rules and Regulations. The municipal swimming pools of the city shall be open to the public at all appropriate times, subject to such rules and regulations herein contained and as the Governing Body of the city may from time to time adopt or authorize and as provided by the rules and regulations of the Kansas State Board of Health. (Ord. 89-22 § 1, 1989.)

12.22.020 Pool Manager--Power and Duties. The city manager shall appoint pool managers and other employees of the swimming pools. The pool managers shall have general supervision over the swimming pool and over all people attending the same. It shall be their duty to preserve order, to enforce all provisions of this chapter and the rules and regulations of the city and the Kansas State Board of Health, and the pool managers may exclude any person or persons from the pools and there grounds for the violation of these ordinances, such rules and regulations as may be made by the Governing Body of the city, or the Kansas State Board of Health. (Ord. 89-22 § 1, 1989.)

12.22.030 Bathing Suits Required. It is unlawful and a violation of this chapter for any person or persons at any time to enter the waters of any municipal swimming pool, at any time, in any clothing or apparel other than a bathing suit, or a bathing apparel, except if the person is taking a supervised course in lifesaving. (Ord. 89-22 § 1, 1989.)

12.22.040 Diseased Persons Prohibited. It is unlawful and a violation of this chapter for any person or persons at any time to enter the waters of any municipal pool who are afflicted with any venereal, infectious or contagious disease. The pool manager is authorized, directed and empowered within his discretion to require from any person requesting permission to enter the swimming pool, a certificate of health from a licensed doctor of medicine, dated within three days of the date admission is sought, stating that the person applying for admission to the pool is free from any infectious or contagious disease, which might endanger the health of other occupants of the pool. (Ord. 89-22 § 1, 1989.)

12.22.050 Refusal of Admission. The pool managers are authorized, directed and empowered to refuse admission to any person applying for admission to any pool who is known to be intoxicated or under the influence of drugs or opiates, or any person having infectious or contagious skin disease, open sores or cuts. (Ord. 89-22 § 1, 1989.)

12.22.060 Throwing Articles Prohibited. It is unlawful for any person or persons to throw or place in the swimming area, in the water of any municipal pool, any stones, debris, refuse or discarded substances or articles of any kind. It is further unlawful for any person in any manner willfully to pollute the waters of any municipal pool. (Ord. 89-22 § 1, 1989.)

12.22.070 Animals Prohibited. It is unlawful and a violation of this chapter for any person to place any dog or any animal of any kind in the water of any municipal; swimming pool or to cause any dog or any animal of any kind to enter or be therein. (Ord. 89-22 § 1, 1989.)

12.22.080 Children Required to be Accompanied by Adult. All children under the age of seven (7) years shall be accompanied by a parent or guardian or by some adult who shall be responsible for their safety and conduct while in the main pools. (Ord. 89-22 § 1, 1989.)

12.22.090 Hours. The hours during which the municipal swimming pools shall be open for use shall be determined by the city manager. The pool managers shall have the authority to close the pool during inclement weather or periods of limited demand or in case of emergency, and it is unlawful for any person or persons to enter the water of the pools except when the pool managers or lifeguards are in charge of the same and on duty. (Ord. 89-22 § 1, 1989.)

12.22.100 Identification Card Required for Admission. No person or persons with a season ticket shall be admitted to the municipal swimming pool areas who shall not possess a properly issued identification card. The identification card shall contain proper wording or initials as approved by the director of Community Services. Abuse or misuse of the card shall result in the forfeiture of the card. (Ord. 97-43 § 1, 1997; Ord. 89-22 § 1, 1989.)

12.22.110 Identification Card Nontransferable. It shall be unlawful for any person to whom an identification card is issued for admittance to the municipal swimming pool to transfer, sell or otherwise convey the same to any other person. (Ord. 97-43 § 2, 1997; Ord. 89-22 § 1, 1989.)

12.22.115 False Statements on Applications. It shall be unlawful and a violation of this chapter for any person to make any false statements or to willfully misrepresent or misstate any facts or to cause any misrepresentations or misstatement of any facts in the application for any municipal swimming pool identification card, permit or ticket with intent to defraud or induce official action. (Ord. 97-43 § 3, 1997; Ord. 93-19 § 1, 1993.)

12.22.120 Fees. The charges for public use of the swimming pools shall be adopted by the Governing Body of the City by resolution. (Ord. 02-140 § 1, 2002; Ord. 02-21 § 1, 2002; Ord. 01-17 § 1, 2001; Ord. 97-43 § 4, 1997; Ord. 95-21 § 1, 1995; Ord. 94-11 § 1, 1994; Ord. 93-10 § 1, 1993; Ord. 91-65 § 1, 1991; Ord. 91-07 § 1, 1991; Ord. 89-130 § 1, 1989; Ord. 89-22 § 1, 1989.)

12.22.130 Rules Posted. The Governing Body shall make, and the pool managers are authorized to enforce, such additional rules and regulations as may be necessary for the management and operation of the swimming pools. Copies of all rules shall be posted in conspicuous places about the swimming pools as may be determined by the pool managers. (Ord. 89-22 § 1, 1989.)

12.22.140 Violation--Penalty. Any person or persons violating any of the provisions of this chapter declared to be unlawful shall, upon conviction thereof, be find in any sum not exceeding One Hundred Dollars ($100.00), or confined in the county jail for a period not exceeding ninety (90) days, or by both such fine and imprisonment, provided, that nothing herein shall be construed to deny the authority of the pool managers to exclude persons therefrom who shall not conduct themselves in accordance with the rules for the government of the swimming pools. (Ord. 89-22 § 1, 1989.)

CHAPTER 12.24

CITY CEMETERY

Sections:

12.24.010 Authority in the Parks and Recreation Department.
12.24.020 Rules and Regulations.
12.24.030 Establishment of Potter's Field.
12.24.040 Infant Memorial Plot.
12.24.050 Lots--Purchase Prices.
12.24.060 Opening Graves--Charges.
12.24.070 Trees and Shrubs.
12.24.080 Dogs in Cemetery.
12.24.090 Advertisements.
12.24.100 Vehicles.
12.24.110 Penalty.

12.24.010 Authority in the Parks and Recreation Department. The Department of Parks and Recreation shall manage, operate and maintain the city cemetery subject to any limitations and restrictions set forth herein or contained in any applicable law. (Ord. 83-10 § 2 (part), 1983.)

12.24.020 Rules and Regulations. The Department of Parks and Recreation shall establish rules and regulations for the use of the city cemetery relating to:

(a) Subdividing of cemetery lots;
(b) Capacity of each lot;
(c) Interment methods and procedures;
(d) Hours of operation;
(e) Location of graves;
(f) Type of planting, monuments and markers that will be permitted for the proper and most attractive development of the Cemetery;
(g) Purchasing of lots;
(h) Collection of fees and charges;
(i) Records of ownership.

(Ord. 83-10 § 2 (part), 1983.)

12.24.030 Establishment of Potter's Field. All that part of the cemetery known and designated as Blocks 1, 2, 3, 4, 19, 20, 21, 22, 23, 24, 25, 26, 41, 42, 43, 44, 45, 46, 47, 48, 63, 64, 65 and 66 shall be set apart as a Potter's Field. (Ord. 83-10 § 2 (part), 1983.)

12.24.040 Infant Memorial Plot.

(a) Lots 1 to 12, inclusive, Block 2, Second Addition, and Lot 26, Block 2, Second Addition, are hereby set aside exclusively for burial sites for infants. The lots shall be replatted into two hundred thirty four grave sites, each three feet by five feet, and shall be known as the "infant memorial plot.

(b) No monument or stone erected on any grave site in the plot shall be over twenty-four inches in length and twelve inches in width and shall be set flat with the ground. No flowers, shrubs or trees shall be planted thereon. All temporary markers shall be removed within six months from the date the funeral marker is placed thereon. (Ord. 13-42 § 1, 2013; Ord. 00-123 § 1, 2000; Ord. 83-10 § 2 (part), 1983.)

12.24.050 Lots--Purchase Prices. The purchase price for all memorial plots, including the cremation garden, shall be adopted by the Governing Body of the City by resolution. Such purchase price shall include perpetual improving, maintaining and caring for lots, graves, monuments, vaults and cemetery grounds. (Ord. 13-42 § 2, 2013; Ord. 02-141 § 1, 2002; Ord. 00-123 § 2, 2000; Ord. 91-64 § 1, 1991; Ord. 83-10 § 2 (part), 1983.)

12.24.060 Opening Graves--Charges.

(a) Before any person shall have the right of interment in any lot in the cemetery, including cremation lots, there shall be paid to the city for opening and filling each grave a fee. Such fee shall be adopted by the Governing Body of the City by resolution.

(b) No additional charge shall be made for oversized vaults or section boxes.

(c) No grave or burial shall be permitted within the Olathe City Cemetery until clearance has been first obtained from the city. (Ord. 13-42 § 3, 2013; Ord. 02-141 § 2, 2002; Ord. 00-123 § 3, 2000; Ord. 96-08 § 1, 1996; Ord. 91-64 § 2, 1991; Ord. 89-32 § 1, 1989; Ord. 87-41 § 1, 1987; Ord. 83-36 § 1, 1983; Ord. 83-10 § 2 (part), 1983.)

12.24.070 Trees and Shrubs. It is unlawful for any person to plant in or remove from any lot or portion of a lot any tree or shrub without the prior consent of the city. The city reserves the right to trim or remove any trees, shrubs or plants growing on any lot. (Ord. 83-10 § 2 (part), 1983.)

12.24.080 Dogs in Cemetery. It is unlawful for any person to permit a dog to run loose in the cemetery. All persons entering the cemetery with a dog must keep the dog on a leash or confined within an automobile. (Ord. 83-10 § 2 (part), 1983.)

12.24.090 Advertisements. It is unlawful for any person to post or place any advertisement within the cemetery at any time. (Ord. 83-10 § 2 (part), 1983.)

12.24.100 Vehicles. It is unlawful for any person to drive any vehicle upon cemetery grounds except upon the drives provided for that purpose. (Ord. 83-10 § 2 (part), 1983.)

12.24.110 Penalty. Any person convicted of violating any of the provisions of this chapter shall be deemed guilty of a public offense and subject to the general penalty provisions of Section 1.16. 010. (Ord. 83-10 § 2 (part), 1983.)

CHAPTER 12.26

COMMUNITY CENTER

Sections:

12.26.010 Rules and Regulations
12.26.020 Fees

12.26.010 Rules and Regulations. The Parks and Recreation Director "Director" is authorized to establish rules and regulations pertaining to the use of the Community Center and activities therein and thereon. Such rules and regulations may be amended by the Director from time to time. A copy of such rules and regulations shall be available at the office of the Director and Community Center Manager during regular hours of operation. Copies of rules may be posted in conspicuous places around the facility. It shall be unlawful to violate such rules and regulations and any person convicted of violating such shall be deemed guilty of a public offense and subject to the general penalty provisions of Section 1.16.010. (Ord. 13-58 § 1, 2013)

12.26.020 Fees. The charges for the Community Center, including but not limited to membership fees, rental fees and child care, shall be adopted by the Governing Body of the City by resolution. (Ord. 13-58 § 1, 2013)

TITLE 13

WATER AND SEWER

CHAPTERS:

13.04 Water Service Regulations
13.05 Water and Sanitary Sewer Service Line Connection Regulations
13.06 Gravity Flow Sewer Service Lines
13.08 Sewers
13.12 Water Service Rates
13.17 Water Main Extensions (Repealed 12/4/07)
13.20 Sanitary Sewer Hook-up Fees
13.24 Water and Sewage Department
13.26 Systems Development Charge
13.28 Stormwater Infiltration and Inflow Control
13.30 Upper Cedar Creek Sanitary Sewer Buy-In Connection Fee
13.31 Cedar Creek Interceptor Collection System Development and Buy-In Connection Fee. (Repealed 8-15-2006)
13.32 Water Wells
13.34 Water Conservation
13.36 Clare Road Waterline Buy-In Connection Fee

CHAPTER 13.04

WATER SERVICE REGULATIONS

Sections:

13.04.010 Intent and Purposes.
13.04.020 Definitions.
13.04.030 Water Use On Premises Only.
13.04.040 Utility Service Contract and Application.
13.04.050 Utility Service Deposit.
13.04.060 Receipt of Security Deposit.
13.04.080 Security Deposit Interest, Investment, and Refund.
13.04.100 Utility Bill and Service Charges.
13.04.103 Late Payment Penalty.
13.04.104 Disconnection for Failure to Pay.
13.04.105 Standards for Water Service Termination.
13.04.106 Water Service Termination Procedures.
13.04.107 Limitations on Termination.
13.04.108 Reinstatement of Water Service.
13.04.109 Customer Dispute and Hearing.
13.04.110 Hearing Examiner.
13.04.120 Deferred Payment Plan.
13.04.150 Regulation.
13.04.160 Computation of Time.
13.04.170 Separability.

13.04.010 Intent and Purpose. The Governing Body of the City of Olathe, Kansas, hereby finds and declares that the provisions of this ordinance are enacted for the following reasons:

(a) To ensure timely and complete payment of all city utility charges and all installments and surcharges arising from utility services supplied to customers;

(b) To regulate termination of water services to customers for nonpayment of unified billing charges and/or installment surcharges;

(c) To provide full and adequate notice to a customer of a termination of utility service to that customer and of the procedure to follow to avoid termination;

(d) To provide customer with a fair and reasonable opportunity, prior to termination, to dispute the correctness of utility charges and/or installments and surcharges;

(e) To standardize the contents of the city utility bill and other notices sent to customers;

(f) To regulate termination of utility services to customers for nonpayment of utility charges and/or installments and surcharges during inclement weather;

(g) To establish policies, procedures, and conditions governing utility service deposits. (Ord. 86-15 § 2, 1986.)

13.04.020 Definitions. As used in this ordinance. The following words and phrases shall be defined as follows for the purposes of this chapter and Chapter 13.08:

(1) "City" includes the department responsible for the administration of these requirements, the employees and/or its contractors or subcontractors;

(2) "City utility charges" shall mean charges related to the city's water, sewer, and sanitation service;

(3) "Unified billing charges" shall mean charges related to the city's water, sewer, and sanitation service;

(4) "Customer" shall mean a person, firm, or corporation connected to the city's water and/or sewer system; or a person, firm, or corporation that is accessible to the city's sewer system; or a person, firm, or corporation receiving city utility and/or sanitation services;

(5) "Timely" shall mean within the prescribed period of time as specified on the utility bill. (Ord. 86-15 § 2, 1986.)

13.04.030 Water Use On Premises Only. No water shall be resold, distributed or supplied by the recipient thereof from the city supply to any premises other than the premises for which an utility service application has been made and approved. (Ord. 86-15 § 2, 1986.)

13.04.040 Utility Service Contract and Application. The rates, rules and regulations established in this chapter shall be a part of the contract with every person, firm or corporation supplied with utility service by and through the city's utility system, either within or outside of the city. Such person, firm or corporation by applying for or accepting water service shall be held and considered as consenting to be bound thereby, and in case of violation of this chapter or regulations promulgated under the provisions of this chapter, the water may be shut off from the premises or place of violation and not turned on again until the violation has been rectified, or if applicable, when satisfactory arrangements have been made with the city.

(a) Any person, firm or corporation desiring connection to the municipal utility service shall complete and submit to the city an "Utility Service Application and Agreement." The application and agreement shall request the following information:

(1) The name and signature of the applicant;
(2) The address to be supplied utility service;
(3) The prior address of the prospective customer;
(4) The name of the prospective customer, if different than the applicant's; and
(5) The desired date for commencement of utility service.

(b) The application and agreement form shall also contain the following:

(1) Written acknowledgement by the prospective customer, that as the customer, he is responsible for the timely and complete payment of all utility charges and all installments and surcharges arising from utility service supplied to the premises identified in the application and agreement form.

(c) The utility shall inform the applicant if utility service shall be supplied to the residence. If utility service shall not be supplied, the utility shall prepare a notice stating the reasons why service shall not be supplied.

(d) Utility service shall not be supplied to any prospective customer if that person has any outstanding and unpaid utility charges and/or installments and surcharges arising from prior utility service to this prospective customer. (Ord. 86-15 § 2, 1986.)

13.04.050 Utility Service Application Fee and Deposit.

(a) An application for utility services shall include an application fee, the purpose of which is to off-set the administrative costs of conducting a credit history report. Such application fee shall be adopted by the Governing Body of the City by resolution.

(b) An application for utility service shall include a deposit, the purpose of which is to secure payment of city utility bills. Deposits required for the various types of customers shall be adopted by the Governing Body of the City by resolution.

Letters of favorable credit history will not be accepted in lieu of a security deposit. A deposit may be required from an existing customer, whose deposit had been waived or refunded in accordance with Section 13.04.080 of this ordinance, if the customer's service is scheduled for or is disconnected in any twelve (12) month period. (Ord. 08-85 § 1, 2008; Ord. 02-142 § 1, 2002; Ord. 86-15 § 2, 1986.)

13.04.060 Receipt of Security Deposit. Whenever a security deposit is accepted, the city will issue to the customer a non-assignable receipt containing the following minimum information:

(a) Name of customer;
(b) Date of deposit;
(c) Amount of deposit;
(d) Utility name and address, and signature of the utility employee receiving the deposit;
(e) Statement of the terms and conditions governing the use, retention and return of deposits.

(Ord. 86-15 § 2, 1986.)

13.04.080 Security Deposit Interest, Investment, and Refund.

(a) The city shall keep a separate account of each deposit received, and shall pay interest according to the rate and conditions specified in K.S.A. 12-822 and all amendments thereto.

(b) Investments of security deposits shall be made in accordance with K.S.A. 12-1675, and amendments thereto.

(c) Service deposits shall be non-transferable from one customer to another customer; however, upon termination of the customer's service at the service address, the city may transfer the deposit to the customer's new active account.

(d) Upon termination of service, the city will refund the deposit to the customer less any unpaid utility bills due the city.

(e) Any deposit may be refunded to a customer when, in the opinion of the Governing Body, the deposit is unnecessary in order to secure payment of the water bill. (Ord. 87-30 § 29, 1987; Ord. 86-15 § 2, 1986.)

13.04.100 Utility Bill and Service Charges. An utility bill shall be mailed at least once each month to every customer for city utility services supplied during the time period shown on the bill. The utility bill will include water service charges, sewer service charges, charges for the collection and disposal of solid waste, and any miscellaneous charges shall be billed as additional items on the utility bills, and such charges shall be properly designated by symbol, adopted by the city designating water service charges, sewer service charges, solid waste disposal charges, and miscellaneous charges. Such charges shall be collected by the city treasurer as a part of the total bill rendered.

The city treasurer shall collect the total charge as a combined bill and shall not accept part payment of any specific item of water, sewer, sanitation, or miscellaneous charges.

Each bill shall contain the following information:

(a) The time period and number of days of utility service covered the bill;

(b) The charge and/or installment and surcharge due;

(c) The date of the bill;

(d) The date when complete payment is due at the utility, which shall be at least 15 days from the statement date of the utility bill; except in the case of a final bill, which is due upon the city rendering the bill.

(e) Notice whether the utility bill is based on an actual or estimated measurement of the amount of utility service supplied;

(f) Notice that an utility charge shown on an utility bill which is based on an actual measurement, and which follows one or more bills based on estimated measurements, may be substantially higher than previous utility bills and higher than the utility bills based on estimated measurements.

(g) Notice that failure to timely and completely pay the amount(s) shown on the bill shall result in termination of service; and

(h) Notice that customers may call the City's Utility Customer Service Center, whose telephone number shall be listed on the utility bill in order to:

(1) Dispute the amount of the charges and/or the installment and surcharge;
(2) Request the proper procedure to follow in the establishment of a deferred payment plan;
(3) Request the proper procedure to follow so as to avoid the termination of service for nonpayment of the amount(s) on the bill;
(4) Request the restoration of service; and
(5) Request answers to any other questions regarding utility service. (Ord. 86-15 § 2, 1986.)

13.04.103 Late Payment Penalty.

(a) Utility service bills shall become due fifteen (15) days after being rendered. Any customer failing to pay his/her utilities service bill on or before the fifteenth day following the rendering of the bill shall be assessed a penalty of three percent of the total current bill.

(b) For all utility service bills mailed before November 1, 1995, such bills shall be come due fifteen (15) days after being rendered.

(c) Utility service bills shall become due twenty-one (21) days after being rendered. Any customer failing to pay his/her utilities service bill on or before the twenty-first day following the rendering of the bill shall be assessed a penalty of five percent of the total current bill less payments and credits.

(d) For all utility billings mailed after November 1, 1995, such bills shall become due twenty-one (21) days after being rendered. (Ord. 95-79 § 1, 1995; Ord. 86-15 § 2, 1986.)

13.04.104 Disconnection For Failure To Pay. In instances of nonpayment of the utilities service bill within forty (40) days after the rendering of the bill, water service shall be disconnected and will be turned on only upon payment of all outstanding utilities service bills of the City of Olathe, together with the penalty provided, and a service call charge for the purpose of disconnection and/or or reconnection. The service charge shall be adopted by the Governing Body of the City by resolution. (Ord. 02-142 § 2, 2002; Ord. 00-124 § 1, 2001; Ord. 88-93 § 1, 1988; Ord. 86-15 § 2, 1986.)

13.04.105 Standards For Water Service Termination.

(a) The city may discontinue or refuse water service for any of the following reasons:

(1) When the customer requests it;
(2) When an utility bill becomes delinquent and after proper notice;
(3) When the customer defaults on a deferred payment plan agreement;
(4) When a dangerous condition exists on the customer's premises;
(5) When the customer fails to provide the security deposit;
(6) When the customer misrepresents his or her identity for the purpose of obtaining utility service;
(7) When city personnel or their agents perform routine or needed water and sewer line maintenance, replacement, and inspections;
(8) When the customer refuses to grant city personnel or their agents access, during normal working hours, to install equipment upon the premises of the customer, for the purpose of inspection, meter reading, maintenance, or replacement;
(9) When the customer violates any provision of this chapter or any rule or regulation promulgated under this chapter, which violation adversely affects the safety of the customer or other persons, or the integrity of the city's water delivery or sewer system;
(10) When the customer causes or permits unauthorized interference, or diversion or use of, water service situated or delivered on or about the customer's premises;
(11) When the customer fails to pay for previous city utility service received at a separate location or residence;
(12) When a check or other negotiable instrument previously applied to a customers utility account is returned to the city unpaid; and

(b) The following shall not constitute sufficient cause for the city to discontinue service:

(1) the failure of the customer to pay a bill which has been validly and timely disputed; provided, however, that the customer pays that portion of the bill not in dispute. (Ord. 86-15 § 2, 1986.)

13.04.106 Water Service Termination Procedures.

(a) The provisions of this section shall govern all terminations of water service for nonpayment of charges and/or installments and surcharges.

(b) If the city has not received complete payment of the amount(s) shown on the bill within (33) days after rendering of the bill, the city shall mail by U.S. Mail, first class, to the customer at the last known address of the customer as shown on the records of the city or by personal service upon the customer by an employee of the City Utility Department or by a city law enforcement officer, a service interruption notice.

(c) The service interruption notice shall contain the following:

(1) Name of the customer and address where the service is being provided;
(2) Account number;
(3) The amount to be paid; including delinquency charges and past due charges;
(4) The date of service interruption notice;
(5) The date of termination, which shall be at least seven (7) days from the date of the service interruption notice;
(6) Notice that unless the city receives complete payment of the amount shown prior to the date of termination, water service shall be terminated under Section 13.04.106(d);
(7) Notice that, a customer, prior to the date of termination, may notify the city that he disputes the correctness of all or part of the amount shown, if all or part of the amount shown was not the subject of a previous dispute;

(8) Notice that a customer may qualify for payment plan arrangements; and
(9) Notice of the City's Utility Customer Service Center telephone number.

(d) The city shall terminate water service to the customer if prior to the date of termination.

(1) The city has not received complete payment of the amount shown on the Service Interruption Notice; and
(2) The customer has not requested, and the city has not established for the customer, a deferred payment plan; or
(3) The customer has not notified the city that he disputes the correctness of all or part of the amount shown on the service interruption notice, or the utility bill.

(e) If the city receives complete payment of the amount due shown on the service interruption notice prior to the date of termination, such payment shall be considered a timely and complete payment for purposes of this ordinance. (Ord. 86-15 § 2, 1986.)

13.04.107 Limitations on Termination.

(a) The utility shall terminate utility service for nonpayment of utility charges and/or installments and surcharges only during the hours of 9:00 A.M.- 5:00 P.M., Monday through Thursday. No terminations shall be permitted on a legal holiday or on the day before a legal holiday.

(b) No terminations shall be permitted on a day when the low temperature as reported by the National Weather Service at its First Order Station nearest the premises, is below twenty-five degrees (25·) Fahrenheit. (Ord. 86-15 § 2, 1986.)

13.04.108 Reinstatement of Water Service. In the event of termination of utility service in accordance with the provisions of this ordinance, the utility shall reinstate utility service to the residential customer within twelve (12) hours of the utility's receipt of complete payment and of all service interruptions related charges. Such payment shall not be considered a timely payment for purposes of this chapter. (Ord. 86-15 § 2, 1986.)

13.04.109 Customer Dispute and Hearing.

(a) At any time before the date of termination of utility service for nonpayment of the amount(s) shown on an utility bill, a notice of rejection or a notice of termination, a customer may dispute the correctness of all or part of the amount(s) shown in accordance with the provision of this chapter. A customer shall not be entitled to dispute the correctness of all or part of the amount(s) if all or part of the amount(s) was (were) the subject of a previous dispute under Section 13.04.109.

(b) The procedure for customer disputes shall be as follows:

(1) Before the date of termination, the customer shall notify the utility, orally or in writing, that he disputes all or part of the amount(s) shown on an utility bill, a notice of rejection or a notice of termination, stating as completely as possible the basis for the dispute.
(2) If the utility determines that the present dispute is untimely or that the customer previously disputed the correctness of all or part of the amounts(s) shown, the utility shall notify the customer that the present dispute is untimely or invalid. The utility shall then proceed as if the customer had not notified the utility of the present dispute.
(3) If the utility determines that the present dispute is not untimely or invalid under Section 13.04.109 the utility, within five (5) days after receipt of the customer's notice, shall arrange an informal meeting between the customer and an official of the utility.
(4) Based on the utility's records, the customer's allegations and all other relevant materials available to the official, the official shall resolve the dispute, attempting to do so in a manner satisfactory to both the utility and the customer.

(5) Within five (5) days of completion of the meeting, the official shall mail to the customer a copy of his decision resolving the dispute.

(6) If the decision is unsatisfactory to the customer, the customer, within five (5) days of his receipt of the official's decision, may request, in writing, a formal hearing before an utility hearing examiner.

(7) The formal hearing before the examiner shall be held within ten (10) days of the utility's receipt of the customer's written request.

(8) At the hearing the utility and the customer shall be entitled to present all evidence that is, in the hearing examiner's view, relevant and material to the dispute, and to examine and cross-examine witnesses. A tape-recorded (or at the option of the utility, a stenographic) record of the hearing shall be maintained.

(9) Based on the record established at the hearing, the examiner, within five (5) days of the completion of the hearing, shall issue his written decision formally resolved in the dispute. His decision shall be final and binding on the utility and the customer.

(c) Utilization of this dispute procedure shall not relieve a customer of his obligation to timely and completely pay all other undisputed utility charges and/or installments and surcharges, and the undisputed portion(s) of the amount(s) which is (are) the subject of the present dispute. Notwithstanding Section 13.04.109 (d), failure to timely and completely pay all such undisputed amounts shall subject the customer to termination of utility service in accordance with the provisions of this ordinance.

(d) Until the date of the hearing examiner's or the utility official's decision, whichever is later, the utility shall not terminate the utility service of this customer and shall not issue a notice of termination to him solely for nonpayment of the disputed amount(s). If it is determined that the customer must pay some or all of the disputed amount(s), the utility shall promptly mail to, or personally serve upon the customer a notice of termination, which shall contain the following:

(1) The amount to be paid;

(2) The date of the notice of termination;

(3) The date of termination, which shall be at least seven (7) days after the date of the notice of termination;

(4) Notice that unless the utility receives complete payment of the amount shown prior to the date of termination, utility service shall be terminated, under Section 13.04.106 (d);

(5) Notice that in lieu of paying the amount shown, an eligible customer, prior to the date of termination, may request the establishment of a deferred payment plan. (Ord. 86-15 § 2, 1986.)

13.04.110 Hearing Examiner. The city manager shall appoint a hearing examiner to carry out the responsibilities established under the provisions of this chapter. (Ord. 86-15 § 2, 1986.)

13.04.120 Deferred Payment Plan.

A. Any customer who is unable to timely and completely pay a utility charge, may request, orally or in writing, that the utility establish for her/him a deferred payment plan to enable her/him to pay the utility charge and to avoid termination of utility service.

B. The utility shall not establish a deferred payment plan based on a request by a customer that is not timely. A request is timely if it is received by the utility prior to the date of termination of utility service.

C. Upon receipt of an untimely request, the utility shall notify the customer of the untimeliness of the request. The utility shall then proceed as if the customer had not made the request.

D. Upon receipt of a customer's timely request for extension of time to pay (of less than fourteen (14) days) the utility shall discuss with the customer the exact payment requirements. Upon receipt of a customer's timely request for extension of time to pay (of more than fourteen (14) days) the utility shall require establishment of a written deferred payment plan, the utility shall discuss with the customer the exact payment requirements of the customer's deferred payment plan. Such deferred payment plan shall become effective only upon the utility's receipt of the customer's written acceptance of the payment requirements.

E. No written deferred payment plan shall be established that does not meet the following minimum payment requirements:

1. An initial payment of at least twenty-five percent (25%) of the utility charge that is the subject of the deferred payment plan, shall be payable at the time of the customer's written acceptance of the deferred payment plan; and
2. There shall be a maximum of three (3) monthly installment payments of at least twenty-five percent (25%) of the amount subject to the deferred payment plan, with the first such installment due thirty (30) days after payment of the initial payment.

F. When a payment by a customer is not sufficient to satisfy an installment payable under the customer's deferred payment plan and a currently payable utility charge, the payment shall first be applied to the installment and then to the currently payable utility charge.

G. In the event that the utility rejects a customer's request for the establishment of a deferred payment plan, for reasons other than the un-timeliness of the request, the utility shall mail to the customer a notice of rejection stating the following:

1. The reason(s) that the customer's request was rejected;
2. The date of the notice of rejection; and
3. The date that complete payment of the utility charge is due at the utility, which shall be the payment date shown on the utility bill or the date of termination shown on the notice of termination or at least five (5) days after the date of the notice of rejection, whichever is latest. (Ord. 10-49 § 1, 2010; Ord. 86-15 § 2, 1986.)

13.04.150 Regulation. The city manager or his designee is authorized to establish, after due notice and opportunity for interested parties to be heard, all written regulation necessary to implement the provisions of this ordinance. (Ord. 86-15 § 2, 1986.)

13.04.160 Computation of Time. In computing any period of time prescribed by this ordinance, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the next day which is not a Saturday, a Sunday or a legal holiday. When the period of time prescribed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. (Ord. 86-15 § 2, 1986.)

13.04.170 Separability. The provisions of this ordinance are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word, or part had not been included therein, and if such person or circumstance, to which the ordinance of part thereof is held inapplicable, had been specifically exempt therefrom. (Ord. 86-15 § 2, 1986.)

CHAPTER 13.05

WATER AND SANITARY SEWER SERVICE LINE CONNECTION REGULATIONS

Sections:

13.05.010 Definitions.
13.05.020 Water Use on Premises Only
13.05.030 Meter Test Fee
13.05.035 Hydrant Flow Test Fee
13.05.040 Theft of Water.
13.05.050 Utility and Meter Damage.
13.05.060 Meter - Required
13.05.070 Water Service Connection.
13.05.080 Sanitary Sewer Connection.
13.05.090 Maintenance Period

13.05.010 Definitions. The following words and phrases shall be defined as follows for the purposes of this chapter:

(1) 'City' includes the department responsible for the administration of these requirements, the employees and/or its contractors or subcontractors.

(2) 'City's Service Line' includes the water service line from the water main to and including the meter when the meter is set at the property line. When the meter is not set at the property line, a valve shall be placed at the property line and the city's Service Line shall include the water service line from the water main to and including the valve and the plumbing inside the meter vault, including the meter.

(3) 'Maintenance or replacement of water service connections' includes all necessary repairs or replacement of an existing water service connection as in the judgment of the city is necessary; however, the maintenance does not include the enlarging of any water service line without payment of the full charge for such larger size installation.

(4) 'Water Main' includes any public water main installed on public right-of-way or utility easement in accordance with city requirements and that has been accepted by the City as a public water main.

(5) 'Water Service connection' includes any connection of a private water line into the City's water system, including a fireline connection.

(6) 'Sanitary Sewer Service Line' includes the sewer service line from the building to and including the connection to the "Public Sanitary Sewer Main". The Sanitary Sewer Service Line shall be maintained by the owner of the property that it serves. Sanitary sewer service lines and connections to the Public Sanitary Sewer Main shall be constructed in accordance with the Plumbing Code and the city of Olathe Technical Specifications.

(7) 'Public Sanitary Sewer Main' includes sewers installed in accordance with the city of Olathe Technical Specifications for Sanitary Sewer Mains and dedicated to the city of Olathe. (Ord. 08-86 § 1, 2008; Ord. 06-89 § 1, 2006; Ord. 95-18 § 1, 1995.)

13.05.020 Water Use On Premises Only. No consumer shall supply water to other families, nor suffer them to take water off their premises; or after water is introduced into any building or upon any premises, shall any person make or employ any plumber or other person , to make any tap or connection with the pipes upon the premises, for alteration, extensions, or attachments, without permission of the city manager. (Ord. 95-18 § 1, 1995.)

13.05.030 Meter Test Fee. A customer may request a meter test be performed to determine the accuracy of their meter. A fee shall be charged to a customer who requests the testing of a meter and the test results indicate that the meter registers within the standards established by the American Water Works Association. Such fee shall be adopted by the Governing Body of the City by resolution. A meter test fee shall not be assessed if the test results indicate that the meter registers outside of the standards established by the American Water Works Association. The city shall inform the customer of the meter test results and the AWWA standards. (Ord. 02-143 § 1, 2002; Ord. 95-18 § 1, 1995.)

13.05.035 Hydrant Flow Test Fee. A hydrant flow test for commercial or industrial customers shall be performed upon payment of a testing fee. Such testing fee shall be adopted by the Governing Body of the City by resolution. The city shall inform the customer of the flow test results. (Ord. 02-143 § 2, 2002; Ord. 95-18 § 1, 1995.)

13.05.040 Theft of Water. It is unlawful for any person, persons or corporations to use, take or steal any water from the city, not metered or paid for, or to allow or permit any person, persons or corporations to use, take or steal water from their connections or fixtures in violation of any rules or regulations prescribed for the regulation and government of such works or plant, except water for extinguishing a fire. (Ord. 95-18 § 1, 1995.)

13.05.050 Utility and Meter Damage.

(A) It is unlawful for any person to destroy or damage any water pipe, hydrant or fountain in the city, or any of the appurtenances of any city utility system, or to open any hydrant, service pipe, stop cock or valve belonging to or connected with the city waterworks system, except where prior approval is obtained from authorized city personnel when necessary to permit modification or improvement of such utility system.

(B) It is unlawful for any person to damage, molest or in any way interfere with any water meter, meter box or meter box cover or to deposit dirt, stone or rubbish of any kind in any meter box or service box. (Ord. 95-18 § 1, 1995.)

13.05.060 Meter - Required. All water sold by the city shall be measured by meter. All meters shall be installed as provided in Section 13.05.070. Meters are not required for fire sprinkling systems. (Ord. 95-18 § 1, 1995.)

13.05.070 Water Service Connection.

(A) All new water service installations shall be made by a licensed plumber. A 'water service connection permit' must be acquired prior to installation. The water service connection permit shall not be issued prior to the issuance of a project completion certificate for the project providing service.

(B) The fee for the 'water service connection permit' shall be paid for by the applicant requesting the water service installation.

(C) Such water installation permit fee shall be adopted by the Governing Body of the City by resolution.

(D) The City's service line and installation of the entire service shall be in accordance with the water service connection instructions of the City.

(E) When the meter is set at the property line, the water service line from the main to and including the meter shall remain the property of, and shall be maintained by the City. The service line from the meter to the building shall be maintained by the property owner.

(F) When the meter is not set at the property line, the water service line from the main to and including the valve set at the property line and the water meter and setting shall remain the property of, and shall be maintained by the City. The service line from the valve set at the property line to the meter and from the building shall be maintained by the property owner.

(G) Domestic service connections shall connect onto a public water main and shall not be connected onto a fire sprinkler system or private fireline.

(H) Backflow preventers shall be provided as specified in Section 15.17.116 of the Olathe Municipal Code. (Ord. 06-89 § 2, 2006; Ord. 02-143 § 3, 2002; Ord. 95-18 § 1, 1995.)

13.05.080 Sanitary Sewer Connections.

(A) A permit shall be required for all new connections to the city of Olathe sanitary sewer system. All connections shall be made by a licensed plumber in accordance with city of Olathe Sewer Connection Specifications, Sewer Connection Inspection and the Plumbing Code. The sewer connection permit shall not be issued prior to the issuance of a project completion certificate for the project providing service.

(B) A permit fee for sanitary sewer connection shall be charged. Such permit fee shall be adopted by the Governing Body of the City by resolution.

(C) The city may require testing of the service line to insure compliance with the current plumbing code. The plumber shall supply the pipe, fittings, and water to perform this test.

(D) Failure to comply with the specifications will result in withholding the Occupancy Permit. (Ord. 06-89 § 3, 2006; Ord. 02-143 § 4, 2002; Ord. 95-18 § 1, 1995.)

13.05.090 Maintenance Period.

(A) The builder or applicant shown on the water and/or sewer connection permits shall be responsible for one (1) year for ground settlement and damage to the meter pit and/or meter due to grading or other construction activities. The one year period begins on the date of meter installation. The builder or applicant shall promptly perform, at their expense, any required maintenance to ensure compliance with city codes, policies, and regulations. (Ord. 95-18 § 1, 1995.)

CHAPTER 13.06

GRAVITY FLOW SEWER SERVICE LINES

Sections:

13.06.010 Environmental Protection Agency Requirements Acknowledged.
13.06.020 Definitions.
13.06.030 Construction--Requirements.
13.06.040 Construction--Prohibited When.
13.06.050 Administration--City Engineer Author-ity.

13.06.010 Environmental Protection Agency Requirements Acknowledged. The Governing Body of the City of Olathe, Kansas, acknowledges the requirements of the Environmental Protection Agency to control gravity flow sanitary sewer service lines within the Main No. 10 sewer district, below elevation nine hundred eighty-five feet. (Ord. 336 § 1, 1975.)

13.06.020 Definitions. As used in this chapter, the words and phrases herein defined shall have the following meanings:

(a) "Building" means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind;

(b) "Public sewer" means a common sewer directly controlled by the City of Olathe. (Ord. 336 § 3, 1975.)

13.06.030 Construction--Requirements. The city shall require that private sewers constructed for residential, commercial and industrial buildings in the Main No. 10 sewer district, the district determined under Resolution No. 1307, shall be constructed to provide for safe, continuous disposal of sewage in accordance with all applicable federal, state, and local regulations. (Ord. 336 § 2, 1975.)

13.06.040 Construction--Prohibited When. To insure the adequate, safe and sanitary disposal of waste water from buildings in Main No. 10 sewer district, no building shall be constructed which would have a sanitary sewer line entering said building at or below United States Geological Survey 985 elevation. (Ord. 336 § 4, 1975.)

13.06.050 Administration--City Engineer Authority. All requirements specified in Section 13.06.040 of this chapter shall be administered in accordance with rules, regulations and interpretations adopted by the city engineer. (Ord. 336 § 6, 1975.)

CHAPTER 13.08

SEWERS

Sections:

13.08.010 Definitions.
13.08.011 Wastewater Rates.
13.08.020 Service Charges.
13.08.030 Monthly Wastewater Charge--Determination of Flow.
13.08.040 Industry Standard Sewer Discharge Volume Credits.
13.08.050 Appeal of Assigned Use Category Strength or Volume Credit.

13.08.010 Definitions. As used in this chapter.

(1) "City" includes the department responsible for the administration of these requirements, the employees and/or its contractors or subcontractors;

(2) "Customer" shall mean a person, firm, or corporation connected to the city's water and/or sewer system; or a person, firm, or corporation that is accessible to the city's sewer system; or a person, firm, or corporation receiving city utility and/or sanitation services;

(3) "Timely" shall mean within the prescribed period of time as specified;

(4) "Normal strength sewage" shall mean sewage with an average BOD5 between 100 mg/l and 264 mg/l and an average TSS between 100 mg/l and 300 mg/l;

(5) "High strength sewage" shall mean sewage with an average BOD5 greater than 264 mg/l or TSS greater than 300 mg/l;

(6) "Low strength sewage" shall mean sewage with an average BOD5 less than 100 mg/l;

(7) "Sewer usage" shall be defined as follows for the various classes of customers:

(a) Single Family Residential shall mean the 3 month winter average water usage or the actual usage if less than the winter average usage, or the Olathe system winter average usage if winter average is not available.

(b) Commercial, Industrial, and Multi-Family Residential shall mean the total monthly water consumption unless; 1) a wastewater meter is installed to measure and record the actual amount of water discharged to the sewer system, or 2) for certain business classifications or types, where less than or equal to 90% of the water used is discharged to the sanitary sewer system, an industry standard volume credit has been developed for these users;

(8) "Representative sample" shall mean a sample of the wastewater discharge from the facility that includes a representative portion of flow from the various processes;

(9) "Certified Laboratory" shall mean a testing laboratory certified by the Kansas Department of Health and Environment to test for the parameters required;

(10) "BOD5" shall mean the 5 day Biochemical Oxygen Demand of a specific sample as tested according to SM 5210;

(11) "TSS" shall mean the total suspended solids of a specific sample as tested according to SM 2540-D;

(12) "Residential User" shall mean as follows: (a) Single Family shall mean any residential unit where each dwelling unit is served by an individual meter. (b) Multi-Family shall mean any multiple dwelling units served by a single water meter;

(13) "Commercial User" shall mean any offices, warehouses, retail stores, beauty salons, restaurants, nursing homes, hotels, commercial laundry facilities and any non-residential customer not defined as an industrial user;

(14) "Industrial User" shall mean any customer with an average annual water usage of 50,000 cubic feet per month or that is required to obtain an industrial pretreatment permit by the administrative authority;

(15) "Restaurants" shall mean any sewer customer who prepares food for resale except 1) locations where lodging is provided, or 2) locations where the water used by the restaurant is less than 25% of the total water use for the meter;

(16) "Car Washes" shall mean any sewer customer where there is a commercial car wash available, including gas stations;

(17) "Laundries" shall mean any sewer customer that provides laundry facilities available for public use or that provides laundry services;

(18) "General" shall mean any commercial user not defined as a restaurant, car wash, or other high strength sewer discharge as defined. (Ord. 07-134 § 1, 2007; Ord. 94-82 § 1, 1994.)

13.08.011 Wastewater Rates.

(A) All persons, firms or corporations having a connection with the public sewerage system and all persons, firms and corporations having sewage that should be discharged into the public sewerage system where adequate sewers are available, shall pay monthly wastewater charges consisting of a wastewater usage charge, a wastewater service charge, and an extra strength surcharge.

(B) All wastewater billings shall include the following charges:

(1) Monthly Usage Charge. Such charge shall be adopted by the Governing Body of the City by resolution.

(2) Monthly Service Charge. Such service charge shall be adopted by the Governing Body of the City by resolution.

(3) Extra Strength Surcharge: Such extra strength surcharge shall be adopted by the Governing Body of the City by resolution. (Ord. 02-144 § 1, 2002; Ord. 01-107 § 1, 2001; Ord. 00-115 § 1, 2001; Ord. 99-97 § 1, 1999; Ord. 96-107 § 1, 1997; Ord. 95-101 § 1, 1995; Ord. 94-82 § 2, 1994; Ord 93-104 § 1, 1993; Ord. 92-66 § 1, 1992; Ord. 91-77 § 1, 1991; Ord. 91-21 § 1, 1991; Ord. 89-91 § 1, 1989; Ord. 85-151 § 1, 1986; Ord. 84-154 § 1, 1984; Ord. 83-112 § 1, 1983; Ord. 82-138 § 1, 1983; Ord. 517 § 2, 1976 {State Grant Repayment Charge 13.08.11 repealed 11/15/94}.)

13.08.020 Service Charges. The billing for the collection of sewage disposal charges, and the penalty charged for late payment thereof, shall be as set forth in Section 13.24.060 of this code. (Ord. 805 § 3, 1978; prior code § 11-123.)

13.08.030 Monthly Wastewater Charge--Determination of Flow.

(a) DETERMINATION OF FLOW. For the purpose of determining the wastewater monthly usage charge the following formula shall be used:

(1) RESIDENTIAL CUSTOMER. Residential customer charges for the months of January, February and March of each year shall be based upon the average water use of said customer for the months of January, February and March of the prior year. Residential customer charges for the months of April through December of each year shall be based upon the average actual water use of said customer for the months of January, February and March of the same year or as defined in Section 13.08.010 (7).

(2) NONRESIDENTIAL CUSTOMERS. Nonresidential customer charges for each month shall be based upon actual water usage for said month or as defined in Section 13.080.10 (7).

(b) ADJUSTMENTS: Wastewater usage charges may be adjusted to the same extent as a water bill adjustment due to water line breaks. Charges may also be considered due to nonsewered water uses upon receipt of fully supported application for said adjustments in accordance with section 13.08.040.

(c) The city manager or his duly authorized representative may promulgate regulations as are necessary to carry out the provision of this section. (Ord. 94-82 § 3, 1994; Ord. 517 § 4, 1976; prior code § 11 -124.)

13.08.040 Industry Standard Sewer Discharge Volume Credits.

(a) Certain users with less than or equal to 90% of their water discharged to the sanitary sewer system will be assigned an Industry Standard volume credit based on the following table. Other users, who discharge less than or equal to 90% of the water used, may obtain a volume credit by conducting an approved flow study to determine the percentage of water discharged to the sanitary sewer system.

USER	VOLUME CREDIT
Car Washes	20%
Laundries	10%

(Ord. 94-82 § 4, 1994.)

13.08.050 Appeal of assigned use category strength or volume credit.

(a) The USER may appeal the assigned user strength or volume credit by filing a written appeal, followed by the results of a representative sample, tested by a certified laboratory, and written description of the sampling procedure, or a copy of a flow study, conducted at the facility. The city will review the sampling, or flow study, to confirm the validity of the results submitted. If the testing verifies that the assigned user strength or volume credit is not representative of the wastewater strength or volume being discharged, then the city will revise the user strength or volume credit for that customer and will credit the bill(s) from the date of receiving the appeal. (Ord. 94-82 § 5, 1994.)

CHAPTER 13.12

WATER SERVICE RATES

Sections:

13.12.020 Contracts with Rural Districts.
13.12.025 Definitions.
13.12.030 Rates within the City.
13.12.040 Rates Outside City.
13.12.045 Water Rates--Wholesale Customers.
13.12.050 Tank Hauling Rates.
13.12.060 Other Charges not Prohibited.
13.12.070 Purchase of Water from Water Hydrants--Procedure.

13.12.020 Contracts with Rural Districts. The Governing Body of the city reserves the right to contract with rural water districts on a contractual basis. (Prior code § 11-202.)

13.12.025 Definitions. As used in this chapter.

(1) "City" includes the department responsible for the administration of these requirements, the employees and/or its contractors or subcontractors;

(2) "City utility charges" shall mean charges related to the city's water, sewer, and sanitation service;

(3) "Unified billing charges" shall mean charges related to the city's water, sewer, and sanitation service;

(4) "Customer" shall mean a person, firm, or corporation connected to the city's water and/or sewer system; or a person, firm, or corporation that is accessible to the city's sewer system; or a person, firm, or corporation receiving city utility and/or sanitation services;

(5) "Timely" shall mean within the prescribed period of time as specified on the utility bill;

(6) "Winter usage" shall be defined as follows for the various classes of customers:

(a) Single family residential shall mean the 3 month average consumption shown on the billings for the months of January, February, and March of each year or the Olathe system winter average usage if the winter average is not available.

(b) Commercial , Industrial, and Multi-family residential shall mean the 3 month average consumption shown on the billings for the months of January, February, and March of each year or the customer actual usage if the winter average if unavailable.

(7) "Residential" shall mean as follows: (a) Single Family shall mean any residential unit where each dwelling unit is served by an individual meter. (b) Multi-Family shall mean any multiple dwelling units served by a single water meter;

(8) "Commercial" shall mean any offices, warehouses, retail stores, beauty salons, restaurants, nursing homes, hotels, commercial laundry facilities and any non-residential customer not defined as an industrial customer;

(9) "Industrial" shall mean any customer with an average annual water usage of 50,000 cubic feet per month or that is required to obtain an industrial sewer pretreatment permit by the administrative authority. (Ord. 94-91 § 1, 1994)

13.12.030 Rates within the City. Consumers of city water delivered within the city shall be charged a monthly water charge consisting of a water usage charge and a water service charge for each meter by which they are served in accordance with the established rate schedule. Such rate schedule shall be adopted by the Governing Body of the City by resolution. (Ord. 02-145 § 1, 2002; Ord. 01-108 § 1, 2001; Ord. 00-114 § 1, 2001; Ord. 99-96 § 1, 1999; Ord. 96-106 § 1, 1996; Ord. 95-100 § 1, 1995; Ord. 94-81 § 1, 1994; Ord. 93-103 § 1, 1993; Ord. 92-65 § 1, 1992; Ord. 91-76 § 1, 1991; Ord. 91-20 § 1, 1991; Ord. 89-90 § 1, 1989; Ord. 85-152 § 1, 1986; Ord. 84-144 § 1, 1984; Ord. 83-111 § 1, 1983; Ord. 82-137 § 1, 1982.)

13.12.040 Rates Outside City.

(a) Retail consumers of city water delivered outside the city shall be charged 1.25 times an amount equal the monthly water charged as calculated pursuant to Section 13.12.030.

(b) This section shall not be construed to apply to rural water district contracts or to those users located within the Expansion Area as described in Exhibit B under an agreement dated March 21, 2000 with Water District No. 1 of Johnson County, Kansas. (Ord. 00-41 § 1, 2000; Ord. 83-111 § 2, 1983; Ord. 82-137 § 2, 1982.)

13.12.045 Water Rates - Wholesale Customers. There shall be established a monthly service charge for all wholesale customers of water that is delivered outside of the City. Such service charge shall be adopted by the Governing Body of the City by resolution. (Ord. 02-145 § 2, 2002; Ord. 01-108 § 2, 2001; Ord. 00-114 § 2, 2000; Ord. 99-96 § 2, 1999; Ord. 96-106 § 2, 1996; Ord. 95-100 § 2, 1995; Ord. 94-81 § 2, 1994; Ord. 93-103 § 2, 1993; Ord. 92-65 § 2, 1992; Ord. 91-76 § 2, 1991; Ord. 91-20 § 2. 1991; Ord. 89-90 § 2, 1989; Ord. 85-152 § 2, 1986; Ord. 84-144 § 2, 1984; Ord. 83-111 § 3, 1983; Ord. 82-137 § 3, 1983.)

13.12.050 Tank Hauling Rates. Rates are hereby established for all water hauled by tank. Such rates shall be adopted by the Governing Body of the City by resolution. All water hauled by tank shall be loaded at the City Water Works Plant. (Ord. 02-145 § 3, 2002; Ord. 01-108 § 3, 2001; Ord. 00-114 § 3, 2000; Ord. 99-96 § 3, 1999; Ord. 96-106 § 3, 1996; Ord. 94-81 § 3, 1994; Ord. 93-103 § 3, 1993; Ord. 92-65 § 3, 1992; Ord. 91-76 § 3, 1991; Ord 91-20 § 3, 1991; Ord. 89-90 § 3, 1989; Ord. 85-152 § 3, 1986; Ord. 84-144 § 3, 1984; Ord. 83-111 § 4, 1983; Ord. 80-58 § 4, 1980; prior code § 11-205.)

13.12.060 Other Charges Not Prohibited. Nothing herein shall be construed as prohibiting additional increases in rates, fees and charges in the event the same fails to produce sufficient revenues to meet the operational costs of the water department and to meet the principal and interest on the waterworks revenue bonds now outstanding. (Prior code § 11-206.)

13.12.070 Purchase of Water from Water Hydrants - Procedure.

A. Fire hydrants are intended to be used for providing water for firefighting purposes and flushing and maintenance of the water supply system. At times, a fire hydrant may be approved to be used for a temporary water supply for commercial and industrial construction, road construction, development construction, special events, and filling of tanks when a permanent water supply is not needed or available. Hydrant connections shall utilize a backflow preventer or be properly air gapped to ensure public health and safety. Hose connections or filling chemical tanks are prohibited at the tank hauling location and a proper air gap shall be maintained. Fire hydrants may only be used for the seasonal filling of swimming pools or as a temporary water supply for residential construction sites as set forth in this Section.

B. Application. Whenever any person desires to buy water from a City-owned fire hydrant, the applicant shall make application therefor to the City Manager or designated representative for the City of Olathe, Kansas. Such application shall be made upon forms provided by the City Manager or designated representative and shall contain an agreement by the applicant to abide by and accept all the provisions of this Section of the Olathe Municipal Code as conditions governing the purchase of water from City-owned fire hydrants and the use of City-owned fire hydrant and metering devices.

C. Rates. The rates for the purchase of water through City-owned fire hydrants shall be adopted by the Governing Body of the City by resolution.

D. Fire Hydrant Metering Devices. No person shall obtain water from a City-owned hydrant without first installing and using a City-owned metering device to measure the quantity of water used. Application for use of a City-owned metering device shall be made on the same form as the application to buy water from a City-owned hydrant. The City Manager or designated representative may refuse to issue a water metering device in the event that the proposed use of the device constitutes an unreasonable risk of danger to the City's water supply system or to the health and safety of the City's citizens.

E. Fire Hydrant Metering Device - Deposit - Forfeiture.

1. Meters may be issued for up to six months at a time when used for a temporary water supply for commercial and industrial construction, road construction, development construction, special events, or the filling of tanks when a permanent water supply is not needed or available.
2. Meters for residential use (filling of swimming pools, etc.) shall be issued for limited periods and shall be returned to the City of Olathe within forty-eight (48) hours of issuance. Meters for residential use may only be issued to City of Olathe water service customers.
3. A deposit shall be required for any person using a City-owned metering device. The deposit rates shall be adopted by the Governing Body of the City by resolution.
4. Such deposit shall be paid at the same time as the filing of the application to buy water from a fire hydrant.
5. The City shall keep a separate account of each deposit received, and shall pay interest according to the rate and conditions specified in K.S.A. 12-822 and all amendments thereto.

6. Any investments of security deposits shall be made in accordance with K.S.A. 12-1675, and amendments thereto.

7. Service deposits shall be non-transferable from one customer to another customer.

8. Upon termination of service the City will refund the deposit to the customer less any unpaid amounts due the City.

9. Any deposit may be refunded to a customer when, in the opinion of the Governing Body, the deposit is unnecessary in order to secure payment of the water bill.

10. Failure to return the meter at the end of the assigned issuance period (48 hours residential use or six months commercial/industrial use) shall result in the forfeiture of the deposit.

F. Late Payment Penalty. Hydrant meter bills shall become due as established in Section 13.04.103 of the Olathe Municipal Code. Any customer failing to pay his/her utility service bill shall be assessed a late payment penalty pursuant to the provisions of Section 13.04.103. Collection procedures and court action may be started on all bills remaining unpaid over ten (10) days after the due date.

G. Fire Hydrant Metering Device Estimation Fee (Commercial/Industrial Use Only).

1. Monthly readings will be called in by the 20th of each month to Customer Service.

2. Failure to call in the monthly reading by the 20th of the month will result in estimating the usage and assessing an estimation fee to the bill. The estimation fee shall be adopted by the Governing Body of the City by resolution.

H. Damages to Metering Device or Other Property and Failure to Return.

1. The applicant shall be responsible for the proper use of the metering device and shall be held liable for any damages thereto.

2. The applicant shall also be held responsible and liable for all damages to the persons and property resulting from his/her negligent or willful acts in purchasing water from and in using the City's fire hydrants.

3. Upon failure to return a meter, the City Attorney shall institute such proceedings, in the name of the City in any court having jurisdiction over such matters to recover the metering device. (Ord. 14-46 § 1, 2014; Ord. 11-23 § 1, 2011; Ord. 02-145 § 4, 2002; Ord. 01-108 § 4, 2001; Ord. 00-114 § 4, 2000; Ord. 99-96 § 4, 1999; Ord. 96-106 § 4, 1996; Ord. 95-100 § 3, 1995; Ord. 94-81 § 4, 1994; Ord. 93-103 § 4, 1993; Ord. 92-65 § 4, 1992; Ord. 91-76 § 4, 1991; Ord. 91-20 § 4, 1991; Ord. 89-90 § 4, 1989; Ord. 85-152 § 4, 1986; Ord. 84-144 § 4, 1984; Ord. 83-111 § 5, 1983; Ord. 898 § 2, 1979.)

CHAPTER 13.17. Water Main Extensions. Repealed 12/4/07. (Ord. 87-30, 1984; Ord. 804, 1978; Ord. 474, 1976.)

CHAPTER 13.20

SANITARY SEWER HOOK-UP FEES

Sections:

13.20.010 Determination.
13.20.020 Payments.
13.20.030 Actions Authorized.
13.20.040 Applicability.

13.20.010 Determination. When any property, whether within or without the city limits is located topographically so that it could be determined to fall within the boundaries of a named sanitary sewer district of the city, but is not included in said district, and subsequent to the establishment of the main sanitary sewer district, the owner of said property desires to use the main sanitary sewer facilities, the owner of the property seeking to use the facilities shall pay a fee to the city based upon the total cost per square foot of the original main sanitary sewer district. The fee shall be calculated by multiplying the square footage of the property seeking to use the sanitary sewer facilities by the total cost per square foot of the original main sanitary sewer district. (Ord. 108 § 1, 1972.)

13.20.020 Payments. The payments shall be made in one payment and shall be deposited in the bond and interest fund of the city. (Ord. 108 § 2, 1972.)

13.20.030 Actions Authorized. The payment of the fee shall entitle the owner of the property to connect to the existing main sanitary sewer facilities, but the cost of constructing any additional sewers to do so is at the owner's expense. (Ord. 108 § 3, 1972.)

13.20.040 Applicability. All future main sanitary sewer districts from the date of the enactment of the ordinance codified in this chapter and main sanitary sewer district No. 11 shall be subject to the provisions of this chapter. Upon the calculation of the total cost of the main sanitary sewer district improvement, the city engineer shall certify to the city clerk the total cost per square foot of said improvement and shall also certify a description of the property not included within the main sanitary sewer district improvement that could in the future use and be connected to the main sanitary sewer facilities. (Ord. 108 § 4, 1972.)

CHAPTER 13.24

WATER AND SEWAGE DEPARTMENT

Sections:

13.24.010 Declaration.
13.24.020 Systems Combination.
13.24.030 Water and Sewage Department Designation.
13.24.040 Obligations Assumption.
13.24.050 Charge Billing.
13.24.060 Utility Service Charges.
13.24.070 Utility Bill Round-Up Program.
13.24.080 Discount Program

13.24.010 Declaration. The city operates a waterworks utility system and also operates a sewage disposal plant and system and said systems are wholly owned by the city and no private utility operates within the area served by the systems herein combined. (Ord. 1523-A § 1, 1962.)

13.24.020 Systems Combination. Under the provisions of the laws of the state and specifically 12-856 to 868, both inclusive, 1961 Supplement to G.S. Kansas, 1949, the utilities set out in Section 13.24.010 are combined for the specific purposes as set out in this chapter and of simplifying the procedure of the maintenance and upkeep of said systems, which can be done more efficiently and accurately as a combined system. (Ord. 1523-A § 2, 1962.)

13.24.030 Water and Sewage Systems Designated. The combined systems as herein set out of the City shall be known and designated as the water and sewage systems of the City and all funds of said systems are hereby merged and all collections and separate accounts of said utilities are merged into what will be known and designated as the water and sewage systems of the City. (Ord. 11-24 § 1, 2011; Ord. 1523-A § 3, 1962.)

13.24.040 Obligations Assumption. Any obligations of either system will now be assumed as an obligation of the combined systems. (Ord. 11-24 § 2, 2011; Ord. 1523-A § 4, 1962.)

13.24.050 Charge Billing. All rates, fees and charges for water and sewage disposal service shall continue to be billed as a separate item on the monthly bills of customers of said systems, and the rates, fees and charges now in effect shall remain unchanged until such time as the Governing Body authorizes by resolution changes to such rates, fees and charges. (Ord. 11-24 § 3, 2011; Ord. 02-146 § 1, 2002; Ord. 1523-A § 5, 1962.)

13.24.060 Utility Service Charges. Utility service bills for water service, sewage disposal, stormwater and for the collection and disposal of solid waste shall be rendered and be payable each month. Sewer service charges, stormwater and charges for the collection and disposal of solid waste shall be billed as additional items on the water bills, and such charges shall be properly designated by a symbol, adopted by the director of financial services or designee, designating sewage disposal charges, stormwater fees, and solid waste disposal charges. Such charges shall be collected by the director of financial services or designee as a part of the total bill rendered.

The director of financial services or designee shall collect the total charge as a combined bill and shall not accept partial payment of any specific item of water, sanitation, stormwater, or sewer service charges.

Any person, firm or corporation failing to pay their utilities service bill within twenty one (21) days following the rendering of the bill shall be assessed a penalty of five percent of the total bill.

In instances of nonpayment of the utilities service bill, water service shall be disconnected pursuant to Section 13.04.106 and will be turned on only upon payment of all outstanding utilities service bills of the City of Olathe, together with the penalty provided and a service call charge for the purpose of disconnection and/or reconnection. Such service call charge shall be adopted by the Governing Body of the City by resolution. (Ord. 11-24 § 4, 2011; Ord. 02-146 § 2, 2002; Ord. 95-100 § 4, 1995; Ord. 83-117 § 1, 1983; Ord. 805 § 4, 1978.)

13.24.070 Round-up Program.

A. Persons who desire to voluntarily make a monetary contribution to the improvement of the City shall be entitled to do so by indicating the amount of such contribution on the monthly utility bill received from the City. All monies received by the City in excess of the payment of the utility bill which represents a voluntary contribution to the City as indicated thereon, shall be deposited in a separate and segregated fund and used for public purposes.

B. In order to effectuate the provisions of this section, the City Manager is hereby authorized and directed to amend and revise the monthly utility bills in order to enable persons desiring to make such contribution to indicate the same thereon and the amount of the contribution. (Ord. 11-24 § 5, 2011; Ord. 97-20 § 1, 1997.)

13.24.080 Discount Program. The City Manager is hereby authorized and directed to establish a residential water and sewer service charge account holder discount program. The discount program will be made available to residential account holders age sixty-five (65) and older who satisfy the residency requirements, maximum income restrictions, and other requirements established by the City Manager or designee to administer the program. The discount will be made available to qualified residential account holders on a yearly basis and will require each account holder in the program to show proof of income to the City Manager or designee for each year a discount on monthly water and sewer service charges is requested. The discount rate shall be established by resolution of the Governing Body. (Ord. 11-24 § 6, 2011.)

CHAPTER 13.26

SYSTEMS DEVELOPMENT CHARGE

Sections:

13.26.010 Purpose.
13.26.020 Authority.
13.26.030 Definitions.
13.26.040 Meters.
13.26.050 Systems Development Charge Established.
13.26.060 Payment of Charge.
13.26.070 Exemptions.
13.26.080 Credits.
13.26.090 Refunds.
13.26.100 Use of Revenue.
13.26.110 Appeals.

13.26.010 Purpose. A systems development charge is imposed for the purpose of creating a source of funds to assist in paying for the installation and construction of increased capacity in public facilities. This charge shall be assessed for every service connection requiring a meter and collected at the time of development of properties that contribute to the need for extra capacity facilities. (Ord. 14-68 § 1, 2014; Ord. 86-07 § 1, 1986.)

13.26.020 Authority. That Chapter 13.26 of the Olathe Municipal Code was enacted pursuant to the authority of Charter Ordinance No. 26 of the City of Olathe, Kansas, and Section 5 of Article 12 of the Kansas State Constitution. (Ord. 86-07 § 1, 1986.)

13.26.030 Definitions. As used in this Chapter, the following words and phrases shall mean:

EXTRA CAPACITY FACILITIES - Improvements to the public facilities of the City that provide increased capacity to serve new or expanded development as distinguished from replacement or restoration of facilities that have or may become worn or obsolete.

SYSTEMS DEVELOPMENT CHARGE. A charge levied on development to provide revenue to finance extra capacity facilities. (Ord. 14-68 § 2, 2014; Ord. 04-15 § 1, 2004; Ord. 86-07 § 1, 1986.)

13.26.040 Meters. The meters referred to in this chapter, and especially as listed in the charge schedule found in Section 13.26.50, are displacement type meters. Should a different type of meter be used or allowed by the city a different charge may have to be computed based upon the capacity of the meter used. The city shall have the right to establish the minimum meter size and type required. (Ord. 95-100 § 5, 1995; Ord. 86-07 § 1, 1986.)

13.26.050 Systems Development Charge Established.

A. There is hereby established a systems development charge to be imposed upon all persons who are issued a building permit for a permit for connection to the water and/or sewer system, whichever occurs first, on or after January 1, 1997 (except those exempted therefrom by Section 13.26.070). Such charge shall be adopted by the Governing Body of the City by resolution.

B. The water and sewer system development charge shall be based on the size and type of each individual meter as determined by the fixture value count as set forth in the International Plumbing Code (IPC). (Ord. 14-68 § 3, 2014; Ord. 07-134 § 2, 2007; Ord. 02-147 § 1, 2002; Ord. 96-108 § 1, 1996; Ord. 94-86 § 1, 1994; Ord. 89-92 § 1, 1989.)

13.26.060 Payment of Charge. The systems development charge is immediately due and payable upon, and concurrently with, the issuance of a valid building permit or a valid permit for connection to the water or sewer system of the City, whichever occurs first. If building construction is commenced, or a connection is made to the water or sewer system, without the permit prescribed by Title 15, the systems development charge is immediately due and payable as of the earliest date that any such permit was required. The Chief Building Official shall collect the systems development charge before issuing any building permit or before permitting any connection to the water or sewer system of the City, and shall decline to issue such permit or to permit such connection until that charge has been paid in full. If a connection is made to the water or sewer system without the permit prescribed by this Chapter, the systems development charge is immediately due and payable as of the earliest date that such permit was required under this Chapter and the City Attorney may bring such appropriate legal proceedings as are necessary to collect such charge. (Ord. 14-68 § 4, 2014; Ord. 05-125 § 1, 2005; Ord. 86-07 § 1, 1986.)

13.26.070 Exemptions. The following shall be exempt from the payment of the system development charge:

A. Structures which do not require connection to the water or sanitary sewer system of the City.

B. Structures being altered and which do not require a change of the existing meter size.

C. Additions to non-residential structures which do not require a change of the existing meter size.

D. Additions to residential structures which do not require a change of the existing meter size.

E. Structures being rebuilt after being demolished, or destroyed or damaged by fire, or other acts of God, and which do not require the change of the existing meter size.

F. Structures located on land annexed to the City after the effective date of this Chapter until such time as the structures may be connected to the water and sewer system. Upon such connection, the systems development charge shall be paid.

G. Separately metered fire sprinkler systems that are used exclusively for fire protection.

H. Structures having an existing water and/or sewer connection prior to the effective date of this Chapter.

I. Persons who have obtained a building permit prior to the effective date of this Chapter and substantial construction begins within 180 days of the issuance of the permit. (Ord. 14-68 § 5, 2014; Ord. 86-07 § 1, 1986.)

13.26.080 Credits. For structures being altered, added to, or rebuilt, with an increased sized meter, the applicant for a building or a water or sewer connection permit, whichever occurs first, may request a credit in an amount equal to the systems development charge for the applicant's existing meter. (Ord. 86-07 § 1, 1986.)

13.26.090 Refunds. If after the payment of the systems development charge and the issuance of a building permit, no building construction is commenced, the applicant may make application for a refund of the charge with the finance director. Proper documentation and proof of such fact may be requested by the finance director. (Ord. 86-07 § 1, 1986.)

13.26.100 Use of Revenue. The revenue from the systems development charge shall be placed in a separate account and used only for the cost of extra capacity facilities scheduled for construction or installation under a capital improvement program or for payment of debt due to construction or installation of extra capacity facilities. Design and administrative costs are a part of extra capacity facilities. Once construction or installation is underway or is completed, the design and administrative costs necessary for the work may be paid with the revenue. To provide for the expenditure of the revenue from the systems development charge, the city shall maintain a capital improvement program which shall distinguish the cost of extra capacity facilities from other capital costs. (Ord. 86-07 § 1, 1986.)

13.26.110 Appeals. A decision made under this ordinance may be appealed to the Board of Code Review by submitting an appeal request to the city clerk within ten (10) days of the date of the decision. No precise form of appeal is required, but the city shall provide forms to assist those who want to use them. The city clerk upon receiving the appeal report shall schedule the appeal and notify in writing the person taking the appeal, and any other person who asks in writing for notice. In considering the appeal, the board may affirm, modify, extend or overrule the decision in a manner that is consistent with the provisions of this ordinance. All decisions of the board shall be in writing and the decision rendered shall be a final administrative decision. (Ord. 05-125 § 2, 2005; Ord. 86-07 § 1, 1986.)

CHAPTER 13.28

STORMWATER INFILTRATION AND INFLOW CONTROL

Sections:

13.28.010 Authority.
13.28.020 Findings.
13.28.030 Purpose.
13.28.040 Applicability.
13.28.050 Definitions.
13.28.060 Prohibitions.
13.28.070 Access and Entry.
13.28.080 Disconnect Order.
13.28.090 Failure to Comply with an Administrative Order.
13.28.100 Appeals Board.
13.28.110 Abatement of Nuisances.
13.28.120 Penalties.
13.28.130 Owner Assistance Program.
13.28.140 Disclaimer of Liability.

13.28.010 Authority. The city, under the authority of K.S.A. 12-631j and Section 5 of Article 12 of the Kansas Constitution, is hereby authorized to adopt rules and regulations providing for the management and operation of its sewage system, including prohibiting the discharge of matter deleterious to the proper operation of the sewer treatment plants. (Ord. 90-14 § 1, 1990.)

13.28.020 Findings. A fundamental duty of every government is the protection of the health and safety of its citizens and to thereby promote the public welfare. Consequently, the Governing Body of the City of Olathe hereby finds, determines and declares that it is necessary to adopt a uniform system of rules, regulations and standards to eliminate and prevent certain environmental conditions that are hazardous to the public health, safety and welfare. Specifically, the City of Olathe finds that the excessive inflow and infiltration of stormwater from any source, private or public, into the sewage system is a hazard to the health, safety and welfare of the citizens of this city and surrounding communities because such infiltration and inflow overloads the capacity of both sanitary sewer lines and treatment plants. (Ord. 90-14 § 1, 1990.)

13.28.030 Purpose. The purpose of this chapter is:

(a) To promote the health, safety and welfare of the public; and

(b) To prescribe rules, regulations, standards and enforcement procedures for the minimization, control or elimination of potential and actual sources or causes of stormwater infiltration and inflow into the sanitary sewer system operated by the City of Olathe. (Ord. 90-14 § 1, 1990.)

13.28.040 Applicability. This chapter shall be applicable to any sewer provided by the City of Olathe sanitary sewer system. (Ord. 90-14 § 1, 1990.)

13.28.050 Definitions. The following definitions shall apply when the words and phrases defined are used in this chapter, except when a particular context requires a different meaning:

(a) Access: Entry into or upon any real estate or structure including any part thereof.

(b) Administrative Agency: The City of Olathe Municipal Services Department is hereby designated as the agency responsible for administering the provisions of this regulation.

(c) Infiltration: The water entering a sewer system, including sewer service connection, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include, and is distinguished from, inflow.

(d) Infiltration/Inflow: A combination of infiltration and inflow wastewater volumes in sewer lines, with no way to distinguish either of the basic sources, and with the same effect of usurping the capacities of sewer systems and other sewer system facilities.

(e) Inflow: The water discharged into a sewer system, including 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, manhole covers; cross connections from storm sewers, catch basins; stormwaters, surface runoff; street washwaters; or drainage. Inflow does not include, and is distinguished from, infiltration.

(f) Sanitary Sewage System: A system of pipes, tanks, conduits, structures or other devices for the collection, transportation, storage, treatment or disposal of sewage.

(g) Schedule of Compliance: means a schedule of actions or operations leading to compliance with any control regulation or effluent limitation.

(h) Sewage: means a combination of liquid wastes which may include chemicals, house wastes, laundry wastes, human excreta, animal or vegetable matter in suspension or solution and other solids in suspension or solution, and which is discharged from a dwelling, building or other establishment.

(i) Sewage Treatment Works: means a system or facility for treating, neutralizing, stabilizing or disposing of sewage, which system or facility has a designed capacity to receive more than two thousand gallons of sewage per day. The term "sewage treatment works" includes appurtenances such as interceptors, collection lines, outfall and outlet sewers, pumping stations and related equipment. (Ord. 90-14 § 1, 1990.)

13.28.060 Prohibitions.

(a) It shall be unlawful for any person to henceforth make or allow the connection of roof downspouts, interior or exterior foundation drains, areaway drains, sump pumps or other source of surface runoff or ground water to a building sewer or building drain which is connected to a public sanitary sewer or directly to a public sanitary sewer, even though such connection may have been allowable when made under then existing standards, rules or regulations.

(b) It shall be unlawful for any person to construct a sump pump pit in any building or structure without installing a sump pump prior to the final building inspection. (Ord. 90-14 § 1, 1990.)

13.28.070 Access and Entry. Whenever necessary to make an inspection to determine compliance with this chapter, enforce any of the provisions of this chapter, or whenever reasonable cause to believe that there exists in any building, premises or establishment, any violation of this chapter, representatives of the Administrative Agency may enter any building premises or establishment at all reasonable times to inspect the same or to perform any duty imposed by this chapter; provided that if such building, premises or establishment be occupied, the representative shall first present proper credentials and demand entry; and if such building or premises be unoccupied, the representatives shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Administrative Agency shall have recourse to every remedy provided by law to secure remedy. (Ord. 90-14 § 1, 1990.)

13.28.080 Disconnect Order. The City of Olathe may issue an order directing the owner of a premises to disconnect a private infiltration or inflow source from the sanitary sewer system. The order shall be effective not less than sixty (60) days from its date of issuance. The order may state a deadline for compliance but such deadline shall not be more than six months after the issuance of the order.

Within thirty (30) days after receipt of the order the owner may request a review hearing before the Board of Code Review by filing a written request therefor with the director of Municipal Services. The filing of such request shall act as a stay of the order. After such hearing the board may affirm, set aside or modify such order.

Any decision of the Board of Code Review entered after a review hearing may be appealed de novo to the Governing Body of the City of Olathe and they may affirm, set aside or modify the order as issued or as modified. (Ord. 90-14 § 1, 1990.)

13.28.090 Failure to Comply with an Administrative Order. It shall be unlawful for any person to fail or refuse to comply with a written order by the Administrative Agency within such reasonable time as the agency may specify in the order. (Ord. 90-14 § 1, 1990.)

13.28.100 Appeals Board. The Board of Code Review is hereby appointed as an Appeals Board to hear all disconnection order appeals. (Ord. 90-14 § 1, 1990.)

13.28.110 Abatement of Nuisances. The Administrative Agency may maintain a civil action by injunction, in the name of the Governing Body of the City of Olathe, to abate and temporarily or permanently enjoin the continuing connection of a private infiltration or inflow source as a nuisance, in any court of competent jurisdiction. (Ord. 90-14 § 1, 1990.)

13.28.120 Penalties. Any person violating any of the provisions of this chapter shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted, and upon conviction of any such violation such person shall be punishable by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not more than ninety (90) days, or by both such fine or imprisonment. (Ord. 90-14 § 1, 1990.)

13.28.130 Owner Assistance Program.

(a) Financial Assistance. Financial assistance in the form of partial reimbursement for the cost of disconnecting prohibited infiltration and inflow sources shall be provided to persons who receive and comply with a Disconnect Order as described in Section 13.28.090. Such reimbursement shall be in the amount and subject to the terms set out in this section.

(b) Procedure.

(1) Upon verification by the Administrative Agency that a prohibited private sector infiltration or inflow connection exists and is cost-effective to remove or repair, the agency shall issue a Disconnect Order to the landowner.

(2) The owner shall comply with the order by having the work done by a plumbing or other approved competent contractor, through self-help or other means at his or her discretion.

(3) All work shall be done in a workmanlike manner and shall comply with the minimum standards of design for such device, structure, appurtenance or connection.

(4) After the disconnection is completed, the agency shall reinspect the premises to verify compliance with the Disconnect Order and verify that there are no other illegal connections.

(5) If compliance with this chapter is verified, the city shall reimburse half (1/2) of the actual cost but not to exceed the following maximum amounts payable per source based on a valid invoice. If the property owner completes the work, only the cost of materials will be reimbursed.

Property Inflow Reduction - Property Owner Assistance Program

	City Pays	Property Owner Pays	Maximum City Contributions
Service Laterals	50%	50%	$500
Area Drains	50%	50%	500
Storm Sumps	50%	50%	200
Floor Drain Defect	50%	50%	100
Cleanouts	0%	100%	0
Downspouts	0%	100%	0

(6) Acceptance of reimbursement shall constitute a consent by the person accepting such payment to a reinspection of the premises by the agency within one year following payment for the sole purpose of verifying continued compliance with this chapter. Such reinspection shall be done at a convenient time. (Ord. 90-14 § 1, 1990.)

13.28.140 Disclaimer of Liability. This chapter shall not be construed or interpreted as imposing upon the City of Olathe or its officials or employees:

(1) any liability or responsibility for damages to any property; or

(2) any warranty that any system, installation or portion thereof, that is constructed or repaired under permits and inspections required by this chapter will function properly. (Ord. 90-14 § 1, 1990.)

CHAPTER 13.30

UPPER CEDAR CREEK SANITARY SEWER BUY-IN CONNECTION FEE

Sections:

13.30.010 Purpose and Intent.
13.30.020 Authority.
13.30.030 Definitions.
13.30.040 General Provisions and Applicability.
13.30.050 Determination of Fee Amount.
13.30.060 Imposition, Calculation and Collection of Fee
13.30.070 Establishment of Fee Account.
13.30.080 Limitations on Use of Fees.
13.30.090 Appeals.

13.30.010 Purpose and Intent.

(A) Purpose. The Upper Cedar Creek Sanitary Sewer Buy-In Connection Fee ("Fee") has been established and will be imposed for the purpose of creating a source of funds to (1) pay back principal and interest on a Kansas Water Pollution Control Revolving Fund (KPCRF) loan ("Revolving Fund Loan") for the Upper Cedar Creek Main Sewers, Project No. 14394C requested by the City of Olathe ("City") from the State of Kansas Department of Health and Environment ("KDHE") in order to construct a main trunk sewer line and appurtenant sanitary sewer system facilities necessary to provide sewage disposal service to the Upper Cedar Creek Drainage Area ("Area") and/or (2) reimburse the City for principal and interest payments made on the revolving fund loan.

(B) Intent. The City finds that a Sanitary Sewer Buy-In Connection Fee will best enable the City to extend the necessary sanitary sewer system to the Upper Cedar Creek Drainage Area which currently is not served by sanitary sewer but, in which there is existing development that is in need of sanitary sewer to prevent private sewage disposal system, septic tank and holding tank failures, and in which the City anticipates significant new development that will require sanitary sewers in order to develop. Therefore, in order to promote and protect the public health, safety and welfare of residents and property owners within the area and in the City as a whole, the City intends to: (1) provide the necessary sanitary sewer system to the entire Area through the construction of a main trunk sewer line and appurtenant facilities; (2) establish the cost thereof; (3) allocate the cost on a per acre basis within the Area to reflect the relative (pro rata) need for the sanitary sewer system by such properties and to ensure that such properties receive reasonable benefits therefrom; (4) collect such fee in full at the time of connection to the sanitary sewer system; (5) restrict the use of the fees collected to repayment of the principal and interest on the revolving fund loan or to reimbursement to the City for payments of principal and interest on the revolving fund loan; and (6) ensure that all applicable legal standards and criteria are properly incorporated herein.

(C) Legislative Intent. The City's intent is to exercise its police power to establish a fee for the provision of an essential service in an amount sufficient to fund the capital improvements necessary to provide the service to the defined geographic area which will benefit from the provision of the service and in which such service is presently not provided.

(D) Findings.

(1) The City has undertaken studies to determine the most cost effective manner in which to provide sanitary sewer service to the Upper Cedar Creek Drainage Area, including, but not limited to, considerations of current growth and development in the area, estimated future growth and development, capacity analyses, estimated peak flows, the effects of infiltration and inflow and flow monitoring.

(2) The City finds that the allocation of the costs of providing such sanitary sewer service to the defined geographic area, much of which is presently undeveloped and in which ultimate uses, densities/intensities and types of development are presently unknown, will be best met by utilizing a per acre fee which equitably spreads the costs of the sanitary sewer system throughout the defined geographic area.

(3) The City further finds that, because the per acre fee is imposed and collected only at the time of connection to the sanitary sewer system, is a one-time charge, is imposed against a person seeking connection and not against the property itself, is voluntary (only imposed if connection is applied for and made) and reflects only the actual cost of providing the service, the fee has none of the characteristics of and, therefore, is not a tax nor a special assessment.

(4) The City has, by virtue of the passage of Resolution No. 94-1127 on October 4, 1994, authorized the Upper Cedar Creek Main Sewers project, and designated funding for engineering from the City Water and Sewer Fund in the amount of $200,000.00.

(5) The City has, by virtue of the passage of Resolution No. 94-1128 on October 4, 1994, authorized application for a Kansas Water Pollution Control Revolving Fund loan for the Upper Cedar Creek Main Sewers (Project No. 14394C).

(6) The City has, on October 4, 1994, considered entering into an agreement with George Butler Associates ("GBA") for the provision of engineering services for the Upper Cedar Creek Main Sewers (Project No. 14394C) and has voted to execute such agreement. (Ord. 94-71 § 1, 1994.)

13.30.020 Authority. Chapter 13.30 of the Olathe Municipal Code was enacted pursuant to the authority of (1) City of Olathe Charter Ordinance No. 26 (adopted August 20, 1985) by which the City exempted itself from the provisions of K.S.A. § 12-856 and 860 and provided substitute and additional provisions on the same subject relating to and authorizing, *inter alia*, sanitary sewer buy-in connection fees, and (2) Section 5 of Article 12 of the Kansas Constitution (the "Home Rule Amendment") empowering cities to determine their local affairs and government through the enactment of charter ordinances. (Ord. 94-71 § 1, 1994.)

13.30.030 Definitions. As used in this Chapter, the following words and terms shall have the meaning herein indicated:

(A) APPLICANT - any person in the Upper Cedar Creek Drainage Area who makes an application for a connection permit to connect to the sanitary sewer system.

(B) AREA or UPPER CEDAR CREEK DRAINAGE AREA - that area within the City limits of the City of Olathe and outside of the City limits that will be served by the main trunk sewer line and appurtenances thereto, which is described on the Legal Description attached hereto and incorporated herein by reference as Exhibit No. 1 and which is shown on the Map attached hereto and incorporated herein by reference as Exhibit No. 2. To the extent of any conflict between the Map and the Legal Description, the Legal Description shall control.

The area includes all properties which can be served by the sanitary sewer system, including properties presently outside of the City limits. Connections to the sanitary sewer system by Applicants outside of the City limits shall be permitted only upon or after annexation of such property to the City.

(C) COMMUNITY DEVELOPMENT BUILDING CODE DIVISION OF JOHNSON COUNTY, KANSAS - the agency granted responsibility by the City of Olathe, pursuant to an Intergovernmental Agreement, to act as the regulatory and enforcement agency for private sewage disposal systems in the City of Olathe.

(D) CONNECTION PERMIT - the permit required for connection to the City's sanitary sewer system, which requires the payment of a "tap fee" as set forth in City of Olathe Municipal Code.

(E) EXTRA CAPACITY FACILITIES - improvements to the City-wide sanitary sewer system that provide increased capacity to serve new or expanded development and which facilities are financed by a System Development Charge (see Olathe Municipal Code Chapter 13.26).

(F) FEE OR UPPER CEDAR CREEK SANITARY SEWER BUY-IN CONNECTION FEE - the fee imposed on applicants for development within the Area which represents a monetary exaction calculated on a pro-rata basis, by acreage, to be paid for connection to the area sanitary sewer system so as to defray the costs, including principal and interest associated with constructing the sanitary sewer system. The fee is in addition and supplemental to all other fees and charges otherwise imposed on Applicants, including but not limited to building permit fees, fees for a certificate of occupancy, tap fees and system development charges, each of which is for a different service.

(G) HOLDING TANK - a watertight receptacle for the retention of sewage either before, during or after treatment.

(H) KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT (KDHE) - the State agency which administers the Kansas Water Pollution Control Revolving Fund (KWPCRF).

(I) LATERALS - sanitary sewer lines emanating from a main trunk sewer line and providing service to subareas within a drainage area.

(J) PERSON - an individual, joint tenants, tenants in common, partnership, corporation or any other legal entity which owns property in the Area.

(K) PRIVATE SEWAGE DISPOSAL SYSTEM - any soil absorption system or evapotranspiration system used for the collection and disposal of domestic sewage from an individual establishment.

(L) PROJECT NO. 14394C - the project to design, engineer and construct the Main Trunk Sewer line, force main and pump station necessary to provide sanitary sewer service to the Upper Cedar Creek Drainage Area.

(M) REVOLVING FUND LOAN - the Kansas Water Pollution Control Revolving Fund (KWPCRF) loan for the Upper Cedar Creek Main Sewers (Project No. 14394C).

(N) SANITARY SEWER SYSTEM or UPPER CEDAR CREEK SANITARY SEWER SYSTEM - the main trunk sewer line, force main, pump station and appurtenant facilities (including planning, design, engineering, land acquisition, right-of-way acquisition and other costs directly related to the provision of these facilities) necessary to extend the sanitary sewer system to the area, but excluding "extra capacity facilities" and laterals.

(O) SEPTIC TANK - a watertight, accessible covered receptacle designed and constructed to receive and to process sewage through settling of solids and digestion of accumulated solids by aerobic action.

(P) TAP FEE - the nominal fee charged by the City to reflect the cost incurred by the City for inspection of an applicant's actual connection to City sewer lines. (Ord. 94-71 § 1, 1994.)

13.30.040 General Provisions and Applicability.

(A) Term. The fee shall remain in effect until the principal and interest on the revolving fund loan is repaid in full or until the City is reimbursed in full for principal and interest payments made on the revolving loan or until such fee is repealed, amended or modified by the Governing Body in accordance with applicable law.

(B) Annual Review. At least once each year prior to Governing Body adoption of the annual fiscal year budget and capital improvements program, the City shall prepare a report summarizing:
The fee income received during the preceding year, the annual and cumulative acreage for which the fee has been paid, the number of connections to the sanitary sewer system from the area, the level of subdivision activity in the area, any changes in the design, engineering or provision of the sanitary sewer system and any prospective changes in the area that would affect the provision of sanitary sewer service.

(C) Type of Development Affected.

(1) All applicants for connection permits to the sanitary sewer system shall be required to pay the applicable fee.

(2) All persons whose property or development is served by a private sewage disposal system, septic tank and/or holding tank which is determined, pursuant to Olathe City Code Chapter 15.17 and Appendix I thereto, to violate the standards and conditions thereof and to be, in fact, dangerous, unsafe, unsanitary, or a menace to life, health and property may be required to connect to the sanitary sewer system, to obtain a connection permit and to pay the fee.

(D) Type of Development Not Affected. Applications for building permits, certificates of occupancy, for rezoning of property, for subdivision approval and for the use of land, such as agriculture, which do not require sanitary sewer service, shall not be required to pay the fee at the time of such applications; provided, however, that when applications for connection permits to the sanitary sewer system are made with respect to such properties, fee payment will be required and shall be a condition precedent to such connection.

(E) Effect of Fee Requirement and Payment on Land Use. Neither the requirement for payment of the fee nor the actual fee payment shall affect in any way the permissible use of property, the permissible density/intensity of development, applicable design and improvement standards or otherwise applicable City land use and development regulations, all of which shall be operative and remain in full force and effect without limitation. This fee payment requirement is a separate, independent and additional requirement. (Ord. 94-71 § 1, 1994.)

13.30.050 Determination of Fee Amount.

(A) Methodology. The fee shall be determined by (1) calculating the cost of the sanitary sewer system, including principal and interest needed to repay the revolving loan fund or to reimburse the City in full for such payments; (2) determining the land area in acres, within the Area excluding right-of-way; and (3) dividing the total principal and interest costs by the acreage, excluding rightof-way, within the Area.

(B) Calculation.

(x) = Principal and interest cost of Sanitary Sewer System.
(y) = acres within Area, excluding right-of-way.
(F) = Fee per acre.

$$\frac{(x)}{(y)} = (F)$$

(Ord. 94-71 § 1, 1994.)

13.30.060 Imposition, Calculation and Collection of Fee.

(A) Collection of Fee. The applicable fee shall be imposed on all applicants, as that term is defined herein.

(B) Calculation of Fee As To Specific Applicant. Upon receipt of an application for a connection permit to the sanitary sewer system from an applicant within the area, the City official in receipt of such application shall provide the applicant with an "Upper Cedar Creek Drainage Area Sewer Buy-In Connection Fee Payment Form," which shall include, but not be limited to, the following information: the name, address and telephone number of the property owner(s); the general location of the property; the size of the parcel which will be affected by the application; the total acreage of the property owners' land holdings in the area; the existing use of and the existing development on the property, if any; and the date of application for the connection permit to the sanitary sewer system.

(C) Effect of Failure of Applicant to Pay Fee When Due. If a connection is made to the sanitary sewer system without a connection permit being issued, the fee shall be immediately due and payable. In addition to all other remedies available to the City for such unlawful connection to the sanitary sewer system, the City Attorney may bring such appropriate legal proceedings, in law or in equity, as are necessary to collect the fee and/or to prevent use of the sanitary sewer system by such property owner.

(D) Collection of Fee. The City Manager, or his duly designated representative, shall collect the full amount of the fee prior to or at the time of application for a connection permit to the sanitary sewer system. No connection permit shall be issued nor shall connection be authorized until the fee is paid in full. Once the fee has been paid, no fee refunds shall be made for any reason. (Ord. 94-71 § 1, 1994.)

13.30.070 Establishment of Fee Account. An interest-bearing Upper Cedar Creek Sanitary Sewer System Buy-In Connection Fee Account ("account") shall be established by the Director of Finance of the City, which account shall be capable of being accounted for independently of all other City accounts and subaccounts. All fees collected shall be deposited into such account. All interest earned by the account shall be considered funds of the account. The funds in the account may be pooled with other City funds solely for the purpose of investment and for financial management; provided, however, that appropriate accounting controls have been adopted and implemented to ensure that the fees collected and deposited to such account are utilized only for the purposes specified herein and pursuant to applicable legal requirements. (Ord. 94-71 § 1, 1994.)

13.30.080 Limitation on Use of Funds. Fees collected and deposited to the account may be used only for the purpose of funding the cost of providing the sanitary sewer system in the area, including, but not limited to, the repayment of principal and interest on the revolving loan and/or reimbursement to the City for payments of principal and interest on the revolving loan. (Ord. 94-71 § 1, 1994.)

13.30.090 Appeals.

(A) Grounds for Appeal. Any person who objects to a decision or determination by the City Manager with respect to the applicability of the fee to a specific development, the calculation of the fee due as to a specific applicant, the collection of the fee, the withholding of a connection permit due to failure of the applicant to pay a fee, the failure to refund a fee or as to the proper use of fee revenues, may file an appeal in writing with the Governing Body.

(B) Time Limit for Filing an Appeal. The applicant must file an appeal from any decision or determination by the City Manager, or his designated representatives, within ten (10) days following the decision or determination,

(C) Form of Appeal. No precise form of appeal is required, but the applicant shall include, at a minimum, the following information: name, address and telephone number of the applicant, the general location of the property within the area; the size of the parcel affected by the application; the total acreage of the property owner's land holdings in the area; the existing use of and/or the existing development on the property; the date of application for a connection permit to the sanitary sewer system; and the grounds for the appeal.

(D) Scheduling of Hearing of Appeal. The City Clerk shall schedule the hearing of the appeal at a regular or special meeting of the Governing Body not sooner than twenty (20) days following the decision or determination appealed from. The appellant shall be given not less than ten (10) days notice of the date, time and place of the hearing of the appeal.

(E) Action by Governing Body on the Appeal. Prior to reaching a decision on the appeal, the Governing Body may refer the appeal to the City Manager or, through the City Manager, to appropriate City staff for the preparation of a report on the facts and circumstances underlying the appeal. In considering the appeal, the Governing Body may affirm, modify, extend or overrule the decision or determination of the City Manager; provided, however, that any such action shall be consistent with the provisions of this Chapter and with applicable City ordinances and State and federal law. The burden of proof shall be on the applicant to demonstrate that the decision or determination of the City Manager was erroneous. All decisions by the Governing Body shall be in writing and the decision rendered shall be deemed to be a final administrative decision.

(F) Notice to Appellant. The action of the Governing Body on the appeal shall be taken at a public meeting of which the applicant has been given notice.

(G) Stays. The filing of an appeal by appellant prior to fee payment shall not stay the collection of the fee as calculated by the City Manager if the applicant subsequently applies for a connection permit. The filing of an appeal by appellant subsequent to fee payment shall not stay the deposit of the fee into the account nor the appropriation and expenditures of the fee for the sanitary sewer system. (Ord. 94-71 § 1, 1994.)

CHAPTER 13.31. Cedar Creek Interceptor Collection System Development and Buy-In Connection Fee. Repealed 8-15-2006. (Ord. 06-90 § 1, 2006; Ord. 05-07 § 1, 2005.)

CHAPTER 13.32

WATER WELLS

Sections:

13.32.010 Definitions
13.32.020 Inspection Requirements
13.32.030 Water Well Sampling Requirements
13.32.040 Responsibility for Inspection and Sampling Fees
13.32.050 Construction and Connection Requirements
13.32.060 Adoption of State of Kansas Construction, Location and Abandonment Regulations
13.32.070 Water Well Record
13.32.080 Request for Waivers
13.32.090 Referral of Waivers
13.32.100 Inspection
13.32.105 Water Wells in Contaminated Areas
13.32.110 Penalty

13.32.010 Definitions. Unless otherwise specified, the following terms as used in this code shall mean as follows:

BACTERIOLOGICALLY SAFE WATER SAMPLE means a water sample collected by the health officer and analyzed by a certified laboratory that is determined to have no detectable fecal coliform in 100 ml.

CERTIFIED LABORATORY means a laboratory certified by the Environmental Protection Agency or any EPA-approved state water quality certification procedures to conduct tests for specific parameters.

CONTAMINATED AREA means an area designated by official action of the Environmental Protection Agency or Kansas Department of Health and Environment as having groundwater that is environmentally contaminated to an extent that requires remediation or similar action for the protection of human health and the environment.

CONTAMINATED WATER SAMPLE means a water sample which does not meet public drinking water standards. A water sample that does meet public drinking water standards for bacteria is defined as being a bacteriologically safe water sample.

DEPARTMENT means the City of Olathe Municipal Services Department.

HEALTH OFFICER means the director of the Municipal Services Department or his or her authorized representative.

PERSONAL USE means the use of water from a well for purposes including drinking, cooking, bathing and sewage disposal.

PIT WELL means any well installed in a structure or excavation below grade, including but not limited to wells in pits, vaults or storm cellars.

SCREENING TESTS are preliminary water tests performed through the use of disposable color change strips or appliances to determine if further testing is required.

WATER WELL means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of the excavation is for the location, diversion, artificial recharge, or acquisition of groundwater.

13.32.020 Inspection Requirements.

A. The Municipal Services Department is authorized to inspect newly constructed, reconstructed, existing or abandoned water wells.

B. The property owner shall notify the Municipal Services Department of the existence of any water well at the time of construction, reconstruction, or abandonment, and of any existing active, inactive, or abandoned water well prior to the transfer of ownership of any property.

13.32.030 Water Well Sampling Requirements.

A. The Municipal Services Department is authorized to collect samples from private water wells for bacteriological, organic, or inorganic analysis of newly constructed or reconstructed water wells, and existing wells prior to the transfer of ownership of any property.

1. If a bacteriologically safe water sample is not obtained, the property owner must have the water well disinfected and sampled until a bacteriologically safe water sample is obtained.
2. If a contaminated sample is obtained, the property owner must take whatever action is deemed necessary by the Municipal Services Department to obtain a potable water supply for personal use. These actions may include but are not limited to: abandoning the well and connecting to a public water supply; abandoning the well and connecting to a cistern; or installing a water treatment system designed to treat the type of contamination to an acceptable level to be considered potable water by the Kansas Department of Health and Environment.

B. The Municipal Services Department is authorized to collect water samples from semi-public water wells for an annual bacteriological analysis and for organic or inorganic chemical analysis, if positive results are obtained through screening tests.

1. If a bacteriologically safe water sample is not obtained, the property owner must have the water well disinfected and sampled until a bacteriologically safe sample is obtained.
2. If a contaminated sample is obtained, the property owner must take whatever action is deemed necessary by the health department to obtain a potable water supply for personal use.

C. The Municipal Services Department is authorized to collect water samples from noncommunity water supplies for a semiannual bacteriological analysis and for organic or inorganic chemical analysis, if positive results are obtained through screening tests.

1. Until a bacteriologically safe or uncontaminated sample has been obtained, the property owner must meet the following requirements:

a. Any water used for cooking or human consumption must be bottled water from a source approved by the health department.
b. Any ice used on the premises must be packaged ice from a source approved by the health department.
c. Any water used for sanitizing must be sanitized by a chemical additive or by heating as approved by the health department.

2. If a bacteriologically safe water sample is not obtained, the property owner must have the water well disinfected and sampled until a bacteriologically safe water sample is obtained.
3. If a contaminated sample is obtained, the property owner must take whatever action is deemed necessary by the health department to obtain a potable water supply for personal use.

D. All water sampling and testing shall be completed by a Kansas Department of Health and Environment certified laboratory.

13.32.040 Responsibility for Inspection and Sampling Fees. The property owner shall be responsible for any inspection and sampling fees. The fees for the inspections and sampling are to be determined by the Municipal Services Department and shall be established by resolution yearly.

13.32.050 Construction and Connection Requirements. The property owner shall be responsible for meeting the following requirements:

A. All active, inactive, or abandoned water wells are to meet current construction, location, and plugging standards.

B. Personal use water wells are to meet the following pump and pressure tank standards:

1. Pumps shall be a minimum of 1/3 horsepower and be mounted to be free from flooding, pollution and freezing.
2. Pressure tanks must have a minimum capacity of forty-two (42) gallons. However, pressurized tanks and other pressurizing devices are acceptable provided that delivery between pump cycles equals or exceeds that of a standard forty-two (42) gallon tank.

C. The separation distance between wells and soils or foundations which have been treated or pretreated with a sub-surface pressurized application of a termiticide shall be a minimum of twenty-five (25) feet.

D. Pressure Water Line and Sewer Line Requirements.

1. The sewer line is to be two (2) or more feet below the water line, or:
2. If a sewer line is within ten (10) feet of a water line, the sewer line is to be constructed of cast iron pipe with fitted joints or approved plastic pipe with solvent weld joints.
3. A water well shall not be located within 100 feet of a septic tank, absorption field, waste stabilization pond, feedlot, or other source of pollution.

E. The property owner is to have personal use water wells disconnected and connection made to a public water supply system at the time the property is offered for sale or rent, if:

1. A public water supply system is within two hundred (200) feet of the property lines; and
2. A potable water sample cannot be obtained from a properly constructed and located existing well or a newly constructed water well.

F. No new water well shall be constructed if a public water supply system is within two hundred (200) feet of the property line, except for the purpose of irrigation and other outside, nonpotable water use.

13.32.060 Adoption of State of Kansas Construction, Location and Abandonment Regulations. Water well regulations as specified in the Kansas Statutes Annotated Groundwater Exploration and Protection Act, 82a-1201, *et seq.*, and amendments thereto and Water Well Contractor License; Water Well Construction and Abandonment, Kansas Administrative Regulations 28-30-2, *et seq.*, and amendments thereto shall be incorporated by reference and adopted as regulations for water wells in the corporate limits of the city.

13.32.070 Water Well Record. Within thirty (30) days after construction or reconstruction of a water well, the water well installer, whether a licensed water well contractor or property owner, shall submit a copy of the water well record to the Municipal Services Department.

13.32.080 Request for Waivers. A request for a waiver from any of the foregoing rules and regulations shall be submitted to the Municipal Services Department by the property owner in writing and shall contain all information relevant to the request.

A. The request shall specifically set forth why an exception should be considered.

B. The Municipal Services Department may grant a waiver when conditions warrant, and when a waiver is in keeping with the purposes of the Kansas Water Well Construction and Abandonment Administrative Regulations 28-30-2, *et seq*.

13.32.090 Referral of Waivers. If required, a request for waiver will be referred to the Kansas Department of Health and Environment for consideration prior to the issuance of a waiver by the Municipal Services Department.

13.32.100 Inspection. The health officer shall be responsible for the enforcement of this chapter and is authorized to make such investigations, inspections, to issue notice, orders and directions, to take such actions and carry out such activities as necessary for enforcement of this chapter.

13.32.105 Water Wells in Contaminated Areas.

A. From and after the date of the ordinance codified in this section, no new water well shall be constructed and used for personal use if the health officer determines that such well is in a contaminated area or within five hundred (500) feet of a contaminated area.

B. Any existing water well shall cease to be used for personal use if the health officer determines that (1) the well is in a contaminated area or is within 500 feet of a contaminated area, (2) public water is available to the water well user, and (3) the cessation of use of the water well for personal use is in the best interest of public health, safety and welfare.

13.32.110 Penalty. Any person, individual, partnership, corporation or association who violates any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction, shall be punished by a fine not to exceed Five Hundred Dollars ($500) or by imprisonment of not more than six (6) months, or by both such fine and imprisonment. Each day any violation hereof is found to exist or continues to exist shall be a separate offense and punishable as such hereunder. (Ord. 03-17 § 1, 2003.)

CHAPTER 13.34

WATER CONSERVATION

Sections:

13.34.010 Purpose
13.34.020 Definitions
13.34.030 Declaration of Water Watch
13.34.040 Declaration of Water Warning
13.34.050 Declaration of Water Emergency
13.34.060 Voluntary Conservation Measures
13.34.070 Mandatory Conservation Measures
13.34.080 Violations and Penalties

13.34.010 Purpose. The purpose of this ordinance is to provide for the declaration of a water supply watch, warning or emergency and the implementation of voluntary and mandatory water conservation measures throughout the City in the event such a watch, warning or emergency is declared. (Ord. 04-60 § 1, 2004; Ord. 03-35 § 1, 2003.)

13.34.020 Definitions.

(a) "Water", as the term is used in this ordinance, shall mean water available to the City of Olathe, Kansas for treatment by virtue of its water rights or any treated water introduced by the City into its water distribution system, including water offered for sale at any coin-operated site.

(b) "Customer", as the term is used in this ordinance, shall mean the customer of record using water for any purpose from the City's water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.

(c) "Waste of water", as the term is used in this ordinance, includes, but is not limited to: 1) permitting water to escape down a gutter, ditch or other surface drain; or 2) failure to repair a controllable leak of water due to defective plumbing. (Ord. 04-60 § 1, 2004; Ord. 03-35 § 1, 2003.)

13.34.030 Declaration of Water Watch. A "Water Watch" is in effect when a combination of two or more of the following conditions occurs:

(a) Daily water demand for 3 consecutive days is in excess of 90% of the available Olathe raw water yield.

(b) Daily water demand for 3 consecutive days is in excess of 90% of the treatment capacity of all Olathe treatment facilities.

(c) Total system storage does not recover above 80% prior to 5 a.m.

(d) The Governor declares a "Drought Watch" for Johnson County.

The "Water Watch" will be terminated when the triggering events have ceased to exist. (Ord. 04-60 § 1, 2004; Ord. 03-35 § 1, 2003.)

13.34.040 Declaration of Water Warning. As the water supply problems become more severe, a "Water Warning" will be implemented. A "Water Warning" is in effect when any combination of two or more of the following conditions occurs:

(a) Daily demand for 3 consecutive days is in excess of 95% of the available Olathe raw water yield.

(b) Daily water demand for 3 consecutive days is in excess of 95% of the treatment capacity of all Olathe treatment facilities.

(c) Total system storage does not recover above 70% prior to 5 a.m.

(d) The Governor declares a "Drought Warning" for Johnson County.

The "Water Warning" shall terminate when the triggering events have ceased to exist for a period of fourteen (14) consecutive days, or when substantial changes in weather conditions occur, affecting water demands. Upon termination of a "Water Warning", a "Water Watch" becomes operative. (Ord. 04-60 § 1, 2004; Ord. 03-35 § 1, 2003.)

13.34.050 Declaration of Water Emergency. As the water supply problem continues to deteriorate, a "Water Emergency" will be implemented. A "Water Emergency" is in effect when any combination of two or more of the following conditions occurs:

(a) Daily water demand for 2 consecutive days is in excess of 100% of the available Olathe raw water yield.

(b) Daily water demand for 2 consecutive days is in excess of 100% of the treatment capacity of all Olathe treatment facilities.

(c) Total system storage does not recover above 60% prior to 5 a.m.

(d) The Governor declares a "Drought Emergency" for Johnson County.

The "Water Emergency" shall be terminated when the triggering events have ceased to exist for a period of fourteen (14) consecutive days. Upon termination of a "Water Emergency", a "Water Warning" becomes operative. (Ord. 04-60 § 1, 2004; Ord. 03-35 § 1, 2003.)

13.34.060 Voluntary Conservation Measures. Upon the declaration of a "Water Watch" as provided in this ordinance, the City Manager is authorized to call on all water customers to employ voluntary water conservation measures to reduce outdoor water use including, but not limited to, the following:

(a) Voluntarily implement an alternate day (odd/even) schedule for outdoor watering.

(b) Limit nonessential outdoor water uses and implement wise outdoor watering.

(c) Water between 6 p.m. and 6 a.m.

(d) Limit, or eliminate, outdoor water use on weekends.

(e) Use a soaker hose to apply water efficiently to plants.

(f) Limit car washing at home or use a commercial carwash that recycles water.

(g) Avoid hosing down outside areas, such as sidewalks, patios and driveways. (Ord. 04-60 § 1, 2004; Ord. 03-35 § 1, 2003.)

13.34.070 Mandatory Conservation Measures. Upon the declaration of a "Water Warning" as provided in this ordinance, the City Manager is authorized to call on all water customers to implement certain mandatory restrictions on outdoor water use, including, but not limited to, the following:

(a) A mandatory odd/even lawn watering schedule (or equivalent demand reduction procedures) will be imposed on all water customers. These restrictions shall not apply to any person, firm or corporation engaged in the business of growing or selling plants of any kind or commercial car washes. Additional exceptions may be granted on a case-by-case basis.

(b) Outdoor water use, including lawn watering and car washing, will be restricted to after 6:00 p.m. and before 6:00 a.m.

(c) Golf courses will be restricted from watering with potable water.

(d) Procedures that provide a water demand reduction that is equivalent to odd/even watering schedules will be considered on a case-by-case basis.

Upon the declaration of a "Water Emergency" as provided in this ordinance, the City Manager is also authorized to implement additional mandatory restrictions on outdoor water use. The following restrictions will be in effect during a "Water Emergency": outdoor water use with potable water will be prohibited. This includes, but is not limited to, the following: water used for outdoor watering, either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure. Only non-potable water sources may be used to perform outdoor watering. In addition, the City Manager may temporarily terminate water service to a customer operating an irrigation system in violation of the "Water Emergency" provisions. (Ord. 04-60 § 1, 2004; Ord. 03-35 § 1, 2003.)

13.34.080 Violations and Penalties. The ordinance authorizes the City Manager to enforce the provisions of the ordinance. Enforcement will be made in the following manner.

(a) It shall be unlawful to violate any of the provisions of this ordinance. No person shall be convicted of violating this ordinance unless such person in fact turned on water, directed the turning on of water or kept water turned on after learning it was turned on in violation of this ordinance, or failed to turn off automatic devices capable of turning on water in violation of this ordinance. It will not be necessary, however, to present a witness who saw the accused turning on the water, if the circumstances indicated the accused did turn on the water.

(b) In the event of a violation, a written notice of the violation shall be provided to the customer of record by personal service, or by delivering the same to and leaving it with some person of suitable age and discretion upon the premises; or, if no person is found on the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises and by mailing a copy thereof to such person by registered or certified mail to his/her last known address. Said notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the City determines is reasonable under the circumstances.

(c) Any person, firm or corporation violating any provisions of this ordinance, including failing to comply with any notice or order issued pursuant to 13.34.080(b), shall be fined not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00) for a first conviction; not less than Two Hundred Dollars nor more than Five Hundred Dollars ($500.00) for a second or subsequent conviction. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 04-60 § 1, 2004; Ord. 03-35 § 1, 2003.)

CHAPTER 13.36

CLARE ROAD WATERLINE BUY-IN CONNECTION FEE

Sections:

13.36.010 Purpose and Intent.
13.36.020 Authority.
13.36.030 Definitions.
13.36.040 General Provisions and Applicability.
13.36.050 Determination of Fee Amount.
13.36.060 Imposition, Calculation and Collection of Fee.
13.36.070 Establishment of Fee Account.
13.36.080 Limitations on Use of Fees.
13.36.090 Appeals.

13.36.010 Purpose and Intent.

A. Purpose. The Clare Road Waterline Buy-In Connection Fee ("Fee") has been established and will be imposed for the purpose of creating a source of funds to reimburse the City of Olathe (the "City") for principal and interest payments made to construct and install the Clare Road Waterline, 111th to 119th Street, Project No. 5-C-074-10 of the City, which includes approximately 4,150 L.F. of 12" DIP waterline from 112th Street to 119th Street along Clare Road and approximately 5,010 L.F. of 8" DIP waterline from Clare Road to Cedar Creek Wastewater Treatment Plant, along 119th Street (the "Project"). The Project is required to provide potable water to the public and to Cedar Creek Wastewater Treatment Plant.

B. Intent. The City finds that a Fee will best enable the City to extend the necessary potable water system to portions of the Clare Road Area (as identified in "Exhibit A" and Exhibit "B"). This Area has not yet developed and currently is not served by City waterlines. The City anticipates significant new development that will require waterlines in order to develop in the future.

Therefore, in order to promote and protect the public health, safety and welfare of residents and property owners within the Area and in the City as a whole, the City intends to: (1) provide the necessary potable water system to the Area through the construction of a main waterline and appurtenant facilities; (2) establish the cost thereof; (3) allocate the cost on a per acre basis within the Area to reflect the relative (pro rata) need for the Project by such properties and to ensure that such properties receive reasonable benefits therefrom; (4) collect such Fee in full at the time of connection to the potable water system; (5) restrict the use of the Fees collected to reimbursement to the City for payments of principal and interest on the City's water and sewer revenue bonds; and (6) ensure that all applicable legal standards and criteria are properly incorporated herein.

C. Legislative Intent. The City's intent is to exercise its police power to establish a Fee for the provision of an essential service in an amount sufficient to fund the capital improvements necessary to provide the service to the defined geographic Area which will benefit from the provision of the service and in which such service is presently not provided.

D. Findings.

1. The City has undertaken studies to determine the most cost effective manner in which to provide potable water service to the Clare Road Area, including, but not limited to, considerations of current growth and development in the Area, estimated future growth and development, capacity analyses, and estimated peak hour demands.

2. The City finds that the allocation of the costs of providing such potable water service to the defined geographic Area, much of which is presently undeveloped and in which ultimate uses, densities/intensities and types of development are presently unknown, will be best met by utilizing a per acre Fee which equitably spreads the costs of the Project throughout the defined geographic Area on Exhibits A and B.

3. The City further finds that, because the Fee is imposed and collected only at the time of connection to the Project, is a one-time charge, is voluntary (only imposed if connection is applied for and made) and reflects only the actual cost of providing the service, the Fee has none of the characteristics of and, therefore, is not a tax nor a special assessment.

4. The City has authorized the Project in the 2010-2014 Capital Improvements Program and has designated funding for design/inspection, construction, and financing from the City Water and Sewer Fund. (Ord. 09-66 § 1, 2009.)

13.36.020 Authority. Chapter 13.36 of the Olathe Municipal Code was enacted pursuant to the authority of (1) K.S.A. § 12-856 and 860 relating to and authorizing, *inter alia*, the establishment of rates and charges for water, including the cost of extension and enlargement of the water system, and (2) Section 5 of Article 12 of the Kansas Constitution (the "Home Rule Amendment") empowering cities to determine their local affairs and government through the enactment of home rule ordinances. (Ord. 09-66 § 1, 2009.)

13.36.030 Definitions. As used in this Chapter, the following words and terms shall have the meaning herein indicated:

APPLICANT – any person in the Clare Road Area who makes an application for a connection permit to connect to the Project.

AREA or CLARE ROAD AREA – that Area within the City limits of the City of Olathe and outside of such City limits that will be served by the main waterlines and appurtenances thereto, which is described on the Legal Description attached hereto and incorporated herein by reference as Exhibit A and which is shown on the Map attached hereto and incorporated herein by reference as Exhibit B. To the extent of any conflict between the Map and the Legal Description, the Legal Description shall control.

The Area includes all properties which can be served by the Project, including properties presently outside of the City limits. Connections to the Project by Applicants outside of the City limits shall be permitted only upon or after annexation of such property to the City, unless otherwise provided by a written agreement requiring immediate connection to City water service once the City provides such service to the Applicant's property line.

EXTRA CAPACITY FACILITIES – improvements to the City-wide potable water system that provide increased capacity to serve new or expanded development.

FEE OR CLARE ROAD WATERLINE BUY-IN CONNECTION FEE – the Fee imposed on Applicants for development within the Area which represents a monetary exaction calculated on a pro-rata basis, by acreage, to be paid for connection to the Project so as to defray the costs of the Project, including principal and interest associated with constructing the Project. The Fee is in addition and supplemental to all other fees and charges otherwise imposed on Applicants, including but not limited to building permit fees, fees for a certificate of occupancy, tap fees and any other applicable charges or exactions, each of which is for a different service.

PERSON – an individual, joint tenants, tenants in common, partnership, corporation or any other legal entity which owns property in the Area.

PROJECT – the design, engineering and construction of the Clare Road Waterline, 111th to 119th Street, Project No. 5-C-074-10 of the City, which includes approximately 4,150 L.F. of 12" DIP waterline from 112th Street to 119th Street along Clare Road and approximately 5,010 L.F. of 8" DIP waterline from Clare Road to Cedar Creek Wastewater Treatment Plant, along 119th Street. The Project is required to provide potable water to the public and to Cedar Creek Wastewater Treatment Plant.

TAP FEE – the nominal fee charged by the City to reflect the cost incurred by the City for inspection of an Applicant's actual connection to City waterlines.

WATER MAIN – any public water main installed on public right-of-way or utility easement in accordance with City requirements and that has been accepted by the City as a public water main.

WATER SERVICE CONNECTION – any connection of a private waterline into the City's water system, including a fire line connection. All Water Service Connections shall be made in accordance with Section 13.05.070 of the Olathe Municipal Code.

WATER SERVICE CONNECTION PERMIT – the permit required for connection to the City's potable water system, which requires the payment of a "tap fee" and system development fee as set forth in City of Olathe Municipal Code. (Ord. 09-66 § 1, 2009.)

13.36.040 General Provisions and Applicability.

A. Term. The Fee shall remain in effect until the principal and interest on the City's water and sewer revenue bonds issued to finance the Project are repaid in full or until such Fee is repealed, amended or modified by the Governing Body in accordance with applicable law.

B. Annual Review. At least once each year prior to Governing Body adoption of the annual fiscal year budget and capital improvements program, the City shall prepare a report summarizing the Fee income received during the preceding year, the annual and cumulative acreage for which the Fee has been paid, the number of connections to the Project from the Area, the level of subdivision activity in the Area, any changes in the design, engineering or provision of the potable water system and any prospective changes in the Area that would affect the provision of potable water service.

C. Type of Development Affected.

1. All Applicants for connection permits to the Project shall be required to pay the applicable Fee.
2. All persons whose property or development is served by a private water well system and/or other private water systems which is determined, pursuant to Chapter 15 of the Olathe Municipal Code to violate the standards and conditions thereof and to be, in fact, dangerous, unsafe, unsanitary, or a menace to life, health and property may be required to connect to the Project, to obtain a connection permit and to pay the Fee.

D. Type of Development Not Affected. Applications for building permits, certificates of occupancy, for rezoning of property, for subdivision approval and for the use of land, such as agriculture, which do not require potable water service, shall not be required to pay the Fee at the time of such applications; provided, however, that when applications for connection permits to the potable water system are made with respect to such properties, Fee payment will be required and shall be a condition precedent to such connection.

E. Effect of Fee Requirement and Payment on Land Use. Neither the requirement for payment of the Fee nor the actual Fee payment shall affect in any way the permissible use of property, the permissible density/intensity of development, applicable design and improvement standards or otherwise applicable City land use and development regulations, all of which shall be operative and remain in full force and effect without limitation. This Fee payment requirement is a separate, independent and additional requirement. (Ord. 09-66 § 1, 2009.)

13.36.050 Determination of Fee Amount.

A. Methodology. The Fee shall be determined by (1) calculating the cost of the potable water system, including principal and interest needed to reimburse the City in full for its water and sewer revenue bond payments; (2) determining the land area in acres, within the Area excluding right-of-way; and (3) dividing the total principal and interest costs by the acreage, excluding right-of-way, within the Area.

B. Calculation.

(x) = Principal and interest cost of Potable Water System.
(y) = acres within Area, excluding right-of-way.
(F) = Fee per acre.
(A) = Acres to be served by property owner by petition.
(T) – Total Fee per property.

$$\frac{(x)}{(y)} = (F)$$

$$(F) \times (A) = (T)$$

(Ord. 09-66 § 1, 2009.)

13.36.060 Imposition, Calculation and Collection of Fee.

A. Collection of Fee. The applicable Fee shall be imposed on all Applicants in the Area, as that term is defined herein. The Fee shall be collected upon receipt of an application for a connection permit to the Project from an Applicant within the Area. Upon receipt of such an application, the City official in receipt of such application shall provide the Applicant with an "Clare Road Area Waterline Buy-In Connection Fee Payment Form," which shall be completed by the Applicant and shall include, but not be limited to, the following information: the name, address and telephone number of the property owner(s); the general location of the property; the size of the parcel which will be affected by the application; the total acreage of the property owners' land holdings in the Area; the existing use of and the existing development on the property, if any; and the date of application for the connection permit to the Project.

B. Effect of Failure of Applicant to Pay Fee When Due. If a connection is made to the Project without a Water Service Connection Permit being issued, the Fee shall be immediately due and payable. In addition to all other remedies available to the City for such unlawful connection to the Project, the City Attorney may bring such appropriate legal proceedings, in law or in equity, as are necessary to collect the Fee and/or to prevent use of the Project by such property owner.

C. Collection of Fee. The City Manager, or duly designated representative, shall collect the full amount of the Fee at the time of application for a connection permit to the Project. No connection permit shall be issued nor shall connection be authorized until the Fee is paid in full. Once the Fee has been paid, no Fee refunds shall be made for any reason. The Fee shall be collected until the end of the Term as set forth in Section 13.36.040 A. (Ord. 09-66 § 1, 2009.)

13.36.070 Establishment of Fee Account. An interest-bearing Clare Road Waterline System Buy-In Connection Fee Account ("account") shall be established by the Director of Resource Management or designee of the City, which account shall be capable of being accounted for independently of all other City accounts and subaccounts. All Fees collected shall be deposited into such account. All interest earned by the account shall be considered funds of the account. The funds in the account may be pooled with other City funds solely for the purpose of investment and for financial management; provided, however, that appropriate accounting controls have been adopted and implemented to ensure that the Fees collected and deposited to such account are utilized only for the purposes specified herein and pursuant to applicable legal requirements. (Ord. 09-66 § 1, 2009.)

13.36.080 Limitation on Use of Funds. Fees collected and deposited to the account may be used only for the purpose of funding or reimbursing the City for the cost of constructing the Project, including, but not limited to, reimbursement to the City for payments of principal and interest on its water and sewer revenue bonds issued to finance the Project. (Ord. 09-66 § 1, 2009.)

13.36.090 Appeals.

A. Grounds for Appeal. Any person who objects to a decision or determination by the City Manager with respect to the applicability of the Fee to a specific development, the calculation of the Fee due as to a specific Applicant, the collection of the Fee, the withholding of a connection permit due to failure of the Applicant to pay a Fee, the failure to refund a Fee or as to the proper use of Fee revenues, may file an appeal in writing with the Governing Body.

B. Time Limit for Filing an Appeal. The Applicant must file an appeal from any decision or determination by the City Manager, or designated representatives, within ten (10) days following the decision or determination.

C. Form of Appeal. No precise form of appeal is required, but the Applicant shall include, at a minimum, the following information: name, address and telephone number of the Applicant, the general location of the property within the Area; the size of the parcel affected by the application; the total acreage of the property owner's land holdings in the Area; the existing use of and/or the existing development on the property; the date of application for a connection permit to the potable water system; and the grounds for the appeal.

D. Scheduling of Hearing of Appeal. The City Clerk shall schedule the hearing of the appeal at a regular or special meeting of the Governing Body not sooner than twenty (20) days following the decision or determination appealed from. The appellant shall be given not less than ten (10) days notice of the date, time and place of the hearing of the appeal.

E. Action by Governing Body on the Appeal. Prior to reaching a decision on the appeal, the Governing Body may refer the appeal to the City Manager or, through the City Manager, to appropriate City staff for the preparation of a report on the facts and circumstances underlying the appeal. In considering the appeal, the Governing Body may affirm, modify, extend or overrule the decision or determination of the City Manager; provided, however, that any such action shall be consistent with the provisions of this Chapter and with applicable City ordinances and State and federal law. The burden of proof shall be on the Applicant to demonstrate that the decision or determination of the City Manager was erroneous. All decisions by the Governing Body shall be in writing and the decision rendered shall be deemed to be a final administrative decision.

F. Notice to Appellant. The action of the Governing Body on the appeal shall be taken at a public meeting of which the Applicant has been given notice.

G. Stays. The filing of an appeal by appellant prior to Fee payment shall not stay the collection of the Fee as calculated by the City Manager if the Applicant subsequently applies for a connection permit. The filing of an appeal by appellant subsequent to Fee payment shall not stay the deposit of the Fee into the account nor the appropriation and expenditures of the Fee for the Project. (Ord. 09-66 § 1, 2009.)

TITLE 14

SEWER USE REGULATIONS

CHAPTERS:

14.01 General Provisions
14.04 Definitions
14.06 Connections to Sewers
14.08 Use of Public Sewers
14.10 Refuse in Sewers
14.12 Enforcement and Penalties

CHAPTER 14.01

GENERAL PROVISIONS

Sections:

14.01.010 Title.
14.01.020 Purpose.
14.01.030 Previous Regulations Superseded.
14.01.040 Severability.

14.01.010 Title. These regulations shall hereafter be known, cited and referred to as the SEWER USE ORDINANCE of the City of Olathe, Kansas. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.01.020 Purpose. The purpose of this Ordinance is to provide for the maximum possible beneficial use of the City's wastewater collection and treatment facilities through adequate regulation of sewer construction, sewer use and industrial wastewater discharges; to provide for equitable distribution of the City's costs; to provide procedures for complying with requirements placed upon the City by other regulatory bodies; to protect the public's investment; and to protect the local environment. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.01.030 Previous Regulations Superseded. This Ordinance regulating sewer construction, sewer use and industrial wastewater discharges shall supersede all previous regulations and policies of the City governing items covered in this Ordinance. All other ordinances and regulations, or parts thereof, inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.01.040 Severability. This Ordinance and the various parts, sections, subsections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

CHAPTER 14.04

DEFINITIONS

Sections:

14.04.010 Generally.
14.04.020 Biochemical Oxygen Demand.
14.04.030 Bypass.
14.04.040 Categorical Industry.
14.04.050 Categorical Pretreatment Standards.
14.04.060 Chemical Oxygen Demand.
14.04.070 City.
14.04.080 Director.
14.04.085 Imminent Endangerment.
14.04.090 40 CFR Part Number.
14.04.100 Free-floating Oil.
14.04.110 Garbage.
14.04.120 Industrial User.
14.04.130 Industrial Wastewater.
14.04.140 Interference.
14.04.150 Manhole.
14.04.160 MG/L

14.04.170 New Source.
14.04.180 Pass Through.
14.04.190 Person, Establishment, User or Owner.
14.04.200 pH.
14.04.210 Pollution.
14.04.220 Pretreatment.
14.04.230 Private Sewer or Private Drain.
14.04.240 Public Sewer or Private Drain.
14.04.250 Sanitary Sewer.
14.04.260 Sanitary Wastewater.
14.04.270 Sewer System.
14.04.280 Significant Industrial User.
14.04.285 Significant Non-compliance.
14.04.290 Slug.
14.04.300 Standard Methods.
14.04.310 Storm Sewer or Storm Drain.
14.04.320 Stormwater.
14.04.330 Total Suspended Solids.
14.04.340 Total Toxic Organics.
14.04.350 Toxic Substances.
14.04.360 Wastewater.
14.04.370 Wastewater Treatment Plant.

14.04.010 Generally.

(a) For the purpose of this Title, the words and terms as used herein are defined to mean as set out in this Title; and

(b) The word "building" includes the word "structure"; the term "used for" includes the meaning "designated for" or "intended for." (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.020 Biochemical Oxygen Demand. "Biochemical Oxygen Demand" (herein abbreviated as BOD) means the quantity of oxygen expressed in mg/l utilized in the biochemical oxidation of organic matter during incubation at 20 degrees Celsius for a period of five (5) days. The tests shall be made in accordance with "Standard Methods." (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.030 Bypass. "Bypass" means the intentional diversion of wastestreams from any portion of a discharger's pretreatment facility. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.040 Categorical Industry. "Categorical Industry" means an industry which has a manufacturing or other operational process which is subject to standards and requirements set forth in Section 307 (b) and (c) of the Federal Clean Water Act, and is listed in Title 40, Code of Federal Regulations, Part 403, Appendix C. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.050 Categorical Pretreatment Standards. "Categorical Pretreatment Standards" means any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency in accordance with Section 307 (b) and (c) of the Federal Clean Water Act, as amended, 33 U.S.C. 1251, et seq., including 40 CFR, Chapter I, subchapter N, parts 405-471. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.060 Chemical Oxygen Demand. "Chemical Oxygen Demand" (herein abbreviated as COD) means the quantity of oxygen expressed in mg/l utilized in the chemical oxidation of organic matter in accordance with procedures given in "Standard Methods." (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.070 City. "City" means City of Olathe, Kansas and its governing body. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.080 Director. "Director" means the Director of Municipal Services or his delegated representative. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.085 Imminent Endangerment. "Imminent Endangerment" means a reasonable potential to cause harm to human health or welfare, or the environment or the operation of the wastewater treatment system. (Ord. 92-22 § 2, 1992)

14.04.090 40 CFR Part Number. "40 CFR" is an abbreviation of Title 40, Code of Federal Regulations. The applicable part number is cited after the abbreviation and includes any amendments thereto. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.100 Free-floating Oil. "Free-floating Oil" means that oil which can be removed in adequate facilities for gravity separation. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.110 Garbage. "Garbage" means solid waste from domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of product. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.120 Industrial User. "Industrial User" means any user contributing industrial wastes to the municipal sewer system. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.130 Industrial Wastewater. "Industrial Wastewater" means all water-carried solid, liquid or gaseous wastes or a combination thereof resulting from any process of industry, manufacturing, trade or business or from the development or recovery of any natural resource. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.140 Interference. The term "interference" or "interfering" means an inhibition or disruption of the wastewater treatment system or sewage collection system; its treatment processes or operations; its sludge processes, or sludge disposal which contributes alone or in conjunction with:

1. a violation of any standards or regulations set by this Title, including an increase in the magnitude or duration of a National Pollutant Discharge Elimination System (NPDES) Permit violation or

2. violations of any local, state or federal laws, rules or regulations applicable to the method of disposal or use by the City. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.150 Manhole. "Manhole" means a structure designed to provide access to the sewer or drain for purposes of examination, cleaning or sampling. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.160 MG/L. "Mg/L" means milligrams per liter; sometimes referred to as parts per million (ppm). (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.170 New Source. "New Source" means any building, structure, facility or installation from which there is or may be discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307 (c) of the federal Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section, and in accordance with 40 CFR 403.3 (m)(1). (Ord. 09-29 § 1, 2009; Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.180 Pass Through. "Pass Through" means a discharge which exits the wastewater treatment plant into waters of the State of Kansas in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of violation of any requirement of the City's wastewater treatment plant NPDES Permit (including an increase in the magnitude or duration of a violation). (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.190 Person, Establishment, User or Owner. "Person", "Establishment", "User" or "Owner" means individual, firm, partnership or company, corporation, society or group including any federal, state, county or city agency. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.200 pH. "pH" means the logarithm of the reciprocal of the hydrogen ion concentration of a solution. It indicates the intensity of acidity and alkalinity on a scale running from 0 to 14. A pH of 7.0 represents neutrality, pH values above 7.0 represents alkalinity and pH values below 7.0 represents acidity. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.210 Pollution. "Pollution" means the manmade or man-induced alteration of the chemical, physical, biological and radiological integrity of water. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.220 Pretreatment. "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the sanitary sewer system. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by another means, except by dilution as prohibited by 40 CFR Part 403.6 (d) and this Title. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.230 Private Sewer or Private Drain. "Private Sewer" or "Private Drain" means that sewer line or drain line either on public or private property not owned by the City. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.240 Public Sewer or Public Drain. "Public Sewer" or "Public Drain" means that sewer line or drain line owned and controlled by the City. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.250 Sanitary Sewer. "Sanitary Sewer" means a sewer line or drain line, the specific purpose of which is to carry sanitary wastewater or mixtures of sanitary and industrial wastewater, as defined above. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.260 Sanitary Wastewater. "Sanitary Wastewater" means a combination of water-carried wastes discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), business buildings, institutions and industrial establishments. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.270 Sewer System. "Sewer System" means the combination of sewers, pumping stations, force mains and appurtenant structures or devices used for collecting wastewaters, including the treatment plant; sometimes referred to as "sewerage system." (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.04.280 Significant Industrial User. "Significant Industrial User" shall mean:

(a) All Categorical industrial users;

(b) Any noncategorical industrial user or commercial user that:

1. Discharges 25,000 gallons per day or more of process wastewater ("Process Wastewater" excludes sanitary, noncontact cooling and boiler blowdown wastewaters), or
2. Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the treatment plant, or
3. Has a reasonable potential, in the opinion of the Director, to adversely affect the wastewater collection or treatment system, cause inhibition, pass-through of pollutants, sludge contamination, or endangerment of City employees. (Ord. 92-22 § 2, 1992)

14.04.285 Significant Non-Compliance. Instances of significant non-compliance (SNC) are industrial user violations which meet one or more of the following criteria:

A. Violations of wastewater limits.

1. Chronic violations. Pollutants whose concentrations or masses exceed the daily maximum permit limit amount or the monthly average limit for sixty-six (66%) or more of the total number of pollutant tests in a six (6) month period (any magnitude of exceedance).

2. Technical Review Criteria (TRC) violations. Pollutants whose concentrations or masses exceed the daily maximum permit limit or the monthly average limit by at least twenty percent (20%) for thirty-three percent (33%) or more of the total number of pollutant tests in a six (6) month period.

3. Any other violation(s) of an effluent limit (average or daily maximum) that the Director believes has caused, alone or in combination with other discharges, interference (e.g., slug loads) or pass-through; or endangered the health of the sewage treatment personnel or the public.

4. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the POTWs exercise of its emergency authority to halt or prevent such a discharge.

B. Violations or compliance schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completing construction and attaining final compliance by ninety (90) days or more after the scheduled date.

C. Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, 90-day compliance reports and periodic reports) within thirty (30) days from the due date.

D. Failure to accurately report non-compliance.

E. Any other violation or group of violations that the Director considers to be significant. (Ord. 92-22 § 2, 1992)

14.04.290 Slug. "Slug" or "Slug Loading" means any discharge of sanitary or industrial wastewaters having a concentration of any constituent sufficiently above the average and for a period to be considered by the Director as harmful to the collection system or the performance of the treatment works. (Ord. 92-22 § 2, 1992)

14.04.300 Standard Methods. The examination of water and wastewater shall mean samplings and analysis performed in accordance with the techniques prescribed in 40 CFR, Part 136 and amendments thereto. Analysis must be performed by a laboratory certified by the Kansas Department of Health and Environment. (Ord. 92-22 § 2, 1992)

14.040.310 Storm Sewer or Storm Drain. "Storm Sewer" or "Storm Drain" means a pipe or sewer, the purpose of which is to carry storm and surface waters, ground drainage, and street washings, but excludes wastewaters. It may, however, carry cooling waters, water condensates or unpolluted water from any source. (Ord. 92-22 § 2, 1992)

14.04.320 Stormwater. "Stormwater" means the excess water running off from the surface of a drainage area during and immediately following a rain. (Ord. 92-22 § 2, 1992)

14.04.330 Total Suspended Solids. "Total Suspended Solids" (herein abbreviated as TSS) means the laboratory determination of the dry weight expressed in mg/l of solids that either float on the surface, or are in suspension and which can be removed from the wastewater, in accordance with procedures given in "Standard Methods." (Ord. 92-22 § 2, 1992)

14.04.340 Total Toxic Organics. "Total Toxic Organics or TTO" means the summation of all quantifiable values greater than 0.01 mg/1 of the organic compounds listed in 40 CFR, Chapter I, Subchapter N, Parts 405-471. (Ord. 92-22 § 2, 1992)

14.04.350 Toxic Substances. "Toxic Substances" means any substance, gaseous, liquid or solid, which when discharged to a sewer or drain may tend to interfere with any waste treatment process, or to constitute a hazard to human beings or animals, or to inhibit aquatic life or to create a hazard to recreation in the receiving water of the effluent from the wastewater treatment plant or from the storm sewer into which wastes may be discharged. (Ord. 92-22 § 2, 1992)

14.04.360 Wastewater. "Wastewater" means any combination of sanitary and industrial wastewater and such groundwater and surface water as may be present. (Ord. 92-22 § 2, 1992)

14.04.370 Wastewater Treatment Plant. "Wastewater Treatment Plant" means any arrangement of structures and devices for treating wastewaters or industrial wastes and for handling the sludge resulting from such treatment. (Ord. 92-22 § 2, 1992)

CHAPTER 14.06

CONNECTIONS TO SEWERS

Sections:

14.06.010 City May Terminate Services.

Section 14.06.010 City May Terminate Services.

(a) The Director shall have the power and right, after giving notice, to close up any sewer or sewer connection, or to remove any building sewer pipe or to cut off said public sewer pipe from any unused sanitary sewer connection or connections and to properly close up the public sewer pipe; and the cost and expense of such work shall be charged to the person, firm or corporation failing or refusing to comply with the notice as aforesaid.

(b) The Director may immediately revoke any wastewater discharge permit, or terminate or cause to be terminated the potable water supply service and/or wastewater collection, treatment and disposal service to any premise, if a violation of any provision of this Ordinance is found to exist or if a discharge of wastewater appears to present an imminent endangerment to the health or welfare of persons. This provision is in addition to other statutes, rules or regulations authorizing termination of service for delinquency in payment. The Director may also halt or prevent any discharge which presents or may present an endangerment to the environment, or which threatens to interfere with the operation of the wastewater treatment system.

(c) Determination of whether a discharge presents an imminent endangerment to the health or welfare of persons or an endangerment to the environment or a potential for interference with the operation of the wastewater treatment system shall be made by the Director.

(d) The Director may petition the courts for the issuance of a preliminary or permanent injunction or both as may be appropriate, whenever there is a discharge or nondischarge violation of the provisions of this Ordinance.

(e) Any person who is found by the Olathe Municipal Court to have violated an order of the City issued pursuant to this Chapter, or who willfully or negligently failed to comply with any provisions of this Chapter, and the orders, rules, regulations and permits issued hereunder, shall be, upon conviction, subject to a penalty not exceeding Three Hundred Dollars ($300.00) per offense in addition to paying for the damages and restoration thereof. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

CHAPTER 14.08

USE OF PUBLIC SEWERS

Sections:

14.08.010 Use of Public Sewers.
14.08.020 Measurement of Discharges to Sanitary Sewers.

14.08.030 Permit for Industrial Wastewater Discharge.
14.08.040 Discharge Reports.
14.08.041 Signatory Requirements of Reports.
14.08.042 Certification Statements.
14.08.050 Wastewater Discharge Permits.
14.08.060 Duration of Permits.
14.08.070 Revocation of Permit.
14.08.080 Sampling, Self-Monitoring and Flows.
14.08.090 Pretreatment.
14.08.100 Accidental Discharge.
14.08.110 Special Agreements.
14.08.120 Prohibited Waste Discharge.
14.08.125 Local Limits.
14.08.130 Inspecting and Sampling.
14.08.140 Public Notification.
14.08.150 Falsifying of Information.

Section 14.08.010 Use of Public Sewers. No person shall discharge or cause to be discharged any stormwater, groundwater, roof-runoff, subsurface drainage, uncontaminated cooling water or unpolluted waters into any sanitary sewer. Stormwater runoff from limited areas which are likely to be polluted at times may be admitted to the system by a permit from the Director. Where storm sewers or drains are not or cannot be made available, limited quantities of approved water from installations such as swimming pools, may be admitted to the sewers by issuance of wastewater discharge permit or with the written permission of the Director.

Any stormwater, roof run-off or subsurface drainage from direct connections to the public sewer which is discharged to the sanitary sewer existing after the effective date of this Ordinance shall be considered illegal and shall be subject to immediate removal by the owner of the premises so connected and at such owner's expense.

Should the owner of such an illegally connected premise fail to remove the illegal connection, the Director may cause the connection to be removed and the cost thereof to be billed to the owner of the premises. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.08.020 Measurement of Discharges to Sanitary Sewers.

(1) All persons or companies who discharge or desire to discharge to the sanitary sewers, industrial wastes or wastewaters other than sanitary, shall furnish the City data covering quantity and variations of flow and concentrations of constituents to be discharged, including averages and peaks or slugs in the form of an industrial wastewater discharge application. After the Director is satisfied with the accuracy and completeness of the information provided, he shall determine what regulation of discharge is required and what permits if any are necessary. Those Users subject to Significant Industrial User classification must provide the required information within ninety (90) days of the date this Ordinance takes effect.

(2) Where the required data and information cannot be provided, the Director may require installation of facilities for measuring flow and concentration of the discharge and will establish regulations, agreements and charges based upon the results of these measurements prior to the discharge. The costs of the installation shall be paid by the Industrial User. The Director shall control through the issuance of permits or other administrative action provided by this Ordinance the contribution to the wastewater treatment facility by each Industrial User. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.08.030 Permit for Industrial Wastewater Discharge.

(1) All Significant Industrial Users and New Sources must apply for and receive a wastewater discharge permit before discharging any industrial wastewater to the sanitary sewer system.

(2) No person shall discharge industrial wastewater in excess of the quantity or quality limitations set by the permit for industrial wastewater discharge. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.08.040 Discharge Reports.

(1) The City may require that any person discharging or proposing to discharge wastewater into a public sewer file periodic discharge reports. The discharge report may include, but is not limited to, nature of process, volume, rate of flow, mass emission rate, production quantities, hours of operation, or other information which relates to the generation of waste, including wastewater constituents and characteristics in the wastewater discharge. Such reports may also include the chemical constituents and quantity of liquid, solid or gaseous materials stored on site even though they may not normally be discharged.

(2) In addition to discharge reports, the City may require information in the form of wastewater discharge permit applications and self-monitoring reports. Information requests apply to all such users of the municipal sewer system whether or not the user is subject to national categorical pretreatment or any other national, state or local pretreatment standards or requirements.

(3) In addition to these information requests, industries subject to noncategorical or categorical standards must file a baseline monitoring report, a ninety (90) day compliance report and periodic continued compliance reports in accordance with 40 CFR, Part 403.12 (d).

(4) Periodic continued compliance reports shall be submitted to the Director at least semiannually on forms provided or approved by the Director.. (Ord. 09-29 § 2, 2009; Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.08.041 Signatory Requirements of Reports. All reports and applications for discharge permits submitted to the Director by an Industrial User must be signed and certified by an authorized representative of the industry; either an owner, corporate officer or manager, or departmental manager who supervises more than two hundred fifty (250) employees. One of these officials may also appoint any other company representative to be authorized to sign the certification, but only after giving written notice to the Director. (Ord. 92-22 § 2, 1992)

14.08.042 Certification Statements. Certification statements of all applications for wastewater discharge permit and required reports shall, in accordance with 40 CFR 403.6 (a) (2) (ii), read: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who managed the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violation. (Ord. 09-29 § 3, 2009; Ord. 92-22 § 2, 1992)

14.08.050 Wastewater Discharge Permits.

(1) Permits. All Significant Industrial Users proposing to connect or to discharge into a public sewer must obtain a wastewater discharge permit before connecting to or discharging into a public sewer. All unpermitted Significant Industrial Users connected to or discharging into a public sewer must apply for a wastewater discharge permit within ninety (90) days after the effective date of this Ordinance.

(2) Permit Application. Significant Industrial Users seeking a wastewater discharge permit shall complete and file with the Director, an application in the form prescribed by the Director, and accompanied by the applicable fees. The applicant shall be required to submit, in units and terms appropriate for evaluation, any or all of the following information:

(a) Name, address and Standard Industrial Classification number of the applicant;
(b) Volume of wastewater to be discharged;

(c) Wastewater constituents and characteristics including, but not limited to, those mentioned in Section 14.08.130, as determined by a laboratory certified by the Kansas Department of Health and Environment;

(d) Time and duration of discharge;

(e) Average and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;

(f) Description of activities, facilities and plant process on the premises, including all materials, processes and types of materials which are or could be discharged;

(g) Any other information as may be deemed by the Director to be necessary to evaluate the permit application.

The Director will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, an on-site inspection of the waste discharge system, other systems relating to the waste discharge system, treatment systems, and other related areas of the facility may be required. The Director may require a compliance schedule or graduated timetable for improvements or installation of equipment for obtaining better wastewater quality or achieving established standards. The standards, schedules or timetables may be stated specifically in the permit or a separate written agreement between the City and the user. Failure to meet the standards, schedules or timetables stated therein can result in immediate revocation of permit.

(3) Permit Conditions. Wastewater Discharge Permits shall be subject to all provisions of this Ordinance and all other regulations, user charges and fees established by the City. The conditions of wastewater discharge permits shall be uniformly enforced by the Director. Permits may contain the following:

(a) The average and maximum wastewater constituents and characteristics;

(b) Limits on rate and time of discharge or requirements for flow regulations and equalization;

(c) Requirements for installation of inspection and sampling facilities;

(d) Pretreatment requirements;

(e) Specifications for monitoring programs, which may include sampling locations, frequency and method of sampling, number, types and standards for tests and reporting schedules. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR, Part 136 and amendments thereto;

(f) Requirements for submission of technical reports or discharge reports;

(g) Requirements for maintaining plant records relating to wastewater discharge and affording the City access and right to copy thereto;

(h) Mean and maximum mass emission rates, or other limits which incompatible pollutants (as defined herein) are proposed or present in the user's wastewater discharge;

(i) Compliance schedules;

(j) Requirements for disposal of sludges, floatables and skimmings;

(k) Requirements for amended application if discharge is significantly changed;

(l) Other conditions as deemed appropriate by the Director to insure compliance with this Ordinance. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.08.060 Duration of Permits. Permits shall be issued for a specific time period, not to exceed three (3) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. If the user is not notified by the City thirty (30) days prior to the expiration date, the permit shall be extended one additional year. The terms and conditions of the permit may be subject to modification and change by the City during the life of the permit as limitations or requirements as identified in Section 14.08.050 are modified or changed. The user shall be informed of any proposed changes in this permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.08.070 Revocation of Permit. Any user who violates the following conditions of the permit or this Ordinance or applicable state and federal regulations, is subject to having his permit revoked:

(1) Failure of user to factually report the wastewater constituents and characteristics of his discharge;

(2) Failure of the user to report significant changes in operations or wastewater constituents and characteristics;

(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(4) Violation of conditions of the permit. If a Significant Industrial User's permit is revoked, that user will be considered to be in violation of Section 14.08.030 of this Ordinance. Violators will be subject to the enforcement process outlined in Chapter 14.12 of this Ordinance. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.08.080 Sampling, Self-monitoring and Flows.

(1) The Director shall require the Industrial User to provide results of periodic measurements of his discharge which is to include chemical analysis and flow. The Director may require a monitoring facility to be furnished and operated at the Industrial User's expense. All Industrial User's making periodic measurements shall furnish and install at an appropriate location, calibrated flume, weir, flow meter or similar device suitable to measure flow rate and total volume approved by the Director. In lieu of wastewater flow measurement, the Director may accept records of water usage and adjust the flow volumes by suitable factors to determine peak and average flow rates for the specific industrial wastewater discharge.

(2) The monitoring facility should normally be situated on the user's premises, but the Director may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(3) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the Director's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the Director; unless a time extension is granted by the Director.

(4) Those industrial wastewater dischargers required by the Director to make periodic measurements of industrial wastewater flows and constituents shall annually make the minimum number of such measurements as required in the industrial discharge permit. When required by the Director, dischargers shall install and maintain in proper order automatic analysis and recording equipment.

(5) Persons in charge or occupants of premises where industrial wastewater is generated or discharged shall allow the Director ready access at all reasonable times to all parts of the premises for purpose of sampling or in performance of any other duties. For the purpose of this Section, reasonable times shall be any time when a wastewater discharge could be occurring due to active operations. The Director shall have the right to set up on the user's property such devices as are necessary to conduct sampling or metering operations. Where a user has security measures in force, the user shall make the necessary arrangements with their security guards so that upon presentation of suitable identification, the Director or his staff shall be permitted to enter without delay.

(6) All sampling, analysis and flow measurement procedures, equipment, results and records shall be subject at any time to inspection by the Director.

(7) Retention of Records. Any industrial user subject to the reporting requirements in accordance with 40 CFR 403.12(o) shall retain for a minimum of three (3) years, any record of monitoring activities and results. This period shall be automatically extended for the duration of any litigation concerning compliance with this ordinance or where the industrial user has been specifically notified of a longer retention period by the Director. Any records relating to compliance of pretreatment standards shall be made available to officials of the Environmental Protection Agency, the Kansas Department of Health and Environment, and the Director upon request. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.08.090 Pretreatment. All Significant Industrial Users shall make wastewater acceptable under the limitations established herein before discharging to any public sewer. Any facilities required to pretreat wastewater to a level acceptable to the Director shall be provided and maintained at the user's expense. Detailed plans, compliance schedules and operation procedures shall be submitted to the Director for review, and shall be acceptable to the Director before construction of the facility.

The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Director under the provisions of this Ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and acceptable to the Director. No user shall attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with any local, state or federal discharge standard. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.08.100 Accidental Discharge.

(1) All categorical industries with a wastewater discharge permit, and all noncategorical industries discharging wastewater to the City sewer system but not required to have a permit, must notify the Director immediately of all discharges that could cause problems to the sewer collection system or wastewater treatment facility, or which might result in a violation of a wastewater discharge permit or any other provision of this Ordinance.

(2) All industrial users shall notify the Director of any substantial changes in the user's wastewater discharge.

(3) All industrial users with pretreatment facilities must verbally notify the Director within twenty-four (24) hours of an unanticipated wastewater bypass of the facility. If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the Director; if possible, at least ten (10) days before the date of the bypass. A bypass is only allowable if it will not cause National Pretreatment Standards or any other provision of this Ordinance to be violated, and is essential for proper maintenance of the facility to assure its efficient operation. Otherwise, the bypass of any pretreatment facility is strictly prohibited unless unavoidable to prevent loss of life, personal injury or severe property damage, and there were no feasible alternatives to the bypass.

(4) Each person shall provide protection from accidental discharge of prohibited materials from other substances regulated by this Ordinance, and from discharges which exceed permit limitations. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the person's own cost and expense.

(5) For the purpose of this Section, "accidental discharge" means an exceptional incident in which there is unintentional and temporary noncompliance with the standards for industrial discharge or sewer use promulgated in this Ordinance or in the Significant Industrial User's wastewater discharge permit. An accidental discharge does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance or careless or improper operation. Any person who wishes to establish the affirmative defense of accidental discharge shall demonstrate through properly signed operating logs or other relevant evidence that:

(a) The accidental discharge occurred and the user can identify the specific cause of the accidental discharge;

(b) The facility was being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;

(c) The user has submitted the reports required in Section 14.08.100(6).

(6) In case of an alleged accidental discharge, it is the responsibility of the user to immediately notify the Director of the incident verbally. In no case shall this notification be given more than twenty-four (24) hours after the incident occurs. The notification shall include location of the discharge, type of waste, concentration and volume and corrective actions.

Within five (5) days following an accidental discharge, the user shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notifications shall not relieve the user of any expense, loss, damages or other liability which may be incurred as a result of damage to the wastewater system, fish kills, or any other damage to persons or property; nor shall such notifications relieve the user of any fines, civil penalties or other liability which may be imposed by this Ordinance or other applicable law. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of all accidental discharges. Users shall insure that all employees who may cause or discover such a discharge are advised of the emergency notification procedures.

(7) The user shall be required to reimburse the City for the costs of any sampling or analysis necessitated by the accidental discharge in addition to any other fines, damages, penalty or costs that may be assessed by any provision of this Ordinance.

(8) It shall be unlawful for any person to fail to notify the Director as required by this section and upon conviction thereof shall be subject to the penalties provided in chapters 14.12 of this Title.

(9) If samplings performed by an Industrial User indicates a violation, the user shall notify the Director within twenty (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.08.110 Special Agreements. Special agreements and arrangements between the City and any persons or agencies may be established when in the opinion of the Director unusual or extraordinary circumstances compel special terms and conditions. National or Federal Standards may not be waived by special agreements. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.08.120 Prohibited Waste Discharge. At the discretion of the Director, and in accordance with this Title and other applicable regulations, the significant Industrial user's permit will contain limits and prohibitions governing discharge materials.

It shall be unlawful for any person to exceed the limits set by permit, Federal or State standards or any provisions of this Title, whichever is most restrictive, and any person convicted of such violations shall be subject to the penalties provided in Chapter 14.12 of this Title. No persons, with or without a permit shall discharge or cause to be discharged to a public sewer which directly or indirectly connects to the City's wastewater system, the following wastes:

(1) Any gasoline, benzene, naphtha, solvent, fuel oil or any liquid, solid or gas that would cause or tend to cause flammable or explosive conditions to result in the wastewater system.

(2) Any wastes containing toxic or poisonous solids, liquids or gases in such quantities that, alone or in combination with other wastes substances, may create a health hazard for humans, animals or the local environment, interfere detrimentally with wastewater treatment processes, causes a public nuisance, or cause any hazardous condition to occur in the wastewater system.

(3) Any waste having a pH lower than 6.0 or higher than 10.5 Standard Units or having any corrosive or detrimental characteristic that may cause injury to wastewater treatment or maintenance personnel or may cause damage to structures, equipment or other physical facilities of the wastewater system.

(4) Any solids or viscous substances of such size or in such quantity that they may cause obstruction to flow in the sewer or be detrimental to proper wastewater treatment plant operations. These objectionable substances include, but are not limited to, asphalt, dead animals, offal, ashes, sand, mud, straw, industrial process shavings, metal, glass, rags, feathers, tar, wood, whole blood, paunch manure, bones, hair and fleshings, entrails, paper dishes, paper cups, milk containers, or other similar paper products, either whole or ground.

(5) Any rainwater, stormwater, groundwater, street drainage, subsurface drainage, roof drainage, yard drainage, water from yard fountains, ponds or lawn sprays or any other uncontaminated water, except as permitted under Section 14.08.010.

(6) Having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius) or any wastewater having a temperature which will inhibit biological activity in the wastewater treatment plant resulting in interference. In no circumstances shall wastewater have a temperature at the introduction of the wastewater treatment plant greater than 104 degrees Fahrenheit (40 degrees Celsius).

(7) Containing more than 100 mg/l of oil or grease.

(8) Any strongly odorous waste tending to create odors.

(9) Reserved.

(10) Any substance promoting or causing the promotion of toxic gases.

(11) Any wastes requiring an excessive quantity of chlorine or other chemical compound used for disinfection purposes.

(12) Any excessive amounts of deionized water, steam condensate, distilled water or single pass cooling water.

(13) Any radioactive waste of such half-life or concentrations as may exceed limits established by the Director in compliance with applicable state or federal regulations.

(14) Any waste producing excessive discoloration of wastewater or treatment plant effluent.

(15) Any pollutants, including oxygen demanding pollutants, released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.

(16) The discharge of toxic or nontoxic materials including, but not limited to, all heavy metals, cyanide, phenols, chlorinated hydrocarbons, and other organic compounds shall be limited to that concentration which complies with all state and federal discharge limitations, and which does not interfere with the operation of the wastewater treatment plant, nor cause pass through, or which might otherwise cause the wastewater treatment facility to violate its NPDES Permit.

(17) Any waste prohibited by current federal or state regulations or City wastewater discharge permits.

(18) Any waste discharged by a categorical industry that is greater in concentration than limitations specified by the National Categorical Standard that applies to that industry.

(19) Any pollutant which creates a fire or explosion hazard, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (sixty degrees Centigrade).

(20) Any pollutants that result in toxic gases, vapors and fumes in a quantity that may cause acute worker health and safety problems.

(21) Any petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that cause pass through, interference or inhibition at wastewater treatment plant. (Ord. 09-29 § 4, 2009; Ord. 01-101 § 1, 2001; Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.08.125 Local Limits. In accordance with this ordinance and General Pretreatment Standard 40 CFR Part 403.5 (a) (1), no user shall discharge pollutants that cause pass through or interference at the City's wastewater treatment plants. Where applicable, significant industrial user wastewater permits will contain local numerical limits of discharge concentrations for parameters that must be regulated by the city to prevent pass through and interference. (Ord. 09-29 § 5, 2009; Ord. 92-22 § 2, 1992)

14.08.130 Inspection and Sampling.

(1) Adequate identification shall be provided by the Director for all inspectors and other authorized personnel and those persons shall identify themselves when entering property for inspection purposes.

(2) Inspection and sampling of every facility that is involved directly or indirectly with the discharge of wastewater to the City's wastewater system may be made by the Director as he deems necessary. These facilities shall include but not be limited to sewers, wastewater pumping stations, pollution control plants, all industrial processes, industrial wastewater generation, conveyance and pretreatment facilities, and all similar wastewater facilities. Chemical storage areas may also be subject to inspection to identify and correct possible problems associated with accidental spills or leakage to the wastewater system. Inspections may be made to determine that such facilities are maintained and operated properly and are adequate to meet the provisions of this Ordinance.

(3) Access to all of the above facilities or to other facilities directly or indirectly connected to the City's wastewater system shall be given to the Director at all reasonable times, including those occasioned by emergency conditions. No person shall interfere with, delay, resist or refuse entrance to the Director attempting to inspect any chemical storage or wastewater generation, conveyance or treatment facility connected directly or indirectly to the City's wastewater system.

(4) During any inspection by the City, the Director will have explicit authority to copy Industrial User records as deemed pertinent and necessary. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.08.140 Public Notification. The city shall annually publish in the official city newspaper, a list of the Industrial Users which, during the previous twelve (12) months, were significantly violating local or federal pretreatment requirements or standards. For the purpose of public notification, the Director will use the definition of significant non-compliance as stated in Section 14.04.285 to determine the significant violators and violations subject to publication. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.08.150 Falsifying of Information. It shall be unlawful for any person to knowingly make any false statement, representation, record, report, plan or other document filed with the Director, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required under this Title and upon conviction thereof shall be subject to the penalties provided by Chapter 14.12. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

CHAPTER 14.10

REFUSE IN SEWERS

Sections:

14.10.010 Waste Matter.

Section 14.10.010 Waste Matter.

A. Food waste grinders are prohibited at new food service facilities. Food service facilities in operation prior to February 15, 2010 shall be allowed to operate existing food waste grinders in accordance with Subsection C. Food waste grinder waste shall be defined as:

1. Wastes generated in preparation of food normally consumed, or processed in any way, on the premises at a commercial or institutional food establishment, or in public or private schools.

B. This section does not apply to waste from residential or non-commercial dwellings.

C. Owners of food establishments with existing food waste grinders, installed prior to February 15, 2010, may continue to use the grinders in accordance with the following requirements:

1. Food waste grinders must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the sanitary sewer.
2. Food waste grinders shall not be used for grinding plastic, paper products, inert materials or garden refuse.
3. Prohibited waste as defined in Section 14.08.120 shall not be discharged into the sanitary sewer.
4. Food waste grinders may be used until their use causes a problem in the food establishment or in the sanitary sewer or until a grease interceptor is required. Any person or establishment found to be violating this subsection shall be subject to the penalties provided in Chapter 14.12.

Owners of food establishments with existing food waste grinders may choose to cease using the grinders and remove all solids material from the food processing operation to the solid waste collection dumpster. (Ord. 10-09 § 1, 2010; Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

Section 14.10.020 Refuse in Sewers. It shall be unlawful for any person to, carelessly or intentionally throw, sweep or place any waste paper, street sweepings, garbage, dirt, ashes, dead animal, offal or other putrescible matter, or any rubbish or refuse of any sort, into any inlet grating, manhole or other appurtenances of any sewer in the City of Olathe. Upon conviction thereof in the Olathe Municipal Court, any violator shall be subject to the penalties provided in Chapter 14.12; provided, however, that the provisions of this subsection shall not apply to matter commonly designated as sewage discharged from a house sewer into another sewer. (Ord. 10-09 § 2, 2010)

CHAPTER 14.12

ENFORCEMENT AND PENALTIES

Sections:

14.12.010 Access to Property.
14.12.020 Notice of Violation.
14.12.030 Request for Hearing.
14.12.040 Appeals to City Council.
14.12.050 Procedures for Violations.
14.12.060 Penalty.
14.12.070 Cost of Damage.

14.12.010 Access to Property. The Director or his/her designees shall be permitted access to any part of any property where access is necessary for the purpose of inspecting, observing, measuring, sampling or testing to determine compliance with the provision of this Ordinance. If any person should refuse to permit access to the Director, the Director may, with the assistance of the City Attorney, obtain the necessary court orders to obtain access. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.12.020 Notice of Violation. If the Director finds any violation of this Ordinance or the user's permit at the premises of any user or in the user's analysis reports, the Director shall notify the owner or occupant or user in writing stating the nature of the violation and providing a reasonable time for corrections to be made. In the absence of unusual circumstances, fifteen (15) days shall be considered a reasonable time. The person receiving the notice shall report to the Director within fifteen (15) days, in writing, stating what action has been taken and is being taken to correct the conditions constituting the violation. If the user, occupant or owner of the premises does not correct the violation within the time limit, or within any extension of time granted by the Director, the Director shall do one or all of the following:

(1) Disconnect water service and sewer service to the premises.
(2) Bring appropriate court action to enforce compliance.
(3) Start court action for the levy of a fine for violation of this Chapter.

(Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.12.030 Request for Hearing. Any person aggrieved by any notice by the Director under this Ordinance may obtain a hearing upon a written request being filed with the Director. The written request must be filed within the time for correcting the violation, or within any extension of time granted by the Director. Any such written report will postpone the date that the work is required to be completed until after the hearing. At the hearing, the petitioner may present any facts or arguments he desires to present, may be represented by counsel and may present such expert testimony or technical evidence as is necessary to establish the contentions of the owner or occupant. After the hearing, the Director may continue the original order in effect, modify the order or withdraw the order, depending on the facts shown at the hearing. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.12.040 Appeals to City Council. Any person aggrieved by any Decision of the Director pursuant to the hearing under the provisions of this Section may appeal to the City Council. The appeal shall be by notice in writing stating the nature of the decision of the Director, and stating briefly the reasons for the appeal, that is the reason why the owner or user believes that the decision of the Director should be overturned or modified. The appeal must be filed within fifteen (15) days after the person's hearing with the Director is completed and notified by the Director of his decision. The appeal will delay the effective date of the Director's order until after the appeal. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.12.050 Procedures for Violations. Upon any violation of any provision of this Ordinance, the Director may take any or all of the following actions:

(1) Conduct an administrative hearing, requiring the noncompliant person to show cause as to why the Director should not take any other action listed below;

(2) Discontinue sewer service and water service to the offending premises;

(3) Apply for appropriate court action, with the assistance of the City Attorney;

(4) Require pretreatment facilities or other action to end the violation forthwith;

(5) Require the user to pay a surcharge equal to the cost to the City of dealing with the offending matter;

(6) Apply to the court for the levy of a fine for violation of this Ordinance. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.12.060 Penalty. Except as otherwise provided herein, any person, firm or corporation violating any provision of this Title may be assessed a civil or criminal penalty of not less than Five Dollars ($5.00) nor more than One Thousand Dollars ($1,000.00) for each offense and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. Civil fines shall be imposed on a strict liability basis. (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

14.12.070 Cost of Damage. Any person violating any of the provisions of this Ordinance or who causes a deposit, obstruction, accidental discharge, damage, or any other impairment to the City's facilities shall be notified that he is liable to the City for all expense, enforcement costs, loss or damage occasioned the City by reason of each violation or discharge." (Ord. 92-22 § 2, 1992; Ord. 84-105 § 1, 1984)

TITLE 15

BUILDINGS AND CONSTRUCTION

CHAPTERS:

15.02 Building Code
15.04 Residential Code for One- and Two-Family Dwellings
15.06 Existing Building Code
15.08 Plumbing Code
15.10 Mechanical Code
15.12 Fuel Gas Code
15.14 Electrical Code
15.16 Energy Conservation Code.
15.18 Environmental Sanitary Code
15.20 Swimming Pool and Spa Code
15.22 Property Maintenance Code
15.24 Accessible and Usable Buildings and Facilities
15.32 Water Conditioning Control (Repealed 8/20/13)
15.36 Dangerous Structures (Repealed 8/20/13)
15.38 Building and Property Maintenance
15.40 Moving Buildings (Repealed 8/20/13)
15.52 Mobile Homes
15.53 Inspection of Mobile Homes
15.54 Severe Storm Safety Measures for Mobile and Modular Homes and Subdivisions (Repealed 8/20/13)
15.60 Contractor Licensing and Permits
15.61 Olathe Street Naming and Numbering Ordinance

CHAPTER 15.02

BUILDING CODE

Sections:

15.02.010	Minimum Standards
15.02.020	Code Adopted
15.02.030	Marked Copies of Code on File
15.02.040	Code Official
15.02.050	Section [A] 101.1 Amended – Title
15.02.060	Subsection [A] 101.2.1 Amended – Appendices
15.02.070	Subsection [A] 101.4.3 Amended – Plumbing
15.02.080	Subsections [A] 101.4.7, [A] 101.4.8, and [A] 101.4.9 Added – Electrical, Swimming Pools and Spas, and Existing Buildings
15.02.090	Section [A] 102.4 Amended – Referenced Codes and Standards
15.02.100	Section [A] 103.1 Amended – Creation of enforcement agency
15.02.110	Section [A] 103.2 Deleted – Appointment
15.02.120	Section [A] 105.1 Amended – Required
15.02.130	Subsection [A] 105.1.3 Added – County license required
15.02.140	Section [A] 105.2 Amended – Work exempt from permit
15.02.150	Subsection [A] 105.3.1.1 Added – Denial of permits
15.02.160	Subsections [A] 105.3.3, [A] 105.3.4, and [A] 105.3.5 Added – Potable water certification, Fire protection certification, and Connection to public sewer
15.02.170	Subsection [A] 105.3.6 Added – Application for permit to move a building or other structure
15.02.180	Section [A] 109.2 Amended – Schedule of permit fees
15.02.190	Section [A] 109.4 Amended – Work commencing before permit issuance
15.02.200	Section 111 Amended – Certificate of Occupancy
15.02.205	Subsections 112.1.1 and 112.1.1.1 Added – Reconnection of Existing Service Utilities and Service Reconnect Permit Fee.
15.02.210	Section 113 Amended – Board of Appeals
15.02.220	Section [A] 114.4 Amended – Violation penalties
15.02.230	Section [A] 114.5 Added – Correcting damage to public facilities
15.02.240	Subsection [A] 116.1.1 Added – Immediate Hazard Procedures Authorized
15.02.250	Section [A] 116.6 Added – Failure to abate an unsafe condition
15.02.260	Subsection 305.2.3 Amended – Care being provided in a dwelling unit in compliance with K.S.A. § 65-508
15.02.270	Subsection 308.6.5 Added – Care being provided in a dwelling unit in compliance with K.S.A. § 65-508
15.02.280	Subsection 310.5.1 Exception Added – Care facilities within a dwelling unit
15.02.290	Subsection [F] 901.6.4 Added – Qualifications of inspection, testing and maintenance personnel
15.02.300	Subsection [F] 903.4.1 Amended – Monitoring
15.02.310	Subsection [F] 903.4.2 Amended – Alarms
15.02.320	Subsection [F] 907.6.5 Amended – Monitoring
15.02.330	Subsection [F] 907.7.4 Added – Contractor's statement
15.02.340	Section [F] 912.2 Amended – Location
15.02.350	Subsection [F] 912.3.4 Added – Fire department connections
15.02.360	Section 1015.6 Exception Added – Day care means of egress
15.02.370	Section 1030 Added – Physical Security
15.02.380	Subsection 1103.2.12 Exception Added – Day care facilities
15.02.390	Section 1203.1 Amended – General
15.02.395	Section 3009 Added – Certificate of Inspection.
15.02.400	Section 3109.3 Amended – Public swimming pools
15.02.410	Conflicts
15.02.420	Liability
15.02.430	Severability

15.02.010 Minimum Standards. This chapter, including the standard code incorporated by reference, shall constitute the minimum standards for the construction, reconstruction, alteration, remodeling, use, occupancy, location or maintenance of buildings and structures. It is unlawful for any person, firm or corporation to construct, reconstruct, alter, remodel, use, occupy, locate or maintain any building or structure which violates any provision of this chapter or fails to comply with any standard set by this chapter for such installation. (Ord. 12-41 § 2, 2012)

15.02.020 Code Adopted. The 2012 International Building Code, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795 is adopted by reference and made a part of this chapter as if fully set out, save and except such parts or portions thereof as are specifically deleted, added or changed in Sections 15.02.030 through and including 15.02.430. (Ord. 12-41 § 2, 2012)

15.02.030 Marked Copies of Code on File. There shall be not less than one (1) copy of the code adopted by reference in Section 15.02.020 kept on file in the office of the City Clerk, to which shall be attached a copy of the incorporating ordinance, and which shall be marked or stamped, "Official Copy as Incorporated by Ordinance No. 12-41" with all sections or portions thereof intended to be omitted clearly marked to show any such deletion or change, and filed with the City Clerk and open to inspection and available to the public at all reasonable hours. The Fire Department, Municipal Judges and all administrative departments of the City charged with the enforcement of the incorporating ordinance shall be supplied, at the cost of the City, such number of official copies of such standard ordinance similarly marked, deleted and changed as may be deemed expedient. (Ord. 12-41 § 2, 2012)

15.02.040 Code Official. The Chief Building Official or his or her designee will be known as the "Chief Building Official", "Building Official", "Code Official" or "Administrative Authority" for the purposes of this chapter and will have the duty of enforcing provisions of this chapter. (Ord. 12-41 § 2, 2012)

15.02.050 Section [A] 101.1 Amended – Title. Subsection [A] 101.1 of the International Building Code is hereby amended to read as follows:

[A] 101.1 Title. The 2012 International Building Code and the deletions, changes, and additions contained in the Olathe Municipal Code, Chapter 15.02, shall be known as the Building Code of the City of Olathe, Kansas, hereinafter referred to as "this code" or "the Building Code." (Ord. 12-41 § 2, 2012)

15.02.060 Subsection [A] 101.2.1 Amended – Appendices. Subsection [A] 101.2.1 of the International Building Code is hereby amended to read as follows:

[A] 101.2.1 Appendices. Provisions in the appendices shall not apply unless specifically adopted.
[A] 101.2.1.1 Appendices adopted. The following appendices are hereby adopted as part of this code:

Appendix C: Group U – Agricultural Buildings
Appendix E: Supplementary Accessibility Requirements (Ord. 12-41 § 2, 2012)

15.02.070 Subsection [A] 101.4.3 Amended – Plumbing. Subsection [A] 101.4.3 of the International Building Code is hereby amended to read as follows:

[A] 101.4.3 Plumbing. The provisions of the International Plumbing Code (as adopted by the City and set forth in Chapter 15.08 of the Olathe Municipal Code) shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. The provisions of the Johnson County, Kansas Environmental Sanitary Code, 2004 edition, as adopted by the City shall apply to private sewage disposal systems. (Ord. 12-41 § 2, 2012)

15.02.080 Subsections [A] 101.4.7, [A] 101.4.8, and [A] 101.4.9 Added – Electrical, Swimming Pools and Spas, and Existing Buildings. Subsections [A] 101.4.7, [A] 101.4.8, and [A] 101.4.9 are hereby added to the International Building Code and shall read as follows:

[A] 101.4.7 Electrical. The provisions of the National Electrical Code (as adopted by the City in accordance with Chapter 15.14 of the Olathe Municipal Code) shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

[A] 101.4.8 Swimming Pools and Spas. The provisions of the International Swimming Pool & Spa Code (as adopted by the City in accordance with Chapter 15.20 of the Olathe Municipal Code) shall apply to the installation of swimming pools, hot tubs, spas, and fixed in-place wading pools, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

[A] 101.4.9 Existing Buildings. The provisions of the International Existing Building Code (as adopted by the City in accordance with Chapter 15.06 of the Olathe Municipal Code) shall apply to the repair, alteration, change of occupancy, addition and relocation of existing buildings. (Ord. 12-41 § 2, 2012)

15.02.090 Section [A] 102.4 Amended – Referenced Codes and Standards. Section [A] 102.4 of the International Building Code is hereby amended to read as follows:

[A] 102.4 Referenced Codes and Standards. The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections [A] 102.4.1 and [A] R102.4.2.

[A] 102.4.1 Differences. Where differences occur between provisions of this code and referenced codes and standards, the most restrictive provisions shall apply.

[A] 102.4.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the most restrictive provisions, as applicable, shall take precedence over all other provisions. (Ord. 12-41 § 2, 2012)

15.02.100 Section [A] 103.1 Amended – Creation of enforcement agency. Section [A] 103.1 of the International Building Code is hereby amended to read as follows:

[A] 103.1 Creation of enforcement agency. The Chief Building Official in charge of the Building Code Division for the City shall be the designated enforcement officer of this code, and is herein referred to as the "building official." The term "Code Official," "authority having jurisdiction," and/or "Code Administrator" shall be used synonymously with the term "building official" and the term "Building Code Division" shall be used synonymously with the term "Department of Building Safety." (Ord. 12-41 § 2, 2012)

15.02.110 Section [A] 103.2 Deleted – Appointment. Section [A] 103.2 of the International Building Code is hereby deleted. (Ord. 12-41 § 2, 2012)

15.02.120 Section [A] 105.1 Amended – Required. Section [A] 105.1 of the International Building Code is hereby amended to read as follows:

[A] 105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, plumbing, fire alarm, fire detection, automatic fire-extinguishing, or LP-Gas system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit. (Ord. 12-41 § 2, 2012)

15.02.130 Subsection [A] 105.1.3 Added – County license required. Section [A] 105.1.3 is hereby added to the International Building Code and shall read as follows:

[A] 105.1.3 County license required. All persons undertaking work which requires a permit as provided in Section 105, or seeking to obtain that permit from the City, are required to have a currently valid Johnson County contractor's license. That County license shall have been issued by the County in accordance with the provisions of the Johnson County Contractors Licensing Program and the Contractor Licensing Regulations adopted by the Board of County Commissioners by Resolution 058-01 on August 9, 2001, and any regulations subsequently adopted by the Contractor Licensing Review Board as authorized by said County Licensing Regulations, as said Resolution and regulations may be amended from time to time by said Boards.

Exceptions:

1. The owner of a single-family dwelling shall be allowed to secure a permit to construct, alter, or repair said home provided the following conditions are met:

   A. The homeowner currently occupies the dwelling or will occupy the residence once the construction has been completed.
   B. The homeowner undertakes the work themselves.

2. The Building Official may waive the provisions of this section where it can be established that no license exists for the installation, alteration, or repair of a certain type of work requiring a permit, or due to other unique circumstances. (Ord. 12-41 § 2, 2012)

15.02.140 Section [A] 105.2 Amended – Work exempt from permit. Section [A] 105.2 of the International Building Code is hereby amended to read as follows:

[A] 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:

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area is not greater than 200 square feet (18.58 m^2).
2. Re-siding the dwelling or structure with materials other than stucco or EIFS.
3. Oil derricks.
4. Retaining walls that are not over 4 feet (1,219 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 IIIA liquids.
5. Water tanks supported directly on grade if the capacity is not greater than 5,000 gallons (18,925 L) and the ratio of height to diameter or width is not greater than 2:1.
6. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route.
7. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
8. Temporary motion picture, television and theater stage sets and scenery.
9. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches (610 mm) deep, are not greater than 5,000 gallons (18,925 L) and are installed entirely above ground.
10. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.

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

12. Window awnings in Group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches (1,372 mm) from the exterior wall and do not require additional support.

13. Nonfixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1,753 mm) in height.

Electrical:

1. Repairs and maintenance: Minor repair work, including: the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles; listed cord and plug connected temporary decorative lighting; reinstallation of attachment plug receptacles but not the outlet; repair or replacement of branch circuit over current devices of the required capacity in the same location; electrical wiring, devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy, and are not part of a fire alarm system.

2. Radio and television transmitting stations: The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for a power supply and the installations of towers and antennas.

3. Temporary testing systems: A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

4. The installation of portable generators, complying with National Electric Code Section 250.34 (A), used to provide temporary power.

Gas:

1. Portable heating appliance.

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.

Mechanical:

1. Portable heating appliance.

2. Portable ventilation equipment.

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 part that does not alter its approval or make it unsafe.

6. Portable evaporative cooler.

7. Self-contained refrigeration system containing 10 pounds (5 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.

Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, 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.

2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, sinks and lavatories in the same location. (Ord. 12-41 § 2, 2012)

15.02.150 Subsection [A] 105.3.1.1 Added – Denial of permits. Subsection [A] 105.3.1.1 is hereby added to the International Building Code and shall read as follows:

[A] 105.3.1.1 Denial of permits. The Building Official is authorized to deny a permit to any applicant not meeting the provisions as set forth in this code and to any person who has outstanding a failure to appear in court with respect to any violation of the Olathe Municipal Code. The Building Official is further authorized, with respect to the insurance requirements, to take any necessary administrative enforcement action including, without limitation, stopping construction operations on any incomplete permits and denying issuance of any additional permits. (Ord. 12-41 § 2, 2012)

15.02.160 Subsections [A] 105.3.3, [A] 105.3.4, and [A] 105.3.5 Added – Potable water certification, Fire protection certification, and Connection to public sewer. Subsections [A] 105.3.3, [A] 105.3.4, and [A] 105.3.5 are hereby added to the International Building Code and shall read as follows:

[A] 105.3.3 Potable water certification. A permit shall not be issued until written evidence is presented to the Building Official certifying the availability of satisfactory potable water supply. Applicants that are within areas under the jurisdiction of a duly constituted water utility shall submit a connection permit or notice of intent to supply water service from the water utility having jurisdiction. Applicants from areas that are not within an area under the jurisdiction of a duly constituted water utility shall submit a certificate from the Johnson County Health Director that the proposed water supply meets the required standards for health and safety.

Exception: On structures other than one- and two-family dwellings, the Building Official may issue a building permit prior to receiving the connection permit or notice of intent to supply water service specified in Section [A] 105.3.3 if all the following conditions are met:

1. A written document acceptable to the City is provided to the Building Official describing the unusual circumstances preventing the issuance of such connection permit.
2. Documentation acceptable to the City is provided showing the status of the application to the water utility having jurisdiction.

3. The applicant verifies in writing, in a form acceptable to the City, an acknowledgement and understanding that the permit required in Section [A] 105.3.3 must be provided to the Building Codes Division prior to any form of final inspection being conducted by the City and prior to any temporary or final certificate of occupancy being issued by the City.
4. The Building Official is satisfied that all pertinent information has been provided and that issuance of a building permit under these circumstances would be in full compliance with the intent and purpose of this code.

[A] 105.3.4 Fire protection certification. A permit for construction shall not be issued until written evidence is presented to the Building Official certifying the availability of satisfactory hydrant locations. Applicants that are within areas under the jurisdiction of a duly constituted water utility, shall submit a statement from the utility certifying that the proposed fire protection system conforms to the regulations of the district. The water supply and hydrants shall also comply with the requirements of Section [A] 507 and Appendices B and C of the International Fire Code (as adopted by the City in accordance with Chapter 16.05 of the Olathe Municipal Code).

[A] 105.3.5 Connection to public sewer. No building permit for any structure or building to be located within a legally created sewer district in the City in which sanitary sewage will, or may, originate shall be issued a permit until and unless the applicant, or their agent, has previously applied for and received from the sewage utility having jurisdiction, an outside sanitary sewer construction and connection permit as required by the rules and regulations of the sewage utility having jurisdiction.

Exception: On structures other than one- and two-family dwellings, the Building Official may issue a building permit prior to receiving the sanitary sewer permit if all the following conditions are met:

1. A written document acceptable to the City is provided to the Building Official describing the unusual circumstances preventing the issuance of such connection permit.
2. Documentation acceptable to the City is provided showing the status of the application to the sewage utility having jurisdiction.
3. The applicant verifies in writing, in a form acceptable to the City, an acknowledgement and understanding that the permit required in Section [A] 105.3.5 must be provided to the Building Code Division prior to any form of final inspection being conducted by the City and prior to any temporary or final occupancy permit being issued by the City.
4. The Building Official is satisfied that all pertinent information has been provided and that issuance of a building permit under these circumstances would be in full compliance with the intent and purpose of this code.

[A] 105.3.5.1 Private sewage disposal facilities. Where a public sewer is not available, a private sewage disposal system designed and constructed in accordance with the Johnson County, Kansas Environmental Sanitary Code and approved by the Johnson County Environmental Department shall be acceptable. (Ord. 12-41 § 2, 2012)

15.02.170 Subsection [A] 105.3.6 Added – Application for permit to move a building or other structure. Section [A] 105.3.6 is hereby added to the International Building Code and shall read as follows:

[A] 105.3.6 Application for permit to move a building or other structure. Application for a permit shall be made to move a building or other structure over, along or across any highway, street, road or alley in the City. A move permit application shall include the information required in Sections [A] 105.3.6.1 or [A] 105.3.6.2. The application shall be made not less than fourteen (14) calendar days prior to the commencement of the move. Buildings or structures shall not be lifted off their existing foundation until a permit to move the building or structure has been secured.

Exception: Camping trailers are specifically excluded from this requirement, and no permit shall be required for moving any house, building, mobile home, modular home or structure exclusively upon Interstate 35 Highway.

[A] 105.3.6.1 Moving buildings or structures within or into the City limits. A permit for a foundation, or a new single family or a remodel permit shall be secured prior to the issuance of a permit to move a building or structure onto property within the City limits. The foundation shall be constructed prior to the building or structure being moved. All applications for permits to move buildings or structures within the City limits of Olathe or into the City shall include the following information:

1. A complete building permit application.
2. Building permit fee per Section [A] 109.
3. A letter indicating the day and hour when the move is to start; the length of time required for the move; and the number and type of escort vehicles.
4. The dimensions of the building or structure as to length, width, and height at its highest point when loaded for moving, including a diagram of how the structure will be loaded and supported during the move.
5. A map showing the route of the move.
6. A deposit of a sum of money equal to twice the amount of the estimated City expense enumerated in the cost estimates included in the submitted route approval letters from the Police and Public Works Departments.
7. Letter from the Police Department approving the date, time and route of the move and including an estimate of costs for police services, to include escort service for the move.
8. Letter from the Public Works Department approving the date, time and route of the move and including an estimate of the expense that will be incurred in removing and replacing any facilities belonging to the City or any other property of the City, the removal and replacement of which will be required by reason of the moving of the building through the City, together with the cost of materials necessary to be used in making such removals and replacements.

9. Bond or cash deposit per Section [A] 105.3.6.3.
10. Certificate of Insurance per Section [A] 105.3.6.4.
11. Certificate of Ownership or Entitlement. The applicant, if other than the owner, shall file with the application a written statement or bill of sale signed by the owner, or other sufficient evidence, that he/she is entitled to move the building.
12. A copy of the state highway move permit, if applicable.
13. A letter or electronic communication from any utility agency having overhead lines along the proposed route indicating that they have approved the route.
14. Written permission from the Olathe agency having jurisdiction to trim trees in the public right-of-way necessary to provide clearance for the move along the proposed route.
15. If being moved off a site within the City limits, letters from all utility agencies verifying that all utilities have been disconnected, i.e. gas, electric, water, sewer. A verbal or electronic communication from the utility agency is acceptable in lieu of a letter.
16. If being moved off a site within the City limits, a Tax Certificate. The owner of the building to be moved shall file with the application sufficient evidence that the building and lot from which it is to be removed are free of any entanglements and that all taxes, liens, and any City charges against the same are paid in full.
17. If being moved off a site within the City limits, a letter signed by the property owner that the site will have the original foundation demolished, all excavations filled to existing grade, and all debris cleared to return the site to a safe and sanitary condition within 30 days. The letter will include a timeline for these actions and an agreement that a four foot fence will be provided around any open foundation or excavation and that erosion and sediment control measures shall be put in place as needed and shall remain in place until vegetation has been established.
18. If being moved off a site within the City limits, a plot plan, sealed by a Kansas design professional, showing the property or lot where the building or structure is to be removed from and including a legal description of the property.
19. A plot plan, sealed by a Kansas design professional, showing the property or lot where the building or structure is to be moved to and including a legal description of the property.
20. Letter from the water utility having jurisdiction certifying the availability of the water supply per Section [A] 105.3.3.
21. Verification from the Fire Department of a satisfactory fire hydrant location per Section [A] 105.3.4.
22. Sewer permit from the utility having jurisdiction, or a septic tank or holding tank permit from the Johnson County Environmental Department as specified per Section [A] 105.3.5.
23. Verification from the Planning Services Division that the building or structure to be moved is architecturally compatible with adjacent buildings or structures in the area where the building or structure is to be moved.
24. Verification by the Building Codes Division that the building or structure meets current adopted codes and standards.
25. Any additional information which the City shall find necessary to make a fair determination of whether a permit should be issued.

[A] 105.3.6.2 Buildings or structures being moved out of the City or passing through the City. All permit applications for moving buildings or structures out of or through the City shall include the following information:

1. A complete building permit application.
2. Building permit fee per Section [A] 109.
3. A letter indicating the day and hour when the move is to start; the length of time required for the move; and the number and type of escort vehicles.
4. The dimensions of the building or structure as to length, width, and height at its highest point when loaded for moving, including a diagram of how the structure will be loaded and supported during the move.

5. A map showing the route of the move.
6. A deposit of a sum of money equal to twice the amount of the estimated City expense enumerated in the cost estimates included in the submitted route approval letters from the Police and Public Works Departments.
7. Letter from the Police Department approving the date, time and route of the move and including an estimate of costs for police services, to include escort service for the move.
8. Letter from the Public Works Department approving the date, time and route of the move and including an estimate of the expense that will be incurred in removing and replacing any facilities belonging to the City or any other property of the City, the removal and replacement of which will be required by reason of the moving of the building through the City, together with the cost of materials necessary to be used in making such removals and replacements.
9. Bond or cash deposit per Section [A] 105.3.6.3.
10. Certificate of Insurance per Section [A] 105.3.6.4.
11. Certificate of Ownership or Entitlement. The applicant, if other than the owner, shall file with the application a written statement or bill of sale signed by the owner, or other sufficient evidence, that he is entitled to move the building.
12. A copy of the state highway move permit, if applicable.
13. A copy of the move permit from the next jurisdiction that the structure will enter when leaving the Olathe City limits.
14. A letter or electronic communication from any utility agency having overhead lines along the proposed route indicating that they have approved the route.
15. Written permission from the Olathe agency having jurisdiction to trim trees in the public right-of-way necessary to provide clearance for the move along the proposed route.
16. If being moved off a site within the City limits, letters from all utility agencies verifying that all utilities have been disconnected, i.e. gas, electric, water, sewer. A verbal or electronic communication from the utility agency is acceptable in lieu of a letter.
17. If being moved off a site within the City limits, a Tax Certificate. The owner of the building to be moved shall file with the application sufficient evidence that the building and lot from which it is to be removed are free of any entanglements and that all taxes, liens, and any City charges against the same are paid in full.
18. If being moved off a site within the City limits, a letter signed by the property owner that the site will have the original foundation demolished, all excavations filled to existing grade, and all debris cleared to return the site to a safe and sanitary condition within 30 days. The letter will include a timeline for these actions and an agreement that a four foot fence will be provided around any open foundation or excavation and that erosion and sediment control measures shall be put in place as needed and shall remain in place until vegetation has been established.
19. If being moved off a site within the City limits, a plot plan, sealed by a Kansas design professional, showing the property or lot where the building or structure is to be removed from and including a legal description of the property.
20. Any additional information which the City shall find necessary to make a fair determination of whether a permit should be issued.

[A] 105.3.6.3 General Deposit.

1. Bond. An application hereunder shall be accompanied by a bond, essentially in the form shown below, executed by a bonding or surety company authorized to do business in the state of Kansas in the amount of Five Thousand Dollars ($5,000.00), conditioned upon the assurance that this and other applicable ordinances and laws will be complied with. Such bond shall run to the City for the use and benefit of any person or persons intended to be protected thereby and shall be conditioned on the payment of any damage to public or private property and the payment for any damages or losses resulting from any malfeasance, misfeasance, or non-feasance or negligence in connection with any of the activities or conditions upon which the permit applied for is granted. Bond forms should be substantially in the following form:

CITY OF OLATHE, KANSAS
HOUSE, BUILDING AND STRUCTURE PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That we,_____, as Principal,_____and as Surety, are held and firmly bound unto the City of Olathe, Kansas, in the penal sum of Five Thousand and No/100 Dollars ($5,000.00), to the payment of which will be made we hereby bind ourselves, our heirs, executors, administrators, and successors, severally and firmly by these presents.

DATED this _____ day of, _____ 20_____, for the period of one year ending the _____day of_____, 20_____.

THE CONDITION of the foregoing obligation is such that **WHEREAS**, said principal desires to move houses, buildings and/or structures over and along the public streets or ways, roads, alleys or sidewalks in the City of Olathe, Kansas, this bond is conditioned that said person, firm or corporation shall perform all covenants, conditions and obligations pertaining to the moving of the house, building or structure and the compliance with all City codes pertaining to said house, building and/or structure, and shall hold the City harmless against all claims, loss or damage which it may sustain or suffer by reason of any breach of said permit by said principal, or by reason of any injury to persons or property occasioned by the action of said principal or his employees.

IN TESTIMONY WHEREOF, said principal has duly executed these presents and said surety has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its duly authorized agent or agents, all as of the date and year first above written.

_____
Principal

(Seal)

_____
Surety

2. Any person filing an application hereunder may, in lieu of the bond required above, deposit with the City Clerk a cash deposit in the sum of Five Thousand Dollars ($5,000.00) as an indemnity for any damage which the City may sustain by reason of damage or injury to any highway, street or alley, sidewalk, fire hydrant or other property of the City, which may be caused by or be incidental to the removal of any building over, along or across any street in the City and to indemnify the City against any claim of damages to persons or private property, and to satisfy any claims by private individuals arising out of, caused by or incidental to the moving of any building over, along or across any street in the City.

[A] 105.3.6.4 Certificate of Insurance. The applicant shall file with the City a certificate of insurance, demonstrating evidence of satisfactory Commercial General Liability and Automobile Liability insurance. No permit shall be issued until such evidence is filed. Policies of insurance must contain the following limits of protection and conditions:

1. Commercial General Liability insurance on an occurrence basis in amounts no less than $500,000 bodily injury and property damage per occurrence.
2. Automobile Liability insurance in an amount no less than $250,000 bodily injury each person / $500,000 bodily injury each occurrence / $250,000 property damage each occurrence; or $500,000 bodily injury and property damage combined single limit.

The City will only accept coverage from an insurance carrier meeting these criteria:

1. Is licensed to do business in the state of Kansas;
2. Carries a Best's policyholder and financial rating of A- or better;
3. Carries at least a Class VIII financial rating; or
4. Is a company mutually agreed upon by the City and the applicant.

The City shall be notified in writing not less than thirty (30) days prior to cancellation or material modification of any policy provisions.

[A] 105.3.6.5 Duties of Chief Building Official. Upon receipt of the application the Chief Building Official or designee shall:

1. Check and verify that all application, fee and deposit requirements have been complied with;
2. Endorse the application to indicate applicant compliance with contents, requirements and forward to other City agencies for concurrence/approval as appropriate.
3. Deposit all fees and cash deposits with the Director of Resource Management or designee.
4. Hold all bonds and/or insurance policies until either denial of application or final resolution of the move and any damages that may result therefrom.
5. Issue the permit upon return of application approval by the departments listed in subparagraph 2. above.
6. In the event the permit is refused, return to the applicant all deposits, bonds and insurance policies (permit fees shall not be returned).
7. Inspection. The Building Official may direct inspection of the building to determine whether the standards for issuance of a permit are met.
8. Standards for Issuance. The Building Official shall refuse to issue a permit if he/she finds:

    a. The building is too large to move without endangering persons or property in the City;
    b. The building is in such a state of deterioration or disrepair or is otherwise so structurally unsafe that it could not be moved without endangering persons and property in the City;
    c. The building is structurally unsafe or unfit for the purpose for which moved, if the removal location is in the City;
    d. The applicant's equipment is unsafe and that persons and property would be endangered by its use;
    e. That zoning or other ordinances would be violated by the building in its new location;
    f. That for any other reason persons or property in the City would be endangered by the moving of the building.

9. Return upon allowance for expense. After the building has been removed, the Chief Building Official shall furnish the Director of Resource Management or designee with a written statement of all expenses incurred in removing and replacing all property belonging to the City, and of all material used in the making of the removal and replacement together with a statement of all damage caused to or inflicted upon property belonging to the City. Provided however, that if any wires, poles, lamps or other property are not located in conformity with governing ordinances, the permittee shall not be liable for the cost of removing the same. The Director of Resource Management shall return to the applicant all deposits after deduction of sum sufficient to pay for all of the costs and expenses and for all damage done to property of the City by reason of the removal of the building. The return of deposits shall be made no later than thirty (30) days after completion of the move. Permit fees deposited with the application shall not be returned.

10. Designate Streets for Moving. The Chief Building Official may designate streets for moving buildings or he/she may modify the applicant's proposed route and moving dates and hours in order to assure maximum safety to persons and property in the City and to minimize congestion and traffic hazards on public streets. The Building Official may require the planking of any street, bridge or culvert, or any part thereof, to support the building being moved to prevent damage. Further, the Building Official may, at his/her discretion, inspect the progress of moving the building to ensure compliance with the provisions of this chapter.

[A] 105.3.6.6 Duties of Director of Resource Management.

1. Deposit all monies received into the City general operating fund.
2. The Director of Resource Management or designee shall return to the applicant all deposits after deduction of sum sufficient to pay for all of the costs and expenses and for all damage done to property of the City by reason of the removal of the building. The return of deposits shall be made no later than thirty (30) days after completion of the move. Permit fees deposited with the application shall not be returned.

[A] 105.3.6.7 Duties of Police Chief.

1. The Police Chief or designee shall review the application and, if concurring, indicate the same thereon and assign police escort as may be required. If nonconcurring, return the application with reasons for recommended disapproval.
2. Upon completion of the movement of the building and the termination of any police escort, notify the Chief Building Official of all police services costs.

[A] 105.3.6.8 Duties of City Attorney. The City Attorney or designee shall review the application for legal sufficiency and signify approval or in the event of recommended disapproval submit reasons therefor.

[A] 105.3.6.9 Duties of Permittee. Every permittee under this chapter shall:

1. Use of Streets. Use only those streets and routes as approved by the permit.
2. Notify of Revised Moving Time. Notify the Chief Building Official in writing at least forty-eight (48) hours prior to the move of any desired change in the date, hour, or route of the move as proposed in the application. All changes must be approved by the Chief Building Official before initiating the move.
3. Notify of Damage. Notify the Chief Building Official in writing of any and all damage done to public and private property within 24 hours after the damage or injury has occurred.
4. Street Occupancy Period. Remove the building from the City streets after twenty-four (24) hours of such occupancy. No building or structure or any part of any building or structure being moved shall be left in the parkway, street, or on the dedicated right-of-way line between the curb and the front property line of any lot.
5. Comply with Governing Law. Comply with the building code, the fire code, the zoning ordinance and all other applicable ordinances and laws upon relocating the building in the City.
6. Pay Expense of Officer. Pay the expense of any officer that may be ordered by the Police Chief or designee to accompany the movement of the building to protect the public from injury.
7. Clear Old Premises. Within 30 days demolish original foundation, remove all rubbish and materials, and fill all excavations to existing grade at the original building site so that the premises are left in a safe and sanitary condition. Any open foundation or excavation shall be protected by a four foot fence. Erosion and sediment control measures shall be put in place as needed and shall remain in place until vegetation has been established.

8. Remove Service Connection. See that the sewer line is plugged with a stopper, the water shut off, and the meter returned to the City water office. Permittee shall notify the gas and electric service companies to remove their services.
9. Permit Aboard Moving Vehicle. Ensure that at all times while the moving or towing vehicle is engaged in moving the building, the permit and route of travel are in the possession of the vehicle operator and available for inspection by City authorities.
10. Railroad Crossings. Notify railroad officials of times, location and direction of crossing of all railroad tracks on the route of travel.
11. Compliance with Moving Provisions. Be responsible for furnishing its own escort and for complying with all provisions contained in Section [A] 105.3.6.10.

[A] 105.3.6.10 General Provisions. The following general provisions shall be complied with during the moving of any building within the limits of the City of Olathe:

1. Escort Vehicles. The movement of all buildings within the City shall be protected by two (2) escort vehicles to be provided by the permittee. Each escort vehicle shall have a rotating flashing amber light eight inches (8") in diameter mounted on the top of the escort vehicle in such a manner that it is readily visible in all directions at a distance of not less than eight hundred feet (800'), and it shall have attached to the top of said vehicle an "OVERSIZE LOAD" sign. Such sign shall be yellow with black lettering. The sign shall be fourteen inches (14") in height and sixty inches (60") in length. The lettering is to be eight inches (8") high and have a one and one-eighth inch (1-1/8") stroke and it must be readily visible from a distance of five hundred feet (500'). One escort vehicle shall precede the building being moved and the other shall follow it.
2. Warning Flags. The building being moved shall have red flags not less than eighteen inches (18") square attached to each corner of the building at all times it is in transit.
3. Display Lights. Cause red lights to be displayed during the night time on every side of the building, while standing on a street, in such manner as to warn the public of the obstruction, and shall at all times erect and maintain barricades across the streets in such manner as to protect the public from damage or injury by reason of the removal of the building. Night time is from thirty (30) minutes after sunset to thirty (30) minutes before sunrise.

[A] 105.3.6.11 Enforcement.

1. The Chief Building Official or designee and Police Chief or designee shall enforce and carry out the requirements of this chapter.
2. Permittee Liable for Expense above Deposit. The permittee shall be liable for any expense, damages or costs in excess of deposited amounts or securities, and the City Attorney shall prosecute an action against the permittee in a court of competent jurisdiction for the recovery of such excessive amounts.
3. Original Premises Left Unsafe. The City shall proceed to do the work necessary to leaving the original premises in a safe and sanitary condition, where permittee does not comply with the requirements of this chapter, and the cost thereof shall be charged against the general deposit. In lieu thereof the City may levy a special assessment in accordance with the provisions of Section [A] 116.6.

[A] 105.3.6.12 Penalties. Any person violating any of the provisions of this code shall be subject to the penalties as stipulated in Section [A] 114.4.

[A] 105.3.6.13 Liability. The requirements stated in this code shall not be construed as imposing upon the City, its officers, agents or employees any liability or responsibility for damages to any property or injury to any person due to an improper moving of buildings on the City's streets. The City or any official, employee or agent thereof shall not assume liability or responsibility whatsoever by reason of any inspection or approval of any move. Acceptance of the permit by the permittee will be prima facie evidence that the permittee assures full compliance with all requirements contained in this chapter, and assumes all responsibility for injury to persons or damages to public or private property, and further agrees to hold the City immune from all suits, claims and damages arising from the movement of the building. (Ord. 12-41 § 2, 2012)

15.02.180 Section [A] 109.2 Amended – Schedule of permit fees. Section [A] 109.2 of the International Building Code is hereby amended to read as follows:

[A] 109.2 Schedule of permit fees. Permit fees for all applications shall be established by a resolution of the Governing Body. Permit fees may be reviewed on an annual basis and revised as necessary by adoption of a new resolution. Copies of the current resolution establishing permit fees shall be on file in the City Clerk's office. (Ord. 12-41 § 2, 2012)

15.02.190 Section [A] 109.4 Amended – Work commencing before permit issuance. Section [A] 109.4 of the International Building Code is hereby amended to read as follows:

[A] 109.4 Work commencing before permit issuance. When it is determined through an investigation that any person has commenced any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits, the person shall be subject to an investigation fee established that shall be in addition to the required permit fees. The investigation fee shall be established by a resolution of the Governing Body and shall be equal to the amount of the permit fee. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of either this code or the technical codes nor from any penalty prescribed by law. (Ord. 12-41 § 2, 2012)

15.02.200 Section 111 Amended – Certificate of Occupancy. Section 111 of the International Building Code is hereby amended to read as follows:

SECTION 111
CERTIFICATE OF OCCUPANCY

[A] 111.1 Use and occupancy. No change in the character, use or occupancy classification of land or of a building shall be made, nor shall any new or old building or structure or portion thereof be so occupied or used until the Chief Building Official has issued a certificate of occupancy certifying that such building or use complies with all regulations of Title 15 of the Olathe Municipal Code, the Unified Development Ordinance and all other ordinances and regulations applicable thereto. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances.

Exception: Certificates of occupancy are not required for work exempt from permits under Section [A] 105.2.

[A] 111.1.1 Change in Use. Changes in the character or use of a building shall not be made except as specified in the International Existing Building Code.

[A] 111.2 Certificate issued. After the Building Official conducts the final inspection of the building, structure, and grounds and finds no violations of the provisions of this code and the Unified Development Ordinance, the Chief Building Official shall issue a Certificate of Occupancy which shall contain the following:

1. The building permit number.
2. The address of the structure.
3. The name and address of the owner.
4. A description of that portion of the structure for which the certificate is issued.
5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
6. The name of the Building Official.
7. The edition of the code under which the permit was issued.
8. The use and occupancy, in accordance with the provisions of Chapter 3.
9. The type of construction as defined in Chapter 6.
10. The design occupant load.
11. If an automatic sprinkler system is provided, whether the sprinkler system is required.
12. Any special stipulations and conditions of the building permit.

[A] 111.3 Temporary occupancy. A Temporary Certificate of Occupancy may be issued by the Building Official for the use of a portion or portions of a building or structure prior to the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. Such temporary certificate shall be issued only for a specified period of time and shall specifically state the item or items needed to be completed before a Certificate of Occupancy shall be issued. It shall be unlawful for any person, firm or corporation that has been issued a Temporary Certificate of Occupancy to occupy or to allow the occupancy of a building or structure beyond the time specified in the temporary certificate without completing the item or items needed to be completed and obtaining a Certificate of Occupancy.

[A] 111.4 Revocation. The Building Official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

[A] 111.5 Record. A record of all Certificates of Occupancy shall be on file in the office of the Building Official and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the land or building affected by such Certificate of Occupancy.

[A] 111.6 Posting. The Certificate of Occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the Building Official. (Ord. 12-41 § 2, 2012)

15.02.205 Subsections 112.1.1 and 112.1.1.1 Added – Reconnection of Existing Service Utilities and Service Reconnect Permit Fee. Subsections 112.1.1 and 112.1.1.1 are hereby added to the International Building Code and shall read as follows:

112.1.1 Reconnection of Existing Service Utilities. No person shall reconnect a utility, source of energy, fuel or power, to an existing building that has been dormant for more than thirty (30) days, without obtaining a Service Reconnect Permit and an inspection and utility release approval by the Building Official.

112.1.1.1. Service Reconnect Permit Fee. There is hereby established a fee for issuance of a Service Reconnect Permit. The permit fee shall be adopted by the Governing Body of the City by resolution. (Ord. 15-51 § 1, 2015)

15.02.210 Section 113 Amended – Board of Appeals. Section 113 of the International Building Code is hereby amended to read as follows:

SECTION 113
BOARD OF APPEALS

[A] 113.1 Board of Code Review. A Board of Code Review shall be established and empowered to act as the Board of Appeals in order to determine suitability of alternate materials, methods of construction and to provide for reasonable interpretation of the code and to perform all other such duties as defined in Chapter 2.74 of the Olathe Municipal Code.

[A] 113.2 Procedures for Conduct of Hearing Appeals.

A. **Hearing**. The Board shall conduct all hearings.

B. **Record**. A record of the entire proceedings shall be made by audio recording, or by any other means of permanent recording determined to be appropriate by the Board.

C. **Continuances**. The Board may grant continuances for good cause shown.

D. **Oaths**. In any proceedings under this chapter, the Board, or any Board member, has the power to administer oaths and affirmations to certify to official acts.

E. **Reasonable Dispatch**. The Board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

[A] 113.3 Form of Notice of Hearing. The notice to appellant shall be substantially in the following form, but may include other information:

You are hereby notified that a hearing will be held before the Board of Code Review at _____, on the day of _____, 20___, at the hour of _____, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you.

[A] 113.4 Conduct of Hearing.

A. **Rules**. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

B. **Hearsay Evidence**. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

C. **Admissibility of Evidence**. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

D. **Exclusion of Evidence**. Irrelevant and unduly repetitious evidence shall be excluded.

E. **Rights of Parties**. Each party shall have these rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
4. To impeach any witness regardless of which party first called him/her to testify;
5. To rebut the evidence against him/her;
6. To represent himself/herself or to be represented by anyone of his/her choice who is lawfully permitted to do so.

F. **Official Notice**.

1. **What may be noticed**. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the Board or departments and ordinances of the City or rules and regulations of the Board.
2. **Parties to be notified**. Parties at the hearing shall be informed of the matters to be noticed, and these matters shall be noted on the record, referred to therein, or appended thereto.
3. **Opportunity to refute**. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the Board.
4. **Inspection of the premises**. The Board may inspect any building or premises involved in the appeal during the course of the hearing, provided that

a. notice of inspection shall be given to the parties before the inspection is made,

b. the parties are given an opportunity to be present during the inspection, and

c. the Board shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the Board or hearing examiner.

[A] 113.5 Method and Form of Decision.

A. **Hearing Before the Board**. When a contested case is heard before the Board, no member thereof who did not hear the evidence or has not read the entire record of the proceedings shall vote on or take part in the decision.

B. **Form of Decision**. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent to him by certified mail, postage prepaid, return receipt requested.

[A] 113.6 Effective Date of Decision. The effective date of the decision shall be as stated therein.

[A] 113.7 Filing Fee. Filing fees for all appeals to the Board of Appeals shall be established by resolution of the Governing Body. (Ord. 14-17 § 1, 2014; Ord. 13-43 § 1, 2013; Ord. 12-41 § 2, 2012)

15.02.220 Section [A] 114.4 Amended – Violation penalties. Section [A] 114.4 of the International Building Code is hereby amended to read as follows:

[A] 114.4 Violation penalties. Any person, firm or corporation violating any of the provisions of this code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed, continued, or permitted, and upon a conviction of any such violation such person shall be punishable by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. (Ord. 12-41 § 2, 2012)

15.02.230 Section [A] 114.5 Added – Correcting damage to public facilities. Section [A] 114.5 is hereby added to the International Building Code and shall read as follows:

[A] 114.5 Correcting Damage to Public Facilities.

[A] 114.5.1 Responsible Party. The person, firm or corporation in whose name a building permit is issued will be responsible for the repair of any damage to public facilities which occurs as a result of construction activities covered by such permit.

[A] 114.5.2 Definitions. For the purposes of this section, public facilities shall be defined to include but not be limited to sanitary sewer pipes and manholes, storm sewer pipes and inlets, waterlines, valves, fire hydrants, water meters, curbs, sidewalks and pavement, which facilities are located on the property in question or in easements immediately adjacent thereto.

[A] 114.5.3 Notice of Corrective Action. Whenever such damage is discovered, the responsible permit holder shall be given written notice of what corrective action is necessary and what period of time is specified for completing the corrective action.

[A] 114.5.4 When City to Perform Work. If the responsible party fails to complete the repair work within the specified time, the City may cause the necessary work to be done and the permit holder shall reimburse the City for the costs incurred in completing said repair work.

[A] 114.5.5 Refusal of Permits for Noncompliance. The City may refuse to issue permits to anyone who has been billed for the cost of making such repairs but has refused to pay such costs. The full amount due under this section shall constitute a debt to the City. An action for collection thereof may be commenced in the name of the City in any court having jurisdiction of the cause.

[A] 114.5.6 Not Responsible for Prior Damage. The permittee shall not be held responsible for damage which existed prior to the commencement of such construction activity. The permit applicant shall make a thorough inspection of the site prior to beginning construction and notify the building inspector of any such pre-existing damage of which he becomes aware.

[A] 114.5.7 Appeal. Any party aggrieved by a decision of the building inspector hereunder may appeal said decision to the Board of Code Review, and any pending enforcement action shall be suspended until final determination by said board. (Ord. 12-41 § 2, 2012; Ord. 90-65 § 1, 1990)

15.02.240 Subsection [A] 116.1.1 Added – Immediate Hazard Procedures Authorized. Subsection [A] 116.1.1 is hereby added to the International Building Code and shall read as follows:

[A] 116.1.1 Immediate Hazard Procedures Authorized. When, in the opinion of the Building Official, any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, such officer may erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay and such action may, under such circumstances, be taken without prior notice to or hearings of the owners, agents, lienholders, and occupants. The cost of any such action shall be assessed against the property and paid in the manner provided by Section 116.6.3. (Ord. 12-41 § 2, 2012)

15.02.250 Section [A] 116.6 Added – Failure to abate an unsafe condition. Section [A] 116.6 is hereby added to the International Building Code and shall read as follows:

[A] 116.6 Failure to abate an unsafe condition. If the owner of any structure has failed to commence the repair, demolition or removal of such structure within the time ordered by the Building Official or has failed to diligently prosecute the same thereafter, the owner will be subject to penalties stipulated in Section [A] 114.4, and the City may proceed to raze, demolish, repair and remove the structure, make the premises safe and secure, or let the same to contract by resolution of the Governing Body.

[A] 116.6.1. Governing Body Authority. The Governing Body shall have the power to require or cause the repair, closing, demolition or removal of structures found to be unsafe, dangerous, or unsanitary or detrimental to the health, safety, or otherwise inimical to the welfare of the citizens of the City.

[A] 116.6.2 Notification and Hearing Procedures.

1. Whenever the Building Official files with the Governing Body a statement in writing that any structure, describing the same and where located, is unsafe or dangerous, the Governing Body shall by resolution fix a time and place in which the owner, his/her agent, any lienholders of record and any occupant of such structure may appear and show cause why such structure should not be condemned and ordered repaired, demolished or removed.
2. Such resolution shall be mailed by certified mail to each such owner, agent, lienholder and occupant, at their last known place of residence at least fifteen (15) days prior to the date set for the hearing.
3. On the date fixed for hearing or any adjournment thereof, the Governing Body shall hear all evidence submitted by the owner, his/her agent, lienholders of record and occupants having an interest in such structure as well as evidence submitted by the Building Official filing the statement and shall make findings by resolution. If the Governing Body finds that such structure is unsafe or dangerous, such resolution shall direct the structure to be repaired, closed, demolished or removed and the premises made safe or secure. Such resolution shall be published once in the official City newspaper and a copy mailed to the owners, agents, lienholders of record and occupants, in the same manner provided in the notice of hearing. The resolution shall fix a reasonable time within which the repair, removal or demolition of such structure shall be commenced and a statement that if the owner of such structure fails to commence the repair or removal of such structure within the time stated or fails to diligently prosecute the same until the work is completed, the Governing Body will cause the structure to be demolished, razed, removed or repaired.

[A] 116.6.3 City to perform repair, demolition, or removal. If the owner of any structure has failed to commence the repair, demolition or removal of such structure within the time stated in the resolution or has failed to diligently prosecute the same thereafter, the City may proceed to raze, demolish, repair and remove the structure, make the premises safe and secure, or let the same to contract. The City shall keep an account of the cost of such work and may sell the salvage from such structure and apply the proceeds or any necessary portion thereof to pay the cost of demolishing, repairing or removing such structure or part thereof, and making the premises safe and secure. All moneys in excess of that necessary to pay such costs shall, after the payment of all costs, be paid to the owner of the premises upon which the structure was located. If there is no salvageable material or if money received from the salvage is insufficient to pay the cost of such work, such cost or any portion thereof, including a Ten Dollar ($10.00) administrative cost, shall be assessed as a special assessment against the parcel of land on which the structure was located and the City Clerk shall, at the time of certifying other City taxes, certify the unpaid portion of the aforesaid costs and the County Clerk shall extend the same on the tax rolls of the county against the lot or parcel of land. Whenever any structure is demolished, repaired or removed from any premises under the provision of this chapter, the City Clerk shall certify to the county assessor that such structure, describing the same, has been so repaired, removed or demolished. (Ord. 12-41 § 2, 2012)

15.02.260 Subsection 305.2.3 Amended – Care being provided in a dwelling unit in compliance with K.S.A. § 65-508. Subsection 305.2.3 of the International Building Code is hereby amended to read as follows:

305.2.3 Care being provided in a dwelling unit in compliance with K.S.A. § 65-508. A facility such as the above within a dwelling unit that is providing custodial care in compliance with K.S.A. § 65-508 shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code for One and Two-Family Dwellings as adopted by the City in accordance with Chapter 15.04 of the Olathe Municipal Code. (Ord. 12-41 § 2, 2012)

15.02.270 Subsection 308.6.5 Added – Care being provided in a dwelling unit in compliance with K.S.A. § 65-508. Subsection 308.6.5 is hereby added to the International Building Code and shall read as follows:

308.6.5 Care being provided in a dwelling unit in compliance with K.S.A. § 65-508. A facility such as the above within a dwelling unit that is providing custodial care in compliance with K.S.A. § 65-508 shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code for One and Two-Family Dwellings as adopted by the City in accordance with Chapter 15.04 of the Olathe Municipal Code. (Ord. 12-41 § 2, 2012)

15.02.280 Subsection 310.5.1 Exception Added – Care facilities within a dwelling unit. Subsection 310.5.1 Exception is hereby added to the International Building Code and shall read as follows:

310.5.1 Care facilities within a dwelling.

Exception: Where custodial care is provided in compliance with K.S.A. § 65-508. (Ord. 12-41 § 2, 2012)

15.02.290 Subsection [F] 901.6.4 Added – Qualifications of inspection, testing and maintenance personnel. Subsection [F] 901.6.4 is hereby added to the International Building Code and shall read as follows:

[F] 901.6.4 Qualifications of inspection, testing and maintenance personnel. All personnel performing any inspection, testing or maintenance of any fire protection system shall be qualified. Where such inspection, testing and maintenance are performed by an outside service company, the company shall be appropriately licensed in accordance with the Office of the Kansas State Fire Marshal. (Ord. 12-41 § 2, 2012)

15.02.300 Subsection [F] 903.4.1 Amended – Monitoring. Subsection [F] 903.4.1 of the International Building Code is hereby amended to read as follows:

[F] 903.4.1 Monitoring. Alarm, water flow, supervisory and trouble signals shall be distinctly different and shall be automatically transmitted to an approved UL-listed central station as defined in NFPA 72, or, when approved by the fire code official, shall sound an audible signal at a constantly attended location. The fire alarm system installed to transmit such signals shall be considered a building fire alarm system and shall be documented as a UL-certificated central station service system.

Exceptions:

1. Underground key or hub valves in roadway boxes provided by the municipality or public utility are not required to be monitored.
2. Backflow prevention device test valves located in limited area sprinkler system supply piping shall be locked in the open position. In occupancies required to be equipped with a fire alarm system, the backflow preventer valves shall be electrically supervised by a tamper switch installed in accordance with NFPA 72 and separately annunciated. (Ord. 12-41 § 2, 2012)

15.02.310 Subsection [F] 903.4.2 Amended – Alarms. Subsection [F] 903.4.2 of the International Building Code is hereby amended to read as follows:

[F] 903.4.2 Alarms. One exterior audible/visual device shall be connected to every automatic sprinkler system in an approved location. Such sprinkler water-flow devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Where a building fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system. Interior alarm notification appliances shall be installed as required by Section [F] 903.4.2.1.

[F] 903.4.2.1 Notification devices. Where an automatic fire sprinkler system is installed in a building, audible and visible notification appliances shall be installed throughout the building as follows:

1. Audible notification appliances shall be installed so as to be audible at 15 dB above average sound pressure level throughout the building.
2. Visible notification appliances shall be installed in all public and common use areas, restrooms and corridors in accordance with the spacing requirements of NFPA 72.
3. Visible notification devices can be eliminated in normally unoccupied portions of buildings where permitted by the fire code official.

Exception: The requirements of this section do not apply to Group R-3 occupancies. (Ord. 12-41 § 2, 2012)

15.02.320 Subsection [F] 907.6.5 Amended – Monitoring. Subsection [F] 907.6.5 of the International Building Code is hereby amended to read as follows:

[F] 907.6.5 Monitoring. Fire alarm systems required by this chapter or by the International Building Code shall be monitored by an approved supervising station in accordance with NFPA 72. An Underwriters Laboratories (UL) Fire Alarm certificate shall be issued by the UL listed fire alarm contractor for all newly installed fire alarm system or existing fire alarm systems included in any existing building involved in any construction project involving a building permit. Any fire alarm system involved in one (1) or more false alarms within the same calendar year shall be subject to a fee in accordance with Section 16.07.070 of the Olathe Municipal Code. Any fire alarm system involved in four (4) or more false alarms within the same calendar year will be required to meet the monitoring requirements of new fire alarm systems, including the issuance of a UL fire alarm certificate. The Fire Department shall maintain a listing of approved UL listed fire alarm contractors.

Exception: Monitoring by a supervising station is not required for:

1. Single- and multiple-station smoke alarms required by Section [F] 907.2.11.
2. Smoke detectors in Group I-3 occupancies.
3. Automatic sprinkler systems in one- and two-family dwellings. (Ord. 12-41 § 2, 2012)

15.02.330 Subsection [F] 907.7.4 Added – Contractor's statement. Subsection [F] 907.7.4 is hereby added to the International Building Code and shall read as follows:

[F] 907.7.4 Contractor's Statement. A contractor's statement verifying that the system has been installed in accordance with the approved plans and specifications and has been 100% tested in accordance with NFPA 72. The statement will also include that all personnel involved with the installation of the fire alarm system meet the qualification requirements of the fire code official. (Ord. 12-41 § 2, 2012)

15.02.340 Section [F] 912.2 Amended – Location. Section [F] 912.2 of the International Building Code is hereby amended to read as follows:

912.2 Location. With respect to hydrants, driveways, buildings and landscaping, Fire Department connections shall be so located that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus. The location of Fire Department connections shall be approved by the fire code official. A Fire Department connection for each standpipe system or water-based fire-extinguishing system shall be located not more than 100 feet from the nearest public fire hydrant connection to an approved water supply. Private fire hydrants are not approved to supply water-based fire-extinguishing systems. (Ord. 12-41 § 2, 2012)

15.02.350 Subsection [F] 912.3.4 Added – Fire department connections. Subsection [F] 912.3.4 is hereby added to the International Building Code and shall read as follows:

[F] 912.3.4 Fire department connections. The connection shall be a four-inch (4") Storz quick coupling connector. (Ord. 12-41 § 2, 2012)

15.02.360 Section 1015.6 Exception Added – Day care means of egress. Section 1015.6 Exception is hereby added to the International Building Code and shall read as follows:

1015.6 Day care means of egress.

Exception: Where custodial care is provided in compliance with K.S.A. § 65-508. (Ord. 12-41 § 2, 2012)

15.02.370 Section 1030 Added – Physical Security. Section 1030 is hereby added to the International Building Code and shall read as follows:

SECTION 1030
PHYSICAL SECURITY

1030.1 Purpose. The purpose of this section is to establish minimum standards that incorporate physical security to make dwelling units resistant to unlawful entry.
1030.1.1 Scope. The provisions of this section shall apply to all new residential structures and to alterations, additions and repairs to existing residential structures as stipulated in Chapter 34 and in the International Existing Building Code as adopted by the City in accordance with Chapter 15.06 of the Olathe Municipal Code.
1030.2 Doors. Except for vehicular access doors, all exterior swinging doors of residential buildings and attached garages, including the doors leading from the garage area into the dwelling unit, shall comply with Sections 1030.2.1 through 1030.2.5 for the type of door installed.

1030.2.1 Wood doors. Where installed, exterior wood doors shall be of solid core construction such as high-density particleboard, solid wood, or wood block core with a minimum thickness of one and three-fourths inches (1 ¾") at any point. Doors with panel inserts shall be solid wood. The panels shall be a minimum of one (1) inch thick. The tapered portion of the panel that inserts into the groove of the door shall be a minimum of one-quarter inch (1/4") thick. The groove shall be a dado groove or applied molding construction. The groove shall be a minimum of one-half inch (1/2") in depth.

1030.2.2 Steel doors. Where installed, exterior steel doors shall be a minimum thickness of 24 gauge.

1030.2.3 Fiberglass doors. Fiberglass doors shall have a minimum skin thickness of one-sixteenth inch (1/16") and have reinforcement material at the location of the deadbolt.

1030.2.4 Double doors. Where installed, the inactive leaf of an exterior double door shall be provided with flush bolts having an engagement of not less than one inch into the head and threshold of the doorframe.

1030.2.5 Sliding doors. Where installed, exterior sliding doors shall comply with all of the following requirements:

A. Sliding door assemblies shall be installed to prevent the removal of the panels and the glazing from the exterior with the installation of shims or screws in the upper track.

B. All sliding glass doors shall be equipped with a secondary locking device consisting of a metal pin or a surface mounted bolt assembly. Metal pins shall be installed at the intersection of the inner and outer panels of the inside door and shall not penetrate the frame's exterior surface. The surface mounted bolt assembly shall be installed at the base of the door.

1030.3 Door frames. The exterior door frames shall be installed prior to a rough-in inspection. Door frames shall comply with Sections 1030.3.1 through 1030.3.3 for the type of assembly installed.

1030.3.1 Wood frames. Wood door frames shall comply with all of the following requirements:

A. All exterior door frames shall be set in frame openings constructed of double studding or equivalent construction, including garage doors, but excluding overhead doors. Door frames, including those with sidelights, shall be reinforced in accordance with ASTM F476-84 Grade 40.

B. In wood framing, horizontal blocking shall be placed between studs at the door lock height for three (3) stud spaces or equivalent bracing on each side of the door opening.

1030.3.2 Steel frames. All exterior door frames shall be constructed of 18 gauge or heavier steel, and reinforced at the hinges and strikes. All steel frames shall be anchored to the wall in accordance with manufacturer specifications. Supporting wall structures shall consist of double studding or framing of equivalent strength. Frames shall be installed to eliminate tolerances inside the rough opening.

1030.3.3 Door jambs. Door jambs shall be installed with solid backing in a manner so that no void exists between the strike side of the jamb and the frame opening for a vertical distance of twelve inches (12") each side of the strike. Filler material shall consist of a solid wood block. Door stops on wooden jambs for in-swinging doors shall be of one-piece construction. Jambs for all doors shall be constructed or protected so as to prevent violation of the strike.

1030.4 Door hardware. Exterior door hardware shall comply with Sections 1030.4.1 through 1030.4.6.

1030.4.1 Hinges. Hinges for exterior door hardware shall comply with the following:

A. At least two (2) screws, three inches (3") in length, penetrating at least one inch (1") into wall structure shall be used. Solid wood fillers or shims shall be used to eliminate any space between the wall structure and door frame behind each hinge.
B. Hinges for out-swinging doors shall be equipped with mechanical interlock to preclude the removal of the door from the exterior.

1030.4.2 Strike plates. Exterior door strike plates shall be a minimum of eighteen (18) gauge metal with four (4) offset screw holes. Strike plates shall be attached to wood with not less than three inch (3") screws, which shall have a minimum of one inch (1") penetration into the nearest stud. Note: For side lighted units, refer to section R328.4.6.
1030.4.3 Escutcheon plates. All exterior doors shall have escutcheon plates or wraparound door channels installed around the lock protecting the door's edge.
1030.4.4 Locks. Exterior doors shall be provided with a locking device complying with one of the following: Single Cylinder Deadbolt shall have a minimum projection of one inch (1"). The deadbolt shall penetrate at least three-fourths inch (3/4") into the strike receiving the projected bolt. The cylinder shall have a twist-resistant, tapered hardened steel cylinder guard. The cylinder shall have a minimum of five (5) pin tumblers, shall be connected to the inner portion of the lock by solid metal connecting screws at least one-fourth inch (1/4") in diameter and two and one-fourth inches (2 ¼") in length. Bolt assembly (bolt housing) unit shall be of single piece construction. All deadbolts shall meet ANSI grade 2 specifications.
1030.4.5 Entry vision and glazing. All main or front entry doors to dwelling units shall be arranged so that the occupant has a view of the area immediately outside the door without opening the door. The view may be provided by a door viewer having a field of view of not less than one hundred eighty degrees (180º) through windows or through view ports.
1030.4.6 Side lighted entry doors. Side light door units shall have framing of double stud construction or equivalent construction complying with Sections 1030.3.1, 1030.3.2 and 1030.3.3. The doorframe that separates the door opening from the side light, whether on the latch side or the hinge side, shall be double stud construction or equivalent construction complying with Sections 1030.3.1 and 1030.3.2. Double stud construction or construction of equivalent strength shall exist between the glazing unit of the side light and wall structure of the dwelling.
1030.5 Street numbers. Street numbers shall comply with Section 501.2.
1030.6 Exterior lighting. Exterior lighting shall comply with the Section 210-70 of the National Electric Code as adopted by the City in accordance with Chapter 15.14 of the Olathe Municipal Code.
1030.7 Alternate material and methods of construction. The provisions of this section are not intended to prevent the use of any material or method of construction not specifically prescribed by this section, provided any such alternate has been approved by the enforcing authority, nor is it the intention of this section to exclude any sound method of structural design or analysis not specifically provided for in the section. The materials, methods of construction, and structural design limitations provided for in this section shall be used, unless the enforcing authority grants an exception. The enforcing authority is authorized to approve any such alternate provided they find the proposed design, materials, and methods of work to be at least equivalent to those prescribed in the section in quality, strength, effectiveness, burglary resistance, durability, and safety. (Ord. 12-41 § 2, 2012)

15.02.380 Subsection 1103.2.12 Exception Added – Day care facilities. Section 1103.2.12 Exception is hereby added to the International Building Code and shall read as follows:

1103.2.12 Day care facilities.

Exception: Where custodial care is provided in compliance with K.S.A. 2010 Supp. 65-508. (Ord. 12-41 § 2, 2012)

15.02.390 Section 1203.1 Amended – General. Section 1203.1 of the International Building Code is hereby amended to read as follows:

1203.1 General. Buildings shall be provided with natural ventilation in accordance with Section 1203.4, or mechanical ventilation in accordance with the International Mechanical Code. Where the air infiltration rate in a dwelling unit is less than 3 air changes per hour when tested with a blower door at a pressure 0.2 inch w.c. (50 Pa) in accordance with Section 402.4.1.2 of the International Energy Conservation Code, the dwelling unit shall be ventilated by mechanical means in accordance with Section 403 of the International Mechanical Code. (Ord. 12-41 § 2, 2012)

15.02.395 Section 3009 Added – Certificate of Inspection. Section 3009 is hereby added to the International Building Code and shall read as follows:

3009.1 Certificate of Inspection. Prior to operation of each elevator, escalator, and dumbwaiter, a Certificate of Inspection shall be issued by the Building Official after receiving the required test report and elevator certification fee. The Certificate of Inspection shall be on display within the elevator or attached to the escalator or dumbwaiter or be available for public inspection in the office of the building operator. The effective date of this Section is January 1, 2017.

3009.1.1 Testing. Each elevator, escalator, and dumbwaiter shall be tested by a certified elevator tester at the time of installation, repair, or remodel, and said tester shall submit the test report and elevator certification fee to the Building Official to obtain a Certificate of Inspection. (Ord. 15-52 § 1, 2015)

3009.1.2 Elevator Certification Fee. There is hereby established a fee for issuance of a Certificate of Inspection for an elevator, escalator, or dumbwaiter that has been inspected and tested by a certified elevator tester on behalf of the City pursuant to this Section. The testing fee shall be adopted by the Governing Body of the City by resolution.

15.02.400 Section 3109.3 Amended – Public swimming pools. Section 3109.3 of the International Building Code is hereby amended to read as follows:

3109.3 Public swimming pools. Public and semi-public swimming pools shall be completely enclosed by a fence that complies with the requirements set forth in the International Swimming Pool and Spa Code, adopted by the City in accordance with Chapter 15.20 of the Olathe Municipal Code. (Ord. 12-41 § 2, 2012)

15.02.410 Conflicts. When conflicts between this code and the conditions of listing or the manufacturer's installation instructions occur, the Chief Building Official shall make the final determination. (Ord. 12-41 § 2, 2012)

15.02.420 Liability. The requirement stated in this chapter shall not be construed as imposing upon the City, its officers, agents or employees any liability or responsibility for damages to any property or injury to any person due to defective construction or installation. The City or any official, employee or agent thereof shall not assume liability or responsibility whatsoever by reason of any inspection or approval of any installation. (Ord. 12-41 § 2, 2012)

15.02.430 Severability. If any part or parts of this chapter shall be held to be invalid such invalidity shall not affect the validity of the remaining parts of this chapter. The Governing Body hereby declares that it would have passed the remaining parts of this chapter if it had known that such part or parts thereof would be declared invalid. (Ord. 12-41 § 2, 2012)

Previous building codes were codified with the following ordinances. (Ord. 06-57 § 1, 2006; Ord. 01-75 § 2, 2001; Ord. 98-74, 1998; Ord. 95-99, 1995; Ord. 93-24, 1993; Ord. 93-22, 1993; Ord. 93-21, 1993; Ord. 90-31, 1990; Ord. 90-30, 1990; Ord. 89-131, 1989; Ord. 88-169, 1988; Ord. 86-130, 1986; Ord. 86-129, 1986; Ord. 84-29, 1984; Ord. 83-47, 1982; Ord. 82-113, 1982; Ord. 82-107, 1982; Ord. 918, 1979; Ord. 916, 1979; Ord. 174, 1973.)

CHAPTER 15.04

RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS

Sections:

15.04.010 Code Adopted
15.04.020 Marked Copies of Code on File
15.04.030 Code Official
15.04.040 Section R101.2 Exception 3 Added – Scope
15.04.050 Section R101.4 Added – Administration
15.04.060 Section R 102.4 Amended – Referenced codes and standards 15.04.070 Section R102.5 Amended – Appendices
15.04.080 Sections R103 through R114 Deleted – Chapter 1 Part 2 – Administration and Enforcement
15.04.090 Section R202 Amended – Definitions
15.04.100 Table R301.2(1) Amended – Climatic and Geographic Design Criteria
15.04.110 Table R301.5 Amended – Minimum Uniformly Distributed Live Loads (in pounds per square foot)
15.04.120 Section R302.2 Amended – Townhouses
15.04.130 Section R302.3 Amended – Two-family dwellings
15.04.140 Section R302.3 Exceptions 1 and 2 Deleted – Two-family dwellings
15.04.150 Subsection R302.3.1 Deleted – Supporting Construction
15.04.160 Section R303.4 Amended – Mechanical ventilation
15.04.170 Section R306.5 Added – New single-family dwelling toilet facilities
15.04.180 Section R310.1 Amended – Emergency escape and rescue required
15.04.190 Section R313 Amended – Automatic Fire Sprinkler Systems
15.04.200 Section R314.4 Amended – Power source
15.04.210 Section R315.1 Exceptions 1 and 2 Added – Carbon Monoxide Alarms
15.04.220 Section R319.1 Amended – Address numbers
15.04.230 Section R324 Added – Physical Security
15.04.240 Section R401.1 Exception 2 Added – Application
15.04.250 Subsection R401.2.1 Added – Design required
15.04.260 Subsections R403.1.1.1 and R403.1.1.2 Added – Continuous footing reinforcement & Column pads
15.04.270 Subsection R403.1.6 Exception 4 Added – Foundation anchorage
15.04.280 Section R405.1 Exceptions Added – Concrete or masonry foundations
15.04.290 Subsection R506.2.5 Added – Basement floor slab isolation
15.04.300 Section R506.3 Added – Design required
15.04.310 Subsection R602.6.1 Amended – Drilling and notching of top plate
15.04.320 Section R907.3 Subsection 2 Amended – Recovering versus replacement
15.04.330 Section N1101.1 Exception Added – Scope
15.04.340 Section N1101.3 (R101.4.3) Exceptions Deleted – Additions, alterations, renovations or repairs
15.04.350 Section N1101.8 (R103.2) Amended – Information on Construction documents
15.04.360 Table N1102.1.1 (R402.1.1) Amended – Insulation and Fenestration Requirements by Component
15.04.370 Subsection N1102.2.8.1 (R402.2.8.1) Added – Concrete and masonry basement walls
15.04.380 Table N1102.4.1.1 (R402.4.1.1) Amended – Air Barrier and Insulation Installation
15.04.390 Subsection N1102.4.1.2 (R402.4.1.2) Amended – Testing
15.04.400 Subsection N1103.2.2 (R403.2.2) Amended – Sealing (Mandatory).
15.04.410 Subsection N1103.2.3 (R403.2.3) Deleted – Building cavities (Mandatory).
15.04.420 Subsection N1103.4.2 (R403.4.2) Deleted – Hot water pipe insulation (Prescriptive)
15.04.430 Section N1104.1 (R404.1) Amended – Lighting equipment (Mandatory)
15.04.440 Section P2503.3 Amended – Responsibility of permittee
15.04.450 Subsection P2603.5.1 Amended – Sewer depth
15.04.460 Subsection P2603.5.2 Added – Cleanouts on building sewers

15.04.470 Subsection P2905.4.2 Amended – Water service installation.
15.04.480 Subsections 3002.2.1 and 3002.2.2 Added – Drainage pipe in filled ground and sanitary and storm sewers
15.04.490 Section E3902.2 Exceptions 1 and 2 Added – Garage and accessory building receptacles
15.04.500 Section E3902.5 Exceptions 2 and 3 Added – Unfinished basement receptacles
15.04.510 Section E3902.12 Exceptions 4 and 5 Added – Arc-fault circuit- interrupter protection
15.04.520 Section E3902.13 Exception Added – Arc-fault circuit interrupter protection for branch circuit extensions or modifications
15.04.530 Section AE608 Added – Severe Storm Safety Measures for Mobile and Modular Homes and Subdivisions
15.04.540 Conflicts
15.04.550 Liability
15.04.560 Severability

15.04.010 Code Adopted. The 2012 International Residential Code for One- and Two-Family Dwellings, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795 is adopted by reference and made a part of this chapter as if fully set out, save and except such parts or portions thereof as are specifically deleted, added or changed in Sections 15.04.030 through and including 15.04.560.

15.04.020 Marked Copies of Code on File. There shall be not less than one (1) copy of the code adopted by reference in Section 15.04.010 kept on file in the office of the City Clerk, to which shall be attached a copy of the incorporating ordinance, and which shall be marked or stamped, "Official Copy as Incorporated by Ordinance No. 12-42" with all sections or portions thereof intended to be omitted clearly marked to show any such deletion or change, and filed with the City Clerk and open to inspection and available to the public at all reasonable hours. The Fire Department, Municipal Judges and all administrative departments of the City charged with the enforcement of the incorporating ordinance shall be supplied, at the cost of the City, such number of official copies of such standard ordinance similarly marked, deleted and changed as may be deemed expedient. (Ord. 12-42 § 2, 2012)

15.04.030 Code Official. The Chief Building Official or his or her designee will be known as the "Building Official, "Code Official" or "Administrative Authority" for the purposes of this chapter and will have the duty of enforcing provisions of this chapter. (Ord. 12-42 § 2, 2012)

15.04.040 Section R101.2 Exception 3 Added – Scope. Section R101.2 of the Exception 3 is hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

R101.2 Scope.

Exceptions:

3. Swimming pools, hot tubs, and spas shall be constructed in accordance with the *International Swimming Pool and Spa Code* as adopted by the City in accordance with Chapter 15.20 of the Olathe Municipal Code. (Ord. 12-42 § 2, 2012)

15.04.050 Section R101.4 Added – Administration. Section R101.4 is hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

R101.4 Administration. The administrative and enforcement provisions for this code shall be those provisions of Chapter 1 of the 2012 International Building Code as adopted by the City in accordance with Chapter 15.02 of the Olathe Municipal Code. (Ord. 12-42 § 2, 2012)

15.04.060 Section R102.4 Amended – Referenced codes and standards. Section R102.4 of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

R102.4 Referenced codes and standards. The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections R102.4.1 and R102.4.2.

R102.4.1 Differences. Where differences occur between provisions of this code and referenced codes and standards, the most restrictive provisions shall apply.

R102.4.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the most restrictive provisions, as applicable, shall take precedence over all other provisions. (Ord. 12-42 § 2, 2012)

15.04.070 Section R102.5 Amended – Appendices. Section R102.5 of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

R102.5 Appendices. Provisions in the appendices shall not apply unless specifically referenced in the adopting ordinance.

R102.5.1 Appendices adopted. The following appendices are adopted as part of this code:

Appendix E – Manufactured Housing Used as Dwellings
Appendix H – Patio Covers
Appendix J – Existing Buildings and Structures
Appendix K – Sound Transmission
Appendix O – Automatic Vehicular Gates (Ord. 12-42 § 2, 2012)

15.04.080 Sections R103 through R114 Deleted – Chapter 1 Part 2 – Administration and Enforcement. Sections R103 through R114 of the International Residential Code for One- and Two-Family Dwellings are hereby deleted. (Ord. 12-42 § 2, 2012)

15.04.090 Section R202 Amended – Definitions. Section R202 of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

The definition of "ATTIC, HABITABLE" and all text related to this term in the Code is hereby deleted. (Ord. 12-42 § 2, 2012)

15.04.100 Table R301.2(1) Amended – Climatic and Geographic Design Criteria. Table R301.2(1) of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

TABLE R301.2(1)
CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

GROUND SNOW LOAD	WIND DESIGN		SEISMIC DESIGN CATEGORY[f]	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP[e]	ICE BARRIER UNDERLAYMENT REQUIRED[h]	FLOOD HAZARDS[g]	AIR FREEZING INDEX[i]	MEAN ANNUAL TEMP[j]
	Speed[d] (mph)	Topo-graphic effects[k]		Weathering[a]	Frost line depth[b]	Termite[c]					
20	90	No	A	Severe	36"	Moderate to Heavy	6° F	No	8/3/2009	1,000	54.7° F

For SI: 1 pound per square foot = 0.0479 kPa, 1 mile per hour = 0.447 m/s.

a. Weathering may require a higher strength concrete or grade of masonry than necessary to satisfy the structural requirements of this code. The weathering column shall be filled in with the weathering index (i.e., "negligible," "moderate" or "severe") for concrete as determined from the Weathering Probability Map [Figure R301.2(3)]. The grade of masonry units shall be determined from ASTM C 34, C 55, C 62, C 73, C 90, C 129, C 145, C 216 or C 652.

b. The frost line depth may require deeper footings than indicated in Figure R403.l(1). The jurisdiction shall fill in the frost line depth column with the minimum depth of footing below finish grade.

c. The jurisdiction shall fill in this part of the table to indicate the need for protection depending on whether there has been a history of local subterranean termite damage.

d. The jurisdiction shall fill in this part of the table with the wind speed from the basic wind speed map [Figure R301.2(4)A]. Wind exposure category shall be determined on a site-specific basis in accordance with Section R301.2.1.4.

e. The outdoor design dry-bulb temperature shall be selected from the columns of 97 ½-percent values for winter from Appendix D of the International Plumbing Code. Deviations from the Appendix D temperatures shall be permitted to reflect local weather climates or local weather experience as determined by the Building Official.

f. The jurisdiction shall fill in this part of the table with the Seismic Design Category determined from Section R301.2.2.1.

g. The jurisdiction shall fill in this part of the table with (a) the date of the jurisdiction's entry into the National Flood Insurance Program (date of adoption of the first code or ordinance for management of flood hazard areas), (b) the date(s) of the Flood Insurance Study and (c) the panel numbers and dates of all currently effective FIRMs and FBFM, or other flood hazard map adopted by the authority having jurisdiction, as may be amended.

h. In accordance with Sections R905.2.7.1, R905.4.3.1, R905.5.3.1, R905.6.3.1, R905.7.3.1 and R905.8.3.1, where there has been a history of local damage from the effects of ice damming, the jurisdiction shall fill in this part of the table with "YES." Otherwise, the jurisdiction shall fill in this part of the table with "NO."

i. The jurisdiction shall fill in this part of the table with the100-year return period air freezing index (BF-days) from Figure R403.3(2) or from the 100-year (99%) value on the National Climatic Data Center data table "Air Freezing Index- USA Method (Base 32° Fahrenheit)" at www.ncdc.noaa.gov/fpsf.html.

j. The jurisdiction shall fill in this part of the table with the mean annual temperature from the National Climatic Data Center data table "Air Freezing Index- USA Method (Base 32° Fahrenheit)" at www.ncdc.noaa.gov/fpsf.html.

k. In accordance with Section R301.2.1.5, where there is local historical data documenting structural damage to buildings due to topographic wind speed-up effects, the jurisdiction shall fill in this part of the table with "YES." Otherwise the jurisdiction shall indicate "NO" in this part of the table.

(Ord. 12-42 § 2, 2012)

15.04.110 Table R301.5 Amended – Minimum Uniformly Distributed Live Loads (in pounds per square foot). Table R301.5 of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

Table R301.5
MINIMUM UNIFORMLY DISTRIBUTED LIVE LOADS
(in pounds per square foot)

USE	LIVE LOAD
Attics without storage[b]	10
Attics with limited storage[b,g,h]	20
Balconies (exterior) and decks[e]	40
Fire Escapes	40
Guardrails and handrails[d]	200[i]
Guardrails in-fill components[f]	50[i]
Passenger vehicle garages[a]	50[a]
Rooms other than sleeping rooms	40
Sleeping rooms	30
Stairs	40[c]

For SI: 1 pound per square foot = 0.0479 kPa, 1 square inch = 645 mm^2, 1 pound = 4.45 N.

a. Elevated garage floors shall be capable of supporting a 2,000-pound load applied over a 20 square-inch area.

b. Attics without storage are those attic areas that are not accessed by a pull-down stair, or a scuttle with a dimension of less than or equal to 30 inches high by 24 inches wide.

c. Individual stair treads shall be designed for the uniformly distributed live load or a 300-pound concentrated load acting over an area of 4 square inches, whichever produces the greater stresses.

d. A single concentrated load applied in any direction at any point along the top.

e. See Section R502.2.2 for decks attached to exterior walls.

f. Guard in-fill components (all those except the handrail), balusters and panel fillers shall be designed to withstand a horizontally applied normal load of 50 pounds on an area equal to 1 square foot. This load need not be assumed to act concurrently with any other live load requirement.

g. Attics with limited storage are those where the maximum clear height between joists and rafters is 42 inches or greater, or where there are two or more adjacent trusses with web configurations capable of accommodating an assumed rectangle 42 inches high by 24 inches wide, or greater, within the plane of the trusses. The live load need only be applied to those portions of the joists or truss bottom chords where all of the following conditions are met:

1. The attic area is accessible from an opening not less than 20 inches in width by 30 inches in length that is located where the clear height in the attic is a minimum of 30 inches.
2. The slopes of the joists or truss bottom chords are no greater than 2 inches vertical to 12 units horizontal.
3. Required insulation depth is less than the joist or truss bottom chord member depth.

h. Attic spaces served by a fixed stair shall be designed to support the minimum live load specified for sleeping rooms.

i. Glazing used in handrail assemblies and guards shall be designed with a safety factor of 4. The safety factor shall be applied to each of the concentrated loads applied to the top of the rail, and to the load on the in-fill components. These loads shall be determined independent of one another, and loads are assumed not to occur with any other live load.

(Ord. 12-42 § 2, 2012)

15.04.120 Section R302.2 Amended – Townhouses. Section R302.2 of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

R302.2 Townhouses. Each townhouse shall be considered a separate building and shall be separated by fire-resistance rated wall assemblies meeting the requirements of Section 706 of the International Building Code, or when townhouses on both sides of the fire resistance rated wall assembly are equipped throughout with an automatic sprinkler system installed in accordance with Section P2904, the wall separating the townhouses shall meet the requirements of Sections R302.1, R302.2.1, R302.2.2, R302.2.3, and R302.2.4 of this code.

Exception: When townhouses on both sides of the fire-resistance rated wall assembly are equipped throughout with an automatic sprinkler system installed in accordance with Section P2904, a common 1-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Electrical installations shall be installed in accordance with Chapters 34 through 43. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4. (Ord. 12-42 § 2, 2012)

15.04.130 Section R302.3 Amended – Two-family dwellings. Section R302.3 of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

R302.3 Two-family dwellings. Dwelling units in two-family dwellings shall be separated in accordance with the requirements of townhouses as set forth in this code. (Ord. 12-42 § 2, 2012)

15.04.140 Section R302.3 Exceptions 1 and 2 Deleted – Two-family dwellings. Section R302.3 Exceptions 1 and 2 of the International Residential Code for One- and Two-Family Dwellings are hereby deleted. (Ord. 12-42 § 2, 2012)

15.04.150 Subsection R302.3.1 Deleted – Supporting Construction. Subsection R302.3.1 of the International Residential Code for One- and Two-Family Dwellings is hereby deleted. (Ord. 12-42 § 2, 2012)

15.04.160 Section R303.4 Amended – Mechanical ventilation. Section R303.4 of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

303.4 Mechanical ventilation. Where the air infiltration rate of a dwelling unit is less than 3 air changes per hour when tested with a blower door at a pressure of 0.2 inch w.c. (50 Pa) in accordance with Section N1102.4.1.2, the dwelling unit shall be provided with whole-house mechanical ventilation in accordance with Section M1507.3. (Ord. 12-42 § 2, 2012)

15.04.170 Section R306.5 Added – New single-family dwelling toilet facilities. Section R306.5 is hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

R306.5 New single-family dwelling toilet facilities. Toilet facilities shall be provided within 500 feet (measured from the property line adjacent to the street for platted subdivisions along the public right-of-way) for all new single-family dwellings starting from the time of the first footing inspection until facilities are available in the dwelling. If the facilities are not located on the job site, the location of the required facilities shall be posted on the job site or other certification provided to the Building Official to verify the availability of toilet facilities. The facilities on the site shall be removed prior to issuance of a Temporary Certificate of Occupancy. (Ord. 12-42 § 2, 2012)

15.04.180 Section R310.1 Amended – Emergency escape and rescue required. Section R310.1 of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

R310.1 Emergency escape and rescue required. *Basements* and every sleeping room shall have at least one operable emergency escape and rescue opening. Where *basements* contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room. Where emergency escape and rescue openings are provided they shall have a sill height of not more than 44 inches (1,118 mm) measured from the finished floor to the bottom of the clear opening. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with Section R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside. Emergency escape and rescue openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with Section R310.2. Emergency escape and rescue openings shall open directly into a public way, or to a *yard* or court that opens to a public way.

Exceptions:

1. *Basements* used only to house mechanical equipment and not exceeding total floor area of 200 square feet (18.58 m2).
2. Dwellings for which the building permit for the initial construction of that dwelling was issued prior to September 15, 2001, are exempt from the above requirement for subsequent basement remodels; provided, however, that exemption shall only apply if the basement has not been expanded subsequent to September 15, 2001, or that basement does not at any time contain any sleeping areas; conversion of any habitable area to a sleeping area at any time will trigger the emergency escape and rescue requirements set forth above. All currently existing openings that provide for emergency escape and rescue, regardless of whether or not they comply with the above escape and rescue requirements, cannot be removed or altered without bringing the basement into full compliance with the minimum requirements of this section, regardless of when building permits for the dwelling were issued.

R310.1.1 Minimum opening area. All emergency escape and rescue openings shall have a minimum net clear opening of 5.7 square feet (0.530 square meters).

Exception: *Grade* floor openings shall have a minimum net clear opening of 5 square feet (0.465 square meters).

R310.1.2 Minimum opening height. The minimum net clear opening height shall be 24 inches (610 mm).

R310.1.3 Minimum opening width. The minimum net clear opening width shall be 20 inches (508 mm).

R310.1.4 Operational constraints. Emergency escape and rescue openings shall be operational from the inside of the room without the use of keys, tools or special knowledge. (Ord. 12-42 § 2, 2012)

15.04.190 Section R313 Amended – Automatic Fire Sprinkler Systems. Section R313 of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

SECTION R313
AUTOMATIC FIRE SPRINKLER SYSTEMS

R303.1 Townhouse automatic fire sprinkler systems. If an automatic sprinkler system is installed in townhouses, then the automatic residential fire sprinkler system shall be designed and installed in accordance with Section P2904 or NFPA 13R.

R313.2 One- and two-family dwellings automatic fire sprinkler systems. If an automatic residential fire sprinkler system is installed in a one- and two-family dwelling, then the automatic residential fire sprinkler system shall be designed and installed in accordance with Section P2904 or NFPA13D. (Ord. 12-42 § 2, 2012)

15.04.200 Section R314.4 Amended – Power source. Section 314.4 of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

R314.4 Power source. Smoke alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source, and when primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection and shall not be included in a branch circuit protected by an arc-fault circuit interrupter.

Exceptions:

1. Smoke alarms shall be permitted to be battery operated when installed in buildings without commercial power.
2. Hard wiring of smoke alarms in existing areas shall not be required where the *alterations* or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an *attic*, crawl space or *basement* available which could provide access for hard wiring without the removal of interior finishes. (Ord. 12-42 § 2, 2012)

15.04.210 Section R315.1 Exceptions 1 and 2 Added – Carbon Monoxide Alarms. Section R315.1 Exceptions 1 and 2 are hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

R315.1 Carbon Monoxide Alarms.

Exceptions:

1. Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, are exempt from the requirements of this section.
2. Installation, alteration or repairs of plumbing or mechanical systems are exempt from the requirements of this section.

15.04.220 Section R319.1 Amended – Address numbers. Section R319.1 of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

R319.1 Address numbers. Buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Where access is by means of a private road and the building address cannot be viewed from the public right-of-way, a monument, pole or other sign or means shall be used to identify the structure. (Ord. 12-42 § 2, 2012)

15.04.230 Section R324 Added – Physical Security. Section R324 is hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

SECTION R324
PHYSICAL SECURITY

R324.1 Purpose. The purpose of this section is to establish minimum standards that incorporate physical security to make dwelling units resistant to unlawful entry.

R324.1.1 Scope. The provisions of this section shall apply to all new residential structures and to alterations, additions and repairs to existing residential structures as stipulated in Appendix J.

R324.2 Doors. Except for vehicular access doors, all exterior swinging doors of residential buildings and attached garages, including the doors leading from the garage area into the dwelling unit, shall comply with Sections R324.2.1 through R324.2.5 for the type of door installed.

R324.2.1 Wood doors. Where installed, exterior wood doors shall be of solid core construction such as high-density particleboard, solid wood, or wood block core with a minimum thickness of one and three-fourths inches (1 ¾”) at any point. Doors with panel inserts shall be solid wood. The panels shall be a minimum of one (1) inch thick. The tapered portion of the panel that inserts into the groove of the door shall be a minimum of one-quarter inch (1/4”) thick. The groove shall be a dado groove or applied molding construction. The groove shall be a minimum of one-half inch (1/2”) in depth.

R324.2.2 Steel doors. Where installed, exterior steel doors shall be a minimum thickness of 24 gauge.

R324.2.3 Fiberglass doors. Fiberglass doors shall have a minimum skin thickness of one-sixteenth inch (1/16”) and have reinforcement material at the location of the deadbolt.

R324.2.4 Double doors. Where installed, the inactive leaf of an exterior double door shall be provided with flush bolts having an engagement of not less than one inch into the head and threshold of the doorframe.

R324.2.5 Sliding doors. Where installed, exterior sliding doors shall comply with all of the following requirements:

1. Sliding door assemblies shall be installed to prevent the removal of the panels and the glazing from the exterior with the installation of shims or screws in the upper track.
2. All sliding glass doors shall be equipped with a secondary locking device consisting of a metal pin or a surface mounted bolt assembly. Metal pins shall be installed at the intersection of the inner and outer panels of the inside door and shall not penetrate the frame’s exterior surface. The surface mounted bolt assembly shall be installed at the base of the door.

R324.3 Door frames. The exterior door frames shall be installed prior to a rough-in inspection. Door frames shall comply with Sections R324.3.1 through R324.3.3 for the type of assembly installed.

R324.3.1 Wood frames. Wood door frames shall comply with all of the following requirements:

1. All exterior door frames shall be set in frame openings constructed of double studding or equivalent construction, including garage doors, but excluding overhead doors. Door frames, including those with sidelights, shall be reinforced in accordance with ASTM F476-84 Grade 40.
2. In wood framing, horizontal blocking shall be placed between studs at the door lock height for three (3) stud spaces or equivalent bracing on each side of the door opening.

R324.3.2 Steel frames. All exterior door frames shall be constructed of 18 gauge or heavier steel, and reinforced at the hinges and strikes. All steel frames shall be anchored to the wall in accordance with manufacturer specifications. Supporting wall structures shall consist of double studding or framing of equivalent strength. Frames shall be installed to eliminate tolerances inside the rough opening.

R324.3.3 Door jambs. Door jambs shall be installed with solid backing in a manner so that no void exists between the strike side of the jamb and the frame opening for a vertical distance of twelve inches (12”) each side of the strike. Filler material shall consist of a solid wood block. Door stops on wooden jambs for in-swinging doors shall be of one-piece construction. Jambs for all doors shall be constructed or protected so as to prevent violation of the strike.

R324.4 Door hardware. Exterior door hardware shall comply with Sections R324.4.1 through R324.4.6.

R324.4.1 Hinges. Hinges for exterior door hardware shall comply with the following:

1. At least two (2) screws, three inches (3”) in length, penetrating at least one inch (1”) into wall structure shall be used. Solid wood fillers or shims shall be used to eliminate any space between the wall structure and door frame behind each hinge.
2. Hinges for out-swinging doors shall be equipped with mechanical interlock to preclude the removal of the door from the exterior.

R324.4.2 Strike plates. Exterior door strike plates shall be a minimum of eighteen (18) gauge metal with four (4) offset screw holes. Strike plates shall be attached to wood with not less than three inch (3”) screws, which shall have a minimum of one inch (1”) penetration into the nearest stud. Note: For side lighted units, refer to Section R328.4.6.

R324.4.3 Escutcheon plates. All exterior doors shall have escutcheon plates or wraparound door channels installed around the lock protecting the door’s edge.

R324.4.4 Locks. Exterior doors shall be provided with a locking device complying with one of the following:

Single Cylinder Deadbolt shall have a minimum projection of one inch (1”). The deadbolt shall penetrate at least three-fourths inch (3/4”) into the strike receiving the projected bolt. The cylinder shall have a twist-resistant, tapered hardened steel cylinder guard. The cylinder shall have a minimum of five (5) pin tumblers, shall be connected to the inner portion of the lock by solid metal connecting screws at least one-fourth inch (1/4”) in diameter and two and one-fourth inches (2 ¼”) in length. Bolt assembly (bolt housing) unit shall be of single piece construction. All deadbolts shall meet ANSI grade 2 specifications.

R324.4.5 Entry vision and glazing. All main or front entry doors to dwelling units shall be arranged so that the occupant has a view of the area immediately outside the door without opening the door. The view may be provided by a door viewer having a field of view of not less than one hundred eighty degrees (180°) through windows or through view ports.

R324.4.6 Side lighted entry doors. Side light door units shall have framing of double stud construction or equivalent construction complying with Sections R324.3.1, R324.3.2 and R324.3.3. The doorframe that separates the door opening from the side light, whether on the latch side or the hinge side, shall be double stud construction or equivalent construction complying with Sections R324.3.1 and R324.3.2. Double stud construction or construction of equivalent strength shall exist between the glazing unit of the side light and wall structure of the dwelling.

R324.5 Street numbers. Street numbers shall comply with Section R319.

R324.6 Exterior lighting. Exterior lighting shall comply with Section E3903.3.

R324.7 Alternate material and methods of construction. The provisions of this section are not intended to prevent the use of any material or method of construction not specifically prescribed by this section, provided any such alternate has been approved by the enforcing authority, nor is it the intention of this section to exclude any sound method of structural design or analysis not specifically provided for in the section. The materials, methods of construction, and structural design limitations provided for in this section shall be used, unless the enforcing authority grants an exception. The enforcing authority is authorized to approve any such alternate provided they find the proposed design, materials, and methods of work to be at least equivalent to those prescribed in the section in quality, strength, effectiveness, burglary resistance, durability, and safety. (Ord. 12-42 § 2, 2012)

15.04.240 Section R401.1 Exception 2 Added – Application. Section R401.1 Exception 2 is hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

401.1 Application.

Exceptions:

2. Foundation designs for one- and two-family dwellings may use the approved standards and designs provided in the Johnson County Residential Foundation Guidelines in lieu of the prescriptive requirements of Chapter 4 of this code as approved by the by the Building Official. (Ord. 12-42 § 2, 2012)

15.04.250 Subsection R401.2.1 Added – Design required. Subsection R402.1.1 is hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

R401.2.1 Design required. 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:

1. Walls are subject to hydrostatic pressure from ground water.
2. Walls supporting more than 48 inches (48”) of unbalanced backfill that do not have permanent lateral support at the top and bottom.
3. Sites containing CH, MH, OL, or OH soils as identified in Table R405.1.
4. Foundation walls exceeding ten feet (10’) in height, measured from the top of the wall to the bottom of the slab.
5. Lots identified on the subdivision grading plan as having more than six feet (6’) of fill or having a finished slope steeper than 4 horizontal to 1 vertical before grading.
6. Footings and foundations with existing fill soils below the footing level.
7. Sloping lots steeper than 4 to 1 before grading.
8. Lots where some footings will bear on soil and others will bear on rock.
9. Areas where problems have historically occurred.
10. Stepped footing and foundation walls. (Ord. 12-42 § 2, 2012)

15.04.260 Subsections R403.1.1.1 and R403.1.1.2 Added – Continuous footing reinforcement & Column pads. Subsections R403.1.1.1 and R403.1.1.2 are hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

R403.1.1.1 Continuous footing reinforcement. Continuous footings for basement foundation walls shall have minimum reinforcement consisting of not less than two No. 4 bars, uniformly spaced, located a minimum 3 inches (3") clear from the bottom of the footing.

R403.1.1.2 Column pads. Column pads shall be a minimum of 24 inches by 24 inches and 8 inches deep (24" x 24" x 8"). Reinforcement shall consist of a minimum of three (3) No. 4 bars each way, uniformly spaced. (Ord. 12-42 § 2, 2012)

15.04.270 Subsection R403.1.6 Exception 4 Added – Foundation anchorage. Subsection R403.1.6 Exception 4 is hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

R403.1.6 Foundation anchorage.

Exceptions:

4. The spacing of anchor bolts or foundation anchor straps shall be reduced to a maximum of 3 feet (3') on center for basement foundation walls. (Ord. 12-42 § 2, 2012)

15.04.280 Section R405.1 Exceptions Added – Concrete or masonry foundations. Exceptions 2 and 3 are hereby added to Section R405.1 of the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

R405.1 Concrete or masonry foundations.

Exceptions:

2. A filter membrane is not required where perforated drains are covered with at least eighteen inches (18") of washed gravel or crushed rock.
3. For gravel or crushed stone drains a filter membrane is not required when the gravel or crushed stone extends at least eighteen inches (18") above the top of the footing. (Ord. 12-42 § 2, 2012)

15.04.290 Subsection R506.2.5 Added – Basement floor slab isolation. Subsection R506.2.6 is hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

R506.2.5 Basement floor slab isolation. Basement floor slabs shall be isolated from column pads, interior columns and interior bearing walls to facilitate differential movement. Nonbearing walls supported on basement floor slabs shall be provided with a minimum one inch (1") expansion joint to facilitate differential movement between the floor slab and the floor framing above. Isolation and/or an expansion joint is not required within six inches (6") of the exterior walls. (Ord. 12-42 § 2, 2012)

15.04.300 Section R506.3 Added – Design required. Section R506.3 is hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

R506.3 Design required. A design in accordance with accepted engineering practice shall be provided for concrete floors when the limitations for fill material set forth in Section R506.2.1 are exceeded. (Ord. 12-42 § 2, 2012)

15.04.310 Subsection R602.6.1 Amended – Drilling and notching of top plate. Subsection R602.6.1 of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

R602.6.1 Drilling and notching of top plate. When piping or ductwork is placed in or partly in an exterior wall or interior load-bearing wall, necessitating cutting, drilling or notching of the top plate by more than fifty percent (50%) of its width, a galvanized metal tie not less than 0.054 inch thick (16 ga) and one and one-half inches (1½") wide shall be fastened across and to the plate at each side of the opening with not less than four 10d (0.148 inch diameter) nails having a minimum length of one and one-half inches (1½") at each side or equivalent. The metal tie must extend a minimum of six inches (6") past the opening. See Figure R602.6.1.

Exception: When the entire side of the wall with the notch or cut is covered by wood structural panel sheathing. (Ord. 12-42 § 2, 2012)

15.04.320 Section R907.3 Subsection 2 Amended – Recovering versus replacement. Section R907.3 Subsection 2 of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

R907.3 Recovering versus replacement.

2. Where the existing roof covering is asphalt shingle, wood shake, slate, clay, cement or asbestos-cement tile. (Ord. 12-42 § 2, 2012)

15.04.330 Section N1101.1 Exception Added – Scope. An exception is hereby added to Section N1101.1 of the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

N1101.1 Scope.

Exception. Structures certified to meet or exceed the energy efficiency standards of the 2009 International Energy Conservation Code (IECC) through a simulated energy performance analysis conducted by a nationally certified energy auditor (for example, a HERS rating of 85 or lower) shall be exempted from the requirements of Chapter 11. The energy auditor shall present their national certification credentials for review and approval by the Building Official prior to issuance of the permit, and no Certificate of Occupancy shall be issued for the structure until documentation from the auditor certifying 2009 IECC performance compliance is submitted to and approved by the Building Official. (Ord. 12-42 § 2, 2012)

15.04.340 Section N1101.3 (R101.4.3) Exceptions Deleted – Additions, alterations, renovations or repairs. All exceptions to Section N1101.3 (R101.4.3) of the International Residential Code for One- and Two-Family Dwellings are hereby deleted. (Ord. 12-42 § 2, 2012)

15.04.350 Section N1101.8 (R103.2) Amended – Information on Construction documents. Section N1101.8(R103.2) of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

N1101.8 (R103.2) Information on Construction documents. Construction documents shall be drawn to scale upon suitable material. Electronic media documents are permitted to be submitted when *approved* by the Building Official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed, and show in sufficient detail pertinent data and features of the building, systems and equipment as herein governed. Details shall include, but are not limited to, as applicable, insulation materials and their R-values; fenestration U-factors and SHGCs; area-weighted U-factor and SHGC calculations; mechanical system design criteria; mechanical and service water heating system and equipment types, sizes and efficiencies; economizer description; equipment and systems controls; fan motor horsepower (hp) and controls; duct sealing, duct and pipe insulation and location; and air sealing details. (Ord. 12-42 § 2, 2012)

15.04.360 Table N1102.1.1 (R402.1.1) Amended – Insulation and Fenestration Requirements by Component. Table N1102.1.1 (R402.1.1) of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

TABLE N1102.1.1 (R402.1.1)
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT[a]

CLIMATE ZONE	FENESTRATION U-FACTOR[b]	SKYLIGHT U-FACTOR[b]	GLAZED FENESTRATION SHGC[b,e]	CEILING R-VALUE[g]	WOOD FRAME WALL R-VALUE	MASS WALL R-VALUE[f]	FLOOR R-VALUE	BASEMENT WALL R-VALUE[c]	SLAB R-VALUE & DEPTH[d]	CRAWL SPACE WALL R-VALUE[c]
4	.35	.55	.40	49	13	8/13	19	10/13	NR	10/13

For SI: 1 foot – 304.8 mm.

a. R-values are minimums. U-factors and SHGC are maximums. When insulation is installed in a cavity which is less than the label or design thickness of the insulation, the installed R-value of the insulation shall not be less that the R-value specified in the table.
b. The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.
c. "10/13" means R-10 continuous insulation on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement walls.
d. R-5 shall be added to the required slab edge R-values for heated slabs.
e. Or insulation sufficient to fill the framing cavity, R-19 minimum.
f. The second R-value applies when more than half the insulation is on the interior of the mass wall.
g. Loose-fill-insulation shall be installed at the rate recommended by the manufacturer's statement "so many bags per 1000 sq ft". Where the pitch of the roof restricts the "minimum thickness" at the exterior wall line, the insulation shall be blown into the cavity so as to achieve a greater compacted density to a point where the "minimum thickness" can be achieved. An alternative is to install high-density batts around the perimeter edge per N1102.2. (Ord. 12-42 § 2, 2012)

15.04.370 Subsection N1102.2.8.1 (R402.2.8.1) Added – Concrete and masonry basement walls. Subsection N1102.2.8.1 (R402.2.8.1) is hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

N1102.2.8.1 (R402.2.8.1) Concrete and masonry basement walls. Insulation is not required for concrete or masonry portions of basement walls of one- and two-family dwellings which are not adjacent to nor form a common wall with finished space and are more than 50 percent (50%) below grade. Such common walls shall be insulated whenever the adjacent interior space is finished. (Ord. 12-42 § 2, 2012)

15.04.380 Table N1102.4.1.1 (R402.4.1.1) Amended – Air Barrier and Insulation Installation. Table N1102.4.1.1 (R402.4.1.1) of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

TABLE N1102.4.1.1 (R402.4.1.1)
AIR BARRIER AND INSULATION INSTALLATION

COMPONENT	CRITERIA
Air barrier and thermal barrier	A continuous air barrier shall be installed in the building envelope. Exterior thermal envelope contains a continuous air barrier. Breaks or joints in the air barrier shall be sealed. Air-permeable insulation shall not be used as sealing material.
Ceiling/attic	The air barrier in any dropped ceiling/soffit shall be aligned with the insulation and any gaps in the air barrier sealed. Access opening, drop down stair or knee wall doors to unconditioned attic spaces shall be sealed.
Walls	Corners and the junction of the foundation and sill plate shall be sealed. Exterior thermal envelope insulation for framed walls shall be installed in substantial contact and continuous alignment with the air barrier. Knee walls shall be sealed.
Windows, skylights and doors	The space between window/door jambs and framing and skylights and framing shall be sealed.
Rim joists	Rim shall be sealed to prevent air leakage.
Floors (including above-garage and cantilevered floors)	Insulation shall be installed to maintain permanent contact with underside of subfloor decking. The air barrier shall be installed at any exposed edge of insulation.
Crawl space walls	Where provided in lieu of floor insulation, insulation shall be permanently attached to the crawlspace walls. Exposed earth in unvented crawl spaces shall be covered with a Class I vapor retarder with overlapping joints taped.
Shafts, penetrations	Duct shafts, utility penetrations, and flue shafts opening to exterior or unconditioned space shall be sealed.
Narrow cavities	Batts in narrow cavities shall be cut to fit, or narrow cavities shall be filled by insulation that on installation readily conforms to the available cavity space.
Garage separation	Air sealing shall be provided between the garage and conditioned spaces.
Recessed lighting	Recessed light fixtures installed in the building thermal envelope shall be air tight, IC rated, and sealed to the drywall.
Plumbing and wiring	Batt insulation shall be cut neatly to fit around wiring and plumbing in exterior walls, or insulation that on installation readily conforms to available space shall extend behind piping and wiring.
Shower/tub on exterior wall	Exterior walls adjacent to showers and tubs shall be insulated and the air barrier installed separating them from the showers and tubs.
Electrical/phone box on exterior walls	The air barrier shall be installed behind electrical or communication boxes or air-sealed boxes shall be installed.
HVAC register boots	HVAC register boots that penetrate building thermal envelope shall be sealed to the sub floor or drywall.
Fireplace	An air barrier shall be installed on fireplace walls.

(Ord. 12-42 § 2, 2012)

15.04.390 Subsection N1102.4.1.2 (R402.4.1.2) Amended – Testing. Subsection N1102.4.2.1 (R402.4.1.2) of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

N1102.4.1.2 (R402.4.1.2) Testing. *Where required by the Building Official*, the building or dwelling unit shall be tested and verified as having an air leakage rate of not exceeding 5 air changes per hour. Testing shall be conducted with a blower door at a pressure of 0.2 inches w.g. (50 Pascals). Where required by the Building Official, testing shall be conducted by an approved third party. A written report of the results of the test shall be signed by the party conducting the test and provided to the Building Official. Testing shall be performed at any time after creation of all penetrations of the building thermal envelope.

During testing:

1. Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed, beyond the intended weathersripping or other infiltration control measures:
2. Dampers including exhaust, intake, makeup, air, backdraft and flue dampers shall be closed, but not sealed beyond intended infiltration control measures;
3. Interior doors, if installed at the time of the test, shall be open;
4. Exterior doors for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;
5. Heating and cooling systems, if installed at the time of the test shall be turned off; and
6. Supply and return registers, if installed at the time of the test, shall be fully open. (Ord. 12-42 § 2, 2012)

15.04.400 Subsection N1103.2.2 (R403.2.2) Amended – Sealing (Mandatory). Subsection N1103.2.2 (R403.2.2) of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

N1103.2.2 (R403.2.2) Sealing (Mandatory). Ducts, air handlers, and filter boxes shall be sealed. Joints and seams shall comply with Section M1601.4.1 of this code.

Exceptions:

1. Air-impermeable spray foam products shall be permitted to be applied without additional joint seals.
2. Where a duct connection is made that is partially inaccessible, three screws or rivets shall be equally spaced on the exposed portion of the joint so as to prevent a hinge effect.
3. Continuously welded and locking-type longitudinal joints and seams in ducts operating at static pressures less than two inches (2”) of water column (500 Pa) pressure classification shall not require additional closure systems.

Where required by the Code Official, duct tightness shall be verified by either of the following:

1. Postconstruction test: Total leakage shall be less than or equal to 4 cfm (113.3L/min) per 100 square feet (9.29 m2) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the entire system, including 44 the manufacturer’s air handler enclosure. All register boots shall be taped or otherwise sealed during the test.
2. Rough-in test: Total leakage shall be less than or equal to 4 cfm (113.3 L/min) per 100 *ft2 square feet* (9.29 m2) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the system, including the manufacturer’s air handler enclosure. All registers shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 3 cfm (85 L/min) per 100 square feet (9.29m2) of conditioned floor area.

Exceptions:

1. The total leakage test is not required for ducts and air handlers located entirely within the building thermal envelope.
2. On the postconstruction test, it is permissible to test for "leakage to the outdoors" versus a "total leakage." Leakage to the outdoors shall be less than or equal to 8 cfm per 100 square feet of conditioned floor area. (Ord. 12-42 § 2, 2012)

15.04.410 Subsection N1103.2.3 (R403.2.3) Deleted – Building cavities (Mandatory). Subsection N1103.2.3 (R403.2.3) of the International Residential Code for One- and Two-Family Dwellings is hereby deleted. (Ord. 12-42 § 2, 2012)

15.04.420 Subsection N1103.4.2 (R403.4.2) Deleted – Hot water pipe insulation (Prescriptive). Subsection N1103.4.2 (R403.4.2) of the International Residential Code for One- and Two-Family Dwellings is hereby deleted. (Ord. 12-42 § 2, 2012)

15.04.430 Section N1104.1 (R404.1) Amended – Lighting equipment (Mandatory). Section N1104.1 (R404.1) of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

N1104.1 (R404.1) Lighting equipment (Mandatory). Fuel gas lighting systems shall not have continuously burning pilot lights. (Ord. 12-42 § 2, 2012)

15.04.440 Section P2503.3 Amended – Responsibility of permittee. Section P2503.3 of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

P2503.3 Responsibility of permittee. The permit holder shall make the applicable test prescribed in Sections P2503.5 through P2503.8 to determine compliance with the provisions of this code. Test equipment, materials and labor shall be furnished by the permittee.

Exceptions:

1. The testing of the DWV rough plumbing system shall be done in accordance with Section P2503.5.1 when required by the Code Official.
2. The testing of the building sewer shall be done in accordance with Section P2503.4 when required by the Code Official. (Ord. 12-42 § 2, 2012)

15.04.450 Subsection P2603.5.1 Amended – Sewer depth. Subsection P2603.5.1 of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

P2603.5.1 Sewer depth. *Building sewers* shall be installed as required by the appropriate authority having jurisdiction. (Ord. 12-42 § 2, 2012)

15.04.460 Subsection P2603.5.2 Added – Cleanouts on building sewers. Subsection P2603.5.2 is hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

P2603.5.2 Cleanouts on building sewers. Cleanouts on building sewers shall be located as required by the appropriate authority having jurisdiction**.** (Ord. 12-42 § 2, 2012)

15.04.470 Subsection P2905.4.2 Amended – Water service installation. Subsection P2905.4.2 of the International Residential Code for One- and Two-Family Dwellings is hereby amended to read as follows:

P2905.4.2 Water service installation. Trenching, pipe installation and backfilling shall be in accordance with Section P2604. Where the *building sewer* is installed within 5 feet (1,524 mm) of the water service, the installation shall comply with the provisions provided by the appropriate authority having jurisdiction.

Exception: The required separation distance shall not apply where a water service pipe crosses a sewer pipe, provided that the water service pipe is sleeved not less than 5 feet (1,524 mm), horizontally from the sewer pipe centerline, on both sides of the crossing with pipe materials listed in Table P2905.4, P3002.1(1), P3002.1(2), or P3002.2. (Ord. 12-42 § 2, 2012)

15.04.480 Subsections 3002.2.1 and 3002.2.2 Added – Drainage pipe in filled ground and sanitary and storm sewers. Subsections 3002.2.1.and 3002.2.2 are hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

P3002.2.1 Drainage pipe in filled ground. Where a building drain is installed on filled or unstable ground, the drainage pipe shall conform to one of the standards for ABS plastic pipe, cast-iron pipe, copper or copper-alloy tubing, or PVC plastic pipe listed in Table P3002.1(2).

P3002.2.2 Sanitary and storm sewers. Where separate systems of sanitary drainage and storm drainage are installed in the same property, the sanitary and storm building sewers or drains shall be permitted to be laid side by side in one trench if approved by the appropriate authority having jurisdiction. (Ord. 12-42 § 2, 2012)

15.04.490 Section E3902.2 Exceptions 1 and 2 Added – Garage and accessory building receptacles. Section E3902.2 Exceptions 1 and 2 are hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

E3902.2 Garage and accessory building receptacles.

Exceptions:

1. Receptacles that are not readily accessible such as a ceiling mounted receptacle for a garage door opener.
2. A single receptacle supplied by a dedicated branch circuit that is located and identified for specific use by a cord- and plug-connected appliance such as a refrigerator or freezer. (Ord. 12-42 § 2, 2012)

15.04.500 Section E3902.5 Exceptions 2 and 3 Added – Unfinished basement receptacles. Section 3902.5 Exceptions 2 and 3 are hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

E3902.5 Unfinished basement receptacles.

Exceptions:

2. A single receptacle supplying a permanently installed sump pump.
3. A single receptacle supplied by a dedicated branch circuit that is located and identified for specific use by a cord- and plug-connected appliance such as a refrigerator or freezer. (Ord. 12-42 § 2, 2012)

15.04.510 Section E3902.12 Exceptions 4 and 5 Added – Arc-fault circuit-interrupter protection. Section E3902.12 Exceptions 4 and 5 are hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

E3902.12 Arc-fault circuit-interrupter protection.

Exceptions:

4. A smoke alarm shall not be considered an outlet and shall not be included in a branch circuit protected by an arc-fault circuit interrupter.
5. This section shall not apply where existing dwelling unit premises' wiring circuits make the application of this section impracticable, as deemed by the Building Official.

Informational Note: Two examples of the application of this exception are where the existing dwelling unit has a multi-wire branch circuit or utilizes a listed panelboard for which there is no listed device for the application of AFCI protection. (Ord. 12-42 § 2, 2012)

15.04.520 Section E3902.13 Exception Added – Arc-fault circuit interrupter protection for branch circuit extensions or modifications. Section E3902.13 Exception is hereby added to the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

E3902.13 Arc-fault circuit interrupter protection for branch circuit extensions or modifications

Exception: This section will not apply where existing dwelling unit premises wiring circuits make the application of this section impracticable, as determined by the Building Official.

Informational Note: Two examples of the application of this exception are where the existing dwelling unit has a multi-wire branch circuit or utilizes a listed panelboard for which there is no listed device for the application of AFCI protection. (Ord. 12-42 § 2, 2012)

15.04.530 Section AE608 Added – Severe Storm Safety Measures for Mobile and Modular Homes and Subdivisions. Section AE608 is hereby added to Appendix E of the International Residential Code for One- and Two-Family Dwellings and shall read as follows:

SECTION AE608
SEVERE STORM SAFETY MEASURES FOR
MOBILE AND MODULAR HOMES AND SUBIVISIONS

AE608.1 Securing mobile homes to ground by approved devices: From April 1, 1997, any newly installed mobile home which is occupied or inhabited by a person as a dwelling, office or commercial space shall be secured to the ground by tie downs and ground anchors, of a type and mode of installation which at a minimum meet the requirements of KSA 75-1227 through and including 75-1233., unless such mobile home is secured to the ground on a permanent foundation.
AE608.2 Required storm sheltering for mobile home parks: From and after April 1, 1997, all newly-constructed mobile home parks or mobile home subdivisions are required to have storm shelters. Any mobile home park in existence prior to April 1, 1997, which is expanded to include additional acreage, will be required to construct approved storm shelters.
AE608.2.1 Construction of Storm Shelters: Storm shelters shall protect their inhabitants from physical injury by 260 mile per hour tornado winds and shall be constructed in accordance with the ICC/NSSA-500 Standard on the Design and Construction of Storm Shelters.
AE608.2.2 Total storm shelter space: Storm shelters shall provide at least 17.5 square feet of sheltered space for each mobile home lot.
AE608.2.3 Distance between shelters: A storm shelter must be within 600 feet walking distance of all mobile home park residents.
AE608.2.4 Multi-use of storm shelters: Storm shelters used as multi-purpose structures will be subject to all applicable building codes.

AE608.2.5 Dedicated storm shelters: Storm shelters dedicated to sheltering, used for no other purpose, and approved as such by the Building Code Division, shall be subject only to the special code requirements of dedicated storm shelters.
AE608.2.6 Provisions for persons with physical disabilities: Storm shelters shall be fully accessible to persons with physical disabilities in accordance with Accessible and Usable Buildings and Facilities (ICC/ANSI A117.1) as adopted by the City in accordance with Chapter 15.24 of the Olathe Municipal Code.
AE608.2.7 Ventilation: Shelters shall have adequate ventilation in accordance with the International Mechanical Code as adopted by the City in accordance with Chapter 15.10 of the Olathe Municipal Code.
AE608.2.8 Utilities: Shelters shall provide adequate lighting in accordance with the International Building Code as adopted by the City in accordance with Chapter 15.02 of the Olathe Municipal Code.
AE608.2.9 Exits: Shelters shall provide an adequate number of exits. in accordance with the International Building Code as adopted by the City in accordance with Chapter 15.02 of the Olathe Municipal Code.
AE608.2.10 Restroom facilities: Restroom facilities are optional, but if provided must meet the minimum requirements of the International Plumbing Code as adopted by the City in accordance with Chapter 15.08 of the Olathe Municipal Code.
AE608.2.11 Accessibility: Shelters must be accessible 24 hours a day. The mobile home park owner, or such owner's designated agent or representative, shall be responsible for making the storm shelter accessible and usable in times of need.
AE608.3 Disclosure: Mobile home parks which do not have approved storm sheltering must disclose orally and in writing in the sales or rental agreement that no sheltering is available in such park. Mobile home parks which do have approved storm sheltering must disclose orally and in writing in the sales or rental agreement that sheltering is available. A map showing the location of the shelter(s) and policies for use shall be supplied to the applicant as part of the sales or rental agreement.
AE608.4 Registration of existing shelters: Every owner or operator or any mobile home park required to have storm sheltering shall submit a site plan and a written statement setting out the number of mobile home spaces in such park and a description of the existing shelter. This submission will be made upon application for a building permit. (Ord. 12-42 § 2, 2012)

15.04.540 Conflicts. When conflicts between this code and the conditions of listing or the manufacturer's installation instructions occur, the Building Official shall make the final determination. (Ord. 12-42 § 2, 2012)

15.04.550 Liability. The requirement stated in this chapter shall not be construed as imposing upon the City, its officers, agents or employees any liability or responsibility for damages to any property or injury to any person due to defective construction or installation. The City or any official, employee or agent thereof shall not assume liability or responsibility whatsoever by reason of any inspection or approval of any installation. (Ord. 12-42 § 2, 2012)

15.04.560 Severability. If any part or parts of this chapter shall be held to be invalid such invalidity shall not affect the validity of the remaining parts of this chapter. The Governing Body hereby declares that it would have passed the remaining parts of this chapter if it had known that such part or parts thereof would be declared invalid. (Ord. 12-42 § 2, 2012)

Previous editions of the International Residential Code for One and Two-Family Dwellings and or revisions were adopted by the following ordinances. (Ord. 11-25 § 2, 2011; Ord. 11-25 § 1, 2011; Ord. 06-56 § 1, 2006; Ord. 01-86 § 1, 2001; Ord. 01-74 § 2, 2001; Ord. 99-67, 1999; Ord. 98-77, 1998; Ord. 97-23, 1997; Ord. 95-88, 1995; Ord. 93-25, 1993; Ord. 90-35, 1990.)

CHAPTER 15.06

EXISTING BUILDING CODE

Sections:

15.06.010	Code Adopted
15.06.020	Marked Copies of Code on File
15.06.030	Code Official
15.06.040	Section [A] 101.6 Amended – Appendices
15.06.050	Section [A] 101.8 Added – Administration
15.06.060	Section [A] 102.4 Amended – Referenced codes and standards
15.06.070	Sections [A] 103 through [A] 117 Deleted – Chapter 1 Part 2 – Administration and Enforcement
15.06.080	Conflicts
15.06.090	Liability
15.06.100	Severability

15.06.010 Code Adopted. The 2012 International Existing Building Code, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795 is adopted by reference and made a part of this chapter as if fully set out, save and except such parts or portions thereof as are specifically deleted, added or changed in Sections 15.06.030 through and including 15.06.100. (Ord. 12-43 § 1, 2012)

15.06.020 Marked Copies of Code on File. There shall be not less than one (1) copy of the code adopted by reference in Section 15.06.010 kept on file in the office of the City Clerk, to which shall be attached a copy of the incorporating ordinance, and which shall be marked or stamped, "Official Copy as Incorporated by Ordinance No. 12-43" with all sections or portions thereof intended to be omitted clearly marked to show any such deletion or change, and filed with the City Clerk and open to inspection and available to the public at all reasonable hours. The Fire Department, Municipal Judges and all administrative departments of the City charged with the enforcement of the incorporating ordinance shall be supplied, at the cost of the City, such number of official copies of such standard ordinance similarly marked, deleted and changed as may be deemed expedient. (Ord. 12-43 § 1, 2012)

15.06.030 Code Official. The Chief Building Official or his or her designee will be known as the "Building Official, "Code Official" or "Administrative Authority" for the purposes of this chapter and will have the duty of enforcing provisions of this chapter. (Ord. 12-43 § 1, 2012)

15.06.040 Section [A] 101.6 Amended – Appendices. Section 101.6 of the International Existing Building Code is hereby amended to read as follows:

> **[A] 101.6 Appendices**. Provisions in the appendices shall not apply unless specifically referenced in the adopting ordinance.
> **[A] 101.6.1 Appendices adopted**. The following appendices are adopted as part of this code:
>
> **Appendix B – Supplementary Accessibility Requirements for Existing Buildings and Facilities**
>
> **Appendix C – Guidelines for the Wind Retrofit of Existing Buildings** (Ord. 12-43 § 1, 2012)

15.06.050 Section [A] 101.8 Added – Administration. Section [A] 101.8 is hereby added to the International Existing Building Code and shall read as follows:

> **[A] 101.8 Administration**. The administrative and enforcement provisions for this code shall be those provisions of Chapter 1 of the 2012 International Building Code as adopted by the City in accordance with Chapter 15.02 of the Olathe Municipal Code. (Ord. 12-43 § 1, 2012)

15.06.060 Section [A] 102.4 Amended – Referenced codes and standards. Section [A] 102.4 of the International Existing Building Code is hereby amended to read as follows:

[A] 102.4 Referenced codes and standards. The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections [A] 102.4.1 and [A] 102.4.2.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall govern.

[A] 102.4.1 Differences. Where differences occur between provisions of this code and referenced codes and standards, the most restrictive provisions shall apply.

[A] 102.4.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the most restrictive provisions, as applicable, shall take precedence over all other provisions. (Ord. 12-43 § 1, 2012)

15.06.070 Sections [A] 103 through [A] 117 Deleted – Chapter 1 Part 2 – Administration and Enforcement. Sections [A] 103 through [A] 117 of the International Existing Building Code are hereby deleted. (Ord. 12-43 § 1, 2012)

15.06.080 Conflicts. When conflicts between this code and the conditions of listing or the manufacturer's installation instructions occur, the Building Official shall make the final determination. (Ord. 12-43 § 1, 2012)

15.06.090 Liability. The requirement stated in this chapter shall not be construed as imposing upon the City, its officers, agents or employees any liability or responsibility for damages to any property or injury to any person due to defective construction or installation. The City or any official, employee or agent thereof shall not assume liability or responsibility whatsoever by reason of any inspection or approval of any installation. (Ord. 12-43 § 1, 2012)

15.06.100 Severability. If any part or parts of this chapter shall be held to be invalid such invalidity shall not affect the validity of the remaining parts of this chapter. The Governing Body hereby declares that it would have passed the remaining parts of this chapter if it had known that such part or parts thereof would be declared invalid. (Ord. 12-43 § 1, 2012)

PLUMBERS. The Plumbers chapter of the Olathe Municipal Code was previously codified in Chapter 15.20 and repealed 12/4/01. (Ord. 01-113, 2001; Ord. 92-63, 1992; Ord. 89-95, 1989.)

CHAPTER 15.08

PLUMBING CODE

Sections:

15.08.010 Plumbing Code Adopted
15.08.020 Marked Copies of Code on File
15.08.030 Code Official
15.08.040 Section [A] 101.5 Added – Appendices
15.08.050 Section [A] 101.6 Added – Administration
15.08.060 Section [A] 102.8 Amended – Referenced codes and standards
15.08.070 Sections [A] 103 through [A] 110 Deleted – Chapter 1 Part 2 – Administration and Enforcement
15.08.080 Section 305.4.1 Amended – Sewer depth
15.08.090 Section 608.6 Amended – Cross Connection Control
15.08.100 Subsection 608.15.4 Exception Added – Protection by a Vacuum Breaker
15.08.110 Section 613.1 Amended – Temperature-actuated mixing valves
15.08.120 Section 703.1 Amended – Building sewer pipe near the water service
15.08.130 Section 703.2 Amended – Drainage pipe in filled ground
15.08.140 Section 703.3 Amended – Sanitary and storm sewers
15.08.150 Section 703.5 Amended – Cleanouts on building sewers
15.08.160 Subsection 708.3.2 Amended – Building sewers
15.08.170 Section 903.1 Amended – Roof extension
15.08.180 Section 1003.1 Amended – Where required
15.08.190 Subsection 1003.1.1 Added – Grease interceptors required
15.08.200 Subsection 1003.1.2 Added – Point of use grease interceptors 15.08.210 Subsection 1003.3.1 Amended – Grease interceptors
15.08.220 Subsection 1003.3.2 Amended – Food waste grinders
15.08.230 Subsection 1003.3.4 Amended – Grease interceptors and automatic grease removal devices
15.08.240 Subsection 1003.3.4.1 Amended – Large-capacity grease interceptor sizing
15.08.250 Subsection 1003.3.4.3 Added – Construction standards and inspections
15.08.260 Subsection 1003.3.4.4 Added – Pumping, cleaning and maintenance
15.08.270 Subsection 1003.3.4.5 Added – Recommended food service facility Best Management Practices (BMPs)
15.08.280 Section 1202.1 Amended – Nonflammable medical gases
15.08.290 Conflicts
15.08.300 Liability
15.08.310 Severability

15.08.010 Plumbing Code Adopted. The 2012 International Plumbing Code, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795 is adopted by reference and made a part of this chapter as if fully set out, save and except such parts or portions thereof as are specifically deleted, added or changed in Sections 15.08.030 through and including 15.08.310. (Ord. 12-44 § 2, 2012)

15.08.020 Marked Copies of Code on File. There shall be not less than one (1) copy of the code adopted by reference in Section 15.08.010 kept on file in the office of the City Clerk, to which shall be attached a copy of the incorporating ordinance, and which shall be marked or stamped, "Official Copy as Incorporated by Ordinance No. 12-44" with all sections or portions thereof intended to be omitted clearly marked to show any such deletion or change, and filed with the City Clerk and open to inspection and available to the public at all reasonable hours. The Fire Department, Municipal Judges and all administrative departments of the City charged with the enforcement of the incorporating ordinance shall be supplied, at the cost of the City, such number of official copies of such standard ordinance similarly marked, deleted and changed as may be deemed expedient. (Ord. 12-44 § 2, 2012)

15.08.030 Code Official. The Chief Building Official or his or her designee will be known as the "Building Official, "Code Official" or "Administrative Authority" for the purposes of this chapter and will have the duty of enforcing provisions of this chapter. (Ord. 12-44 § 2, 2012)

15.08.040 Section [A] 101.5 Added – Appendices. Section [A] 101.5 is hereby added to the International Plumbing Code and shall read as follows:

[A] 101.5 Appendices. Provisions in the appendices shall not apply unless specifically referenced in the adopting ordinance.

[A] 101.5.1 Appendices adopted. The following appendices are adopted as part of this code:

Appendix C – Vacuum Drainage System
Appendix E – Sizing of Water Piping System
Appendix F – Structural Safety (Ord. 12-44 § 2, 2012)

15.08.050 Section [A] 101.6 Added – Administration. Section [A] 101.6 is hereby added to the International Plumbing Code and shall read as follows:

[A] 101.6 Administration. The administrative and enforcement provisions for this code shall be those provisions of Chapter 1 of the 2012 International Building Code as adopted by the City in accordance with Chapter 15.02 of the Olathe Municipal Code. (Ord. 12-44 § 2, 2012)

15.08.060 Section [A] 102.8 Amended – Referenced codes and standards. Section [A] 102.8 of the International Plumbing Code is hereby amended to read as follows:

[A] 102.8 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 14 and such codes and standards shall be considered as part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections [A] 102.8.1 and [A] 102.8.2.

[A] 102.8.1 Differences. Where differences occur between provisions of this code and referenced codes and standards, the most restrictive provisions shall apply.

[A] 102.8.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the most restrictive provisions, as applicable, shall take precedence over all other provisions. (Ord. 12-44 § 2, 2012)

15.08.070 Sections [A] 103 through [A] 110 Deleted – Chapter 1 Part 2 – Administration and Enforcement. Sections [A] 103 through [A] 110 of the International Plumbing Code are hereby deleted. (Ord. 12-44 § 2, 2012)

15.08.080 Section 305.4.1 Amended – Sewer depth. Section 305.4.1 of the International Plumbing Code is hereby amended to read as follows:

305.4.1 Sewer depth. Building sewers that connect to private sewage disposal systems shall be installed not less than the depth required by the appropriate authority having jurisdiction. Building sewers shall be installed not less than the depth specified by the appropriate authority having jurisdiction. (Ord. 12-44 § 2, 2012)

15.08.090 Section 608.6 Amended – Cross Connection Control. Section 608.6 of the International Plumbing Code is hereby amended to read as follows:

608.6 Cross connection control.

A. Cross connections shall be prohibited, except where approved protective devices are installed.

1. Private Water Supplies. Cross connections between a private water supply and a potable public supply shall be prohibited.

B. Water Delivery. The Administrative Authority is hereby authorized to refuse to deliver or terminate the delivery of water through pipes and mains to any premises when a condition exists which might lead to the contamination of the public water supply system and may continue to refuse the delivery of water to the premises until the condition is remedied.

C. Testing. The premise owner or responsible person shall have the backflow prevention assembly tested by a certified backflow assembly tester at the time of installation, repair, or relocation and at least on an annual schedule thereafter. Said backflow assembly tester shall complete and submit to the water purveyor annual test reports within fourteen (14) days of the annual test date. Failure to supply the required test reports may result in termination of water services or inspection and/or testing of said backflow prevention assembly by appropriately certified City personnel or a certified contractor authorized to conduct inspections and/or tests of backflow assemblies on behalf of the City.

D. Fees. There is hereby established a testing fee for each test City personnel or a certified contractor conducts on behalf of the City pursuant to this section. The testing fee shall be adopted by the Governing Body of the City by resolution.

E. Property Owner Assistance Program.

1. Financial Assistance. For homes that were constructed before 1993 without a backflow prevention device, financial assistance in the form of partial reimbursement for the cost of installing a backflow prevention system shall be provided to property owners who comply with the procedure as set out in this section. Such reimbursement amount shall be in the amount and subject to the terms set out in this section.

2. Procedure.

a. The property owner shall have the backflow prevention system installed by a plumber or other approved competent contractor, through self-help or other means at his/her discretion.

b. All work shall be done in a workmanlike manner and shall comply with the minimum standards of design for backflow prevention systems.

c. Certification of Installation. The plumber or other approved competent contractor or property owner shall provide written certification that the installation has been completed.

d. After compliance with this chapter is verified upon receipt of the written installation certification and an invoice for the installation of the backflow prevention system, the City shall reimburse half (1/2) of the actual cost not to exceed the following maximum amount payable based on a valid invoice. If the property owner completes the work, only the cost of materials will be reimbursed.

Backflow Prevention System Property Owner Assistance Program

City Pays	Property Owner Pays	Maximum City Contribution
50%	50%	$500.00

3. Testing. Once the backflow prevention system is installed, it shall be tested annually as outlined in subsections C. and D. above.

F. Interference. It shall be unlawful for any person to interfere with a public officer or agent of the City in performing his or her duties pursuant to this chapter whether investigating or abating violations.

G. Penalty. Any person who interferes with an officer or agent of the City pursuant to this chapter may be punished as provided in Section 15.08.050 of this chapter.

H. Any action of the Administrative Authority pursuant to this section is subject to review in accordance with Section 15.08.050 of this chapter. (Ord. 12-44 § 2, 2012)

15.08.100 Subsection 608.15.4 Exception Added – Protection by a Vacuum Breaker. Subsection 608.15.4 Exception is hereby added to the International Plumbing Code and shall read as follows:

608.15.4 Protection by a vacuum breaker.

Exception: If under the City of Olathe's wastewater jurisdiction, openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. The critical level of the vacuum breaker shall be set a minimum of 12 inches above the flood level rim of the fixture or device. Fill valves shall be set in accordance with Section 425.3.1. Vacuum breakers shall not be installed under exhaust hoods or similar locations that will contain toxic fumes or vapors. Pipe-applied vacuum breakers shall be installed no less than 12 inches above the flood level rim of the fixture, receptor or device served. (Ord. 12-44 § 2, 2012)

15.08.110 Section 613.1 Amended – Temperature-actuated mixing valves. Section 613.1 of the International Plumbing Code is hereby amended to read as follows:

613.1 Temperature-actuated mixing valves. Temperature-actuated mixing valves, which are installed to reduce water temperature to defined limits, shall comply with ASSE 1017. (Ord. 12-44 § 2, 2012)

15.08.120 Section 703.1 Amended – Building sewer pipe near the water service. Section 703.1 of the International Plumbing Code is hereby amended to read as follows:

703.1 Building sewer pipe near the water service. Where the building sewer is installed within 5 feet (1,524 mm) of the water service, the installation shall comply with the provisions provided by the appropriate authority having jurisdiction (Ord. 12-44 § 2, 2012)

15.08.130 Section 703.2 Amended – Drainage pipe in filled ground. Section 703.2 of the International Plumbing Code is hereby amended to read as follows:

703.2 Drainage pipe in filled ground. Where a building drain is installed on filled or unstable ground, the drainage pipe shall conform to one of the standards for ABS plastic pipe, cast-iron pipe, copper or copper-ally tubing, or PVC plastic pipe listed in Table 702.3. (Ord. 12-44 § 2, 2012)

15.08.140 Section 703.3 Amended – Sanitary and storm sewers. Section 703.3 of the International Plumbing Code is hereby amended to read as follows:

703.3 Sanitary and storm sewers. Where separate systems of sanitary drainage and storm drainage are installed in the same property, the sanitary and storm building sewers or drains shall be permitted to be laid side by side in one trench if approved by the appropriate authority having jurisdiction. (Ord. 12-44 § 2, 2012)

15.08.150 Section 703.5 Amended – Cleanouts on building sewers. Section 703.5 of the International Plumbing Code is hereby amended to read as follows:

703.5 Cleanouts on building sewers. Cleanouts on building sewers shall be located as required by the appropriate authority having jurisdiction. (Ord. 12-44 § 2, 2012)

15.08.160 Subsection 708.3.2 Amended – Building sewers. Subsection 708.3.2 of the International Plumbing Code is hereby amended to read as follows:

708.3.2 Building sewers. Building sewers shall be provided with cleanouts located as required by the appropriate authority having jurisdiction. (Ord. 12-44 § 2, 2012)

15.08.170 Section 903.1 Amended – Roof extension. Section 903.1 of the International Plumbing Code is hereby amended to read as follows:

903.1 Roof Extension. 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. (Ord. 12-44 § 2, 2012)

15.08.180 Section 1003.1 Amended – Where Required. Section 1003.1 of the International Plumbing Code is hereby amended to read as follows:

1003.1 Where required. Interceptors and separators shall be provided, installed, inspected, and maintained as required by the appropriate authority having jurisdiction. (Ord. 12-44 § 2, 2012)

15.08.190 Subsection 1003.1.1 Added – Grease interceptors required. Subsection 1003.1.1 is hereby added to the International Plumbing Code and shall read as follows:

1003.1.1 Grease interceptors required. If under the City of Olathe's wastewater jurisdiction, new food service facilities that begin operation after February 15, 2010 must install an exterior, Large-Capacity Grease Interceptor that complies with the design requirements of Sections 1003.3.1 through 1003.3.5. Food service facilities in operation prior to February 15, 2010 shall be allowed to operate existing grease interceptors, provided they are maintained in compliance with the required pumping schedule outlined in Section 1003.3.4.3. However, if the facility is found to be contributing fats, oils or grease in quantities sufficient to necessitate increased maintenance of the sanitary sewer system to prevent line blockages, backups or overflows, existing grease interceptor(s) must be replaced. If it is deemed that those facilities that consist of Smaller, Point-of-Use Grease Interceptors cannot meet the sewer system requirements with improved maintenance, they must be replaced by the exterior Large-Capacity Grease Interceptors as outlined in Section 1003.3.4. (Ord. 12-44 § 2, 2012)

15.08.200 Subsection 1003.1.2 Added – Point of use grease interceptors. Subsection 1003.1.2 is hereby added to the International Plumbing Code and shall read as follows:

1003.1.2 Point of use grease interceptors. If under the City of Olathe's wastewater jurisdiction, the Chief Building Official, or designee, may allow the use of Point of Use Grease Interceptors in the following cases:

A. A food service facility retrofit of a building that did not previously include a food service facility.
B. A new food service facility moving into space previously occupied by another food service facility.
C. Low fats, oils and grease-producing food service facilities such as churches, day care, etc.

In order for a Point of Use Grease Interceptor to be considered, a formal Request for Code Modification must be submitted for review to the Chief Building Official or designee. All new food service facilities are subject to the same requirements to submit information per Section 15.08.250. When allowed, Point of Use Interceptors shall meet the following requirements: Made of light-weight, non-corrosive material; accessible solids screening basket; accessible, cleanable flow-control device; automatic skimmer, heat element; and a visible, easily removable grease collection container. (Ord. 12-44 § 2, 2012)

15.08.210 Subsection 1003.3.1 Amended – Grease interceptors. Subsection 1003.3.1 of the International Plumbing Code is hereby amended to read as follows:

1003.3.1 Grease interceptors. If under the City of Olathe's wastewater jurisdiction, grease interceptors shall be attached to the building sewer line and shall be connected to all interior fixtures that may introduce grease into the sanitary sewer system. Interior fixtures to be piped to the grease interceptor shall include but are not limited to: Three-compartment sinks, mop sinks, dishwashers, floor drains in food preparation and storage areas, and any other fixture determined to be a potential source of grease. Dishwashing machines with a booster heater shall include a cold water solenoid-operated valve or similar device that mixes cold water with the discharged hot water from the machine. Wastewater from toilets, restroom sinks, and other similar fixtures shall not be piped to the grease interceptor under any circumstances. (Ord. 12-44 § 2, 2012)

15.08.220 Subsection 1003.3.2 Amended – Food waste grinders. Subsection 1003.3.2 of the International Plumbing Code is hereby amended to read as follows:

1003.3.2 Food waste grinders. If under the City of Olathe's wastewater jurisdiction, food waste grinders are prohibited at new food service facilities. Food service facilities in operation prior to February 15, 2010 shall be allowed to operate existing food waste grinders pursuant to Olathe Municipal Code Section 14.10.010 pertaining to Waste Matter. (Ord. 12-44 § 2, 2012)

15.08.230 Subsection 1003.3.4 Amended – Grease interceptors and automatic grease removal devices. Subsection 1003.3.4 of the International Plumbing Code is hereby amended to read as follows:

1003.3.4 Grease interceptors and automatic grease removal devices. If under the City of Olathe's wastewater jurisdiction, grease interceptors shall be installed below ground in a location outside the facility which is easily accessible for cleaning, inspection and sampling. The interceptor shall have a minimum of two compartments and shall be capable of separation and retention of grease and storage of settled solids. The interceptor shall have a manhole to surface grade over each compartment to facilitate inspection, cleaning and maintenance, including pumping. (Ord. 12-44 § 2, 2012)

15.08.240 Subsection 1003.3.4.1 Amended – Large-capacity grease interceptor sizing. Subsection 1003.3.4.1 of the International Plumbing Code is hereby amended to read as follows:

1003.3.4.1 Large-capacity grease interceptor sizing. If under the City of Olathe's wastewater jurisdiction, external, Large-Capacity grease interceptor sizing must be sufficient to provide a 30-minute peak hydraulic detention time, calculated based on contributing plumbing fixture units. The professional engineer (licensed in the State of Kansas) responsible for the design of the grease interceptor shall submit signed and sealed calculations indicating the number of plumbing fixture units, the plumbing plan, the maximum contributing hydraulic flow rate of these fixtures, and the volume of tank required to provide the 30-minute detention. The minimum capacity of any single grease interceptor unit shall be one thousand (1,000) gallons and the maximum capacity shall be two thousand (2,000) gallons. Where sufficient capacity cannot be achieved with a single unit, installation of grease interceptors in series shall be required. Multiple connections to one external, Large-Capacity Grease Interceptor will be considered if the owner of each connecting contributors" properties submits an acceptable maintenance agreement. (Ord. 12-44 § 2, 2012)

15.08.250 Subsection 1003.3.4.3 Added – Construction standards and inspections. Subsection 1003.3.4.3 is hereby added to the International Plumbing Code and shall read as follows:

1003.3.4.3 Construction standards and inspections. If under the City of Olathe's wastewater jurisdiction, the connection of the building sewer to the interceptor shall conform to applicable plumbing codes as well as to the *Olathe Technical Specifications and Design Criteria for Public Improvements* manual as adopted in the Unified Development Ordinance. Interceptor and connections to the interceptor shall be made gas tight and water tight. Interceptor shall be acceptance tested in accordance with Section 3100 – Sanitary Sewer Manholes of the *Olathe Technical Specifications and Design Criteria for Public Improvements* manual. The applicant, or agent, for the sewer connection permit shall notify the Public Works Department of the City when the building sewer or any interceptor is installed or connected to the public sanitary sewer and is ready for inspection prior to back filling. Any deviation from the requirements of this subsection may result in the uncovering and inspection of the sewer line or any interceptor or other pretreatment equipment at the applicant's expense. (Ord. 12-44 § 2, 2012)

15.08.260 Subsection 1003.3.4.4 Added – Pumping, cleaning and maintenance. Subsection 1003.3.4.4 is hereby added to the International Plumbing Code and shall read as follows:

1003.3.4.4 Pumping, cleaning and maintenance. If under the City of Olathe's wastewater jurisdiction, each food service facility shall be responsible for pumping, cleaning and maintaining its grease interceptor(s) in good working condition. Each food service facility shall have its grease interceptor(s) pumped at least once every ninety (90) days, unless it is determined that a more frequent pumping schedule is needed. All food service facilities requiring a greater than 90-day frequency of hauling shall implement kitchen BMPs as defined in Section 1003.3.4.4. More frequent pumping may be required by the City based on the following criteria:

The grease interceptor must be pumped before the combined thickness of the floatable fats, oils and grease and settleable solids exceed 25% of the total liquid depth of the grease interceptor.

A sanitary disposal contractor, licensed in Johnson County, Kansas, must be used to provide pumping, cleaning and disposal services. Pumping shall include the removal of all contents from the interceptor, including grease, floating materials, gray water, bottom sludge and solids. Cleaning shall include removal of solids from the walls, floors, baffles and pipe work in the interceptor.

It shall be the responsibility of each food service facility to verify that the interceptor is properly cleaned out and that all fittings and fixtures inside the interceptor are in good working condition. The owner must maintain a written log of the pumping record that includes copies of any receipts for repairs or maintenance to the interceptor(s), including pumping and cleaning on site. This log and any receipts shall be made available upon request. (Ord. 12-44 § 2, 2012)

15.08.270 Subsection 1003.3.4.5 Added – Recommended food service facility Best Management Practices (BMPs). Subsection 1003.3.4.5 is hereby added to the International Plumbing Code and shall read as follows:

1003.3.4.5 Recommended food service facility Best Management Practices (BMPs). If under the City of Olathe's wastewater jurisdiction, these BMPs are recommended for all food service facilities and shall be instituted in any food service facility where a greater than 90-day frequency of hauling is required:

A. Do not discharge grease or greasy food particles into the drains. Scrape grease and greasy food particles off of plates, pots, cooking equipment and utensils before washing. Discard the waste into the trash.
B. Recycle waste grease using a "yellow grease" recycling barrel or bin.
C. Train food service facility workers and complete and update fats, oil and grease kitchen BMP training logs showing that employees are trained and are implementing the fats, oils and grease kitchen BMPs. (Ord. 12-44 § 2, 2012)

15.08.280 Section 1202.1 Amended – Nonflammable medical gases. Section 1201.1 of the International Plumbing Code is hereby amended to read as follows:

1202.1 Nonflammable Medical Gases.

1. On and after January 1, 2011, no person shall install, improve, repair, maintain or inspect a medical gas piping system within a county or city unless such person: (a) is licensed under the provisions of K.S.A. 12-1508 et seq., and amendments thereto; and (b) is certified under the appropriate professional qualifications standard or standards of ASSE Series 6000. All installers shall obtain a proper permit from the county or city in which the medical gas is being installed. All inspections shall be done by a third party agency certified under the appropriate professional qualifications standard or standards of ASSE Series 6000 for medical gas systems inspectors and all documentation of the inspections and certifications of installers and inspectors shall be provided to the county or city prior to any occupancy of the building or until of the building in which the medical gas piping has been installed until an occupancy permit is issued.
2. As used in this subsection, "medical gas piping" means the piping used solely to transport gasses used for medical purposes at a health care facility. (Ord. 12-44 § 2, 2012)

15.08.290 Conflicts. When conflicts between this code and the conditions of listing or the manufacturer's installation instructions occur, the Chief Building Official shall make the final determination. (Ord. 12-44 § 2, 2012)

15.08.300 Liability. The requirement stated in this chapter shall not be construed as imposing upon the City, its officers, agents or employees any liability or responsibility for damages to any property or injury to any person due to defective installations. The City or any official, employee or agent thereof shall not assume liability or responsibility whatsoever by reason of any inspection or approval of any installation. (Ord. 12-44 § 2, 2012)

15.08.310 Severability. If any part or parts of this chapter shall be held to be invalid such invalidity shall not affect the validity of the remaining parts of this chapter. The Governing Body hereby declares that it would have passed the remaining parts of this chapter if it had known that such part or parts thereof would be declared invalid. (Ord. 12-44 § 2, 2012)

Previous editions of the Plumbing Code and or revisions were adopted by the following ordinances. Ord. 12-29, 2012; Ord. 11-28, 2011; Ord. 10-55, 2010; Ord. 10-12, 2010; Ord. 01-77, 2001; Ord. 98-79, 1998; Ord. 95-99, 1995; Ord. 95-26, 1995; Ord. 93-27, 1993; Ord. 90-33, 1990; Ord. 89-97, 1989; Ord. 86-128, 1986; Ord. 83-92, 1983; Ord. 82-111, 1982; Ord. 82-36, 1982; Ord. 82-12, 1982; Ord. 919 § 2 (part), 1979.

MECHANICAL CONTRACTORS. The Mechanical Contractors chapter of the Olathe Municipal Code was previously codified in Chapter 15.58 and repealed 12/4/01. (Ord. 01-114, 2001; 92-63, § 3, 1992; Ord. 92-63, § 3, 1992; Ord. 89-96 § 2, 1989; Ord. 83-94 § 1, 1983; Ord. 914 § 2 (part), 1979.)

CHAPTER 15.10

MECHANICAL CODE

Sections:

15.10.010 Code Adopted
15.10.020 Marked Copies of Code on File
15.10.030 Code Official
15.10.040 Section [A] 101.5 Added – Administration
15.10.050 Section [A] 102.8 Amended – Referenced codes and standards
15.10.060 Section [A] 102.12 Added – State Boiler Inspector
15.10.070 Sections 103 through 110 Deleted – Chapter 1 Part 2 – Administration and Enforcement
15.10.080 Section 401.2 Amended – Ventilation required
15.10.090 Conflicts
15.10.100 Liability
15.10.110 Severability

15.10.010 Code Adopted. The 2012 International Mechanical Code, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795 is adopted by reference and made a part of this chapter as if fully set out, save and except such parts or portions thereof as are specifically deleted, added or changed in Sections 15.10.030 through and including 15.10.110. (Ord. 12-45§ 2, 2012)

15.10.020 Marked Copies of Code on File. There shall be not less than one (1) copy of the code adopted by reference in Section 15.10.010 kept on file in the office of the City Clerk, to which shall be attached a copy of the incorporating ordinance, and which shall be marked or stamped, "Official Copy as Incorporated by Ordinance No. 12-45" with all sections or portions thereof intended to be omitted clearly marked to show any such deletion or change, and filed with the City Clerk and open to inspection and available to the public at all reasonable hours. The Fire Department, Municipal Judges and all administrative departments of the City charged with the enforcement of the incorporating ordinance shall be supplied, at the cost of the City, such number of official copies of such standard ordinance similarly marked, deleted and changed as may be deemed expedient. (Ord. 12-45§ 2, 2012)

15.10.030 Code Official. The Chief Building Official or his or her designee will be known as the "Building Official, "Code Official" or "Administrative Authority" for the purposes of this chapter and will have the duty of enforcing provisions of this chapter. (Ord. 12-45§ 2, 2012)

15.10.040 Section [A] 101.5 Added – Administration. Section [A] 101.5 is hereby added to the International Mechanical Code and shall read as follows:

[A] 101.5 Administration. The administrative and enforcement provisions for this code shall be those provisions of Chapter 1 of the 2012 International Building Code as adopted by the City in accordance with Chapter 15.02 of the Olathe Municipal Code. (Ord. 12-45§ 2, 2012)

15.10.050 Section [A] 102.8 Amended – Referenced codes and standards. Section [A] 102.8 of the International Mechanical Code is hereby amended to read as follows:

[A] 102.8 Referenced codes and standards. The codes and standards referenced herein shall be those that are listed in Chapter 15 and such codes and standards shall be considered as part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.8.1 and 102.8.2.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing and the manufacturer's installation instructions shall apply.

[A] 102.8.1 Differences. Where differences occur between provisions of this code and referenced codes and standards, the most restrictive provisions shall apply.

[A] 102.8.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the most restrictive provisions, as applicable, shall take precedence over all other provisions. (Ord. 12-45§ 2, 2012)

15.10.060 Section [A] 102.12 Added – State Boiler Inspector. Section [A] 102.12 is hereby added to the International Mechanical Code and shall read as follows:

[A] 102.12 State Boiler Inspector. Where permits are issued and portions of the work require inspection and approval of boilers 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 Kansas Department of Human Resources for complete information regarding state requirements. State approval is generally required for all boilers that require permits.

Exceptions:

1. Boilers serving individual dwelling units and their accessory structures.
2. Boilers serving apartment houses with less than five (5) families.
3. Pressure vessels that do not exceed 15 cubic feet and 250 psi.

Or

Boilers which are equipped with pressure and temperature safety relief valves approved by the American Society of Mechanical Engineers or the National Board of Boiler and Pressure Vessel Inspectors, if none of the following limitations are exceeded:

1. A heat input of 200,000 BTUH.
2. With a water temperature of 210 degrees Fahrenheit.
3. A nominal water capacity less than 85 gallons. (Ord. 12-45§ 2, 2012)

15.10.070 Sections 103 through 110 Deleted – Chapter 1 Part 2 – Administration and Enforcement. Sections 103 through 110 of the International Mechanical Code are hereby deleted. (Ord. 12-45§ 2, 2012)

15.10.080 Section 401.2 Amended – Ventilation required. Section 401.2 of the International Mechanical Code is hereby amended to read as follows:

401.2 Ventilation required. Every occupied space shall be ventilated by natural means in accordance with Section 402 or by mechanical means in accordance with Section 403. Where the air infiltration rate in a dwelling unit is less than 3 air changes per hour when tested with a blower door at a pressure of 0.2-inch water column (50 Pa) in accordance with Section 402.4.1.2 of the International Energy Conservation Code, the dwelling unit shall be ventilated by mechanical means in accordance with Section 403. (Ord. 12-45§ 2, 2012)

15.10.090 Conflicts. When conflicts between this code and the conditions of listing or the manufacturer's installation instructions occur, the Building Official shall make the final determination. (Ord. 12-45§ 2, 2012)

15.10.100 Liability. The requirement stated in this chapter shall not be construed as imposing upon the City, its officers, agents or employees any liability or responsibility for damages to any property or injury to any person due to defective construction or installation. The City or any official, employee or agent thereof shall not assume liability or responsibility whatsoever by reason of any inspection or approval of any installation. (Ord. 12-45§ 2, 2012)

15.10.110 Severability. If any part or parts of this chapter shall be held to be invalid such invalidity shall not affect the validity of the remaining parts of this chapter. The Governing Body hereby declares that it would have passed the remaining parts of this chapter if it had known that such part or parts thereof would be declared invalid. (Ord. 12-45§ 2, 2012)

Previous editions of the Mechanical Code and or revisions were adopted by the following ordinances. Ord. 11-31, 2011; Ord. 01-78, 2001; Ord. 98-78, 1998; Ord. 95-99, 1995; Ord. 93-26, 1993; Ord. 90-32, 1990; Ord. 89-97, 1989; Ord. 86-126, 1986; Ord. 82-112, 1982; Ord. 915 § 2 (part), 1979.

CHAPTER 15.12

FUEL GAS CODE

Sections:

15.12.010 Code Adopted
15.12.020 Marked Copies of Code on File
15.12.030 Code Official
15.12.040 Section [A] 101.6 Added – Administration
15.12.050 Section [A] 102.8 Amended – Referenced codes and standards
15.12.060 Sections 103 through 110 Deleted – Chapter 1 Part 2 – Administration and Enforcement
15.12.070 Conflicts
15.12.080 Liability
15.12.090 Severability

15.12.010 Code Adopted. The 2012 International Fuel Gas Code, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795 is adopted by reference and made a part of this chapter as if fully set out, save and except such parts or portions thereof as are specifically deleted, added or changed in Sections 15.12.030 through and including 15.12.090. (Ord. 12-48 § 2, 2012; Ord. 11-32 § 1, 2011; Ord. 01-79 § 1, 2001.)

15.12.020 Marked Copies of Code on File. There shall be not less than one (1) copy of the code adopted by reference in Section 15.12.010 kept on file in the office of the City Clerk, to which shall be attached a copy of the incorporating ordinance, and which shall be marked or stamped, "Official Copy as Incorporated by Ordinance No. 12-48" with all sections or portions thereof intended to be omitted clearly marked to show any such deletion or change, and filed with the City Clerk and open to inspection and available to the public at all reasonable hours. The Fire Department, Municipal Judges and all administrative departments of the City charged with the enforcement of the incorporating ordinance shall be supplied, at the cost of the City, such number of official copies of such standard ordinance similarly marked, deleted and changed as may be deemed expedient. (Ord. 12-48 § 2, 2012; Ord. 11-32 § 1, 2011; Ord. 01-79 § 1, 2001.)

15.12.030 Code Official. The Chief Building Official or his or her designee will be known as the "Building Official, "Code Official" or "Administrative Authority" for the purposes of this chapter and will have the duty of enforcing provisions of this chapter. (Ord. 12-48 § 2, 2012; Ord. 11-32 § 1, 2011; Ord. 01-79 § 1, 2001.)

15.12.040 Section [A] 101.6 Added – Administration. Section [A] 101.6 is hereby added to the International Fuel Gas Code and shall read as follows:

[A] 101.6 Administration. The administrative and enforcement provisions for this Code shall be those provisions of Chapter 1 of the 2012 International Building Code as adopted by the City in accordance with Chapter 15.02 of the Olathe Municipal Code. (Ord. 12-48 § 2, 2012; Ord. 11-32 § 1, 2011; Ord. 01-79 § 1, 2001.)

15.12.050 Section [A] 102.8 Amended – Referenced codes and standards. Section [A] 102.8 of the International Fuel Gas Code is hereby amended to read as follows:

[A] 102.8 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 8 and such codes and standards shall be considered as part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections [A] 102.8.1 and [A] 102.8.2.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing and the manufacturer's installation instructions shall apply.

[A] 102.8.1 Differences. Where differences occur between provisions of this code and referenced codes and standards, the most restrictive provisions shall apply.

[A] 102.8.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the most restrictive provisions, as applicable, shall take precedence over all other provisions. (Ord. 12-48 § 2, 2012; Ord. 11-32 § 1, 2011; Ord. 01-79 § 1, 2001.)

15.12.060 Sections 103 through 110 Deleted – Chapter 1 Part 2 – Administration and Enforcement. Sections 103 through 110 of the International Fuel Gas Code are hereby deleted. (Ord. 12-48 § 2, 2012; Ord. 11-32 § 1, 2011; Ord. 01-79 § 1, 2001.)

15.12.070 Conflicts. When conflicts between this code and the conditions of listing or the manufacturer's installation instructions occur, the Chief Building Official shall make the final determination. (Ord. 12-48 § 2, 2012; Ord. 11-32 § 1, 2011; Ord. 01-79 § 1, 2001.)

15.12.080 Liability. The requirement stated in this chapter shall not be construed as imposing upon the City, its officers, agents or employees any liability or responsibility for damages to any property or injury to any person due to defective construction or installation. The City or any official, employee or agent thereof shall not assume liability or responsibility whatsoever by reason of any inspection or approval of any installation. (Ord. 12-48 § 2, 2012; Ord. 11-32 § 1, 2011; Ord. 01-79 § 1, 2001.)

15.12.090 Severability. If any part or parts of this chapter shall be held to be invalid such invalidity shall not affect the validity of the remaining parts of this chapter. The Governing Body hereby declares that it would have passed the remaining parts of this chapter if it had known that such part or parts thereof would be declared invalid. (Ord. 12-48 § 2, 2012; Ord. 11-32 § 1, 2011; Ord. 01-79 § 1, 2001.)

ELECTRICIANS. The Electricians chapter of the Olathe Municipal Code was previously codified in Chapter 15.13 and repealed 12/4/01. (Ord. 01-112, 2001; Ord. 92-63, 1992; Ord. 89-94, 1989; Ord. 83-91, 1983; Ord. 917, 1979.)

CHAPTER 15.14

ELECTRICAL CODE

Sections:

15.14.010	Code Adopted
15.14.020	Marked Copies of Code on File
15.14.030	Code Official
15.14.040	Section 90.4 (A) Added – Administration
15.14.050	Subsection 210.8 (A) (2) Exceptions 1 and 2 Added – GFCI protection for garage and accessory building receptacles
15.14.060	Subsection 210.8 (A) (5) Exceptions 2 and 3 Added – GFCI protection for garage and accessory building receptacles
15.14.070	Section 210.12 (A) Amended – Dwelling Units
15.14.080	Section 547.5 (E) Amended – Physical Protection
15.14.090	Section 625.23 Amended – Disconnecting Means
15.14.100	Conflicts
15.14.110	Liability
15.14.120	Severability

15.14.010 Code Adopted. NFPA 70, the National Electrical Code, 2011 Edition, published by the National Fire Protection Association, One Batterymarch Park, Quincy, Massachusetts 02169-7471 is adopted by reference and made a part of this chapter as if fully set out, save and except such parts or portions thereof as are specifically deleted, added or changed in Sections 15.14.040 through and including 15.14.120. (Ord. 12-46 § 2, 2012)

15.14.020 Marked Copies of Code on File. There shall be not less than one (1) copy of the code adopted by reference in Section 15.14.010 kept on file in the office of the City Clerk, to which shall be attached a copy of the incorporating ordinance, and which shall be marked or stamped, "Official Copy as Incorporated by Ordinance No. 12-46" with all sections or portions thereof intended to be omitted clearly marked to show any such deletion or change, and filed with the City Clerk and open to inspection and available to the public at all reasonable hours. The Fire Department, Municipal Judges and all administrative departments of the City charged with the enforcement of the incorporating ordinance shall be supplied, at the cost of the City, such number of official copies of such standard ordinance similarly marked, deleted and changed as may be deemed expedient. (Ord. 12-46 § 2, 2012)

15.14.030 Code Official. The Chief Building Official or his or her designee will be known as the "Building Official, "Code Official" or "Administrative Authority" for the purposes of this chapter and will have the duty of enforcing provisions of this chapter. (Ord. 12-46 § 2, 2012)

15.14.040 Section 90.4 (A) Added – Administration. Section 90.4 (A) is hereby added to the National Electrical Code and shall read as follows:

90.4 (A) Administration. The administrative and enforcement provisions for this code shall be those provisions of Chapter 1 of the 2012 International Building Code as adopted by the City in accordance with Chapter 15.02 of the Olathe Municipal Code. (Ord. 12-46 § 2, 2012)

15.14.050 Subsection 210.8 (A) (2) Exceptions 1 and 2 Added – GFCI protection for garage and accessory building receptacles. Subsection 210.8 (A) (2) Exceptions 1 and 2 are hereby added to the National Electrical Code and shall read as follows:

210.8 (A) (2) GFCI protection for garage and accessory building receptacles.

Exceptions:

1. Receptacles that are not readily accessible such as a ceiling mounted receptacle for a garage door opener.
2. A single receptacle supplied by a dedicated branch circuit that is located and identified for specific use by a cord- and plug-connected appliance such as a refrigerator or freezer. (Ord. 12-46 § 2, 2012)

15.14.060 Subsection 210.8 (A) (5) Exceptions 2 and 3 Added – GFCI protection for garage and accessory building receptacles. Subsection 210.8 (A) (5) Exceptions 2 and 3 are hereby added to the National Electrical Code and shall read as follows:

210.8 (A) (5) GFCI protection for unfinished basement receptacles.

Exceptions:

2. A single receptacle supplying a permanently installed sump pump.
3. A single receptacle supplied by a dedicated branch circuit that is located and identified for specific use by a cord- and plug-connected appliance such as a refrigerator or freezer. (Ord. 12-46 § 2, 2012)

15.14.070 Section 210.12 (A) Amended – Dwelling Units. Section 210.12 (A) of the National Electrical Code is hereby amended to read as follows:

210.12 (A) Dwelling Units. All 12-volt, single phase, 15- and 20-ampire branch circuits supplying outlets installed in dwelling unit family rooms, dining rooms, living rooms, parlors, libraries, dens, bedrooms, sunrooms, recreation rooms, closets, hallways, or similar rooms or areas shall be protected by a listed arc-fault circuit interrupter, combination type installed to provide protection of the branch circuit. For these purposes, a smoke alarm shall not be considered an outlet and shall not be included in the arc-fault circuit.

Informational Note Nos. 1, 2 and 3 apply.

Exception Nos. 1, 2, and 3 apply.

Exception No. 4*: This section will not apply where existing dwelling unit premises wiring circuits make the application of this section impracticable, as determined by the Building Official.*

Informational Note No. 4: Two examples of the application of this exception are where the existing dwelling unit has a multi-wire branch circuit or utilizes a listed panelboard for which there is no listed device for the application of AFCI protection. (Ord. 12-46 § 2, 2012)

15.14.080 Section 547.5 (E) Amended – Physical Protection. Section 547.5 (E) of the National Electrical Code is hereby amended to read as follows:

547.5 (E) Physical Protection. All electrical wiring and equipment subject to physical damage shall be protected. All electrical wiring and equipment subject to physical damage by livestock shall be protected to a minimum height of 8 feet. (Ord. 12-46 § 2, 2012)

15.14.090 Section 625.23 Amended – Disconnecting Means. Section 625.23 of the National Electrical Code is hereby amended to read as follows:

625.23 Disconnecting Means. For electric vehicle supply equipment rated more than 60 amperes or more than 150 volts to ground, the disconnecting means shall be provided and installed in a readily accessible location approved by the authority having jurisdiction. The disconnecting means shall be capable of being locked in the open position. The provision for locking or adding a lock to the disconnecting means shall be installed on or at the switch or circuit breaker used as the disconnecting means and shall remain in place with or without the lock installed. Portable means for adding a lock to the switch or circuit breaker shall not be permitted. (Ord. 12-46 § 2, 2012)

15.14.100 Conflicts. When conflicts between this code and the conditions of listing or the manufacturer's installation instructions occur, the Building Official shall make the final determination. (Ord. 12-46 § 2, 2012)

15.14.110 Liability. The requirement stated in this chapter shall not be construed as imposing upon the City, its officers, agents or employees any liability or responsibility for damages to any property or injury to any person due to defective construction or installation. The City or any official, employee or agent thereof shall not assume liability or responsibility whatsoever by reason of any inspection or approval of any installation. (Ord. 12-46 § 2, 2012)

15.14.120 Severability. If any part or parts of this chapter shall be held to be invalid such invalidity shall not affect the validity of the remaining parts of this chapter. The Governing Body hereby declares that it would have passed the remaining parts of this chapter if it had known that such part or parts thereof would be declared invalid. (Ord. 12-46 § 2, 2012)

Previous editions of the Electrical Code and or revisions were adopted by the following ordinances. Ord. 11-27, 2011; Ord. 01-76, 2001; Ord. 98-75, 1998; Ord. 93-29, 1993; Ord. 90-09, 1990; Ord. 89-97, 1989; Ord. 85-25, 1985; Ord. 82-114, 1982; Ord. 733 § 2, 1978.

CHAPTER 15.16

ENERGY CONSERVATION CODE

Sections:

15.16.010 Code Adopted
15.16.020 Marked Copies of Code on File
15.16.030 Code Official
15.16.040 Subsection C101.4.3 Exceptions Deleted – Additions, alterations, renovations or repairs
15.16.050 Section C101.6 Added – Administration
15.16.060 Section C104 Deleted – Inspections
15.16.070 Section C107 Deleted – Fees
15.16.080 Section C108 Deleted – Stop Work Order
15.16.090 Section C109 Deleted – Board of Appeals
15.16.100 Section C402.3 Amended – Fenestration (Prescriptive)
15.16.110 Subsection C402.3.2 Deleted – Minimum skylight fenestration area
15.16.120 Section C406 Deleted – Additional efficiency package options
15.16.130 Section C408 Deleted – System Commissioning
15.16.140 Section R101.2 Exception added – Scope
15.16.150 Subsection R101.4.3 Exception deleted – Additions, alterations, renovations or repairs
15.16.160 Section R101.6 Added – Administration
15.16.170 Section R103.2 Amended – Information on construction documents
15.16.180 Section R104 Deleted – Inspections
15.16.190 Section R107 Deleted – Fees
15.16.200 Section R 108 Deleted – Stop Work Order
15.16.210 Section R109 Deleted – Board of Appeals
15.16.220 Table R402.1.1 Amended – Insulation and Fenestration Requirements by Component
15.16.230 Subsection R402.2.8.1 Added – Concrete and masonry basement walls
15.16.240 Table R402.4.1.1 Amended – Air barrier and Insulation Installation
15.16.250 Subsection R402.4.1.2 Amended – Testing
15.16.260 Subsection R403.2.2 Amended – Sealing (Mandatory)
15.16.270 Subsection R403.2.3 Deleted – Building cavities (mandatory)
15.16.280 Subsection R403.4.2 Deleted – Hot water pipe insulation (Prescriptive)
15.16.290 Section R404.1 Amended – Lighting equipment (Mandatory)
15.16.300 Conflicts
15.16.310 Liability
15.16.320 Severability

15.16.010 Code Adopted. The 2012 International Energy Conservation Code, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795 is adopted by reference and made a part of this chapter as if fully set out, save and except such parts or portions thereof as are specifically deleted, added or changed in Sections 15.16.030 through and including 15.16.320. (Ord. 12-47 § 1, 2012)

15.16.020 Marked Copies of Code on File. There shall be not less than one (1) copy of the code adopted by reference in Section 15.16.010 kept on file in the office of the City Clerk, to which shall be attached a copy of the incorporating ordinance, and which shall be marked or stamped, "Official Copy as Incorporated by Ordinance No. 12-47" with all sections or portions thereof intended to be omitted clearly marked to show any such deletion or change, and filed with the City Clerk and open to inspection and available to the public at all reasonable hours. The Fire Department, Municipal Judges and all administrative departments of the City charged with the enforcement of the incorporating ordinance shall be supplied, at the cost of the City, such number of official copies of such standard ordinance similarly marked, deleted and changed as may be deemed expedient. (Ord. 12-47 § 1, 2012)

15.16.030 Code Official. The Chief Building Official or his or her designee will be known as the "Building Official, "Code Official" or "Administrative Authority" for the purposes of this chapter and will have the duty of enforcing provisions of this chapter. (Ord. 12-47 § 1, 2012)

15.04.040 Subsection C101.4.3 Exceptions Deleted – Additions, alterations, renovations or repairs. All exceptions to Subsection C101.4.3 of the International Energy Conservation Code are hereby deleted. (Ord. 12-47 § 1, 2012)

15.16.050 Section C101.6 Added – Administration. Section C101.6 is hereby added to the International Energy Conservation Code and shall read as follows:

C101.6 Administration. The administrative and enforcement provisions for this code shall be those provisions of Chapter 1 of the International Building Code as adopted by the City in accordance with Chapter 15.02 of the Olathe Municipal Code. (Ord. 12-47 § 1, 2012)

15.16.060 Section C104 Deleted – Inspections. Section C104 of the International Energy Conservation Code is hereby deleted. (Ord. 12-47 § 1, 2012)

15.16.070 Section C107 Deleted – Fees. Section C107 of the International Energy Conservation Code is hereby deleted. (Ord. 12-47 § 1, 2012)

15.16.080 Section C108 Deleted – Stop Work Order. Section C108 of the International Energy Conservation Code is hereby deleted. (Ord. 12-47 § 1, 2012)

15.16.090 Section C109 Deleted – Board of Appeals. Section C109 of the International Energy Conservation Code is hereby deleted. (Ord. 12-47 § 1, 2012)

15.16.100 Section C402.3 Amended – Fenestration (Prescriptive). Section C402.3 of the International Energy Conservation Code is hereby amended to read as follows:

C402.3 Fenestration (prescriptive). Fenestration shall comply with Table C402.3. Automatic day-lighting controls specified by this section shall comply with Section C405.2.2.3.2.

C402.3.1 Maximum area. The vertical fenestration area (not including opaque doors and opaque spandrel panels) shall not exceed forty percent (40%) of the gross above-grade wall area. The skylight area shall not exceed three percent (3%) of the gross roof area.

C402.3.2 Increased skylight area with daylighting controls. The skylight area shall be permitted to be a maximum of five percent (5%) of the roof area provided automatic daylighting controls are installed in daylight zones under skylights. (Ord. 12-47 § 1, 2012)

15.16.110 Subsection C402.3.2 Deleted – Minimum skylight fenestration area. Subsection 402.3.2 of the International Energy Conservation Code is hereby deleted. (Ord. 12-47 § 1, 2012)

15.16.120 Section C406 Deleted – Additional efficiency package options. Section C406 of the International Energy Conservation Code is hereby deleted. (Ord. 12-47 § 1, 2012)

15.16.130 Section C408 Deleted – System Commissioning. Section C408 of the International Energy Conservation Code is hereby deleted. (Ord. 12-47 § 1, 2012)

15.16.140 Section R101.2 Exception Added – Scope. Section R101.2 Exception is hereby added to the International Energy Conservation Code and shall read as follows:

R101.2 Scope.

Exception: Residential structures certified to meet or exceed the energy efficiency standards of the 2009 International Energy Conservation Code through a simulated energy performance analysis conducted by a nationally certified energy auditor (for example, a HERS rating of 85 or lower) shall be exempted from the requirements of this code. The energy auditor shall present their national certification credentials for review and approval by the Building Official prior to issuance of the permit, and no Certificate of Occupancy shall be issued for the structure until documentation from the auditor certifying 2009 International Energy Conservation Code performance compliance is submitted to and approved by the Building Official. (Ord. 12-47 § 1, 2012)

15.04.150 Subsection R101.4.3 Exceptions Deleted – Additions, alterations, renovations or repairs. All exceptions to Subsection R101.4.3 of the International Energy Conservation Code are hereby deleted. (Ord. 12-47 § 1, 2012)

15.16.160 Section R101.6 Added – Administration. Section R101.6 is hereby added to the International Energy Conservation Code and shall read as follows:

R101.6 Administration. The administrative and enforcement provisions for this code shall be those provisions of Chapter 1 of the 2012 International Building Code as adopted by the City in accordance with Chapter 15.02 of the Olathe Municipal Code. (Ord. 12-47 § 1, 2012)

15.16.170 Section R103.2 Amended – Information on construction documents. Section R103.2 of the International Energy Conservation Code is hereby amended to read as follows:

R103.2 Information on construction documents. Construction documents shall be drawn to scale upon suitable material. Electronic media documents are permitted to be submitted when approved by the Building Official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed, and show in sufficient detail pertinent data and features of the building, systems and equipment as herein governed. Details shall include, but are not limited to, as applicable, insulation materials and their R-values; fenestration U-factors and SHGCs; area-weighted U-factor and SHGC calculations; mechanical system design criteria; mechanical and service water heating system and equipment types, sizes and efficiencies; economizer description; equipment and systems controls; fan motor horsepower (hp) and controls; duct sealing, duct and pipe insulation and location; and air sealing details. (Ord. 12-47 § 1, 2012)

15.16.180 Section R104 Deleted – Inspections. Section R104 of the International Energy Conservation Code is hereby deleted. (Ord. 12-47 § 1, 2012)

15.16.190 Section R107 Deleted – Fees. Section R107 of the International Energy Conservation Code is hereby deleted. (Ord. 12-47 § 1, 2012)

15.16.200 Section R108 Deleted – Stop Work Order. Section R108 of the International Energy Conservation Code is hereby deleted. (Ord. 12-47 § 1, 2012)

15.16.210 Section R109 Deleted – Board of Appeals. Section R109 of the International Energy Conservation Code is hereby deleted. (Ord. 12-47 § 1, 2012)

15.16.220 Table R402.1.1 Amended – Insulation and Fenestration Requirements by Component. Table R402.1.1 of the International Energy Conservation Code is hereby amended to read as follows:

TABLE R402.1.1
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT[a]

CLIMATE ZONE	FENESTRATION U-FACTOR [b]	SKYLIGHT [b] U-FACTOR	GLAZED FENESTRATION SHGC[b]	CEILING[g] R-VALUE	WOOD FRAME WALL R-VALUE	MASS WALL R-VALUE[f]	FLOOR R-VALUE	BASEMENT WALL R-VALUE[c]	SLAB[d] R-VALUE & DEPTH	CRAWL SPACE[c] WALL R-VALUE
4	0.35	0.55	0.40	49	13	8/13	19	10/13	NR	10/13

For SI: 1 foot = 304.8 mm.

a. R-values are minimums. U-factors and SHGC are maximums. When insulation is installed in a cavity which is less than the label or design thickness of the insulation, the installed R-value of the insulation shall not be less that the R-value specified in the table.
b. The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.
c. "10/13" means R-10 continuous insulation on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement walls.
d. R-5 shall be added to the required slab edge R-values for heated slabs.
e. Or insulation sufficient to fill the framing cavity, R-19 minimum.
f. The second R-value applies when more than half the insulation is on the interior of the mass wall.
g. Loose-fill insulation shall be installed at the rate recommended by the manufacturer's statement "so many bags per 1,000 sq ft." Where the pitch of the roof restricts the "minimum thickness" at the exterior wall line, the insulation shall be blown into the cavity so as to achieve a greater compacted density to a point where the "minimum thickness" can be achieved. An alternative is to install high-density batts around the perimeter edge per R402.2.

(Ord. 12-47 § 1, 2012)

15.16.230 Subsection R402.2.8.1 Added – Concrete and masonry basement walls. Subsection R402.2.8.1 is hereby added to the International Energy Conservation Code and shall read as follows:

R402.2.8.1 Concrete and masonry basement walls. Insulation is not required for concrete or masonry portions of basement walls of one- and two-family dwellings which are not adjacent to nor form a common wall with finished space and are more than 50 percent (50%) below grade. Such common walls shall be insulated whenever the adjacent interior space is finished. (Ord. 12-47 § 1, 2012)

15.16.240 Table R402.4.1.1 Amended – Air barrier and Insulation Installation. Table R402.4.1.1 of the International Energy Conservation Code is hereby amended to read as follows:

TABLE R402.4.1.1
AIR BARRIER AND INSULATION INSTALLATION

COMPONENT	CRITERIA
Air barrier and thermal barrier	A continuous air barrier shall be installed in the building envelope. Exterior thermal envelope contains a continuous air barrier. Breaks or joints in the air barrier shall be sealed. Air-permeable insulation shall not be used as sealing material.
Ceiling/attic	The air barrier in any dropped ceiling/soffit shall be aligned with the insulation and any gaps in the air barrier sealed. Access opening, drop down stair or knee wall doors to unconditioned attic spaces shall be sealed.
Walls	Corners and the junction of the foundation and sill plate shall be sealed. Exterior thermal envelope insulation for framed walls shall be installed in substantial contact and continuous alignment with the air barrier. Knee walls shall be sealed.
Windows, skylights and doors	The space between window/door jambs and framing and skylights and framing shall be sealed.
Rim joists	Rim shall be sealed to prevent air leakage.
Floors (including above-garage and cantilevered floors)	Insulation shall be installed to maintain permanent contact with underside of subfloor decking. The air barrier shall be installed at any exposed edge of insulation.
Crawl space walls	Where provided in lieu of floor insulation, insulation shall be permanently attached to the crawlspace walls. Exposed earth in unvented crawl spaces shall be covered with a Class I vapor retarder with overlapping joints taped.
Shafts, penetrations	Duct shafts, utility penetrations, and flue shafts opening to exterior or unconditioned space shall be sealed.
Narrow cavities	Batts in narrow cavities shall be cut to fit, or narrow cavities shall be filled by insulation that on installation readily conforms to the available cavity space.
Garage separation	Air sealing shall be provided between the garage and conditioned spaces.
Recessed lighting	Recessed light fixtures installed in the building thermal envelope shall be air tight, IC rated, and sealed to the drywall.
Plumbing and wiring	Batt insulation shall be cut neatly to fit around wiring and plumbing in exterior walls, or insulation that on installation readily conforms to available space shall extend behind piping and wiring.
Shower/tub on exterior wall	Exterior walls adjacent to showers and tubs shall be insulated and the air barrier installed separating them from the showers and tubs.
Electrical/phone box on exterior walls	The air barrier shall be installed behind electrical or communication boxes or air-sealed boxes shall be installed.
HVAC register boots	HVAC register boots that penetrate building thermal envelope shall be sealed to the sub floor or drywall.
Fireplace	An air barrier shall be installed on fireplace walls.

(Ord. 12-47 § 1, 2012)

15.16.250 Subsection R402.4.1.2 Amended – Testing. Subsection R402.4.1.2 of the International Energy Conservation Code is hereby amended to read as follows:

R402.4.1.2 Testing. Where required by the Building Official, the building or dwelling unit shall be tested and verified as having an air leakage rate of not exceeding 5 air changes per hour. Testing shall be conducted with a blower door at a pressure of 0.2 inches w.g. (50 Pascals). Where required by the Building Official, testing shall be conducted by an approved third party. A written report of the results of the test shall be signed by the party conducting the test and provided to the Building Official. Testing shall be performed at any time after creation of all penetrations of the building thermal envelope. (Ord. 12-47 § 1, 2012)

During testing:

1. Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed, beyond the intended weatherstripping or other infiltration control measures;
2. Dampers including exhaust, intake, makeup air, backdraft and flue dampers shall be closed, but not sealed beyond intended infiltration control measures;
3. Interior doors, if installed at the time of the test, shall be open;
4. Exterior doors for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;
5. Heating and cooling systems, if installed at the time of the test, shall be turned off; and
6. Supply and return registers, if installed at the time of the test, shall be fully open. (Ord. 12-47 § 1, 2012)

15.16.260 Subsection R403.2.2 Amended – Sealing (Mandatory). Subsection R403.2.2 of the International Energy Conservation Code is hereby amended to read as follows:

R403.2.2 Sealing (Mandatory). Ducts, air handlers, and filter boxes shall be sealed. Joints and seams shall comply with Section M1601.4.1 of the International Residential Code for One- and Two-Family Dwellings, as adopted by the City in accordance with Chapter 15.04 of the Olathe Municipal Code.

Exceptions:

1. Air-impermeable spray foam products shall be permitted to be applied without additional joint seals.
2. Where a duct connection is made that is partially inaccessible, three screws or rivets shall be equally spaced on the exposed portion of the joint so as to prevent a hinge effect.
3. Continuously welded and locking-type longitudinal joints and seams in ducts operating at static pressures less than two inches (2”) of water column (500 Pa) pressure classification shall not require additional closure systems.

Where required by the Code Official, *d*uct tightness shall be verified by either of the following:

1. Postconstruction test: Total leakage shall be less than or equal to 4 cfm (113.3L/min) per 100 square feet (9.29 m2) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the entire system, including 44 the manufacturer’s air handler enclosure. All register boots shall be taped or otherwise sealed during the test.
2. Rough-in test: Total leakage shall be less than or equal to 4 cfm (113.3 L/min) per 100 *ft2 square feet* (9.29 m2) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the system, including the manufacturer’s air handler enclosure. All registers shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 3 cfm (85 L/min) per 100 square feet (9.29m2) of conditioned floor area.

Exceptions:

1. The total leakage test is not required for ducts and air handlers located entirely within the building thermal envelope.
2. On the postconstruction test, it is permissible to test for "leakage to the outdoors" versus a "total leakage." Leakage to the outdoors shall be less than or equal to 8 cfm per 100 square feet of conditioned floor area. (Ord. 12-47 § 1, 2012)

15.16.270 Subsection R403.2.3 Deleted – Building cavities (mandatory). Subsection R403.2.3 of the International Energy Conservation Code is hereby deleted. (Ord. 12-47 § 1, 2012)

15.16.280 Subsection R403.4.2 Deleted – Hot water pipe insulation (Prescriptive). Subsection R403.4.2 of the International Energy Conservation Code is hereby deleted. (Ord. 12-47 § 1, 2012)

15.16.290 Section R404.1 Amended – Lighting equipment (Mandatory). Section R404.1 of the International Energy Conservation Code is hereby amended to read as follows:

R404.1 Lighting equipment (mandatory). Fuel gas lighting systems shall not have continuously burning pilot lights. (Ord. 12-47 § 1, 2012)

15.16.300 Conflicts. When conflicts between this code and the conditions of listing or the manufacturer's installation instructions occur, the Building Official shall make the final determination. (Ord. 12-47 § 1, 2012)

15.16.310 Liability. The requirement stated in this chapter shall not be construed as imposing upon the City, its officers, agents or employees any liability or responsibility for damages to any property or injury to any person due to defective construction or installation. The City or any official, employee or agent thereof shall not assume liability or responsibility whatsoever by reason of any inspection or approval of any installation. (Ord. 12-47 § 1, 2012)

15.16.320 Severability. If any part or parts of this chapter shall be held to be invalid such invalidity shall not affect the validity of the remaining parts of this chapter. The Governing Body hereby declares that it would have passed the remaining parts of this chapter if it had known that such part or parts thereof would be declared invalid. (Ord. 12-47 § 1, 2012)

CHAPTER 15.18

ENVIRONMENTAL SANITARY CODE

Sections:

15.18.010 Code Adopted.
15.18.020 Marked Copies of Code on File.
15.18.030 Section 1, Article 4, Chapter II, Amended
15.18.040 Section 4, Article 8, Chapter II, Amended
15.18.050 Section 3, Article 9, Chapter II, Amended
15.18.060 Administration and Prosecution.

15.18.010 Code Adopted. The Johnson County, Kansas Environmental Sanitary Code, 2004 Edition, as published by the Board of County Commissioners of Johnson County, Kansas, 111 South Cherry Street, Olathe, Kansas 66061, is hereby adopted by reference and made a part of this Chapter as though fully set forth herein. (Ord. 04-36 § 1, 2004; Ord. 95-27 § 1, 1995.)

15.18.020 Marked Copies on File. There shall not be less than three (3) copies of the Code adopted by reference in Section 15.18.010 kept on file in the office of the City Clerk, to which shall be attached a copy the incorporating ordinance, which shall be marked or stamped. Official Copies as Incorporated by Ordinance No. 04-36, with all sections or portions thereof intended to be omitted clearly marked to show any deletion or change and available to the public at all reasonable hours. The police department, municipal judge(s) and all administrative departments of the City charged with the enforcement of the incorporating ordinance shall be supplied, at the cost of the City, such number of official copies of the standard ordinance similarly marked, deleted and changed as may be deemed expedient. (Ord. 04-36 § 2, 2004; Ord. 95-27 § 1, 1995.)

15.18.030 Section 1, Article 4, Chapter II, Amended. Section 1 of Article 4 of Chapter II of the Johnson County, Kansas Environmental Code is hereby amended and shall read as follows:

Section 1. Permits Required. It shall be unlawful for any person, firm, or corporation to erect, construct or perform any structurally significant alteration, remove, convert or demolish any septic tank system regulated by this Code, without first obtaining a septic system permit from the Johnson County Environmental Department. Permits issued under this Article shall be subject to the following qualifications:

(A) Property Use: Permits may be issued under this Article only for single-family residences or duplexes, where each unit is occupied as a residence and where each unit shall be served by a separate septic tank and system.

(B) Minimum Lot Size: Unless a waiver or rule exception is granted pursuant to Article 1 of this Chapter, a minimum lot or tract size of three (3) acres per living unit shall be required for any permit issued under this Article.

(C) Term and Renewals: A permit issued under this Article shall be valid for a period of twelve (12) months following the date of issuance and may be renewed annually by order of the Director of the Environmental Department.

(D) Transfer: A permit issued under this Article shall not be transferrable.

(E) Standards: No permit shall be issued to any person, property or establishment which does not comply with and satisfy the specified requirements of all applicable sections of this Article. (Ord. 95-27 § 1, 1995.)

15.18.040 Section 4, Article 8, Chapter II, Amended. Section 4 of Article 8 of Chapter II of the Johnson County, Kansas Environmental Code is hereby amended to read as follows:

Section 4. Permit Qualifications. Any permit authorized under this Article shall be issued subject to the qualifications specified in this Section.

(A) Term and Renewal: Permits for holding tanks used for commercial, domestic or industrial wastes are valid for twelve (12) months from the date of issuance and are renewable annually. Applications for renewals shall be submitted no later than thirty (30) days prior to permit expiration with the applicable fee. Upon receipt of the application and fee, a permit will be issued for the following year.

(B) Minimum Lot Size: Unless a waiver or rule exception is granted pursuant to Article 1 of this Chapter, a minimum lot or tract size of three (3) acres per occupied unit shall be required for the use, operation or permittance of any holding tank for any property usage under this Article.

(C) Standards: No permit shall be issued to any person, property or establishment which does not comply with and satisfy the standards prescribed in this Article and all applicable terms, conditions and requirements of this Code.

(D) Transfer: Permits are not transferrable. (Ord. 95-27 § 1, 1995.)

15.18.050 Section 3, Article 9, Chapter II, Amended. Section 3 of Article 9 of Chapter II of the Johnson County, Kansas Environmental Code is hereby amended to read as follows:

Section 3. Permit Qualifications. Any permit or approval authorized under this Article shall be issued subject to the qualifications specified in this Section.

(A) Land Use: Permits may be issued under this Article only for single-family residences or duplexes, where each unit is occupied as a residence and where each unit shall be served by a separate system.

(B) Minimum Lot Size: Unless a waiver or rule exception is granted pursuant to Article 1 of this Chapter, a minimum lot or tract size of three (3) acres per living unit shall be required for any permit issued under this Article.

(C) Standards: No permit shall be issued to any person, property or establishment which does not comply with and satisfy standards prescribed for the alternative system by the Director of the Environmental Department, or his designee, consistent with standards imposed for the systems designated in this Chapter, and all applicable terms, conditions and requirements of this Code. (Ord. 95-27 § 1, 1995.)

15.18.060 Administration and Prosecution.

(A) The Director of the Johnson County, Kansas Environmental Department, and/or his designees, shall have the primary authority and responsibility for the administration and enforcement of this Code.

(B) The Johnson County, Kansas County Counselor, and/or his designee, shall have the authority to prosecute any and all violations of this Code. Prosecution shall be in accordance with the Johnson County, Kansas Code of Regulations for Procedure and Enforcement, Resolution No. 116-88, or any amendments or subsequent enactments, and shall be commenced in the County Codes Section of the District Court of Johnson County, Kansas. (Ord. 95-27 § 1, 1995.)

CHAPTER 15.20

SWIMMING POOL AND SPA CODE

Sections:

15.20.010 Code Adopted
15.20.020 Marked Copies of Code on File
15.20.030 Code Official
15.20.040 Section 101.5 Added – Administration
15.20.050 Sections 103 through 108 Deleted – Chapter 1 Part 2 – Administration and Enforcement
15.20.060 Subsection 305.2.1 Amended – Barrier height and clearances
15.20.070 Subsection 321.1.1 Added – Maintenance or operation
15.20.080 Section 401.1 Amended – Public swimming pools
15.20.090 Conflicts
15.20.100 Liability
15.20.110 Severability

15.20.010 Code Adopted. The 2012 International Swimming Pool and Spa Code, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795 is adopted by reference and made a part of this chapter as if fully set out, save and except such parts or portions thereof as are specifically deleted, added or changed in Sections 15.20.030 through and including 15.20.110. (Ord. 12-49 § 2, 2012.)

15.20.020 Marked Copies of Code on File. There shall be not less than one (1) copy of the code adopted by reference in Section 15.20.010 kept on file in the office of the City Clerk, to which shall be attached a copy of the incorporating ordinance, and which shall be marked or stamped, "Official Copy as Incorporated by Ordinance No. 12-49" with all sections or portions thereof intended to be omitted clearly marked to show any such deletion or change, and filed with the City Clerk and open to inspection and available to the public at all reasonable hours. The Fire Department, Municipal Judges and all administrative departments of the City charged with the enforcement of the incorporating ordinance shall be supplied, at the cost of the City, such number of official copies of such standard ordinance similarly marked, deleted and changed as may be deemed expedient. (Ord. 12-49 § 2, 2012.)

15.20.030 Code Official. The Chief Building Official or his or her designee will be known as the "Building Official, "Code Official" or "Administrative Authority" for the purposes of this chapter and will have the duty of enforcing provisions of this chapter. (Ord. 12-49 § 2, 2012.)

15.20.040 Section 101.5 Added – Administration. Section 101.5 is hereby added to the International Swimming Pool and Spa Code and shall read as follows:

101.5 Administration. The administrative and enforcement provisions for this code shall be those provisions of Chapter 1 of the 2012 International Building Code as adopted by the City in accordance with Chapter 15.02 of the Olathe Municipal Code. (Ord. 12-49 § 2, 2012.)

15.20.050 Sections 103 through 108 Deleted – Chapter 1 Part 2 – Administration and Enforcement. Sections 103 through 108 of the International Swimming Pool and Spa Code are hereby deleted. (Ord. 12-49 § 2, 2012.)

15.20.060 Subsection 305.2.1 Amended – Barrier height and clearances. Subsection 305.2.1 of the International Swimming Pool and Spa Code is hereby amended to read as follows:

305.2.1 Barrier heights and clearances. Barrier heights and clearances shall be in accordance with all of the following:

1. Every semi-public or public swimming pool built shall be surrounded by a fence at least six (6) feet height. The type of fence material and the location of the fence shall be approved by the Building Official.
2. The top of the *barrier* for pools constructed on lots of buildings governed by the International Residential Code shall be not less than 48 inches above grade. All other *barriers* shall be not less than 72 inches above grade where measured on the side of the *barrier* that faces away from the *aquatic vessel*. Such height shall exist around the entire perimeter of the vessel and for a distance of 3 feet where measured horizontally from the required *barrier*.
3. The vertical clearance between grade and the bottom of the *barrier* shall not exceed 2 inches (51 mm) for grade surfaces that are not solid, such as grass or gravel, where measured on the side of the barrier that faces away from the vessel.
4. The vertical clearance between a surface below the barrier to a solid surface, such as concrete, and the bottom of the required *barrier* shall not exceed 4 inches (102 mm) where measured on the side of the required barrier that faces away from the vessel.
5. Where the top of the vessel structure is above grade, the *barrier* shall be installed on grade or shall be mounted on top of the vessel structure. Where the *barrier* is mounted on the top of the vessel, the vertical clearance between the top of the vessel and the bottom of the *barrier* shall not exceed 4 inches (102 mm). (Ord. 12-49 § 2, 2012.)

15.20.070 Subsection 321.1.1 Added – Maintenance or operation. Subsection 321.1.1 is hereby added to the International Swimming Pool and Spa Code and shall read as follows:

321.1.1 Maintenance or operation. No artificial lighting shall be maintained or operated in connection with any swimming pool herein authorized in such manner as to be a nuisance or annoyance to the neighboring properties. (Ord. 12-49 § 2, 2012.)

15.20.080 Section 401.1 Amended – Public swimming pools. Section 401.1 of the International Swimming Pool and Spa Code is hereby amended to read as follows:

401.1 Public swimming pools. The provisions of this chapter shall apply to *public swimming pools*. Public swimming pools covered in this chapter include *Class A, Class B, Class C, and Class E* pools.

401.1.1 Lifeguard required. All semi-public or public pools which make a charge for membership, admission, season ticket or for training shall provide a sufficiently skilled individual to act as lifeguard and supervisor at all times.

401.1.2 Hours of operation. All semi-public or public swimming pools shall not operate or be used between the hours of 10:30 PM and 6:00 AM.

401.1.3 Operation as a nuisance prohibited. All swimming pools herein authorized shall be used, maintained and operated in a manner that shall not constitute a public nuisance in the neighborhood where operated, and any continued infringement thereof or unreasonable noises shall constitute a public nuisance.

401.1.4 Safety equipment – inspection. Each pool, whether private, semi-public or public shall furnish safety equipment as may be required by the State Board of Health or the Code Official. All pools may be inspected by the City. (Ord. 12-49 § 2, 2012.)

15.20.090 Conflicts. When conflicts between this code and the conditions of listing or the manufacturer's installation instructions occur, the Building Official shall make the final determination. (Ord. 12-49 § 2, 2012.)

15.20.100 Liability. The requirement stated in this chapter shall not be construed as imposing upon the City, its officers, agents or employees any liability or responsibility for damages to any property or injury to any person due to defective construction or installation. The City or any official, employee or agent thereof shall not assume liability or responsibility whatsoever by reason of any inspection or approval of any installation. (Ord. 12-49 § 2, 2012.)

15.20.110 Severability. If any part or parts of this chapter shall be held to be invalid such invalidity shall not affect the validity of the remaining parts of this chapter. The Governing Body hereby declares that it would have passed the remaining parts of this chapter if it had known that such part or parts thereof would be declared invalid. (Ord. 12-49 § 2, 2012.)

Previous Swimming Pool Code was codified with the following ordinances. (Ord. 08-89, 2008; Ord. 01-82, 2001; Ord. 98-81, 1998; Ord. 93-23, 1993; Prior code § 4-1102 thru 1109.)

CHAPTER 15.22

PROPERTY MAINTENANCE CODE

Sections:

15.22.010 Code Adopted
15.22.020 Marked Copies of Code on File
15.22.030 Code Official
15.22.040 Section 103 Deleted – Department of Property Maintenance Inspection
15.22.050 Section 106 Amended – Violations
15.22.060 Section 107.5 Amended – Penalties
15.22.070 Section 111 Amended – Means of Appeal
15.22.080 Section 302 Deleted – Exterior Property Areas
15.22.090 Section 303 Deleted – Swimming Pools, Spas and Hot Tubs
15.22.100 Section 304 Deleted – Exterior Structure
15.22.110 Section 306 Deleted – Component Serviceability
15.22.120 Section 308 Deleted – Rubbish and Garbage
15.22.125 Section 606 Amended – Elevators, Escalators And Dumbwaiters.
15.22.130 Liability
15.22.140 Severability

15.22.010 Code Adopted. The 2012 International Property Maintenance Code, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795 is adopted by reference and made a part of this chapter as if fully set out, save and except such parts or portions thereof as are specifically deleted, added or changed in Sections 15.22.030 through and including 5.22.140. (Ord. 12-50 § 2, 2012.)

15.22.020 Marked Copies of Code on File. There shall be not less than one (1) copy of the code adopted by reference in Section 15.22.010 kept on file in the office of the City Clerk, to which shall be attached a copy of the incorporating ordinance, and which shall be marked or stamped, "Official Copy as Incorporated by Ordinance No. 12-50" with all sections or portions thereof intended to be omitted clearly marked to show any such deletion or change, and filed with the City Clerk and open to inspection and available to the public at all reasonable hours. The Fire Department, Municipal Judges and all administrative departments of the City charged with the enforcement of the incorporating ordinance shall be supplied, at the cost of the City, such number of official copies of such standard ordinance similarly marked, deleted and changed as may be deemed expedient. (Ord. 12-50 § 2, 2012.)

15.22.030 Code Official. The Chief Building Official or his or her designee will be known as the "Building Official, "Code Official" or "Administrative Authority" for the purposes of this chapter and will have the duty of enforcing provisions of this chapter. (Ord. 12-50 § 2, 2012.)

15.22.040 Section 103 Deleted – Department of Property Maintenance Inspection. Section 103 of the International Property Maintenance Code is hereby deleted. (Ord. 12-50 § 2, 2012.)

15.22.050 Section 106 Amended – Violations. Section 106 of the International Property Maintenance Code is hereby amended to read as follows:

SECTION 106
VIOLATIONS

106.1 Unlawful acts. It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sublessee, or occupant, to erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this code or any order issued by the Building Official hereunder. Any person violating the provisions of this section shall be guilty of a misdemeanor for each day such violation continues and shall be punished as provided in Section 1.16.010 of the Olathe Municipal Code. (Ord. 12-50 § 2, 2012.)

15.22.060 Section 107.5 Amended – Penalties. Section 107.5 of the International Property Maintenance Code is hereby amended to read as follows:

107.5 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 1.16.010 of the Olathe Municipal Code. (Ord. 12-50 § 2, 2012.)

15.22.070 Section 111 Amended – Means of Appeal. Section 111 of the International Property Maintenance Code is hereby amended to read as follows:

SECTION 111
MEANS OF APPEAL

111.1 Board of Code Review. A Board of Code Review shall be created and empowered to act as an appeals board in order to provide reasonable interpretation of the provisions of this code, to mitigate specific provisions of this code which creates practical difficulties in their enforcement, and to hear appeals provided for hereunder. Copies of all rules of procedures adopted by the board shall be delivered to the Chief Building Official, who shall make them accessible to the public.

111.2 Procedures for Conduct of Hearing Appeals.

A. **Hearing**. The board shall conduct all hearings.
B. **Record**. A record of the entire proceedings shall be made by audio recording, or by any other means of permanent recording determined to be appropriate by the board.
C. **Continuances**. The board may grant continuances for good cause shown.
D. **Oaths**. In any proceedings under this chapter, the board, or any board member, has the power to administer oaths and affirmations to certify to official acts.
E. **Reasonable Dispatch**. The board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

111.3 Form of Notice of Hearing. The notice to appellant shall be substantially in the following form, but may include other information:

> You are hereby notified that a hearing will be held before the Board of Code Review at _____, on the day of _____, 20___, at the hour of _____, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you.

111.4 Conduct of Hearing.

A. **Rules**. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
B. **Hearsay Evidence**. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.
C. **Admissibility of Evidence**. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.
D. **Exclusion of Evidence**. Irrelevant and unduly repetitious evidence shall be excluded.

E. **Rights of Parties**. Each party shall have these rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
4. To impeach any witness regardless of which party first called him/her to testify;
5. To rebut the evidence against him/her;
6. To represent himself/herself or to be represented by anyone of his/her choice who is lawfully permitted to do so.

F. **Official Notice**.

1. **What may be noticed**. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the board or departments and ordinances of the City or rules and regulations of the board.
2. **Parties to be notified**. Parties at the hearing shall be informed of the matters to be noticed, and these matters shall be noted on the record, referred to therein, or appended thereto.
3. **Opportunity to refute**. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the board.
4. **Inspection of the premises**. The board may inspect any building or premises involved in the appeal during the course of the hearing, provided that

   a. notice of inspection shall be given to the parties before the inspection is made,
   b. the parties are given an opportunity to be present during the inspection, and
   c. the board shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the board or hearing examiner.

111.5 Method and Form of Decision.

A. **Hearing Before the Board**. When a contested case is heard before the board, no member thereof who did not hear the evidence or has not read the entire record of the proceedings shall vote on or take part in the decision.

B. **Form of Decision**. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent to him by certified mail, postage prepaid, return receipt requested.

C. **Effective Date of Decision.** The effective date of the decision shall be as stated therein. (Ord. 12-50 § 2, 2012.)

15.22.080 Section 302 Deleted – Exterior Property Areas. Section 302 of the International Property Maintenance Code is hereby deleted. (Ord. 12-50 § 2, 2012.)

15.22.090 Section 303 Deleted – Swimming Pools, Spas and Hot Tubs. Section 303 of the International Property Maintenance Code is hereby deleted. (Ord. 12-50 § 2, 2012.)

15.22.100 Section 304 Deleted – Exterior Structure. Section 304 of the International Property Maintenance Code is hereby deleted. (Ord. 12-50 § 2, 2012.)

15.22.110 Section 306 Deleted – Component Serviceability. Section 306 of the International Property Maintenance Code is hereby deleted. (Ord. 12-50 § 2, 2012.)

15.22.120 Section 308 Deleted – Rubbish and Garbage. Section 308 of the International Property Maintenance Code is hereby deleted. (Ord. 12-50 § 2, 2012.)

15.22.125 Section 606 Amended – Elevators, Escalators And Dumbwaiters. Section 606 of the International Property Maintenance Code is hereby amended to read as follows:

606.1 General. Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A 17.1. The most current Certificate of Inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter or be available for public inspection in the office of the building operator. The effective date of this Section is January 1, 2017.

606.1.1. Certificate of Inspection. The Certificate of Inspection shall be issued by the Building Official to the property owner after receiving the required test report and elevator certification fee. Failure to supply the required test report and elevator certification fee shall result in a declaration by the Building Official that the elevator, escalator, or dumbwaiter is unfit for operation and further operation of the elevator, escalator, or dumbwaiter is prohibited and unlawful.

606.1.2. Testing. The property owner shall have each elevator, escalator, and dumbwaiter on the property tested by a certified elevator tester at the time of installation, repair, or remodel and at least on an annual schedule thereafter. Said elevator tester shall complete and submit to the Building Official the annual test report and elevator certification fee within fourteen (14) days of the annual test date. Failure to supply the annual test report and elevator certification fee within fourteen (14) days of the annual test date shall subject the property owner to an investigation/enforcement fee that shall be in addition to the required elevator certification fee. The investigation/enforcement fee shall be adopted by the Governing Body of the City by resolution. The payment of such investigation/enforcement fee shall not exempt any person from compliance with all other provisions of either this code or the technical codes nor from any penalty prescribed by law.

Exception: Elevators, escalators, and dumbwaiters installed in an owner-occupied one- and two-family dwelling unit are exempt from the annual testing requirement. The owner-occupant of a one- or two-family dwelling unit shall have each elevator, escalator, and dumbwaiter within their dwelling unit tested by a certified elevator tester at the time of installation, repair, or remodel only.

606.1.3. Elevator Certification Fee. There is hereby established a fee for issuance of a Certificate of Inspection for an elevator, escalator, or dumbwaiter that has been inspected and tested by a certified elevator tester on behalf of the City pursuant to this Section. The testing fee shall be adopted by the Governing Body of the City by resolution.

606.2 Elevators. In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing. (Ord. 15-53 § 1, 2015.)

15.22.130 Liability. The requirement stated in this chapter shall not be construed as imposing upon the City, its officers, agents or employees any liability or responsibility for damages to any property or injury to any person due to defective construction or installation. The City or any official, employee or agent thereof shall not assume liability or responsibility whatsoever by reason of any inspection or approval of any installation. (Ord. 12-50 § 2, 2012.)

15.22.140 Severability. If any part or parts of this chapter shall be held to be invalid such invalidity shall not affect the validity of the remaining parts of this chapter. The Governing Body hereby declares that it would have passed the remaining parts of this chapter if it had known that such part or parts thereof would be declared invalid. (Ord. 12-50 § 2, 2012.)

Previous Property Maintenance Code codified as the Housing Code was codified with the following ordinances. (Ord. 11-29, 2011; Ord. 01-81, 2001; Ord. 98-76, 1998; Ord. 93-28, 1993; Ord. 90-34, 1990; Ord 89-97, 1989; Ord. 86-127, 1986; Ord. 82-108, 1982; Ord. 920, 1979.)

CHAPTER 15.24

ACCESSIBLE AND USABLE BUILDINGS AND FACILITIES

Sections:

15.24.010 Code Adopted
15.24.020 Marked Copies of Code on File
15.24.030 Code Official
15.24.040 Conflicts
15.24.050 Liability
15.24.060 Severability

15.24.010 Code Adopted. Accessible and Usable Buildings and Facilities (ICC A117.1-2009), published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795 is adopted by reference and made a part of this chapter as if fully set out, save and except such parts or portions thereof as are specifically deleted, added or changed in Sections 15.24.030 through and including 15.24.060. (Ord. 12-51 §1, 2012.)

15.24.020 Marked Copies of Code on File. There shall be not less than one (1) copy of the code adopted by reference in Section 15.24.010 kept on file in the office of the City Clerk, to which shall be attached a copy of the incorporating ordinance, and which shall be marked or stamped, "Official Copy as Incorporated by Ordinance No. 12-51" with all sections or portions thereof intended to be omitted clearly marked to show any such deletion or change, and filed with the City Clerk and open to inspection and available to the public at all reasonable hours. The Fire Department, Municipal Judges and all administrative departments of the City charged with the enforcement of the incorporating ordinance shall be supplied, at the cost of the City, such number of official copies of such standard ordinance similarly marked, deleted and changed as may be deemed expedient. (Ord. 12-51 §1, 2012.)

15.24.030 Code Official. The Chief Building Official or his or her designee will be known as the "Building Official, "Code Official" or "Administrative Authority" for the purposes of this chapter and will have the duty of enforcing provisions of this chapter. (Ord. 12-51 §1, 2012.)

15.24.040 Conflicts. When conflicts between this code and the conditions of listing or the manufacturer's installation instructions occur, the Chief Building Official shall make the final determination. (Ord. 12-51 §1, 2012.)

15.24.050 Liability. The requirement stated in this chapter shall not be construed as imposing upon the City, its officers, agents or employees any liability or responsibility for damages to any property or injury to any person due to defective construction or installation. The City or any official, employee or agent thereof shall not assume liability or responsibility whatsoever by reason of any inspection or approval of any installation. (Ord. 12-51 §1, 2012.)

15.24.060 Severability. If any part or parts of this chapter shall be held to be invalid such invalidity shall not affect the validity of the remaining parts of this chapter. The Governing Body hereby declares that it would have passed the remaining parts of this chapter if it had known that such part or parts thereof would be declared invalid. (Ord. 12-51 §1, 2012.)

CHAPTER 15.32 WATER CONDITIONING CONTROL. Repealed 8/20/13. (Ord. 13-44 § 1, 2013; Ord. 02-148 § 1, 2002; Ord. 131 § 1-4, 1972; prior code § 4-601-604.)

CHAPTER 15.36 DANGEROUS STRUCTURES.* Repealed 8/20/13. (Ord. 13-45 § 1, 2013; Ord. 345 § 1, 1975; Ord. 339 § 2-9, 1975.) *For statutory provisions pertaining to dangerous structures, see K.S.A. 12-1750 and the sections that follow.

CHAPTER 15.38

BUILDING AND PROPERTY MAINTENANCE

Sections:

15.38.010 Legislative Findings.
15.38.020 Scope.
15.38.030 Definitions.
15.38.040 Public Officer.
15.38.050 Responsibility.
15.38.060 Corporations; Responsibility.
15.38.070 Individual Liability for Corporate Violations.
15.38.080 Right of Entry; Unlawful Interference; Penalty.
15.38.090 Foundation.
15.38.100 Exterior Wall Surface.
15.38.110 Trim.
15.38.120 Windows and Doors.
15.38.130 Roofing and Guttering.
15.38.140 Attached Structures.
15.38.150 Fences.
15.38.160 Pools of Water.
15.38.170 Animal Sanitation.
15.38.180 Unsanitary Premises.
15.38.190 Land Maintenances.
15.38.200 Detached Sheds, Garages, or Other Out Buildings.
15.38.210 Hard Surfaces, Walkways and Driveways.
15.38.220 Outdoor Storage - One and Two-Family Dwellings.
15.38.230 Outdoor Storage - Other Property.
15.38.240 Maintenance after Casualty Damage.
15.38.250 Notice of Violation.
15.38.260 Penalty.
15.38.270 Appeals.

15.38.010 Legislative Findings. The Governing Body finds that there exists structures and lands within the City which have a blighting influence on surrounding properties and neighborhoods. These structures and lands cause blight because walls, sidings or exteriors are not panted or properly maintained; there is inadequate maintenance of building trim, windows, doors roofing, guttering foundations and detached structures; and there exists unsightly stored or parked material, equipment, supplies, machinery, inoperable trucks or automobiles, or parts thereof, upon the property. The Governing Body further deems it necessary to require or cause such structures and lands to be adequately maintained. (Ord. 97-24 § 1, 1997.)

15.38.020 Scope. The provisions of this chapter shall apply to residential and nonresidential structures, to residential and nonresidential lands and to vacant lots. (Ord. 97-24 § 1, 1997.)

15.38.030 Definitions. The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section unless otherwise defined in the text of the section:

(a) ‘Chapter’ or ‘this chapter’ shall mean Chapter 15.38 of the Olathe Municipal Code.

(b) ‘Code’ or ‘this code’ shall mean the Olathe Municipal Code.

(c) ‘Land,’ except where specifically limited, or where the context would require limitation, the use of the terms ‘land’ or ‘real property’ shall refer to residential land, nonresidential land and vacant lots.

(d) ‘Nonresidential land’ shall mean the real property on which nonresidential structures are situated.

(e) ‘Nonresidential structure’ shall mean any structure which is used for other than residential purposes, or a part of such structure, or a structure a part of which is used for other than residential purposes and, where applicable, the premises on which such structures are situated.

(f) ‘Occupant’ shall mean any person (including an owner) having actual possession and use of a residential or nonresidential structure or land.

(g) ‘Owner’ shall mean any person, partnership or corporation who alone or jointly or severally with others has legal title to residential or nonresidential land and/or structures or vacant lots or any person, partnership or corporation who is trustee or guardian of the estate or person of the title holder.

(h) ‘Person’ shall mean an individual, firm, corporation, association, or partnership.

(i) ‘Public officer’ shall mean a Code Enforcement Officer, a Police Officer, or any other individual designated as a public officer by the City Manager.

(j) ‘Residential land’ shall mean the real property on which residential structures are situated.

(k) ‘Residential structure’ shall mean any building or structure or part thereof, used and occupied for human habitation, or intended to be so used if unoccupied and includes any appurtenances belonging thereto or usually enjoyed therewith.

(l) ‘Sales inventory’ shall mean all equipment, vehicles and products which are displayed or available for sale or temporarily stored on the premises for repair or service.

(m) ‘Section’ shall mean the stated section of the Olathe Municipal Code.

(n) ‘Structure’ except where specifically limited, or where the context would require limitation, the use of the word ‘structure’ within this chapter shall refer to both residential and nonresidential structures.

(o) ‘Trim’ shall mean all finish elements to the exterior of the structure including but not limited to finish elements surrounding windows, doors and other openings, ornamental features and fascia board.

(p) ‘Vacant lot’ shall mean any real property on which there is situated no residential or nonresidential structure. (Ord. 97-24 § 1, 1997.)

15.38.040 Public Officer. The Code Enforcement Director is hereby designated the public officer to exercise the powers prescribed by this chapter. In addition to the authority which may be specifically provided in this chapter, the public officer may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter. The public officer may appoint and fix the duties of such officers, agents and employees as the public officer deems necessary to carry out the purposes of this chapter and may delegate any of the aforementioned functions or powers to such officer, agents and employees. (Ord. 97-24 § 1, 1997.)

15.38.050 Responsibility. Every person, either as owner or occupant of any land or structure described in this chapter, shall maintain such land or structure in compliance with the requirements of this chapter. (Ord. 97-24 § 1, 1997.)

15.38.060 Corporations; Responsibility.

(a) A corporation is responsible under this chapter for acts committed by its agents when acting within the scope or their authority.

(b) ‘Agent’ means any director, officer, servant, employee or other person who is authorized to act on behalf of the corporation. (Ord. 97-24 § 1, 1997.)

15.38.070 Individual Liability for Corporate Violation.

(a) An individual who violates any provision of this chapter, or causes such violations to exist, in the name of or on behalf of a corporation is legally responsible to the same extent as if such violations were in his or her own name or on his or her own behalf.

(b) An individual who has been convicted of a violation of this chapter based on conduct performed by him or her for and on behalf of a corporation is subject to punishment as an individual upon conviction of such violation. (Ord. 97-24 § 1, 1997.)

15.38.080 Right of Entry; Unlawful Interference; Penalty.

(a) Any authorized officer or agent of the City, pursuant to this chapter, shall be allowed to enter onto any land within the City Limits to investigate violations of this chapter, provided that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession and said officer or agent shall obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.

(b) Any authorized officer or agent of the City pursuant to this chapter shall be allowed to enter onto any land within the City Limits to abate violations of this chapter.

(c) It shall be unlawful for any person to interfere with a public officer or agent of the City in performing his or her duties pursuant to this chapter whether investigating or abating violations.

(d) Any person who interferes with an officer or agent of the City pursuant to this chapter shall be punished as provided in Section 15.38.260 of this chapter. (Ord. 97-24 § 1, 1997.)

15.38.090 Foundation.

(a) The foundation of a structure shall be maintained higher than the adjacent ground level and have no openings, except for necessary ventilation holes. If ventilation holes are needed, the holes shall be adequately screened to prevent animals from entering under the structure.

(b) The foundation elements shall support the structure at all points.

(c) Any repair or replacement necessitated by this section shall be accomplished with materials that are compatible with the remaining foundation. (Ord. 97-24 § 1, 1997.)

15.38.100 Exterior Wall Surface. Exterior wall surfaces, including screened-off areas, doors and windows, shall be free of holes or breaks, loose or damaged construction materials and any other conditions which might admit rain, insects or animals to the interior portions of the walls or occupied spaces of the structure. Cracks in mortar between bricks or stone in excess of one-fourth (1/4) of an inch in size shall be sealed. All exterior wall surfaces shall be maintained and kept in repair using materials compatible with the remaining undamaged wall surfaces and recognized as acceptable pursuant to City building code. Where an existing painted wall surface has areas of chipping, peeling, scaling or missing paint greater than twenty-five percent (25%) of the painted area, then such surface shall be repainted or stripped of all paint and given a water-resistant coating if necessary. (Ord. 97-24 § 1, 1997.)

15.38.110 Trim. All trim shall be maintained in sound condition free of holes, breaks or loose or damaged construction materials. Areas that are damaged as described herein shall be repaired or replaced with material compatible with the remaining undamaged trim. Where trim has been previously painted and any trim surface contains areas of chipping, peeling, scaling or missing paint greater than twenty-five percent percent (25%) of the trim surface, then such surface shall be repainted or stripped of all paint and given a water-resistant coating if necessary. (Ord. 97-24 § 1, 1997.)

15.38.120 Windows and Doors.

(a) Every exterior opening shall be fitted with a window, door, basement hatchway cover or crawl space cover, as appropriate. Every doorway which gives access from a habitable room or area to the exterior of the structure shall be fitted with a door, equipped with hardware capable of ensuring security and privacy to the occupants of such habitable room or structure.

(b) Every window shall be in good condition and fit tightly within its frame. All windows shall be fully supplied with glass windowpanes without open cracks or holes. Windowpanes may only be repaired using a means specifically designed for glass repair and approved by the public officer, or another materials may be substituted for the glass if it is similar in appearance and form to glass and is approved by the public officer. An entire window unit may be replaced with a building material suitable for exterior use and finished to match the adjacent wall surfaces. If screens, frames for screens or storm windows are provided, the entire assembly shall be maintained in good effective working condition and repair. When present, awnings are to be kept in good repair. Every other opening located within four (4) feet of the ground level shall be protected against the possible entry of insets and rodents.

(c) Every exterior door shall be maintained in good condition and when closed shall fit well within its frame. Every door hinge and door latch shall be maintained in effective working condition. Every door available as an exit shall be capable of being easily opened from the inside. Where a door has been previously painted and any door surface contains areas of chipping, peeling, scaling or missing paint greater than twenty-five percent (25%) of the door surface, then such surface shall be repainted or stripped of all paint and given a water-resistant coating if necessary. (Ord. 97-24 § 1, 1997.)

15.38.130 Roofing and Guttering. The roof, eave and soffit shall be structurally sound, tight and shall not admit rain. Any roof surface that will allow water to enter the structure will be repaired at the point (s) of leaks by materials that are compatible with the existing roof material. If the roof has deteriorated and has lost its water repellent characteristics, the affected area will be replaced with materials compatible with the unaffected portions of the roof. Any guttering or downspouts that have been broken, rusted or damaged shall be repaired or replaced with materials that are compatible with the undamaged guttering and downspouts. Where guttering or downspouts have been previously painted and any surface contains areas of chipping, peeling, scaling or missing paint greater than twenty-five percent (25%) of the guttering or downspout surface, then such surface shall be repainted or stripped of all paint and given a water-resistant coating if necessary. (Ord. 97-24 § 1, 1997.)

15.38.140 Attached Structures. Porches, landings, fire escapes, decks, railing and exterior stairs shall be maintained in a safe and functional condition and kept in good repair. Any repair or replacement work required pursuant to this section shall be accomplished with materials that are compatible to the undamaged portions of the structure. (Ord. 97-24 § 1, 1997.)

15.38.150 Fences. All fencing (except agricultural fencing), including gates, shall be maintained in sound condition free of damage, breaks or missing structural members. Areas that are leaning, buckling, sagging or deteriorating shall be repaired or replaced with materials compatible with the undamaged portions of the fence or removed. Where fencing has been previously painted and there are areas of chipping, peeling, scaling or missing paint greater than twenty-five percent (25%) of the fence surface, than such surface shall be repainted or stripped of all paint and given a water-resistant coating if necessary. (Ord. 97-24 § 1, 1997.)

15.38.160 Pools of Water. Ponds, reservoirs, swimming pools or other receptacles of water shall be maintained free of trash, debris, garbage or other effluvia, and shall not serve as breeding ground for insects or other vectors. Fencing or other protective barriers around swimming pools shall be maintained to serve the intended purpose of restricting entry of small children. Holes in or under barriers shall be fixed or repaired. Malfunctioning self-closing, self-latching devices and locking materials on gates shall be repaired or replaced. (Ord. 97-24 § 1, 1997.)

15.38.170 Animal Sanitation. No excessive accumulation of animal waste shall be permitted on any property. Animal wastes shall not be disposed of in an open ditch or storm drain. Property owners or occupants of land shall be responsible for the proper burial or disposal of dead animals. (Ord. 97-24 § 1, 1997.)

15.38.180 Unsanitary Premises. No owner, occupant or other person shall allow the accumulation of garbage or refuse on any land which causes or creates a foul, unhealthy or offensive smell, or in which disease-carrying insects, rodents or other vermin may breed, or may reasonably be expected to breed. For the purposes of this section the word "garbage" shall mean animal and vegetable waste resulting from the handling, preparation, cooking, storage, or consumption of food. The word "refuse" shall mean all putrescible and nonputrescible solid wastes, including garbage, rubbish, debris, ashes, street cleanings, dead animals, abandoned or inoperable automobiles, abandoned or inoperable household appliances, movable furniture not designed for or modified to withstand the elements and outdoor use, and industrial wastes. (Ord. 97-24 § 1, 1997.)

15.38.190 Land Maintenance. Land, whether vacant or occupied by structures, shall be maintained in such manner to be free of conditions that constitute health and safety hazards, encourage abuse and trespassing by others, create a blighting effect in the neighborhood or otherwise adversely affect adjacent properties. (Ord. 97-24 § 1, 1997.)

15.38.200 Detached Sheds, Garages or Other Out Building. Detached sheds, garages or other out buildings shall be maintained in the same manner as provided in Sections 15.38.090 through 15.38.140 or removed. Provided, however, that out buildings on agriculturally zoned property and used for agricultural purposes shall be exempt from the requirements of this section. (Ord. 97-24 § 1, 1997.)

15.38.210 Hard Surfaces, Walkways and Driveways. Hard surfaces, parking lots, walkways and driveways on private property shall not be allowed to deteriorate to the extent they constitute a safety hazard. For the purposes of this section, the term 'safety hazard' shall include but not be limited to a paved surface which is broken, buckled, heaved, collapsed or missing to the degree that vehicles using the surface are at risk of being damaged or pedestrians walking on the surface are at risk of falling or tripping. (Ord. 97-24 § 1, 1997.)

15.38.220 Outdoor Storage - One and Two-Family Dwellings. No property owner or resident shall allow the placement, storage, installation or construction of any item, object or structure on any property zoned or used for a single-family or two-family residence except as specifically and explicitly permitted by this section. The following items, objects or structures are permitted:

(a) Any item, object or structure permitted under the applicable provisions of the Unified Development Ordinance and Municipal Code, in full compliance with the authorizing provision. The intent of this subsection is to permit only those items specifically permitted under the applicable zoning district regulations or the applicable accessory use regulations.

(b) Authorized trash containers stored and maintained in compliance with the requirements of Chapter 6.04 of the Olathe Municipal Code.

(c) Firewood, neatly stacked, provided that such storage shall not occur at any location on the property that is closer to a street than the nearest primary wall surface of the residence. For the purposes of this section, 'primary wall surface' shall mean any exterior wall surface of the residence that is visible from the street and not perpendicular to the street, but excluding porches, carports and minor building projections such as fireplaces or bay windows.

All other items. Any item, object or structure not specifically authorized in subsections (a), (b) or (c) must be located within a fully enclosed structure, or within the back yard and substantially screened from view from any adjacent property.

The Director of Planning may approve mature landscape materials as an acceptable screen if he/she determines that it provides the substantial equivalent of approved fence or wall materials. Materials for a fence or wall shall be of a type, material and quality compatible with the immediate neighborhood, as determined by the Director of Planning. Such screening shall be constructed and maintained in accordance with applicable City codes and shall be adequate to prevent substantial viewing of the enclosed objects from any place within the adjacent property or any structure located on that property.

Notwithstanding any other applicable provisions, permitted items, objects or structures shall occupy no more than twenty percent (20%) of the allowable outside storage area. In measuring the area occupied by such items, objects or structures to determine if the permitted twenty percent (20%) is exceeded, a rectangle shall be constructed to include all points where any such item, object or structure is located, and the area shall be calculated to include all that area within the rectangle. This method of calculating area shall not apply to those items specifically authorized in subsections (a), (b) or (c) above. (Ord. 97-24 § 1, 1997.)

15.38.230 Outdoor Storage - Other Property. No property owner or occupant shall allow the placement, storage, installation or construction of any item, sales inventory, object or structure on any property other than that property zoned or used for a single-family or two-family residence except as specifically and explicitly permitted by this section. The following items, objects or structures are permitted:

(a) Any item, sales inventory, object or structure permitted under the applicable provisions of the Unified Development Ordinance and Municipal Code, in full compliance with the authorizing provision. The intent of this subsection is to permit only those items specifically permitted under the applicable zoning district regulations or the applicable accessory use regulations.

(b) Authorized trash containers stored and maintained in compliance with the requirements of Chapter 6.04 of the Olathe Municipal Code. (Ord. 97-24 § 1, 1997.)

15.38.240 Maintenance after Casualty Damage. Within a period of ninety (90) days after casualty damage to any premises, the owner and operator shall take the following steps.

(a) Contract for the repair and restoration of damage areas and removal of debris.

(b) Contract for the demolition and removal of any part of the premises not to be repaired and restored and for the removal of debris in connection therewith.

Should an adjustment of insurance claims take longer than ninety (90) days, the Director of Code Enforcement may grant an extension in the period of time needed to comply with this section. (Ord. 97-24 § 1, 1997.)

15.38.250 Notice of Violation. Whenever the public officer shall find a violation of this Chapter, such officer shall issue a notice and order to the owner thereof of such violation. Such notice and order shall contain:

(a) The street address and a legal description sufficient for identification of the owner's property.

(b) A statement by the public officer that such officer has found the owner's property to be in violation of this chapter and a detailed description of the conditions of the property giving rise to the violation or violations.

(c) (1) For violations of sections 15.38.090, 15.38.100, 15.38.110, 15.38.120, 15.38.130, 15.38.140, 15.38.150, 15,38.200, and 15.38.210 a statement by the public officer that such officer has determined that the property must be repaired or properly maintained and an order requiring that all required permits be secured therefore and the work physically commenced within sixty (60) days, weather permitting, from the date of the notice and order and completed within such time as the public officer shall determine is reasonable under all of the circumstances. (2) For Violations of sections 15.38.160, 15.38.170, 15.38.180, 15.38.190, 15.38.220, 15.38.230, and 15.38.240, a statement by the public officer that such officer has determined the violation must be corrected within (10) days from the date of the notice and order.

(d) An information sheet listing the programs available to the public to help defray the costs of remedying a violation.

(e) A statement detailing the right to appeal a notice and order and the appeal procedures.

The notice and order shall be given or served upon the owner, operator, occupant or other person responsible for the condition or violation either by personal service, or by delivering the same to and leaving it with some person of suitable age and discretion upon the premises; or, if no person is found on the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises and by mailing a copy thereof to such person by registered or certified mail to his last known address. (Ord. 97-24 § 1, 1997.)

15.38.260 Penalty. Any person, firm or corporation violating Section 15.38.080 or with any notice or order issued under Section 15.38.250 shall be punished for the first conviction by a fine of not more than Two Hundred Fifty Dollars ($250.00); for a second conviction within two (2) years thereafter such person shall be punished by a fine of not more than Five Hundred Dollars ($500.00); and upon a third or subsequent conviction within two (2) years after the first conviction such person shall be punished by a fine of not more than One Thousand Dollars ($1000.00). (Ord. 97-24 § 1, 1997.)

15.38.270 Appeal. Until January 1, 1998, any owner may appeal a notice and order issued under Section 15.38.250 to the City Council. From and after January 1, 1998, the appeal shall be made to the Property Maintenance Appeal Board. An appeal shall be initiated by submitting an appeal request to the City Clerk within ten (10) days of the date of the service of the notice and order, unless the tenth day falls upon a Saturday, Sunday or holiday, in which case the tenth day shall be the next business day. No precise form of appeal is required, but the City shall provide forms to assist those who want to use them. The City Clerk upon receiving the appeal report shall schedule the appeal and notify in writing the person taking the appeal, and any other person who asks in writing for notice. In considering the appeal, the Board may affirm, modify, extend or overrule the decision in a manner that is consistent with the provisions of this chapter. All decisions of the Board shall be in writing and the decision rendered shall be a final administrative decision. (Ord. 97-24 § 1, 1997.)

CHAPTER 15.40 MOVING BUILDINGS. Repealed 8/20/13. (Ord. 11-30 § 1, 2011; Ord. 02-149 § 1, 2002; Ord. 87-171 § 1, 1987; Ord. 84-14 § 2, 1984; Ord. 109 § 1, 1972; Ordinance 328-C, 1970; prior code & 4-901.)

CHAPTER 15.52

MOBILE HOMES

Sections:

15.52.010 Definitions.
15.52.020 Mobile Homes--Where Permitted.
15.52.030 Trailers--Where Permitted.
15.52.040 Mobile Homes and Trailers as Nonresidential Structures.
15.52.050 Mobile Home Parks--Minimum Standards.
15.52.060 Mobile Home Park--Plan Approval.
15.52.070 Mobile Home Subdivisions.
15.52.080 Mobile Homes--Structural Quality (Repealed).
15.52.090 Mobile Home Park or Subdivision--Management.
15.52.100 Mobile Home Park--License Required--Fee.
15.52.110 Nonconformance--License Cancellation.

15.52.010 Definitions.

(a) "Drive" means a right-of-way which affords principal means of vehicular access to or through a mobile home or trailer park, and which is owned and maintained by the owner or operator of the park.

(b) "Mobile home" means a residential structure, assembled in total or in not more than three sections at a factory, and transported over the road by truck or temporary wheel carriage to its destination.

(c) "Mobile home, double wide" means a mobile home, as defined above, and having been built in two sections at the factory, which two sections are transported over the road separately, with assembly into one structure of a width of not less than twenty feet occurring at the destination.

(d) "Mobile or modular home subdivision" means an area of land containing not less than sixty lots, and the public streets necessary to serve such lots, the purpose of which is to convey in fee the individual lots for the location of mobile homes or modular homes in a permanent fashion.

(e) "Mobile home park" means a tract of land containing suitable drives, utilities and other supporting elements, and devoted to the sole purpose of accommodating mobile homes on a permanent or semipermanent basis.

(f) "Mobile home, single wide" means a mobile home, as defined above, and being of a width of not more than twelve feet, measured between the permanent sidewalls thereof.

(g) "Mobile home space" means that area of land within a mobile home park set aside for use as a site for one mobile home, including the open spaces around the mobile home, as are required in this chapter.

(h) "Modular home" means a residential structure, assembled in total or in several sections at a factory, and transported over the road by truck to its destination. A modular home, as distinct from a mobile home, shall have exterior building materials and appearance similar to the customary single family structures in the neighborhood, and shall be permanently situated on a concrete slab or foundation.

(i) "Street" means a right-of-way which affords principal means of vehicular access to or through a mobile home or trailer park, and which is held in fee by the public or a governmental unit thereof.

(j) "Trailer" means a vehicle equipped with wheels, and normally towed over the road behind an automobile or light truck.

(k) "Trailer, advertising" means a trailer, as defined above, but carrying, or having attached thereto, a sign, billboard, or other media for advertising purposes, such advertising being the prime purpose and use of the trailer.

(l) "Trailer, camping" means a trailer, as defined above, and equipped with an enclosure for sleeping while on vacation or other trips of short duration. Such camping trailers may also contain cooking, bath and sanitary equipment. Size and furnishing of such camping trailers may vary widely, but in no case shall they be considered structures for residential use of a temporary or permanent nature, for purposes of this chapter.

(m) "Trailer, hauling" means a trailer, as defined above, and designed and normally used for over-the-road transportation of belongings, equipment, merchandise, livestock and other objects, but not equipped for human habitation.

(n) "Trailer park" means a tract of land containing sites for the overnight or short term parking of camping trailers. (Ord. 347-C § 1, 1970.)

15.52.020 Mobile Homes--Where Permitted.

(a) Within the corporate limits of the City of Olathe, a single-wide mobile home may be permitted only in an approved mobile homes park. A double-wide mobile home may be permitted in an approved mobile homes park or on a permanent slab or foundation on a lot which complies with all the regulations of the zoning and subdivision ordinances of the City of Olathe. Such double-wide structure to be located outside an approved park shall first be submitted to the Planning Commission for review as to architectural conformity with the surrounding neighborhood, based upon the following:

(1) The physical condition of the structure is sound, well maintained and of neat appearance;
(2) The proposed site of the structure is not in a neighborhood which contains homes of size and value sufficiently higher than will result from the establishment of the double-wide mobile home such that the contrast in appearance will depress property values in the neighborhood.

(b) A mobile home may also be permitted by the Governing Body, after public hearing, for the purposes of temporary relief from a local disaster, such as fire, wind, or flood damage, provided such mobile home shall be removed from the premises within six months of its original placement.

(c) A mobile home shall not be temporarily or permanently parked or located on any public street or alley, nor on any lot containing a residential or business structure, except when in complete conformity with the zoning and other ordinance of the City of Olathe. (Ord. 87-30 § 32, 1987; Ord. 347-C § 2, 1970.)

15.52.030 Trailers--Where Permitted.

(a) CAMPING TRAILERS. Camping trailers may be parked in a campground or trailer park, provided such camp area is in conformance with the zoning and other ordinances of the City of Olathe. No such camping trailer shall be used for permanent or semi-permanent residential purposes. Nothing in this chapter shall prohibit the use of tents, pick-up campers, and other such equipment from also utilizing an approved campground or camper park.

Camping trailers may also be stored, on the basis of one per family, in private garages, or in the side or rear yards of private homes, business or industrial areas, provided no such trailer shall be used for residential purposes.

(b) ADVERTISING TRAILERS. Advertising trailers may be permitted only on property zoned District C-2 to M-2, inclusive, and such trailers shall be off the public street, and conform to the setback height and area regulations for other signs in that district.

(c) HAULING TRAILERS. Hauling trailers, as defined herein, may be stored or rented in a District C-2 to M-2, inclusive. Hauling trailers, customarily towed behind passenger cars, and not exceeding eight feet of box length, may also be kept or stored, on the basis of one per family, in private garages, or in the side or rear yard of private homes. (Ord. 347-C § 3, 1970.)

15.52.040 Mobile Homes and Trailers as Nonresidential Structures. A mobile home may be used for the following nonresidential uses:

(a) Temporary office or storage room on the site of a construction project;

(b) Temporary classrooms in connection with public schools or private schools with equivalent curriculums;

(c) Sales office on the site of a mobile homes sales yard or as a leasing or management office in a mobile homes park. An enclosed trailer may be used as a temporary office for sales of trailers and similar equipment, provided such trailer is located on the premises of a sales yard containing equipment to be sold. Any mobile home and trailer use as referred to in this section as temporary shall be permitted for not more than one year, except that a longer period may be allowed by special use permit. All mobile homes and trailers to be used as set out in this section shall be clean, in good condition, have the necessary sanitary facilities, parking areas and landscaping as determined by the building inspector. (Ord. 74 § 1, 1972; Ord. 347-C § 4, 1970.)

15.52.050 Mobile Home Parks--Minimum Standards.

(a) MINIMUM PARK SIZE. No mobile home park shall have a site smaller than will accommodate sixty mobile homes, or comprising less than ten acres.

(b) MINIMUM SPACE SlZE. Each mobile home space shall have dimensions of at least forty-five feet in width and ninety feet in depth. The maximum density for mobile homes parks shall be six mobile homes per acre of land after public street rights-of-way have been deducted,

(c) STANDS AND SKIRTS. Each mobile home space shall contain a Portland cement or asphaltic concrete stand upon which the mobile home will be situated and each home shall be equipped with skirts on all sides, such skirts to be of material harmonious to the mobile home structure.

(d) STREETS AND DRIVES. All public streets within the park shall be improved to city standards for residential streets. All private drives shall be not less than twenty-two feet in width, have Portland cement curbs, and be surfaced with at least six inches of compacted stone base with two inches of hot mix bituminous concrete as the surface course.

(e) PARKING. At least two parking spaces for each mobile home shall be provided within sixty feet of the mobile home. Such parking spaces shall be off the public street or private drive, and each shall be not less than nine feet by twenty feet in size, and shall be surfaced to at least the standard set out above for drives.

(f) PARK AND PLAYGROUND SPACE. Park and playground space shall be provided for occupants of the mobile homes park, on the basis of three hundred square feet for each space in the park. Such playground space shall be separate and aside from the open space provided on each mobile home space, and shall be equipped and maintained for the use of the residents of the park.

(g) OPEN SPACE. Each mobile home shall be located on the mobile home space so that no part of one mobile home structure, including canopies, awnings, carports and other protrusions, is closer than twelve feet to another mobile home, or to the edge of the surface of a drive. No mobile home shall be located closer than thirty feet to the boundary line of the mobile home park or to a public street.

(h) UTILITIES. All liquid waste shall be disposed of through a sanitary sewer system and treatment facility, the plans of which shall be approved by the city engineer prior to construction. All solid wastes shall be disposed of by accumulation in tight containers, and removed at regular intervals by methods to be approved by the city engineer. All power and telephone lines shall be underground, and shall be in compliance with standards of the utility corporation involved. All water supply and distribution shall be approved by the city engineer prior to construction.

The site of the park shall be graded so that surface water will not accumulate, but will run off in a manner that will not adversely affect the residential character of the park or adjacent property. The proposed drainage systems shall be approved by the city engineer prior to construction of streets or other portions of the park. (Ord. 74 § 2, 1972; Ord. 347-C § 5, 1970.)

15.52.060 Mobile Home Park--Plan Approval.

(a) Construction of a mobile home park within the City of Olathe shall begin only after a special use permit has been granted by the Governing Body, in compliance with the zoning ordinance. No such permit shall be granted, however, until a development plan for the proposed mobile homes park has been prepared and submitted by the developer to the Planning Commission, and found satisfactory by the Governing Body, and further submitted to the Governing Body with a recommendation for approval.

(b) Such plan shall be accurately drawn, at a scale acceptable to the city engineer, and shall show the following:

(1) Proposed street and drive pattern;
(2) Proposed mobile homes spaces and their approximate dimensions;
(3) Any existing streets in or abutting the property;
(4) Location and size of parking spaces;
(5) Location and size of park and playground area;
(6) Screening and landscaping;
(7) Legal description of the tract;
(8) Name of the developer and the firm preparing the plan;
(9) North point, scale and date.

(c) The Planning Commission shall, upon submission of three copies of the plan and an application for a special use permit, publish notice and hold a hearing on the proposal, in conformance with the zoning ordinance. The decision of the commission to recommend approval or denial of the proposed mobile home park shall be based upon the following criteria:

(1) The proposed property will be in harmony, in general, with the Comprehensive Plan of the City of Olathe;
(2) Safe and efficient ingress and egress of vehicular and pedestrian traffic and an adequate level of utility and other services is assured;
(3) A safe and healthful living environment will exist for the occupants of the park.

(d) Upon hearing and consideration of the project, the commission shall, within reasonable time, submit its recommendation and an endorsed copy of the plans to the Governing Body for final action. (Ord. 87-30 § 33, 1987; Ord. 48 § 1 1982; Ord. 8 § 1, 1972; Ord. 347-C § 6, 1970.)

15.52.070 Mobile Home Subdivisions. A subdivision for the purpose of selling individual lots in fee for the purpose of mobile home sites may be permitted under the subdivision ordinance of the City of Olathe. Only double wide or larger mobile homes or modular homes, or customary single family dwellings shall be permitted in a mobile homes subdivision. Such structures shall be located in compliance with the yard and lot area requirements of District R-1 of the zoning ordinance, and shall be attached to a permanent concrete foundation or slab. Off-street parking spaces shall be provided in compliance with the zoning ordinance. (Ord. 347-C § 7, 1970.)

15.52.080 Mobile Homes (Repealed). (Ord. 87-169 § 1, 1987; Ord. 347-C § 8, 1970.)

15.52.090 Mobile Home Park or Subdivision--Management. Each mobile home park or subdivision shall be operated in a sanitary, orderly and efficient manner, and shall maintain a neat appearance at all times. No damage or deteriorated remain, and suitable and effective rules for regulating the outside storage or equipment, the removal of wheels and installation of skirting, the collection of trash and garbage, and the attachment of appurtenances to the mobile homes shall be continually enforced.

A map shall be placed at the main entrance to the park, clearly showing the location of each space, and the name and address of the occupant. Such map shall be illuminated at all times, and be enclosed in a weatherproof case, within full view of persons entering the park. All drives, playground area and equipment, lawn and trees, and any recreation or accessory buildings shall be maintained at a level at least equal to the average residential neighborhood in the city. All portions of the mobile home park shall be open and accessible to fire, police and other emergency and protective vehicles and personnel, including city, county and state inspectors. (Ord. 347-C § 9, 1970.)

15.52.100 Mobile Home Park--License Required--Fee. All mobile home parks shall be subject to an annual license, which may be issued by the Governing Body. Compliance with this chapter and all other codes and ordinances of the city shall be necessary prior to the issuance or renewal of the license. A license fee shall be paid by the owner of the Mobile Home Park~~,~~ upon establishing the park. Thereafter, an annual renewal fee shall be paid for each space occupied on the date of expiration of the previous license. The license fee and annual renewal fee shall be adopted by the Governing Body of the City by resolution. (Ord. 02-150 § 1, 2002; Ord. 87-30 § 34, 1987; Ord. 347-C § 10, 1970.)

15.52.110 Nonconformance--License Cancellation. The owner and/or operator of the mobile home park shall be responsible for conformance to all plans, codes and ordinances and any conditions set out in the special use permit, and any deviation or nonperformance or the occurrence of any nuisance or unhealthful or unsanitary condition, or the termination of a park operation for one year or more, shall constitute grounds for the cancellation of a license or special use permit, or refusal to renew a license on the part of the Governing Body. In addition, the city shall have all remedial and corrective powers conveyed by statutes of the state. (Ord. 87-30 § 35, 1987; Ord. 347-C § 11, 1970.)

CHAPTER 15.53

INSPECTION OF MOBILE HOMES

Sections:

15.53.010 Fees.

15.53.010 Fees. There is hereby established permit fees for each manufactured home installation. The permit fee shall be adopted by the Governing Body of the City by resolution. (Ord. 13-47 § 2, 2013; Ord. 02-151 § 1, 2002;Ord. 87-170 § 1, 1987.)

CHAPTER 15.54 SEVERE STORM SAFETY MEASURES FOR MOBILE AND MODULAR HOMES AND SUBDIVISIONS. Repealed 8/20/13. (Ord. 13-48 § 1, 2013; Ord. 97-44 § 1, 1997.)

CHAPTER 15.60

CONTRACTOR LICENSING AND PERMITS

Section:

15.60.010 County Contractor License – Required
15.60.020 Permit Requirements
15.60.030 License Display
15.60.040 Liability
15.60.050 Separability

15.60.010 County contractor License. It shall be unlawful for any person, firm, corporation, association, or combination thereof to engage in work as a contractor in the city without first having received a contactor license issued by Johnson County, Kansas in conformance with the Contractor Licensing Regulations and Johnson County Resolution 058-01. (Ord. 01-115, § 1, 2001.)

15.60.020 Permit Requirements. Any person, firm, corporation, co-partnership, association or combination thereof seeking any city of Olathe permit required by Title 15, Building Construction shall be required to be licensed by Johnson County, Kansas in accordance with the Contractor Licensing Regulations and Johnson County Resolution 058-01 prior to issuance of a city permit. (Ord. 01-115, § 1, 2001.)

15.60.030 License – Display. Every person, firm corporation, co-partnership, association or combination thereof doing any work in the city as a contractor shall, upon request of any officer of the city show or produce his/her county contractor license. (Ord. 01-115, § 1, 2001.)

15.60.040 Liability. The requirements stated in the chapter shall not be construed as imposing upon the city, its officers, agents or employees any liability or responsibility for damages to any property or injury to any person due to defective construction or installation. The city or any official, employee, or agent thereof shall not assume liability or responsibility whatsoever by reason of any inspection or approval of any installation. (Ord. 01-115, § 1, 2001.)

15.60.050 Separability. If any part or parts of this chapter shall be held to be invalid such invalidity shall not effect the vailidity of the remaining parts of this chapter. The Governing Body hereby delcares that it would have passed the remaining parts of this chapter if it had known that such part or parts thereof would be declared invalid. (Ord. 01-115, § 1, 2001.)

NOTE: Chapter 15.60 previously existed as Underground Utilities and was repealed 10/20/92. (Ord. 92-52, § 3, 1992; Ord. 82-120 § 1, 1982; Ord. 81-06 § 1 (part), 1981.)

CHAPTER 15.61

OLATHE STREET NAMING AND NUMBERING ORDINANCE

Sections:

15.61.010 Definitions
15.61.020 Assignment of Street Names to New or Unnamed Streets
15.61.030 Assignment of Primary Address Numbers to New or Unnamed Streets
15.61.040 Changes to Existing Primary Address Numbers
15.61.050 Changes to Existing Street Names
15.61.060 Official Street File

15.61.010 Definitions.

DIRECTIONAL means any of the four basic compass directions, abbreviated as follows: N, S, E, or W. If a predirectional is used, it is the first element of a street name.

PRIMARY ADDRESS NUMBER means the number assigned to a particular structure of property.

ROOT STREET NAME means all parts of a street name except the street type and, where applicable, the directional. Components of the root street name, including compass directions and street types that are part of the root, are never abbreviated. Numeric root names are an exception; they are always presented as numeric abbreviations except when they must be spelled out to be distinguished from nearby streets with duplicate names.

SECONDARY ADDRESS UNIT means a designation of a particular subunit within a structure identified by a primary address number and street name. The secondary address unit consists of a designator presented as a standard abbreviation followed by a secondary address range of alphanumeric characters.

SITE ADDRESS means all elements necessary to identify a location in a given city; a site address consists of a primary address number, a street name and, in some cases, a secondary address unit.

STREET NAME means the full name of a street, which includes the following elements: a root street name, a street type, and, in some cases, a directional.

STREET TYPE means a road or street type presented as a standard abbreviation following the root street name. The street type is the last element of the street name. Street types that occur in any other position are actually components of the root street name.

15.61.020 Assignment of Street Names to New or Unnamed Streets. The City of Olathe Addressing Technician shall review all site plans prior to approval by the Olathe Planning Commission and shall review all plats prior to their being recorded. Street names are critical elements of site plans and plats; street names on approved site plans and plats may not be changed in any way without the written approval of the City of Olathe Addressing Technician. Site plans and plats must contain all proposed street names (including directionals and street type) and should conform to the City of Olathe Addressing Guidelines, which are on file at the GIS Division and are hereby adopted for use in the City of Olathe.

A. For the area designated as the Historic Olathe Addressing Grid:

1. The Historic Olathe Addressing Grid is hereby bounded by North/South Lakeshore Drive on the west, West 159th Street on the south, and South Renner Road and North/South Mur-Len Road on the east, and on the north by West 127th Street between North Lakeshore Drive and North K-7, West Harold Street between North K-7 and Northgate Street, Northgate Street between West Harold Street and West 119th Street, and West 119th Street between Northgate Street and South Renner Road.

2. The street name, if it is contained within the area known as the Historic Olathe Addressing Grid, must conform to the established name in the Historic Olathe Hundred Block Street Name Index.

B. For the area outside of the Historic Olathe Addressing Grid:

1. The street name, if it is outside of the area known as the Historic Olathe Addressing Grid, must conform to the established name in the Johnson County Hundred Block Street Name Index.

C. For street names deviating from the Johnson County Hundred Block Street Name Index:

1. The GIS Division shall approve only those street names that meet the following guidelines for clarity and uniqueness. The root street name is spelled and pronounced differently than any other street name in any part of Johnson County, Kansas. The City of Olathe Addressing Technician may submit written proposals of new street names to the Johnson County AIMS Division, which may assist the City of Olathe Addressing Technician in determining uniqueness. Immediately prior to determining the uniqueness of a street name, the City of Olathe Addressing Technician shall request a recent copy of reserved street names from the Johnson County AIMS Department. The City of Olathe Addressing Technician shall forward all newly assigned street names to the Johnson County AIMS Department so that they can be added to the list of reserved street names.

15.61.030 Assignment of Primary Address Numbers to New or Unnumbered Streets. New primary address numbers shall be assigned by the City of Olathe Addressing Technician. The City of Olathe Addressing Technician shall assign numbers according to the City of Olathe Addressing Guidelines. All site plans must include such dimensions and references to section lines as are necessary to calculate primary address numbers in accordance with the City of Olathe Addressing Guidelines.

15.61.040 Changes to Existing Primary Address Numbers. As far as possible, changes to primary address numbers shall be consistent with the City of Olathe Addressing Guidelines, which are on file at the GIS Division. Changes to primary address numbers will be considered should any of the following conditions exist:

A. The existing range of numbers overlaps an address range on a street in Johnson County, Kansas that has an identical or phonetically similar name.

B. Old primary address numbers are no longer applicable because the topography has changed due to redevelopment.

C. The existing numbers hinder the ability to locate the property or structure based on the assigned address.

The City of Olathe shall give written notice of a change in primary address numbers to the owners or occupants of the affected properties or buildings. Said notice shall contain the new primary address numbers and shall direct the owners or occupants to post the newly assigned numbers in a manner that complies with the provisions of the City of Olathe Building and Fire Codes. Said notice shall contain an explanation of the importance of displaying accurate primary address numbers and shall inform the owners that they have a grace period of ninety (90) days to post the newly assigned numbers. Failure to post newly assigned numbers within said ninety (90) day grace period shall constitute a violation of the City of Olathe Building and Fire Codes and shall be punishable according to the provisions therein.

15.61.050 Changes to Existing Street Names. Applications for street name changes may be submitted by the City of Olathe Addressing Technician or by anyone owning property on the street involved to the GIS Manager. An application for a street name change must contain:

A. A survey showing the exact location of the street/easement;

B. A map showing the locations and correct names of all streets within a five (5) mile radius of the proposed change;

C. An explanation, based on this Section of this Ordinance, of why the change should be considered; and

D. Verification of the uniqueness of the proposed new name, according to the guidelines in Section 15.61.040, by the City of Olathe Addressing Technician or the Johnson County AIMS Department.

Applications made by property owners must also contain either:

A. An endorsement by the City of Olathe Addressing Technician; or

B. A petition or other demonstrative form of approval by all other property owners on the street/easement.

The GIS Manager shall consider applications for changes to street names based on one or more conditions:

A. A street is unnamed.

B. A street name is identical or phonetically similar to one or more other street names within Johnson County, Kansas and the ranges of address numbers on these streets overlap or are likely to overlap with continued growth, and the elimination of these overlaps through renumbering is impractical or infeasible.

C. A street name is identical or phonetically similar to one or more other street names within Johnson County, Kansas, and unique ranges of address numbers are insufficient to mitigate the negative impacts on public health, safety, general welfare and convenience.

D. A contiguous street bears more than one name along its course.

E. The proposed change is demonstrated to be in the best interest of the community.

Changes to existing street names must be adopted by ordinance and approved by the City Council.

15.61.060 Official Street File. The GIS Division will maintain a Master Address database, which is hereby adopted as the official street and address file for the City of Olathe. Changes to street names, address ranges and addresses shall become official upon being posted to the Master Address database. (Ord. 03-75 § 1, 2003.)

TITLE 16

FIRE PREVENTION

CHAPTERS:

16.05 Fire Codes
16.07 Automatic Fire Alarm Systems
16.12 Fire Regulations
16.14 Recovery of Expenses

Chapter 16.04, Uniform Fire Code and Chapter 16.06 Uniform Fire Code Standards were repealed in entirety by Ordinance No. 90-36. Chapter 16.05, Fire Code, was repealed in entirety by Ordinance 12-52. Past Fire Code regulations were codified with Ordinance Numbers 09-24, 02-152, 01-80, 00-122, 98-82, 96-49, 93-30, 90-36, 89-146, 89-97, 86-61, 86-60, 82-134, 82-129 and 937.

CHAPTER 16.05

FIRE CODES

Sections:

16.05.010	Fire Code Adopted
16.05.020	Marked Copies of Code on File
16.05.030	Fire Department Inspection Division – Established Duties
16.05.040	Section [A] 101.1 Amended – Title and Jurisdiction
16.05.050	Subsection [A] 101.2.1 Amended – Appendices
16.05.060	Section [A] 102.7 Amended – Referenced codes and standards
16.05.065	Subsection [A] 102.13 Home child daycares
16.05.070	Section 103 Deleted – Department of Fire Prevention
16.05.080	Subsection [A] 105.1.1 Amended – Permits required
16.05.090	Subsection [A] 105.3.1 Amended – Expiration
16.05.100	Subsections [A] 105.6.1 through [A] 105.6.13, subsections [A] 105.6.15 through [A] 105.6.19, subsections [A] 105.6.21 through [A] 105.6.29, and subsections [A] 105.6.31 through [A] 105.6.46 Deleted – Certain required operational permits
16.06.110	Subsection [A] 105.6.14 Amended – Explosives
16.06.120	Subsection [A] 105.6.20 Amended – Hazardous materials
16.06.130	Subsection [A] 105.6.30 Amended – Open burning
16.06.140	Section [A] 109.4 Amended – Violation penalties
16.06.150	Section 307 Amended – Open burning, Recreational Fires and Portable Outdoor Fireplaces
16.05.160	Subsection 308.1.6.3 Added – Airborne flame devices
16.05.170	Section 310.2 Amended – Prohibited areas
16.05.180	Subsection 312.1.1 Added – Protection of utility equipment
16.05.190	Section 403.3 Amended – Crowd managers
16.05.200	Section 503.3 Marking
16.05.210	Subsection 505.1.1 Added – Secondary address numbers
16.05.220	Subsection 507.5.2.1 Added – Hydrants – Color
16.05.230	Subsection 901.1.1 Added – Responsibility
16.05.240	Section 901.4 Amended – Installation
16.05.250	Subsection 901.4.5 Amended – Appearance of equipment
16.05.260	Subsection 901.4.7 Added – Existing installations – supervision
16.05.270	Subsection 901.6.3 Added – Test documentation
16.05.280	Subsection 901.6.4 Added – Qualifications of inspection, testing and maintenance personnel
16.05.290	Subsection 903.4.1 Amended – Monitoring
16.05.300	Subsection 903.4.2 Amended – Alarms
16.05.310	Subsection 907.6.5 Amended - Monitoring
16.05.320	Subsection 907.7.4 Added – Contractor's statement
16.05.330	Section 912.2 Amended – Location
16.05.340	Subsection 912.3.4 Added – Fire Department connections
16.05.350	Section 1103.2 Deleted – Emergency responder radio coverage in existing buildings
16.05.360	Section 1103.9 Deleted – Carbon monoxide alarms
16.05.370	Section 1104.24 Deleted – Egress path markings
16.05.380	Establishment of Above Ground Storage of Flammable Liquid Limits
16.05.390	Establishment of Storage of Liquefied Petroleum Gas Limits
16.05.400	Establishment of Explosives Storage Limits
16.05.410	Code Official
16.05.420	Civil Actions
16.05.430	Liability

16.05.010 Fire Code Adopted. The 2012 International Fire Code, published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795 is adopted by reference and made a part of this chapter as if fully set out, save and except such parts or portions thereof as are specifically deleted, added or changed in Sections 16.05.030 through and including 16.05.430. (Ord. 12-52 § 1, 2012.)

16.05.020 Marked Copies of Code on File. There shall be not less than one (1) copy of the code adopted by reference in Section 16.05.010 kept on file in the office of the City Clerk, to which shall be attached a copy of the incorporating ordinance, and which shall be marked or stamped, "Official Copy as Incorporated by Ordinance No. 12-52" with all sections or portions thereof intended to be omitted clearly marked to show any such deletion or change, and filed with the City Clerk and open to inspection and available to the public at all reasonable hours. The Fire Department, Municipal Judges and all administrative departments of the City charged with the enforcement of the incorporating ordinance shall be supplied, at the cost of the City, such number of official copies of such standard ordinance similarly marked, deleted and changed as may be deemed expedient. (Ord. 12-52 § 1, 2012.)

16.05.030 Fire Department Inspection Division – Established Duties. The Fire Code shall be enforced by the Community Risk Management Division in the Fire Department of the City of Olathe, which is established and which shall be operated under the supervision of the chief of the Fire Department. (Ord. 12-52 § 1, 2012.)

16.05.040 Section [A] 101.1 Amended – Title and Jurisdiction. Section [A] 101.1 of the International Fire Code is hereby amended to read as follows:

> **[A] 101.1 Title and Jurisdiction**. These regulations shall be known as the Fire Code of the City of Olathe, hereinafter referred to as the "International Fire Code" or "this code." The jurisdiction for this code is the corporate City limits of the City of Olathe, and territory outside the corporate limits for which the Fire Department contractually provides fire inspection services. (Ord. 12-52 § 1, 2012.)

16.05.050 Subsection [A] 101.2.1 Amended – Appendices. Subsection [A] 101.2.1 of the International Fire Code is hereby amended to read as follows:

> **[A] 101.2.1 Appendices**. Provisions in the appendices shall not apply unless specifically adopted.
>
> **[A] 101.2.1.1 Appendices B, C, and D Adopted**. The following appendices contained in the International Fire Code are hereby adopted:
>
> Appendix B – Fire Flow Requirements for Buildings
> Appendix C – Fire Hydrant Locations and Distribution
> Appendix D – Fire Apparatus Access Roads

(Ord. 12-52 § 1, 2012.)

16.05.060 Section [A] 102.7 Amended – Referenced codes and standards. Subsection [A] 102.7 of the International Fire Code is hereby amended to read as follows:

[A] 102.7 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 80 except as provided in Section [A] 102.7.3, and such codes and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections [A] 102.7.1 and [A] 102.7.2.

[A] 102.7.1 Differences. Where differences occur between provisions of this code and referenced codes and standards, the most restrictive provisions shall apply.

[A] 102.7.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the most restrictive provisions, as applicable, shall take precedence over all other provisions.

[A] 102.7.3 Amended codes and standards. The standard reference numbers of the following codes and standards shall apply in lieu of the standard reference number of the same codes and standards listed in Chapter 80:

NFPA 13-2013 (Installation of Sprinkler Systems)
NFPA 13D-2013 (Installation of Sprinkler Systems in One-and Two-family Dwellings and Manufactured Homes)
NFPA 13R-2013 (Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height)
NFPA 24-2013 (Installation of Private Fire Service Mains and Their Appurtenances)
NFPA 72-2013 (National Fire Alarm Code)
NFPA 495-2013 (Explosive Materials Code)

[A] 102.7.3.1 Explosive Materials Code

(a) The following provisions shall be excluded from NFPA 495-2013:

(1) All material before chapter 1 and all annexes;
(2) chapters 2, 8, and 12;
(3)
- (A) The last sentence of section 1.3.1;
- (B) sections 1.4 through 1.4.3; and
- (C) section 1.6;

(4)
- (A) The last sentence of section 3.1;
- (B) section 3.2.1; and
- (C) sections 3.2.3 through 3.2.7;

(5)
- (A) Section 4.1.7;
- (B) sections 4.2.3.1 through 4.2.3.3;
- (C) sections 4.7.2 through 4.7.4;
- (D) section 4.8.2; and
- (E) section 4.10.2;

(6) section 5.2.13.2;
(7)
- (A) Sections 6.3 through 6.3.5; and
- (B) sections 6.6 through 6.6.8;

(8) sections 7.3 through 7.3.2;
(9) section 10.3.8.1;
(10) section 11.4.3;
(11) section 13.1.2; and
(12)
- (A) Sections 14.1 through 14.3.8;
- (B) sections 14.4.1 through 14.4.4; and
- (C) sections 14.4.8 through 14.5.9.

(b) The following modifications shall be made to NFPA 495-2013:

(1) Section 1.3.2 shall be replaced with the following: "This code shall not apply to the transportation and use of military explosives by federal or state military agencies, nor shall this code apply to the use of explosive materials by federal, state, or municipal agencies while engaged in public safety functions, except that state and municipal agencies shall be subject to the storage, recordkeeping, and permitting requirements of this code."

(2) In section 1.3.5, the phrase "as defined in NFPA 1122, Code for Model Rocketry; NFPA 1125, Code for the Manufacture of Model Rocket and High Power Rocket Motors; and NFPA 1127, Code for High Power Rocketry" shall be deleted.

(3) The following text shall be added after section 1.3.6:

"This code shall not apply to small arms ammunition and components of small arms ammunition, but this code shall apply to the manufacture of smokeless propellants and black powder substitutes and to smokeless propellants and black powder substitutes not designed for use in small arms ammunition.

"This code shall not apply to commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnical fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in 18 U.S.C. § 921(a)(16) or in antique devices exempted from the term 'destructive device' in 18 U.S.C. § 921(a)(4).

"This code shall not apply to the use, storage, or transportation of precursor chemicals used for agricultural purposes other than blasting, or to fertilizers and fertilizer materials regulated by the Kansas department of agriculture pursuant to K.S.A. 2-1201 et seq., and amendments thereto, except that thefts of ammonium nitrate shall be reported to the office of the state fire marshal and to a local law enforcement authority within 24 hours of discovering the theft."

(4) In section 3.2.2, the definition of "Authority Having Jurisdiction (AHJ)" shall be replaced with the following: "The state fire marshal or designee, except when the context indicates that the term is referring to a local fire department or law enforcement agency."

(5) In section 3.3.8, the definition of blasting agent shall be replaced with the following: "Any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive, provided that the finished product, as mixed for use or shipment, cannot be detonated by means of a numbered 8 test blasting cap when unconfined."

(6) Section 3.3.20 shall be replaced with the following: "Explosive. Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term shall also include two or more precursor chemicals sold or possessed together that if mixed or combined would constitute a binary explosive."

(7) Section 3.3.49 shall be replaced with the following: "Small arms ammunition and components of small arms ammunition. Small arms ammunition or cartridge cases, primers, or smokeless propellants designed for use in small arms, including percussion caps, and 3/32 inch and other external burning pyrotechnic hobby fuses. The term shall not include black powder, but shall include black powder substitutes provided the propellant is a component of small arms ammunition."

(8) Section 4.2.1 shall be replaced with the following: "No person shall be in possession of explosive materials, or conduct an operation or activity requiring the use of explosive materials, or perform or supervise the loading and firing of explosive materials without first obtaining the correct permit or permits from the state fire marshal."

(9) Section 4.2.4 shall be replaced with the following: "Each permitted manufacturer, distributor, and user in the state shall maintain continuous general liability coverage that includes coverage for intentional blasting of not less than $1,000,000 from an insurance company authorized by the Kansas insurance department to do business in Kansas and shall annually provide proof of this insurance to the state fire marshal."

(10) Section 4.3.1 shall be replaced with the following sentence: "Before a person conducts an operation or activity that uses explosive materials in the state, the person shall obtain a user permit from the state fire marshal."

(11) Section 4.3.2 shall be replaced with the following sentence: "Before an individual performs or supervises the loading and firing of explosive materials in the state, that individual shall obtain the appropriate permit to blast, as specified in Table 4.3.2, from the state fire marshal, except that this requirement shall not apply to a trainee who is acting under the direct supervision of and is being trained by the holder of a blaster permit."

(12) The following classes of blasting permits shall be added to table 4.3.2:

Class	Category	Blasting Permitted
P1	Public Safety Bomb Technician	Blasting by a bomb technician acting on behalf of the state or a political or taxing sub-division in a public safety capacity
P2	Public Safety Explosive Breacher	Explosive breaching by a person acting on behalf of the state or a political or taxing subdivision in a public safety capacity

(13) The following text shall be added after section 4.3.2:
"4.3.3 Permit to Manufacture. Before a person manufactures explosive materials in the state, that person shall obtain a manufacturer permit from the state fire marshal. A holder of a manufacturer permit shall not be required to obtain a distributor or user permit.

"4.3.4 Permit to Distribute. Before a person engages in the business of distributing explosive materials within the state, that person shall obtain a distributor permit from the state fire marshal, except that this requirement shall not apply to common carriers or to an out-of-state person who distributes explosive materials to the holder of a manufacturer or distributor permit. 'Distributing' shall mean the selling, issuing, giving, transferring, or other disposing of. A holder of a distributor permit shall not be required to obtain a user permit.

"4.3.5 Handler Permit. Before an individual, other than the holder of a blaster permit, actually or constructively possesses explosive materials in the state, that individual shall obtain a handler permit from the state fire marshal, except that a handler permit shall not be required to handle explosive materials under the direct supervision of the holder of a blaster permit. 'Direct supervision' shall mean that the holder of the blaster permit is physically present and overseeing the actions of the employee. Actual possession shall include the physical handling of explosive materials. Permitted handlers may include individuals who load or unload vehicles, trainees, magazine keepers, drillers, stemmers and sales staff.

"4.3.6 Storage Permit. Before a person stores explosive materials in the state, that person shall obtain a site-specific storage permit. The storage permit may be temporary or permanent. A permanent storage permit shall be valid for no longer than three years. A temporary storage permit shall be valid for no longer than 90 days, but the permit holder may apply to the office of the state fire marshal to renew the permit one time for no longer than an additional 90 days. Before either storage permit will be issued, the person shall obtain a manufacturer, distributor, or user permit from the state fire marshal, any explosive permit required by the bureau of alcohol, tobacco, firearms and explosives, and a certification from the fire department with jurisdiction over the area where the storage site will be located that the proposed storage of explosive materials will not violate any local laws."

(14) Section 4.4.2.1 shall be replaced with the following: "Each applicant shall complete a blaster training program and pass a qualifying examination in the category of blasting for which application is made. The blaster training program and qualifying examination shall be approved in advance by the office of the state fire marshal. To be approved by the office of the state fire marshal, a blaster training program or blaster refresher course shall provide training on the following topics, as applicable to the category of blasting for which application is made: the requirements of this code; federal explosives law and regulations; and industry standards related to the safe use, storage, and transportation of explosive materials."

(15) Section 4.4.2.2 shall be replaced with the following: "To be approved by the office of the state fire marshal, a qualifying examination shall test the applicant's knowledge of the following topics, as applicable to the category of blasting for which application is made: the requirements of this code; federal explosives law and regulations; and industry standards related to the safe use, storage, and transportation of explosive materials."

(16) Section 4.4.5 shall be replaced with the following: "Each person whose permit to blast has been revoked shall be required to complete a blaster training program and pass a qualifying examination as a condition of reinstatement of the permit. The blaster training program and qualifying examination shall be approved in advance by the office of the state fire marshal."

(17) Section 4.4.6 shall be replaced with the following: "Each person whose permit to blast has lapsed for a period of one year or longer shall be required to complete a blaster training program and pass a qualifying examination as a condition of renewal of the permit. The blaster training program and qualifying examination shall be approved in advance by the office of the state fire marshal."

(18) The following text shall be added after section 4.4.6:

"If the holder of a blaster or handler permit ceases to be employed by a permitted manufacturer, distributor, or user, the blaster or handler shall notify the office of the state fire marshal within five business days, and the individual's permit shall be placed on inactive status. The individual shall not blast or handle explosive materials while the permit is on inactive status. Before resuming work with a permitted manufacturer, distributor, or user, the blaster or handler shall notify the office of the state fire marshal, and the permit shall be returned to active status. However, if the permit has been on inactive status for at least one year, the holder shall complete an approved blaster refresher class for a blaster permit or an approved explosive safety course for a handler permit before the permit is returned to active status."

> "4.4.6.1 Requirement for a Handler Permit. Before applying for or renewing a handler permit, an individual shall complete an explosive safety course approved by the state fire marshal. The explosive safety course shall provide training on the safe handling, storage, and transportation of explosive materials."

(19) Sections 4.5.1 and 4.5.2 shall be replaced with the following sentence: "The holder of any permit or permits issued pursuant to this code shall maintain a copy of the permit or permits at all sites where explosive materials are stored or used and in any vehicle used to transport explosive materials."

(20) Section 4.6.2 shall be replaced with the following sentence: "An individual shall be at least 18 years old before applying for a handler permit and at least 21 years old before applying for a blaster permit."

(21) In section 4.7.1(3), "is a fugitive from justice" shall be replaced with "has fled from any state to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding."

(22) Section 4.8.1.1 shall be replaced with the following sentence: "Permit holders shall keep records in accordance with 27 C.F.R. Part 555, Subpart G, as adopted by reference in Subsection [A] 102.7.3.1.(d), herein."

(23) Section 4.10.1 shall be replaced with the following: "When an application for renewal is filed with the office of the state fire marshal before expiration of the current permit, the existing permit shall not expire until the state fire marshal has taken final action upon the application for renewal or, if the state fire marshal's action is unfavorable, until the last day for seeking judicial review of the state fire marshal's action or a later date fixed by the reviewing court."

(24) The following sentence shall be added after section 4.10.3: "Before applying for renewal, the holder of a blaster permit shall complete a blaster refresher course approved by the state fire marshal and the holder of a handler permit shall complete an explosive safety course approved by the state fire marshal."

(25) Section 5.4.4.1.2 shall be replaced with the following: "The integrity of the fences and gates shall be checked at least annually."

(26) In section 5.4.7, the phrase "and the IAPMO Uniform Mechanical Code" shall be deleted.

(27) Section 9.7.2 shall be replaced with the following: "All magazines containing explosive materials shall be opened and inspected at maximum intervals of seven days to determine whether there has been unauthorized or attempted entry into the magazines or whether there has been unauthorized removal of the magazines or their contents."

(28) The following sentence shall be added before section 10.1: "A holder of a user permit shall notify the AHJ at least 48 hours before beginning blasting operations at a site and before resuming blasting operations at a site if those operations have been suspended or discontinued for more than six months."

(29) Section 10.1.19.1(2) shall be replaced with the following: "Compliance with the safe distances in safety library publication 20, 'safety guide for the prevention of radio frequency radiation hazards in the use of commercial electric detonators (blasting caps),' published by the institute of makers of explosives (IME) and dated December 2011, parts II and III of which are hereby adopted by reference, with the exception of all text before table 1 and pages 36 through 38."

(30) Section 11.1.1 shall be replaced with the following: "This chapter shall apply to buildings and other structures. As used in this chapter, 'buildings and other structures' shall mean dwellings, public buildings, schools, places of worship, and commercial or institutional buildings."

(31) In section 11.1.3, all text after "with" shall be replaced with "the international society of explosives engineers' 'ISEE performance specifications for blasting seismographs,' 2011 edition."

(32) In section 11.1.4, the phrase "2009 edition" shall be added at the end of the sentence.

(33) The following text shall be added after section 11.1.4:

> "The blaster-in-charge or designee shall conduct a preblast survey of all buildings and structures within a scaled distance of 35 ft/lbs$^{1/2}$ from the blast site, except that a preblast survey shall not be required for a building or structure if the owner refuses permission or if the owner does not respond after three documented attempts to obtain permission.
>
> "Where blasting seismographs are used, the permitted user shall maintain the seismograph recording and accompanying records for at least three years. These records shall include the maximum ground vibration and acoustics levels recorded, the specific location of the seismograph equipment, its distance from the detonation of the explosives, the date and time of the recording, the name of the individual responsible for operation of the seismograph equipment, the type of seismograph instrument, its sensitivity, and the calibration signal or certification date of the last calibration."

(34) Section 11.2.3 shall be replaced with the following sentence: "The ground vibration limit for underground utilities, pipelines, fiber optic lines, and similar buried engineered structures shall be five inches per second."

(35) Section 11.4.2 shall be replaced with the following: "Reasonable precautions shall be taken to prevent flyrock from being propelled from the blast site onto property not contracted by the blasting operation or onto property for which the owner has not provided a written waiver to the blasting operation."

(36) The following text shall be added at the end of chapter 11: "The blaster-in-charge shall ensure that a record of each use of explosives is made, and this record shall be retained for at least three years by the permitted user. The record shall include:

> "(A) The name and permit number of the permitted user;
> "(B) the location, date, and time of the detonation;
> "(C) the name and permit number of the blaster-in-charge;
> "(D) the type of materials blasted;
> "(E) the type of explosives used;
> "(F) the weight of each explosive product used and the total weight of explosives used;
> "(G) the maximum weight of explosives detonated within any eight-millisecond period;
> "(H) the initiation system, including the number of circuits and the timer interval, if a sequential timer is used;
> "(I) the type of detonator and delay periods used, in milliseconds;
> "(J) the sketch of delay pattern, including decking;
> "(K) the distance and scaled distance, if applicable, to the nearest building or structure;
> "(L) the location of the nearest building or structure, using the best available information; and
> "(M) if bore holes are used, the number of bore holes, burden, and spacing; the diameter and depth of bore holes; and the type and length of stemming."

(37) Section 13.1.1 shall be replaced with the following sentence: "Two or more precursor chemicals that would constitute a binary explosive if mixed or combined shall be stored and used in the same manner as other explosive materials."

(38) Section 13.4.2 shall be replaced with the following: "Thefts of precursor chemicals during transportation, storage, and use shall be reported to the office of the state fire marshal, the bureau of alcohol, tobacco, firearms and explosives, and a local law enforcement agency."

(c)

(1) Each citation in NFPA 495 to the following codes shall mean the edition adopted by reference in Chapter 16.05 of the Olathe Municipal Code:

(A) NFPA 13, "standard for the installation of sprinkler systems"; and
(B) NFPA 70, "national electric code."

(2) Each citation in NFPA 495 to the following codes shall mean the edition adopted by reference in Chapter 16.05 of the Olathe Municipal Code:

(A) NFPA 1123, "code for fireworks display";
(B) NFPA 1124, "code for the manufacture, transportation, storage, and retail sales of fireworks and pyrotechnic articles"; and
(C) NFPA 1126, "standard for the use of pyrotechnics before a proximate audience."

(3) Each citation of NFPA 1, "fire code," shall be replaced by "the 2012 International Fire Code (IFC) as adopted by reference in Chapter 16.05 of the Olathe Municipal Code."

(4) Each citation of NFPA 5000, "building construction and safety code," shall be replaced by "the 2012 International Building Code (IBC) as adopted by reference in Chapter 15.02 of the Olathe Municipal Code."

(d) 27 C.F.R. part 555, subpart G, as in effect on April 27, 2012, is hereby adopted by reference, with the following modifications:

(1) 27 C.F.R. 555.121(b), 555.122, 555.123(f), 555.124(f), 555.125(a), (b)(2), and (b)(6), 555.126, and 555.129 are not adopted.

(2) In 27 C.F.R. 555.121(c), the last sentence shall be deleted.

(3) In 27 C.F.R. 555.127, all text after "end of the day" shall be deleted.

(4) In 27 C.F.R. 555.128, the last sentence shall be replaced with the following sentence: "Copies of the records shall be delivered to the office of the state fire marshal within 30 days following the discontinuance of the business or operations."

(5) Wherever the term "Director, Industry Operations" appears in subpart G, this term shall be replaced with "state fire marshal."

(6) Each reference to a "licensed manufacturer" shall mean a "person with a state manufacturer permit." Each reference to a "licensed dealer" shall mean a "person with a state distributor permit."

(7) Each reference to a "limited permit" shall be deleted.

(e) Each existing user permit and each existing blaster permit issued by the state fire marshal shall be deemed valid and shall remain effective until the permit's expiration date, unless the permit is revoked or suspended before then. (Ord. 14-15 § 1, 2014; Ord. 13-13 § 1, 2013; Ord. 12-52 § 1, 2012.)

16.05.065 Subsection [A] 102.13 Home child daycares. Home child daycares shall meet the requirements of the Johnson County, Kansas Home Daycare Handbook – 2013 Edition. These homes shall be inspected and approved by the Fire Department before children are allowed to occupy the home. The home shall be inspected by the Fire Department at least once every two years following the initial inspection. (Ord. 14-15 § 3, 2014.)

16.05.070 Section 103 Deleted – Department of Fire Prevention. Section 103 of the International Fire Code is hereby deleted. (Ord. 12-52 § 1, 2012)

16.05.080 Subsection [A] 105.1.1 Amended – Permits required. Subsection [A] 105.1.1 of the International Fire Code is hereby amended to read as follows:

> **[A] 105.1.1 Permits required**. Any property owner or authorized agent who intends to conduct an operation or business, or install or modify systems and equipment which is regulated by this code, or to cause any such work to be done, shall first make application to the *fire code official* and obtain the required permits. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by Fire Department personnel upon request. (Ord. 12-52 § 1, 2012.)

16.05.090 Subsection [A] 105.3.1 Amended – Expiration. Subsection [A] 105.3.1 of the International Fire Code is hereby amended to read as follows:

> **[A] 105.3.1 Expiration**. An operational permit shall remain in effect until reissued, renewed or revoked, or for such a period of time as specified in the permit. Permits are not transferable and any change in occupancy, operation, tenancy or ownership shall require that a new permit be issued. (Ord. 12-52 § 1, 2012.)

16.05.100 Subsections [A] 105.6.1 through [A] 105.6.13, subsections [A] 105.6.15 through [A] 105.6.19, subsections [A] 105.6.21 through [A] 105.6.29, and subsections [A] 105.6.31 through [A] 105.6.46 Deleted – Certain required operational permits. Subsections [A] 105.6.1 through [A] 105.6.13, subsections [A] 105.6.15 through [A] 105.6.19, subsections [A] 105.6.21 through [A] 105.6.29, and subsections [A] 105.6.31 through [A] 105.6.46 of the International Fire Code are hereby deleted. (Ord. 12-52 § 1, 2012.)

16.06.110 Subsection [A] 105.6.14 Amended – Explosives. Subsection [A] 105.6.14 of the International Fire Code is hereby amended to read as follows:

> **[A] 105.6.14 Explosives**. An operational permit is required for the manufacture, storage, handling, sale or use of any quantity of *explosives*, *explosive materials*, fireworks, pyrotechnic special effects or agricultural/wildlife control explosive device within the scope of Chapter 56 of this code. The permit fee for explosives permits shall be adopted by the Governing Body of the City by resolution.

Exception: Storage in Group R-3 occupancies of smokeless propellant, black powder and small arms primers for personal use, not for resale and in accordance with Section 5606. (Ord. 12-52 § 1, 2012.)

16.06.120 Subsection [A] 105.6.20 Amended – Hazardous materials. Subsection [A] 105.6.20 of the International Fire Code is hereby amended to read as follows:

[A] 105.6.21 Hazardous materials. An operational permit is required to store, transport on site, dispense, use or handle hazardous materials in excess of the amounts listed in Table 105.6.20. All hazardous materials permits shall be posted in a conspicuous location on the premises. Permit fees for the hazardous materials permits shall be adopted by the Governing Body of the City by resolution. A hazardous materials permit will be issued by the Fire Department on a yearly basis. (Ord. 12-52 § 1, 2012.)

16.06.130 Subsection [A] 105.6.30 Amended – Open burning. Subsection [A] 105.6.30 of the International Fire Code is hereby amended to read as follows:

[A] 105.6.30 Open burning. An operational permit is required for the kindling or maintaining of an open fire or a fire on any public street, alley, road, or other public or private ground. Instructions and stipulations of the permit shall be adhered to. Applications for open burning shall be obtained and submitted to the Olathe Fire Department before the fire is set and shall be in such form and contain such information as required by the Fire Department. Residential and commercial permit fees shall be adopted by the Governing Body of the City by resolution. (Ord. 12-52 § 1, 2012.)

16.06.140 Section [A] 109.4 Amended – Violation penalties. Section [A] 109.4 of the International Fire Code is hereby amended to read as follows:

[A] 109.4 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*, shall be guilty of a misdemeanor, punishable by a fine of not more than Five Hundred Dollars ($500), or by imprisonment not exceeding ninety (90) days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense. (Ord. 12-52 § 1, 2012.)

16.06.150 Section 307 Amended – Open burning, Recreational Fires and Portable Outdoor Fireplaces. Section 307 of the International Fire Code is hereby amended to read as follows:

SECTION 307
OPEN BURNING, RECREATIONAL FIRES AND PORTABLE OUTDOOR FIREPLACES

307.1 General. A person shall not kindle or maintain or authorize to be kindled or maintained any *open burning* unless conducted and *approved* in accordance with Sections 307.1.1 through 307.5.

307.1.1 Prohibited open burning. Open burning shall be prohibited when atmospheric conditions or local circumstances make such fires hazardous.

Exception: Prescribed burning for the purpose of reducing the impact of wildland fire when authorized by the *fire code official*.

307.1.2 Nature of material being burned. The burning of heavy smoke producing materials is prohibited. No processed construction wood products shall be burned.

307.1.3 Meteorological conditions. Open burning shall not be initiated until at least one hour after sunrise and shall be extinguished at least two hours prior to sunset. Burning shall be restricted to periods when surface wind speed is more than 5 m.p.h and less than 15 m.p.h.

307.1.4 Commercial open burning operations. All commercial open burning permits will be required to have an air curtain destructor and pit.

307.1.5 Open burning operations near airports. All burning operations within 1 mile of an airport must obtain approval from the airport authority prior to the burning.

307.2 Permit required. A permit shall be obtained from the *fire code official* in accordance with Section 105.6 prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a bonfire. Application of such approval shall only be presented by and permits issued to the *owner* of the land upon which the fire is to be kindled.

307.2.1 Authorization. Where required by state or local law or regulation, *open burning* shall only be permitted with prior approval from the state or local air and water quality management authority, provided that all conditions specified in the authorization are followed.

307.2.2 Permit validity. Open burning permits have an operational period of up to three (3) days as noted on the permit unless restricted by state or local authorities. Permits shall not be transferrable.

307.3 Extinguishment authority. When open burning creates or adds to a hazardous situation, or a required permit for open burning has not been obtained, the *fire code official* is authorized to order the extinguishment of the open burning operation.

307.4 Location. The location for residential *open burning* shall not be less than one hundred (100) feet from any structure or public roadway. **Exceptions:**

1. Fires in *approved* containers that are not less than thirty (30) feet from a structure or public roadway.

2. The minimum required distance from a structure or public roadway shall be fifty (50) feet where the pile size is three (3) feet or less in diameter and two (2) feet or less in height.

307.4.1 Commercial open burning. The location for commercial *open burning* shall not be less than one thousand (1,000) feet from any structure or public roadway, and provisions shall be made to prevent the fire from spreading to within one thousand (1,000) feet from any structure or public roadway.

307.4.2 Bonfires. A bonfire shall not be conducted within fifty (50) feet of a structure or combustible material. Conditions which could cause a fire to spread with fifty (50) feet of a structure or combustible material shall be eliminated prior to ignition. Bonfire dimensions shall not exceed six (6) feet in diameter and six (6) feet in height.

307.4.3 Recreational fires. *Recreational fires* shall not be conducted within twenty-five (25) feet of a structure or combustible material. Conditions which would cause a fire to spread within twenty-five (25) feet of a structure or combustible material shall be eliminated prior to ignition.

307.4.4 Portable outdoor fireplaces, Portable outdoor fireplaces shall be used In accordance with the manufacturer's instructions and shall not be operated within fifteen (15) feet of a structure or combustible material.

Exception: Portable outdoor fireplaces used at one- and two-family dwellings.

307.5 Attendance. *Open burning,* bonfires, *recreational fires* and the use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished. A minimum of one (1) portable fire extinguisher complying with Section 906 with a minimum 4-A rating or other *approved* on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization. (Ord. 12-52 § 1, 2012.)

16.05.160 Subsection 308.1.6.3 Added – Airborne flame devices. Subsection 308.1.6.3 is hereby added to the International Fire Code and shall read as follows:

308.1.6.3 Airborne flame devices. Devices with an open flame that are independently buoyant and float uncontrolled shall be prohibited. (Ord. 12-52 § 1, 2012.)

16.05.170 Section 310.2 Amended – Prohibited areas. Section 310.2 of the International Fire Code is hereby amended to read as follows:

> **310.2 Prohibited areas**. Smoking shall be prohibited as set forth in Chapter 6.20 of the Olathe Municipal Code.

Exception: Smoking shall be permitted in approved designated smoking areas as set forth in Chapter 6.20 of the Olathe Municipal Code. (Ord. 12-52 § 1, 2012.)

16.05.180 Subsection 312.1.1 Added – Protection of utility equipment. Subsection 312.1.1 is hereby added to the International Fire Code and shall read as follows:

> **312.1.1 Protection of utility equipment**. Where meters and equipment supplying electricity or fuel gas are located adjacent to parking spaces or vehicular driveways, they shall be protected from physical damage. (Ord. 12-52 § 1, 2012.)

16.05.190 Section 403.3 Amended – Crowd managers. Section 403.3 of the International Fire Code is hereby amended to read as follows:

> **403.3 Crowd managers**. Trained crowd managers shall be provided for facilities or events where more than one thousand (1,000) persons congregate. The minimum number of crowd managers shall be established at a ratio of one crowd manager to every two hundred fifty (250) persons. Where *approved* by the *fire code official*, the ratio of crowd managers shall be permitted to be reduced where the facility is equipped throughout with an *approved automatic sprinkler system* or based upon the nature of the event. The *fire code official* may, based on the nature of the event, require the event to use Fire Department personnel as crowd managers. (Ord. 12-52 § 1, 2012.)

16.05.200 Section 503.3 Marking. Section 503.3 of the International Fire Code is hereby amended to read as follows:

> **503.3 Marking**. Where required by the Fire Department, *approved* signs or other *approved* notices shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Signs or notices shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.
>
> **503.3.1 Marking requirements**. Each separate fire lane signage, which may consist of one sign or a combination of signs, shall have a cumulative minimum size of ninety six (96) square inches and contain the "No Parking" words or symbol with the words "Fire Lane" located directly beneath the "No Parking" words or symbol. Each sign or combination of signs are required to be uniformly mounted between two feet eight inches (2'8") to seven feet zero inches (7'0") above grade to the bottom of the sign, and so located not to obstruct pedestrian traffic. The sign or combination of signs shall be mounted within six feet (6') of the curb or pavement and are required to face or run parallel with oncoming vehicular traffic. The sign or combinations of signs may be mounted on the building, pole base or any other structure provided the signage meets the setback and height requirements indicated above. The sign or combination of signs are required to be spaced no more than one hundred feet (100') apart. In addition, the curb, or pavement if a curb is absent, is required to be marked with a solid yellow stripe that runs the entire length of the fire lane. Furthermore, the exceeding of any standards intended to inform the public of the location of a fire lane shall not affect the enforcement of this section. (Ord. 12-52 § 1, 2012.)

16.05.210 Subsection 505.1.1 Added – Secondary address numbers. Subsection 505.1.1 is hereby added to the International Fire Code and shall read as follows:

> **505.1.1 Secondary address numbers**. Multi-tenant retail shopping centers in which tenant spaces have secondary entry doors from the exterior façade of the building and have paved vehicle access adjacent to such doors shall have approved numbers or addresses placed on or adjacent to each door. Secondary address numbers shall be a minimum of four inches (4") in height. (Ord. 12-52 § 1, 2012.)

16.05.220 Subsection 507.5.2.1 Added – Hydrants – Color. Subsection 507.5.2.1 is hereby added to the International Fire Code and shall read as follows:

> **507.5.2.1 Hydrants – Color**. All hydrants shall be painted and highly visible. Private fire hydrants shall be painted red in color. (Ord. 12-52 § 1, 2012.)

16.05.230 Subsection 901.1.1 Added – Responsibility. Subsection 901.1.1 is hereby added to the International Fire Code and shall read as follows:

> **901.1.1 Responsibility**. The owner of the protected premises shall be responsible for all fire protection systems within the protected premises, whether existing or installed under this code. (Ord. 12-52 § 1, 2012.)

16.05.240 Section 901.4 Amended – Installation. Section 901.4 of the International Fire Code is hereby amended to read as follows:

> **901.4 Installation**. *Fire protection systems* shall be maintained in accordance with the original installation standards for that system. All systems shall be extended, altered, or augmented as necessary to maintain and continue protection whenever the building is altered, remodeled or added to. *Alterations* to *fire protection systems* shall be done in accordance with applicable standards. (Ord. 12-52 § 1, 2012.)

16.05.250 Subsection 901.4.5 Amended – Appearance of equipment. Subsection 901.4.5 of the International Fire Code is hereby amended to read as follows:

> **901.4.5 Nonoperational equipment**. Any fire protection equipment that is no longer in service shall be removed. (Ord. 12-52 § 1, 2012.)

16.05.260 Subsection 901.4.7 Added – Existing installations – supervision. Subsection 901.4.7 is hereby added to the International Fire Code and shall read as follows:

> **901.4.7 Existing installations – supervision**. All existing fire suppression and fire alarm systems shall be supervised in conformance with Sections 903.4 and 907.9. (Ord. 12-52 § 1, 2012.)

16.05.270 Subsection 901.6.3 Added – Test documentation. Subsection 901.6.3 is hereby added to the International Fire Code and shall read as follows:

> **901.6.3 Test documentation**. When required inspection, testing or maintenance occurs on any existing fire protection system, applicable testing documentation shall be submitted to the fire code official within thirty (30) days of completion through an approved third-party inspection reporting system. Reporting parties shall pay any fees associated with that service to the City's third-party service provider. (Ord. 15-35 § 1, 2015; Ord. 12-52 § 1, 2012.)

16.05.280 Subsection 901.6.4 Added – Qualifications of inspection, testing and maintenance personnel. Subsection 901.6.4 is hereby added to the International Fire Code and shall read as follows:

> **901.6.4 Qualifications of inspection, testing and maintenance personnel**. All personnel performing any inspection, testing or maintenance of any fire protection system shall be qualified. Where such inspection, testing and maintenance is performed by an outside service company, the company shall be appropriately licensed in accordance with the Office of the Kansas State Fire Marshal. (Ord. 12-52 § 1, 2012.)

16.05.290 Subsection 903.4.1 Amended – Monitoring. Subsection 903.4.1 of the International Fire Code is hereby amended to read as follows:

> **903.4.1 Monitoring**. Alarm, waterflow, supervisory and trouble signals shall be distinctly different and shall be automatically transmitted to an *approved* UL-listed central station as defined in NFPA 72, or, when *approved* by the *fire code official*, shall sound an audible signal at a constantly attended location. The fire alarm system installed to transmit such signals shall be considered a building fire alarm system and shall be documented as a UL-certificated central station service system.

Exceptions:

1. Underground key or hub valves in roadway boxes provided by the municipality or public utility are not required to be monitored.

2. Backflow prevention device test valves located in limited area sprinkler system supply piping shall be locked in the open position. In occupancies required to be equipped with a fire alarm system, the backflow preventer valves shall be electrically supervised by a tamper switch installed in accordance with NFPA 72 and separately annunciated. (Ord. 12-52 § 1, 2012.)

16.05.300 Subsection 903.4.2 Amended – Alarms. Subsection 903.4.2 of the International Fire Code is hereby amended to read as follows:

> **903.4.2 Alarms**. One all-weather horn/strobe shall be connected to every *automatic sprinkler system* on the exterior of the building above the Fire Department connection or in an approved location. Such sprinkler system water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Where a fire alarm system is installed, actuation of the *automatic sprinkler system* shall actuate the building fire alarm system. Interior alarm notification appliances shall be installed as required by Section 903.4.2.1.
>
> **903.4.2.1 Notification devices**. Where an automatic fire sprinkler system is installed in a building, audible and visible notification appliances shall be installed throughout the building as follows:
>
> 1. Audible notification appliances shall be installed so as to be audible at 15 dBa above sound pressure level throughout the building.
>
> 2. Visible notification appliances shall be installed in all public and common use areas, restrooms and corridors in accordance with the spacing requirements of NFPA 72.
>
> 3. Visible notification devices can be eliminated in normally unoccupied portions of buildings where permitted by the *fire code official*.

Exception: The requirements of this section do not apply to Group R-3 occupancies. (Ord. 12-52 § 1, 2012.)

16.05.310 Subsection 907.6.5 Amended - Monitoring. Subsection 907.6.5 of the International Fire Code is hereby amended to read as follows:

> **907.6.5 Monitoring**. Fire alarm systems required by this chapter or by the *International Building Code* shall be monitored by an *approved* supervising station in accordance with NFPA 72. An Underwriters Laboratories (UL) Fire Alarm certificate shall be issued by the UL listed fire alarm contractor for all newly installed fire alarm system or existing fire alarm systems included in any existing building involved in any construction project involving a building permit. Any fire alarm system involved in one (1) or more false alarms within the same calendar year shall be subject to a fee in accordance with Section 16.07.070 of the Olathe Municipal Code. Any fire alarm system involved in four (4) or more false alarms within the same calendar year will be required to meet the monitoring requirements of new fire alarm systems, including the issuance of a UL fire alarm certificate. The Fire Department shall maintain a listing of approved UL listed fire alarm contractors.

Exception: Monitoring by a supervising station is not required for:

1. Single- and multiple-station smoke alarms required by Section 907.2.11.

2. Smoke detectors in Group I-3 occupancies.

3. *Automatic sprinkler systems* in one- and two-family dwellings. (Ord. 12-52 § 1, 2012.)

16.05.320 Subsection 907.7.4 Added – Contractor's statement. Subsection 907.7.4 is hereby added to the International Fire Code and shall read as follows:

> **907.4.4 Contractor's statement**. A contractor's statement verifying that the system has been installed in accordance with the approved plans and specifications and has been one hundred percent (100%) tested in accordance with NFPA 72. The statement will also include that all personnel involved with the installation of the fire alarm system meet the qualification requirements of the *fire code official*. (Ord. 12-52 § 1, 2012.)

16.05.330 Section 912.2 Amended – Location. Section 912.2 of the International Fire Code is hereby amended to read as follows:

> **912.2 Location**. With respect to hydrants, driveways, buildings and landscaping, Fire Department connections shall be so located that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus. The location of Fire Department connections shall be *approved* by the *fire code official*. A Fire Department connection for each standpipe system or water-based fire-extinguishing system shall be located not more than one hundred feet (100') from the nearest public fire hydrant connection to an approved water supply. Private fire hydrants are not approved to supply water-based fire-extinguishing systems. (Ord. 12-52 § 1, 2012.)

16.05.340 Subsection 912.3.4 Added – Fire Department connections. Subsection 912.3.4 is hereby added to the International Fire Code and shall read as follows:

> **912.3.4 Fire Department connections**. The connection shall be a four inch (4") Storz quick coupling connector. (Ord. 12-52 § 1, 2012.)

16.05.350 Section 1103.2 Deleted – Emergency responder radio coverage in existing buildings. Section 1103.2 of the International Fire Code is hereby deleted. (Ord. 12-52 § 1, 2012.)

16.05.360 Section 1103.9 Deleted – Carbon monoxide alarms. Section 1103.9 of the International Fire Code is hereby deleted. (Ord. 12-52 § 1, 2012.)

16.05.370 Section 1104.24 Deleted – Egress path markings. Section 1104.24 of the International Fire Code is hereby deleted. (Ord. 12-52 § 1, 2012.)

16.05.380 Establishment of Above Ground Storage of Flammable Liquid Limits. The limits referred to in Subsection 5704.2.9.6.1 of the International Fire Code in which storage of flammable or combustible liquids in outside above-ground tanks is prohibited are established as follows: any residential, commercial, or M-1 zoning district. (Ord. 12-52 § 1, 2012.)

16.05.390 Establishment of Storage of Liquefied Petroleum Gas Limits. The limits referred to in Section 6104.2 of the International Fire Code in which storage of liquefied petroleum gas is restricted are established as follows: any residential or commercial zoning district. (Ord. 12-52 § 1, 2012.)

16.05.400 Establishment of Explosives Storage Limits. The limits referred to in Subsection 5601.2.3 of the International Fire Code in which storage of explosive and blasting agents is prohibited, excepting temporary job sites, are as follows: any residential, commercial, or M-1 zoning district. (Ord. 12-52 § 1, 2012.)

16.05.410 Code Official. The Fire Chief of the City of Olathe or his or her designee shall be designated the enforcement officer of this code and is herein referred to as the fire code official for the purposes of this chapter. (Ord. 12-52 § 1, 2012.)

16.05.420 Civil Actions. Notwithstanding the provisions of Section 101.5, the decisions of the Fire Chief or the decisions of the Board of Code Review reviewing the decisions of the Fire Chief shall be enforceable in the District Court of Johnson County, Kansas, or any other court of competent jurisdiction upon action brought by the City Attorney, or such other legal counsel authorized to maintain such action for enforcement of the provisions of this chapter. (Ord. 12-52 § 1, 2012.)

16.05.430 Liability. The requirements stated in this chapter shall not be construed as imposing upon the City, its officers, agents or employees any liability or responsibility for damages to any property or injury to any person due to defective installations. The City or any official, employee or agent thereof shall not assume liability or responsibility whatsoever by reason of any inspection or approval of any installation. (Ord. 12-52 § 1, 2012.)

CHAPTER 16.07

AUTOMATIC FIRE ALARM SYSTEMS

Sections:

16.07.010 Definitions
16.07.020 Registration of Fire Alarm Systems
16.07.030 System Certification
16.07.040 Inspection, Testing, and Maintenance
16.07.050 Fire Alarm Activation Response
16.07.060 Nuisance Fire Alarm
16.07.070 False or Nuisance Fire Alarm Fees
16.07.080 Remedies and Penalties
16.07.090 Appeals
16.07.100 Reconnection of Fire Alarm System
16.07.110 Government Immunity
16.07.120 Severability

16.07.010 Definitions. For the purposes of this Chapter, the following words and terms shall have the following meanings:

A. "Adopted Codes" means codes adopted by the City of Olathe, the National Fire Protection Association Fire Alarm Code (NFPA 72) and the International Fire Code (IFC).

B. "Alarm Initiating Device" means a device that is designed to respond either manually or automatically to smoke, fire, or activation of a fire suppression system.

C. "Enforcement Official" means the Fire Chief or designated representative.

D. "False Fire Alarm" means the activation of any Fire Alarm System which results in a response by the fire department and which is caused by the negligence or intentional misuse of the Fire Alarm System by the Owner, its employees, agents, or any other activation of a Fire Alarm System not caused by heat, smoke, or fire, exclusive of a Nuisance Fire Alarm.

E. "Fee" means the assessment of a monetary charge payable to the City of Olathe to defray the expenses of responding to a False Fire Alarm or Nuisance Fire Alarm.

F. "Fire Alarm Activation Report" means a document issued by the Enforcement Officer indicating that the activation was deemed to be a result of a fire alarm activation due to fire, a Nuisance Fire Alarm, or a False Fire Alarm.

G. "Fire Alarm Business" means any individual, partnership, corporation, or other entity that is appropriately licensed to conduct business in the State of Kansas and installs, causes to be installed, permits to be installed, alters, maintains, repairs, replaces, or services (including Runner Services) any Fire Alarm System.

H. "Fire Alarm System" means a system or portion of a combination system consisting of components and circuits arranged to monitor and/or communicate the status of a fire alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals.

I. "Fire Watch" means an approved person or persons assigned to the Premises for the purpose of protecting the occupants from fire or similar emergencies. A Fire Watch may involve at least some special action beyond normal staffing, such as assigning additional staff to walk the Premises, who has been specially trained in fire prevention and in the use of fire extinguishers, in notifying the fire department, in sounding the Fire Alarm System located on the Premises, and in understanding the particular fire safety situation.

J. "Monitored System" means the process by which a Fire Alarm Business receives signals from a Fire Alarm System and notifies emergency forces.

K. "Nuisance Fire Alarm" means the activation of any Fire Alarm System, which results in a response by the fire department, caused by mechanical failure, malfunction, improper installation, lack of proper maintenance, or any other response for which fire department personnel are unable to determine the apparent cause of the alarm activation.

L. "Owner" means any person who owns the Premises in which a Fire Alarm System is installed or the person or persons who lease, operate, occupy, or manage the Premises.

M. "Premises" means any building, structure, or combination of buildings and structures which serve as dwelling units such as single-family, multi-family, or any other area within a building, structure, or combination thereof which is used for any purpose, wherein a Fire Alarm System is installed.

N. "Qualified Fire Alarm Technician" means any person who inspects, installs, repairs, or performs maintenance on Fire Alarm Systems. This person shall be: a) factory trained and certified, b) National Institute of Certification in Engineering Technologies (NICET) Fire Alarm Level II certified, or c) employed by a UL UUFX or UUJS listed fire alarm company.

O. "Record of Completion" means the completion of a form equivalent to the record of completion form included in the National Fire Protection Association's National Fire Alarm Code (NFPA 72).

P. "Registration" means the notification by an Owner to the Enforcement Official that a Fire Alarm System has been installed and is in use.

Q. "Report of Service/Repair" means appropriate documentation in a format acceptable to the Enforcement Official that verifies proper repairs or maintenance have been performed by both the Fire Alarm Business and the Owner.

R. "Runner Service" means the service provided by a runner at the protected premises, including resetting and silencing of all equipment transmitting fire alarm or supervisory signals to an off-premises location.

S. "Serve" shall mean hand-delivery of written notification by a representative of the City of Olathe to the Owner or authorized representative who responded to the Premises. In the event the Owner or authorized representative fails to respond to the Premises within one (1) hour, Serve shall mean placing the form or other matter in the United States mail, postage prepaid, addressed to the Owner or authorized representative. (Ord. 08-80 § 1, 2008)

16.07.020 Registration of Fire Alarm System.

A. An annual Registration shall be required for all Fire Alarm Systems and whenever new Fire Alarm Systems are installed, in accordance with Adopted Codes.

B. The Owner shall be required to re-register whenever there is a change in the Fire Alarm Business responsible for maintaining, servicing, and/or monitoring the Fire Alarm System.

C. Registration shall not be transferable from one Premises to another or from one Owner to another.

D. Every Fire Alarm Business shall notify the Enforcement Official of the existence of a Fire Alarm System prior to the Fire Alarm System being put into service. It shall be the responsibility of the installing Fire Alarm Business to provide the Owner with notice of the existence of this Chapter, a Registration form and a copy of the Fire Alarm System operation instructions in accordance with Adopted Codes, and the manufacturer's instructions.

E. The Registration form shall include the following information:

1. The name(s), address of the Premises, mailing address (if different from the address of the Premises), business and home telephone number of the Owner, lessee, operator, manager, or person in possession of the Premises wherein the Fire Alarm System is installed;
2. The name, address, and telephone number of a minimum of two (2) persons who can be notified by the Enforcement Official, in the event of the activation of the Fire Alarm System, who shall be capable of responding to the Premises within one (1) hour, and who are authorized to enter the Premises to ascertain the status thereof;
3. The name, address, and telephone number of the Fire Alarm Business which has contracted to service the Fire Alarm System and proof of proper qualification with the Enforcement Official, if required.
4. The date the Registration is signed or the Fire Alarm System is placed in operation for any reason; and
5. Any other documentation that is required by Adopted Codes.

F. When any of the information required by this Chapter has changed, it shall be reported to the Enforcement Official by the Owner within fifteen (15) days of the Owner becoming aware of such change;

G. The Owner shall complete and deliver the Fire Alarm System Registration in the required format to the Enforcement Official before the Fire Alarm System is activated or placed into service. The Fire Alarm Business, when authorized by the Owner, may assist the Owner in accomplishing this submission of the Fire Alarm Registration to the Enforcement Official.

H. An Owner who does not renew the annual registration shall be subject to a non-renewal fee.

I. The fire alarm registration Fee and non-renewal fee shall be adopted by resolution of the Governing Body. (Ord. 08-80 § 1, 2008)

16.07.030 System Certification. All newly installed or renovated commercial Fire Alarm Systems shall be approved by the Enforcement Official. The certification shall indicate that the Fire Alarm System is in compliance with Adopted Codes. All new or renovated commercial Fire Alarm Systems shall be certificated by Underwriters Laboratories. (UL) (Ord. 08-80 § 1, 2008)

16.07.040 Inspection, Testing, and Maintenance.

A. The Owner shall ensure that all Fire Alarm Systems are inspected and tested in accordance with Adopted Codes.

B. The Owner shall ensure that all Fire Alarm Systems are periodically maintained per manufacturer specifications and Adopted Codes. (Ord. 08-80 § 1, 2008)

16.07.050 Fire Alarm Activation Response.

A. The Owner shall be responsible for the activation of a Fire Alarm System.

B. A response to the activation of a Fire Alarm System shall result when any officer or member of the Fire Department is dispatched to the Premises where the Fire Alarm System has been activated.

1. At the time of the response, the Enforcement Official shall notify any person identified in the Registration required by this Chapter and shall require such person to respond to the Premises.

2. In the event the Fire Alarm System is a Monitored System, it is the responsibility of the company monitoring the Fire Alarm System to notify any persons identified in the Registration at the request of the Enforcement Official.

3. In the event the Fire Alarm System is a Monitored System, it is the responsibility of the Fire Alarm Business to offer the Owner the option to verify the Fire Alarm signal before dispatch, as allowed by Adopted Code.

4. In the event the Fire Alarm System is a Monitored System, it is the responsibility of the Fire Alarm Business to forward cancellation of a Fire Alarm signal to the fire department.

C. The officer or member of the fire department who responded to said Premises shall Serve the Owner or authorized representative with a Fire Alarm Activation Report. (Ord. 08-80 § 1, 2008)

16.07.060 Nuisance Fire Alarms.

A. In the event the activation of a Fire Alarm System is deemed by the Enforcement Official to be a Nuisance Fire Alarm, the Owner shall be Served with a Fire Alarm Activation Report by an officer or member of the fire department, indicating that the activation was deemed to be the result of a Nuisance Fire Alarm.

1. This shall require the Owner to return the completed Report of Service/Repair within fifteen (15) days of receipt of the Fire Alarm Activation Report to verify, to the reasonable satisfaction of the Enforcement Official , that:

a. the Fire Alarm System has been examined by a Qualified Fire Alarm Technician; and

b. a bona fide attempt has been made to identify and correct any defect of design, installation, or operation of the Fire Alarm System which was identifiable as the cause of the Nuisance Fire Alarm.

2. Any owner who fails to return a Report of Service/Repair within said fifteen (15) day period, which is reasonably satisfactory to the Enforcement Official, shall be subject to a Fee for the Nuisance Fire Alarm. Such Fee shall be adopted by resolution of the Governing Body. (Ord. 08-80 § 1, 2008)

16.07.070 False Fire Alarm Fees.

A. Newly Installed Fire Alarms.

1. The provisions of this Section shall only apply to any newly installed Fire Alarm System after the expiration of a period of thirty (30) days from the date of final inspection, but shall apply from and after the expiration of the initial thirty (30) day period following final inspection.

B. False Fire Alarms.

1. The Fire Alarm Business shall be assessed a Fee if an Enforcement Official determines that a False Fire Alarm was directly caused by an onsite employee or representative of the Fire Alarm Business. In this event, no False Fire Alarm shall be counted against the Owner.

2. Any Fire Alarm System which has recorded more than one (1) False Fire Alarm within a calendar year will be subject to a Fee. Such Fee shall be adopted by resolution of the Governing Body.

3. False Fire Alarms activated by any components connected to the Fire Alarm System shall be included in computing the total number of False Fire Alarms for purposes of this subsection.

4. The activation of a Fire Alarm System will not be considered a False Fire Alarm if the alarm is activated due to malicious causes beyond the control of the Owner. (Ord. 08-80 § 1, 2008)

16.07.080 Remedies and Penalties.

A. The Enforcement Official has the authority to order a Fire Watch in accordance with Adopted Codes, due to repetitive Nuisance Fire Alarms and/or False Fire Alarms, until corrective action is taken for any of the following reasons:

1. Failure to meet all requirements or pay the Fees provided for in this Chapter with fifteen (15) days after the notice is mailed to the Owner;

2. Failure of the Owner to provide a written Report of Service/Repair required by this Chapter;

3. A second False Fire Alarm or Nuisance Fire Alarm at a Premises for which a Fee is charged pursuant to this Chapter as a result of the failure of the Owner to take corrective action to eliminate the cause of the False Fire Alarm or Nuisance Fire Alarm; or

4. The failure of a person notified pursuant to Section 16.07.020(E)(2) and Section 16.07.050(B)(2) to appear within one (1) hour after being notified to respond, if such failure to timely respond occurs four or more times within a calendar year.

B. Each building affected because the signal from the Fire Alarm System has been disconnected or deactivated shall be required to establish a Fire Watch until the Fire Alarm System has been returned to service. Duties of the Fire Watch may include notifying the fire department and building occupants of an emergency, preventing a fire from occurring, or extinguishing small fires. These duties shall be documented on a Fire Watch log every hour until the Fire Alarm System has been restored to normal service.

C. The Owner is responsible for paying all costs associated with establishing a Fire Watch.

D. The Enforcement Official has the authority to temporarily suspend the occupancy of a Premises until all outstanding repairs are made on the Fire Alarm System or if the Fire Watch log is not maintained to the satisfaction of the Enforcement Official.

E. The Enforcement Official shall have the authority to direct the Owner of the Premises to silence an activated Fire Alarm System, have corrective action taken and thereafter reset it.

F. Anyone convicted of falsifying reports as required under this Chapter is subject to maximum penalty in accordance with Section 9.08.090. (Ord. 08-80 § 1, 2008)

16.07.090 Appeals.

A. The Owner or Fire Alarm Business may appeal an assessment of a Fee by setting forth in writing the reasons for the appeal within fifteen (15) business days after receipt of the Fee.

B. Filing of a request for appeal shall stay the Fee until the review of the appeal has been completed. If a request for appeal is not made within the fifteen (15) business day period, the action of the Enforcement Official is final.

C. The Enforcement Official may adjust the count of False Fire Alarms or Nuisance Fire Alarms based on:

1. Evidence that the alarm was caused by an act of God;
2. Evidence that the alarm was caused by action of the telephone company:
3. Evidence that the alarm was caused by a power outage lasting longer than four (4) hours;
4. Evidence that the alarm was not a False or Nuisance Fire Alarm; and/or
5. In determining the number False or Nuisance Fire Alarms occurring in any twenty four (24) hour period shall be counted as one False Fire Alarm or Nuisance Fire Alarm; to allow the Owner time to take corrective action unless the alarms are directly caused by the Owner. (Ord. 08-80 § 1, 2008)

16.07.100 Reconnection of Fire Alarm System.

A. A Fire Alarm System may be reactivated upon a finding by the Enforcement Official that the Owner of the Premises has taken corrective action to remedy the cause of the False Fire Alarm or Nuisance Fire Alarm at the Premises.

B. In making a request for such a reactivation, the Owner shall have the burden of showing what corrective action has been made.

C. The Enforcement Official shall have the right to inspect the Fire Alarm System and test it prior to approving a new order to reconnect or reactivate the Fire Alarm System.

D. The Enforcement Official shall not approve a new order to reconnect or reactivate if the Owner has failed to pay any Fee pursuant to this Chapter. (Ord. 08-80 § 1, 2008)

16.07.110 Government Immunity. Registration of a Fire Alarm System is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, or response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. When registering a Fire Alarm System, the Owner acknowledges that fire department response may be based on factors such as; availability of fire department units, priority of calls, weather conditions, traffic conditions, emergency conditions, and staffing levels. The City of Olathe, its officers, employees and agents shall not assume any duty or responsibility for the installation, maintenance, operation, repair or effectiveness of any privately owned Fire Alarm System, those duties or responsibilities being solely those of the Owner of the Premises. (Ord. 08-80 § 1, 2008)

16.07.120 Severability. The provisions of this Chapter are severable. If a court determines a word, phrase, clause, sentence, paragraph, subsection, section, or other provision invalid or that the application of any part of the provision to any person or circumstance is invalid, the remaining provision and the application of those provisions to other persons or circumstances are not affected by that decision. (Ord. 08-80 § 1, 2008)

CHAPTER 16.08. Life Safety Code. Repealed (Ord. 90-36 § 1, 1990; Ord. 86-62 § 1, 2, 1986.)

CHAPTER 16.12

FIRE REGULATIONS

Section:

16.12.010 Fire Inspections; Fees.
16.12.020 Fire Inspection--Removal of Hazards.
16.12.030 Obstructing Fire Hydrant.
16.12.040 Misuse of Equipment.
16.12.080 Control at Fires.

16.12.010 Fire Inspections; Fees.

(a) It shall be the duty of the chief of the Fire Department to inspect or cause to be inspected by the Fire Department officers or members as often as may be necessary, all buildings and premises for the purpose of ascertaining and causing to be corrected any condition liable to cause fire, or any violations of the provisions or intent of any ordinance of the city affecting the fire hazard.

(b) Fees for Fire Inspections. No fee shall be charged for an initial inspection. Fees for fire re-inspections shall be adopted by the Governing Body of the City by resolution. (Ord. 08-81 § 1, 2008; Ord. 93-31 § 1, 1993; Prior code § 6-201.)

16.12.020 Fire Inspection--Removal of Hazards.

(a) Whenever an officer making an inspection under the authority of Section 16.12.010 may find, in any building or upon any premises, combustibles endangering any building or premises, the officer shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of the building or premises; provided, however, that if the owner or occupant deems himself aggrieved by such order he may, within ten days, appeal to the state fire marshal, and the order shall remain in force unless revoked by an order of the state fire marshal.

(b) It is unlawful for an owner or occupant of a building or premises to fail or refuse to comply with such an order after the ten-day appeal period has passed or the state fire marshal has reviewed and upheld the order. (Prior code § 6-202.)

16.12.030 Obstructing Fire Hydrant. No person shall place or cause to be placed upon or about any fire hydrant any rubbish, building material, fence, or other obstruction of any character whatsoever, in any manner to obstruct, hinder or delay the Fire Department in the performance of its duties in case of fire; nor shall any person hitch or cause to be hitched to any fire hydrant any animal or animals, nor fasten to same any guy rope or brace, nor back or stand any wagon, truck, automobile or other vehicle within fifteen feet of any such hydrant. (Prior code § 6-203.)

16.12.040 Misuse of Equipment. No person or persons shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority remove, take away, keep or conceal any tool, appliance or other article used in any way by the Fire Department. (Prior code § 6-204.)

16.12.080 Control at Fires. The fire chief or, in his absence, the assistant fire chief (or other ranking officer present) shall have full power and command over all persons whatever at fires, and he shall direct and adopt any and all measures that he deems most advisable for the extinguishment of such fires, or for the care and protection of the property endangered thereby; and he shall have the power if need be, to summon any and all persons present to aid in extinguishing any fire or removing or caring for personal property from any building on fire or in danger thereof. (Ord. 98-C § 1, 1968; prior code § 6-209.)

CHAPTER 16.14

RECOVERY OF EXPENSES

Sections:

16.14.010 Definitions.
16.14.020 The Chief of the Fire Department.
16.14.030 Liability to Pay Costs Incurred by City.
16.14.040 Recovery of Expenses.
16.14.050 Supervision or Verification of Clean Up.
16.14.060 Remedies not Exclusive.
16.14.070 Conflict.

16.14.010 Definitions. For the purposes of this chapter, the words, phrases and terms as used herein are defined as set out below:

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

(b) "Hazardous material" means waste or combination of wastes or substances which because of its quantity, concentration or physical, chemical, biological or infectious characteristics or as otherwise determined by the Kansas Secretary of Health & Environment to cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed.

(c) Person. Person shall include any individual, corporation, association, partnership, firm, trustee, legal representative, or any combination thereof.

(d) Recoverable expenses. Recoverable expenses shall include those expenses of the City of Olathe that are reasonable, necessary and allocable to an emergency action. Recoverable expenses shall not include normal budgeted expenditures that are incurred in the course of providing what are traditionally city services and responsibilities, such as routine firefighting protection. Expenses allowable for recovery may include, but are not limited to:

(1) Disposable materials and supplies consumed and expended specifically for the purpose of the emergency action.

(2) Compensation of employees for the time and efforts devoted specifically to the emergency action.

(3) Rental or leasing of equipment used specifically for the emergency action (e.g., protective equipment or clothing, scientific and technical equipment).

(4) Replacement costs for equipment owned by the city that is contaminated beyond reuse or repair, if the equipment was a total loss and the loss occurred during the emergency action (e.g., self-contained breathing apparatus irretrievably contaminated during the response).

(5) Decontamination of equipment contaminated during the response.

(6) Special technical services specifically required for the response (e.g., costs associated with the time and efforts of technical experts or specialists not otherwise provided for by the city).

(7) Other special services specifically required for the emergency action.

(8) Laboratory costs of analyzing samples taken during the emergency action.

(9) Any costs of clean up, storage, or disposal of the released material.

(10) Costs associated with the services, supplies and equipment procured for a specific evacuation of persons or property.

(11) Medical expenses incurred as a result of response activities.

(12) Legal expenses that may be incurred as a result of the emergency action, including efforts to recover expenses pursuant to this chapter.

(e) Release. Release shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into or upon land, water or air, of any material.

(f) Threatened release. Threatened release shall mean any imminent or impending event potentially causing but not resulting in a release, but causing the city to undertake an emergency action. (Ord. 89-68 § 1, 1989.)

16.14.020 Authority of Fire Chief. The deputy director of Fire Services is authorized to clean up or abate the effects of any emergency action relating to hazardous material unlawfully released, threatened to be released, discharged or deposited upon or into any property or facilities within the city. (Ord. 93-32 § 1, 1993; Ord. 89-68 § 1, 1989.)

16.14.030 Liability to Pay Costs Incurred by City. The following described persons shall be jointly and severally liable to the city for the payment of all costs incurred by the city as a result of such clean up or abatement activity:

(a) The person or persons whose negligent or willful act or omission proximately caused such release, discharge or deposit;

(b) The person or persons who owned or had custody or control of the hazardous materials at the time of such release, discharge or deposit, without regard to fault or proximate cause; and

(c) The person or persons who owned or had custody or control of the container which held such hazardous materials at the time or immediately prior to such release, discharge or deposit, without regard to fault or deposit, without regard to fault or proximate cause. (Ord. 89-68 § 1, 1989.)

16.14.040 Recovery of Expenses.

(a) Itemization of Recoverable Expenses. City personnel and departments involved in an emergency action shall keep an itemized record of recoverable expenses resulting from an emergency action. Promptly after completion of an emergency action, the appropriate city department shall certify those expenses to the city manager.

(b) Submission of Claim. The city shall submit a written itemized claim for the total expenses incurred by the city for the emergency action to the responsible person and a written notice that unless the amounts are paid in full to the city within thirty (30) days after the date of the mailing of the claim and notice, the city will file a civil action seeking recovery for the stated amount.

(c) Lien on Property. The city may cause a lien in the amount of the recoverable expenses to be placed on any real property located within the city owned by the person causing or responsible for the emergency action.

(d) Civil Suit. The city may bring a civil action for recovery of the recoverable expenses against any and all persons causing or responsible for the emergency action. (Ord. 89-68 § 1, 1989.)

16.14.050 Supervision or Verification of Clean Up. In the event that any person undertakes, either voluntarily or upon order of the deputy director of Fire Services or other city official, to clean up or abate the effects of any hazardous materials unlawfully released, discharged or deposited upon or into any property or facilities within the city, the deputy director of Fire Services may take such action as is necessary to supervise or verify the adequacy of the clean up or abatement. The persons described in Section 16.14.030 of this chapter shall be liable to the city for all costs incurred as a result of such supervision or verification. (Ord. 89-68 § 1, 1989.)

16.14.060 Remedies not Exclusive. The remedies provided by this chapter shall be in addition to any other remedies provided by law. (Ord. 89-68 § 1, 1989.)

16.14.070 Conflict. Nothing in this chapter shall be construed to conflict with state or federal laws requiring persons causing or responsible for releases or threatened releases from engaging in remediation activities and/or paying the costs thereof (Ord. 89-68 § 1, 1989.)

16.05.170 Section 310.2 Amended – Prohibited areas. Section 310.2 of the International Fire Code is hereby amended to read as follows:

> **310.2 Prohibited areas**. Smoking shall be prohibited as set forth in Chapter 6.20 of the Olathe Municipal Code.

Exception: Smoking shall be permitted in approved designated smoking areas as set forth in Chapter 6.20 of the Olathe Municipal Code. (Ord. 12-52 § 1, 2012.)

16.05.180 Subsection 312.1.1 Added – Protection of utility equipment. Subsection 312.1.1 is hereby added to the International Fire Code and shall read as follows:

> **312.1.1 Protection of utility equipment**. Where meters and equipment supplying electricity or fuel gas are located adjacent to parking spaces or vehicular driveways, they shall be protected from physical damage. (Ord. 12-52 § 1, 2012.)

16.05.190 Section 403.3 Amended – Crowd managers. Section 403.3 of the International Fire Code is hereby amended to read as follows:

> **403.3 Crowd managers**. Trained crowd managers shall be provided for facilities or events where more than one thousand (1,000) persons congregate. The minimum number of crowd managers shall be established at a ratio of one crowd manager to every two hundred fifty (250) persons. Where *approved* by the *fire code official*, the ratio of crowd managers shall be permitted to be reduced where the facility is equipped throughout with an *approved automatic sprinkler system* or based upon the nature of the event. The *fire code official* may, based on the nature of the event, require the event to use Fire Department personnel as crowd managers. (Ord. 12-52 § 1, 2012.)

16.05.200 Section 503.3 Marking. Section 503.3 of the International Fire Code is hereby amended to read as follows:

> **503.3 Marking**. Where required by the Fire Department, *approved* signs or other *approved* notices shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Signs or notices shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.
>
> **503.3.1 Marking requirements**. Each separate fire lane signage, which may consist of one sign or a combination of signs, shall have a cumulative minimum size of ninety six (96) square inches and contain the "No Parking" words or symbol with the words "Fire Lane" located directly beneath the "No Parking" words or symbol. Each sign or combination of signs are required to be uniformly mounted between two feet eight inches (2'8") to seven feet zero inches (7'0") above grade to the bottom of the sign, and so located not to obstruct pedestrian traffic. The sign or combination of signs shall be mounted within six feet (6') of the curb or pavement and are required to face or run parallel with oncoming vehicular traffic. The sign or combinations of signs may be mounted on the building, pole base or any other structure provided the signage meets the setback and height requirements indicated above. The sign or combination of signs are required to be spaced no more than one hundred feet (100') apart. In addition, the curb, or pavement if a curb is absent, is required to be marked with a solid yellow stripe that runs the entire length of the fire lane. Furthermore, the exceeding of any standards intended to inform the public of the location of a fire lane shall not affect the enforcement of this section. (Ord. 12-52 § 1, 2012.)

16.05.210 Subsection 505.1.1 Added – Secondary address numbers. Subsection 505.1.1 is hereby added to the International Fire Code and shall read as follows:

> **505.1.1 Secondary address numbers**. Multi-tenant retail shopping centers in which tenant spaces have secondary entry doors from the exterior façade of the building and have paved vehicle access adjacent to such doors shall have approved numbers or addresses placed on or adjacent to each door. Secondary address numbers shall be a minimum of four inches (4") in height. (Ord. 12-52 § 1, 2012.)

16.05.220 Subsection 507.5.2.1 Added – Hydrants – Color. Subsection 507.5.2.1 is hereby added to the International Fire Code and shall read as follows:

> **507.5.2.1 Hydrants – Color**. All hydrants shall be painted and highly visible. Private fire hydrants shall be painted red in color. (Ord. 12-52 § 1, 2012.)

16.05.230 Subsection 901.1.1 Added – Responsibility. Subsection 901.1.1 is hereby added to the International Fire Code and shall read as follows:

> **901.1.1 Responsibility**. The owner of the protected premises shall be responsible for all fire protection systems within the protected premises, whether existing or installed under this code. (Ord. 12-52 § 1, 2012.)

16.05.240 Section 901.4 Amended – Installation. Section 901.4 of the International Fire Code is hereby amended to read as follows:

> **901.4 Installation**. *Fire protection systems* shall be maintained in accordance with the original installation standards for that system. All systems shall be extended, altered, or augmented as necessary to maintain and continue protection whenever the building is altered, remodeled or added to. *Alterations* to *fire protection systems* shall be done in accordance with applicable standards. (Ord. 12-52 § 1, 2012.)

16.05.250 Subsection 901.4.5 Amended – Appearance of equipment. Subsection 901.4.5 of the International Fire Code is hereby amended to read as follows:

> **901.4.5 Nonoperational equipment**. Any fire protection equipment that is no longer in service shall be removed. (Ord. 12-52 § 1, 2012.)

16.05.260 Subsection 901.4.7 Added – Existing installations – supervision. Subsection 901.4.7 is hereby added to the International Fire Code and shall read as follows:

> **901.4.7 Existing installations – supervision**. All existing fire suppression and fire alarm systems shall be supervised in conformance with Sections 903.4 and 907.9. (Ord. 12-52 § 1, 2012.)

16.05.270 Subsection 901.6.3 Added – Test documentation. Subsection 901.6.3 is hereby added to the International Fire Code and shall read as follows:

> **901.6.3 Test documentation**. When required inspection, testing or maintenance occurs on any existing fire protection system, applicable testing documentation shall be submitted to the fire code official within thirty (30) days of completion. (Ord. 12-52 § 1, 2012.)

16.05.280 Subsection 901.6.4 Added – Qualifications of inspection, testing and maintenance personnel. Subsection 901.6.4 is hereby added to the International Fire Code and shall read as follows:

> **901.6.4 Qualifications of inspection, testing and maintenance personnel**. All personnel performing any inspection, testing or maintenance of any fire protection system shall be qualified. Where such inspection, testing and maintenance is performed by an outside service company, the company shall be appropriately licensed in accordance with the Office of the Kansas State Fire Marshal. (Ord. 12-52 § 1, 2012.)

16.05.290 Subsection 903.4.1 Amended – Monitoring. Subsection 903.4.1 of the International Fire Code is hereby amended to read as follows:

> **903.4.1 Monitoring**. Alarm, waterflow, supervisory and trouble signals shall be distinctly different and shall be automatically transmitted to an *approved* UL-listed central station as defined in NFPA 72, or, when *approved* by the *fire code official*, shall sound an audible signal at a constantly attended location. The fire alarm system installed to transmit such signals shall be considered a building fire alarm system and shall be documented as a UL-certificated central station service system.

Exceptions:

1. Underground key or hub valves in roadway boxes provided by the municipality or public utility are not required to be monitored.

2. Backflow prevention device test valves located in limited area sprinkler system supply piping shall be locked in the open position. In occupancies required to be equipped with a fire alarm system, the backflow preventer valves shall be electrically supervised by a tamper switch installed in accordance with NFPA 72 and separately annunciated. (Ord. 12-52 § 1, 2012.)

16.05.300 Subsection 903.4.2 Amended – Alarms. Subsection 903.4.2 of the International Fire Code is hereby amended to read as follows:

> **903.4.2 Alarms**. One all-weather horn/strobe shall be connected to every *automatic sprinkler system* on the exterior of the building above the Fire Department connection or in an approved location. Such sprinkler system water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Where a fire alarm system is installed, actuation of the *automatic sprinkler system* shall actuate the building fire alarm system. Interior alarm notification appliances shall be installed as required by Section 903.4.2.1.
>
> **903.4.2.1 Notification devices**. Where an automatic fire sprinkler system is installed in a building, audible and visible notification appliances shall be installed throughout the building as follows:
>
> 1. Audible notification appliances shall be installed so as to be audible at 15 dBa above sound pressure level throughout the building.
>
> 2. Visible notification appliances shall be installed in all public and common use areas, restrooms and corridors in accordance with the spacing requirements of NFPA 72.
>
> 3. Visible notification devices can be eliminated in normally unoccupied portions of buildings where permitted by the *fire code official*.

Exception: The requirements of this section do not apply to Group R-3 occupancies. (Ord. 12-52 § 1, 2012.)

16.05.310 Subsection 907.6.5 Amended - Monitoring. Subsection 907.6.5 of the International Fire Code is hereby amended to read as follows:

> **907.6.5 Monitoring**. Fire alarm systems required by this chapter or by the *International Building Code* shall be monitored by an *approved* supervising station in accordance with NFPA 72. An Underwriters Laboratories (UL) Fire Alarm certificate shall be issued by the UL listed fire alarm contractor for all newly installed fire alarm system or existing fire alarm systems included in any existing building involved in any construction project involving a building permit. Any fire alarm system involved in one (1) or more false alarms within the same calendar year shall be subject to a fee in accordance with Section 16.07.070 of the Olathe Municipal Code. Any fire alarm system involved in four (4) or more false alarms within the same calendar year will be required to meet the monitoring requirements of new fire alarm systems, including the issuance of a UL fire alarm certificate. The Fire Department shall maintain a listing of approved UL listed fire alarm contractors.

Exception: Monitoring by a supervising station is not required for:

1. Single- and multiple-station smoke alarms required by Section 907.2.11.

2. Smoke detectors in Group I-3 occupancies.

3. *Automatic sprinkler systems* in one- and two-family dwellings. (Ord. 12-52 § 1, 2012.)

16.05.320 Subsection 907.7.4 Added – Contractor's statement. Subsection 907.7.4 is hereby added to the International Fire Code and shall read as follows:

> **907.4.4 Contractor's statement**. A contractor's statement verifying that the system has been installed in accordance with the approved plans and specifications and has been one hundred percent (100%) tested in accordance with NFPA 72. The statement will also include that all personnel involved with the installation of the fire alarm system meet the qualification requirements of the *fire code official*. (Ord. 12-52 § 1, 2012.)

16.05.330 Section 912.2 Amended – Location. Section 912.2 of the International Fire Code is hereby amended to read as follows:

> **912.2 Location**. With respect to hydrants, driveways, buildings and landscaping, Fire Department connections shall be so located that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus. The location of Fire Department connections shall be *approved* by the *fire code official*. A Fire Department connection for each standpipe system or water-based fire-extinguishing system shall be located not more than one hundred feet (100') from the nearest public fire hydrant connection to an approved water supply. Private fire hydrants are not approved to supply water-based fire-extinguishing systems. (Ord. 12-52 § 1, 2012.)

16.05.340 Subsection 912.3.4 Added – Fire Department connections. Subsection 912.3.4 is hereby added to the International Fire Code and shall read as follows:

> **912.3.4 Fire Department connections**. The connection shall be a four inch (4") Storz quick coupling connector. (Ord. 12-52 § 1, 2012.)

16.05.350 Section 1103.2 Deleted – Emergency responder radio coverage in existing buildings. Section 1103.2 of the International Fire Code is hereby deleted. (Ord. 12-52 § 1, 2012.)

16.05.360 Section 1103.9 Deleted – Carbon monoxide alarms. Section 1103.9 of the International Fire Code is hereby deleted. (Ord. 12-52 § 1, 2012.)

16.05.370 Section 1104.24 Deleted – Egress path markings. Section 1104.24 of the International Fire Code is hereby deleted. (Ord. 12-52 § 1, 2012.)

16.05.380 Establishment of Above Ground Storage of Flammable Liquid Limits. The limits referred to in Subsection 5704.2.9.6.1 of the International Fire Code in which storage of flammable or combustible liquids in outside above-ground tanks is prohibited are established as follows: any residential, commercial, or M-1 zoning district. (Ord. 12-52 § 1, 2012.)

16.05.390 Establishment of Storage of Liquefied Petroleum Gas Limits. The limits referred to in Section 6104.2 of the International Fire Code in which storage of liquefied petroleum gas is restricted are established as follows: any residential or commercial zoning district. (Ord. 12-52 § 1, 2012.)

16.05.400 Establishment of Explosives Storage Limits. The limits referred to in Subsection 5601.2.3 of the International Fire Code in which storage of explosive and blasting agents is prohibited, excepting temporary job sites, are as follows: any residential, commercial, or M-1 zoning district. (Ord. 12-52 § 1, 2012.)

16.05.410 Code Official. The Fire Chief of the City of Olathe or his or her designee shall be designated the enforcement officer of this code and is herein referred to as the fire code official for the purposes of this chapter. (Ord. 12-52 § 1, 2012.)

16.05.420 Civil Actions. Notwithstanding the provisions of Section 101.5, the decisions of the Fire Chief or the decisions of the Board of Code Review reviewing the decisions of the Fire Chief shall be enforceable in the District Court of Johnson County, Kansas, or any other court of competent jurisdiction upon action brought by the City Attorney, or such other legal counsel authorized to maintain such action for enforcement of the provisions of this chapter. (Ord. 12-52 § 1, 2012.)

16.05.430 Liability. The requirements stated in this chapter shall not be construed as imposing upon the City, its officers, agents or employees any liability or responsibility for damages to any property or injury to any person due to defective installations. The City or any official, employee or agent thereof shall not assume liability or responsibility whatsoever by reason of any inspection or approval of any installation. (Ord. 12-52 § 1, 2012.)

CHAPTER 16.07

AUTOMATIC FIRE ALARM SYSTEMS

Sections:

16.07.010 Definitions
16.07.020 Registration of Fire Alarm Systems
16.07.030 System Certification
16.07.040 Inspection, Testing, and Maintenance
16.07.050 Fire Alarm Activation Response
16.07.060 Nuisance Fire Alarm
16.07.070 False or Nuisance Fire Alarm Fees
16.07.080 Remedies and Penalties
16.07.090 Appeals
16.07.100 Reconnection of Fire Alarm System
16.07.110 Government Immunity
16.07.120 Severability

16.07.010 Definitions. For the purposes of this Chapter, the following words and terms shall have the following meanings:

A. "Adopted Codes" means codes adopted by the City of Olathe, the National Fire Protection Association Fire Alarm Code (NFPA 72) and the International Fire Code (IFC).

B. "Alarm Initiating Device" means a device that is designed to respond either manually or automatically to smoke, fire, or activation of a fire suppression system.

C. "Enforcement Official" means the Fire Chief or designated representative.

D. "False Fire Alarm" means the activation of any Fire Alarm System which results in a response by the fire department and which is caused by the negligence or intentional misuse of the Fire Alarm System by the Owner, its employees, agents, or any other activation of a Fire Alarm System not caused by heat, smoke, or fire, exclusive of a Nuisance Fire Alarm.

E. "Fee" means the assessment of a monetary charge payable to the City of Olathe to defray the expenses of responding to a False Fire Alarm or Nuisance Fire Alarm.

F. "Fire Alarm Activation Report" means a document issued by the Enforcement Officer indicating that the activation was deemed to be a result of a fire alarm activation due to fire, a Nuisance Fire Alarm, or a False Fire Alarm.

G. "Fire Alarm Business" means any individual, partnership, corporation, or other entity that is appropriately licensed to conduct business in the State of Kansas and installs, causes to be installed, permits to be installed, alters, maintains, repairs, replaces, or services (including Runner Services) any Fire Alarm System.

H. "Fire Alarm System" means a system or portion of a combination system consisting of components and circuits arranged to monitor and/or communicate the status of a fire alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals.

I. "Fire Watch" means an approved person or persons assigned to the Premises for the purpose of protecting the occupants from fire or similar emergencies. A Fire Watch may involve at least some special action beyond normal staffing, such as assigning additional staff to walk the Premises, who has been specially trained in fire prevention and in the use of fire extinguishers, in notifying the fire department, in sounding the Fire Alarm System located on the Premises, and in understanding the particular fire safety situation.

J. "Monitored System" means the process by which a Fire Alarm Business receives signals from a Fire Alarm System and notifies emergency forces.

K. "Nuisance Fire Alarm" means the activation of any Fire Alarm System, which results in a response by the fire department, caused by mechanical failure, malfunction, improper installation, lack of proper maintenance, or any other response for which fire department personnel are unable to determine the apparent cause of the alarm activation.

L. "Owner" means any person who owns the Premises in which a Fire Alarm System is installed or the person or persons who lease, operate, occupy, or manage the Premises.

M. "Premises" means any building, structure, or combination of buildings and structures which serve as dwelling units such as single-family, multi-family, or any other area within a building, structure, or combination thereof which is used for any purpose, wherein a Fire Alarm System is installed.

N. "Qualified Fire Alarm Technician" means any person who inspects, installs, repairs, or performs maintenance on Fire Alarm Systems. This person shall be: a) factory trained and certified, b) National Institute of Certification in Engineering Technologies (NICET) Fire Alarm Level II certified, or c) employed by a UL UUFX or UUJS listed fire alarm company.

O. "Record of Completion" means the completion of a form equivalent to the record of completion form included in the National Fire Protection Association's National Fire Alarm Code (NFPA 72).

P. "Registration" means the notification by an Owner to the Enforcement Official that a Fire Alarm System has been installed and is in use.

Q. "Report of Service/Repair" means appropriate documentation in a format acceptable to the Enforcement Official that verifies proper repairs or maintenance have been performed by both the Fire Alarm Business and the Owner.

R. "Runner Service" means the service provided by a runner at the protected premises, including resetting and silencing of all equipment transmitting fire alarm or supervisory signals to an off-premises location.

S. "Serve" shall mean hand-delivery of written notification by a representative of the City of Olathe to the Owner or authorized representative who responded to the Premises. In the event the Owner or authorized representative fails to respond to the Premises within one (1) hour, Serve shall mean placing the form or other matter in the United States mail, postage prepaid, addressed to the Owner or authorized representative. (Ord. 08-80 § 1, 2008)

16.07.020 Registration of Fire Alarm System.

A. An annual Registration shall be required for all Fire Alarm Systems and whenever new Fire Alarm Systems are installed, in accordance with Adopted Codes.

B. The Owner shall be required to re-register whenever there is a change in the Fire Alarm Business responsible for maintaining, servicing, and/or monitoring the Fire Alarm System.

C. Registration shall not be transferable from one Premises to another or from one Owner to another.

D. Every Fire Alarm Business shall notify the Enforcement Official of the existence of a Fire Alarm System prior to the Fire Alarm System being put into service. It shall be the responsibility of the installing Fire Alarm Business to provide the Owner with notice of the existence of this Chapter, a Registration form and a copy of the Fire Alarm System operation instructions in accordance with Adopted Codes, and the manufacturer's instructions.

E. The Registration form shall include the following information:

1. The name(s), address of the Premises, mailing address (if different from the address of the Premises), business and home telephone number of the Owner, lessee, operator, manager, or person in possession of the Premises wherein the Fire Alarm System is installed;
2. The name, address, and telephone number of a minimum of two (2) persons who can be notified by the Enforcement Official, in the event of the activation of the Fire Alarm System, who shall be capable of responding to the Premises within one (1) hour, and who are authorized to enter the Premises to ascertain the status thereof;
3. The name, address, and telephone number of the Fire Alarm Business which has contracted to service the Fire Alarm System and proof of proper qualification with the Enforcement Official, if required.
4. The date the Registration is signed or the Fire Alarm System is placed in operation for any reason; and
5. Any other documentation that is required by Adopted Codes.

F. When any of the information required by this Chapter has changed, it shall be reported to the Enforcement Official by the Owner within fifteen (15) days of the Owner becoming aware of such change;

G. The Owner shall complete and deliver the Fire Alarm System Registration in the required format to the Enforcement Official before the Fire Alarm System is activated or placed into service. The Fire Alarm Business, when authorized by the Owner, may assist the Owner in accomplishing this submission of the Fire Alarm Registration to the Enforcement Official.

H. An Owner who does not renew the annual registration shall be subject to a non-renewal fee.

I. The fire alarm registration Fee and non-renewal fee shall be adopted by resolution of the Governing Body. (Ord. 08-80 § 1, 2008)

16.07.030 System Certification. All newly installed or renovated commercial Fire Alarm Systems shall be approved by the Enforcement Official. The certification shall indicate that the Fire Alarm System is in compliance with Adopted Codes. All new or renovated commercial Fire Alarm Systems shall be certificated by Underwriters Laboratories. (UL) (Ord. 08-80 § 1, 2008)

16.07.040 Inspection, Testing, and Maintenance.

A. The Owner shall ensure that all Fire Alarm Systems are inspected and tested in accordance with Adopted Codes.

B. The Owner shall ensure that all Fire Alarm Systems are periodically maintained per manufacturer specifications and Adopted Codes. (Ord. 08-80 § 1, 2008)

16.07.050 Fire Alarm Activation Response.

A. The Owner shall be responsible for the activation of a Fire Alarm System.

B. A response to the activation of a Fire Alarm System shall result when any officer or member of the Fire Department is dispatched to the Premises where the Fire Alarm System has been activated.

1. At the time of the response, the Enforcement Official shall notify any person identified in the Registration required by this Chapter and shall require such person to respond to the Premises.

2. In the event the Fire Alarm System is a Monitored System, it is the responsibility of the company monitoring the Fire Alarm System to notify any persons identified in the Registration at the request of the Enforcement Official.

3. In the event the Fire Alarm System is a Monitored System, it is the responsibility of the Fire Alarm Business to offer the Owner the option to verify the Fire Alarm signal before dispatch, as allowed by Adopted Code.

4. In the event the Fire Alarm System is a Monitored System, it is the responsibility of the Fire Alarm Business to forward cancellation of a Fire Alarm signal to the fire department.

C. The officer or member of the fire department who responded to said Premises shall Serve the Owner or authorized representative with a Fire Alarm Activation Report. (Ord. 08-80 § 1, 2008)

16.07.060 Nuisance Fire Alarms.

A. In the event the activation of a Fire Alarm System is deemed by the Enforcement Official to be a Nuisance Fire Alarm, the Owner shall be Served with a Fire Alarm Activation Report by an officer or member of the fire department, indicating that the activation was deemed to be the result of a Nuisance Fire Alarm.

1. This shall require the Owner to return the completed Report of Service/Repair within fifteen (15) days of receipt of the Fire Alarm Activation Report to verify, to the reasonable satisfaction of the Enforcement Official , that:

a. the Fire Alarm System has been examined by a Qualified Fire Alarm Technician; and

b. a bona fide attempt has been made to identify and correct any defect of design, installation, or operation of the Fire Alarm System which was identifiable as the cause of the Nuisance Fire Alarm.

2. Any owner who fails to return a Report of Service/Repair within said fifteen (15) day period, which is reasonably satisfactory to the Enforcement Official, shall be subject to a Fee for the Nuisance Fire Alarm. Such Fee shall be adopted by resolution of the Governing Body. (Ord. 08-80 § 1, 2008)

16.07.070 False Fire Alarm Fees.

A. Newly Installed Fire Alarms.

1. The provisions of this Section shall only apply to any newly installed Fire Alarm System after the expiration of a period of thirty (30) days from the date of final inspection, but shall apply from and after the expiration of the initial thirty (30) day period following final inspection.

B. False Fire Alarms.

1. The Fire Alarm Business shall be assessed a Fee if an Enforcement Official determines that a False Fire Alarm was directly caused by an onsite employee or representative of the Fire Alarm Business. In this event, no False Fire Alarm shall be counted against the Owner.

2. Any Fire Alarm System which has recorded more than one (1) False Fire Alarm within a calendar year will be subject to a Fee. Such Fee shall be adopted by resolution of the Governing Body.

3. False Fire Alarms activated by any components connected to the Fire Alarm System shall be included in computing the total number of False Fire Alarms for purposes of this subsection.

4. The activation of a Fire Alarm System will not be considered a False Fire Alarm if the alarm is activated due to malicious causes beyond the control of the Owner. (Ord. 08-80 § 1, 2008)

16.07.080 Remedies and Penalties.

A. The Enforcement Official has the authority to order a Fire Watch in accordance with Adopted Codes, due to repetitive Nuisance Fire Alarms and/or False Fire Alarms, until corrective action is taken for any of the following reasons:

1. Failure to meet all requirements or pay the Fees provided for in this Chapter with fifteen (15) days after the notice is mailed to the Owner;

2. Failure of the Owner to provide a written Report of Service/Repair required by this Chapter;

3. A second False Fire Alarm or Nuisance Fire Alarm at a Premises for which a Fee is charged pursuant to this Chapter as a result of the failure of the Owner to take corrective action to eliminate the cause of the False Fire Alarm or Nuisance Fire Alarm; or

4. The failure of a person notified pursuant to Section 16.07.020(E)(2) and Section 16.07.050(B)(2) to appear within one (1) hour after being notified to respond, if such failure to timely respond occurs four or more times within a calendar year.

B. Each building affected because the signal from the Fire Alarm System has been disconnected or deactivated shall be required to establish a Fire Watch until the Fire Alarm System has been returned to service. Duties of the Fire Watch may include notifying the fire department and building occupants of an emergency, preventing a fire from occurring, or extinguishing small fires. These duties shall be documented on a Fire Watch log every hour until the Fire Alarm System has been restored to normal service.

C. The Owner is responsible for paying all costs associated with establishing a Fire Watch.

D. The Enforcement Official has the authority to temporarily suspend the occupancy of a Premises until all outstanding repairs are made on the Fire Alarm System or if the Fire Watch log is not maintained to the satisfaction of the Enforcement Official.

E. The Enforcement Official shall have the authority to direct the Owner of the Premises to silence an activated Fire Alarm System, have corrective action taken and thereafter reset it.

F. Anyone convicted of falsifying reports as required under this Chapter is subject to maximum penalty in accordance with Section 9.08.090. (Ord. 08-80 § 1, 2008)

16.07.090 Appeals.

A. The Owner or Fire Alarm Business may appeal an assessment of a Fee by setting forth in writing the reasons for the appeal within fifteen (15) business days after receipt of the Fee.

B. Filing of a request for appeal shall stay the Fee until the review of the appeal has been completed. If a request for appeal is not made within the fifteen (15) business day period, the action of the Enforcement Official is final.

C. The Enforcement Official may adjust the count of False Fire Alarms or Nuisance Fire Alarms based on:

1. Evidence that the alarm was caused by an act of God;
2. Evidence that the alarm was caused by action of the telephone company:
3. Evidence that the alarm was caused by a power outage lasting longer than four (4) hours;
4. Evidence that the alarm was not a False or Nuisance Fire Alarm; and/or
5. In determining the number False or Nuisance Fire Alarms occurring in any twenty four (24) hour period shall be counted as one False Fire Alarm or Nuisance Fire Alarm; to allow the Owner time to take corrective action unless the alarms are directly caused by the Owner. (Ord. 08-80 § 1, 2008)

16.07.100 Reconnection of Fire Alarm System.

A. A Fire Alarm System may be reactivated upon a finding by the Enforcement Official that the Owner of the Premises has taken corrective action to remedy the cause of the False Fire Alarm or Nuisance Fire Alarm at the Premises.

B. In making a request for such a reactivation, the Owner shall have the burden of showing what corrective action has been made.

C. The Enforcement Official shall have the right to inspect the Fire Alarm System and test it prior to approving a new order to reconnect or reactivate the Fire Alarm System.

D. The Enforcement Official shall not approve a new order to reconnect or reactivate if the Owner has failed to pay any Fee pursuant to this Chapter. (Ord. 08-80 § 1, 2008)

16.07.110 Government Immunity. Registration of a Fire Alarm System is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, or response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. When registering a Fire Alarm System, the Owner acknowledges that fire department response may be based on factors such as; availability of fire department units, priority of calls, weather conditions, traffic conditions, emergency conditions, and staffing levels. The City of Olathe, its officers, employees and agents shall not assume any duty or responsibility for the installation, maintenance, operation, repair or effectiveness of any privately owned Fire Alarm System, those duties or responsibilities being solely those of the Owner of the Premises. (Ord. 08-80 § 1, 2008)

16.07.120 Severability. The provisions of this Chapter are severable. If a court determines a word, phrase, clause, sentence, paragraph, subsection, section, or other provision invalid or that the application of any part of the provision to any person or circumstance is invalid, the remaining provision and the application of those provisions to other persons or circumstances are not affected by that decision. (Ord. 08-80 § 1, 2008)

CHAPTER 16.08. Life Safety Code. Repealed (Ord. 90-36 § 1, 1990; Ord. 86-62 § 1, 2, 1986.)

CHAPTER 16.12

FIRE REGULATIONS

Section:

16.12.010 Fire Inspections; Fees.
16.12.020 Fire Inspection--Removal of Hazards.
16.12.030 Obstructing Fire Hydrant.
16.12.040 Misuse of Equipment.
16.12.080 Control at Fires.

16.12.010 Fire Inspections; Fees.

(a) It shall be the duty of the chief of the Fire Department to inspect or cause to be inspected by the Fire Department officers or members as often as may be necessary, all buildings and premises for the purpose of ascertaining and causing to be corrected any condition liable to cause fire, or any violations of the provisions or intent of any ordinance of the city affecting the fire hazard.

(b) Fees for Fire Inspections. No fee shall be charged for an initial inspection. Fees for fire re-inspections shall be adopted by the Governing Body of the City by resolution. (Ord. 08-81 § 1, 2008; Ord. 93-31 § 1, 1993; Prior code § 6-201.)

16.12.020 Fire Inspection--Removal of Hazards.

(a) Whenever an officer making an inspection under the authority of Section 16.12.010 may find, in any building or upon any premises, combustibles endangering any building or premises, the officer shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of the building or premises; provided, however, that if the owner or occupant deems himself aggrieved by such order he may, within ten days, appeal to the state fire marshal, and the order shall remain in force unless revoked by an order of the state fire marshal.

(b) It is unlawful for an owner or occupant of a building or premises to fail or refuse to comply with such an order after the ten-day appeal period has passed or the state fire marshal has reviewed and upheld the order. (Prior code § 6-202.)

16.12.030 Obstructing Fire Hydrant. No person shall place or cause to be placed upon or about any fire hydrant any rubbish, building material, fence, or other obstruction of any character whatsoever, in any manner to obstruct, hinder or delay the Fire Department in the performance of its duties in case of fire; nor shall any person hitch or cause to be hitched to any fire hydrant any animal or animals, nor fasten to same any guy rope or brace, nor back or stand any wagon, truck, automobile or other vehicle within fifteen feet of any such hydrant. (Prior code § 6-203.)

16.12.040 Misuse of Equipment. No person or persons shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority remove, take away, keep or conceal any tool, appliance or other article used in any way by the Fire Department. (Prior code § 6-204.)

16.12.080 Control at Fires. The fire chief or, in his absence, the assistant fire chief (or other ranking officer present) shall have full power and command over all persons whatever at fires, and he shall direct and adopt any and all measures that he deems most advisable for the extinguishment of such fires, or for the care and protection of the property endangered thereby; and he shall have the power if need be, to summon any and all persons present to aid in extinguishing any fire or removing or caring for personal property from any building on fire or in danger thereof. (Ord. 98-C § 1, 1968; prior code § 6-209.)

CHAPTER 16.14

RECOVERY OF EXPENSES

Sections:

16.14.010 Definitions.
16.14.020 The Chief of the Fire Department.
16.14.030 Liability to Pay Costs Incurred by City.
16.14.040 Recovery of Expenses.
16.14.050 Supervision or Verification of Clean Up.
16.14.060 Remedies not Exclusive.
16.14.070 Conflict.

16.14.010 Definitions. For the purposes of this chapter, the words, phrases and terms as used herein are defined as set out below:

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

(b) "Hazardous material" means waste or combination of wastes or substances which because of its quantity, concentration or physical, chemical, biological or infectious characteristics or as otherwise determined by the Kansas Secretary of Health & Environment to cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed.

(c) Person. Person shall include any individual, corporation, association, partnership, firm, trustee, legal representative, or any combination thereof.

(d) Recoverable expenses. Recoverable expenses shall include those expenses of the City of Olathe that are reasonable, necessary and allocable to an emergency action. Recoverable expenses shall not include normal budgeted expenditures that are incurred in the course of providing what are traditionally city services and responsibilities, such as routine firefighting protection. Expenses allowable for recovery may include, but are not limited to:

(1) Disposable materials and supplies consumed and expended specifically for the purpose of the emergency action.

(2) Compensation of employees for the time and efforts devoted specifically to the emergency action.

(3) Rental or leasing of equipment used specifically for the emergency action (e.g., protective equipment or clothing, scientific and technical equipment).

(4) Replacement costs for equipment owned by the city that is contaminated beyond reuse or repair, if the equipment was a total loss and the loss occurred during the emergency action (e.g., self-contained breathing apparatus irretrievably contaminated during the response).

(5) Decontamination of equipment contaminated during the response.

(6) Special technical services specifically required for the response (e.g., costs associated with the time and efforts of technical experts or specialists not otherwise provided for by the city).

(7) Other special services specifically required for the emergency action.

(8) Laboratory costs of analyzing samples taken during the emergency action.

(9) Any costs of clean up, storage, or disposal of the released material.

(10) Costs associated with the services, supplies and equipment procured for a specific evacuation of persons or property.

(11) Medical expenses incurred as a result of response activities.

(12) Legal expenses that may be incurred as a result of the emergency action, including efforts to recover expenses pursuant to this chapter.

(e) Release. Release shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into or upon land, water or air, of any material.

(f) Threatened release. Threatened release shall mean any imminent or impending event potentially causing but not resulting in a release, but causing the city to undertake an emergency action. (Ord. 89-68 § 1, 1989.)

16.14.020 Authority of Fire Chief. The deputy director of Fire Services is authorized to clean up or abate the effects of any emergency action relating to hazardous material unlawfully released, threatened to be released, discharged or deposited upon or into any property or facilities within the city. (Ord. 93-32 § 1, 1993; Ord. 89-68 § 1, 1989.)

16.14.030 Liability to Pay Costs Incurred by City. The following described persons shall be jointly and severally liable to the city for the payment of all costs incurred by the city as a result of such clean up or abatement activity:

(a) The person or persons whose negligent or willful act or omission proximately caused such release, discharge or deposit;

(b) The person or persons who owned or had custody or control of the hazardous materials at the time of such release, discharge or deposit, without regard to fault or proximate cause; and

(c) The person or persons who owned or had custody or control of the container which held such hazardous materials at the time or immediately prior to such release, discharge or deposit, without regard to fault or deposit, without regard to fault or proximate cause. (Ord. 89-68 § 1, 1989.)

16.14.040 Recovery of Expenses.

(a) Itemization of Recoverable Expenses. City personnel and departments involved in an emergency action shall keep an itemized record of recoverable expenses resulting from an emergency action. Promptly after completion of an emergency action, the appropriate city department shall certify those expenses to the city manager.

(b) Submission of Claim. The city shall submit a written itemized claim for the total expenses incurred by the city for the emergency action to the responsible person and a written notice that unless the amounts are paid in full to the city within thirty (30) days after the date of the mailing of the claim and notice, the city will file a civil action seeking recovery for the stated amount.

(c) Lien on Property. The city may cause a lien in the amount of the recoverable expenses to be placed on any real property located within the city owned by the person causing or responsible for the emergency action.

(d) Civil Suit. The city may bring a civil action for recovery of the recoverable expenses against any and all persons causing or responsible for the emergency action. (Ord. 89-68 § 1, 1989.)

16.14.050 Supervision or Verification of Clean Up. In the event that any person undertakes, either voluntarily or upon order of the deputy director of Fire Services or other city official, to clean up or abate the effects of any hazardous materials unlawfully released, discharged or deposited upon or into any property or facilities within the city, the deputy director of Fire Services may take such action as is necessary to supervise or verify the adequacy of the clean up or abatement. The persons described in Section 16.14.030 of this chapter shall be liable to the city for all costs incurred as a result of such supervision or verification. (Ord. 89-68 § 1, 1989.)

16.14.060 Remedies not Exclusive. The remedies provided by this chapter shall be in addition to any other remedies provided by law. (Ord. 89-68 § 1, 1989.)

16.14.070 Conflict. Nothing in this chapter shall be construed to conflict with state or federal laws requiring persons causing or responsible for releases or threatened releases from engaging in remediation activities and/or paying the costs thereof (Ord. 89-68 § 1, 1989.)

TITLE 17

STORMWATER MANAGEMENT

CHAPTERS:

17.02 General Provisions
17.04 The Stormwater Management System
17.06 Stream Corridor Requirements
17.08 Procedure for the Submission, Review, and Approval of Stormwater Runoff Management Plans
17.10 Design Criteria and Performance Standards
17.12 Bonds, Maintenance Assurances, and Land Disturbance Permits
17.14 Erosion and Sediment Control
17.16 Post-Construction Stormwater Treatment
17.18 Stormwater Pollution Prevention – Illicit Discharges

Ordinance 09-25 repealed previous Title 17, Stormwater Management, in it's entirety and added new Title 17, Stormwater Management. Past Stormwater Management regulations were codified with ordinance numbers 06-76, 89-97, 83-09 and 82-55.

CHAPTER 17.02

GENERAL PROVISIONS

Sections:

17.02.010 Title
17.02.020 Applicability
17.02.030 Interpretations
17.02.040 Abbreviations
17.02.050 Generally
17.02.060 Definitions
17.02.070 Objectives
17.02.080 Relationship to Other Laws
17.02.090 Disclaimer of Liability
17.02.100 Appeals
17.02.110 Penalty for Violations – Actions

17.02.010 Title. These regulations shall hereafter be known, cited, and referred to as the "Stormwater Management Ordinance" of the City. (Ord. 09-25 § 2, 2009.)

17.02.020 Applicability. The provisions of this Title shall extend and apply to all land within the corporate limits of the City. Any person, firm, corporation or business proposing to construct buildings or develop land within the City shall make application to the City Engineer for approval of a Stormwater Management Plan and issuance of a Land Disturbance Permit as specified in this Title. (Ord. 16-13 § 1, 2016; Ord. 09-25 § 2, 2009.)

17.02.030 Interpretations. The provisions of this Title are intended to supplement existing zoning and land use ordinances of the City. The provisions herein shall be interpreted and applied as the minimum requirements for the promotion of the public health, safety and general welfare in the City. (Ord. 09-25 § 2, 2009.)

17.02.040 Abbreviations. The following abbreviations when used in this Title shall have the designated meanings:

BMP	Best Management Practice
CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
HHW	Household Hazardous Waste
KDHE	Kansas Department of Health and Environment
MARC	Mid-America Regional Council
MS4	Municipal Separate Storm Sewer System
NPDES	National Pollutant Discharge Elimination System
PST	Petroleum Storage Tank (Ord. 09-25 § 2, 2009.)

17.02.050 Generally.

A. For the purpose of this Title, the words and terms as used herein are defined as set out below.

B. Words used in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular; the word "building" includes the word "structure"; the word "shall" or the word "must" is mandatory; the term "used for" includes the meaning "designated for" or "intended for." (Ord. 09-25 § 2, 2009.)

17.02.060 Definitions.

"Active Stream Zone" is the area of the stream that lies between the ordinary high water mark established on each side.

"Applicant" means a property owner or agent of a property owner who has filed an application for a permit that is subject to the requirements of this Title.

"Best Management Practices" or "BMPs" mean the utilization of methods, techniques or products that have been demonstrated to be the most effective and reliable in minimizing adverse impacts on water bodies and the adjacent Stream Corridors, including but not limited to, schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include physical facilities, schedule of activities, prohibitions of practices, maintenance procedures, and other management practices which, when properly designed, installed and maintained, will be effective to prevent or reduce the discharge of water or air pollution, treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage associated with Land Disturbance activities regulated by this Title.

"Car" means any vehicle meeting the definition for passenger car, bus, pickup truck, motorcycle, recreational vehicle, or motor home given in Chapter 10.01 of the Olathe Municipal Code.

"Certified Professional in Erosion and Sediment Control (CPESC)" means an individual who is currently holding such certification as issued by CPESC, Inc., or other Person holding a State license authorizing them to prepare and submit an Erosion and Sediment Control Plan.

"Certificate of occupancy" means a document issued by the proper authority allowing for the occupancy or use of a building, and certifying that the structure or use has been constructed or will be used in compliance with all the applicable codes and ordinances of the City of Olathe.

"Channel" means a watercourse of perceptible extent which periodically or continuously contains moving water or which forms a connecting link between two bodies of water.

"City" means the City of Olathe, Kansas.

"City Engineer" means the City Engineer for the City of Olathe, Kansas, or duly designated representative.

"City Planner" means the City Planner for the City of Olathe, Kansas, or duly designated representative.

"Clean Water Act" means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

"Code" means the Olathe Municipal Code.

"Dedication" means the deliberate conveyance by a property owner or developer of private land for public use.

"Detention" means a stormwater management technique of which the primary function is to control the peak rate of surface water runoff by utilizing temporary storage and a controlled rate of release. This may include, but not be limited to, the use of reservoirs, roof tops, parking areas, holding tanks, in-pipe and in-channel storage.

“Developer” means a person who engages in development of real estate, whether or not that person is the landowner.

“Development” means any man-made change to improved or unimproved real property including the construction or reconstruction of buildings or structures; paving, excavation, grading, filling or similar operations; or the filing and recording of a subdivision plat.

“Differential runoff” means the volume and rate of flow of stormwater runoff discharged from a parcel of land or drainage area which is or will be greater than that volume or rate which existed prior to the proposed development or redevelopment.

“Director” means the Director of Public Works or the Director's authorized representative.

“Discharge” means the addition or introduction, directly or indirectly, of any pollutant, stormwater, or any other substance into the MS4 or surface waters.

“Domestic sewage” means human excrement, gray water (from home clothes washing, bathing, showers, dishwashing, and food preparation), other wastewater from household drains, and waterborne waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, retail and commercial establishments, factories, and institutions, that is free from industrial waste.

“Dry-bottom basin” means a natural or artificial stormwater storage area which is designed and maintained for temporary containment of stormwater runoff.

“Erosion” means the wearing away of land by the action of wind, water, gravity or ice or a combination thereof.

“Erosion and Sediment Control Plan”, or “Plan”, means a Plan for the control of soil erosion and sedimentation resulting from land disturbing activity, and may include, without being limited to, the drawings, specifications, construction documents, schedules, or other related documents which establish the Best Management Practices (BMPs) on a project. The Plan shall include any information required to review the design of the BMPs and to ensure proper installation, maintenance, inspection, and removal of the BMPs, along with the details required to construct any portion of the final storm sewer system that was impeded by a BMP.

“Erosion and Sediment Control Standards”, or “Standards” means the Erosion and Sediment Control design criteria and specifications adopted in writing by the City Engineer.

“Extremely hazardous substance” means any substance listed in the appendices to 40 CFR Part 355, Emergency Planning and Notification.

“Fertilizer” means a substance or compound that contains a plant nutrient element in a form available to plants and is used primarily for its 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.

“Floodplain” means a land area adjoining a river, stream, watercourse, or lake which is likely to be flooded in a one-hundred-year flood.

“Floodway” means the channel of a watercourse and the adjacent land area that must be reserved in order to discharge a one-hundred-year flood without cumulatively increasing the water surface elevation more than 1.0 foot.

“Freeboard” means a factor of safety expressed as the difference in elevation between the top of the detention basin dam and the maximum design surface water elevation resulting from the storm for which the basin's required storage volume was determined.

“Governing Body” means the City Council for the City of Olathe, Kansas.

“Hazardous household waste” (HHW**)** means any material generated in a household (including single and multiple residences) by a consumer which, except for the exclusion provided in 40 CFR Section 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261 or K.A.R 28-29-23b.

“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.

“Illicit discharge” means any discharge to the City’s municipal separate storm sewer system (MS4) that is not composed entirely of stormwater, except discharges pursuant to a NPDES permit.

“Impervious Cover” means those surfaces that cannot effectively infiltrate rainfall, including building rooftops, pavement, sidewalks, and driveways.

“Industrial waste” means any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade, or business.

“Infiltration” means the process of percolating stormwater into the subsoil.

“Land Disturbance” means any activity that changes the physical conditions of landform, vegetation and hydrology, creates bare soil, or otherwise may cause erosion or sedimentation. Such activities include, but are not limited to, clearing, removal of vegetation, stripping, grading, grubbing, excavating, filling, logging and storing of materials.

“Land Disturbance Permit” means a permit issued by the City Engineer subsequent to approval of Final Stormwater Management plans and Erosion and Sediment Control Plans under this Title.

“Landowner” means the legal or beneficial owner or owners of a lot or tract. The holder of a contract to purchase or other person having an enforceable proprietary interest in a lot or tract shall be deemed a landowner.

“Maintenance Agreement” means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

“Municipal separate storm sewer system” (MS4) means the system of conveyances, (including roads with drainage systems, municipal streets, private streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.

“NPDES” means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 318, 402 and 405 of the federal Clean Water Act.

“NPDES Permit” means for the purpose of this Title, a permit issued by United States Environmental Protection Agency (EPA) or the State of Kansas 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.

“Off-Site Facility” means a stormwater treatment facility located outside the subject property boundary described in the permit application for land development activity, including facilities that may accept runoff from multiple projects.

“Oil” means any kind of oil in any form, including but not limited to: petroleum, fuel oil, crude oil, synthetic oil, motor oil, bio-fuel, cooking oil, grease, sludge, oil refuse, and oil mixed with waste.

“One-hundred-year storm” means a rainstorm having a one percent chance of being equaled or exceeded in any given year.

“Ordinary High Water Mark” is the line on the shore established by the fluctuation of water indicated by a physical characteristic such as a clear natural line impressed on the bank, shelving, changes in the character of the soil, destruction of terrestrial vegetation, presence of litter or debris, or other appropriate means.

“Perennial Vegetation” means grass or other appropriate natural growing vegetation that provides substantial land cover, Erosion protection and soil stability and that is capable of sustained and healthy growth over multiple years under the constraints of shade, temperature, and moisture that will be prevalent on the site. For the purposes of this Title, annual grasses that do not regenerate after winter, ornamental plants or shrubs that do not offer effective Erosion and Sediment protection, and plants that are not suitable for the expected growing conditions on the site shall not be considered Perennial Vegetation.

“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.

“Permit” means a Land Disturbance Permit.

“Pesticide” means a substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest, or substances intended for use as a plant regulator, defoliant, or desiccant.

“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, boat or aircraft including motor oil, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil and #1 and #2 diesel fuel.

“Planning Commission” means the Planning Commission for the City of Olathe, Kansas.

“Plat” means a legally recorded plan of a parcel of land showing the location and dimension of such features as streets, lots, easements, and other elements pertinent to a subdivision.

“Pollutant” means any substance or material which contaminates or adversely alters the physical, chemical or biological properties of the waters including changes in temperature, taste, odor, turbidity, or color of the water. Such substance or material may include but is not limited to, dredged spoil, spoil waste, incinerator residue, sewage, pet and livestock waste, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, yard waste, hazardous household wastes, oil and petroleum products, used motor oil, anti-freeze, litter, pesticides, and industrial, municipal, and agricultural waste discharged into water.

“Property Owner” means the named property owner as indicated by the records of the Johnson County, Kansas Records and Tax Administration.

“Recreational field” is a facility such as picnic area, playground, soccer, baseball, softball and football fields, excluding parking lots and paved facilities such as tennis and basketball courts.

“Redevelopment” means development on a tract of land with existing structures where all or most of the existing structures would be razed and a new structure or structures built.

“Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the MS4 and/or surface waters.

“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 a sewage treatment plant and to which stormwater, surface water, and groundwater are not intentionally admitted.

“Sediment” means any solid material, organic, or inorganic, that has been deposited in water, is in suspension in water, is being transported or has been removed from its site of origin by wind, water, ice or gravity as result of soil erosion. Sedimentation is the process by which eroded material is transported and deposited by the action of wind, water, ice or gravity.

“Septic tank waste” means any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

“Sewage” means the domestic sewage and/or industrial waste that is discharged into the sanitary sewer system and passes through the sanitary sewer system to a sewage treatment plant for treatment.

“State” means the state of Kansas.

“Stop Work Order” means an order issued which requires that all construction activity on a site be stopped.

“Storm Sewer System” means any conveyance or system of conveyances for stormwater, including road with drainage systems, streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains, as well as any system that meets the definition of a municipal separate Storm Sewer System or "MS4" as defined by the Environmental Protection Agency in 40 CFR 122.26.

“Stormwater” means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater runoff" means water resulting from precipitation which is not absorbed by the soil, evaporated into the atmosphere, or entrapped by ground surface depressions and vegetation and which flows over the surface.

“Stormwater Treatment Facilities” or “Facilities” means all structures, plantings, natural features, or other physical elements that are designed, constructed and maintained in accordance with this Title and which are provided to prevent or reduce stormwater pollution or to control stormwater runoff volume and discharges.

“Stream” is a body of running water moving over the earth’s surface in a channel or bed, such as a creek, rivulet or river that flows at least part of the year. Streams are dynamic in nature and their structure is maintained through build up and loss of sediment. Streams are typically formed by natural forces but also include drainage ways, outside of street right-of-way, which were formed by man in the past. Storm sewer systems and roadside ditches in street right-of-way are not considered streams.

“Stream Corridor” is a stream and the adjacent land that is set aside in conformance to this Title and which is substantially preserved in a natural state.

“Surface Waters” means any body of water classified as "surface waters" by the State of Kansas, including streams, rivers, creeks, brooks, sloughs, draws, arroyos, canals, springs, seeps, cavern streams, alluvial aquifers associated with these surface waters, lakes, man-made reservoirs, oxbow lakes, ponds, and wetlands, as well as any other body of water classified by the federal government as a "water of the United States".

“Ten-year storm” means a rainstorm with a ten percent chance of being equaled or exceeded in any given year.

"Tributary" or "Tributary area" means all of the area contributing stormwater runoff to a given point.

"Twenty-five-year storm" means a rainstorm with a four percent chance of being equaled or exceeded in any given year.

"Unified Development Ordinance" ("UDO") means the Unified Development Ordinance for the City of Olathe, Kansas, found in Title 18 of the Olathe Municipal Code.

"Waste" means any garbage, refuse, sludge or other discarded material which is abandoned or committed to treatment, storage or disposal, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial mining, community and agricultural activities. Waste does not include solid or dissolved materials in domestic sewage or irrigation return flows or solid or dissolved materials or industrial discharges which are point sources subject to permits under the State of Kansas. The Federal definition of solid waste is found at 40 CFR 257.2.

"Water Bodies" means surface waters including rivers, streams, lakes, ponds and wetlands, including all areas designated by the federal government as water of the United States.

"Water quality standard" means the law or regulation that consists of the beneficial designated use or uses of a water body, the numeric and narrative water quality criteria that are necessary to protect the use or uses of that particular water body, and an anti-degradation statement.

"Watercourse" means any stream, creek, brook, branch, depression, reservoir, lake, pond, or drainageway in or into which stormwater runoff flows. It is a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

"Wet-bottom basin" means a stormwater storage area which is designed and maintained to contain water temporarily and to hold permanently an additional volume of water at a level below the discharge structure of the storage area. A wet-bottom basin must have a minimum surface area equal to five percent (5%) of the upstream watershed area, up to two hundred forty (240) acres, and a depth of not less than four (4) feet. (Ord. 16-13 § 2, 2016; Ord. 09-25 § 2, 2009.)

17.02.070 Objectives. To promote the public health, safety, and general welfare of the citizens of the City, this Stormwater Management Ordinance is enacted for the general purpose of assuring the proper balance between human use of land and the preservation of a safe and beneficial environment.

A. The provisions of these regulations are intended to:

1. Reduce property damage and to minimize the hazards of personal injury and loss of life due to flooding and Erosion;
2. Protect the overall health and stability of the City's water bodies; and
3. Be consistent with the goals of and meet the requirements set forth by the Clean Water Act and the NPDES under the State of Kansas NDPES Permit.

B. These objectives will be accomplished through the following:

1. Establishment of a Stormwater management system pursuant to Chapter 17.04;
2. Definition and establishment of Stormwater management practices pursuant to this Title;
3. Establishment of methods and guidelines for attenuating or avoiding flooding within the City from the cumulative effects of increased volume and peak Discharge of Surface Water runoff;
4. Pursuant to Chapters 17.06, 17.14, 17.16 and 17.18 establishment of requirements for construction site Erosion control, natural Stream Corridor preservation and protection, site post-construction Stormwater treatment, and prevention of illicit Discharges to the City's Municipal Separate Storm Sewer System (MS4);

5. Establishment of an appeals board to review decisions of the City Engineer and to mediate disputes regarding the interpretation and implementation of the provisions of this Title. (Ord. 09-25 § 2, 2009.)

17.02.080 Relationship to Other Laws. These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any Person, firm or corporation, or as vacating or annulling any rights obtained by any Person, firm, or corporation, by lawful action of the City, except as shall be expressly provided for in these regulations. (Ord. 09-25 § 2, 2009.)

17.02.090 Disclaimer of Liability. The performance standards and design criteria set forth in this Title establish minimum requirements which must be implemented with good engineering practice and workmanship.

Use of the requirements contained herein shall not constitute a representation, guarantee or warranty of any kind by the City, or its officers and employees, of the adequacy or safety of any Stormwater Treatment Facility or use of land. Nor shall the approval of a Stormwater Treatment Facility and the issuance of a Land Disturbance Permit imply that land uses permitted will be free from damages caused by Stormwater runoff. The degree of protection required by these regulations is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study. Larger storms may occur or Stormwater runoff heights may be increased by man-made or natural causes. These regulations therefore shall not create liability on the part of the City or any officer with respect to any legislative or administrative decision lawfully made hereunder. (Ord. 16-13 § 3, 2016; Ord. 09-25 § 2, 2009.)

17.02.100 Appeals. Any Person aggrieved by a decision of the City Engineer in the enforcement of this Title shall have the right to appeal any such order, requirement, decision or determination to the Board of Code Review, as established by Chapter 2.74 of the Olathe Municipal Code, in accordance with the following procedures:

A. A hearing before the Board of Code Review shall be held within thirty (30) days of a final order, requirement, decision or determination of the City Engineer. The Board shall consider any information offered by the aggrieved Person bearing on the dispute and shall recommend to the City Engineer as appropriate**:** reversal, modification or confirmation. The City Engineer, who shall be present at the meeting, shall act upon the recommendation in a manner consistent with his/her responsibilities under these regulations.

B. Any Person aggrieved by any final decision of the City Engineer, following review by the Board of Code Review, may seek review by a court of competent jurisdiction in the manner provided by the laws of the State. (Ord. 09-25 § 2, 2009.)

17.02.110 Penalty for Violations – Actions. The violation of any provision of this Title is a misdemeanor, and any Person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not to exceed Five Hundred Dollars ($500.00); and the City shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provisions of this Title and to abate nuisances maintained in violation thereof; and in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate such violation, or to prevent the occupancy of the building, structure, or land. Each day any violation of this Title shall continue shall constitute a separate offense. (Ord. 09-25 § 2, 2009.)

CHAPTER 17.04

THE STORMWATER MANAGEMENT SYSTEM

Sections:

17.04.010 General
17.04.020 Applicability
17.04.030 The Major System
17.04.040 The Minor System
17.04.050 Management Controls for New Developments
17.04.060 Management Methods
17.04.070 Public and Private Responsibilities Under the Stormwater Management System

17.04.010 General. This Chapter establishes the Stormwater management system, which shall be composed of a major system, a minor system, management controls, and management practices. (Ord. 09-25 § 2, 2009.)

17.04.020 Applicability. The regulations contained herein apply to the minor system. (Ord. 09-25 § 2, 2009.)

17.04.030 The Major System. The major system shall be composed of the regulatory floodplain as shown on the National Flood Insurance Program maps as developed for the City by the U.S. Department of Housing and Urban Development, Federal Insurance Administration. All components of the major system shall be designed to handle a one-hundred-year storm. (Ord. 09-25 § 2, 2009.)

17.04.040 The Minor System. The minor system shall consist of storm drainage facilities including, but not necessarily limited to, infiltrations systems and Stormwater Treatment Facilities, and roadway curb and gutter, open Channels, swales and enclosed conveyance systems, all as defined in this Chapter, which transport storm runoff to the major system (regulatory floodplain). Minor system facilities are those designed to accommodate runoff resulting from a storm with a given design frequency. (Ord. 09-25 § 2, 2009.)

17.04.050 Management Controls for New Developments.

A. Management controls are regulations applicable to new Developments in the minor system under the provisions of this Title. Such controls shall limit any activity that will adversely affect hydraulic function of Detention facilities, open Channels, drainage swales, Stormwater Treatment Facilities or enclosed Stormwater conveyance systems contained within the minor system as previously defined.

B. Exceptions to the applicability of the use of management controls for new Developments shall be granted in the following situations:

1. Additions to, improvements or repair of existing single-family and duplex dwelling structures;
2. All Development Projects of less than one acre, including new construction of any one single-family or duplex dwelling units;
3. On land used for agricultural purposes where no change in grade over that which has existed historically will take place;
4. Construction of any buildings or structures on a site which has been previously provided with Stormwater management control Facilities as a part of a larger unit of Development. (Ord. 09-25 § 2, 2009.)

17.04.060 Management Methods. The following methods may be utilized upon approval of the City Engineer. Use of these methods shall be fully in accordance with the design criteria and performance standards as set forth in this Title:

A. STORAGE. Runoff may be stored in temporary or permanent Detention basins, or through rooftop or parking lot ponding, or percolation storage, or by other acceptable means and installed in accordance with the UDO.

B. OPEN CHANNELS. Maximum feasible use shall be made of existing drainageways, open Channels, and drainage swales that are designed and coordinated with the design of building lots and streets.

C. STREETS AND CURBS. Streets, curbs, and gutters shall be an integral part of the Stormwater runoff management system. To the maximum extent possible, drainage systems, street layout and grades, lotting patterns and the location of curbs, inlets, site drainage and overflow swales shall be concurrently designed in accordance with the standards set forth in this Title.

D. ENCLOSED CONVEYANCE SYSTEM. Enclosed conveyance systems consisting of inlets, conduits, and manholes may be used to convey Stormwater runoff.

E. STORMWATER TREATMENT FACILITIES AND INFILTRATION SYSTEMS. Stormwater management systems are those systems designed to capture and control runoff from frequent storm events in order to remove Pollutants and reduce downstream Channel Erosion. Examples include, but are not limited to, rain gardens, bioretention cells, wetlands and structural filtration systems.

F. OTHER. The Stormwater runoff management practices enumerated in this section shall not constitute an exclusive listing of available management practices. Other generally accepted practices and methods may be utilized where approved by the City Engineer. (Ord. 09-25 § 2, 2009.)

17.04.070 Public and Private Responsibilities Under the Stormwater Management System.

A. PUBLIC RESPONSIBILITIES. The administration of the regulations contained in this Title shall be the responsibility of the City Engineer, who shall review and approve Stormwater management plans as provided herein. Inspection of Private Best Management Practices (BMPs) will be the responsibility of the City Engineer.

B. PRIVATE RESPONSIBILITIES. Each Developer of land within the City has the responsibility to provide on the Developer's property all approved Stormwater Treatment Facilities to ensure the adequate drainage and control of Stormwater on the Developer's property both during and after construction of such Facilities. All installed BMPs shall remain accessible for annual inspection by the City.

C. MAINTENANCE.

1. Operation and maintenance of publicly owned Facilities: The City Department of Public Works shall be responsible for the maintenance of all drainage structures and improved Watercourses which are within public right-of-way or are under public ownership.

2. Maintenance: Stormwater Treatment Facilities shall be maintained by the Property Owner, occupant or agent in charge of such property.

3. Failure to maintain: If the City Engineer determines that the Property Owner, occupant or agent in charge of any lot, piece or parcel of land on which a drainage control structure or BMP exists or abuts has failed to properly maintain such Facility as previously set forth, then he/she shall notify the Property Owner, occupant or agent in charge of the violation in writing. If the Property Owner, occupant or agent in charge fails, neglects or refuses to comply with the requirements specified in the notice, the City Engineer shall proceed to cause the necessary remedial work to be performed and shall report the costs of such remedial work to the City Clerk.

The City Clerk shall follow the provisions of K.S.A. 12-1617e to collect the City's cost, including mailing a statement of costs to the last-known address of the Property Owner, occupant or agent in charge of the property and if such costs are not paid to the City within ten days of such notice, the Governing Body shall pass an ordinance levying a special assessment for such costs against the property on which the Facility exists or abuts, and the City Clerk shall certify such assessment to the County Clerk for collection and payment to the City the same as other assessments and taxes are collected and paid. (Ord. 09-25 § 2, 2009.)

CHAPTER 17.06

STREAM CORRIDOR REQUIREMENTS

Sections:

17.06.010 Purpose
17.06.020 Findings
17.06.030 Scope
17.06.040 Delineation of the Stream Corridor
17.06.050 Designation of the Stream Corridor
17.06.060 Stream Bank Stability
17.06.070 Flood Plain
17.06.080 Allowable Uses
17.06.090 Maintenance of the Stream Corridor
17.06.100 Deviations

17.06.010 Purpose. This Chapter is created to establish acceptable minimum requirements to preserve and protect Stream Corridors and other valuable aquatic riparian resources within the City. (Ord. 09-25 § 2, 2009.)

17.06.020 Findings. The Governing Body finds that Stream Corridors provide multiple benefits to the citizens of Olathe, benefits which include:

A. preservation of habitat for plants and animals;

B. protection of water quality and base flow potential through infiltration, filtration, runoff velocity control and Sediment retention;

C. stabilization of Stream banks thus minimizing bank Erosion, Stream migration and property damage due to Stream bank instability;

D. temporary storage and velocity reduction of flood waters;

E. recreational and educational opportunities;

F. beautification and aesthetic enhancement of the City;

G. effective visual and auditory screening between adjoining land uses;

H. enhance property value;

I. proper management of Stream Corridors will continue to enhance the quality of life for the citizens of Olathe and that conservation and preservation of Stream Corridors is necessary to protect the public health, safety and welfare;

J. regulation of Stream Corridors by establishing acceptable minimum standards is an important component of the City's overall Stormwater management strategy and such regulation is consistent with the provisions and goals of the Clean Water Act, the NPDES, and other federal, State, and local requirements for water quality and environmental preservation;

K. natural Channels migrate in response to a variety of factors, including changes in upstream and downstream land uses, and Property Owners must consider the potential for migration when locating facilities. (Ord. 09-25 § 2, 2009.)

17.06.030 Scope and Applicability. No land shall be disturbed nor structure built, located, converted or altered without full compliance with this Chapter's Stream Corridor Requirements, unless Development occurs as allowed by the following exceptions:

A. A preliminary plan, preliminary Plat, or rezoning of a planned district that was approved prior to the effective date of this Title, unless such approved preliminary plan or preliminary Plat has expired.

B. Non-substantial revisions to an approved preliminary plan or plat specified in 17.06.030 (a) after the effective date of this Title which does not show improvements in or alterations to the Stream Corridor as designated in 17.06.050 closer than the improvements or alterations already shown on the approved preliminary plan or Plat. For the purpose of this section, improvement is defined as any improvement other than the uses allowed in Section 17.06.080, Allowable Uses.

Note: After the effective date of this Title, if revisions are proposed to an approved plan or Plat that constitute a "substantial or significant change" as outlined by Section 18.12.200 of the UDO, then any Development done pursuant to such revisions shall occur in accordance with this Chapter. (Ord. 09-25 § 2, 2009.)

17.06.040 Delineation of the Stream Corridor. The Stream Corridor shall be designated on preliminary Plats, preliminary plans, final plans and final Plats. The boundary of the Stream Corridor shall be documented by a legal boundary description in such instrument as the City Engineer may require, which could include but is not limited to a separate tract of land dedicated on the final Plat, including Off-Site Facilities dedicated by separate instrument or Plat. The City Engineer may adopt written regulations to implement the provisions of this section. The instrument used to document the boundary must also identify the area as a "Natural Preservation Stream Corridor" and shall stipulate that these areas are subject to the restrictions and protections provided for in this Chapter. The instrument shall further stipulate that restrictions and protections are subject to change by action of the Governing Body in accordance with the provisions of this Title. (Ord. 09-25 § 2, 2009.)

17.06.050 Designation of the Stream Corridor. The Stream Corridor shall consist of the Stream and all lands adjacent to the Stream on both sides for the minimum distance from the Ordinary High Water Mark specified below:

Stream Tributary Area	*Minimum distance from Ordinary High Water Mark to the limit of Stream Corridor on each side
Less than 25 acres	15 feet (See 17.06.050 B)
Including 25 acres up to 40 acres	30 feet (See 17.06.050 C)
Including 40 acres up to 160 acres	60 feet
Including 160 acres up to 5000 acres	100 feet
5000 acres and greater	120 feet

*Distances in excess of the minimum may be required as indicated in 17.06.060**(**A).

A. Stream Corridor shall be designated along Streams with a Tributary Area for drainage of 40 acres or more with the following exceptions:

1. Streams of less than 300 feet in length measured along the center of the Active Stream Zone and which are between portions of an existing Storm Sewer System may be enclosed within a pipe or box structure.
2. Streams adjoining an existing Storm Sewer System may be enclosed within a pipe or box structure, if the application of this Chapter would otherwise leave a Stream remnant less than 300 feet in length measured along the center of the Active Stream Zone.

B. Streams with Tributary Areas less than 25 acres may construct a Storm Sewer System in accordance with Chapter 17.06 and 17.10. If a Storm Sewer System is not constructed, a Stream Corridor shall be designated which may be variable in width but is generally not less than 15 feet from Ordinary High Water Mark to the limit of the Stream Corridor on each side. The actual corridor width shall be adequate to provide for: Stream geomorphology, Stream bank stability, preservation of tree canopy, flood control and maintenance access.

C. Streams with Tributary Areas including 25 acres up to 40 acres may construct a Storm Sewer System in accordance with Chapters 17.06 and 17.10. If a Storm Sewer System is not constructed, a Stream Corridor shall be designated which may be variable in width but is generally not less than 30 feet from Ordinary High Water Mark to the limit of the Stream Corridor on each side. The actual corridor width shall be adequate to provide for: Stream geomorphology, Stream bank stability, preservation of tree canopy, flood control and maintenance access.

D. Stream Corridors shall be terminated when a Stream Discharges into a Wet-bottom basin and shall resume at the outlet from the Wet-bottom basin.

E. Stream Corridor designation is not required for manmade ditches within street right-of-way.

F. Stream Corridor designation is not required for construction projects which are undertaken to explicitly protect existing buildings or property from flooding and/or Erosion caused by actions such as Channel migration or bank instability.

G. Regardless of the Stream or Stream Corridor size, buildings must maintain a minimum distance of 40 feet from the Ordinary High Water Mark of a Stream.

All Developments, which do not dedicate a Stream Corridor in accordance with this Chapter, shall construct Storm Sewer Systems to meet the requirements of Municipal Code Chapters 17.06 and 17.10**.** In the event an approved Development plan showing the construction of a Storm Sewer System cannot obtain a permit from the appropriate State or federal agency or agencies, the Property Owner is required to comply with this Chapter and reapply for a preliminary plan, preliminary Plat, special use permit or rezoning, as appropriate. (Ord. 09-25 § 2, 2009.)

17.06.060 Stream Bank Stability.

A. To minimize the need for future bank stability measures, the City Engineer may require geotechnical or geomorphological studies of Streams prior to approval of Development plans or building permits for any structure to be located adjacent to a Stream. Such studies may be used to increase the Stream Corridor width requirement and could include the designation of the maximum expected natural Channel migration, analyses of slope stability, and foundation analysis of adjacent structures. At a minimum, for slope stability and foundation analysis purposes, it will be assumed Streams migrate at least one half the distance of the minimum Stream Corridor indicated in 17.06.050; provided, however, the same studies may also be required to be performed assuming the maximum Channel migration has occurred. The City Engineer is authorized but not required to issue technical guidance to assist Applicants in making this estimate of Channel migration potential.

B. The use of rip-rap, retaining walls, gabions, revetments or other bank armoring techniques shall not be used to reduce the Stream Corridor boundaries established in 17.06.050**.** Such activities are allowed only when the City Engineer determines them to be necessary to protect structures, primarily when Stream migration has exceeded the original estimate of natural Channel migration. The City Engineer may allow bank stabilization measures that are designed to incorporate natural Channel features and vegetation in situations where projects will enhance the value of the Stream Corridor and minimize the likelihood of more extreme measures being needed at a later time. (Ord. 09-25 § 2, 2009.)

17.06.070 Flood Plain. Additional restrictions to activities within the Stream Corridor shall be applied in accordance with Chapter 18.30.100 of the UDO. (Ord. 16-13 § 4, 2016; Ord. 09-25 § 2, 2009.)

17.06.080 Allowable Uses.

A. "Active Stream Zone" allowable uses should utilize BMPs to minimize disturbance to and impacts on the Stream Corridor and include:

1. Sanitary sewer line crossings.
2. Other utilities crossings as approved by the City Engineer.
3. Roadway crossings, limited to minimum required to provide access for orderly Development.
4. Crossings for foot, bicycle, golf cart, and similar uses.
5. Stream restoration projects and bioengineered bank stabilization.
6. Storm sewer pipe Discharge.
7. Stream gauging and water quality monitoring.
8. Pump stations and structures required to transport water from the Stream.

Crossing the Active Stream Zone shall be minimized, crossing at skewed angles shall be avoided, and the length and area disturbed shall be restricted to the maximum extent feasible.

B. "Stream Corridor" allowable uses shall utilize BMPs to minimize disturbance or impacts to the Stream Corridor and include:

1. All activities allowed in the "Active Stream Zone."
2. Paved or unpaved paths for foot, bike, golf carts, and other similar uses. Paths must be constructed at or near natural grade to minimize clearing, filling and grading.
3. Utility installations are allowed provided it is demonstrated installing the utility outside the Stream Corridor is not feasible. Storm sewer pipes may Discharge into the Active Stream Zone or Stream Corridor if appropriate measures to prevent Erosion and scouring are taken. Utility easements will be dedicated on the subdivision Plat, or by separate document after Platting if City Engineer approval is obtained for the utility location. The City Engineer may establish minimum standards for utility construction in the Stream Corridor.
4. Sanitary interceptor sewers installed in accordance with the City's current sewer master plan.
5. Other uses approved by the City Engineer that meet the intent of this Chapter. Allowable uses in the Stream Corridor are limited to low-impact passive uses that require little or no disturbance, grading, clearing, or filling of the existing native vegetation, and are related to recreation, public enjoyment, and protection of the Stream and Stream Corridor. These uses may include, but are not limited to, small non-habitable structures ancillary to the approved use. Examples of allowable structures include play equipment, gazebos and picnic shelters.
6. Allowable uses do not include parking facilities or private dry bottom basins.
7. Recreational Fields, public parklands and golf course fairways which may encroach into the Stream Corridor, reducing the Stream Corridor width up to one-half the width indicated in Section 17.06.050**,** if the following guidelines are followed:

(a) Recreational Fields, public parklands and golf course fairways which reduce the Stream Corridor shall provide additional Stream Corridor width within the Development sufficient to provide the same net Stream Corridor area that would result from enforcement of the Stream Corridor widths in Section 17.06.050.

(b) Golf course fairway crossings will be given the following additional latitude.

(1) Fairway crossings within the Stream Corridor are allowed if the crossing does not exceed 120 feet (measured perpendicular to the fairway direction) and the number of crossings is limited to 2 per 1,000 feet of Stream.

(2) Fairway crossings within the Stream Corridor shall be maintained as either unmowed native grasses and trees or as "low rough," which permits grasses mowed to about 1 ½ to 2 inches. Additional stabilization may be required immediately adjacent to the Stream banks where "low rough" is established.

(3) Designers are encouraged to limit the size and number of Stream crossings, to minimize Stream crossing impacts on wooded areas, and to orient Stream crossings perpendicular to the Stream.

8. Existing agricultural uses.

(a) Private Wet-bottom basin and other impoundments for recreational, aesthetic, or irrigation purposes are allowed within the Active Stream Zone and Stream Corridor with the following criteria:

(1) Wet-bottom basin and other impoundments shall be constructed in accordance with this Chapter and 17.10 and all State and Federal regulations.

(2) Pre-existing private Wet-bottom basin within a Development are allowed when the Developer provides certification from a licensed engineer either that the preexisting or reconstructed outlet works, dam structure, and other hydraulic functions of the Wet-bottom basin meet current Federal, State and City requirements.

(3) Where an existing or new private Wet-bottom basin is created, the Stream Corridor terminates at the normal pool level where Stormwater Discharges into the Wet-bottom basin and resumes 10 feet below the toe of the dam embankment. Where private Wet-bottom basins are removed or filled as part of the Development, the Stream shall be restored through that area and the Stream Corridor shall be created through the existing private Wet-bottom basin area. (Ord. 09-25 § 2, 2009.)

17.06.090 Maintenance of the Stream Corridor.

A. Stream Corridor Maintenance Agreement – A Stream Corridor Maintenance Agreement shall be submitted with all final plans and final Plats and is subject to approval by the City Engineer. At a minimum, the Maintenance Agreement should:

1. Identify the responsible party for maintaining the Stream Corridor, or segment thereof, the boundaries of which are identified as an attachment to the Maintenance Agreement.
2. Establish the minimum frequency and levels of maintenance to be done.
3. Establish the frequency of inspection.
4. Identify resources available to provide maintenance.
5. Identify prohibited practices and homes and/or business association's enforcement process for restoration.
6. Identify the City's rights in the event that the responsible party fails or is unable to perform any of the obligations in the Maintenance Agreement.
7. Clarify how modifications or additions can be made to the Maintenance Agreement.
8. Be filed as a covenant to the recorded deeds of all lots to enforce the imposition of any special tax assessment that may be necessary to maintain the Stream Corridor if the responsible party fails or is unable to perform any of the obligations in the Maintenance Agreement.
9. The Property Owner or Developer shall form a homes and/or business association prior to the sale of any lots, and the homes and/or business association covenants shall include the provisions of the approved Maintenance Agreement. Should a homes and/or business association no longer exist, or be viable, the City Engineer shall have the option to require adjacent Property Owners to provide maintenance of the Stream Corridor as set forth in this Chapter.
10. Approval of all final plans and final Plats shall be subject to the City's receipt of an acceptable Stream Corridor Maintenance Agreement. The final Plat and homes and/or business association deed restrictions shall contain language approved by the City Engineer which identifies the homes and/or business association as the entity which will have permanent responsibility and authority to enter upon the Stream Corridor to fully perform all obligations pursuant to the Stream Corridor Maintenance Agreement. Said homes and/or business association deed restrictions shall be recorded with the Johnson County, Kansas Records and Tax Administration concurrent or prior to recording of the final Plat. The following Title and plat notification requirements concerning Stream Corridors and associated Development and use restrictions shall be required:

(a) Notice on Plat. For all subdivision proposals within the Stream Corridor, the Applicant shall include a notice on the face of the plat. The notice shall be substantially as set forth below:

Notice: This site lies within a protected Stream Corridor, as defined and regulated in City of Olathe, Kansas, Municipal Code. Restrictions on the use or alteration of the Stream Corridor may apply. This property is also subject to the obligations and requirements of the Stream Corridor Maintenance Agreement approved by the City.

(b) Notice on Title. The owner of any property within a Stream Corridor, upon the approval of a Development Application covering property containing a Stream Corridor (which does not involve the approval of a final plat) shall record a notice of presence for each Stream Corridor with the Johnson County, Kansas Records and Tax Administration. This recording shall contain notice of the Stream Corridor Requirements, as found in Chapter 17.06 of the Olathe Municipal Code, as applied to the property, and the limitations on actions in or affecting such Stream Corridor. The Applicant must submit proof that the notice has been legally recorded before final approval of the Development is granted. The notice shall run with the land and failure to provide this notice to any purchaser prior to transferring any interest in the property shall be in violation of this Chapter. The notice shall be substantially as set forth below:

STREAM CORRIDOR NOTICE

Legal Description:

Present Owner:

Notice: This property is located within or contains the following Stream Corridor, as defined and regulated in the City of Olathe, Kansas, Municipal Code. Restrictions on the use or alteration of land within the Stream Corridor may apply. This property is also subject to the obligations and requirements of the Stream Corridor Maintenance Agreement approved by the City.

Application #___ filed on (Date).

Signature of owner(s).

Notarization:

State of Kansas }

Johnson County }

On this day personally appeared before me to me known to be the individual(s) described in and who executed the within and foregoing instrument and acknowledged that they freely and voluntarily signed the same for the uses and purposes therein stated.

Given under my hand and official seal this day of ___.
Notary Public in and for the State of Kansas.

B. Allowed maintenance (as approved and specified in the Maintenance Agreement as required in subsection C below):

1. Removal of dead trees/brush and trash.
2. Removal of debris that could cause flooding.
3. Selective City-approved tree trimming or tree removal to mitigate safety hazards or that could cause flooding.
4. Selective (spot) chemical spraying for noxious weeds.
5. Periodic mowing or other BMPs to enhance natural conditions.
6. Maintenance of all City approved improvements.
7. Maintenance of City approved bank stabilization measures.

C. Prohibited Maintenance

1. Regular mowing outside of recreational use areas.
2. Non-selective chemical spraying. (Ord. 09-25 § 2, 2009.)

17.06.100 Deviations.

A. The City Engineer may approve deviations from the specific terms of this Chapter which would not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship for the Applicant, and provided that the spirit of this Chapter shall be observed, the public safety and welfare secured and substantial justice done for the Applicants.

B. An application for a deviation may only be granted upon a finding that all of the following conditions have been met:

1. That the granting of the deviation will not adversely affect the rights of adjacent Landowners;
2. That the strict application of the provisions of this Chapter would constitute unnecessary hardship upon the Landowner represented in the application. That the deviation desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare;
3. That granting the deviation will comply with the general spirit and intent of this Chapter;
4. That it has been determined the granting of a deviation will not result in extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local, federal, or State laws. Upon consideration of the factors listed above and the purposes of this Chapter, the City may attach such conditions to the granting of deviations as it deems necessary to further the purpose of this Chapter; and
5. Granting the deviation will comply with the minimum requirements of the MARC BMP Manual and the EPA Clean Water Act.

C. In considering deviation applications, the City Engineer has the discretion of using any or all of the following project evaluations when, in the judgment of the City Engineer, these evaluations are relevant and appropriate. No individual evaluation and/or combination of evaluations are necessarily required for an application to be approved, and the City Engineer may weigh these evaluations in light of all the following considerations in determining whether or not to approve an application:

1. Any increase in danger to life and property due to flooding or Erosion damage;
2. The susceptibility of the proposed facility to damage from factors such as flooding, Stream bank Erosion and Channel migration and the effect of such damage on the individual owner;
3. The availability of alternative locations for the proposed Development;
4. The compatibility of the proposed Development with the City's comprehensive plan;
5. The deviation is the minimum necessary to afford relief;
6. Any decrease in the average width of the Stream Corridor set aside;
7. Any increase to bank instability or bank Erosion and the resulting effects on other properties;
8. The extent to which the proposed Development retains the natural terrain within the Stream Corridor while avoiding such activities such as filling, grading and constructing retaining walls.

9. The extent to which the proposed Development provides protection from negative impacts to water quality, base flow potential through infiltration, runoff velocity, temporary storage area for flood waters and Sediment retention capability which is compatible with the intent of this Chapter; and

10. The extent to which the proposed Development provides aesthetic enhancement, preservation of habitat for plants and animals, recreational opportunities, educational value and effective screening from adjoining land uses which are compatible with the intent of this Chapter.

D. Denial of an application for deviation maybe appealed to the Board of Code Review. (Ord. 09-25 § 2, 2009.)

CHAPTER 17.08

PROCEDURE FOR THE SUBMISSION, REVIEW, AND APPROVAL OF STORMWATER RUNOFF MANAGEMENT PLANS

Sections:

17.08.010 General
17.08.020 Preliminary Stormwater Management Plan
17.08.030 Final Stormwater Management Plan

17.08.010 General. No Development shall increase the quantity and rates of Stormwater emanating from said land areas except in accordance with an approved Stormwater Management Plan as provided in this Title. The Stormwater Management Plan shall be prepared by a professional engineer licensed by the State. No building permits shall be issued prior to the approval of the Stormwater Management Plan by the City Engineer. (Ord. 09-25 § 2, 2009.)

17.08.020 Preliminary Stormwater Management Plan.

A. A preliminary Stormwater Management Plan shall accompany all preliminary applications for land Development. The preliminary Stormwater Management Plan must include conceptual Stormwater Management Plans, sufficient information to evaluate the existing hydrologic and environmental characteristics of the Development, impacts of the proposed Development, preliminary sizing for Detention and Stormwater Treatment Facilities, and locations of any existing or proposed Stream Corridors, floodplains, access easements, conservation easements, or tracts, and a description of the maintenance responsibility for proposed private Stormwater Facilities. The City Engineer may set additional minimum submittal requirements.

B. Following the receipt of the preliminary Stormwater Management Plan, a general review meeting shall be conducted and shall include the City Engineer, City Planner, representatives of the Developer and the Developer's engineer. The purpose of this review shall be to jointly agree on the conceptual methods proposed to be utilized and the possible effects of the proposed Development on existing or future adjacent Developments. (Ord. 09-25 § 2, 2009.)

17.08.030 Final Stormwater Management Plan.

A. Following the review of the preliminary Stormwater Management Plan and after the general approval of the preliminary plan by the City Engineer, a final Stormwater Management Plan shall be prepared for each phase of the proposed Development as each phase is developed. The submittal of the final plan shall coincide with the application for final approval of the Development and shall constitute a refinement of the concepts approved in the preliminary plan. If a Development is to be phased, the total area of the Development is to be considered in all calculations and Facilities should be designed for each phase which would be compatible with those of the total Development plan.

B. The final Stormwater Management Plan, in addition to the information from the preliminary Stormwater Management Plan, shall include all of the information required in the Standards found in Chapter 17.10 and any other submittal requirements as determined by the City Engineer, as well as the following minimum Landscape and Stabilization Requirements:

1. A list of vegetative stabilization and management techniques to be used at a site after construction is completed.

2. An explanation of how the site will be stabilized after construction.

3. Identify the responsible party for the maintenance of vegetation at the site.

4. Identify the practices that will be employed to ensure adequate vegetative cover is preserved.

5. The name and address of the State registered landscape architect who prepared the design.

C. The final Stormwater Management Plan shall be reviewed by the City Engineer. If it is determined according to present engineering practice that the proposed Development will provide control of Stormwater runoff in accordance with the purposes, design criteria and performance standards of these regulations and will not be detrimental to the public health, safety, and general welfare, the City Engineer shall approve the plan or conditionally approve the plan, setting forth the conditions thereof. If approved, a Land Disturbance Permit for the Development shall be granted.

If it is determined that the proposed Development will not control Stormwater runoff in accordance with these regulations, the City Engineer shall not approve the Stormwater Management Plan. If not approved, the application and data shall be returned to the Applicant for corrective action and resubmittal. (Ord. 16-13 § 5, 2016; Ord. 09-25 § 2, 2009.)

CHAPTER 17.10

DESIGN CRITERIA AND PERFORMANCE STANDARDS

Sections:

17.10.010 General
17.10.020 Stormwater Conveyance and Detention Criteria
17.10.030 Stormwater Treatment Criteria
17.10.040 Modifications and Appeals to Standard Criteria

17.10.010 General. This Chapter sets forth the rules that shall govern the design of improvements with respect to managing Stormwater runoff within the City of Olathe. (Ord. 09-25 § 2, 2009.)

17.10.020 Stormwater Conveyance and Detention Criteria.

A. All drainage components shall be designed in accordance with the *Olathe Technical Specifications and Design Criteria for Public Improvements* manual as adopted in the UDO.

B. Stormwater Detention Standards: The *Olathe Technical Specifications and Design Criteria for Public Improvements* manual contains the complete requirements for Detention. Below are the general requirements for Stormwater Detention in Olathe:

All Development projects larger than one (1) acre shall be required to control the rate at which Stormwater is released from the developed site in order to mitigate increases in Stormwater runoff caused by the Development. This shall be accomplished through Stormwater Treatment Facilities, which shall be designed to manage Stormwater runoff generated by the 99% (1-year) and 10% (10-year) chance (return frequency) design storms. In watersheds where the City Engineer is aware of known downstream flooding concerns, the City Engineer may, at his or her discretion, require, in addition to the above required design storms, Detention of larger storm events up to the 1% (100-year) design storm to provide protection against increases in downstream flooding and Stream bank Erosion.

C. Easements. Permanent easements for the Detention and conveyance of Stormwater, including easements of access to structures shall be dedicated to the City. Any restrictions shall be clearly indicated on the Plat.

D. Land Disturbance Permits. A Land Disturbance Permit for projects including Detention Facilities can be granted by the City Engineer only after the final Stormwater Management Plan has been approved and all easements have been dedicated, accepted, and recorded, and all required maintenance assurances and required bonds have been executed. (Ord. 16-13 § 6, 2016; Ord. 09-25 § 2, 2009.)

17.10.030 Stormwater Treatment Criteria.

A. The City Engineer shall adopt and maintain Stormwater Treatment Standards to implement and interpret the provisions of this Title. The 2012 edition of the *Mid-America Regional Council and American Public Works Association Manual of Best Management Practices for Stormwater Quality (MARC BMP Manual*), and all appendices, shall be the basis of these Stormwater Treatment Standards. Included in the Stormwater Treatment Standards shall be additional technical guidance or exceptions to the *MARC BMP Manual* which have been adopted by the City Engineer. The additional guidance or exceptions may include, but not be limited to, modified BMPs, design criteria, construction specifications, or standard details. Copies of all adopted standards shall be on file and available in the City's Public Works Department.

B. Minimum Control Requirements: All Stormwater Treatment Facilities shall be designed to provide a combination of pollutant removal and water volume control that satisfies the level of service and value rating calculations set forth in the Stormwater Treatment Standards and other requirements established by City approved watershed management plans or studies.

C. Non-Structural Stormwater Practices: Non-structural Stormwater treatment practices are encouraged to minimize the reliance on structural practices. Applicants wishing to obtain credit for using non-structural practices must ensure that these practices are documented and will remain unaltered by subsequent property owners by locating the facility in a conservation easement, separate tract dedicated for Stormwater Treatment Facilities or similar instrument as approved by the City Engineer. (Ord. 16-13 § 7, 2016; Ord. 09-25 § 2, 2009.)

17.10.040 Modifications and Appeals to Standard Criteria. The Stormwater Treatment Standards shall be adopted and amended by the City Engineer following a public input process.

A. Redevelopment Projects: The City Engineer may modify or reduce requirements on Redevelopment projects in the City.

B. Modifications to Allow Alternate Compliance: In addition, the City Engineer may waive or modify any of the Stormwater Treatment Standards to encourage the implementation of alternative or innovative practices that implement the intent of the modified standards and provide equivalent public benefits without significant adverse impacts on surrounding Developments. Such modifications may be granted for issues including, but not limited to:

1. Approval of alternate materials, devices, techniques, details or specifications for individual Stormwater Treatment Facilities that would be expected to provide similar or better performance.
2. Evaluations of credits, ratings, or level of service calculations to account for unique or special technical considerations.
3. Corrections, clarifications or modifications to requirements which the City Engineer has found to give inadequate or undesirable performance.

C. Appeals of decisions made by the City Engineer related to the Stormwater Treatment Standards shall be made to the Board of Code Review. (Ord. 09-25 § 2, 2009.)

CHAPTER 17.12

BONDS, MAINTENANCE ASSURANCES, AND STORMWATER PERMITS

Sections:

17.12.010 Performance Bond for Completion of Public Stormwater Management Improvements
17.12.020 Maintenance Bonds for Public Stormwater Improvements
17.12.030 Performance Bonds and Maintenance Bonds for Stormwater Treatment Facilities and Other Private Stormwater Improvements
17.12.040 Abatement Bonds
17.12.050 Stormwater Permits

17.12.010 Performance Bond for Completion of Public Stormwater Management Improvements. Upon approval of the final Stormwater Management Plan, but before the issuance of a Land Disturbance Permit, the City Engineer shall require the Applicant to post a performance bond for the amount of the work to be done pursuant to the approved Stormwater Management Plan for Stormwater Treatment Facilities dedicated to the public. (Ord. 16-13 § 9, 2016; Ord. 09-25 § 2, 2009.)

17.12.020 Maintenance Bonds for Public Stormwater Improvements. A two-year maintenance bond against defects in workmanship will be required by the City for any portion of the Stormwater Treatment Facilities dedicated to the public. (Ord. 09-25 § 2, 2009.)

17.12.030 Performance and Maintenance Bonds for Stormwater Treatment Facilities and Other Private Stormwater Improvements.

A. Construction Plan Requirements: The City Engineer shall have the authority to set minimum construction plan submittal requirements by written policy or checklist.

B. Performance Bond Required: The City Engineer shall require the submittal of a performance bond. The amount of the performance bond shall be 1.25 times the total construction cost of the Stormwater Treatment Facilities as estimated by the Developer's engineer and approved by the City Engineer.

Performance Bond Waiver for Single Lot Developments: If Stormwater Treatment Facilities only serve a single building lot and a building is being constructed, a performance bond may be waived by the City Engineer provided all Stormwater Treatment Facilities are constructed and certified prior to issuance of a Certificate of Occupancy as required by the UDO. When seasonal or environmental conditions cause a delay in constructing the Stormwater Treatment Facilities, the City Engineer may approve issuing a Certificate of Occupancy provided a performance bond is posted in accordance with this section.

C. Release of Performance Bond. The performance bond will be released only when all of the following conditions have been met:

1. At least 80% of the land area served by the Stormwater Treatment Facilities has permanent stabilization in place.
2. All of the Stormwater Treatment Facilities covered by the bond have been constructed and certified in accordance with this Chapter.
3. If the Stormwater Treatment Facility is constructed prior to final stabilization of at least 80% of the land area served by the Facility, and the most recent certification of the Facility is more than ninety (90) days old, an updated certification by the City Engineer shall be required to verify that the Facility is fully functional.

D. Maintenance Bond. Prior to issuance of a permit for construction of a Stormwater Treatment Facility, the Developer and/or contractor shall submit a maintenance bond. The Developer and/or contractor shall be responsible for all regular maintenance and repairs to of the Stormwater Treatment Facility while the maintenance bond is in effect including, but not limited to, repairs necessary due to damage caused by intentional or unintentional acts of others. The maintenance bond shall be in the amount of 100% of the construction cost of the Facilities and can be utilized for any maintenance or rehabilitation costs associated with the Stormwater Treatment Facility deemed necessary by the City, including, but not limited to, removal of siltation, mowing, replacement of vegetation, piping repairs, replacement of underdrains, other repairs to the Facility, and any administrative or engineering costs associated with such maintenance and repairs. The maintenance bond shall remain in effect for a period of two (2) years following initial certification of the Stormwater Treatment Facility.

E. Timing of Stormwater Treatment Facility Construction. Stormwater Treatment Facilities shall be constructed as early as feasible during the Development process. However, since some commonly used Stormwater Treatment Facilities are sensitive to construction generated silt when upstream areas are under construction, the following provisions are allowable for timing of such Facility construction:

1. For a Stormwater Treatment Facility serving a single building lot, the Facility shall be constructed concurrently with the Development of the site and building, subject to exceptions set forward in Section 17.12.030 B, paragraph 2, of this Chapter.

2. When Stormwater Treatment Facilities serve multiple Development lots within a common plan of Development, a Stormwater Treatment Facility can be final graded, and permanent vegetation installed only after 80% of the land area served by the Facility has achieved permanent stabilization unless the City Engineer approves a shortened schedule. Additionally, Stormwater Treatment Facilities must be installed and certified within six (6) months of permanent stabilization of the entire land area served by the Facility. Land area served by the Facility shall mean those areas served by the Facility within the common plan of Development and shall not include Off-Site Facilities even if the Off-Site Facilities are Tributary to the Facility.

3. For Stormwater Treatment Facilities serving multiple Development lots within a common plan of Development, no Certificate of Occupancy shall be issued for any building or site unless a Permit has been issued authorizing construction of required Facility to serve the building or site.

F. Failure to Construct a Required Stormwater Treatment Facility: When construction of a Stormwater Treatment Facility is delayed beyond the limits as provided in this Section, the City Engineer may utilize any or all of the following enforcement mechanisms to ensure timely construction of the Facility:

1. Draw upon performance bond funds as necessary to construct the Stormwater Treatment Facility. In the event that the performance bond funds are not adequate to cover all costs associated with construction of said Facility, the City Engineer may assess the property owners for any additional costs in accordance with this Chapter.

2. Withhold issuance of building permits for properties proposed to be served by such Stormwater Treatment Facility.

3. Withhold issuance of Certificates of occupancy for permitted work that is proposed to be served by such Stormwater Treatment Facility.

4. Issue Stop Work Orders for permitted work for any or all property that is proposed to be served by such Stormwater Treatment Facility. (Ord. 09-25 § 2, 2009.)

17.12.040 Abatement Bonds. Prior to approval of a Land Disturbance Permit, the City Engineer shall require a bond, letter of credit, or other appropriate security, approved by the City, to be used to offset the costs of abatement of Erosion and Sedimentation damages both on-site and to downstream property caused by the Land Disturbance, including but not limited to removal of the temporary BMPs and where applicable, their replacement by the final segments of the Storm Sewer System. The bond amount, established and reviewed annually by the City Engineer, shall be based on the estimated cost to the City of providing temporary Erosion Control and establishing Perennial Vegetation on typical project sites, estimated costs to fix Sedimentation damage to downstream properties due to Erosion from the Permitted property. The bond amount will be proportioned based on the acreage of the site. Abatement funds are intended only to ensure corrective measures are taken in the event that BMPs are not maintained or do not perform their intended purpose; the bond does not protect the Permit holder from potential civil suit or other action brought by downstream Property Owners, further regulation by the State, or by federal law. (Ord. 16-13 § 10, 2016; Ord. 09-63 § 1, 2009; Ord. 09-25 § 2, 2009.)

17.12.050 Stormwater Permits. No Person shall receive any Permits for building, grading or other land Development without meeting the requirements of this Title and obtaining a Land Disturbance Permit. Additionally, no Person shall initiate any grading or other Land Disturbance activity without first obtaining a Land Disturbance Permit. Requirements for plans accompanying Permit applications and other related procedures are described in Chapter 17.08 of this Title and Land Disturbance Permit requirements are detailed in Chapter 17.10. Upon approval of the Stormwater management plan, acceptance of the Applicant's assurances of performance and maintenance as provided in these regulations, and payment by the Applicant of the Land Disturbance Permit fee (Permit fees shall be established by resolution of the Governing Body), the City Engineer shall issue a Land Disturbance Permit. The Permit shall set forth the terms and conditions of the approved Stormwater management plan. (Ord. 16-13 § 11, 2016; Ord. 09-25 § 2, 2009.)

CHAPTER 17.14

EROSION AND SEDIMENT CONTROL

Sections:

17.14.010 Purpose of Ordinance
17.14.020 Administration
17.14.030 General Provisions
17.14.040 Erosion and Sediment Control Plans
17.14.050 Inspection
17.14.060 Enforcement
17.14.070 Variances
17.14.080 Miscellaneous

17.14.010 Purpose of Ordinance. The purpose of this Chapter is to set forth procedures for controlling Erosion and sedimentation caused by Land Disturbance activities, thereby providing for the protection and enhancement of the water quality of Watercourses and Water Bodies. (Ord. 09-25 § 2, 2009.)

17.14.020 Administration.

A. Authority. The City Engineer shall be responsible for the administration and enforcement of this Chapter. The City Engineer shall have the authority to adopt regulations, policies and procedures as necessary for the enforcement of this Chapter. The City Engineer may waive the requirements for maps, plans, reports or drawings, if the City Engineer finds that the information otherwise submitted or to be submitted will be sufficient to show that the proposed work will conform to the requirements of this Chapter.

B. Right of Entry. Whenever the City Engineer has cause to believe that there exists, or potentially exists, in or upon any premises, any condition which constitutes a violation of this Chapter, the City Engineer is authorized to enter the premises at reasonable times to inspect or to perform the duties imposed by this Chapter. If entry is refused, the City Engineer shall have recourse to the remedies provided by law to secure entry.

C. Erosion and Sediment Control Standards. The City Engineer shall adopt and maintain Erosion and Sediment Control Standards to assist in the administration of this Chapter. The Erosion and Sediment Control Standards shall be based on, but not limited to, the following principles:

1. Fit the Development to existing site conditions.
2. Minimize the extent of exposure.
3. Minimize duration of exposure.
4. Break work activities into phases when possible.
5. When possible, protect disturbed areas from any unnecessary run-on of Stormwater from adjacent sites, at least during the construction period.
6. Stabilize disturbed areas.
7. Keep runoff velocities low.
8. Retain Sediment on the site.
9. Inspect and maintain control measures.
10. Use performance measures and outcomes.
11. Timely employment and maintenance of all measures.
12. BMPs as identified by the City Engineer.

D. Time Requirement. Where Land Disturbance activities have temporarily or permanently ceased on a portion of a project site for over twenty-one (21) consecutive days, the disturbed areas shall be protected from Erosion by stabilizing the areas with mulch or other similarly effective soil stabilizing BMPs, unless the timeframe for compliance is extended by the City Engineer. Where implementation of stabilization measures is precluded by snow cover, stabilization measures shall be initiated as soon as practicable.

E. Other Pollutants. In addition to Sediment, the Erosion and Sediment Control Plan shall provide for the control of other Pollutants related to the Land Disturbance activity that might cause an adverse impact to water quality, including, but not limited to, discarded building materials, concrete truck washout, fuel, hydraulic fluids, chemicals, litter, and sanitary wastes. (Ord. 09-25 § 2, 2009.)

17.14.030 General Provisions.

A. Any Person undertaking Land Disturbance activities, including the clearing, grading, excavating, filling, storing, and disposing of soil and earth materials, shall comply with the requirements and standards set forth in this Chapter. Permit requirements for Land Disturbance activities are described in Chapter 17.12.

B. Applicability. Regardless of whether or not a Land Disturbance activity requires a Permit, any Person engaged in any Land Disturbance activity shall comply with the spirit and intent of this Chapter. At a minimum, such Persons shall employ BMPs for Erosion and Sediment Control in proportion to the scale of the activity to reduce the amount of Sediment or other Pollutants in Stormwater Discharges associated with those activities.

C. Responsible Person(s). The responsible Person(s) are the Landowner of the property upon which a Land Disturbance takes place and any Person(s) performing a Land Disturbance activity. When a Permit is issued, a Landowner is responsible for Land Disturbance activities from Permit issuance to closure, unless the City approves a transfer of responsibility to a new Landowner when land is sold. (Ord. 09-25 § 2, 2009.)

17.14.040 Erosion and Sediment Control Plans.

A. All proposed Land Disturbance activity that requires a Permit in accordance with Chapter 17.12 of this Title shall be depicted on a site-specific Erosion and Sediment Control Plan. Land Disturbance activities that do not require a Permit in accordance with this Chapter are required to employ applicable BMPs included in standard details provided by the City Engineer. The Erosion and Sediment Control Plan shall be submitted to the City Engineer for review and approval in accordance with the procedure described in Subsection B below. The Plan shall include, at a minimum, the following information:

1. Proposed site map.
2. Limits of areas to be disturbed.
3. Proposed Erosion and Sediment Control BMPs to be employed.
4. Phasing of Erosion and control measures.
5. Final stabilization plan for each phase.
6. Details and specifications for any sections of the final storm sewer system that must be constructed after the removal of BMPs such as temporary Sediment basins.
7. Work schedule.
8. Maintenance and inspection requirements.

The City Engineer may require any additional information or data deemed appropriate to ensure compliance with the intent, purpose and provisions of this Chapter.

B. Review and Approval of Erosion and Sediment Control Plans. The Erosion and Sediment Control Plan shall be of sufficient clarity to indicate the location, manner, nature and extent of the work proposed. The Plan shall clearly show that the proposed work will conform to the provisions of this Title, the Erosion and Sediment Control Standards, and other relevant laws, ordinances, policies, rules and regulations as determined by the City Engineer. The City Engineer shall review the submitted documents to determine compliance with the Erosion and Sediment Control Standards. If the City Engineer finds that the Plan is in compliance with this Chapter, the Applicant shall be eligible to request a Permit. If the City Engineer finds that the Plan is not in compliance before the Plan can be resubmitted to determine compliance with this Chapter, the City Engineer shall advise the Applicant which elements of the Plan are not in compliance.

C. Preparation of Plans. Erosion and Sediment Control Plans submitted to the City for review must be prepared under the supervision of and sealed by a licensed professional engineer or landscape architect or by a Certified Professional in Erosion and Sediment Control (CPESC). The engineer or landscape architect must be licensed to practice in the State. The City Engineer may waive this Plan preparation requirement if the Applicant's Plan consists entirely of utilizing standard plans and specifications as adopted in the City's Erosion and Sediment Control Standards.

D. Amended Plans. Work shall be installed and maintained in accordance with the approved Plan. If Erosion control measures installed per the approved Plan do not function as intended, the Developer and/or contractor may make field adjustments to the Erosion control facilities with the approval of the City’s on-site inspector. Significant design modifications that do not conform to the general intent of the approved Plan must be authorized by the City Engineer prior to installation. (Ord. 09-25 § 2, 2009.)

17.14.050 Inspection.

A. Initial Inspection. The Permit holder shall notify the City Engineer when initial Erosion and Sediment Control measures are installed in accordance with the Erosion and Sediment Control Plan. No Land Disturbance activities shall begin prior to approval from the City Engineer that all pre-construction Erosion and Sediment Control measures are correctly installed per the approved Plan. The Contractor shall maintain on the job-site at all times the City-approved Erosion and Sediment Control Plan and the Stormwater Pollution Prevention Plan as approved by the KDHE under the Notice of Intent. Failure to maintain these records on site will be grounds for a Stop Work Order.

B. Maintenance of Control Measures. All prescribed Erosion and Sediment Control measures shall be maintained in good order and in compliance with the Erosion and Sediment Control Plan at all times.

C. Routine Inspection. It shall be the duty of the Permit holder to routinely inspect the construction site and maintain effective Erosion and Sediment Control measures. Routine inspections shall be performed once per month or more frequently if required on the Plan and within twenty-four hours following each rainfall event of 1/2" or more within any twenty-four hour period. A log shall be kept of these inspections. Any deficiencies shall be noted in a report of the inspection and include the action taken to correct the deficiency. Inspection reports shall be kept on site as part of the Stormwater Pollution Prevention Plan and submitted to the City Engineer upon request. The inspection report shall include the following minimum information:

1. Inspector’s name.
2. Date of inspection.
3. Observations relative to the effectiveness of the Erosion and Sediment Control measures.
4. Actions necessary to correct deficiencies.
5. Signature of Person performing the inspection.

D. The City Engineer may also perform inspections of the Land Disturbance site to verify compliance with the Erosion and Sediment Control Plan. Should it be found that Erosion and Sediment Control methods are ineffective or are not being maintained properly, the City Engineer may take enforcement actions described within this Chapter.

E. Closure of Land Disturbance Activities. Once the Land Disturbance site is stabilized a final inspection shall be requested by the Applicant. The Land Disturbance site shall be considered stabilized when Perennial Vegetation, pavement, buildings or structures using permanent materials, cover all areas that have been disturbed. Perennial Vegetation shall be considered established and completed for stabilization when it has established a healthy and growing stand with a density of at least 70 percent of undisturbed areas at the site.

F. Removal of Temporary Erosion and Sediment Control Measures. Subsequent to a satisfactory final inspection of the Land Disturbance, all temporary Erosion and Sediment Control measures must be removed and the final segments of the Storm Sewer System shall be constructed in the manner described within the approved plans. Such removal shall be complete prior to closure of the Permit which authorized the Land Disturbance. (Ord. 09-25 § 2, 2009.)

17.14.060 Enforcement.

A. In General. The City Engineer shall enforce the provisions of this Chapter through routine activities that include receiving inspection reports from the Permit holder when requested, inspections, and communication with Developers and/or contractors. However, if these methods fail, the City Engineer may proceed with any or all of the following enforcement measures:

1. Refusal of Inspection. Request for an inspection of any permitted construction activity may be denied if it is found that Erosion and Sediment control measures have not been implemented, are found to be ineffective, or are not maintained. If an inspection is refused, a notice of violation or a Stop Work Order may be issued. No further inspections will be performed until the Erosion and Sediment Control measures have been implemented or violations of the Chapter or the UDO are abated.

2. Notice of Violation. The City Engineer is authorized to serve a notice of violation on any Person found to be doing work in violation of the provisions of this Chapter or the UDO. Such notice shall direct the discontinuance of the illegal action or condition and order the abatement of the violation by the responsible Person.

3. Stop Work Order. The City Engineer is authorized to issue a Stop Work Order for any or all construction activity within the established boundary of the Permit. The Stop Work Order shall be in writing and shall be given to the Property Owner involved, or the Property Owner's agent or to the Person doing the work. In addition, notice of the Stop Work Order shall be posted on the site. Upon issuance of a Stop Work Order, the cited work shall immediately cease. The Stop Work Order shall state the reason for the Order and the conditions under which the cited work will be permitted to resume. Any Person who shall continue to work after having been served with a Stop Work Order, except such work as that Person is directed by the City to perform to remove a violation or unsafe condition, is guilty of a public offense and may be subject to penalties as prescribed in Section 17.02.110.

4. Abatement. Should any Person fail to comply with the provisions of this Chapter, the City Engineer is authorized to correct or abate such violation.

(a) City expenditures to correct or abate a violation shall be assessed as a fee against the Permit holder. The City will keep a record of the abatement costs. The fee shall be paid prior to recommencement of work on the Site and prior to any further inspections. If the fee is not paid within thirty (30) days of the date the invoice is sent to the Permit holder, the City Engineer is authorized, as the City Engineer deems appropriate, to expend additional abatement funds to provide permanent soil stabilization on the site. Such additional expenditures shall also be assessed as a fee against the Permit holder.

(b) Should the Permit become suspended, revoked, or expired with the fee not paid, all City expenditures to correct or abate the violation may be assessed against the abatement bond. Abatement lien and special assessment and collection procedure shall apply if work is done without the issuance of a Permit. The City Clerk, at the time of certifying other City taxes, shall certify the unpaid portion of the costs and the County Clerk shall extend the same on the tax rolls of the county against the lot or parcel of land.

B. Violations and penalties.

1. Any Person who violates a provision of this Chapter, fails to comply with any of the requirements thereof or fails to comply with a directive issued by the City Engineer is guilty of a public offense and shall be subject to penalties as provided in the Section 17.02.110.

2. The City Engineer shall be permitted to cite the Property Owner, or any/all Persons identified on a Permit as being legally responsible to the City for any violations of the Chapter pertaining to that Permit. (Ord. 09-25 § 2, 2009.)

17.14.070 Variances.

A. The City Engineer may grant a variance to the Erosion and Sediment Control Standards, provided all of the following conditions are met:

1. The variance complies with the general spirit and intent of the Erosion and Sediment Control Standards.

2. The granting of the variance will not adversely affect the rights of adjacent Landowners.

3. The granting of the variance will not result in substantial public expense, create nuisances, cause fraud on or cause harm to the public or conflict with existing local, federal or State laws, rules or regulations.

4. The variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

B. Appeals of decisions made by the City Engineer related to Erosion and Sediment Control Standards shall be made to the Board of Code Review. (Ord. 09-25 § 2, 2009.)

17.14.080 Miscellaneous

A. Other Laws. Neither this Chapter nor any administrative decision made under this Chapter exempts the Permit holder or any other Person from other requirements of this Title, State and federal laws, or from procuring other required Permits, including any State or federal Stormwater Permits authorized under the NPDES, or limits the right of any Person to maintain, at any time, any appropriate action at law or in equity, for relief or damages against the Permit holder or any Person arising from the activity regulated by this Chapter.

B. Effective Date. The provisions of this Chapter shall apply to all Land Disturbance activities that take place on or after May 1, 2009. (Ord. 09-25 § 2, 2009.)

CHAPTER 17.16

POST-CONSTRUCTION STORMWATER TREATMENT

Sections:

17.16.010 Purpose
17.16.020 Findings
17.16.030 Applicability
17.16.040 Performance Criteria
17.16.050 Site Location and Placement
17.16.060 Deviations
17.16.070 Construction Inspections
17.16.080 Maintenance and Repair of Facilities
17.16.090 Enforcement and Penalties
17.16.100 Miscellaneous

17.16.010 Purpose. The purpose of this Chapter is to minimize and prevent the Discharge of Pollutants from developed land into the Surface Waters of the City by establishing reasonable requirements for the treatment of Stormwater runoff from new Development and Redevelopment activities, thereby helping to protect and sustain the City's environmental resources. (Ord. 09-25 § 2, 2009.)

17.16.020 Findings. The Governing Body finds:

A. Land Development and the associated increases in Impervious Cover can increase the quantity and nature of Pollutants carried by Stormwater runoff, increase Stormwater runoff rates and volumes, aggravate Stream Channel Erosion and Sediment transport, alter the hydrologic response of Watersheds, and degrade the ecological function of downstream Water Bodies.

B. Stormwater Treatment Facilities and requirements can minimize those impacts by reducing Pollutant levels carried in Stormwater runoff, removing or reducing the concentrations of those Pollutants that are carried, reducing Stream bank Erosion, and by restoring Stormwater runoff rates and volumes to levels closer to the pre-Development hydrologic regimes. (Ord. 09-25 § 2, 2009.)

17.16.030 Applicability. No land shall be developed without full compliance with this Chapter unless Development occurs as allowed by the following exceptions:

A. Standard Exceptions: Projects meeting any of the following criteria are exempt from the provisions of this Chapter:

1. Land Disturbances of less than one acre that are not part of a common plan for Development that will cumulatively disturb more than one acre.
2. Expansions and modifications to previously constructed Developments otherwise subject to this Chapter where the proposed increase in impervious surface is less than 5,000 square feet.
3. Land Disturbances for linear utility construction and City administered street projects.

Note: the City does not assert jurisdiction under this Chapter over any construction work on State right-of-way.

4. Agricultural land uses.
5. Single lot residential Developments that are not part of a larger common plan for Development.
6. Repairs to any Stormwater Management Facility or practice deemed necessary by the City Engineer.

B. Previously Approved Development Plans: Projects having a preliminary Development plan or Plat or rezoning of a planned district approved prior to adoption of this Title are exempt from the provisions of this Chapter, except as follows:

1. Development plans approved prior to the effective date of this Title may make "substantial or significant changes" as defined in Section 18.12.200 of the UDO until May 1, 2009 without invoking this Chapter. Substantial changes to Development plans after May 1, 2009, must comply with this Chapter in the same manner as a new Development.

2. For Development plan applications submitted prior to the effective date of the Chapter, the application shall obtain final approval prior to May 1, 2009, or it must comply with this Chapter.

C. Redevelopment Projects: Redevelopment plans that disturb less than ten (10) acres and that obtain final approval prior to May 1, 2009, are exempt from provisions of this Chapter. Subsequent substantial changes to such approved plans are subject to the provisions of this Chapter as required under Section 17.16.030 B 1 of this Chapter. (Ord. 09-25 § 2, 2009.)

17.16.040 Performance Criteria. Stormwater Treatment Facilities shall be designed in accordance with the criteria and standards set forth in Chapter 17.10. (Ord. 09-25 § 2, 2009.)

17.16.050 Site Location and Placement. The location of Stormwater Treatment Facilities shall be consistent with their function while also conforming to the uses and constraints of the site. The Facilities' location shall be approved by the City Engineer, and ownership and maintenance responsibility established in accordance with Section 17.16.080. At a minimum, all Stormwater Treatment Facilities will be shown on final construction plans and in the maintenance plan.

A. Centralized and Common Stormwater Treatment Facilities: All centralized and common facilities for Stormwater management will be shown on preliminary Plats, preliminary plans, final plans and final Plats. The perimeter of the Facility shall be documented by a legal boundary description as required by the City Engineer in the form of a separate tract.

B. Distributed Stormwater Treatment Facilities: The City may determine that some distributed Stormwater Treatment Facilities cannot be described practically by separate legal boundaries on plans or Plats. In such circumstances, provisions will be made for maintenance of the Facilities, documentation of their presence, and easements and rights of access, as set forth in Section 17.16.080.

C. Residential Single-Family and Two-Family Areas: Generally, Stormwater Treatment Facilities for residential single-family and two-family Developments shall be centralized and located on a common tract, to be owned and maintained by a homes association.

The City Engineer may allow a limited number of distributed Facilities on individual residential tracts, provided the Applicant demonstrates that substantial provisions are in place to ensure long-term operation, maintenance and inspection of such Facilities without undue burden to the City for tracking or monitoring compliance.

D. Private Facilities in the Public Street Right-of-Way: Privately owned and operated Stormwater Treatment Facilities shall be located outside of the public street right-of-way unless approved in writing by the City Engineer and a corresponding right-of-way Maintenance Agreement shall be recorded that provides for private maintenance responsibility in the public street right-of-way.

E. Coordination with Utility Easements: Stormwater Treatment Facilities shall not be co-located within utility easements unless approved by the City Engineer.

F. Detention Ponds: When Detention facilities for peak flood control are required under the provisions of Chapter 17.10, such Facilities may be co-located with Stormwater Treatment Facilities, provided that the Facilities are designed to meet the requirements of both uses.

G. Off-Site Facilities: The City Engineer may consider proposals to manage Stormwater runoff in Off-Site Facilities that treat runoff from the proposed Development and comply with the Stormwater Treatment Standards. The Off-Site Facility shall be in place prior to or concurrently with the proposed Development. Long-term operations and maintenance responsibilities for the Facilities must be established by legal agreements, approved by the City and recorded with Johnson County, Kansas Records and Tax Administration.

H. Stream Corridors as required in Chapter 17.06 of this Title are considered a beneficial Stormwater Treatment Facility, therefore credit will be granted by the Stormwater Treatment Standards. In limited circumstances, which are specifically included in the Stormwater Treatment Standards, the outer one-third (1/3) of the designated Stream Corridor may incorporate additional features which enhance the Corridor's Stormwater treatment function. Such Facilities must be consistent with the long-term integrity of the Stream Corridor as a natural, riparian zone. (Ord. 09-25 § 2, 2009.)

17.16.060 Deviations.

A. The City Engineer may approve deviations from the specific terms of this Chapter which would not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship for the Applicant, and provided that the spirit of this Chapter shall be observed, the public safety and welfare secured and substantial justice done for the Applicants.

B. An application for a deviation may only be granted upon a finding that all of the following conditions have been met:

1. The granting of the deviation will not adversely affect the rights of adjacent Landowners.
2. The strict application of the provisions of this Chapter would constitute unnecessary hardship upon the Landowner represented in the application.
3. The deviation desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
4. Granting the deviation will comply with the general spirit and intent of this Chapter.
5. It has been determined the granting of a deviation will not result in extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local, federal, or State laws.
6. Upon consideration of the factors listed above and the purposes of this Chapter, the City may attach such conditions to the granting of deviations as it deems necessary to further the purpose of this Chapter.

C. In considering deviation applications, the City Engineer has the discretion of using any or all of the following project evaluations when, in the judgment of the City Engineer, these evaluations are relevant and appropriate.

1. That alternative standards for stormwater management, water quality protection, and ecological preservation have been established, and/or that mitigation measures are undertaken.
2. That existing physical or natural characteristics of the site make strict application of the Chapter infeasible.
3. That concerns for flooding, Stream bank Erosion, Stream instability, and maintenance of culverts, bridges or other structures are addressed.

4. That the deviation is the minimum necessary to afford relief.

5. No individual or combination of evaluations are necessarily required for an application to be approved and the City Engineer may weigh these evaluations in light of all relevant considerations in determining whether or not to approve an application. (Ord. 09-25 § 2, 2009.)

17.16.070 Construction Inspections.

A. Inspections: Regular inspections of the Stormwater Management System construction shall be the responsibility of the Developer's engineer or other Property Owner's representative who has been approved by the City Engineer and inspection results forwarded to the City. For certain types and locations of Stormwater Treatment Facilities, the City Engineer may at her/his discretion require additional or parallel inspections by City staff.

B. As-Built Plans: All Applicants are required to submit actual "as-built" plans for any constructed Stormwater Treatment Practices. The plan must show the final design specifications for all Stormwater Treatment Facilities and must be certified by the Developer's engineer. A final inspection by the City is required before the release of any performance bonds can occur. The City Engineer will determine required elements of the as-built plans.

C. Post Construction Certification: Prior to refunding of performance bonds, the Developer's engineer, or other party approved by the City Engineer, must certify that the Stormwater Treatment Facility is fully functional and has been installed in accordance with the approved plans. For Developments not requiring a performance bond, the certification shall be made prior to issuance of a Certificate of Occupancy. (Ord. 09-25 § 2, 2009.)

17.16.080 Maintenance and Repair of Facilities.

A. Required Maintenance Agreement: Prior to issuance of any Permit that includes construction of a Stormwater Treatment Facility, the Applicant or Property Owner of the site shall provide a Maintenance Agreement for approval by the City Engineer. At a minimum, the Maintenance Agreement shall:

1. Identify the responsible party for maintaining all Stormwater Treatment Facilities.

2. Include an attachment showing the locations of all Stormwater Treatment Facilities.

3. Provide access easements reserved for the responsible party to access and maintain all Stormwater Treatment Facilities, as well as right of access to the City as provided in other sections of this Chapter.

4. Establish minimum frequency and levels of maintenance and inspections to be done. Identify and itemize anticipated annual maintenance expenditures that will be required during each of the first five (5) years of operation after termination of the contractor maintenance period, so that the responsible party may better plan for future maintenance costs.

5. Identify resources available to provide maintenance.

6. Identify prohibited practices and homes and/or business association enforcement process for restoration.

7. Identify the City's rights in the event that the responsible party fails to or is unable to perform any of the obligations of the Maintenance Agreement.

8. Clarify how modifications or additions can be made to the Maintenance Agreement.

9. Be filed as a covenant to the recorded deeds of all lots to enforce the imposition of any special tax assessment that may be necessary to maintain Stormwater Treatment Facilities if the responsible party fails to or is unable to perform any of the obligations in the Maintenance Agreement.

B. Formation of Homes or Business Association: The Property Owner or Developer shall form a homes or business association prior to the sale of any lots, and the homes or business association covenants shall include, or reference, the provisions of the approved Maintenance Agreement. The homes association or business association covenants shall include provisions collecting maintenance costs for Stormwater Treatment Facilities.

C. Notice on Plat or Title: The final Plat and homes or business association deed restrictions shall contain language approved by the City Engineer to provide notice of facility presence and maintenance obligations. Said deed restriction shall be recorded with the Johnson County, Kansas Records and Tax Administration concurrent or prior to recording of the final plat or approval of final plans. The notice shall run with the land and failure to provide this notice to any purchaser prior to transferring any interest in the property shall be in violation of this Chapter and State law. The notice shall be in a form approved by the City Engineer and substantially as set forth below:

"Notice: This site includes Stormwater Treatment Facilities, as defined and regulated in the Olathe Municipal Code. Restrictions on the use or alteration of the said Facilities may apply. This property is also subject to the obligations and requirements of the Stormwater Treatment Facility Maintenance Agreement approved by the City."

When the proposal involves a final Plat, this notice shall appear on the face of the Plat, as recorded. When the proposals do not involve a final Plat, the notice shall be in the form of a notice of presence recorded with the Johnson County, Kansas Records and Tax Administration, and the notice shall include the legal description of the property, the current Property Owner, the application date and other reference to the project, and the notarized signature of the Property Owner or Owners.

D. City Inspection of Stormwater Treatment Facilities: The City shall establish an inspection program, including but not limited to: routine inspections, random inspections, inspections based upon complaints or other notice of possible violations, inspection of drainage basins or areas identified as higher than typical sources of Sediment or other contaminants or pollutants, inspections of businesses or industries of a type associated with higher than usual Discharges of contaminants or pollutants or with Discharges of a type which are more likely than the typical Discharge to cause violations of State or federal water or Sediment quality standards or the NPDES Stormwater Permit, and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records, sampling Discharges, Surface Water, groundwater, and material or water in drainage control facilities, and evaluating the condition of drainage control facilities and other Stormwater Treatment practices.

E. Right of Entry for Inspection: When any Stormwater Treatment Facility is installed on private property, or when any new connection is made between private property and a public storm sewer system, the Property Owner shall grant to the City in a manner and form acceptable to the City Engineer, the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when the City Engineer has a reasonable basis to believe that a violation of this Title is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this Title.

F. Records of Installation and Maintenance Activities: Parties responsible for the operation and maintenance of a Stormwater Treatment Facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five (5) years. These records shall be made available to the City Engineer during inspection of the Facility and at other reasonable times upon request.

G. Failure to Maintain Practices: If a responsible party fails to or refuses to meet the requirements of the Maintenance Agreement, the City Engineer, after reasonable notice, may correct a violation of the Standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the Stormwater Treatment Facility becomes a danger to public safety or public health, the City Engineer shall notify the party responsible for maintenance of the Stormwater Treatment Facility in writing. Upon receipt of that notice, the responsible Person shall have thirty (30) days to affect maintenance and repair of the Facility in an approved manner. In the event of an emergency, when the City Engineer determines that the Facility poses an immediate danger to life or property, no notification period shall be required prior to beginning mitigation work. After proper notice, the City Engineer will enforce the maintenance provisions of this Chapter with any or all of the following enforcement measures:

1. Notice of Violation: The City Engineer is authorized to serve a notice of violation or order on any Person or entity responsible for maintaining the Facility. Such notice shall order abatement of the violation by the responsible Person or entity.

2. Lien on Property: The City Engineer may assess the Property Owner(s) of the Facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the County after compliance with KSA 12-1617e. (Ord. 09-25 § 2, 2009.)

17.16.090 Enforcement and Penalties.

A. Violations: Any Person or entity violating any provision of this Chapter is guilty of a public offense and shall be subject to penalties as provided in Section 17.02.110 of this Title. The City Engineer shall be permitted to cite the Property Owner, or any/all Persons identified on the Permit as being legally responsible to the City for any violations of this Chapter pertaining to that Permit.

B. Restoration of Lands: Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City Engineer may take necessary corrective action, of which the cost to the City shall become a lien upon the property until paid. (Ord. 09-25 § 2, 2009.)

17.16.100 Miscellaneous.

A. Compatibility with Other Permit and Title Requirements: This Chapter is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this Chapter should be considered minimum requirements, and where any provision of this Chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

B. Authority: The City Engineer shall be responsible for the administration and enforcement of this Chapter. The City Engineer shall have the authority to adopt regulations, policies and procedures as necessary for the enforcement of this Chapter. (Ord. 09-25 § 2, 2009.)

CHAPTER 17.18

STORMWATER POLLUTION PREVENTION – ILLICIT DISCHARGES

Sections:

17.18.010 Title
17.18.020 Purpose
17.18.030 Findings
17.18.040 General Prohibition
17.18.050 Specific Prohibitions and Duties
17.18.060 Inspection and Detection Program
17.18.070 Release Reporting and Clean-up
17.18.080 Enforcement; Designation of Officer; Abatement; Right of Entry; Penalty

17.18.010 Title. These regulations shall hereafter be known as the Stormwater Pollution Prevention Act ("Act"). (Ord. 09-25 § 2, 2009.)

17.18.020 Purpose. The purpose of this Act shall be to prevent the Illicit Discharge of non-Stormwater Pollutants from land and activities within the City into the Municipal Separate Storm Sewer System (MS4) and/or into surface waters.

Note: that non-point source Stormwater pollution prevention is regulated under Chapters 17.16 "Post-Construction Stormwater Treatment" and 17.14 "Erosion and Sediment Control." (Ord. 09-25 § 2, 2009.)

17.18.030 Findings. The Governing Body of the City hereby finds:

A. Pollutants are Discharged into surface waters, both through inappropriate non-Stormwater Discharges into the MS4 or the Surface Waters directly, and through the wash off and transport of Pollutants found on the land and built surfaces by Stormwater during rainfall events;

B. Such Discharge of Pollutants may lead to increased risks of disease and harm to individuals, particularly children, who come into contact with the water; may degrade the quality of such water for human uses, such as drinking, irrigation, recreation, and industry and may damage the natural ecosystems of Water Bodies, leading to a decline in the diversity and abundance of plants and animals;

C. This Chapter will 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 MS4.

D. Such Discharges are inconsistent with the provisions and goals of the Clean Water Act, the NPDES, and other federal and State requirements for water quality and environmental preservation; and

E. A reasonable establishment of restrictions and regulations on activities within the City is necessary to eliminate or minimize such Discharges of Pollutants, to protect the health and safety of citizens, to preserve economic and ecological value of existing water resources within the City and within downstream communities, and to comply with the provisions of the City's responsibilities under the Clean Water Act and the NPDES program. (Ord. 09-25 § 2, 2009.)

17.18.040 General Prohibition.

A. No Person shall release or cause to be released into the MS4, or into any Surface Water within the City, any Discharge that is not composed entirely of Stormwater that is free of pollutants, except as allowed in Subsection B.

B. Unless identified by the City or KDHE as a significant source of Pollutants to Surface Water the following non-Stormwater Discharges are deemed acceptable and not a violation of this section:

1. Water line flushing;
2. Diverted stream flow;
3. Rising groundwater;
4. Uncontaminated groundwater infiltration as defined under 40 CFR 35.2005(20) to separate storm sewers;
5. Uncontaminated pumped groundwater;
6. Contaminated groundwater if authorized by KDHE and approved by the municipality;
7. Discharges from potable water sources;
8. Foundation drains;
9. Air conditioning condensate;
10. Irrigation waters;
11. Springs;
12. Water from crawl space pumps;
13. Footing drains;
14. Individual residential Car washing;
15. Flows from riparian habitats and wetlands;
16. De-chlorinated swimming pool Discharges excluding filter backwash;
17. Street wash waters (excluding street sweepings which have been removed from the street);
18. Discharges or flows from emergency fire fighting activities;
19. Heat pump Discharge waters (residential only);
20. Treated wastewater or other Discharges meeting requirements of a NPDES permit; and
21. Other Discharges determined not to be a significant source of pollutants to waters of the State, a public health hazard or a nuisance.

C. Discharges specified in writing by the City Engineer as being necessary to protect public health and safety.

D. Notwithstanding the provisions of Subsection B of this section, any Discharge shall be prohibited by this section if the Discharge in question has been determined by the City Engineer to be a source of a Pollutants to the MS4 or to Surface Waters, written notice of such determination has been provided to the Property Owner or Person responsible for such Discharge, and the Discharge has occurred more than ten (10) days beyond such notice. (Ord. 09-25 § 2, 2009.)

17.18.050 Specific Prohibitions and Duties. The specific prohibitions and requirements in this section are not inclusive of all the Discharges prohibited by the general prohibition in Section 17.18.030, but are provided to address specific Discharges that are frequently found or are known to occur:

A. No Person shall release or allow to be released any of the following substances into the MS4:

1. Any new or used, motor Oil, antifreeze, Petroleum Product or Waste;
2. Any industrial Waste;
3. Any Hazardous Substance or Hazardous Waste, including Household Hazardous Waste;
4. Any Domestic Sewage or Septic Tank Waste, grease trap or grease interceptor Waste, holding tank Waste, or grit trap Waste;
5. Any garbage, rubbish or other Waste;

6. Any new or used paints, including latex-based paints, Oil-based paints, stains, varnish, and primers, as well as cleaning solvents and other associated products;

7. Any yard Wastes which have been moved or gathered by a Person;

8. Any wastewater that contains soap, detergent, degreaser, solvent, or surfactant based cleaner from a commercial motor vehicle wash facility; from any vehicle washing, cleaning, or maintenance at any new or used motor vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus or heavy equipment;

9. Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains soap, detergent, degreaser, solvent, or any surfactant based cleaner;

10. Any wastewater from commercial floor, rug, or carpet cleaning;

11. Any wastewater from the washdown or other cleaning of pavement that contains any soap, detergent solvent, degreaser, emulsifier, dispersant, or other cleaning substance; or any wastewater from the washdown or other cleaning of any pavement where any spill, leak, or other release of Oil, motor fuel, or other Petroleum Product or Hazardous Substance has occurred, unless all such materials have been previously removed;

12. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emission filter, or the blowdown from a boiler;

13. Any ready-mixed concrete, mortar, ceramic, or asphalt base material or Discharge resulting from the cleaning of vehicles or equipment containing or used in transporting or applying such material;

14. Any runoff, washdown water or Waste from any animal pen, kennel, fowl or livestock containment area or any pet Wastes generally;

15. Any filter backwash from a swimming pool or fountain, except that nothing in this Chapter shall be construed as to require the alteration of the filter Discharge plumbing of an existing swimming pool, fountain or spa if such plumbing was compliant with applicable State, federal, and local regulations at the time of construction;

16. Any swimming pool, fountain or spa water containing a harmful level (as set forth by current State regulations for maximum residual disinfection levels) of chlorine, muriatic acid, or other chemical used in the treatment or disinfection of the water or during cleaning of the facility;

17. Any Discharge from water line disinfection that exceeds the current maximum residual disinfection levels set forth by the State at the point of entry into the MS4 or Surface Waters;

18. Any contaminated runoff from a vehicle wrecking or storage yard;

19. Any substance or material that will damage, block, or clog the MS4;

20. Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by leaking PST; or any Discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the Discharge has received an NPDES permit from the State;

21. Any other Discharge that causes or contributes to causing the City to violate a State water quality standard, the City's NPDES Stormwater permit, or any State-issued Discharge permit for Discharges from its MS4.

B. No Person shall introduce or cause to be introduced into the MS4 any harmful quantity of Sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities in excess of what could be retained on site or captured by employing Erosion and Sediment Control measures, except as allowed for in conformance with Chapter 17.14 of the Olathe Municipal Code.

C. No Person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4. No Property Owner shall allow such a connection to continue in use on their property.

D. No Person shall use Pesticides, herbicides and Fertilizers except in accordance with manufacturer recommendations. Pesticides, herbicides and Fertilizers shall be stored transported and disposed of in a manner to prevent release to the MS4.

E. No Person shall tamper with, destroy, vandalize, or render inoperable any BMPs which have been installed for the purpose of eliminating or minimizing Pollutant Discharges, nor shall any Person fail to install or fail to properly maintain any BMPs which have been required by the City or by other local, State, or federal jurisdictions. (Ord. 09-25 § 2, 2009.)

17.18.060 Inspection and Detection Program. The City Engineer is authorized to develop and implement a plan to actively detect and eliminate prohibited Discharges and connections to the MS4 or Surface Waters within the City. Such plan may include, but is not limited to, periodic and random inspections of buildings and businesses, particularly those most associated with potentially prohibited Discharges; visual surveys of exterior practices; inspection, sampling and analyses of Discharges from outfalls of the MS4, particularly during dry weather periods; manhole and pipe inspections to trace Discharges through the system to point of origin; education on pollution prevention; and receipt of complaints and information from the public regarding known or suspected Discharges. (Ord. 09-25 § 2, 2009.)

17.18.070 Release Reporting and Clean-up.

A. Any Person responsible for the release of any prohibited material that may flow, leach, enter, or otherwise be introduced into the MS4 or Surface Waters shall take all necessary steps to ensure the containment and clean-up of such release.

B. In the event of such a release of Hazardous Substances said Person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.

C. In the event of a release of non-Hazardous Substances, said Person shall notify the City Engineer in-person or by phone or facsimile no later than the next business day. Notifications in-person or by phone shall be confirmed by written notice addressed and mailed to the City Engineer within three (3) business days of the phone notice. (Ord. 09-25 § 2, 2009.)

17.18.080 Enforcement; Designation of Officer; Abatement; Right of Entry; Penalty. The City Engineer shall be designated as the public officer charged with the administration and enforcement of this Act. The City Engineer shall authorize the investigation of violations of the Act. If it is determined that a violation of this Act exists, then the City Engineer shall declare such condition a nuisance and is authorized to pursue abatement and enforcement procedures as specified in Chapter 17.02. (Ord. 09-25 § 2, 2009.)

TITLE 18

UNIFIED DEVELOPMENT ORDINANCE

CHAPTERS:

18.01 Unified Development Ordinance

CHAPTER 18.01

UNIFIED DEVELOPMENT ORDINANCE

Sections:

18.01.010 Ordinance Adopted.
18.01.020 Marked Copies on File.

18.01.010 Ordinance Adopted. The *Unified Development Ordinance*, recommended for approval by the Planning Commission of the City of Olathe, Kansas and adopted in 2014 by the City Council is hereby adopted by reference and made a part of this chapter as if fully set forth herein. (Ord. 16-20 § 2, 2016; Ord. 15-16 § 1, 2015; Ord. 14-39 § 2, 2014; Ord. 02-54 § 2, 2002; Ord. 01-119, 2001; Ord. 01-40, 2001; Ord. 99-116, 1999; Ord. 99-34, 1999; Ord. 98-60 § 2, 1998; Ord. 93-86 § 1, 1993; Ord. 92-52 § 4, 1992; Ord. 92-52 § 1; Ord. 89-133 § 1, 1989; and Ord. 417-C, 1970)

18.01.020 Marked Copies of Ordinance on File. There shall not be less than three (3) copies of the *Unified Development Ordinance*, adopted by reference in Section 18.01.010, kept on file in the office of the City Clerk, to which shall be attached a copy of the incorporating ordinance, marked or stamped "Official Copies as Incorporated by Ordinance No. 14-39, as amended by Ordinance No. 15-16, Ordinance No. 16-20, and Ordinance No. 16-51" and open to inspection to the public at all reasonable hours. The police department, municipal judges, and all other departments of the City charged with the enforcement of the *Unified Development Ordinance* shall be supplied, at the cost of the City, with such number of official copies of such ordinance as may be deemed expedient. (Ord. 16-51 § 1, 2016; Ord. 16-20 § 3, 2016; Ord. 15-16 § 2, 2015; Ord. 14-39 § 2, 2014; Ord. 02-54 § 2, 2002; Ord. 98-60 § 2, 1998; Ord. 93-86 § 1, 1993; Ord. 92-52 § 4, 1992; Ord. 92-52 § 1, 1992; Ord. 89-133 § 1, 1989; and Ord. 417-C, 1970)

TITLE 19 ZONING. Repealed. Title 19 Repealed by Ord. 92-52. (Ord. 92-52, § 2, 1992; Ord. 91-55, 1991; Ord. 89-132, 1989; Ord. 88-01, 1988; Ord. 88-16, 1988; Ord. 88-88, 1988; Ord. 88-146, 1988; Ord. 88-148, 1988; Ord. 87-03, 1987; Ord. 87-08, 1987; Ord. 87-46, 1987; Ord. 87-54, 1987; Ord. 87-56, 1987; Ord. 86-09, 1986; Ord. 86-74, 1986; Ord. 86-95, 1986; Ord. 86-104, 1986; Ord. 85-11, 1985; Ord. 85-29, 1985; Ord. 85-34, 1985; Ord. 85-36, 1985; Ord. 85-37, 1985; Ord. 85-74, 1985; Ord. 85-76, 1985; Ord. 85-81, 1985; Ord. 85-99, 1985; Ord. 85-101, 1985; Ord. 85-102, 1985; Ord. 85-107, 1985; Ord. 85-111, 1985; Ord. 85-112, 1985; Ord. Ord. 85-128, 1985; Ord. 85-129, 1985; Ord. 85-156, 1985; Ord. 84-04, 1984; Ord. 84-32, 1984; Ord. 84-61, 1984; Ord. 84-101, 1984; Ord. 84-158, 1984; Ord. 83-50, 1983; Ord. 83-122, 1983)

CHARTER ORDINANCES

C.O. No. 1	Repealed
C.O. No. 2	Repealed
C.O. No. 3	Recurbing, reguttering, resurfacing, repaving, including necessary drainage facilities, of the streets or alleys in the city of Olathe
C.O. No. 4	Repealed
C.O. No. 5	Repealed
C.O. No. 6	Enlarging, repairing, extending and improving of the system of the waterworks (Repeals 4)
C.O. No. 7	Fire and Police Department retirement systems
C.O. No. 8	Consideration of Ordinances at public meetings and final passage thereof
C.O. No. 9	Repealed
C.O. No. 10	Repealed
C.O. No. 11	Repealed
C.O. No. 12	Repealed
C.O. No. 13	Repealed
C.O. No. 14	Demand deposits of public moneys and certain duties of the city treasurer
C.O. No. 15	Methods of financing the acquisition or construction of public buildings
C.O. No. 16	Repealed
C.O. No. 17	Public Improvements
C.O. No. 18	Repealed
C.O. No. 19	Repealed
C.O. No. 20	Repealed
C.O. No. 21	Repealed
C.O. No. 22	Repealed
C.O. No. 23	Obtaining surety bonds for city officers and employees
C.O. No. 24	Limitation of tax levies in any one year and the aggregate city wide tax levy (Repeals 12)
C.O. No. 25	Service of uniform notices to appear and complaints filed with the Olathe Municipal Court
C.O. No. 26	Definitions for combined water works and sewage disposal systems
C.O. No. 27	Repealed
C.O. No. 28	Repealed
C.O. No. 29	Elections and tenure of commissioners, qualifications and vacancies, and duties of the mayor (Repeals 27)
C.O. No. 30	Repealed
C.O. No. 31	Conflict of Interest (Defeated by Election)
C.O. No. 32	Repealed
C.O. No. 33	Delay in payment of special assessments for public improvements in undeveloped areas
C.O. No. 34	Delay in payment of special assessments for public improvements in undeveloped areas (Amends Sections Three and Eight of C.O. No. 33)
C.O. No. 35	Licensing of plumbers (Repeals 18 and 22)
C.O. No. 36	Borrowing of money and issuance of bonds for general improvements (Repeals 19)
C.O. No. 37	Repealed.
C.O. No. 38	Repealed
C.O. No. 39	Provides substitute and additional provisions for the improvement of sidewalks (Repeals 37)
C.O. No. 40	Sidewalk Improvements (Defeated by Election)
C.O. No. 41	Repealed
C.O. No. 42	Exempts the city of Olathe from retailers' sales tax for construction services
C.O. No. 43	Amending Charter Ordinance 28 -- Form of Government (Failed)
C.O. No. 44	Exempting the city for K.S.A. 79-1950, limitations on tax levies. (Protested)
C.O. No. 45	Amending Charter Ordinance 28 to increase the terms of office for the mayor and council. (Protested)
C.O. No. 46	Increase the library's mill levy limitation to four mills (Repeals 32 and 38). (Defeated by Election)
C.O. No. 47	Amending Charter Ordinance 28 to increase the terms of office for the mayor and council. (Defeated by Election)
C.O. No. 48	Repealed.

C.O. No. 49	Exempts the city from provisions regarding voter registration.
C.O. No. 50	Repealed.
C.O. No. 51	Amends Section Two of Charter Ordinance 25 regarding notices to appear and complaints filed with the Municipal Court.
C.O. No. 52	Amends Charter Ordinance 28 to increase terms of office for the Mayor and Council. (Withdrawn/Failed)
C.O. No. 53	Amending Charter Ordinance 28 to increase the terms of office for the mayor and council. (Defeated by Election)
C.O. No. 54	Transportation Improvements Excise Tax.
C.O. No. 55	Repealed.
C.O. No. 56	Repealed.
C.O. No. 57	Issuance of general obligation bonds for certain city improvements. (Protested/Withdrawn)
C.O. No. 58	Repealed
C.O. No. 59	Repealed
C.O. No. 60	Repealed
C.O. No. 61	Repealed
C.O. No. 62	Repealed
C.O. No. 63	Repealed.
C.O. No. 64	Amends Section Two of Charter Ordinance No. 32 relating to an increase in the limitation on levying taxes from 2.5 mills to 4.0 mills for the Olathe Public Library in order to acquire, construct, equip and furnish, including paying debt service on obligations issued for such purposes, and to operate a library system in the City of Olathe and further repealing Charter Ordinance No. 38. (Defeated by Election)
C.O. No. 65	Repealed
C.O. No. 66	Repealed
C.O. No. 67	Exempts the city from provisions related to costs associated with the Municipal Court. (Repeals 50)
C.O. No. 68	Repeals Charter Ordinance No. 66 pertaining to allowing the sale of alcoholic liquor on Sunday.
C.O. No. 69	Exempts the city from provisions regarding local alcoholic liquor fund; distribution of moneys; and providing substitute and additional provisions.
C.O. No. 70	Exempts the city from provisions related to the Transient Guest Tax. (Repeals 63)
C.O. No. 71	Exempts the city from provisions relating to work performed by the city and collection of costs.
C.O. No. 72	Exempts the city from provisions regarding the designation of an official newspaper.
C.O. No. 73	Exempts the city from provisions regarding record of transaction for pawnbroker loans and purchasing of precious metals.
C.O. No. 74	Exempts the City of Olathe, Kansas from K.S.A. 13-1024a relating to borrowing of money and the issuance of bonds and repeals Charter Ordinances No. 60 and 65.
C.O. No. 75	Exempts the city from provisions pertaining to limitations on certain tax levies repeals Charter Ordinances No. 32 and 38 (Olathe Public Library).
C.O. No. 76	Exempts the city from K.S.A. 12-104a, 25-2108a, 25-2110a, and 25-2113; pertaining to provisions concerning the existing modified Mayor-Council-Manager form of government, elections and Governing Body vacancies and repealing Charter Ordinances No. 11, 28, 61, and 62.

CHARTER ORDINANCE NO. 1. Repealed 04/21/70.

CHARTER ORDINANCE NO. 2. Repealed 04/21/70.

CHARTER ORDINANCE NO. 3

A CHARTER ORDINANCE RELATING TO THE RECURBING, REGUTTERING, RESURFACING, REPAVING, INCLUDING NECESSARY DRAINAGE FACILITIES, OF THE STREETS OR ALLEYS IN THE CITY OF OLATHE, KANSAS, AND EXEMPTING SAID CITY FROM PROVISIONS OF SECTIONS 12-681 AND 12-682, K.S.A., AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: That pursuant to the provisions of Section 5(c) of Article 12 of the Constitution of the State of Kansas, the City of Olathe, Kansas, hereby elects that Sections 12-681 and 12-682, K.S.A., shall not apply to said city and provides the following substitute and additional provisions on the same subject: That whenever in the judgment of the Governing Body of the City of Olathe, Kansas, it becomes expedient and of public necessity to recurb, regutter, resurface or repave, including necessary drainage facilities, any street or alley or any portion thereof when said street or alley has by reason of public travel thereon or by reason of the elements become in need of surface restoration or other construction and improvement, the Governing Body shall have the power to determine such need and when the Governing Body determines that the making of such improvements is deemed expedient, it may by resolution so declare the necessity therefor and cause said improvement to be made. The cost of said recurbing, reguttering, resurfacing or repaving shall be borne by the city at large and the Governing Body is hereby empowered to issue general improvement bonds for the purpose of raising funds for making such improvements in an amount not exceeding the total cost of said improvement;

PROVIDED, that the total amount of bonds issued for such improvements in any one year shall not exceed an amount equal to one-half of one percent of the assessed tangible valuation of the city;

PROVIDED, FURTHER, that bonds for such improvements shall not be outstanding at any one time in an amount in excess of one and one-half percent of such assessed tangible valuation.

SECTION TWO: This ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION THREE: This is a charter ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, Subdivision (c)(3), of the Constitution of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting therein.

PASSED and **APPROVED** by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, the 20th day of July, 1965.

CHARTER ORDINANCE NO. 4. Repealed 07/15/69.

CHARTER ORDINANCE NO. 5. Repealed 04/21/70.

CHARTER ORDINANCE NO. 6

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 4 RELATING TO THE ENLARGING, REPAIRING, EXTENDING AND IMPROVING OF THE SYSTEM OF THE WATERWORKS IN THE CITY OF OLATHE, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: Charter Ordinance No. 4 heretofore passed on the 8th day of November, 1966, published on the 11th day of November and the 18th day of November, 1966, and effective sixty-one (61) days thereafter, is hereby repealed.

SECTION TWO: This ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION THREE: This is a charter ordinance and it shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, of the Constitution of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting therein.

PASSED and **APPROVED** by the Governing Body, not less than two-thirds of the members elect, voting in favor thereof the 15th day of July, 1969.

CHARTER ORDINANCE NO. 7

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS, FROM K.S.A. 13-14a01 THROUGH 13-14a14, INCLUSIVE, RELATING TO FIRE AND POLICE DEPARTMENT RETIREMENT SYSTEMS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The City of Olathe, Kansas, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and exempts itself from K.S.A. 13-14a01 through 13-14a14, inclusive, relating to fire and police department retirement systems.

SECTION TWO: This ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION THREE: This is a charter ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, Subdivision (c)(3) of the Constitution of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, the 10th day of February, 1970.

SIGNED by the Mayor the 10th day of February, 1970.

CHARTER ORDINANCE NO. 8

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS, FROM K.S.A. 12-3001 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, RELATING TO THE CONSIDERATION OF ORDINANCES AT PUBLIC MEETINGS AND FINAL PASSAGE THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The City of Olathe, Kansas, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and exempts itself from K.S.A. 12-3001 which applies to said city but not uniformly to all cities, and provides substitute and additional provisions on the same subject as hereinafter provided.

SECTION TWO: All ordinances of the City of Olathe, Kansas, shall be considered at a public meeting of the Governing Body except where a statute provides a different procedure for an ordinance for a specific purpose. All ordinances may be passed finally on the day it is introduced; provided, no ordinance granting a franchise or special privilege shall ever be passed finally on the day it is introduced.

SECTION THREE: This ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION FOUR: This is a charter ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, Subdivision (c)(3) of the Constitution of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, the 10th day of February, 1970.

SIGNED by the Mayor the 10th day of February, 1970.

CHARTER ORDINANCE NO. 9. Repealed 8/19/86.

CHARTER ORDINANCE NO. 10. Repealed 12/22/81.

CHARTER ORDINANCE NO. 11. Repealed 8/2/16.

CHARTER ORDINANCE NO. 12. Repealed 10/02/84.

CHARTER ORDINANCE NO. 13. Repealed 05/21/86.

CHARTER ORDINANCE NO. 14

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS, FROM K.S.A. 13-2107, RELATING TO DEMAND DEPOSITS OF PUBLIC MONEYS AND CERTAIN DUTIES OF THE CITY TREASURER.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The City of Olathe, Kansas, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to make applicable to it and exempt itself from K.S.A. 13-2107 which applies to said city, but not uniformly to all cities.

SECTION TWO: This is a charter ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for referendum is filed requiring a referendum be held on the ordinance as provided by Article 12, Section 5, Subdivision (c)(3), of the Constitution of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

SECTION THREE: This ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

PASSED by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, the 3rd day of November, 1970.

SIGNED by the Mayor the 3rd day of November, 1970.

CHARTER ORDINANCE NO. 15

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS, FROM K.S.A. 12-1737 AND PROVIDING SUBSTITUTE PROVISIONS ON THE SAME SUBJECT, RELATING TO THE METHODS OF FINANCING THE ACQUISITION OR CONSTRUCTION OF PUBLIC BUILDINGS; BOND ELECTIONS, WHEN; TAX LEVIES; ELECTIONS; INVESTMENT OF BUILDING FUNDS; AND INTEREST.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The City of Olathe, Kansas, by the power invested in it by Article 12 of Section 5 of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and exempts itself from K.S.A. 12-1737 which applies to said city, but not uniformly to all cities, and provides a substitute provision on the same subject as hereinafter set forth in Section Two.

SECTION TWO: The Governing Body of the City of Olathe, Kansas, may for the purposes authorized and provided in K.S.A. 12-1736, and all acts supplemental and amendatory thereto:

(a) Receive and expend gifts;

(b) Receive and expend grants in aid of state or federal funds;

(c) Issue bonds of the city;

(d) Make an annual tax levy of not more than eight (8) mills upon all taxable tangible property in the City of Olathe, Kansas, for the purpose of creating a building fund to be used for the purposes authorized and provided in K.S.A. 12-1736, and all acts supplemental and amendatory thereto;

(e) Issue no-fund warrants;

(f) Use moneys from the general operating fund or other appropriated budgeted fund when such is available;

(g) Use moneys received from the sale of public buildings or buildings and sites; or

(h) Combine any two or more of such methods of financing for the purposes herein authorized: Provided, the city shall first use funds received from the payment of insurance claims for damages sustained by any such public building before resorting to methods of financing herein authorized. An election upon the issuance of bonds under the authority of this ordinance shall be required for the purpose of acquiring or constructing city offices, public libraries, auditoriums, community or recreational buildings.

When an election upon the issuance of bonds is required, the question of the issuance of said bonds shall be submitted to a vote of the qualified electors of such city at a regular city election or at a special city election called for that purpose, and no such bonds shall be issued unless a majority of those voting on the question shall have declared by their votes to be in favor of the issuance of said bonds. Such bond election shall be called and held, and said bonds shall be issued in accordance with the provisions of the general bond law. No levies shall be made for the purpose of creating a building fund under the provisions of this charter ordinance until an ordinance authorizing the making of such levies shall annually be passed by the Governing Body of the city.

The levy herein authorized shall be in addition to and not limited by any other act authorizing or limiting the tax levies of the city. The city is hereby authorized to invest any portion of the special building fund which is not currently needed in direct obligations of the United States government maturing or redeemable at par and accrued interest within one (1) year from the date of purchase, the principal and interest whereof is guaranteed by the government of the United States, and in time certificates of deposit pursuant to Section 3.12.010 of the Olathe Municipal Code. All interest received on such investments shall upon receipt thereof be credited to the special building fund.

No-fund warrants issued under the authority of this ordinance shall be issued in the manner and form and bear interest and be redeemed as prescribed by Section 79-2940 of the General Statutes of 1949, and acts amendatory thereof, except that they may be issued without the approval of the State Board of Tax Appeals, and without the notation required by Section 79-2940 of the General Statutes of 1949. The Governing Body shall make a tax levy at the first tax levying period after such warrants are issued, sufficient to pay such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized or limited by law, and none of the tax limitations provided by Article 19 of Chapter 79 of the General Statutes of 1949, and acts amendatory thereof, shall apply to such levies.

SECTION THREE: This ordinance shall be published once each week for two (2) consecutive weeks in the official city newspaper.

SECTION FOUR: This is a charter ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, Subdivision (c)(3), of the Constitution of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, the 2lst day of March, 1972.

SIGNED by the Mayor this 21st day of March, 1972.

CHARTER ORDINANCE NO. 16. Repealed 10/16/79.

CHARTER ORDINANCE NO. 17

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE FROM THE PROVISION OF K.S.A. 13-1017, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE MAKING OF PUBLIC IMPROVEMENTS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The City of Olathe, Kansas, a city of the first class, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt, and does exempt, itself from, and makes inapplicable to it, the provisions of K.S.A.. 13-1017, which apply to said city but not uniformly to all cities, and provides substitute and additional provisions on the same subject as hereinafter provided.

SECTION TWO: Before undertaking the construction or reconstruction of any sidewalk, curb, gutter, bridge, pavement, sewer or any other public improvement in any street, highway or public grounds, or of any public building or facility, or of any kind of public improvement in the City of Olathe, Kansas, shall be commenced or ordered by the Governing Body, or under its authority, a detailed estimate of the cost of such improvements, shall be made under oath by the city engineer (or some other competent person, appointed for such purposes by the Governing Body) and said estimate shall be submitted to the Governing Body for its action thereon.

SECTION THREE: Before any type of public improvements shall be commenced, the money to pay for the same must be available in the city treasury as provided by law; or provision may be made for the issuance of internal improvement bonds to pay for any such improvement as provided by law.

SECTION FOUR: That this ordinance shall not be construed to include any repair or maintenance work not amounting to substantial alteration, addition or change in any street or facility; and "public improvement" as used herein shall not include the making or repairs or the maintenance of any building, street, sidewalk or other public facility or the making of any expenditures from the city budget for such purposes.

SECTION FIVE: This ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION SIX: This is a charter ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, Subdivision (c)(3), of the Constitution of the State of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED and **APPROVED** by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, the 2nd day of May, 1978.

SIGNED by the Mayor this 2nd day of May, 1978.

CHARTER ORDINANCE NO. 18 Repealed 08/15/89.

CHARTER ORDINANCE NO. 19. Repealed 09/04/90.

CHARTER ORDINANCE NO. 20. Repealed 03/17/87.

CHARTER ORDINANCE NO. 21. Repealed 05/21/86.

CHARTER ORDINANCE NO. 22. Repealed 08/15/89.

CHARTER ORDINANCE NO. 23

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS, FROM K.S.A. 13-1805, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, RELATING TO THE OBTAINING OF SURETY BONDS FOR CITY OFFICERS AND EMPLOYEES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The City of Olathe, Kansas, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and exempts itself from K.S.A. 13-1805 which applies to said city but not uniformly to all cities, and provides substitute and additional provisions on the same subject as hereinafter provided.

SECTION TWO: The Governing Body shall obtain a good and sufficient surety bond in the amount of $500,000, giving blanket coverage of all city employees, conditioned for the faithful discharge of employee's duties, and saving the City of Olathe harmless from all loss caused by neglect of duty or malfeasance in office, or for the willful expenditure of any monies of such city in violation of law.

SECTION THREE: This ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION FOUR: This is a charter ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, Subdivision (c)(3) of the Constitution of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, the 17th day of January, 1984.

SIGNED by the Mayor the 17th day of January, 1984.

CHARTER ORDINANCE NO. 24

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 12 RELATING TO THE LIMITATION OF TAX LEVIES IN ANY ONE YEAR AND THE AGGREGATE CITY-WIDE TAX LEVY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: That Charter Ordinance No. 12 of the City of Olathe, Kansas, heretofore passed on the 21st day of April, 1970, published on the 24th day of April and the 1st day of May, 1970, and effective sixty-one (61) days thereafter, is hereby repealed.

SECTION TWO: This ordinance shall be published once each week for two (2) consecutive weeks in the official city newspaper.

SECTION THREE: This is a charter ordinance and it shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, of the Constitution of Kansas in which case the ordinance shall become effective if approved by a majority of the electors voting therein.

PASSED and **APPROVED** by the Governing Body, not less than two-thirds of the members elect, voting in favor thereof the 2nd day of October, 1984.

SIGNED by the Mayor the 2nd day of October, 1984.

CHARTER ORDINANCE NO. 25

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS, FROM K.S.A. 12-4207 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, RELATING TO SERVICE OF UNIFORM NOTICES TO APPEAR AND COMPLAINTS FILED WITH THE OLATHE MUNICIPAL COURT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The City of Olathe, Kansas, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and exempts itself from K.S.A. 12-4207 relating to service of complaints filed in the municipal court, which applies to said city but not uniformly to all cities, and provides substitute and additional provisions on the same subject as hereinafter provided.

SECTION TWO: Complaints and Notices to Appear; Service. Complaints and Notices to Appear shall be served upon the accused persons by delivering a copy to him or her personally, or by leaving it at the dwelling house of the accused person or usual place of abode with some person of suitable age and discretion then residing therein, or by mailing it to the last known address of said person. A Complaint and Notice to Appear may be served by a law enforcement officer, fire marshal or duly appointed Olathe building official, code enforcement officer or zoning enforcement officer within the state and, if mailed, shall be mailed by an Olathe law enforcement officer or the clerk of the municipal court. No provisions of this charter ordinance shall be construed to empower fire marshals, building officials, code enforcement officers, zoning enforcement officers or court clerks with powers of arrest, search, detention or other powers of law enforcement officers, except as provided by law. Upon service by mail the law enforcement officer or court clerk shall execute a verification to be filed with a copy of the Notice to Appear. Said verification shall be deemed sufficient if in substantially the following form:
The undersigned hereby certifies that on the _____ day of_____, 19____ , a copy of the Complaint and Notice to Appear was mailed to_____
_____,
at_____,_____
_____.

_____
(Signature of Law Enforcement
Officer or Clerk of Court)

SECTION THREE: This charter ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION FOUR: This is a charter ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, Subdivision (c)(3), of the Constitution of the State of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED by the Governing Body, not less than two-thirds of the member elect voting in favor thereof, this 18th day of December, 1984.

SIGNED by the Mayor this 18th day of December, 1984.

CHARTER ORDINANCE NO. 26

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-856 AND 12-860 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISION ON THE SAME SUBJECT RELATING TO DEFINITIONS FOR COMBINED WATER WORKS AND SEWAGE DISPOSAL SYSTEMS FOR CITIES UNDER 80,000 POPULATION AND THE RATES AND CHARGES; USE OF REVENUES; COLLECTIONS AND LIENS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The City of Olathe, Kansas, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it the provisions of K.S.A. 12-856 and 12-860 and provide substitute and additional provisions as hereinafter set forth in this ordinance. Such referenced provisions are either enactments or a part thereof which are applicable to this city but are not applicable uniformly to all cities.

SECTION TWO: For the purpose of this act the following words and phrases shall have the meanings ascribed to them in this section:

(a) "City" shall mean any city having a population of less than eighty thousand (80,000).

(b) "Waterworks system" shall mean a waterworks system owned and operated by a city.

(c) "Sewage disposal system" shall mean the sanitary sewers, pumping stations, sewage treatment plans, outfall sewers and any and all appurtenances necessary in the operation of the same owned and operated by a city.

(d) "Water and sewage system" shall mean a combination of a waterworks system and sewage disposal system.

(e) "Systems development charge" shall mean a charge levied on development to provide revenue to finance extra capacity facilities.

(f) "Extra capacity facilities" shall mean improvements to the public facilities of the city that provide increased capacity to serve new or expanded development as distinguished from replacement or restoration of facilities that have or may become worn or obsolete.

SECTION THREE. The Governing Body of the city shall have the power to establish and collect such rates and charges, including but not limited to minimum charges, charges for the availability of service, tap fees, disconnection fees, reconnection fees, system development charges and reasonable penalties for any delinquencies, for water and for the use of the sewage disposal system as shall be reasonable and sufficient to pay the cost of acquisition of property, operation, repairs, maintenance, extension and enlargement of the water and sewer system and improvements thereof and new construction and the payment of any bonds and the interest thereon as may be issued for such water and sewage system: Provided, no revenue shall be used for the payment of bonds payable primarily by assessments against property in sewer districts: Provided further, that such revenue may be used to pay revenue bonds or general obligation bonds payable by the city at large issued for either the waterworks system or sewage disposal system before the systems were combined or for the water and sewage system after they have been combined. The city is authorized to discontinue water service for any failure to pay the rates or charges fixed for either water service or the use of the sewage disposal system or both when due, and if there is sewage disposal system use without water service the charge may be certified as a lien against the property served and assessed as a tax by the county clerk or county assessor.

SECTION FOUR: This ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION FIVE: This is a charter ordinance and shall take effect 61 days after final publication, unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, Subdivision (c)(3) of the Constitution of Kansas, in which case the ordinance shall become effective if approved by the majority of the electors voting thereon.

PASSED by the Governing Body, not less than two-thirds of the members elect, voting in favor thereof the 20th day of August, 1985.

SIGNED by the Mayor the 20th day of August, 1985.

CHARTER ORDINANCE NO. 27. Repealed 08/19/86.

CHARTER ORDINANCE NO. 28. Repealed 8/2/16

CHARTER ORDINANCE NO. 29

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 27 RELATING TO THE ELECTIONS AND TENURE OF COMMISSIONERS, QUALIFICATIONS AND VACANCIES, AND DUTIES OF THE MAYOR.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: That Charter Ordinance No. 27 of the City of Olathe, Kansas, heretofore passed on the 21st day of May, 1986, published on the 24th day of May and the 31st day of May, 1986, and effective sixty-one (61) days thereafter, is hereby repealed.

SECTION TWO: This charter ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION THREE: This is a charter ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, Subdivision (c)(3), of the Constitution of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED by the Governing Body, not less than two-thirds of the members elect voting in favor of thereof, the 19th day of August, 1986.

SIGNED by the Mayor this 19th day of August, 1986.

CHARTER ORDINANCE NO. 30. Repealed 06/20/95.

CHARTER ORDINANCE NO. 31. Defeated by election 08/02/88.

CHARTER ORDINANCE NO. 32. Repealed 04/21/15.

CHARTER ORDINANCE NO. 33

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS, FROM K.S.A. 13-10, 135 THROUGH 13-10, 139, INCLUSIVE, RELATING TO DELAY IN PAYMENT OF SPECIAL ASSESSMENTS FOR PUBLIC IMPROVEMENTS IN UNDEVELOPED AREAS; AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The City of Olathe, Kansas, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and exempt itself from K.S.A. 13-10, 135 through and including 13-10, 139 relating to the delay in payment of special assessments for public improvements in undeveloped areas, which applies to said city but not uniformly to all cities, and provides the following substitute and additional provisions on the same subject.

SECTION TWO: Authority to Delay Assessments. Whenever the Governing Body may cause any public improvement to be constructed, the expense of which is chargeable to a benefit district, the Governing Body may in its discretion, authorize and provide for a delay in the payment of such assessments subject to the conditions and in the manner provided below:

SECTION THREE: Conditions for Delay--Amended October 4, 1988. (See Charter Ordinance No. 34.)

SECTION FOUR: Procedure to Grant Delay. Any property owner that may be, or is, included in any benefit district for public improvements, may request a deferment in the payment of special assessments for the costs of such public improvements, either concurrently with the creation of the district or at any time prior to the levy of special assessments. Such request shall be in writing and shall specifically detail how the property will meet the above-described standards for deferment. Such request shall be filed with the city clerk, who shall forward the request to the Governing Body for action.

If the Governing Body decides to grant the deferment, it shall do so by resolution, unless the request for deferment occurs concurrently with the levying of assessments, in which case the deferral shall be noted in the assessment ordinance.

SECTION FIVE: Assessment Ordinance Requirements. Ordinances levying special assessments for the cost of constructing public improvements upon property for which the city has grated a delay in payment shall state the words, "payment delayed", state the period of the delay, and shall state the recoupment charge for loss of use of city money. The city clerk shall certify such special assessments to the county clerk, and when levied, certified and become dues, shall be collected as other taxes.

SECTION SIX: Principal and Interest Payments During Delay Period. Whenever the Governing Body grants a delay in the payment of assessments, it shall provide for the payment of principal and interest of bonds issued for the payment of the costs of such improvement during the period for which such delay has been granted by the levy of a tax upon all of the taxable property of the city in the manner provided for the payment of bonds payable by the city at large. That portion of the bonds issued for the payment of the cost of constructing public improvements which are payable by the city at large during the period granted as a delay in the payment of assessments shall be considered bonds payable by the city at large and not bonds the costs of which are payable from special assessments.

SECTION SEVEN: Payments Due. All such delayed assessments shall become due and payable in the same installments as originally assessed at the time such property is sold, platted, or developed at the expiration of the designated period, or failure to pay the recoupment charge.

SECTION EIGHT: Recoupment Charge--Amended October 4, 1988. (See Charter Ordinance No. 34.)

SECTION NINE: This is a charter ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, Subdivision (c)(3) of the Constitution of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED and **APPROVED** by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, the 5th day of July, 1988.

CHARTER ORDINANCE NO. 34

A CHARTER ORDINANCE AMENDING SECTIONS THREE AND EIGHT OF CHARTER ORDINANCE NO. 33 RELATING TO DELAY IN PAYMENT OF SPECIAL ASSESSMENTS FOR PUBLIC IMPROVEMENTS AND UNDEVELOPED AREAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: That Section Three of Charter Ordinance No. 33 is hereby amended to read as follows:

"SECTION THREE: Conditions for Delay. The Governing Body may allow and provide for a delay in the payment of special assessments for the cost of constructing public improvements for a period of up to ten (10) years or until the property is sold, developed or platted if all of the following conditions are met:

(a) The land upon which the special assessment is to be levied is located inside the city limits of Olathe.

(b) The land is used for agricultural purposes. Agricultural purposes means that the land is being actively used for the growing of crops or the raising of livestock.

(c) The land is undeveloped and unplatted.

(d) The land is in excess of four (4) acres in size.

(e) The land has a population density of less than one family per acre.

(f) The land is not served by the public improvement. Not served by the public improvement means the following:

(1) For sewers--buildings or structures on the property will not use the sewage facilities and do not need the facilities to meet health requirements;

(2) For waterlines--structures on the property will not use the water improvements and have adequate potable water to meet property's need;

(3) For streets--the street improvement is not necessary to provide access to existing buildings or structures, or if none exist, to the property itself;

(g) The assessment would provide a hardship to the owner of the property; and

(h) For the term of the delay and the collection period of assessments, the owner agrees to pay an amount designed to compensate the city for the carrying cost associated with paying the debt service on special assessments that have been delayed (recoupment costs). This amount will be calculated as follows: the total cumulative amount of assessments paid by the property owner shall be subtracted from the total cumulative amount expended by the city for principal and interest payments on the delayed assessments to determine the net amount expended by the city. The net amount expended shall be multiplied by an interest rate equal to the yield of the most recently issued ten (10) year treasury notes as listed in the Wall Street Journal on the day following the passage of the assessment ordinance."

SECTION TWO: That Section Eight of Charter Ordinance No. 33 is hereby amended to read as follows:

"SECTION EIGHT: Recoupment Charge. The recoupment charge shall be payable on an annual basis. The city treasurer shall calculate the amount due and shall send an invoice to the property owner for payment."

SECTION THREE: This charter ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION FOUR: This is a charter ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, Subdivision (c)(3) of the Constitution of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, the 4th day of October, 1988.

SIGNED by the Mayor this 4th day of October, 1988.

CHARTER ORDINANCE NO. 35

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCES NO. 18 AND 22 PERTAINING TO THE LICENSING OF PLUMBERS DOING WORK IN THE CITY OF OLATHE, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS;

SECTION ONE: That Charter Ordinance No. 18 of the City of Olathe, Kansas, heretofore passed on the 16th day of October, 1979, published on the 2nd day of November, 1979, and the 9th day of November, 1979; and effective sixty-one (61) days thereafter, is hereby repealed.

SECTION TWO: That Charter Ordinance No. 22 of the City of Olathe, Kansas, heretofore passed on the second day of October, 1983, published on the 22nd and 29th days of October, 1983, and effective sixty-one (61) days thereafter is hereby repealed.

SECTION THREE: This ordinance shall be published once each week for two (2) consecutive weeks in the official newspaper.

SECTION FOUR: This is a charter ordinance and it shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, of the Constitution of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED and **APPROVED** by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, the 15th day of August, 1989.

SIGNED by the Mayor this 15th day of August, 1989.

CHARTER ORDINANCE NO. 36

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 19 RELATING TO THE BORROWING OF MONEY AND THE ISSUANCE OF BONDS FOR GENERAL IMPROVEMENTS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: That Charter Ordinance No. 19 of the City of Olathe, Kansas, relating to the borrowing of money and the issuance of bonds for general improvements, heretofore passed on the 17th day of June, 1980, and published on the 20th and 27th days of June, 1980, and effective sixty-one (61) days thereafter, is hereby repealed.

SECTION TWO: This ordinance shall be published once each week for two (2) consecutive weeks in the official city newspaper.

SECTION THREE: This is a charter ordinance and it shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, of the Constitution of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting therein.

PASSED and **APPROVED** by the Governing Body, not less than two-thirds of the members elect, voting in favor thereof the 4th day of September, 1990.

SIGNED by the Mayor the 4th day of September, 1990.

CHARTER ORDINANCE NO. 37. Repealed 05/07/91.

CHARTER ORDINANCE NO. 38. Repealed 04/21/15.

CHARTER ORDINANCE NO. 39

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 37 EXEMPTING THE CITY OF OLATHE, KANSAS, FROM THE PROVISIONS OF K.S.A. 13-1008d TO 13-1008h, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS RELATING TO THE IMPROVEMENT OF SIDEWALKS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: That Charter Ordinance No. 37 of the City of Olathe, Kansas, exempting the City from the provisions of K.S.A. 13-1008d to 13-1008h, and providing substitute and additional provisions relating to the improvement of sidewalks, heretofore passed on the 5th day of February, 1991, published on the 9th and 16th day of February, 1991, is hereby repealed.

SECTION TWO: This Ordinance shall be published once each week for two consecutive weeks in the official City newspaper.

SECTION THREE: This is a Charter Ordinance and it shall take effect sixty-one (61) days after the final publication, unless a sufficient petition for a referendum is filed and a referendum held on the Ordinance as provided in Article 12, Section 5, of the Constitution of Kansas, in which case the Ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED AND APPROVED by the Governing Body, not less than two-thirds of the members elect, voting in favor thereof the 7th day of May, 1991.

SIGNED by the Mayor the 7th day of May, 1991.

CHARTER ORDINANCE NO. 40. Defeated by election 11/05/91.

CHARTER ORDINANCE NO. 41. Repealed 08/20/02

CHARTER ORDINANCE NO. 42

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS, FROM THE PROVISIONS OF THE SECOND SENTENCE OF THE SECOND PARAGRAPH OF K.S.A. 12-189 AS AMENDED BY SECTION NO. 2 OF CHAPTER 251 OF THE 1992 SESSION LAWS OF KANSAS, AND FROM THE PROVISIONS OF THE FIRST SENTENCE OF K.S.A. 12-191; RELATING GENERALLY TO THE COUNTYWIDE AND CITY RETAILERS' SALES TAX; RELATING TO THE APPLICATION OF SUCH TAX TO CERTAIN SALES; RELATING TO THE EXEMPTION OF CERTAIN SALES FROM THE APPLICATION OF SUCH TAX; AND PROVIDING SUBSTITUTE PROVISIONS THEREFOR AND AN ADDITIONAL PROVISION EFFECTIVE JANUARY 1, 1993, EXEMPTING GROSS RECEIPTS RECEIVED FROM THE SERVICE OF INSTALLING OR APPLYING TANGIBLE PERSONAL PROPERTY IN CONNECTION WITH THE ORIGINAL CONSTRUCTION OF A BUILDING OR FACILITY OR THE CONSTRUCTION, RECONSTRUCTION, RESTORATION, REPLACEMENT OR REPAIR OF A BRIDGE OR HIGHWAY FROM IMPOSITION OF THE CITY OF OLATHE'S CITY-WIDE RETAILERS' SALES TAX.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The City of Olathe, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it the provisions of the second sentence of the second paragraph of K.S.A. 12-189 as amended by Section No. 2 of Chapter 251 of the 1992 Session Laws of Kansas, which sentence reads as follows:

Except as otherwise specifically provided in K.S.A. 12-189a, and amendments thereto, such tax shall be identical in its application, and exemptions therefrom, to the Kansas retailers' sales tax act and all laws and administrative rules and regulations of the state department of revenue relating to the Kansas retailers' sales tax shall apply to such local sales tax insofar as such laws and rules and regulations may be made applicable. Such referenced provisions are either enactments or a part thereof which are applicable to this City but are not uniformly applicable to all cities.

SECTION TWO: The City of Olathe, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby enacts the following substitute and additional provisions for those provisions exempted from in SECTION ONE, above:

Such tax shall be identical in its application, and exemptions therefrom, to the Kansas retailers' sales tax act and all laws and administrative rules and regulations of the state department of revenue relating to the Kansas retailers' sales tax shall apply to Olathe city-wide retailers' sales tax insofar as such laws and rules and regulations may be made applicable, except as otherwise specifically provided in K.S.A. 12-189a, and amendments thereto, and except that, effective January 1, 1993, the City of Olathe's city-wide retailers' sales tax shall not be imposed upon gross receipts received from the service of installing or applying tangible personal property in connection with the original construction of a building or facility or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

SECTION THREE: The City of Olathe, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it the provisions of the first sentence of K.S.A. 12-191, which sentence reads as follows:

All retail transactions consummated within a county or city having a retail sales tax, which transactions are subject to the Kansas retailers' sales tax, shall also be subject to such county or city retail sales tax, except as otherwise expressly provided in K.S.A. 12-190, and amendments thereto.

Such referenced provisions are either enactments or a part thereof which are applicable to this City but are not uniformly applicable to all cities.

SECTION FOUR: The City of Olathe, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby enacts the following substitute and additional provisions for those provisions exempted from in SECTION THREE, above:

All retail transactions consummated within the City of Olathe, Kansas, which transactions are subject to the Kansas retailers' sales tax, shall also be subject to the City of Olathe's city-wide retailers' sales tax, except that, effective January 1, 1993, the City of Olathe's city-wide retailers' sales tax shall not be imposed upon gross receipts received from the service of installing or applying tangible personal property in connection with the original construction of a building or facility or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

SECTION FIVE: This Ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION SIX: THIS IS A CHARTER ORDINANCE AND IT SHALL TAKE EFFECT SIXTY-ONE (61) DAYS AFTER FINAL PUBLICATION UNLESS WITHIN SIXTY (60) DAYS OF ITS FINAL PUBLICATION A PETITION SIGNED BY A NUMBER OF ELECTORS OF THE CITY OF OLATHE EQUAL TO NOT LESS THAN TEN PERCENT (10%) OF THE NUMBER OF ELECTORS WHO VOTED AT THE LAST PRECEDING REGULAR CITY ELECTION SHALL BE FILED IN THE OFFICE OF THE CITY CLERK OF OLATHE DEMANDING AN ELECTION ON THE CHARTER ORDINANCE, IN WHICH CASE THE CHARTER ORDINANCE SHALL BECOME EFFECTIVE ONLY IF AND WHEN APPROVED BY A MAJORITY OF THE ELECTORS VOTING THEREON.

PASSED by the Governing Body, not less than two-thirds of the members elect voting in favor thereof the 20th day of October, 1992.

SIGNED by the Mayor the 20th day of October, 1992.

CHARTER ORDINANCE NO. 43. Failed 2/3/93.

CHARTER ORDINANCE NO. 44. Protested 10/11/93.

CHARTER ORDINANCE NO. 45. Protested 6/27/94.

CHARTER ORDINANCE NO. 46. Defeated by election 8/2/94.

CHARTER ORDINANCE NO. 47. Defeated by election 11/8/94.

CHARTER ORDINANCE NO. 48. Repealed 2/5/03

CHARTER ORDINANCE NO. 49

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS, FROM THE PROVISIONS OF K.S.A. 25-2303, 25-2309 AND 25-2709 AND AMENDMENTS THERETO.

WHEREAS, House Bill No. 2079 was enacted by the 1996 legislature, is a nonuniform enactment, and places significant mandates on cities of the first and second class in Kansas.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: Exemption. The City of Olathe by virtue of the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to and does exempt itself and make inapplicable to it K.S.A. 25-2303, 25-2309 and 25-2709 and amendments thereto, which apply to this city but do not apply uniformly to all cities.

SECTION TWO: Publication. This Charter Ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION THREE: Effective Date. This Charter Ordinance shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed, requiring a referendum to be held on the ordinance as provided in Article 12, Section 5 of the Constitution of the State of Kansas, in which case this Charter Ordinance shall become effective upon approval by a majority of the electors voting thereon.

PASSED AND APPROVED by the Governing Body, not less than two-thirds of the members elect voting in favor thereof this 16th day of July, 1996.

SIGNED by the Mayor this 16th day of July, 1996.

CHARTER ORDINANCE NO. 50. Repealed 12/21/04.

CHARTER ORDINANCE NO. 51

A CHARTER ORDINANCE AMENDING SECTION TWO OF CHARTER ORDINANCE NO. 25 RELATING TO SERVICE OF UNIFORM NOTICES TO APPEAR AND COMPLAINTS FILED WITH THE OLATHE MUNICIPAL COURT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: That Section Two of Charter Ordinance No. 25 is hereby amended to read as follows:

"SECTION TWO: Complaints and Notice to Appear; Service. Complaints and Notices to Appear shall be served upon the accused persons by delivering a copy to him or her personally, or by leaving it at the dwelling house of the accused person or usual place of abode with some person of suitable age and discretion then residing therein, or by mailing it to the last known address of said person. A complaint and Notice to Appear may be served by a law enforcement officer, community service officer, fire marshall, building official, code enforcement officer, zoning enforcement officer or park ranger within the state and, if mailed, shall be mailed by an Olathe law enforcement officer or the Clerk of the Municipal Court. No provisions of this Charter Ordinance shall be construed to empower building officials, code enforcement officers, zoning enforcement officers, community service officers, park rangers or court clerks with powers of arrest, search, detention or other powers of law enforcement officers, except as provided by law. Upon service by mail, the law enforcement officer or court clerk shall execute a verification to be filed with a copy of the Notice to Appear. Said verification shall be deemed sufficient if in substantially the following form:

The undersigned here certifies that on the _____ day of _____, 19____, a copy of the Complaint and Notice to Appear was mailed to _____, at _____, _____, _____.

_____
(Signature of law enforcement officer or Clerk of the Court)"

SECTION TWO: This Charter Ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION THREE: This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, Subdivision(c)(3), of the Constitution of the State of Kansas, in which case the ordinance shall be come effective if approved by a majority of the electors voting thereon.

PASSED by the Governing Body, not less than two-thirds of the member elect voting in favor thereof, this 5th day of August, 1997.

SIGNED by the Mayor this 5th day of August, 1997.

CHARTER ORDINANCE NO. 52. Passed 5/19/98. Reconsidered – Withdrawn/Failed 8/3/98.

CHARTER ORDINANCE NO. 53. Defeated by Election 11/3/98.

CHARTER ORDINANCE NO. 54

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-194; RELATING TO PROHIBITION OF CERTAIN EXCISE TAXES; AND PROVIDING A SUBSTITUTE AND ADDITIONAL PROVISION AUTHORIZING THE CITY OF OLATHE, KANSAS, TO LEVY AN EXCISE TAX ON THE ACT OF PLATTING REAL PROPERTY AND BUILDING IN THE CITY, TO GRANT CREDITS AGAINST EXCISE TAXES PAID ON THE ACT OF PLATTING REAL PROPERTY OR BUILDING PREVIOUSLY MADE FOR CERTAIN TRANSPORTATION IMPROVEMENTS, TO GRANT EXEMPTIONS, AND TO PLEDGE THE REVENUES THEREFROM FOR TRANSPORTATION IMPROVEMENTS IN THE CITY.

SECTION ONE: The City of Olathe, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from and make applicable to it the provisions of K.S.A. 12-194, which provisions reads as follows:

No city or county shall levy or impose an excise tax or a tax in the nature of an excise, other than a retailers' sales tax and a compensating use tax, upon the sale or transfer of personal or real property, or the use thereof, or the rendering of a service, but the provisions of this section shall not be construed as prohibiting any city from (a) contracting with a utility for a faxed charge based upon a percentage of gross receipts derived from the service permitted by grant, right, privilege or franchise to such utility; (b) imposing an occupational tax or license fee for the privilege of engaging in any business, trade, occupation or profession, or rendering or furnishing any service, but the determination of any such license fee shall not be based upon any amount the licensee has received from the sale or transfer of personal or real property, or for the rendering or furnishing of a service, or on the income of the licensee; or (c) levying any occupation tax or license fee imposed by such city prior to the effective date of this act. No license fee described in subsection (b) of this section shall be imposed upon any utility contracting with and subject to a charge, described in subsection (a) of this section, by such city.

Such referenced provisions are either enactments or a part thereof which are applicable to this city but are not uniformly applicable to all cities.

SECTION TWO: The City of Olathe, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby enacts the following substitute and additional provisions in lieu of those provisions from which it is exempted pursuant to Section One above.

The City of Olathe, Kansas, shall not levy or impose an excise tax or a tax in the nature of an excise, other than a retailers' sales tax and compensating use tax, upon the sale or transfer of personal or real property, or the use thereof, or the rendering of a service, but the provisions of this section shall not be construed as prohibiting the city from (a) contracting with a utility for a fixed charge based upon a percentage of gross receipts derived from the service permitted by grant, right, privilege or franchise to such utility: (b) imposing an occupational tax or license fee for the privilege of engaging in any business, trade, occupation or profession, or rendering or furnishing any service, but the determination of any such license fee shall not be based upon any amount the licensee has received from the sale or transfer of personal or real property, or for the rendering or furnishing of a service, or on the income of the licensee; or (c) levying any occupation tax or license fee imposed by the city prior to the effective date of this ordinance; or (d) levying an excise tax on the act of platting real property in the City, granting credits against excise taxes paid on the act of platting real property in the City for contributions previously made for transportation improvements, granting exemptions, and pledging revenues therefrom for transportation improvements in the City.

SECTION THREE: That this Charter Ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION FOUR: This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication unless within sixty (60) days of its final publication a petition signed by a number of electors of the City of Olathe equal to not less than ten percent (10%) of the number of electors who voted at the last preceding regular City election shall be filed in the office of the City Clerk of Olathe demanding an election on the Charter Ordinance, in which case the Charter Ordinance shall become effective only if and when approved by a majority of the electors voting thereon.

PASSED BY THE GOVERNING BODY, not less than two-thirds of the members elect voting in favor thereof, this 15th day of December, 1998.

SIGNED BY THE MAYOR this 15th day of December, 1998.

CHARTER ORDINANCE NO. 55. Repealed 2/5/03

CHARTER ORDINANCE NO. 56. Repealed 2/5/03

CHARTER ORDINANCE NO. 57. Protested 7/24/01. Withdrawn

CHARTER ORDINANCE NO 58. Repealed 8/20/02.

CHARTER ORDINANCE NO. 59. Repealed 8/20/02.

CHARTER ORDINANCE NO. 60. Repealed 3/3/15.

CHARTER ORDINANCE NO. 61. Repealed 8/2/16.

CHARTER ORDINANCE NO. 62. Repealed 8/2/16.

CHARTER ORDINANCE NO. 63. Repealed 8/19/2008.

CHARTER ORDINANCE NO. 64. Defeated by Election 3/9/2004.

CHARTER ORDINANCE NO. 65. Repealed 3/3/2015.

CHARTER ORDINANCE NO. 66. Repealed October 18, 2005.

CHARTER ORDINANCE NO. 67

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 50; FURTHER EXEMPTING THE CITY OF OLATHE, KANSAS FROM K.S.A. 12-4112 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS RELATING TO THE ASSESSMENT OF COSTS ASSOCIATED WITH THE MUNICIPAL COURT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: Charter Ordinance No. 50 heretofore passed on the 17th day of December, 1996, published on the 7th and the 14th days of January, 1997, and effective sixty-one (61) days thereafter, is hereby repealed.

SECTION TWO: The City of Olathe, Kansas, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and exempts itself from K.S.A. 12-4112 relating to municipal court costs, fees and assessments, which apply to said city but not uniformly to all cities, and to establish substitute and additional provisions on the same subject as hereinafter provided.

SECTION THREE:

1. There is hereby established the following schedule of costs, assessments and fees, for the administration of justice in the Municipal Court of Olathe, Kansas:

(a) Costs may be assessed against each accused person in any case in which the accused person has failed to appear in court or to satisfy the financial or other requirements of the court's order. These costs shall be in addition to the reinstatement fee collected by the court pursuant to K.S.A. 8-2110(c) and amendments thereto. The court may assess these costs for each case in which the person failed to appear or to make satisfaction regardless of the disposition of the case for which the complaint was originally issued;

(b) A monitoring fee may be assessed against a defendant in any case in which the Municipal Court Judge orders said defendant placed on probation or parole;

(c) A monitoring fee may be assessed against a defendant in any case in which the defendant is placed on diversion or given a suspended sentence;

(d) Costs may be assessed for the operation of the victim assistance program. All complaints against an individual arising from the same incident shall be treated as one case in determining this assessment. Original charges of parking and safety belt violations are excluded from this assessment;

(e) A fee may be assessed for processing a motion for expungement or motion to set aside judgment or for entry of a nunc pro tunc order;

(f) A fee may be assessed against the defendant upon conviction in each case for which the Municipal Court Judge appoints counsel. All complaints against an individual arising from the same incident shall be treated as one case in determining this assessment;

(g) Costs may be assessed against persons convicted of or diverted from ordinance violations, excepting original charges of parking and safety belt violations, for the provision of user technology assistance;

(h) A fee may be assessed for fingerprinting persons as required by statute;

(i) A daily incarceration cost may be assessed against a defendant for each day of incarceration pursuant to an order of the Municipal Court Judge;

(j) Costs may be assessed for the operation of a community service program;

(k) Costs may be assessed for the processing of returned checks; and

(l) Costs, assessments and fees shall be assessed as may be required by state statutes.

2. All of the above-named court costs, assessments and fees shall be established by resolution of the Governing Body. Such costs, assessments and fees may be revised as necessary by adoption of a new resolution. Copies of the current resolution establishing court costs, assessments and fees shall be on file in the offices of the City Clerk and the Municipal Court Clerk.

3. Such costs, assessments and fees may be assessed as part of a judgment, diversion agreement, or order and, if assessed, shall be collected by the Municipal Court Clerk.

4. The costs, assessments and fees assessed pursuant to this section shall be separate from and in addition to any other costs, assessments, fees, fines, restitution, penalties or judgments imposed.

SECTION FOUR: This ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION FIVE: This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication unless within sixty (60) days of its final publication a petition signed by a number of electors of the City of Olathe equal to not less than ten percent (10%) of the number of electors who voted at the last preceding regular City election shall be filed in the office of the City Clerk of Olathe demanding an election on the Charter Ordinance, in which case the Charter Ordinance shall become effective only if and when approved by a majority of the electors voting thereon.

PASSED BY THE GOVERNING BODY, not less than two-thirds of the members elect voting in favor thereof, this 21st day of December, 2004.

SIGNED by the Mayor this 21st day of December, 2004.

CHARTER ORDINANCE NO. 68

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 66 PERTAINING TO ALLOWING THE SALE OF ALCOHOLIC LIQUOR ON SUNDAY.

WHEREAS, the City of Olathe approved Charter Ordinance No. 66 allowing for the retail sale of alcoholic liquor on Sundays; and

WHEREAS, 2005 Kansas Session Laws, Chapter 201 made the Liquor Control Act uniform throughout the State, thereby voiding Charter Ordinance No. 66.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: Charter Ordinance No. 66 heretofore passed on the 17th day of August, 2004, published on the 24th and 31st days of August, 2004, and effective sixty-one (61) days thereafter, is hereby repealed.

SECTION TWO: This Charter Ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION THREE: This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication unless within sixty (60) days of its final publication a petition signed by a number of electors of the City of Olathe equal to not less than ten percent (10%) of the number of electors who voted at the last preceding regular City election shall be filed in the office of the City Clerk of Olathe demanding an election on the Charter Ordinance, in which case the Charter Ordinance shall become effective only if and when approved by a majority of the electors voting thereon.

PASSED AND APPROVED by the Governing Body of the City of Olathe, Kansas by not less than two-thirds of the members elect voting in favor, thereof, this 18th day of October, 2005.

SIGNED by the Mayor this 18th day of October, 2005.

CHARTER ORDINANCE NO. 69

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS FROM THE PROVISIONS OF K.S.A. 79-41a04 (d) PERTAINING TO THE LOCAL ALCOHOLIC LIQUOR FUND; DISTRIBUTION OF MONEYS; AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The City of Olathe, Kansas by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas hereby elects to and does exempt itself from and make inapplicable to it the provisions of K.S.A. 79-41a04(d) which applies to this City but not uniformly to all cities.

SECTION TWO: The City of Olathe, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby enacts the following substitute and additional provisions in lieu of those provisions from which it is exempted pursuant to Section One above:

> The City Treasurer, upon receipt of any moneys distributed by the State as part of the local alcoholic liquor fund, shall deposit the full amount in the City treasury and shall credit one third (1/3) of the deposit to the general fund of the City, one third (1/3) to a special parks and recreation fund in the City treasury and one third (1/3) to a special alcohol and drug programs fund in the City treasury. Moneys in such special funds shall be under the direction and control of the Governing Body of the City. Moneys in the special parks and recreation fund may be expended only for the purchase, establishment, maintenance or expansion of park and recreational services, programs and facilities. Moneys in the special alcohol and drug programs fund shall be expended only for the purchase, establishment, maintenance or expansion of services, programs and facilities whose principal purpose is alcoholism and drug abuse prevention and education; capital expenditures for services or programs whose principal purpose is alcoholism and drug abuse prevention and education; alcohol and drug detoxification; intervention in alcohol and drug abuse including law enforcement activities; or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers.

SECTION THREE: This Charter Ordinance shall be published once each week for two consecutive weeks in the official City newspaper.

SECTION FOUR: This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, subdivision (c) (3), of the Constitution of the State of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED AND APPROVED by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, this 2nd day of May, 2006.

SIGNED by the Mayor this 2nd day of May, 2006.

CHARTER ORDINANCE NO. 70

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS, FROM ALL THE PROVISIONS OF K.S.A. 12-1696, RELATING TO DEFINITIONS PERTAINING TO TRANSIENT GUEST TAX; FROM THE PROVISIONS OF K.S.A. 12-1697 (a) RELATING TO THE LEVY OF TRANSIENT GUEST TAX; FROM THE PROVISIONS OF K.S.A. 12-1698 (e), RELATING TO CITY TRANSIENT GUEST TAX FUND; FROM ALL THE PROVISIONS OF K.S.A. 12-16,101, RELATING TO A COMMITTEE TO MAKE RECOMMENDATIONS FOR PROGRAMS AND EXPENDITURES; AND FROM ALL THE PROVISIONS OF K.S.A. 12-16,113, RELATING TO AN ANNUAL ACCOUNTING OF EXPENDITURES; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT; AND FURTHER REPEALING CHARTER ORDINANCE NO. 63.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The City of Olathe, Kansas, a city of the first class, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt, and does exempt itself from all the provisions of K.S.A. 12-1696, which applies to said city, but not uniformly to all cities, and provides the following substitute and additional provisions on the same subject:

"As used in this act, the following words and phrases have the meaning respectively ascribed to them herein:

(a) 'Activities' mean planning, organizing, implementing, equipping, furnishing, staffing and managing of programs;

(b) 'Business' means any person engaged in the business of renting, leasing or letting living quarters, sleeping accommodations, rooms or a part thereof in connection with any motel, hotel or tourist court;

(c) 'Economic development promotion' means (1) activities to attract the location or relocation of industrial or commercial enterprises into the community through marketing efforts, including advertising and incentives; (2) activities designed to encourage retention and expansion of existing industrial or commercial enterprises in the community; (3) convention and tourism promotion activities designed to attract visitors into the community through marketing efforts, including advertising, directed to at least one of the five basic convention and tourism market segments consisting of group tours, pleasure travelers, association meetings and conventions, trade shows and corporate meetings and travel and support of those activities and organizations which encourage increased lodging facility occupancy; and (4) construction and management of a full service hotel and conference center located within the Corporate Ridge Office Park at the southeast corner of K-10 Highway and Ridgeview Road ("Hotel & Conference Center"); and (5) annual payment of the six percent (6%) transient guest tax generated at the Hotel & Conference Center to the operator of the Hotel & Conference Center for a period of twenty (20) years, beginning 2010, to pay expenses of the Hotel & Conference Center in exchange for the economic development investment generated by the Hotel & Conference Center to the community;

(d) 'Hotel, motel, or tourist court' means any structure or building which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services to transient guests, and which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient or permanent guests and having more than two bedrooms furnished for the accommodation of such guests;

(e) 'Person' means an individual, firm, partnership, corporation, joint venture or other association of persons;

(f) 'Transient guest' means a person who occupies a room in a hotel, motel or tourist court for not more than 28 consecutive days;"

SECTION TWO: The City of Olathe, Kansas, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt, and does exempt itself from, and makes inapplicable to it, the provisions of K.S.A. 12-1697(a), and provides the following substitute and additional provisions on the same subject:

"(a) In order to provide revenues to promote economic development, the Governing Body of the City is hereby authorized to levy a transient guest tax at not to exceed the rate of six percent (6%) upon the gross receipts derived from or paid by transient guests for sleeping accommodations, exclusive of charges for incidental services or facilities, in any hotel, motel or tourist court."

SECTION THREE: The City of Olathe, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt, and does exempt itself from, and makes inapplicable to it, the provisions of K.S.A. 12-1698(e), and provides the following substitute and additional provisions on the same subject:

"(e) All such monies received by the city treasurer from disbursements from the city transient guest tax shall be credited to the City's general fund, but shall be deposited into the 'Economic Development Promotion Account' and shall only be expended for economic development promotion pursuant to the terms of an agreement or agreements with the Olathe Chamber of Commerce approved by the Governing Body of the City for economic development promotion services."

SECTION FOUR: The City of Olathe, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt, and does exempt itself from, and makes inapplicable to it, the provisions of K.S.A. 12-16,101, and provides the following substitute and additional provisions on the same subject:

"(a) The Olathe Chamber of Commerce shall establish an Economic Development Advisory Council to make recommendations to the Olathe Chamber of Commerce Board of Directors and the Governing Body of the City concerning the programs and expenditures for economic development promotion. Such council shall be composed of the Mayor of Olathe, or a duly authorized representative; the Olathe City Manager, or duly authorized representative; the President of the Olathe Chamber of Commerce, who shall act as its secretary; and up to eighteen additional members selected pursuant to the terms of Bylaws of the Economic Development Advisory Council and which Bylaws have been specifically approved by the Governing Body.

(b) The Olathe Chamber of Commerce shall establish a Convention and Visitors Bureau Advisory Council to make recommendations to the Olathe Chamber of Commerce Board of Directors and the Governing Body of the City concerning the programs and expenditures for economic development promotion in the area of tourism and conventions, including management and conduct of sporting events. Such council shall be composed of the Mayor of Olathe, or duly authorized representative; the City Manager, or duly authorized representative; the President, or a designated employee, of the Olathe Chamber of Commerce, who shall act as its secretary; and up to eighteen additional members selected pursuant to the terms of Bylaws of the Convention and Visitors Advisory Council and which Bylaws have been specifically approved by the Governing Body."

SECTION FIVE: The City of Olathe, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt, and does exempt itself from, and makes inapplicable to it, the provisions of K.S.A. 12-16,113, and provides the following substitute and additional provisions on the same subject:

"The Olathe Chamber of Commerce shall provide the separate accounting of the receipt and disbursement of all funds from the Economic Development Promotion Account, and shall provide to the City, or, in the alternative, cooperate with the City in obtaining, at the sole expense of the Olathe Chamber of Commerce, the services of the City's independent auditor to provide to the City its audited financial statements, which shall include an accounting of the receipt and expenditures of such funds in accordance with generally accepted accounting principles by September 1st of each year. In the event no such accounting is provided within such time period, funds shall not be provided to the entity from the Economic Development Promotion Account unless and until the accounting is provided."

SECTION SIX: Charter Ordinance No. 63 is hereby repealed.

SECTION SEVEN: This Ordinance shall be published once each week for two consecutive weeks in the official City newspaper.

SECTION EIGHT: This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, subdivision (c) (3), of the Constitution of the State of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED AND APPROVED by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, the 19th day of August, 2008.

SIGNED by the Mayor this 19th day of August, 2008.

CHARTER ORDINANCE NO. 71

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS, FROM ALL THE PROVISIONS OF K.S.A. 12-1673, RELATING TO WORK PERFORMED BY CITY AND COLLECTION OF COSTS; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The City of Olathe, Kansas, a city of the first class, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt, and does exempt itself from all the provisions of K.S.A. 12-1673, which applies to said city, but not uniformly to all cities, and provides the following substitute and additional provisions on the same subject:

A. The Governing Body of the City of Olathe, in addition to any other authority provided by law, may provide for and charge all or any part of the cost of:

(1) any work performed by the City which is deemed necessary as a result of the failure of any person to perform any work which has been made his or her duty to perform by law or ordinance;

(2) any special buy in fees or assessments that have been imposed upon property pursuant to an agreement between a property owner (or their successors, heirs or assigns) and the City for the construction of sewer lines, water lines, or streets, whereby the project was funded by the City and paid for by City funds and the property owner (or their successors, heirs, or assigns) has agreed to reimburse the City for such costs; or

(3) any fees imposed by City ordinance or charter ordinance for development purposes, including, but not limited to, system development fees, to allow a developer or property owner to pay said fees in equal installments over an extended period of time.

B. Such service assessment shall be made by ordinance which may be adopted not less than thirty (30) days after a written statement of the costs has been given the owner or other person(s) responsible for payment of the assessment. Prior to the adoption of the ordinance, the charge may be paid without interest to the City Treasurer. All such moneys shall be credited as a reimbursable item to the fund created by K.S.A. 12-1674 from which the cost of such services by the City are paid or payable. Any ordinance levying a service assessment shall be recorded in the Johnson County Land Records.

C. Any service assessment may be paid in one (1) installment or, if the Governing Body deems it advisable, over a period of not to exceed ten (10) years in equal annual installments.

D. The Governing Body may let any of the aforesaid service work to contract or order the work to be done by its own personnel.

E. All unpaid service assessments shall be certified by the City Clerk to the County Clerk with interest on the unpaid installments at a rate fixed by the Governing Body of the City, which shall not exceed ten percent (10%) per annum. Such service assessment shall be levied by the County Clerk upon the property concurrently with general property taxes, and any revenue received therefrom shall be paid to the City in the same manner as taxes of the City are collected and paid.

F. No suit to set aside any service assessment shall be brought after the expiration of thirty (30) days from the publication of the ordinance fixing said assessments."

SECTION TWO: This Ordinance shall be published once each week for two consecutive weeks in the official City newspaper.

SECTION THREE: This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, subdivision (c) (3), of the Constitution of the State of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED AND APPROVED by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, the 19th day of July, 2011.

SIGNED by the Mayor 19th day of July, 2011.

CHARTER ORDINANCE NO. 72

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS FROM THE PROVISIONS OF K.S.A. 64-101(a) AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The City of Olathe, Kansas by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas hereby elects to and does exempt itself from and make inapplicable to it the provisions of K.S.A. 64-101(a), which applies to this City but not uniformly to all cities.

SECTION TWO: The City of Olathe, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby enacts the following substitute and additional provisions in lieu of those provisions exempted in Section One above:

> "The Governing Body shall designate from time to time by resolution one or more newspapers as the official newspaper or newspapers of the City for publication of legal notices, advertisements or publications of any kind which may be required to be published in the official City Newspaper by the laws of the State of Kansas or the City.
>
> Any newspaper that is an official City newspaper on the effective date of this Charter Ordinance shall continue to be an official City newspaper unless or until such time as the Governing Body shall adopt a resolution providing otherwise. Any publication in any newspaper, which at the time of the publication was an official City newspaper, shall be valid notwithstanding the adoption subsequent to the publication of a resolution changing the designation of the official City newspaper."

SECTION THREE: This is a Charter Ordinance and shall take effect sixty-one (61) days after its final publication unless a sufficient petition for a referendum is filed within sixty (60) days and a referendum is held on the ordinance as provided in Article 12, Section 5, Subdivision (c) (3), of the Constitution of the State of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED AND APPROVED by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, this 7th day of February, 2012.

SIGNED by the Mayor this 7th day of February, 2012.

CHARTER ORDINANCE NO. 73

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS FROM THE PROVISIONS OF K.S.A. 16-716 RELATING TO RECORD OF TRANSACTION FOR PAWNBROKER LOANS AND PURCHASING OF PRECIOUS METALS; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The City of Olathe, Kansas, a city of the first class, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt, and does exempt itself from the provisions of K.S.A. 16-716, which applies to said city, but not uniformly to all cities, and provides the following substitute and additional provisions on the same subject:

"**Record of Transaction**.

a. At the time of making a loan, a pawnbroker shall enter in a book or electronic storage system kept for that purpose:

(1) The date, duration, amount and charges of every loan made by the Pawnbroker;

(2) A full and accurate description of the property pledged;

(3) The pledgor's full name (first, middle, and last), address (which shall include the street address and not merely a Post Office box number), sex, date of birth, and the identifying number from the pledgor's driver's license, military identification card, passport or personal identification license (the identifying number from an official governmental document for a country other than the United States may be used to meet this requirement), and a legible photocopy of the identification card or document containing such identifying number.

b. At the time of purchasing precious metal, a precious metal dealer shall enter in a book or electronic storage system kept for that purpose:

(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;

(3) The seller's full name (first, middle, and last), address (which shall include the street address and not merely a Post Office box number), sex, date of birth, and the identifying number from the seller's driver's license, military identification card, passport or personal identification license (the identifying number from an official governmental document for a country other than the United States may be used to meet this requirement), and a legible photocopy of the identification card or document containing such identifying number.

c. The record required by this section shall be maintained by the pawnbroker or precious metal dealer at the pawnbroker's or dealer's place of business for not less than one year following the date of the transaction."

SECTION TWO: This Charter Ordinance shall be published once each week for two consecutive weeks in the official City newspaper.

SECTION THREE: This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, subdivision (c) (3), of the Constitution of the State of Kansas, in which case the Charter Ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED AND APPROVED by the Governing Body, not less than two-third of the members elect voting in favor thereof, this 15th day of October, 2013.

SIGNED by the Mayor this 15th day of October, 2013.

CHARTER ORDINANCE NO. 74

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS FROM K.S.A. 13-1024a RELATING TO THE BORROWING OF MONEY AND THE ISSUANCE OF BONDS FOR GENERAL IMPROVEMENTS AND THE LAND THEREFOR AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT; FURTHER REPEALING CHARTER ORDINANCES NO. 60 AND 65.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The City of Olathe, Kansas, a City of the first class, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt, and does exempt, itself from, and make inapplicable to it, the provisions of K.S.A. 13-1024a, which apply to said City, but not uniformly to all cities, and provide substitute and additional provisions on the same subject as hereinafter provided.

SECTION TWO: For the purpose of paying for any street, sidewalk or pedestrian way improvement, storm water control improvement, parking improvement, bridge, viaduct, public building or structure, including the land necessary therefor, within or without the City; for lands for public parks and recreation facilities and developing the same, within or without the City; or for the acquisition, establishment, improvement, repair or extension of any streetlights, waterworks, sanitary sewer facilities, electric light plant or other public utility plant owned by the City, and for the purpose of rebuilding, adding to, extending or acquiring land therefor from time to time, within or without the City; for the acquisition of equipment, vehicles or other personal property to be used in relation to any of the improvements authorized herein; all as the necessities of the City may require, the City may borrow money and issue bonds or other obligations of the City for such purposes. Provided, that the City may issue bonds for the purpose of paying for any of the improvements mentioned in this Charter Ordinance and the land necessary therefor without such bonds having been authorized by a vote of the people.

SECTION THREE: This Charter Ordinance shall supercede Charter Ordinances No. 60 and 65, and upon effectiveness of this Charter Ordinance, Charter Ordinances No. 60 and 65 are hereby repealed. Notwithstanding the foregoing, any projects previously authorized under the authority of Charter Ordinances No. 60 and 65 are hereby deemed to be authorized under the provisions of this Charter Ordinance upon its effective date.

SECTION FOUR: If any provision or section of this Charter Ordinance is deemed or ruled unconstitutional or otherwise illegal or invalid by any court of competent jurisdiction, such illegality or invalidity shall not affect any other provision of this Charter Ordinance. In such instance, this Charter Ordinance shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

SECTION FIVE: This Charter Ordinance shall be published once a week for two consecutive weeks in the official City newspaper, and shall take effect sixty-one (61) days after final publication, unless a petition signed by a number of electors of the City equal to not less than ten percent (10%) of the number of electors who voted at the last preceding regular City election shall be filed in the office of the Clerk, demanding that this Charter Ordinance be submitted to a vote of the electors, in which event this Charter Ordinance shall take effect when approved by a majority of the electors voting at an election held for such purpose.

PASSED BY THE GOVERNING BODY, not less than two-thirds of the members elect voting in favor thereof, this 3rd day of March, 2015.

SIGNED by the Mayor this 3rd day of March, 2015.

CHARTER ORDINANCE NO. 75

A CHARTER ORDINANCE EXEMPTING THE CITY OF OLATHE, KANSAS, FROM ALL THE PROVISIONS OF K.S.A. 12-1218, 12-1219, 12-1220, 12-1222, 12-1225, 12-1226, 12-1227, 12-1254, 12-1255 AND 12-1258; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECTS BY ORDINARY ORDINANCE; AND FURTHER REPEALING CHARTER ORDINANCE NOS. 32 AND 38.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The City of Olathe, Kansas, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to and does exempt itself from and make inapplicable to it all the provisions of K.S.A. 12-1218, 12-1219, 12-1220, 12-1222, 12-1225, 12-1226, 12-1227, 12-1254, 12-1255 and 12-1258, and amendments thereto, which each apply to said city, but not uniformly to all cities.

SECTION TWO: The City of Olathe, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to provide substitute and additional provisions on the same subjects by ordinary ordinance.

SECTION THREE: Charter Ordinance Nos. 32 and 38 are hereby repealed.

SECTION FOUR: This Ordinance shall be published once each week for two consecutive weeks in the official City newspaper.

SECTION FIVE: This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, subdivision (c) (3), of the Constitution of the State of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED AND APPROVED by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, the 21st day of April, 2015.

SIGNED by the Mayor this 21st day of April, 2015.

CHARTER ORDINANCE NO. 76

A CHARTER ORDINANCE RECODIFYING THE EXISTING FORM OF GOVERNMENT OF THE CITY OF OLATHE, KANSAS AS THE MODIFIED MAYOR-COUNCIL-MANAGER FORM; EXEMPTING THE CITY OF OLATHE, KANSAS FROM K.S.A. 12-104a, 25-2108a, 25-2110a, and 25-2113; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS CONCERNING THE EXISTING MODIFIED MAYOR-COUNCIL-MANAGER FORM OF GOVERNMENT, ELECTIONS AND GOVERNING BODY VACANCIES FOR THE CITY OF OLATHE, KANSAS; ALSO REPEALING CHARTER ORDINANCES 11, 28, 61, AND 62.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

ARTICLE I
STATUTES MADE INAPPLICABLE

The City of Olathe, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to the provisions of K.S.A. 12-104a, 25-2108a, 25-2110a, and 25-2113 and provide substitute and additional provisions in this charter ordinance and by ordinary ordinance. Such referenced provisions are either enactments or a part thereof which are applicable to this City but are not part applicable uniformly to all cities.

ARTICLE II
GOVERNING BODY

SECTION 2.1: <u>Composition.</u>

(A) The Governing Body of the City of Olathe, Kansas, shall consist of a Mayor and two (2) Councilmembers elected at large and four (4) Councilmembers elected by wards. At the regular City election in 2017, and each regular City election thereafter, each person elected to the Governing Body shall be elected to serve a four (4) year term.

(B) At the regular City election in 2017, there shall be elected the Councilmember for at large position 1 and the Councilmembers for wards 3 and 4.

(C) At the regular City election in 2019, there shall be elected a Mayor, the Councilmember for at large position 2, and the Councilmembers for wards 1 and 2.

SECTION 2.2: <u>Wards.</u>

(A) The Governing Body shall, by ordinance, divide the City into four (4) wards to be numbered one to four. Such wards shall be as nearly equal in population and as compact and contiguous as is practical. Dividing lines between wards shall follow precinct boundaries. Every ten (10) years the Governing Body of the City shall review ward boundaries and shall adjust such boundaries, if necessary, to reflect approximately equal population following the most recent census of population taken by the United States bureau of the census.

(B) Candidates to the Council from a ward shall be residents of the ward for which they seek election and shall continue to reside in the ward during their term of office. Qualified voters signing a petition for the candidacy of a person to a Council ward position shall be residents of such ward. Only the qualified voters of a ward shall vote for candidates for a Council ward position.

(C) Changes of ward boundaries that result in a Councilmember no longer residing in the ward from which such Councilmember was elected shall not shorten the term of such member. Such Councilmember shall continue to represent the ward from which such councilmember was elected until the expiration of such Councilmember's term.

SECTION 2.3: General Powers. All powers of the City shall be vested in the Governing Body, except as the Constitution and the Statutes of Kansas or this charter ordinance may otherwise provide. The Governing Body shall provide for the performance of all duties and obligations imposed on the City by law. The Governing Body shall adopt such codes, rules and regulations as may be necessary for the establishment of proper authority and direction for the administration of the affairs of the City. The Governing Body shall employ a City manager as provided in Article IV of this charter ordinance, an Internal Auditor, and the Municipal Court Judge or Judges. The Governing Body shall set priorities for budget preparation and adopt the annual budget of the City. It shall be the duty of the Governing Body to be the policy-making body of the City, to pass all ordinances, resolutions and contracts needful for the welfare of the City, to provide for such offices as shall be necessary to carry out the provisions of this charter ordinance and determine salaries for the same.

SECTION 2.4: Mayor.

The Mayor shall be the titular head of the City and shall preside at all meetings of the Council. The Mayor shall sign all ordinances and resolutions passed by the Council and shall have all voting privileges of a Councilmember.

It shall be the duty of the Mayor to sign all contracts authorized by the Governing Body before the City shall be liable thereon. He or she shall represent the City Governing Body at all official City functions, and shall be the official representative of the Governing Body at all meetings, conferences and negotiations relating to policy matters involving other governmental units and shall recommend Governing Body action relating thereto.

The Mayor shall be the official representative of the Governing Body at all conferences and meetings with citizens' groups and organizations interested in promoting the welfare and development of the City, and shall recommend Governing Body action relative thereto. The Mayor may inform the Governing Body concerning questions of policy, and may make policy recommendations to the Governing Body. The Mayor shall be empowered to call special meetings as provided by law.

SECTION 2.5: Salaries. The Governing Body shall by ordinance fix the salaries of the members of the Governing Body.

SECTION 2.6: Qualifications and Vacancies.

(A) All members of the Governing Body shall be citizens of the United States and qualified electors of the City and must reside in the City at the time of election and reside in the City during the period he or she remains in office. The removal from the City of any member shall occasion a vacancy in such office. The office of a Councilmember shall become vacant upon the member's death, resignation, removal from office, or forfeiture of office in any manner authorized by law.

(B) When there is a vacancy in the office of Mayor, the Mayor pro tem, upon being qualified, shall become Mayor until the next regular City election and until a Mayor has been duly elected.

(C) A vacancy in the City Council shall be filled for the remainder of the unexpired term, if any, by majority vote of the remaining members of the Governing Body as provided in subsection (D), unless the vacant position is subject to the next regular City election and the vacancy occurs within ninety (90) days of the date for filing for such election, as provided for in state law, the Governing Body shall not fill the vacancy and the vacancy shall be filled through such regular election.

(D) When the Governing Body is required to fill any vacancy, the Governing Body shall proceed to fill such vacancy and only the position originally vacated pursuant to this section as follows:

(1) At the first Council meeting immediately following the occurrence of a Council vacancy, the Governing Body shall announce to the public that it is accepting applications for the position of Councilmember; announce the date by which all applications must be submitted; announce whether it is an at large position or a ward position and announce that applications shall be submitted to the Olathe City Clerk.

The Governing Body shall accept applications for a period of thirty (30) days from the date the vacancy is announced. All applications shall be deemed to be open public records under the Kansas Open Records Act, K.S.A. 45-221 et seq., and amendments thereto.

(2) The Governing Body shall interview all qualified applicants for the vacant Council position. The Governing Body shall conduct all such interviews in an open public meeting.

(3) Within sixty (60) days of accepting applications, the Governing Body shall either:

(a) Elect by majority vote a candidate from the public list of applicants, or
(b) Announce the Governing Body has rejected all candidates.

(4) If all candidates are rejected, the Governing Body shall restart the process described in this subsection until either such vacancy is filled pursuant to this subsection or the vacancy remains until the time that such position is to be filled by regular City election in accordance with the provisions of subsection (C) .

SECTION 2.7: <u>Biennial Organization Meeting.</u> At its first regular meeting in January after a biennial City election, the Governing Body shall:

(A) Establish by resolution a regular schedule of meeting times and dates for the next two (2) years.

(B) Elect one of its members as Mayor pro tem who, in the absence or disability of the Mayor, shall become acting Mayor. Such Councilmember shall retain all voting rights and other prerogatives as a Councilmember while acting as Mayor, except that such acting Mayor shall have only one vote.

SECTION 2.8: <u>Prohibitions.</u>

(A) No Governing Body member shall hold any other City office or City employment during the term for which the member was elected to the Governing Body. No former Governing Body member shall hold any compensated appointive City office or City employment until one year after the expiration of the term for which the member was elected.

(B) Neither the Governing Body nor any of its individual members shall in any manner direct, supervise or require the appointment, promotion, transfer, assignment, demotion, discipline, lay off, suspension, discharge, or removal of any officers or employees whom the City manager is empowered to appoint. Governing Body members may express their view and fully and freely discuss with the City manager anything pertaining to appointment, promotion, transfer, assignment, demotion, suspension, discharge, and removal of such appointive officers and employees.

(C) No member of the Governing Body shall directly interfere with the conduct of any department, except at the express direction of the Council. The Council and its members as individuals shall deal with appointive officers and employees solely through the City manager, but they may request basic information necessary for Council work.

SECTION 2.9: <u>Governing Body Rules of Procedure.</u>

(A) The Governing Body shall meet regularly twice a month, or more often if the public business requires. A call signed by a majority of the Governing Body shall be sufficient warrant for a special meeting. Regular or special meetings shall always be open to the public.

(B) The Governing Body shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings.

(C) Four (4) members of the Governing Body shall constitute a quorum. All the Governing Body actions on the passage of ordinances shall be taken by the affirmative vote of four (4) or more members unless a greater or lesser number of votes is required by this charter ordinance, by the Statutes of Kansas, or by the Constitution of Kansas. All resolutions, motions, contracts, and other business may be adopted or passed by a majority vote of a quorum, except as otherwise required by law. The votes of all Governing Body members shall be recorded in the journal.

ARTICLE III
ELECTIONS

SECTION 3.1: Nonpartisan. City elections shall be nonpartisan. Laws applicable to elections occurring at the same time as City elections shall apply to City elections to the extent that the same are not in conflict with the provisions of this charter ordinance.

SECTION 3.2: Primaries. A primary election shall be held if needed to reduce the number of candidates for any office in the general election to two (2) candidates. The two (2) candidates receiving the greatest number of votes for any office shall advance to the general election. In the event there are not more than two (2) candidates for any one office, there shall be no primary election and the names of such candidates shall be placed on the general election ballot.

ARTICLE IV
CITY MANAGER

SECTION 4.1: Appointment, Qualifications, Compensation. The Governing Body shall appoint a City manager to serve at the pleasure of the Governing Body and shall establish compensation of the City manager. The City manager shall be appointed solely on the basis of executive, managerial, and administrative qualifications as demonstrated by a verified record of training and experience in public administration and shall have an annual job review by the Governing Body. The City manager need not be a resident of the City at the time of appointment, but must reside in the City while in office. The terms and conditions of employment of the City manager shall be reduced to writing, and approved by the Governing Body as a memorandum of employment; provided, the Governing Body shall retain the power to remove the City manager from office upon reasonable notice at their pleasure.

SECTION 4.2: Acting City Manager. By written notice filed with the Governing Body, the City manager may designate, subject to approval of the Governing Body, a qualified appointive administrative officer to exercise the powers and perform the duties of City manager during any temporary absence or disability of the City manager.

SECTION 4.3: Powers and Duties of the City Manager. The City manager shall be the chief administrative officer of the City, and shall be responsible to the Governing Body for administration of all City affairs placed in his or her charge by or under this charter ordinance. The City manager shall:

(A) Provide assistance and advice to the Governing Body as needed.

(B) After appropriate consultation with the Governing Body, prepare and submit a recommended annual budget to the Governing Body for final adoption, and be responsible for the administration of the budget after it goes into effect.

(C) Make recommendations to the Governing Body on all matters concerning the welfare of the City.

(D) Ensure that all ordinances, resolutions, codes, regulations, rules, policies, directions, and acts of the Governing Body are faithfully enforced, administered, and executed.

(E) Appoint, promote, transfer, assign and demote, discipline, lay off, suspend, discharge or remove all appointive officers and employees of the City, except an Internal Auditor and the Municipal Court Judge or Judges, who shall be appointed, disciplined, laid off, suspended, discharged or removed by the Governing Body. The City manager may authorize any appointive officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates of that officer.

(F) Direct and supervise the administration of all offices and all appointive officers and employees of the City, except the Internal Auditor and the Municipal Court Judge or Judges who shall be directed and supervised by the Governing body.

(G) Attend all Governing Body meetings and have the right to take part in discussions but without the right to vote.

(H) Assist the Governing Body in the preparation of meeting agendas, ordinances, resolutions, rules, regulations, and policies and in such other matters as may be required by the Governing Body.

(I) Submit to the Governing Body and make available to the public periodic and annual reports on the financial and administrative affairs of the City and keep the Governing Body advised of the financial conditions and needs of the City.

(J) Prepare and submit to the Governing Body recommendations for a capital development and financing program for the City.

(K) Make such other reports as the Governing Body may require concerning the operations of City offices.

(L) Have such other powers and duties consistent with this charter ordinance as the Governing Body may prescribe.

ARTICLE V
ADMINISTRATION

Administrative departments shall be created by the Governing Body as the public business may demand. All appointments shall be made by the City manager based upon qualification and merit. All department heads shall be ready at all times to furnish the City manager with such information as the City manager may require.

ARTICLE VI
ABANDONMENT

A proposition to abandon this form of government must first be submitted to a vote of the qualified electors of the City in the manner provided by K.S.A. 12-184.

Any petition for the submission of a proposition hereunder shall be headed "Petition for a Special Election of the City of Olathe, Kansas, to Vote on the Abandonment of the Mayor-Council-City Manager Form of Government."

ARTICLE VII
CONTINUITY OF GOVERNMENT

SECTION 7.1: Ordinances to Remain in Force. All ordinances, resolutions, policies, rules, and regulations in force at the time this charter ordinance takes full effect, which are not inconsistent with the provisions of this charter ordinance, shall remain and be in force until altered, modified, or repealed by or under authority of this charter ordinance.

SECTION 7.2: Pending Actions and Proceedings. No action or proceeding, civil or criminal, brought by or against the City or any appointive or elective officer or employee thereof, and which is pending at the time this charter ordinance shall take effect, shall be affected or abated by the adoption of this charter ordinance or by anything therein contained.

SECTION 7.3: Continuation of Contracts, Public Improvements and Taxes. All contracts and memoranda of agreement entered into by the City, or for its benefit prior to the taking full effect of this charter ordinance, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws existing at the time this charter ordinance takes full effect may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws. All taxes and assessments levied or assessed, all fines and penalties imposed, and all other obligations owing to the City which are uncollected at the time this charter ordinance becomes fully effective, shall continue in full force and effect and shall be collected as if no change has been made.

ARTICLE VIII
REPEAL OF CHARTER ORDINANCES

Charter Ordinances No. 11, 28, 61, and 62 of the City of Olathe are hereby repealed.

ARTICLE IX
SEVERABILITY

If a court of competent jurisdiction should hold any section or part of this charter ordinance invalid, such holding shall not affect the remainder of this charter ordinance nor the context in which such section or part so held invalid may appear, except to the extent that an entire section or part may be inseparably connected in meaning and effect with that section or part.

If a court of competent jurisdiction holds a part of this charter ordinance invalid, or if a change in the Constitution of the State of Kansas or in the Statutes of Kansas or applicable federal law, renders a part of this charter ordinance invalid or inapplicable, the Council may take such appropriate action as will enable the City government to function properly.

ARTICLE X
PUBLICATION OF CHARTER ORDINANCE

This charter ordinance shall be published once each week for two (2) consecutive weeks in the official City newspaper.

ARTICLE XI
EFFECTIVE DATE OF CHARTER ORDINANCE

This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, subdivision (c) (3), of the Constitution of the State of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED AND APPROVED by the Governing Body, not less than two-thirds of the members elect voting in favor thereof, the 2nd day of August, 2016.

SIGNED by the Mayor this 2nd day of August, 2016.