

**CODE**  
**OF THE**  
**CITY OF HOYT**  
**KANSAS**

Published Under the Authority and by the Direction of  
The Governing Body of the City of Hoyt,  
Kansas, this 7<sup>th</sup> day of December, 2021

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A Codification of the General Ordinances  
of the City of Hoyt, Kansas

**ROSTER OF CITY OFFICIALS**

**CITY OF HOYT**

**GOVERNING BODY**

**Mayor**

**Debbie Dreasher**

**Councilmembers**

**Leonard Allen**

**Lana Dilner**

**Jason Faulkner**

**Joe Romans**

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**Administrative Officials**

**Shawna Blackwood**  
**City Clerk**

**Lee W. Hendricks**  
**City Attorney**

**Shawna Miller**  
**Municipal Judge**

**Dan Wentling**  
**Chief of Police**

**ORDINANCE NO. 345**

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE CODIFICATION OF THE GENERAL ORDINANCES OF THE CITY OF HOYT, KANSAS AND THE PUBLICATION OF SUCH CODIFICATION IN PERMANENTLY BOUND OR LOOSE-LEAF BOOK FORM.


Be it Ordained by the Governing Body of the City of Hoyt:

Section 1. That a codification of the general ordinances of the City of Hoyt, Kansas, including supplements thereto, as authorized by K.S.A. 12-3014 and 12-3015, is hereby ordered, authorized and provided for. When completed, the codification shall be adopted by ordinance and published together with the adopting ordinance in loose-leaf book form. No fewer than ten (10) copies shall be published. Such codification shall be entitled, "Code of the City of Hoyt, Kansas," of the year in which the work is completed and ready for publication. The said code shall be duly certified by the City Clerk. One (1) copy of the code shall be filed in the office of the City Clerk and shall be designated as and shall constitute the official ordinance book. Three (3) additional copies shall be filed in the office of the City Clerk and shall be designated for use by the public.

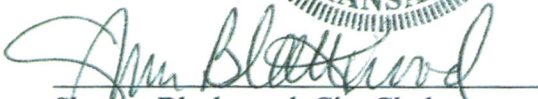
Section 2. That this ordinance shall take effect and be in force from and after its publication once in the official city newspaper.

Passed and Approved by the Governing Body this 7<sup>th</sup> day of December, 2021.



  
Debbie Dreasher, Mayor

ATTEST:

  
Shawna Blackwood, City Clerk

(SEAL)

## ORDINANCE NO. 346

AN ORDINANCE ADOPTING THE CODIFICATION OF ORDINANCES OF THE CITY OF HOYT, KANSAS, AUTHORIZED BY ORDINANCE NO. 345 PROVIDING FOR THE REPEAL OF CERTAIN OTHER ORDINANCES NOT INCLUDED THEREIN, EXCEPTING CERTAIN ORDINANCES FROM REPEAL AND SAVING CERTAIN ACCRUED RIGHTS AND LIABILITIES.

Be it Ordained by the Governing Body of the City of Hoyt:

Section 1. The codification of ordinances of the City of Hoyt, Kansas, authorized by Ordinance No. 345 and K.S.A. 12-3014 and 12-3015, as set out in the following chapters. Chapters I and XV, all inclusive, and entitled the "Code of the City of Hoyt, Kansas, 2021," is hereby adopted and ordained as the "Code of the City of Hoyt, Kansas, 2021," and said codification shall become effective upon publication of no fewer than ten (10) copies of said code in book form.

Section 2. All ordinances and parts of ordinances of a general nature passed prior to December 7, 2021, in force and effect at the date of the publication of no fewer than ten (10) copies of the "Code of the City of Hoyt, Kansas, 2021," and this ordinance, are hereby repealed as of the date of publication of said code except as hereinafter provided.

Section 3. In construing this ordinance, the following ordinances shall not be considered or held to be ordinances of a general nature:

- (a) Ordinances pertaining to the acquisition of property or interests in property by gift, purchase, devise, bequest, appropriation or condemnation;
- (b) Ordinances opening, dedicating, widening, vacating or narrowing streets, avenues, alleys and boulevards;
- (c) Ordinances establishing and changing grades of streets, avenues, alleys and boulevards;
- (d) Ordinances naming or changing the names of streets, avenues and boulevards;
- (e) Ordinances authorizing or directing public improvements to be made;
- (f) Ordinances creating districts for public improvements of whatsoever kind of nature;
- (g) Ordinances levying general taxes;
- (h) Ordinances levying special assessments or taxes;
- (i) Ordinances granting any rights, privileges, easements or franchises therein mentioned to any person, firm or corporation;
- (j) Ordinances authorizing the issuance of bonds and other instruments of indebtedness by the city;
- (k) Ordinances authorizing contracts;
- (l) Ordinances establishing the limits of the city or pertaining to annexation or exclusion of territory;
- (m) Ordinances relating to compensation of officials, officers and employees of the city;
- (n) Ordinances of a temporary nature.

Provided, that the above enumeration of exceptions shall not be held or deemed to be exclusive, it being the purpose and intention to exempt from repeal any and all ordinances not of a general nature and general ordinances specifically excepted by this section.

Section 4. The arrangement and classification of the several chapters, articles and sections of the code adopted by Section 1 of this ordinance and the headnotes and footnotes at the ends of the sections, are made for the purpose of convenience and orderly arrangement, and do not constitute a part of the ordinances, and therefore, no implication or presumption of legislative intent or construction is to be drawn therefrom.


Section 5. The repeal of ordinances as provided in Section 2 hereof, shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred thereunder, or actions involving any of the provisions of said ordinances or parts thereof. Said ordinances, above repealed are hereby continued in force and effect after the passage, approval and publication of this ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefor.

Section 6. If for any reason any chapter, article, section, subsection, sentence, portion or part of the "Code of the City of Hoyt, Kansas, 2021," or the application thereof to any person or circumstances is declared to be unconstitutional or invalid, such decision will not affect the validity of the remaining portions of this code.

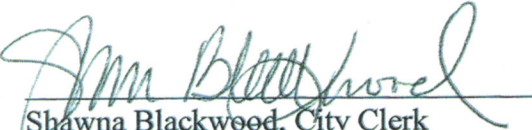
Section 7. This ordinance shall take effect and be in force from and after the publication of the "Code of the City of Hoyt, Kansas, 2021," as provided in K.S.A. 12-3015.

Passed by the Governing Body of the City of Hoyt, Kansas, this 7<sup>th</sup> day of December, 2021.



  
Debbie Dreasher, Mayor

ATTEST:

  
Shawna Blackwood, City Clerk

(SEAL)

**CERTIFICATE OF THE CITY CLERK**


Office of the City Clerk  
City of Hoyt, Kansas

State of Kansas        )  
                                  ) ss:  
County of Jackson     )

I, Shawna Blackwood, City Clerk of the City of Hoyt, Jackson County, Kansas do hereby certify that said city is a city of the third class of the mayor-council form of government under the statutes of Kansas; that this codification of the general ordinances of said city and the publication thereof in book form were ordered and authorized by the governing body by Ordinance No. 345 and in accordance therewith is entitled the "Code of the City of Hoyt, Kansas, 2021," that said codification was adopted as the "Code of the City of Hoyt, Kansas, 2021," by the governing body by Ordinance No. 346 passed on the 7<sup>th</sup> day of December, 2021, as authorized by Section 12-3015 of the Kansas Statutes Annotated; that said Ordinance 346 and said codification of general ordinances as contained in this volume will take effect upon publication of ten (10) or more copies; that the publication of ten (10) copies of this code and adoptive Ordinance No. 346 constitute due passage of this code and all general ordinances contained therein; that the codification and adoptive Ordinance No. 346 as contained herein are true and correct copies; and that said publication imports absolute verity and is to be received in evidence in all courts and places without further proof as provided by 12-3015 of the Kansas Statutes Annotated.

I further certify that the "Code of the City of Hoyt, Kansas, 2021," and the matter therein contained will take effect upon publication and be in force from and after December 7, 2021.

Witness my hand and the seal of the City of Hoyt, Kansas, at my office in Hoyt, Kansas, this 7<sup>th</sup> day of December, 2021.

  
Shawna Blackwood, City Clerk  
City of Hoyt, Kansas



**CHAPTER I ADMINISTRATION**

Article 1.	General Provisions
Article 2.	Governing Body
Article 3.	Officers and Employees
Article 4.	Personnel Policy and Employee Benefits
Article 5.	Oaths and Bonds
Article 6.	Open Records
Article 7.	Investment of Idle Funds

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**ARTICLE 1. GENERAL PROVISIONS**

1-101 CODE DESIGNATED. The chapters, articles and sections herein shall constitute and be designated as "The Code of the City of Hoyt, Kansas," and may be so cited. The Code may also be cited as the "Hoyt City Code." (Code 2021)

1-102 DEFINITIONS. In the construction of this code and of all ordinances of the City, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Governing Body or the context clearly requires otherwise:

- a. City shall mean the City of Hoyt, Kansas.
- b. Code shall mean the "Code of the City of Hoyt, Kansas."
- c. Computation of Time: The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be a Saturday, Sunday or legal holiday, that day shall be excluded.
- d. County shall mean the County of Jackson in the State of Kansas.
- e. Delegation of Authority: Whenever a provision appears requiring or authorizing the head of a department or officer of the City to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required duty unless the terms of the provision designate otherwise
- f. Gender: Words importing the masculine gender include the feminine and neuter.
- g. Governing Body shall be construed to mean the Mayor and Council Members of the City, or those persons appointed to fill a vacancy in the office of the Mayor or the City Council as provided in this code.

- h. In the City shall mean and include all territory over which the City now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.
- i. Joint Authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
- j. Month shall mean a calendar month.
- k. Number. Words used in the singular include the plural and words used in the plural include singular.
- l. Oath includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the word "swear" is equivalent to the word "affirm."
- m. Officers, Departments, Etc. Officers, departments, boards, commissions and employees referred to in this code shall mean officers, departments, boards, commissions and employees of the City, unless the context clearly indicates otherwise.
- n. Owner applied to a building or land, shall include not only the owner of the whole but any part owner, joint owner, tenant in common or joint tenant of the whole or a part of such building or land.
- o. Person includes a firm, partnership, association of persons, corporation, organization or any other group acting as a unit, as well as an individual.
- p. Property includes real, personal and mixed property.
- q. Real Property includes lands, tenements and hereditaments, and all rights thereto and interest therein, equitable as well as legal.
- r. Shall / May: "Shall" is mandatory and "May" is permissive.
- s. Sidewalk shall mean any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.
- t. Signature / Subscription includes a mark when the person cannot write, when his or her name is written near such a mark and is witnessed by a person who writes his or her own name as a witness.
- u. State shall be construed to mean the State of Kansas.



- v. Street shall mean and include public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the City.
- w. Tenant or Occupant applied to a building or land, shall include any person holding a written or oral lease of, or who occupies the whole or a part of such building or land, whether alone or with others.
- x. Tenses. Words used in the past or present tense include the future as well as the past and present.
- y. Writing or Written may include printing, engraving, lithography and any other mode of representing words and letters, except those cases where the written signature or the mark of any person is required by law.
- z. Year shall mean a calendar year, except where otherwise provided.

(Code 2021)

1-103 EXISTING ORDINANCES. The provisions appearing in this code, so far as they are in substance the same as those of ordinances existing at the time of the effective date of this code, shall be considered as continuations thereof and not as new enactments. (Code 2021)

1-104 EFFECT OF REPEAL. The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which has accrued, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein. (Code 2021)

1-105 CATCHLINES OF SECTIONS. The catchlines of the sections of this code printed in capital letters are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted. (Code 2021)

1-106 PARENTHETICAL AND REFERENCE MATTER. The matter in parenthesis at the ends of sections is for information only and is not a part of the code. Citations indicate only the source

and the text may or may not be changed by this code. This code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015. Reference matter not in parenthesis is for information only and is not a part of this code. (Code 2021)

1-107 AMENDMENTS: REPEAL. Any portion of this code may be amended by specific reference to the section number as follows: "Section \_\_\_\_\_ of the Code of the City of Hoyt is hereby amended to read as follows: (the new provisions shall then be set out in full)..." A new section not heretofore existing in the code may be added as follows: "the Code of the City of Hoyt is hereby amended by adding a section (or article or chapter) which reads as follows: "All sections, or articles, or chapters to be repealed shall be repealed by specific reference as follows: "Section (or article or chapter) \_\_\_\_\_ of the Code of the City of Hoyt is hereby repealed." (Code 2021)

1-108 ORDINANCES. The Governing Body shall have the care, management and control of the City and its finances, and shall pass all ordinances needed for the welfare of the City. All ordinances shall be valid when a majority of all the members-elect of the City Council shall vote in favor. Where the number of favorable votes is one less than required, the Mayor shall have power to cast the deciding vote in favor of the ordinance. (K.S.A. 12-3002; Code 2021)

1-109 SAME; SUBJECT AND TITLE; AMENDMENT. No ordinances shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3004; Code 2021)

1-110 SAME; PUBLICATION. No ordinance, except those appropriating money, shall be in force until published in the official City newspaper by the City Clerk. One publication of such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication. (K.S.A. 12-3007; Code 2021)

1-111 SAME; ORDINANCE BOOK. Following final passage and approval of each ordinance, the City Clerk shall enter the same in the ordinance book of the City provided by law. Each

ordinance shall have appended thereto the manner in which the ordinance was passed, the date of passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which published and the date of publication. (K.S.A. 12-120; 121; Code 2021)

1-112 RESOLUTIONS, MOTIONS. Except where a state statute or City ordinance specifically requires otherwise, all resolutions and motion shall be passed if voted upon favorably by a majority of a quorum of the City Council. (Code 2021)

1-113 CITY RECORDS. The City Clerk or any other officer or employee having custody of City records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 to 12-121 inclusive, which is incorporated by reference herein as if set out in full. (K.S.A. 12-120; 121; Code 2021)

1-114 ALTERING CODE. It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of this code, or to insert or delete pages, or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the City of Hoyt to be misrepresented thereby. This restriction shall not apply to amendments or revisions of this code authorized by ordinance duly adopted by the Governing Body. (Code 2021)

1-115 SCOPE OF APPLICATION. Any person convicted of doing any of the acts or things prohibited, made unlawful, or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed in violation of this code and punished in accordance with Section 1-116. Each day any violation of this code continues shall constitute a separate offense. (Code 2021)

1-116 GENERAL PENALTY. Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with this section.

- a. A fine of not more than \$1,000.00; or,
- b. Imprisonment in jail for not more than 179 days; or,

c. Both such fine and imprisonment not to exceed a and b above.

(Code 2021)

1-117 SEVERABILITY. If for any reason any chapter, article, section, subsection, sentence, clause or phrase of this code or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this code. (Code 2021)

## **ARTICLE 2. GOVERNING BODY**

1-201 GOVERNING BODY. The Governing Body shall consist of a Mayor and five City Councilmembers to be elected as set out in Chapter 6 of this code. (Code 2021)

1-202 POWERS GENERALLY. All powers exercised by cities of the third class or which shall hereafter be conferred upon them shall be exercised by the Governing Body, subject to such limitations as prescribed by law. All executive and administrative authority granted or limited by law shall be vested in the Mayor and Council as Governing Body of the City.

(K.S.A. 12-103; Code 2021)

1-203 SAME; MEETINGS.

- a. Regular meeting of the Governing Body shall be held on the FIRST TUESDAY of each month at 7:00 P.M. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the City offices, the Governing Body shall fix the day and time for the meeting.
- b. Special meetings may be called by the Mayor or Acting Mayor, or on the written request of three (3) members of the Council, specifying the object and purpose of such meeting, which request shall be read at the meeting and entered at length on the journal.
- c. Regular or special meetings of the Governing Body may be adjourned for the completion of its business at such subsequent time and place as the Governing Body shall determine in its motion to adjourn.

(K.S.A. 15-106; Code 2021)

1-204 SAME; QUORUM. In all cases, it shall require a majority of council members to constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as the Council, by ordinance, may have previously prescribed. (K.S.A. 15-106; Code 2021)

1-205 POWERS OF THE MAYOR. The Mayor shall preside at all meetings of the Governing Body. The Mayor shall have the tie-breaking vote on all questions when the members present are equally divided. The Mayor shall:

- a. Have the superintending control of all officers and affairs of the city;
- b. Take care that the ordinances of the City are complied with;
- c. Sign the commissions and appointments of all officers elected or appointed;
- d. Endorse the approval of the Governing Body on all official bonds;
- e. From time-to-time, communicate to the City Council such information and recommend such measures as he or she deems advisable;
- f. Have the power to approve or veto any ordinance as the laws of the state conferred prescribe;
- g. Sign all orders and drafts drawn upon the City treasury for money.

(Code 2021)

1-206 PRESIDENT OF THE COUNCIL. The City Council shall elect one of its own body as President of the Council. The President of the Council shall preside at all meetings of the Council in the absence of the Mayor. In the absence of both the Mayor and the President of the Council, the Council shall elect one of its members as "Acting President of the Council." The President and Acting President, when occupying the place of the Mayor, shall have the same privileges as other Council members. (Code 2021)

1-207 ADMINISTRATIVE POWERS. The Governing Body may designate whether the administration of a policy or the carrying out of any order shall be performed by a committee, an appointive officer, or the Mayor. If no administrative authority is designated, it shall be vested in the Mayor. (Code 2021)

1-208 VACANCIES IN GOVERNING BODY; HOW FILLED. In case of a vacancy in the council occurring by reason of resignation, death or removal from office or from the city, the mayor, by and with the advice and consent of the remaining council members, shall appoint an elector to fill the vacancy until the next election for that office. In case any person elected as a

council member neglects or refuses to qualify within thirty (30) days after election, the council member shall be deemed to have refused to accept the office and a vacancy shall exist.

In the case of a vacancy in the office of mayor, the president of the council shall become mayor until the next regular election for that office and a vacancy shall occur in the office of the council member becoming mayor. (K.S.A. 15-201; C.O. No. 9; Code 2021)

1-209 COMPENSATION. Members of the Governing Body shall receive as compensation two hundred dollars (\$200.00) per year to be paid in July of each year unless otherwise determined by City Council by ordinance. (Code 2021)

1-210 EXPENSES. Each member of the Governing Body shall receive for his or her services and as reimbursement for his or her expenses, compensation as follows:

- a. Mileage at the same rate as is established by law by the State of Kansas for state employees for each mile traveled by the shortest route upon the performance of duties assigned by the Mayor and/or Council, not to include travel to council meetings or the like.
- b. Reimbursement for actual food and lodging expenses upon the performance of duties assigned by the Mayor and/or Council, provided such expenses shall be documented by proper receipts.

(Code 2021)

1-211 RULES AND ORDER OF BUSINESS. There is hereby incorporated by reference for the purpose of regulating the conduct of business at the City Council meeting of the City of Hoyt, Kansas, that certain code known as "THE CODE OF PROCEDURE FOR KANSAS CITIES", prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, "save and except such articles, sections, parts or portions as are hereinafter omitted, deleted, modified or changed." No fewer than three (3) copies of THE CODE OF PROCEDURE FOR KANSAS CITIES, latest edition, shall be marked and stamped "Official Copy as Incorporated by the Code of the City of Hoyt, Kansas" with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. (Code 2021)

## 1-212 CODE OF ETHICS.

- a. Declaration of Policy. The proper operation of our government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in the proper channels and that the public have confidence in the integrity of its government. In recognition of those goals, there is hereby established a Code of Ethics for all officials and employees, whether elected or appointed, paid or unpaid. The purpose of this code is to establish ethical standards by setting forth those acts or actions that are incompatible with the best interests of the city.
- b. Responsibilities of Public Office. Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and to carry out impartially the laws of the nation, state and city, and thus to foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the long-term public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach.
- c. Dedicated Service. All officials and employees of the city should be responsive to the political objectives expressed by the electorate and the programs developed to attain those objectives. Appointive officials and employees should adhere to the rule of work and performance established as the standard for their positions by the appropriate authority. Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.
- d. Fair and Equal Treatment
  1. Interest in Appointments. Canvassing or coercing members of the city council, directly or indirectly, in order to obtain preferential consideration in connection with any appointment to the municipal service shall disqualify the candidate for appointment.
  2. Use of Public Property. No official or employee shall request or permit the use of city-owned vehicles, equipment, materials or property for personal convenience or profit,



except when such services are available to the public generally or are provided as city policy for the use of such official or employee in the conduct of official business.

3. Obligations to Citizens. No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.
- e. Conflict of Interest. No elected or appointive city official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his or her duties in the public interest or would tend to impair his or her independence of judgment or action in the performance of his or her official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business or political association.

Specific conflicts of interest are enumerated below for the guidance of officials and employees:

1. Incompatible Employment. No elected or appointive city official or employee shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.
2. Disclosure of Confidential Information. No elected or appointive city official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the city. Nor shall he or she use such information to advance the financial or other private interest of himself, herself or others.
3. Gifts and Favors. No elected or appointive city official or employee shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm or corporation which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the city; nor shall any such official or employee:
  - (a) Accept any gift, favor or thing of value that may tend to influence him or her in the discharge of his or her duties; or

- (b) Grant in the discharge of his or her duties any improper favor, service or thing of value. The prohibition against gifts or favors shall not apply to:
- a. An occasional non-pecuniary gift, of only nominal value; or
  - b. An award publicly presented in recognition of public service; or
  - c. Any gift which would have been offered or given to him or her if not an official or employee.
4. Representing Private Interest Before City Agencies or Courts. No elected or appointive city official or employee whose salary is paid in whole or in part by the city shall appear on behalf of a private interest before any agency of this city. He or she shall not represent private interests in any action or proceeding against the interest of the city in any litigation to which the city is a party.

(Code 2021)

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

1-301 APPOINTMENT. At the first regular meeting in May of each year the Mayor, by and with the consent of the Council, shall appoint a City Clerk and City Treasurer, and may appoint a City Attorney, Municipal Judge, Chief of Police and such other officers as may be deemed necessary for the best interest of the City. Such officers shall hold their respective offices until their successors have been appointed and qualified. All such appointments shall be entered on the journal of proceedings of the Governing Body. The duties and salaries of all appointed officers shall be fixed by ordinance. (Code 2021)

1-302 EMPLOYEES; QUALIFICATIONS. The Mayor, with approval of the City Council, shall have authority to hire all other employees, or such authority may be delegated to the respective department heads. No person shall be eligible to any appointive office unless he or she is a qualified elector of the City of Hoyt prior to his or her appointment, except the city may appoint persons who are not qualified electors of the City of Hoyt to positions of city clerk, city attorney, city engineer, municipal judge and law enforcement officers when deemed necessary, including the appointment of persons who also serve as city attorney, municipal judge, or law enforcement officers of another municipality or public agency. (Code 2021)

1-303 REMOVAL.

- a. A majority of all members elect of the Governing Body may remove any appointed officer.
- b. For good cause, the Mayor, with approval of the City Council, may suspend at any time any appointed officer.
- c. Employees, other than appointed officers, may be removed by the Mayor upon recommendation of the Council.

(Code 2021)

1-304 VACANCY IN OFFICE. Whenever a vacancy occurs in any appointive office for whatever reason, the vacancy shall be filled by the Governing Body. Any person appointed to fill such vacancy shall serve only until the next regular time for appointment.

(K.S.A. 15-209; Code 2021)

1-305 CITY CLERK. The City Clerk shall:

- a. Be custodian of all City records, books, files, papers, documents and other personal effects belonging to the City and not properly pertaining to any other office;
- b. Carry on all official correspondence of the City;
- c. Attend and keep a record of the proceedings of all regular and special meetings of the Governing Body;
- d. Enter every appointment of office and the date thereof in the journal;
- e. Enter or place each ordinance of the City in the ordinance books after its passage and distribute a copy of the ordinance to the Mayor, each Council member, and the City Attorney;
- f. Publish all ordinances and such resolutions, notices and proclamations as may be required by law or ordinance, except those appropriating money.

(Code 2021)

1-306 SAME; FISCAL RECORDS. The City Clerk shall:

- a. Prepare and keep suitable fiscal records according to Generally Accepted Accounting Principles (GAAP);
- b. Assist in preparing the annual budget;
- c. Audit all claims against the City for goods or services rendered for the consideration of the Governing Body. His or her accounts shall properly show the amounts paid from any fund of the City and the cash balance existing in each fund;
- d. Keep an accurate account of all bonds issued by the City;
- e. Keep a record of all special assessments;
- f. Deposit all public monies and sign all checks of the City.

(Code 2021)

1-307 SAME; SEAL; OATHS. The City Clerk shall:

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

- b. Have power to administer oaths for all purposes pertaining to the business and affairs of the City;
- c. Keep suitable files of all such oaths required to be deposited in his or her office.

(Code 2021)

1-308 SAME; WITHHOLDING AGENTS. The City Clerk is designated as the withholding agent of the City for purposes of the Federal Revenue Income Act, and shall perform the duties required of withholding agents by said act or any other act requiring withholding from the compensation of any City officer or employee. The City Clerk shall perform such other duties as may be prescribed by the Governing Body or the Kansas statutes. (Code 2021)

1-309 CITY TREASURER. The City Treasurer shall:

- a. Keep a full and accurate record of all money received and paid out in document form;
- b. Publish an annual financial statement;
- c. Sign all checks for the City;
- d. Pay out City funds only upon order or warrants approved by the City Council;
- e. Perform such other duties as may be prescribed by the Governing Body or the Kansas statutes. (Code 2021)

1-310 CITY ATTORNEY; OFFICE; DUTIES. There is hereby established the office of City Attorney. No person shall be eligible for the Office of City Attorney who is not an attorney at law admitted to practice in the Supreme Court of the State of Kansas. The City Attorney shall be charged with the general direction and supervision of the legal affairs of the City. The City Attorney shall:

- a. Attend meetings of the Governing Body when so directed to attend by the Governing Body;
- b. Advise the Governing Body and all officers of the City upon such legal questions affecting the City and its offices as may be submitted to him or her;
- c. When requested by the Governing Body, give an opinion in writing upon any such questions;
- d. Draft such ordinances, contracts, leases, easements, conveyances and other instruments in writing as may be submitted to him or her in the regular transaction of affairs of the City;

- e. Approve all ordinances of the City as to form legality;
- f. Attend Planning Commission and Board of Zoning Appeals meetings when so directed by the Boards;
- g. Appear and prosecute all violations of City ordinances in Municipal Court when his or her services shall be required;
- h. Perform such other duties as may be prescribed by the Governing Body and the Kansas Statutes.

(Code 2021)

1-311 CONTRACTING ENGINEER. The Engineer contracted by the City shall be a licensed professional engineer in the State of Kansas. He or she shall be responsible for:

- a. The design and specifications for all City streets, sewer, water lines, public buildings and other public facilities;
- b. The inspection of all public works projects including streets, sewers, water lines and other facilities.

(Code 2021)

1-312 APPOINTMENT OR EMPLOYMENT IN MORE THAN ONE POSITION. The same person may be appointed to more than one appointive office, or employed in more than one department, except that the same person shall not be appointed to incompatible offices. Salaries or wages of such persons shall be prorated between the proper funds of the several offices or departments. (Code 2021)

1-313 CONFLICT OF INTEREST.

- a. No City officer or employee shall be signatory upon, discuss in an official capacity, vote on any issue concerning or otherwise participate in his or her capacity as a public official or employee in the making of any contract with any person or business:
  - 1. In which the officer or employee owns a legal or equitable interest exceeding \$5,000 or five percent (5%), whichever is less, individually or collectively with his or her spouse; or

2. From which the officer or employee receives, in the current or immediately preceding or succeeding calendar year, any salary, gratuity, other compensation or a contract for or promise or expectation of any such salary, gratuity or other compensation or re-numeration having a dollar value of \$1,000 or more; or
  3. In which he or she shall hold the position of officer or director, irrespective of the amount of compensation received from ownership held in the business.
- b. The prohibitions contained in subsection a. of this section shall not apply to the following:
1. Contracts let after competitive bidding has been solicited by published notice; and
  2. Contracts for property or services for which the price or rate is fixed by law.

(Code 2021)

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

1-401 PERSONNEL RULES AND REGULATIONS. There is hereby incorporated by reference for the purpose of establishing personnel rules and regulations, the document entitled "PERSONNEL RULES AND REGULATIONS, CITY OF HOYT, KANSAS." No fewer than three (3) copies of said document shall be marked or stamped "Official Copy as adopted by the Code of the City of Hoyt" and to which there shall be attached a copy of this section. Said official copies shall be filed with the City Clerk and shall be open to inspection and available to the public at all reasonable hours. All departments of the City shall be supplied with copies of such rules and regulations as may be deemed necessary. (Code 2021)



## ARTICLE 5. OATHS AND BONDS

1-501 OATH; AFFIRMATION. All officers and employees of the City, whether elected or appointed, either under the laws of the State of Kansas or ordinances of the City, shall before entering upon the duties of their respective offices, take and subscribe an oath or affirmation as follows:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Kansas and faithfully discharge the duties of \_\_\_\_\_ (here enter name of office or position). So help me God."

(Code 2021)

1-502 OATHS FILED. All officers and employees required to take and subscribe or sign an oath or affirmation shall be supplied the forms for the purpose at the expense of the City and upon taking and subscribing or signing any such oath or affirmation, the same shall be filed by the City Clerk. (Code 2021)

1-503 BONDS REQUIRED.

- a. The following City officers shall each, before entering upon the duties of his or her office, give a good and sufficient corporate surety bond to the city. The bond shall be in the following amount, to wit:
  1. City Treasurer \$10,000.00;
  2. City Clerk \$10,000.00;
  3. Clerk of Municipal Court \$1000.00;
  4. Judge of Municipal Court \$1000.00.
- b. The Governing Body may provide for the coverage by blanket bond of such officers and employees in such amounts as the Governing Body may, by resolution, designate.

(Code 2021)

1-504 SAME; PREMIUMS. All premiums on such surety bonds shall be paid by the City. (K.S.A. 78-111; Code 2021)

1-505 CONDITION OF BONDS. Each of the bonds required in Section 1-503 of this article shall be conditioned for the faithful performance of duty and all acts required by the laws of Kansas and of the City, and for the application and payment over to the proper persons of all moneys or property coming into the hands of each such officer by virtue of his or her office. (Code 2021)

1-506 APPROVAL OF BONDS. All bonds given to City shall be approved as to their form by the City Attorney and as to surety and sufficiency by the Governing Body, unless otherwise provided by the laws of the State of Kansas. (Code 2021)

## **ARTICLE 6. OPEN RECORDS**

### 1-601 POLICY.

- a. K.S.A. 45-226 requires that the governing body of every public agency in Kansas that maintains public records shall designate a local freedom of information officer; and
- b. K.S.A. 45-219 provides that cities such as the City of Hoyt may require those requesting open records to do so in writing and that statute also provides that such cities may require the payment of advance fees for the obtaining of open records.

1-602 FREEDOM OF INFORMATION OFFICER. The City Clerk is hereby designated as the Freedom of Information Officer for the City of Hoyt. The City Clerk shall prepare and provide educational materials concerning the Kansas Open Records Act (found at K.S.A. 45-215 et seq.) The City Clerk and/or City Attorney shall respond to inquiries relating to the Kansas Open Records Act.

(Code 2021)

1-603 SAME; DUTIES. The City Clerk shall prepare and provide educational materials concerning the Kansas Open Records Act (found at K.S.A. 45-215 et seq.) The City Clerk and/or City Attorney shall respond to inquiries relating to the Kansas Open Records Act.

1-604 ROLE OF CITY ATTORNEY. The City Attorney shall be available to assist the City of Hoyt and members of the general public to resolve disputes relating to the Kansas Open Records Act. The City Clerk and/or City Attorney shall respond to inquiries relating to the Kansas Open Records Act. The City Attorney shall establish the requirements for the content, size, shape and other physical characteristics of a brochure required to be displayed or distributed or otherwise made available to the public under the provisions of the Kansas Open Records Act.

1-605 OPEN RECORDS REQUESTS. All requests of the City for records under the Kansas Open Records Act shall be made in writing pursuant to the provisions of K.S.A. 45-219. Pursuant

to that statute, the City may also require advance payment of fees charged by the city for reproduction of open records as set forth below:

The City shall charge all those requesting open records an hourly administrative fee for preparing copies of such records. Such charge shall be at the hourly rate paid to the City Clerk. The rate for paid professionals when their time is necessary to properly respond to a request shall be their hourly rate billed to the City. In addition, for all public records that are in paper form, the City shall charge all requesting parties an amount per page for the copies of such records, in accordance with the City of Hoyt Rate and Fee Schedule.

(Code 2021, Ord. No. 287)

## **ARTICLE 7. INVESTMENT OF PUBLIC FUNDS**

1-701 **PURPOSE AND GOALS.** It is the purpose of this statement to set forth the public policies of the City relating to the investment of public moneys, and establish procedural requirements as to investment management practice. The objective of the investment policy and program of the City shall be as follows:

- a. The safeguarding of all public moneys shall be of the highest priority. Public money shall not be invested or managed in any matter which would jeopardize the safety of the principal.
- b. Consistent with the requirement of safety, the objective of the investment program shall be to aggressively manage and invest all public moneys to maximize net earnings, consistent with the public responsibility to secure the maximum, safe investment return possible from moneys assigned to its stewardship, to relieve demands on the property tax and to otherwise reduce the cost of public services.

(Code 2021)

1-702 **ACTIVE FUNDS; DESIGNATION OF DEPOSITORIES; ELIGIBLE DEPOSITORIES.**

- a. The governing body shall designate the banks, savings and loan associations and savings banks which shall serve as depositories of its funds. The clerk, treasurer or other city officer or employee having the custody of the city funds shall deposit such funds only at the designated banks, savings and loan associations and savings banks. Only banks, savings and loan associations and savings banks that have main or branch offices in Jackson County shall be designated as official depositories. No such bank, savings bank or savings and loan association shall be designated as a depository until the city is assured that it can obtain satisfactory security for its deposits.
- b. The clerk, treasurer or other city officer or employee depositing public funds shall deposit all such public funds coming into such person's possession in their name and official title as such officer. If the governing body fails to designate an official depository or depositories, the officer thereof having custody of city funds shall deposit such funds with

one or more banks, savings and loan associations or savings banks which have main or branch offices in Jackson County if satisfactory security can be obtained therefor and if not then elsewhere. In such event, the officer or employee shall serve notice in writing on the governing body showing the names and locations of such banks, savings and loan associations and savings banks where such funds are deposited, and upon so doing the officer or employee having custody of such funds shall not be liable for the loss of any portion thereof except for official misconduct or for the misappropriation of such funds by the officer or employee.

- c. If eligible banks, savings and loan associations or savings banks under subsections a. or b. cannot or will not provide an acceptable bid, which shall include services, for the depositing of public funds under this section, then banks, savings and loan associations or savings banks which have main or branch offices in any immediately adjoining county may receive deposits of the city's active funds, if such banks, savings and loan associations or savings banks have been designated as official depositories under subsection a. and the city can obtain satisfactory security therefor.

(Code 2021)

1-703 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this article, have the meanings indicated in this section:

- a. Bank shall mean any bank incorporated under the laws of the State of Kansas or any other state, or organized under the laws of the United States and which has a main or branch office Kansas;
- b. Savings and Loan Association shall mean any savings and loan association incorporated under the laws of the State of Kansas or any other state, or organized under the laws of the United States and which has a main or branch office in Kansas;
- c. Savings Bank shall mean any savings bank organized under the laws of the United States and which has a main or branch office in Kansas;
- d. Main Office shall mean the place of business specified in the articles of association, certificate of authority or similar document, where the business of the institution is carried on and which is not a branch;

- e. Branch shall mean any office within the state, other than the main office, that is approved as a branch by a federal or state supervisory agency, at which deposits are received, checks paid or money lent. Branch does not include an automated teller machine, remote service unit or similar device or a loan production office;
- f. Investment Rate – shall mean a rate which is the equivalent yield for United States government securities having a maturity date as published in the Wall Street Journal, nearest the maturity date for equivalent maturities. The 0-90 day rate shall be computed on the average effective federal funds rate as published by the Federal Reserve System for the previous week.

(Code 2021)

1-704 INVESTMENT OF IDLE FUNDS. Temporarily idle moneys of the city not currently needed, may in accordance with the procedure hereinafter described be invested:

- a. In temporary notes or no-fund warrants issued by the city;
- b. In savings deposits, demand deposits, time deposit, open accounts, certificates of deposit or time certificates of deposit with maturities of not more than two years:
  - 1. In banks, savings and loan associations and savings banks, which have main or branch offices located in the city; or
  - 2. If no main or branch office of a bank, savings and loan association or savings bank is located in the city, then in banks, savings and loan associations and savings banks, which have main or branch offices in the county or counties in which all or part of the city is located;
- c. In repurchase agreements with:
  - 1. Banks, savings and loan associations and savings banks, which have main or branch offices located in the city, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or
  - 2. (a) If no main or branch office of bank, savings and loan association or savings bank, is located in the city; or  
(b) If no such bank, savings and loan association or savings bank having a main or branch office located in the city is willing to enter into such an agreement with the city at an interest rate equal to or greater than the investment rate, as defined in

subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks which have main or branch offices in the county or counties in which all or part of the city is located; or

3. If no bank, savings and loan association or savings bank, having a main or branch office in such county or counties is willing to enter into such an agreement with the city at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks located within the United States.
- d. In direct obligations of or obligations that are insured as to principal and interest by the United States or any agency thereof, not including mortgage-backed securities with maturities as the governing body shall determine, but not exceeding two years. Such investment transactions shall only be conducted with banks, savings and loan associations and savings banks; the Federal Reserve Bank of Kansas City, Missouri; or with primary government securities dealers which report to the Market Report Division of the Federal Reserve Bank of New York, or any broker-dealer engaged in the business of selling government securities which is registered in compliance with the requirements of section 15 or 15C of the Securities Exchange Act of 1934 and registered pursuant to K.S.A. 2005 Supp. 17-12a401, and amendments thereto.
- e. In the municipal investment pool fund established in K.S.A. 12-1677a, and amendments thereto;
- f. In the investments authorized and in accordance with the conditions prescribed in K.S.A. 12-1677b, and amendments thereto; or
- g. In multiple municipal client investment pools managed by the trust departments of banks which have main or branch offices located in the county or counties in which the City is located or with trust companies incorporated under the laws of this state which have contracted to provide trust services under the provisions of K.S.A. 9-2107, and amendments thereto, with banks which have main or branch offices located in the county or counties in which the City of Hoyt is located. Public moneys invested under this paragraph shall be secured in the same manner as provided for under K.S.A. 9-1402, and



amendments thereto. Pooled investments of public moneys made by trust departments under this paragraph shall be subject to the same terms, conditions and limitations as are applicable to the municipal investment pool established by K.S.A. 12-1677a, and amendments thereto.

- h. The investments authorized in subsections d., e., f., or g. of this section shall be utilized only if banks, savings and loan associations and savings banks eligible for investments authorized in subsection b., cannot or will not make the investments authorized in subsection b. available to the city at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto.
- i. In selecting a depository pursuant to subsection b., if a bank, savings and loan association or savings bank eligible for an investment deposit thereunder has an office located in the city and such financial institution will make such deposits available to the city at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and such financial institution otherwise qualifies for such deposit, the governing body shall select one or more of such eligible financial institutions for deposit of funds pursuant to this section. If no such financial institution qualifies for such deposits, the city shall select for such deposits one or more eligible banks, savings and loan associations or savings banks which have offices in the county or counties in which all or part of the city is located which will make such deposits available to the city at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and which otherwise qualify for such deposits.

(Code 2021)

1-705 PROCEDURES AND RESTRICTIONS. The City Clerk shall periodically report to the Governing Body as to the amount of money 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 Clerk shall provide for an investment program which shall so limit the amounts invested and shall 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.

(Code 2021)

1-706 CUSTODY AND SAFEKEEPING. Securities purchased pursuant to this article shall be under the care of the Mayor and City Clerk and shall be held in the custody of the 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 the original or receipt form held in the custody of a bank or trust company shall be held in the same name of the City, and their redemption, transfer, or withdraw shall be permitted only upon the written instructions of the City officers. Securities not held in the custody of a bank or trust company shall be personally deposited by such officer 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 the Mayor and City Clerk. (Code 2021)

1-707 SALE OR TRANSFER. If, in order to maintain sufficient moneys on demand deposit in any fund as provided in Section 1-706, it becomes necessary to transfer or sell any securities of such funds, the officers specified in Section 1-706 may transfer said securities to any other fund or funds in which there are temporarily idle moneys, or shall sell such securities, and for such purpose they shall have authority to make any necessary written direction, endorsement or assignment for and on behalf of the City. (Code 2021)

1-708 INTEREST ON TIME DEPOSITS. The City Clerk shall deposit the interest earned on invested idle funds to the general fund, unless otherwise required or authorized by law. (Code 2021)

## CHAPTER II - ANIMAL CONTROL AND REGULATIONS

Article 1.	General Provisions
Article 2.	Canines & Felines
Article 3.	Pit Bull Dogs
Article 4.	Other Animals

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### ARTICLE 1. GENERAL PROVISIONS

2-101 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this article, have the meanings indicated in this section:

- a. Abandon includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.
- b. Animal shall mean all domestic animals except dogs and cats.
- c. Animals shall mean all vertebrate and invertebrate animals such as, but not limited to, bovine cattle, horses and other equines, hogs, goats, dogs, cats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild animals, reptiles, fish, bees or birds that have been tamed, domesticated or captivated.
- d. Animal Shelter shall mean the facility or facilities with whom the city contracts and their authorized agents for the purpose of impounding or caring for animals under the authority of this chapter or state law.
- e. At-Large shall mean to be free of restraint or confinement. Animals tethered to a stationary object within range of public thoroughfares are deemed to be “at-large.”
- f. Bite shall mean any actual or suspected abrasion, scratch, puncture, tear, bruise, or piercing of the skin, caused by an animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing the bite.
- g. Cat shall mean any member of the species felis catus, regardless of sex.
- h. Dangerous or Vicious Animal shall mean any animal deemed to be dangerous or vicious per section 2-115.
- i. Dog shall mean any member of the species canis familiaris, regardless of sex.

- j. Exposed to Rabies shall mean an animal has been bitten or subject to danger, attack or harm by any creature known to have been infected with rabies.
- k. Fowl shall mean all waterfowl, landfowl, and poultry, which shall include, but is not limited to, chickens, ducks, geese, turkeys, guineas and pigeons.
- l. Harbor shall mean the act of any person of allowing any animals to habitually remain or lodge or to be fed within his or her home, store, yard, enclosure or place of business, or any other premises, where he or she resides or controls.
- m. Humane Live Animal Trap shall mean any cage that upon activation encloses an animal without placing any physical restraint upon any part of the body of such animal.
- n. Humanely Euthanize shall mean the proper injection of a substance that quickly and painlessly terminates the life of an animal, or any other method approved by the American Veterinary Medical Association or the American Humane Society.
- o. Immediate Control shall mean the regulation and supervision by a competent person so that an animal is unable to run or get loose at will.
- p. Kennel shall mean any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure in one location only, three or more dogs.
- q. Livestock includes, but it not limited to, cattle, horses, goats, sheep or other animals commonly regarded or used as farm or ranch animals.
- r. Neutered shall mean any male or female cat or dog that has been permanently rendered sterile.
- s. Own shall mean and includes own, keep, harbor, shelter, manage, possess, or have a part interest in any animal. If a minor owns any such animal subject to the provisions of this chapter, the head of household of which such minor is a member shall be deemed to own such animal for the purpose of this chapter.
- t. Owner shall mean the one who owns, or his or her employee, agent, or other competent person into whose charge an animal has been placed by the actual owner as described in subsection (s) above.
- u. Person shall mean an individual, group of individuals, partnership, association, company or corporation.

- v. Restraint shall mean an animal shall be deemed to be under restraint if confined by a building, fence, leash or other appropriate means, or if accomplished by a competent person and under that person's immediate control. A fence shall consist of a structure or properly functioning electronic device that confines the animal to a defined space.
- w. Spayed Female shall mean any female animal which has been operated upon to prevent conception.
- x. Stray shall mean any domestic animal which is found at large or which may be found in any enclosure other than that of its ownership, and whose owner is not known or whose owner cannot be found.
- y. Vaccination shall mean an injection of a vaccine, approved by the State Board of Public Health, and administered by a licensed veterinarian for the purpose of immunizing an animal against rabies.
- z. Veterinarian shall mean a doctor of veterinary medicine licensed by the State of Kansas.
- aa. Veterinary Hospital shall mean any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseases and injuries of animals.

(Code 2021)

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

- a. There is hereby created the position of Animal Control Officer for the City and such officer shall be charged with the enforcement of this chapter. Animal control officer for the city shall consist of the following:
  - 1. All enforcement officers of the city;
  - 2. All persons employed by the city as animal control officers, commissioners by the Chief of Police as such; and
  - 3. All Deputies and Animal control officers employed by Jackson County, Kansas.
- b. Except as provided in subsection (c), it shall be the duty of the Animal Control Officer to take up and impound all animals found in the City in violation of the provisions of this chapter.
- c. As an alternative to the provision of subsection (b) of this section, any law enforcement officer or the Animal Control Officer may issue a citation to the owner, harbinger or keeper

of an animal in violation of this chapter, and the person receiving the citation shall appear in the Municipal Court of the City to answer the charged violation of this chapter.

(Code 2021)

2-103 SAME; CAPTURE/DESTRUCTION. When deemed necessary by Law Enforcement Officers or the Animal Control Officer for the health, safety and welfare of the residents of the City, such officers and/or their agents may:

- a. Place a humane trap on public or a requesting resident's property for the purpose of capturing any animal defined in this chapter as creating a nuisance in the City;
- b. Use any tranquilizer guns, humane traps, or other suitable devices to subdue and capture any animal that is deemed by the Animal Control Officer, in his or her discretion, to be of danger to itself or to the public health and safety;
- c. Use firearms or other suitable weapons to destroy any rabid animal, any vicious animal as defined in section 2-114, where such animal is impossible or impractical to catch, capture or tranquilize.

(Code 2021)

2-104 SAME; RIGHT OF ENTRY; UNLAWFUL INTERFERENCE.

- a. The Animal Control Officer or any Law Enforcement Officer shall have the right of entry upon any private unenclosed lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this chapter.
- b. It shall be unlawful for any person to interfere with the Animal Control Officer in the exercise of his or her duties.

(Code 2021)

2-105 MUNICIPAL POUND ESTABLISHED. A municipal pound may be established to carry out the provisions of this chapter. Such a pound may be operated by a contractor or other operator approved and designated by the Governing Body, and all services required herein may be provided by a contractor or other operator approved and designated by the Governing Body. (Code 2021)

2-106 CRUELTY TO ANIMALS. It shall be unlawful for any person to:

- a. Intentionally abandon or leave any animal in any place without making provisions for its proper care;
- b. Have physical custody of any animal and intentionally fail to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal;
- c. Have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition except as provided in section 2-108;
- d. Intentionally use a wire, pole, stick, rope or any other object to cause any animal to lose its balance or fall, for the purpose of sport or entertainment;
- e. Willfully or maliciously kill, maim, torture, burn or scald with any substance; or otherwise cruelly set upon any animals, except that reasonable force may be employed to drive off vicious animals;
- f. Drive or work any animal cruelly or cruelly work any maimed, mutilated, infirmed, sick or disabled animal, or cause, allow or permit the same to be done;
- g. Sell or offer for sale, barter, give away, or use as an advertising device or promotional display, living baby chicks, rabbits, ducklings or other fowl under 2 months of age in any quantity less than 12; or to sell, offer for sale, barter, give away, or display animals or fowls as specified in this section which have been dyed, colored or otherwise treated so as to impart to them an artificial or unnatural color;
- h. Train any animal for the purpose of injuring, killing, maiming, or destroying themselves or any other animal;
- i. Promote, stage, hold, manage, or in any way conduct any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animal; or
- j. Intentionally cause any physical injury other than acts constituting a felony as defined in K.S.A. § 21-6412, and amendments thereto.
- k. These provisions shall not apply to the exceptions sanctioned under section 2-108.

In addition to the penalties provided in this code, the Municipal Court Judge may order a person convicted of violation under this section to turn the animal involved over to a designated humane

society. All such animals taken by the designated agency may be placed with another or more suitable person or destroyed humanely as soon thereafter as is conveniently possible.

(Code 2021)

2-107 SAME; EXCEPTIONS. The provisions of section 2-107 shall not apply to:

- a. Normal or accepted veterinary or veterinary hospital practices or treatment of animals under active veterinary care;
- b. Bona fide experiments carried on by commonly recognized research facilities;
- c. Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;
- d. Rodeo practices accepted by the Rodeo Cowboys' Association;
- e. The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or by an authorized agent such as a licensed veterinarian, at the request of the owner, or by an officer or agent of an incorporated humane society, operator of an animal shelter or pound, or a local state health officer or a veterinarian three business days following the receipt of any such animal at such society, shelter or pound.
- f. With respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;
- g. The killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;
- h. An animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;
- i. Laying an equine down for medical or identification purposes;
- j. Normal or accepted practices of pest control, as defined in K.S.A. § 2-2438a, and amendments thereto.

(Code 2021)



2-108 KEEPING ANIMALS. It shall be unlawful for the owner, lessee, occupant or person in charge of any premises in the city to possess and maintain any animal or fowl within the city or permit to be maintained thereon any stable, shed, pen or other place where horses, mules, cattle, sheep, goats or swine, or undomesticated animals are kept. This provision shall not apply to:

- a. The maintaining of a stockyard or sales barn for the loading, unloading, temporary detention and sale of such livestock, if the location of such stockyard or sales barn does not otherwise violate the zoning ordinances of the city;
- b. The maintaining of dogs which are regulated by Article 2 of this ordinance;
- c. The maintaining of non-poisonous and non-vicious animals and fowl which are commonly kept as household pets, such as cats, hamsters, rabbits, parakeets and comparable animals, when kept as household pets and in a safe and sanitary manner in accordance with Section 2-113 of this ordinance;
- d. The transporting of animals through the city by ordinary and customary means.

(Code 2021)

2-109 ANIMAL TRAPS. It shall be unlawful for any person to use, place, set out, or deploy any animal trap above ground, which makes use of spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap; except that nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals. (Code 2021)

2-110 NUISANCE, ANIMAL ACTIVITIES PROHIBITED. It shall be unlawful for the owner of any animal to keep or maintain such animal in the City so as to constitute a nuisance. For the purpose of this section, "nuisance" is defined as any animal which:

- a. Molests or interferes with persons in the public right-of-way;
- b. Attacks or injures persons or other domestic animals;
- c. Damages public or private property other than that of its owner or harborer by its activities or with its excrement;
- d. Scatters refuse that is bagged or otherwise contained;

- e. Causes any condition which threatens or endangers the health or well-being of persons or other animals.

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

(Code 2021)

2-111 NOISY ANIMALS. The keeping or harboring of any animal which by loud, frequent or habitual barking, howling, yelping, mewling, roaring or screeching shall disturb the peace of any neighborhood is hereby prohibited. It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the condition, and if he or she fails to do so, the City may abate it by taking up, impounding and/or disposing of the animal at the expense of the owner or through the filing of an action in municipal court. (Code 2021)

2-112 ANIMAL CONFINES, SHELTERS.

- a. It shall be unlawful for any person to keep or maintain any animal in any yard, structure or area that is not clean, dry and sanitary, free from debris and offensive odors that annoy any neighbor, and devoid of rodents and vermin.
- b. Excrement shall be removed at least once each week from any animal shelter, pen or yard area where animals are kept, or more often if necessary to prevent or control odors, fly breeding, or rodent infestation. If excrement is stored on the premises by any animal owner, it shall be stored in adequate containers with fly-tight lids, and all such stored or accumulated wastes shall be disposed of at least once each week.
- c. All animal shelters, pens and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.
- d. All animal shelters and board fences confining animals shall be maintained in good repair, and all animal shelters and board fences confining animals subject to residential and commercial classification shall be protected from deterioration by painting or comparable treatment.
- e. Barbed wire fences and electrically charged fences shall not be permitted for animal confines except on properties for which an agricultural classification permit is held or where the barbed wire fence or electrically charged fence is protected by an exterior fence.

- f. All premises on which animals are kept shall be subject to inspection by the Animal Control Officer, duly authorized Law Enforcement Officer or Public Health Official. If the officer or official determines from such inspection that the premises are not being maintained in a clean and sanitary manner, he or she shall notify the owner of the animals in writing to correct the sanitation deficiencies within twenty-four (24) hours after notice is served on the owner. Any animal kept under any condition which could endanger the public or animal(s) health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected.

(Code 2021)

2-113 DEATH OF ANIMALS. All dead animals shall be disposed of by the owner or keepers within twenty-four (24) hours of the animal's death, by burial, incineration in a facility approved by the Animal Control officer, by rendering or by other lawful means approved by the Animal Control Officer. No dead animal shall be dumped on any public or private property. (Code 2021)

2-114 VICIOUS ANIMALS.

- a. Prohibited. It shall be unlawful for any person to keep, possess or harbor a vicious animal within the City. Impoundment of animals whose owners have been cited for violation of this section shall be at the discretion of the Animal Control Officer. If the animal presents a clear and present danger to the public health or safety, it shall be the duty of the Animal Control Officer or his or her agent to impound such animal.
- b. Defined. For the purposes of this chapter a vicious animal shall include:
  - 1. Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or
  - 2. Any animal which attacks a human being or domestic animal without provocation;
  - 3. Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting;
  - 4. Any animal which is urged by its owner or harborer to attack, or whose owner or harborer threatens to provoke such animal to attack, any Law Enforcement Officer while such officer is engaged in the performance of official duty;

- c. Complaint. Whenever a sworn complaint is filed in Municipal Court against the owner of an animal alleging that such animal is vicious and in violation of this section, the Municipal Judge shall hold a hearing to determine whether or not the animal is vicious within the meaning of this section and thereby in violation of this section. The owner of the animal shall be notified in writing of the time and place of the hearing at least one week prior to the hearing. In making a determination, the Municipal Judge shall consider the following:
1. The seriousness of the attack or bite;
  2. Past history of attacks or bites;
  3. Likelihood of attacks or bites in the future;
  4. The condition and circumstances under which the animal is kept or confined;
  5. Other factors which may reasonably relate to the determination of whether or not the animal is vicious.

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

- d. Vicious Animal to be Muzzled. It shall be the duty of every owner, keeper or harbinger of any dog in the City, which dog is vicious or has been known to bite, chase, or run after any person or animal in the streets, alleys, or any public place in the City, to keep the same muzzled with a good and sufficient wire or leather muzzle, securely fastened so as to wholly prevent such dog from biting any animal or person until such time as a determination has been made by the court as to whether the dog is vicious or not. Any person owning, keeping or harboring any dog within the City limits contrary to this section shall be guilty of a violation of this code.
- e. Immediate Destruction. Nothing in this chapter shall be construed to prevent the Animal Control officer or any Law Enforcement Officer from taking whatever action is reasonably necessary to protect himself or herself or members of the public from injury or danger, including immediate destruction of any vicious animal without notice to the owner.

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

(Code 2021)

2-115 DOMESTIC ANIMALS AT LARGE. It shall be unlawful for the owner of any domestic animal or animals to suffer or permit such animals to run or be at large within the corporate limits of the City. (Code 2021)

2-116 IMPOUNDMENT; FEE; NOTICE; RECORD.

- a. The Animal Control Officer or Law Enforcement Officer may impound any animal or fowl found at large in the City or constituting a nuisance or otherwise in violation of this chapter in a pound or other suitable location. The impounding officer shall make diligent inquiry as to the owner of the animal and shall notify the owner thereof of such impoundment as soon as reasonably possible.
- b. The City shall be entitled to receive from such owner an impoundment fee which shall be determined by the City of Hoyt Rate and Fee Schedule, plus the actual cost of feeding and maintaining the animal while impounded. All such fees shall be paid to the city clerk and deposited to the general fund.
- c. In case the identity of the owner of the impounded animal or fowl cannot be ascertained, the Animal Control Officer or Police Officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding, and shall thereupon immediately post a public notice stating that the animal, describing the same with the date

and place of taking, has been taken up and that unless the charges of impounding the same, together with any license fees due and unpaid, are paid within three (3) business days from the date of the notice, that the animal will be disposed of as provided in this code.

(Code 2021)

2-117 REDEMPTION OF IMPOUNDED ANIMALS. At any time before the sale or destruction of any animal impounded under the provisions of this article, except for animals impounded under sections 2-115 (vicious) and 2-119 (rabid), the owner thereof may redeem the animal by paying the pound the impounding fee and all costs incurred as a result of such impoundment. (Code 2021)

2-118 IMPOUNDMENT OF RABIES SUSPECTS.

- a. Any Law Enforcement Officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in the City pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not more than thirty (30) days during which time the local health officer shall determine whether or not such animal is suffering from rabies and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. If in the opinion of the local health officer symptoms develop justifying a microscopic examination, then the animal shall be killed and examination made by the State Board of Health.
- b. In lieu of the provisions of subsection (a), the owner of any such animal may, at his or her own expense, take such animal to any duly qualified and licensed veterinarian in the City for observation. Such veterinarian shall report his or her findings in writing to the local health officer. If in the opinion of such veterinarian a microscopic examination is justified, then the animal shall be turned over to the Animal Control Officer or any Law Enforcement Officer to be killed and examination made by the State Board of Health.
- c. Any animal desired for observation by the local health officer under this section shall be delivered to the Animal Control Officer or any Law Enforcement officer upon demand and

shall not be withheld, hidden or harbored. Any person violating this provision shall be guilty of a violation of this code. Upon refusal of any person to so deliver such animal, the Municipal Judge shall cause a warrant to be issued for the arrest of such person, which warrant shall also provide for the surrender of the animal and shall be lawful authority for the apprehending and forcible taking of such animal.

(Code 2021)

2-119 ANIMALS BITTEN BY RABID ANIMAL. Whenever a dog, cat or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten to report that act to the local health officer and/or the Police Department. It shall also be the duty of the owner of the bitten animal to either destroy or have his or her bitten animal destroyed unless:

- a. The animal which was bitten had been vaccinated against rabies at least three (3) weeks before being bitten and has a current vaccination; and
- b. If the bitten animal has a current vaccination, it shall be confined for ninety (90) days; and
- c. The bitten animal shall be released from confinement only upon written order from the local health officer, who declares the animal to be free of rabies; and
- d. If the animal is found to have contracted rabies during confinement, it shall be properly disposed of.

(Code 2021)

2-120 VEHICULAR ACCIDENTS INVOLVING ANIMALS. Any person who as the operator of a motor vehicle strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained and located the operator shall at once report the accident to the Animal Control Officer or any Law Enforcement Officer. (Code 2021)

2-121 EMERGENCY; PROCLAMATION. The mayor is hereby authorized whenever in his or her opinion the danger to the public safety from rabid animals is made imminent to issue a proclamation ordering all persons owning any animal in the city to confine the animal in a good and sufficient enclosure from which the animal cannot escape, or fasten such animal by means of

a chain on the premises where the owner may reside, for such time as may be specified in such proclamation. Any animal not confined during such time may be disposed of wherever found by any police officer, or the animal control officer of the city. The owner of such animal shall be prosecuted for such violation thereof. (Code 2021)

## 2-122 KENNEL LICENSE.

- a. No person or household shall own or harbor more than two (2) dogs of six months of age or older; or more than one litter of pups; or more than two (2) cats of six months of age or older; or more than one litter of kittens; or more than a total of three (3) dogs or cats more than six months of age in any combination thereof, or engage in the commercial business of breeding, buying, selling, trading, training, or boarding cats or dogs or both cats and dogs, without first having obtained a kennel license from the City Clerk.
- b. Kennel licenses must be renewed annually. No kennel license shall be issued until an inspection certificate has been issued by the Animal Control Officer certifying approval of the kennel and compliance with the applicable laws of the City and the State of Kansas, and certificates by the Zoning Administrator and the Public Officer have been issued certifying that the applicant for the kennel license is not violating zoning laws or code enforcement laws of the City. If the City Clerk has not received any protest against the kennel, the City Clerk may issue a renewal of an existing kennel license at the same location without any report from the Animal Control Officer, Zoning Administrator or Public Officer. If the Animal Control Officer, Zoning Administrator or Public Officer finds that the holder of any kennel license is violating any Zoning laws or Code Enforcement laws, or any other laws of the State of Kansas, or of the City of Hoyt, or is maintaining the facility in a manner detrimental to the health, safety or peace of mind of any person residing in the immediate vicinity, he or she shall report such fact to the City Clerk and the license shall not be renewed except after a public hearing before the Governing Body.
- c. The Animal Control Officer, the Zoning Administrator, the Public Officer or any Law Enforcement Officer shall have the right to inspect any premises licensed under this section at any reasonable time and nothing shall prevent the entry onto private property for the purpose of inspection. The application for a kennel shall constitute consent to such entry and inspection.



- d. The Governing Body may suspend or revoke a kennel license if, pursuant to a public hearing, it finds any of the following:
  - 1. The kennel is maintained in violation of any applicable law of the State of Kansas or of the City of Hoyt.
  - 2. The kennel is maintained so as to be a public nuisance.
  - 3. The kennel is maintained so as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity.
- e. The annual kennel license fee shall be determined by the City Rate and Fee Schedule. Payment of such license fee is in addition to, and not in lieu of, the dog license fees otherwise required under this article.
- f. This section shall not apply to and will not be construed to require a kennel license for a licensed veterinarian to operate an animal hospital.
- g. The above limitations of Section 2-123(a) may be exceeded by a non-kennel owner by conditional use permit, if allowed by the City Council.

(Code 2021)

## **ARTICLE 2. CANINES AND FELINES**

### **2-201 REGISTRATION AND VACCINATION REQUIRED; FEE.**

- a. Every owner of any canine or feline over six months of age shall annually register with the City Clerk his or her name and address with the name, sex and description of each canine or feline owned and kept within the City. It shall be unlawful for the owner of any newly acquired canine or feline or any canine or feline brought into the City to fail to register such animal within thirty (30) days from acquisition or bringing the canine or feline into the City. It shall be unlawful for the owner of any previously registered canine or feline to fail to maintain current registration of such canine or feline.
- b. Upon registration, the owner shall present a current, completed certificate of immunization against rabies. No registration shall follow without evidence of this document and it shall be unlawful for the owner of any canine or feline over six months of age to fail to maintain effective rabies immunization of such canine or feline.
- c. The owner or harbinger of any canine or feline shall, at the time of registering such canine or feline, present to the City Clerk a certificate from an accredited veterinarian showing that a male canine or feline has been neutered or a female canine or feline has been spayed, if the canine or feline has been neutered or spayed.
- d. The City Clerk shall collect an annual registration fee for each canine and feline. The amount of such fee shall be in accordance with the City of Hoyt Rate and Fee Schedule.
- e. The registration year shall be from May 1<sup>st</sup> through April 30<sup>th</sup> of each year. The fee shall be payable before May 31<sup>st</sup> of each year without penalty. Registration fees as enumerated above may be prorated for newly acquired canines or felines, or for canines or felines owned by a person or persons moving to and establishing a home in the City during a calendar year. Every owner or harbinger of canines or felines who shall fail to register the same prior to the 31<sup>st</sup> day of May each year shall pay in addition to the registration fee herein provided a penalty fee as described in the City of Hoyt Rate and Fee Schedule for late registration, accruing each business day after May 31<sup>st</sup>.

(Code 2021)

2-202 CANINE AND FELINE TAGS. It shall be the duty of the City Clerk or designated agent, upon a showing of current rabies immunization and receipt of the registration fee hereinbefore required, to keep a record suitable for the registration of canines and felines, including the time of the registration, the name of the owner or keeper, the number of the registration and the amount paid therefore, and shall deliver to the owner or keeper of the canine or feline a certificate in writing, stating that the person has registered the canine or feline and the number by which the canine or feline is registered, and shall also deliver to the owner or keeper of the canine or feline a tag with the registration number and the registration year thereon, which shall be, by the owner or keeper, attached to the collar to be used on the canine or feline so registered. When any registration tag has become lost during a registration period, the owner of the canine or feline may request a duplicate tag for the remainder of the registration period. When so requested, the City Clerk shall, upon presentation of the registration certificate, issue a duplicate of such tag upon the payment of fee which shall be in accordance with the City's Rate and Fee Schedule. It shall be unlawful for any person to take off or remove the City registration tag from any canine or feline belonging to another, or remove the strap or collar on which the same is fastened. (Code 2021)

2-203 SAME; COUNTERFEIT TAG. It shall be unlawful for any person to place on any canine or feline a registration tag issued to any other canine or feline or to make or use any false, forged or counterfeit tag or imitation thereof. (Code 2021)

2-204 EVIDENCE OF VACCINATION. It shall be unlawful for the owner of any canine or feline kept within the City to fail to display a current certificate of immunization against rabies issued by an accredited veterinarian evidencing the vaccination of such canine or feline within two (2) years, when requested by the Animal Control Officer or any Law Enforcement Officer. (Code 2021)

2-205 VISITING CANINE AND FELINES. The provisions of the article with respect to registration shall not apply to any canine or feline owned by any person visiting or temporarily remaining with the City for less than thirty (30) days. However, such canines or felines shall be vaccinated and kept under restraint by the owner thereof at all times. (Code 2021)

2-206 RUNNING AT LARGE; FINE.

- a. It shall be unlawful for the owner or harbinger of any canine or feline to permit such canine or feline to run at large within the City at any time.
- b. Any canine or feline running at large within the City shall be impounded as set out in section 2-207.
- c. The owner of any canine or feline impounded for running at large without the tag required by Section 2-202 shall, for the first offense, pay a fine of \$100 plus the board bill; for the second offense a fine of \$150 plus the board bill; and for the third and subsequent offenses, pay a fine of \$200 plus the board bill.
- d. For the first offense of any animal running at large with a tag as required by Section 2-202, the owner or harbinger claiming any animals, shall, in addition to presenting a registration receipt, pay a fine of \$25 plus the board bill; for the second offense, the owner or harbinger shall pay a fine of \$50 plus the board bill; and for the third and subsequent offenses, the owner or harbinger pay a fine of \$75 plus the board bill.

(Code 2021)

2-207 IMPOUNDMENT; RECORD; NOTICE; REDEMPTION; MINIMUM FEE.

- a. Any dog found in violation of the provisions of this ordinance shall be subject to impoundment by the city.
- b. A record of all dogs impounded shall be kept by the city containing the following information: color, sex, weight, height, identifying marks, registration number (if any) and the date of impoundment.
- c. No dog impounded under this section shall be disposed of until after expiration of a minimum of three (3) full business days of custody during which the public has clear access to inspect and recover the dog through time periods ordinarily accepted as usual business hours. During such time of custody, the city shall attempt to notify the owner or custodian of any dog impounded by such facility if the owner or custodian is known or reasonably ascertainable. Such dog may at any time be released to the legal owner, moved to a veterinary hospital for treatment or observation, released in any manner, if such dog was a gift to the animal shelter, or euthanized by a licensed veterinarian if it appears to the

veterinarian that the dog is diseased or disabled beyond recovery. If within three (3) full business days the owner does not appear to claim the dog, then the dog may be sold, euthanized or otherwise disposed of.

- d. If at any time before the sale or destruction of any dog impounded under the provisions of this article, the owner of an impounded dog does appear and redeem the dog, it shall be turned over to the person claiming it upon payment of any impoundment fees or penalties, plus the actual costs of impoundment, and shall not apply to any dog alleged as being vicious under Section 2-115 or suspected of rabies under Section 2-119 of this ordinance.
- e. The minimum impoundment fee shall be determined by the City of Hoyt Rate and Fee Schedule.
- f. Any dog impounded may not be released without a current rabies vaccination.
- g. Impoundment hereunder shall not preclude any court from imposing and executing any fine which might otherwise be levied under this article for violation of any of the provisions thereof; nor shall impoundment be a defense in any prosecution commended hereunder.
- h. The redemption of any dog impounded for a violation of any provision of this ordinance shall be prima facie evidence of the violation of such provision by the person redeeming the dog.

(Code 2021)

#### 2-208 DISPOSITION OF UNCLAIMED DOGS.

- a. If any dog is not redeemed by its owner or harbinger within the time allowed for redemption as specified in Section 2-207 hereof, the animal control officer, any authorized law enforcement officer, any authorized veterinarian or any duly authorized pound personnel may destroy such dog or sell the same for the costs of impoundment and keeping, plus any registration fee due for the current year.
- b. No dog may be transferred to the permanent custody of a prospective owner unless:
  - 1. Such dog has been surgically spayed or neutered before the physical transfer of the dog occurs; or
  - 2. The prospective owner signs an agreement to have the dog spayed or neutered and deposits with the city not less than the lowest nor more than the highest cost of spaying or neutering in the community as determined by the city. Any funds

deposited pursuant to such an agreement shall be refunded to such person upon presentation of a written statement signed by a licensed veterinarian that the dog has been spayed or neutered. If such person does not reclaim the deposit within six (6) months after receiving custody of the dog, the city shall keep the deposit and may reclaim the unspayed or unneutered dog.

- c. Nothing in this section shall be construed to require sterilization of a dog which is being held by the city and which may be claimed by its rightful owner within the holding period established in Section 2-207.

(Code 2021)

2-209 CONFINEMENT OF CANINES AND FELINES IN HEAT. Any non-spayed female canine or feline in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be constructed that no other canine or canines, feline or felines may gain voluntary access to the confined animal except for the purpose of planned breeding. Any animal that is in the state of estrus (heat) and that is not properly confined, or any such animal that is creating a neighborhood nuisance, shall be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner. The owner of animals removed to the animal shelter shall be charged at a rate established from time to time by the animal shelter for routine confinement. (Code 2021)

2-210 MUZZLING. Whenever the governing body shall deem it necessary for the protection and welfare of the inhabitants of the city, they shall issue an order requiring all dogs kept within the city, kept outside on a chain or leash and excepting those kept within a kennel or within the confinement of a residence, to be effectively muzzled for such length of time as may be specified in the order, to prevent them from biting or injuring persons or animals. Such order shall be published in the official newspaper of the city for such period of time as the mayor may deem necessary. (Code 2021)

### ARTICLE 3. PIT BULL DOGS

2-301 ANIMALS; KEEPING PROHIBITED. It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the city:

- a. Any warm-blooded carnivorous or omnivorous, wild or exotic animal (including, but not limited to, non-human primates, raccoons, skunks, foxes and wild and exotic cats, and capuchins; but excluding fowl, ferrets and small rodents of varieties used for laboratory purposes).
- b. Any animal having poisonous bites.
- c. A pit bull dog. Pit bull dog is defined to mean:
  1. The bull terrier breed of dogs;
  2. The Staffordshire bull terrier breed of dogs;
  3. The American pit bull terrier breed of dogs;
  4. The American Staffordshire terrier breed of dogs;
  5. Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, put bull dogs or pit bull terriers;
  6. Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier; and other breed commonly known as pit bulls, pit bull dogs or pit bull terriers or a combination of any of these breeds.

(Code 2021)

## ARTICLE 4. OTHER ANIMALS

### 2-401 EXOTIC ANIMALS.

- a. It shall be unlawful for any person, firm or corporation to keep, maintain or have in his or her possession or under his or her control within the city any poisonous reptile or any other dangerous wild animal or reptile, any vicious or dangerous animal or any other animal or reptile of wild, vicious or dangerous propensities.
- b. It shall be unlawful for any person to keep, maintain or have in his or her possession or under his or her control within the city any of the following animals:
  1. All poisonous animals including rear-fang snakes.
  2. Apes: Chimpanzees, gibbons, gorillas, orangutans, siamangs and capuchins.
  3. Baboons.
  4. Badgers.
  5. Bears.
  6. Bison.
  7. Bobcats.
  8. Capuchins.
  9. Cheetahs.
  10. Crocodilians, thirty (30) inches in length or more.
  11. Constrictor snakes, six (6) feet in length or more.
  12. Coyotes.
  13. Deer; includes all members of the deer family, for example, white-tailed deer, elk, antelope and moose.
  14. Elephants.
  15. Game cocks and other fighting birds.
  16. Hippopotami.
  17. Hyenas, Jaguars, Leopards, Lions, Lynxes, and other Large-Breed Cats.
  18. Monkeys, including capuchins.
  19. Opposum.
  20. Ostriches.
  21. Pumas; also known as cougars, mountain lions and panthers.



22. Raccoons.
23. Rhinoceroses.
24. Squirrels, Flying or otherwise.
25. Skunks.
26. Tigers.
27. Wolves.

c. The prohibitions of this section shall not apply to bona fide pet shops, zoos, circuses, carnivals, educational institutions or medical institutions, if:

1. Their location conforms to the provisions of the zoning ordinance of the city.
2. All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
3. Animals are maintained in quarters so constructed as to prevent their escape.

d. The Municipal Judge shall have the authority to order any animal deemed vicious confined, destroyed or removed from the city.

(Code 2021)

2-402 FOWL. It shall be unlawful for any person, firm or corporation to keep, maintain or have in his or her control within the City any fowl as defined in section 2-101(k). (Code 2021)

2-403 LIVESTOCK. It shall be unlawful for any person, firm or corporation to keep, maintain or have in his or her control within the City any livestock as defined in section 2-101(q).

(Code 2021)

## CHAPTER III BEVERAGES

Article 1.	General Provisions
Article 2.	Cereal Malt Beverages
Article 3.	Alcoholic Liquor
Article 4.	Private Clubs
Article 5.	Drinking Establishments
Article 6.	Caterers
Article 7.	Temporary Permits
Article 8.	Special Event Cereal Malt Beverage Permits

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### ARTICLE 1. GENERAL PROVISIONS

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

- a. Alcohol shall mean the product of distillation of any fermented liquid, whether rectified or diluted, whatever the origin thereof, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.
- b. Alcoholic Liquor shall mean alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.
- c. Caterer shall mean 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.
- d. Cereal Malt Beverage shall mean cereal malt beverage as that term is defined in K.S.A. § 41-2701, and amendments thereto.
- e. Class A Club shall mean a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members), and their families and guests accompanying them.

- f. Class B Club shall mean premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.
- g. Club shall mean a Class A or Class B Club.
- h. Drinking Establishment shall mean premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.
- i. General Retailer shall mean a person who has a license to sell cereal malt beverages at retail.
- j. Limited Retailer shall mean a person who has a license to sell cereal malt beverages at retail only in original and unopened containers and not for consumption on the premises.
- k. Minor shall include persons less than twenty-one (21) years of age.
- l. Person shall mean any individual, firm, partnership, corporation or association.
- m. Place of Business shall mean any place at which cereal malt beverages or alcoholic beverages or both are sold.
- n. Temporary Permit shall mean a permit, issued in accordance with the laws of the State of Kansas, which allows the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, open to the public.
- o. Wholesaler or Distributor shall mean any individuals, firms, co-partnerships, corporation and associations authorized by this chapter to sell cereal malt beverages at retail.

(Code 2021)

### 3-102 PUBLIC SALE; CONSUMPTION.

- a. Except as permitted by a resolution passed by a majority of the members of the Hoyt City Council, it shall be unlawful for any person to sell, serve or dispense any cereal malt beverage or alcoholic beverage in any public place not licensed to sell, serve or dispense such beverage at such public place within or under the jurisdiction of the City.
- b. Except as permitted by a resolution passed by a majority of the members of the Hoyt City Council, it shall be unlawful for any person to drink or consume any cereal malt beverage or alcoholic liquor in any public place not licensed to sell and serve such beverage for public consumption at such public place within or under the jurisdiction of the City.

- c. For purposes of this section, the term "public place" shall include upon any street, public thoroughfare, public parking lot or any privately owned parking area made available to the public generally, within any parked or driven motor vehicle situated in any of the aforesaid places or upon any property owned by the State or any governmental subdivision thereof unless such property is leased to others under K.S.A. 12-1740 *et seq.* if the property is being used for hotel or motel purposes or purposes incidental thereto or is owned or operated by an airport authority created pursuant to Chapter 27 of the Kansas Statutes Annotated.

(K.S.A. 41-719; Code 2021)

### 3-103 OPEN CONTAINER.

- a. It shall be unlawful for any person to transport in any vehicle upon a highway or street any cereal malt beverage or alcoholic liquor 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 or cork or other means of closure has not been removed; or
  - 2. In the locked, rear trunk or rear compartment or any locked outside compartment which is not accessible to any person in the vehicle while it is in motion; or
  - 3. In the exclusive possession of a passenger in a vehicle which is a recreational vehicle as defined by K.S.A. 75-1212 or a bus as defined by K.S.A. 8-1406, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.

As used in this section "highway" and "street" have meanings provided by K.S.A. 8-1424 and K.S.A. 8-1473 and amendments thereto. (Code 2021)

3-104 CONSUMPTION WHILE DRIVING. It shall be unlawful for any person to consume any cereal malt beverage or alcoholic liquor while operating any vehicle upon any street or highway.

(K.S.A. 8-1599; K.S.A. 41-719; Code 2021)

### 3-105 IDENTIFICATION CARD

- a. It shall be unlawful for any person to:
  1. Display, cause or permit to be displayed, or have in possession, any fictitious, fraudulently altered, or fraudulently obtained identification card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.
  2. Display or represent any identification card not issued to such person as being his or her card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.
  3. Permit any unlawful use of an identification card issue to a person for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.
  4. Photograph, photostat, duplicate or in any way reproduce any identification card or facsimile thereof such a manner that it could be mistaken for a valid identification card or display or have in possession any such photograph, photostat, duplicate, reproduction or facsimile for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.
- b. It shall be unlawful for any person to:
  1. Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase or consumption of any cereal malt beverage.
  2. Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in sale, purchase, or consumption of any alcoholic liquor.

(Code 2021)

### 3-106 UNDERAGE PURCHASER.

- a. It shall be unlawful for any person under 21 years of age to purchase or attempt to purchase any cereal malt beverage.
- b. It shall be unlawful for any person under 21 years of age to purchase or attempt to purchase any alcoholic liquor.

(Code 2021)



## ARTICLE 2. CEREAL MALT BEVERAGES

3-201 DEFINITIONS. As used in this article, the words and phrases herein defined shall have the following meanings unless the context otherwise requires:

- a. Cereal malt beverage shall mean cereal malt beverage as that term is defined in K.S.A. § 41-2701, and amendments thereto.
- b. License shall mean a license issued by the City of Hoyt under the licensing authority accorded to cities by the Kansas cereal malt beverage act, and in accordance with this ordinance, which authorizes retailers so licensed to sell or offer for sale any cereal malt beverage or beer containing not more than 6% alcohol by volume for use or consumption within the corporate limits of the city and not for resale in any form.
- c. Licensee shall mean a person defined in subsection (b) who has a license as herein required.
- d. General retailer shall mean any person who is licensed under the Kansas cereal malt beverage act and in accordance with this ordinance and who sells or offers for sale any cereal malt beverage or beer containing not more than 6% alcohol by volume for use or consumption and not for resale in any form.
- e. Limited retailer shall mean any person who is licensed under the Kansas cereal malt beverage act and in accordance with this ordinance and who sells or offers for sale, in the original and unopened containers, and not for consumption on the premises, any cereal malt beverage or beer containing not more than 6% alcohol by volume.
- f. Person shall include individuals, firms, partnerships, corporations, and associations.
- g. Place of business shall mean any place at which cereal malt beverages are sold.
- h. Sale at retail and retail sale shall mean sales for use or consumption and not for resale in any form.
- i. Wholesaler or Distributor shall mean individuals, firms, partnerships, corporations and associations which sell or offer for sale any beverage referred to in this Section, to persons, partnerships, corporations and associations authorized by this Section to sell cereal malt beverages at retail.

(Code 2021)

3-202 LICENSE REQUIRED OF RETAILERS.

- a. It shall be unlawful for any person to sell any cereal malt beverage or beer containing not more than 6% alcohol by volume at retail without a license for each place of business where cereal malt beverages or beer containing not more than 6% alcohol by volume are to be sold at retail.
- b. It shall be unlawful for any person, having a license to sell cereal malt beverage or beer containing not more than 6% alcohol by volume at retail only in the original and unopened containers and not for consumption on the premises, to sell cereal malt beverage or beer containing not more than 6% alcohol by volume in any other manner.
- c. Retailers' licenses shall be issued annually and shall be valid for a specified calendar year.

(K.S.A. 41-2702; Code 2021)

3-203 APPLICATION. Any person desiring a license shall make an application to the Governing Body of the City and accompany the application by the required license fee for each place of business for which the person desires the license. The application shall be verified, and upon a form prepared by the Attorney General of the State of Kansas, and shall contain:

- a. The name and residence of the applicant and how long he or she has resided within the State of Kansas;
- b. The particular place for which a license is desired;
- c. The name of the owner of the premises upon which the place of business is located;
- d. The names and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired;
- e. A statement that the applicant is a citizen of the United States and not less than 21 years of age and that he or she has not within two years immediately preceding the date of making application been convicted of a felon or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxication liquor law of any state or of the United States;
- f. Each application for a general retailer's license shall be accompanied by a certificate from the City Health Officer certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of Chapter 8 of this code.



The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the City with any information pertinent to the application. One copy of such application shall immediately be transmitted to the Chief of Police of the City for investigation of the applicant. It shall be the duty of the Chief of Police to investigate such application to determine whether he or she is qualified as a licensee under the provisions of this chapter. The Chief of Police shall report to the Governing Body who shall schedule the application for consideration at the earliest meeting consistent with current notification requirements.

(Code 2021)

### 3-203A LICENSE APPLICATION PROCEDURES.

- a. All applications for a new or renewed license for the sale of cereal malt beverage or of beer containing not more than 6% alcohol by volume shall be submitted to the City Clerk ten (10) days in advance of the Governing Body meeting at which time they will be considered.
- b. The City Clerk's office shall notify the applicant of an existing license thirty (30) days in advance of its expiration.
- c. The City Clerk's office shall provide copies of all applications to the Police Department, to the Fire Department and to the City/County Health Department. When they are received the Chief of Police will run a records check on all applicants and the Fire Department and Health Department will inspect the premises in accordance with Chapter 7 and Chapter 8 of this code. The departments will then recommend approval, or denial, of applications within five (5) business days of the department's receipt of the application.
- d. The Governing Body will not consider any application for a new or renewed license has that not been submitted ten (10) days in advance and been reviewed by the above City departments.
- e. An applicant who has not had a cereal malt beverage license in the City shall attend the Governing Body meeting when the application for a new license will be considered.

(Code 2021)

3-204 LICENSE GRANTED; DENIED.

- a. The minutes of the Governing Body shall show the action taken on the application.
- b. If the license is granted the City Clerk shall issue the license which shall show the name of the licensee and the year for which issued.
- c. No license shall be transferred to another licensee.
- d. If the license shall be denied, the license fee shall be immediately returned to the person who has made application.

(Code 2021)

3-205 LICENSE TO BE POSTED. Each license shall be posted in a conspicuous place in the place of business for which the license is issued. (Code 2021)

3-206 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 (1) year immediately preceding application and a resident of Jackson 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 resides.
- d. A person who, within two (2) years immediately preceding the date of making application, has been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of drunkenness of driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States;
- e. A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license;
- f. A corporation, if any manager, officer or director thereof or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation would be ineligible to receive a license hereunder for any reason other than non-residence within the City or County;

- g. A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25 percent (25%) of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 25 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.
- j. A person whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under the Cereal Malt Beverage Act.

(Code 2021)

### 3-207 RESTRICTION UPON LOCATION.

- a. Core Business District shall be defined as the section of 4<sup>th</sup> Street from Highland to Central in the City of Hoyt.
- b. No license shall be issued for the sale at retail of any cereal malt beverage or beer containing not more than 6% alcohol by volume on premises which are located in areas not zoned for such purpose.
- c. It shall be unlawful to sell or dispense at retail any cereal malt beverage or beer containing not more than 6% alcohol by volume at any place within the City limits that is within a one-hundred (100) foot radius of the nearest property line of any school, college or church.
- d. Provisions of this section shall not apply to any establishment holding a private club license issued by the State of Kansas.
- e. The distance limitation of subsection (b) above shall not apply to any establishment in the core business district holding a cereal malt beverage license issued by the City when the

licensee has petitioned for and received a waiver of the distance limitation. The Governing Body shall grant such a waiver only following public notice and hearing.

(Code 2021)

3-208 LICENSE FEE. The rules and regulations regarding license fees shall be as follows:

- a. General Retailer. For each place of business selling cereal malt beverages or beer containing not more than 6% alcohol by volume at retail for consumption on the premises, a fee to be determined by the City of Hoyt Rate and Fee Schedule.
- b. Limited Retailer. For each place of business selling only at retail cereal malt beverages or beer containing not more than 6% alcohol by volume in original and unopened containers and not for consumption on the premises, a fee to be determined by the City of Hoyt Rate and Fee Schedule and in accordance with K.S.A. 41-2702(g) for the annual license fee.

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 license shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued. (K.S.A. 41-2702; Code 2021)

3-209 SUSPENSION OF LICENSE. The Chief of Police, upon five (5) days written notice, shall have the authority to suspend such license for a period not to exceed thirty (30) days for any violation of the provisions of this chapter or other laws pertaining to cereal malt beverages or to beer containing not more than 6% alcohol by volume, which violation does not in his or her judgment justify a recommendation of revocation. The licensee may appeal such order of suspension to the Governing Body within seven (7) days from the date of such order. (Code 2021)

3-210 LICENSE SUSPENSION/REVOCAION BY GOVERNING BODY.

- a. The governing body of the city, upon five days' written notice, to a person holding a license to sell cereal malt beverages or beer containing not more than 6% alcohol by volume, may permanently revoke or cause to be suspended for a period of not more than thirty (30) days such license for any of the following reasons:
  1. The licensee has violated any provisions of K.S.A. 41-2701, *et seq.*, and amendments thereto, or any rules or regulations of the city;

2. Drunkenness of the licensee or permitting any intoxicated person to remain in or upon the licensee's place of business;
3. The sale of cereal malt beverages or beer containing not more than 6% alcohol by volume to a person under twenty-one (21) years of age;
4. For permitting any person to mix drinks with materials purchased in any premises licensed under this article or brought into the premises for this purpose;
5. For the sale or possession of, or for permitting the use or consumption of, alcoholic liquor within or upon any premise licensed under this article;
6. The licensee has been convicted of a violation of the Beer and Cereal Malt Beverage Keg Registration Act.

The provisions of subsections (a)(4) and (5) shall not apply if the place of business or premises also are currently licensed as a club or drinking establishment pursuant to the Club and Drinking Establishment Act.

- b. The city, upon five (5) days' notice to the persons holding a license, shall revoke or suspend the license for any one of the following reasons:
  1. The licensee has fraudulently obtained the license by giving false information in the application therefor;
  2. The licensee has become ineligible to obtain a license under this chapter;
  3. The nonpayment of any license fees;
  4. Permitting any gambling in or upon the licensee's place of business;
  5. The employment of person under eighteen (18) years of age in dispensing or selling cereal malt beverage;
  6. The employment or continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two (2) years, adjudged guilty of a felony or any violation of the intoxicating liquor laws of this state, another state or the United States;  
or
  7. There has been a violation of K.S.A. 21-6204 and amendments thereto.

(K.S.A. 41-2708; Code 2021)

3-210A SAME; APPEAL. The licensee, within twenty (20) days after the order of the Governing Body revoking any license, may appeal to the District Court of Jackson County and the District Court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken under this section shall not suspend the order of revocation of the license of any licensee, nor shall any new license be issued to such person or any person acting for or on his or her behalf, for a period of six (6) months thereafter. (K.S.A. 41-2708; Code 2021)

3-211 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 in an amount determined by the City of Hoyt Rate and Fee Schedule. 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 which a current license is held by the licensee. (Code 2021)

3-212 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 or beer containing not more than 6% alcohol by volume within the City, to persons authorized under this article to sell the same within this City unless such wholesaler and/or distributor has first secured a license authorizing such sales from the State of Kansas.  
(K.S.A. 41-306; 306a; 307. Code 2021)

3-213 BUSINESS REGULATIONS. It shall be the duty of every licensee to observe the following regulations:

- a. The place of business licensed and operating under this article shall at all times have a front and rear exit unlocked when open for business;
- b. The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition and shall at all times be open to the inspection of the Police and Health officers of the City, County and State.

- c. Except as provided by section (d), cereal malt beverage or beer containing not more than 6% alcohol by volume may not be sold or dispensed:
  - 1. between the hours of 11:00 p.m. and 9:00 a.m. Monday through Saturday;
  - 2. in the original package before 9:00 a.m. or after 8:00 p.m. on Sunday;
  - 3. on Easter Sunday.
- d. Closing hours for clubs shall conform to K.S.A. 41-2614 and any amendments thereto.
- e. Cereal malt beverages or beer not containing more than 6% alcohol by volume may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. 41-2601 *et seq.*, and licensed as a club by the State Director of Alcoholic Beverage Control.
- f. Pursuant to K.S.A. 41-2911(b), the sale at retail of cereal malt beverage and beer not containing more than 6% alcohol by volume, in the original package is allowed within the City of Hoyt on any Sunday, except Easter, between the hours of 9:00 a.m. and 8:00 pm, and on Memorial Day, Independence Day, and Labor Day.
- g. The place of business shall be open to the public and to the police at all times during business hours, except that premises licensed as a club under a license issued by the State Director of Alcoholic Beverage Control shall be open to the police and not to the public.
- h. 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.
- i. 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.
- j. No licensee or agent or employee of the licensee shall sell or permit the sale of cereal malt beverage to any person under 21 years of age.
- k. 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.
- l. No licensee, agent or employee of the licensee shall permit any person to mix alcoholic drinks with materials purchased in said place of business or bought in for such purpose.
- m. No licensee, agent or employee of the licensee shall employ any person under 21 years of age in dispensing cereal malt beverages or beer containing not more than 6% alcohol by volume. No licensee shall employ any person who has been judged guilty of a felony.

(Code 2021)

3-214 PROHIBITED CONDUCT ON PREMISES. The following conduct by a cereal malt beverage licensee, manager or employee of any licensed cereal malt beverage establishment is deemed contrary to public welfare and is prohibited:

- a. Remaining or permitting any person to remain in or upon the premises who exposes to view any portion of the female breast below the top of the areola or any portion of male/female pubic hair, anus, buttocks or genitals;
- b. Permitting any employee on the licensed premises to touch, caress or fondle the breast, buttocks, anus, vulva or genitals of any other employee or patron;
- c. Encouraging or permitting any patron on the licensed premises to touch, caress or fondle the breast, buttocks, anus, vulva or genitals of any employee;
- d. Performing or permitting any person to perform on the licensed premises any act or acts which simulate:
  1. Sexual intercourse, masturbation, sodomy or any other sexual act which is prohibited by law; or
  2. Touching, caressing or fondling such person's breast, buttocks, anus or genitals.
- e. Using or permitting any person to use on the licensed premises, any artificial devices or inanimate objects to depict any of the acts prohibited by paragraph (d) in this section;
- f. Showing or permitting any person to show on the licensed premises any motion picture, film, photograph, electronic reproduction or visual reproduction depicting:
  1. Acts or simulated acts of sexual intercourse, masturbation, sodomy or any sexual act which is prohibited by law;
  2. The touching, caressing or fondling of the breast, buttocks, anus or genitals;
  3. Scenes in which a person displays the breast, buttocks, anus or genitals.
- g. As used in this section, the term "premises" shall mean the premises licensed by the City as a cereal malt beverage establishment and such other areas under the control of the licensee or his or her employee or employees, that are in such close proximity to the licensed premises that activities and conduct of persons within such other areas may be viewed by persons on or within the licensed premises.

(Code 2021)



3-215 SANITARY CONDITIONS REQUIRED. All parts of the licensed premises including furnishings and equipment shall be kept clean and in a sanitary condition, free from flies, rodents and vermin at all times. The licensed premises shall have at least one restroom for each sex easily accessible at all times to its patrons and employees. The restroom shall be equipped with at least one lavatory with hot and cold running water, be well-lit, and be furnished at all times with paper towels or other mechanical means of drying hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self-closing and toilet paper at all times shall be provided. Easily cleanable receptacles shall be provided for waste material and such receptacles in toilet rooms for women shall be covered. The restrooms shall at all times be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspection by the City health officer or designee. (Code 2021)

3-216 MINORS ON PREMISES.

- a. It shall be unlawful for any person under 21 years of age to remain on any premises where the sale of cereal malt beverages is licensed for on-premises consumption.
- b. This section shall not apply if the person under 21 years of age is an employee of the licensed establishment, or is accompanied by his or her parent or guardian, or if the licensed establishment derives not more than fifty (50) percent of its gross receipts in each calendar year from the sale of cereal malt beverage for on-premises consumption.

(Code 2021)

### **ARTICLE 3. ALCOHOLIC LIQUOR**

#### **3-301 STATE LICENSE REQUIRED.**

- a. It shall be unlawful for any person to keep for sale, offer for sale, or expose for sale or sell any alcoholic liquor as defined by the "Kansas Liquor Control Act" without first having obtained a state license to do so.
- b. The holder of a license for the retail sale in the City of alcoholic liquors by the package issued by the State Director of Alcoholic Beverage Control shall present such license to the City Clerk when applying to pay the occupation tax levied in section 3-302 and the tax shall be received and a receipt shall be issued for the period covered by the state license.

(Code 2021)

**3-302 OCCUPATIONAL TAX.** There is hereby levied a biennial occupation tax of \$300.00 on any person holding a license issued by the state within the City of alcoholic liquors for consumption off the premises. Such tax shall be paid by the retailer to the City Clerk before business is begun under an original state license and shall be paid within five (5) days after any renewal of a state license. (K.S.A. 41-310; Code 2021)

**3-303 POSTING OF RECEIPT.** Every licensee under this article shall cause the City alcoholic liquor retailer's occupation tax receipt to be placed in plain view, next to or below the state license in a conspicuous place on the licensed premises. (Code 2021)

**3-304 HOURS OF SALE.** No person shall sell at retail any alcoholic liquor:

- a. Before 9:00 a.m. or after 11:00 p.m. Monday through Saturday;
- b. Before 9:00 a.m. or after 8:00 p.m. on Sunday; or
- c. On Easter Sunday.

(K.S.A. 41-712, 41-291; Code 2021)

**3-305 BUSINESS REGULATIONS.** It shall be unlawful for a retailer of alcoholic liquor to:

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

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

(K.S.A. 41-713; Code 2021)

### 3-306 RESTRICTIONS ON LOCATION.

- a. No person shall knowingly or unknowingly sell, give away, furnish, dispose of, procure, exchange or deliver, or permit the selling, giving away, furnishing, disposing of, procuring, exchange or delivering of any alcoholic beverage in any building, structure or premises, for consumption in such building or upon such premises if such consumption is within one-hundred (100) feet of the nearest property line of any existing hospital, school or church.
- b. The distance location of subsection (a) above shall not apply to any establishment holding a license to serve alcoholic beverages within the City when such licensee has petitioned for and received a waiver of the distance limitation. The Governing Body shall grant such a waiver only following public notice and hearing.

(Code 2021)

### 3-307 UNDERAGE PERSONS.

- a. 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 expressly authorized by law;
- b. Violation of this section by a person 18 or more years of age but less than 21 years of age is a misdemeanor, punishable by a fine of not less than \$200 nor more than \$500.

- c. In addition to any other penalty provided for a violation of this section, the court may order the offender to do either or both of the following:
  - 1. Perform forty (40) hours of public service; or
  - 2. Attend and satisfactorily complete a suitable educational or training program dealing with the effects of alcohol or other chemical substances when ingested by humans.

(Code 2021)

## **ARTICLE 4. PRIVATE CLUBS**

3-401 LICENSE REQUIRED. It shall be unlawful for any person granted a private club license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a local license from the city clerk. (Code 2021)

3-402 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 days before the license expires. The city license fee for a Class A club and for a Class B club shall be determined by the City of Hoyt Rate and Fee Schedule.
- b. All applications for new or renewal of city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.
- c. The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.
- d. Every licensee shall cause the city club license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.

(Code 2021)

3-403 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. Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverages for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.

- c. No club membership shall be sold to any person under twenty-one (21) years of age, nor shall alcoholic beverages or cereal malt beverages be given, sold or traded to any person under twenty-one (21) years of age.
- d. No club shall permit the consumption of alcoholic liquor outside of their building unless they provide a fenced-in area that meets the following requirements:
  - 1. The area must be fully enclosed by a fence, no shorter than six (6) feet tall;
  - 2. The fence must attach to the structure of the club;
  - 3. The fenced in area entrance and exit must be through the club building;
  - 4. The fenced in area must have exterior emergency exit monitored by an employee of the club or by a security alarm; and
  - 5. Only unbreakable light weight disposable beverage containers can be allowed in the fenced in area.

(Code 2021)

## **ARTICLE 5. DRINKING ESTABLISHMENTS**

3-501 LICENSE REQUIRED. It shall be unlawful for any person granted a drinking establishment license 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. (Code 2021)

### 3-502 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. The city license fee shall be determined by the City of Hoyt Rate and Fee Schedule.
- b. All applications for new or renewal of city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.
- c. The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.
- d. Every licensee shall cause the city club license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.

(Code 2021)

### 3-503 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. Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverages for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.

- c. No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under twenty-one (21) years of age.

(K.S.A. 41-2614; Code 2021)



## ARTICLE 6. CATERERS

3-601 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. (Code 2021)

### 3-602 LICENSE FEE.

- a. There is hereby levied a biennial license fee in an amount to be determined by the City of Hoyt Rate and Fee Schedule on each caterer doing business in the city which 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. All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.
- c. The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.
- d. Every licensee shall cause the caterer's 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.

(Code 2021)

### 3-603 BUSINESS REGULATIONS.

- a. No caterer licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 6:00 a.m. on any day.
- b. No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under twenty-one (21) years of age.

(K.S.A. 41-2614; Code 2021)

3-604 NOTICE TO CHIEF OF POLICE. 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 Chief of Police at least thirty (30) days prior to the event if the event will take place within the city. The notice shall contain the location, name of the group sponsoring the event, and the exact date and times the caterer will be serving. (Code 2021)

## **ARTICLE 7. TEMPORARY PERMITS**

3-701 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. (Code 2021)

3-702 PERMIT FEE.

- a. There is hereby levied a temporary permit fee in an amount to be determined by the City of Hoyt Rate and Fee Schedule 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. Every temporary permit holder shall cause the temporary permit receipt to be placed in plain view on any premises within the city where the holder of the temporary permit is serving or mixing alcoholic liquor for consumption on the premises.

(Code 2021)

3-703 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 thirty (30) days before the event. Written application for this 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 Chief of Police whenever a temporary permit has been issued and forward a copy of the permit and application to the Chief of Police.

(Code 2021)

#### 3-704 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.

(Code 2021)

## **ARTICLE 8. SPECIAL EVENT CEREAL MALT BEVERAGE PERMITS**

3-801 SPECIAL EVENT CEREAL MALT BEVERAGE PERMITS; PERMIT REQUIRED. It shall be unlawful for any person to sell or serve any Cereal Malt Beverage at any special event within the city without first obtaining a local special event permit from the city clerk.

(K.S.A. 41-2703; Code 2021)

3-802 SAME; PERMIT FEE.

- a. There is hereby levied a special event permit fee in an amount to be determined by the City of Hoyt Rate and Fee Schedule on each group or individual, which fee shall be paid before the event begins. Such fee shall be in addition to the \$25 fee to be remitted to the Division of Alcohol Beverage Control.
- b. Every special event permit holder shall cause the permit receipt to be placed in plain view on any premises within the city where the holder of the special event permit is serving Cereal Malt Beverages for consumption on the premises.

(K.S.A. 41-2702; Code 2021)

3-803 SAME; CITY SPECIAL EVENT PERMIT.

- a. It shall be unlawful for any person to serve Cereal Malt Beverages at a special event without first applying for a local special event permit at least thirty (30) days before the event. Written application for the local special event permit shall be made to the city clerk on the form used for annual cereal malt beverage sales or, when available, the special event Cereal Malt Beverage permit application approved by the Attorney General, as directed by the city clerk. In addition to any other information required, the applicant shall provide the following:
  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; and
  5. Any anticipated need for police, fire, or other municipal services.

- b. Upon meeting the requirements to obtain a special event permit, the city clerk shall issue a local special event permit to the applicant if there are no conflicts with any zoning or other ordinances of the city.
- c. The city clerk shall notify the Chief of Police whenever a special event permit has been issued and forward a copy of the permit and application to the Chief of Police.

(Code 2021)

3-804 SAME; PERMIT REGULATIONS.

- a. No special event permit holder shall allow the serving of Cereal Malt Beverages between the hours of 12:00 a.m. and 6:00 a.m. at any event for which a special event permit has been issued.
- b. No Cereal Malt Beverages shall be given, sold or traded to any person under twenty-one (21) years of age.
- c. No more than four (4) special event permits may be issued in a calendar year to the same applicant.
- d. No special event permit issued hereunder may be transferred or assigned to any other vendor.
- e. All local ordinances and state statutes for the sale and consumption of Cereal Malt Beverages apply to holders of special event permits.

(K.S.A. 41-2703; Code 2021)

**CHAPTER IV BUILDINGS AND CONSTRUCTION**

- Article 1. Fire Limits
- Article 2. Building Code
- Article 3. Electrical Code
- Article 4. Plumbing and Gas-Fitting Code
- Article 5. Moving Buildings
- Article 6. Dangerous and Unfit Structures
- Article 7. Mobile Homes
- Article 8. Fences

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**ARTICLE 1. GENERAL PROVISIONS**

4-101 FIRE LIMITS ESTABLISHED. The current legal description for the City of Hoyt shall be and is hereby declared to be the fire limits of the City of Hoyt, Kansas.

## ARTICLE 2. BUILDING CODE

4-201 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this article, have the meanings indicated in this section:

- a. City shall mean the City of Hoyt, Kansas;
- b. Counsel shall mean the City Attorney of the City of Hoyt;
- c. Building Official shall mean the Mayor or his or her authorized designee.

(Code 2021)

4-202 UNIFORM BUILDING CODE INCORPORATED. There is hereby adopted and incorporated by reference, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, the International Building Code, 2012 Edition as recommended by the International Conference of Building Officials, such code being made as a part of the ordinances and Code of the City as if the same had been set out in full herein, all as authorized and in the manner prescribed by K.S.A. 12-3009 through 12-3012 including any amendments thereto. No fewer than three copies of the Uniform Building Code shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Hoyt," and shall be filed with the City Clerk to be open to inspection and available to the public at all reasonable hours of business.

Any person violating any provision of such code shall be punished as provided in section 1-116 of this Code.

(Code 2021)

4-203 ADDITIONAL PROVISIONS. The following sections of this article are in addition to the provisions of Articles 3 and 4. (Code 2021)



4-204 BUILDING OFFICIAL; POWERS; DUTIES.

- a. The Mayor shall act as Building Official and may assume the responsibilities thereof, or with the consent and approval of the Governing Body appoint assistants as may be advisable for the issuance of building permits and the inspection of the building work. The Building Official may make and promulgate the necessary rules and regulations to obtain conformity with this article pertaining to the making of applications for permits, issuing of building permits and inspecting of buildings and building works.
- b. The Building Official shall prepare such application, permit, inspection and record forms as may be required for the purposes of this article.

(Code 2021)

4-205 BUILDING OFFICIAL; APPOINTMENT. The Mayor may assume the responsibilities of or appoint some qualified officer or employee of the City to be and perform the duties of Building Official as may be required, subject to the consent and approval of the Governing Body.

(Code 2021)

4-206 SAME; POWERS. The Building Official shall have the following powers:

- a. To enter any building or structure or premises at any reasonable hour, whether complete or in the process of erection, to perform the duties contained in this article;
- b. To adopt and enforce all such prudent emergency measures as he or she may deem necessary and expedient for the public safety under the laws of the City;
- c. May cause any work done in violation of this article to be discontinued until he or she shall have satisfactory evidence that the work will be done in accordance with the building regulations of the City, subject to the right of any building or owner to appeal to the Governing Body.

(Code 2021)

4-207 SAME; RIGHT OF ENTRY. The Building Official, or his or her agent, upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties as set out in this article. (Code 2021)

4-208 CLARIFICATION; MODIFICATION.

- a. The Governing Body shall be the final determiner of the scope and meaning of all provisions of the building code which may be unclear, ambiguous, or requiring interpretation.
- b. The Building Official shall have the power to modify any of the provisions of the building code upon application in writing by the owner or lessee or his or her authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code. In approving modifications, the Building Official shall see that the spirit of the code is observed, public safety secured and substantial justice done. The particulars thereon shall be entered upon the records of the Building Official and a signed copy shall be furnished to the applicant.

(Code 2021)

4-209 BUILDING PERMIT REQUIRED; APPLICATION; APPROVAL. It shall be unlawful for any person to hereafter erect or cause to be erected within the City any building or structure of any kind or enlarge or add to the outside dimension thereof, or relocate any building or structure already erected of which may hereafter be erected within the City without a building permit being first obtained therefore from the City Clerk, after approval by the Building Official or his or her duly authorized assistant or agent. The application for such permit shall be made and the permit obtained before work is commenced upon any building or structure of the founding thereof, or before the removal of any building begins. (Code 2021)

4-210 SAME; APPLICATION INFORMATION REQUIRED.

- a. A building permit shall be issued upon application in writing to the office of the City Clerk on a form or forms provided for the purpose. The application shall, among other things, disclose the following:
  1. The name of the owner of the lot or tract of ground;
  2. The location of the building or structure;
  3. The building work proposed;
  4. The outside dimensions of the building by floors and dimensions of the basement (if any);

5. The class of occupancy;
  6. The class of construction;
  7. The kind of materials to be used for walls, floors, ceilings, roofs, and foundations;
  8. The estimated cost of the work;
  9. The date work will commence;
  10. The expected date of completion;
  11. The name and address of the contractor(s) doing the work;
  12. Such other information as may be pertinent to the issuance of the required permit.
- b. An application for a building permit shall be signed by the owner or his or her duly authorized agent. If the application is made by the owner or his or her agent, it shall contain the name or names of the contractor(s) doing the work described, or a building permit may be issued to the owner upon his or her application disclosing satisfactory evidence that the proposed work will be performed by the owner, himself or herself and not by a licensed contractor, and likewise subject to the final approval of the Building Inspector for work performed.
- c. Upon approval of the completed application and a determination that a permit should be issued, the Building Official or his or her assistant shall issue a permit to the owner authorizing the building work covered by the application.
- d. Any permit issued under this section shall be valid and subsisting for a period of not more than six (6) months from the date of issuance unless the permittee shall have commenced, within the period so limited, the building work authorized by such permit. Building work commenced for the purpose of this section shall mean the beginning of building work other than the preparation of plans or the staking out of the building location or the letting of a building contract.

(Code 2021)

4-211 SAME; PLANS AND SPECIFICATIONS. Whenever an application for a building permit is made, the Building Official may, if he or she finds it necessary to determine whether building

work described in the application will comply with the laws pertaining to such work, require that the applicant file a written description or drawing of the proposed building as may be prepared for the purpose. If such drawing or description is insufficient for the purposes of determining whether a permit should be issued, the Building Official may require the applicant to file complete architectural and engineering plans and specifications of such building, or any part thereof, as may be necessary for the Building Official to determine compliance with this article. The filing of such plans and specifications and the approval thereof in connection with an application for a permit shall not in any way affect the authority of the City to deny or issue a permit, or to inspect any building work for conformity with this article. (Code 2021)

4-212 SAME; FEES. The fee for a building permit shall be as follows:

- a. Residential: to be determined by the City of Hoyt Rate and Fee Schedule
- b. Commercial: to be determined by the City of Hoyt Rate and Fee Schedule

The fee shall be based on the total estimated cost, the reasonable value of all services, labor and materials. The fee herein shall be paid to the City Clerk upon obtaining a building permit and the same shall be credited to the general operating fund of the City.

(Code 2021)

4-213 REQUEST FOR INSPECTION. Upon the completion of any building construction work covered by this article, it shall be the duty of the person doing such work to notify the Building Official and request that it be inspected; after which such work shall be inspected promptly as hereinafter provided. (Code 2021)

4-214 WORK BY PROPERTY OWNERS. Nothing herein contained shall prohibit any property owner from personally performing any building or construction work within and upon his or her own residence and intended for his or her personal use and permanent occupancy; provided, the owner shall satisfy the Building Official as to his or her ability to perform such work, secure a permit, pay required fees, do work in accordance with this article and apply for an inspection.

(Code 2021)

4-215 LIABILITY. This article shall not be construed to relieve from any liability or lessen the liability of any person performing any activity connected herewith, nor shall the City be held as assuming any liability by reason of any inspection authorized herein, by reason of any certificate of inspection issued by it or by reason of any permit or license granted herein.

(Code 2021)

4-216 SEVERABILITY. If any section of this article shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, then such section shall be considered separate and apart from the remaining sections, the section to be completely severable from the remaining provisions which shall continue in full force and effect. (Code 2021)

4-217 DISPLAY OF ADDRESSES. All single-family, two-family, multifamily, commercial, industrial and institutional structures and mobile homes within the City limits of the City of Hoyt shall be required to display the correct numerical addresses upon the faces of the structures or mobile homes. Such display shall meet the following requirements:

- a. All addresses required to be displayed herein shall be represented by Arabic numerals, script or lettering describing the correct numerical address. The correct numerical address shall be, in the case of ambiguity, that address determined to be the correct numerical address by the Zoning Board.
- b. The Arabic numerals, script or lettering describing the numerical address shall be at least four (4) inches in height and shall contrast in color with the background of the structure upon which they are placed.
- c. The numerical address shall be clearly visible from the address street and it shall be free from vegetation or other objects which may obstruct the view of same numerical address.
- d. The numerical address shall be placed at least three (3) feet above and not more than ten (10) feet above ground level measured from a point directly below the numerals.
- e. The numerical address shall be positioned in one of the following manners:
  1. On the structure or mobile home so that it appears on the street side of the structure from which it is addressed and within five (5) feet of the front door if structure or mobile home is less than fifty (50) feet from street; or

2. Mounted on a yard ornament or lamp located on the street side of the structure or mobile home and within fifty (50) feet of the street.
- f. All multifamily structures shall, in addition to the numerical address upon the face of the structure, be required to identify either by number or letter each individual dwelling unit contained within the structure.
- g. Mobile homes shall be required to, when in a mobile home court, have the individual lot number or other lot designation placed upon the face of the mobile home, which lot number or other lot designation shall be clearly visible from the street or roadway which directly services the mobile home.

The fine for violation of this section shall be as determined by the City of Hoyt Rate and Fee Schedule until within compliance.

(Code 2021)

### ARTICLE 3. ELECTRICAL CODE

4-301 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this article, have the meanings indicated in this section:

- a. Approved shall mean approved by the Building Official, the Electrical Inspector or his or her designee.
- b. Authorized Person shall mean any individual, firm or corporation who or which is licensed under the provisions of this article to do the work as permitted under the specified provisions of this article.
- c. City shall mean the territory within the corporate limits of the City of Hoyt, Kansas.
- d. Conductor shall mean a wire or cable or other form of metal suitable for carrying the electric current or potential.
- e. Electrical Construction or Installation shall mean and include all work and materials used in installing, maintaining or extending a system of electrical wiring and all appurtenances, apparatus or equipment used in connection therewith, inside or attached to any building, structure, lot or premises, except industrial plants where fulltime maintenance is provided and other agencies providing inspections of installations and facilities. electrical construction shall not be held to mean or include any of the following:
  1. The replacement of lamps, fuses, bulbs or the connection of portable electrical equipment to suitable permanently installed receptacles and replacement of receptacles and switches, lighting fixtures and apparatus where no changes or alterations are made to the wiring;
  2. Any work involved in the manufacturing, repair or testing of any electrical equipment or apparatus, but not including any permanent wiring; or
  3. Any work in industrial establishments where inspections come under the scope of other inspection agencies.
- f. Equipment shall mean conductors, materials, fittings, devices, appliances, fixtures, apparatus, motors and the like, used as a part of or in connection with an electrical installation.

- g. Inspector shall mean the Building Official or any individual who has been appointed by the City as Electrical Inspector.
- h. Person shall mean a natural person, his or her heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors, assigns, or the agent of any of the aforesaid.
- i. Special Permission shall mean the written consent of the Building Official or the Electrical Inspector.
- j. Special Ruling shall mean a written ruling filed in the office of the Building Official or the Electrical Inspector.

(Code 2021)

4-302 ADDITIONAL PROVISIONS. The following sections of this article are in addition to the provisions of Article 2. (Code 2021)

4-303 INSPECTION; CONCEALMENT OF PRIOR WORK.

- a. When any electrical equipment is to be hidden from view by the permanent placement of parts of the building, the person, firm or corporation installing the equipment shall notify the building inspector and such equipment shall not be concealed until it has been inspected, approved or authorized by the Electrical Inspector or until 24 hours, exclusive of Saturdays, Sundays and holidays, shall have lapsed from the time of such notification. On large installations, where the concealment of equipment proceeds continuously, the person, firm or corporation installing the electrical equipment shall give the Electrical Inspector due notice and inspections shall be made periodically during the progress of the work.
- b. The Electrical Inspector shall have the authority to require building contracts to open such work which, in any manner, conceals electrical wiring that has been closed without his or her knowledge or permission, and in no case shall the inspector issue a certificate of approval until satisfied that the work is in accordance with provisions of this article. The inspector shall also have the right to refuse to issue a certificate of approval on any wiring,



that is concealed in such manner that it cannot be fully determined that it has been done in accordance with this article.

(Code 2021)

4-304 CONNECTION TO INSTALLATIONS. It shall be unlawful for any person, firm, or corporation to make connection to a supply of electricity to any building or electrical equipment for which an inspection is required, or which has been disconnected by the order of the Electrical Inspector, until a certificate of approval has been issued by the Electrical Inspector authorizing the connection and use of such electric supply. The Electrical Inspector may, at his or her discretion, authorize a temporary connection. (Code 2021)

4-305 REINSPECTION. The Electrical Inspector shall periodically re-inspect existing installations of electrical conductors and equipment. When the installation of any conductors or equipment is found to be in a dangerous or unsafe condition, the person, firm, or corporation owning, using, or operating the installation shall be notified in writing and shall make the necessary repairs or changes required to place the conductors or equipment in safe condition and have the work completed within the period specified by the Electrical Inspector. (Code 2021)

4-306 CONDEMNATION; APPEAL.

- a. If in the judgment of the Electrical Inspector, after an inspection, any electrical conductors, appliances, or equipment in any building are unsafe or dangerous to person or property, the inspector shall have the power to cause the wires or appliances to be disconnected from the source of electrical energy supplying these conductors or equipment, and may, at his or her discretion, seal the control switches for the same in an open or disconnected position, whereupon he or she shall give notice to the owner, or his or her agent, or by posting such notice at the site and shall also notify the utilities serving the premises. Thereafter, it shall be unlawful for any person to cause or permit electric current to be supplied to the electrical conductors, appliances or equipment so sealed until they shall have been made safe and the inspector shall have issued a certificate of approval to that effect.

- b. It shall be the duty of the Electrical Inspector to cause all dead wires, unused poles or electric apparatus on the outside of the buildings or in streets or alleys to be removed at the expense of the owners thereof by giving the owners written notice.
  
- c. When the Electrical Inspector condemns all or parts of any electrical installation, the owner may, within ten (10) days after receiving written notice thereof, file a petition in writing for review of the action of the Chief Building Officer by the Governing Body, upon the receipt of which the Governing Body shall at once proceed to determine the facts, and within ten (10) days from receiving the petition make a decision in accordance with their findings.

(Code 2021)

4-307 INTERFERENCE BY UNAUTHORIZED PERSON. It shall be unlawful for any unauthorized person to, in any manner, change or alter electrical conductors or equipment in or on any building. If in the course of the erection of a building or structure, electrical conductors or equipment are in such position as to interfere with the erection or completion of the structure, notice shall be immediately given the authorized person or firm installing the electrical conductors or equipment, and the needed change shall be made by such authorized person or firm.

(Code 2021)

4-308 APPROVED MATERIALS. No electric materials for wiring of appliances or equipment shall be installed in the City unless they are in conformity with the provisions of this article and with the approved standards of construction for safety to life and property. Conformity of materials for wiring appliances and equipment to the standards of the Underwriters Laboratories, Inc., shall be prima facie evidence that the materials, devices, appliances, and equipment comply with the requirements of this article. (Code 2021)

## ARTICLE 4. PLUMBING AND GAS-FITTING CODE

4-401 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this article, have the meanings indicated in this section:

- a. Approved shall mean approved by the Building Official, the Plumbing Inspector or his or her designee.
- b. Authorized Person shall mean any individual, firm or corporation who or which is licensed under the provisions of this article to do the work as permitted under the specified provisions of this article.
- c. City shall mean the territory within the corporate limits of the City of Hoyt, Kansas.
- d. Plumbing shall mean the installation of gas or water pipes, fixtures, apparatuses and the necessary connections either for supplying gas or water to premises or for the removing of liquid and waterborne wastes from premises in the City, or both such purposes, and shall also denote installed fixtures, drainage and vent systems and gas or water distribution systems as the case may be.
- e. Equipment shall mean materials, fittings, devices, appliances, fixtures, apparatuses and the like, used as a part of or in connection with a plumbing installation.
- f. Inspector shall mean the Building Official or any individual who has been appointed by the City as Plumbing Inspector.
- g. Person shall mean a natural person, his or her heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors, assigns, or the agent of any of the aforesaid.
- h. Special Permission shall mean the written consent of the Building Official or the Plumbing Inspector.
- i. Special Ruling shall mean a written ruling filed in the office of the Building Official or the Plumbing Inspector.

(Code 2021)

4-402 ADDITIONAL PROVISIONS. The following sections of this article are in addition to the provisions of Article 2. (Code 2021)

4-403 PLUMBING PERMIT REQUIRED: EXCEPTION.

- a. It shall be unlawful to install, alter or reconstruct any plumbing or plumbing system, as defined by the plumbing code and section 4-401, in any building in the City without first making application to and receiving a permit therefore from the City Clerk, after approval by the Chief Building Official or his or her authorized assistant. The application for such permit shall be made and the permit obtained before any plumbing work is connected.
- b. No permit shall be required for making minor repairs of any plumbing including repair of leaks in water pipes, traps or cocks, opening up stoppage in waste or supply pipes, traps or cocks, opening up stoppage in waste or supply pipes, traps or drains, replacing fixtures when waste pipes are not disturbed, or replacing frozen pipes inside the building, and like repair work not involving original installation or reconstruction.

(Code 2021)

4-404 CONNECTION TO GAS OR WATER SUPPLY. It shall be unlawful for any person, firm or corporation to make connection to a supply of gas or water for which an inspection is required, or which has been disconnected by the order of the Plumbing Inspector, until a certificate of approval has been issued by the Plumbing Inspector authorizing the connection and use of such plumbing or plumbing system. The Plumbing Inspector may, at his or her discretion, authorize a temporary connection. (Code 2021)

4-405 EXCAVATIONS. When it appears that the laying or repairing of any water or sewer pipes or the making of any connection therewith shall require excavation in any street, alley or public way of the City or the cutting or removal of any pavement, alley or public way of the City or the cutting or removal of any pavement, curb or gutter or any sidewalk, during the course of such work, the application for a permit shall so state and describe the location and extent of the excavation, cutting or removal. Before the City Clerk shall issue any permit for such work, the applicant shall pay any fee required by this Code. All excavations shall be barricaded and guarded. Before any such excavation shall be backfilled, new plumbing work therein shall be inspected and

the bottom of the excavation holding any sewer, drain or water pipe shall be so filled, leveled and tamped as to properly support the pipe and permit proper drainage when carrying sewage, and the excavation shall be backfilled and all paving, curbing, guttering or sidewalks shall be restored as near as possible to their last condition, subject always to the approval of the Plumbing Inspector or the City Superintendent of Streets.

(Code 2021)

4-406 APPROVED MATERIALS. No plumbing materials, appliances or equipment shall be installed in the City unless they are in conformity with the provisions of this article and with the approved standards of construction for safety to life and property. Conformity of materials for plumbing materials, appliances and equipment to the standards of the Underwriters Laboratories, Inc. shall be prima facie evidence that the materials, devices, appliances, and equipment comply with the requirements of this article. (Code 2021)

4-407 SAME; RIGHT OF ENTRY. The Plumbing Inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties as set out in this chapter. (Code 2021)

## **ARTICLE 5. MOVING BUILDINGS**

4-501 **BUILDING OFFICIAL; AUTHORITY.** The Mayor or his or her authorized designee shall be responsible for the administration and enforcement of this article and appointment of an inspector in accordance with section 4-204 and 4-205:209 of this chapter, which apply in a like manner to this article. (Code 2021)

4-502 **PERMIT REQUIRED.** No person, firm or corporation shall move, haul, or transport any house, building, derrick, or other structure of the height when loaded for movement of sixteen (16) feet or more from the surface of the highway, road, street or alley, or a width of eight (8) feet or more or which cannot be moved at a speed of four (4) miles per hour or faster, upon, across or over any street, alley or sidewalk in this City without first obtaining a permit therefore. (Code 2021)

4-503 **SAME: APPLICATION FOR PERMIT.** All applications for permits required under the provisions of this article shall be made in writing to the City Clerk specifying the day and hour said moving is to commence and the route through the City's streets, over which the house, building, derrick or other structure shall be moved and stating whether it will be necessary to cut and move, raise, or in any way interfere with any wires, cables or other aerial equipment of any public or municipally-owned utility, and if so, the application shall also state the name of the public or municipally-owned utility, and the time and location that the applicant's moving operations shall necessitate the cutting, moving, raising or otherwise interfering with such aerial facilities. The application shall be made no fewer than three (3) full business days before the moving is to commence. (Code 2021)

4-504 **SAME; BOND, INSURANCE REQUIRED.**

- a. It shall be the duty of any person at the time of making application for a permit as provided in this article to give a good and sufficient surety bond to the City, to be approved by the Governing Body, indemnifying the City against any loss or damage resulting from the failure of any such person to comply with the provisions of this article or for any damage

or injury caused in moving any such house or structure. The bond herein shall be in the sum of \$5,000, or cash may be deposited in lieu of such surety bond.

- b. A public liability insurance policy issued by an insurance company authorized to do business in the State of Kansas, in the amount of \$100,000 per person, \$300,000 per accident as to personal injury, and \$50,000 property damage may be permitted in lieu of a bond.

(Code 2021)

4-505 SAME; FEE. Before any permit to move any house or structure is given under the provisions of this article, the applicant shall pay a fee to be determined by the City of Hoyt Rate and Fee Schedule, plus the additional cost for the time for any City staff involved in such moving.

(Code 2021)

4-506 ROUTE; DUTIES OF BUILDING OFFICIAL. The City Clerk shall, upon filing of the above application, refer the same to the Chief Building Official or his or her authorized designee to check the proposed route and determine if it is practical to move such house or other structure over the proposed route. If it shall appear that such route is not practical and another route may be used equally well with less danger to the street and travel, then he or she may designate such other route as the one to be used and shall notify the applicant of the same. The Chief Building Official may also require the planking of any street, bridge or culvert or any part thereof to prevent damage thereto. It shall also be the duty of the Chief Building Official or his or her authorized designee to inspect the progress of moving any house or other structure to see that the same is being moved in accordance with the provisions of this article. (Code 2021)

4-507 NOTICE TO OWNERS.

- a. Upon issuance of a moving permit the applicant shall give no less than fifteen (15) days written notice to any person owning or operating any wires, cables or other aerial equipment along the proposed route of the intent to move the structure, giving the time and location that the applicants moving operation shall necessitate the cutting, moving, raising or interfering of any wires, cables or other aerial equipment.

- b. The notice provision of subsection (a) shall not apply where the person owning or operating any wires, cables or other aerial equipment has waived their right to advance notice.
- c. Should the moving operation be delayed, the applicant shall give the owner or his or her agent not less than twenty-four (24) hours advance notice of the actual operation.

(Code 2021)

4-508 DUTY OF OWNERS. It shall be the duty of the person or the City owning or operating such poles or wires after service of notice as provided herein, to furnish competent lineman or workman to remove such poles, or raise or cut such wires as will be necessary to facilitate the moving of such house or structure. The necessary expense which is incurred thereby shall be paid by the holder of the moving permit. (Code 2021)

4-509 INTERFERING WITH POLES; WIRES. No person engaged in moving any house or other structure shall raise, cut or in any way interfere with any such poles or wires unless the persons or authorities owning or having control of the same shall refuse to do so after having been notified as provided in section 4-507, and then only competent and experienced workmen shall be employed in such work, and in such case the necessary and reasonable expense shall be paid by the owners of the poles and wires handled. The work shall be done in a careful and workmanlike manner, and the poles and wires shall be promptly replaced and the damages thereto properly repaired. (Code 2021)

4-510 DISPLAY OF LANTERNS. It shall be the duty of any person moving any of the structures mentioned in this article upon or across any street, alley or sidewalk or other public place, in this City, to display red lanterns thereon in such a manner as to show the extreme height and width thereof from thirty (30) minutes after sunset to thirty (30) minutes before sunrise.

(Code 2021)



## ARTICLE 6. DANGEROUS AND UNFIT STRUCTURES

4-601 PURPOSE. The Governing Body has found that there exist within the corporate limits of the City structures which are unfit for human use or habitation because of dilapidation, defects increasing the hazards of fire and accidents, structural defects or other conditions which render such structures unsafe, unsanitary or otherwise inimical to the general welfare of the City, or conditions which provide a general blight upon the neighborhood or surrounding properties. It is hereby deemed necessary by the Governing Body to require or cause the repair, closing or demolition or removal of such structures as provided in this article. (K.S.A. 12-1751; Code 2021)

4-602 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this article, have the meanings indicated in this section:

- a. Structure shall include any building, wall, superstructure or other structure which requires location on the ground, or is attached to something having a location on the ground.
- b. Public Officer shall mean the Chief of Police or his or her authorized representative.

(Code 2021)

4-603 PUBLIC OFFICER; DUTIES. The Public Officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this article, including the following:

- a. Inspect any structure which appears to be unsafe, dangerous or unfit for human habitation;
- b. Have authority to enter upon premises at reasonable hours for the purpose of making such inspection. Entry shall be made so as to cause the least possible inconvenience to any person in possession of the structure. If entry is denied, the Public Officer may seek an order for this purpose from a court of competent jurisdiction;
- c. Report all structures which he or she believes to be dangerous, unsafe or unfit for human habitation to the Governing Body;
- d. Receive petitions as provided in this article.

(Code 2021)

4-604 PROCEDURE; PETITION. Whenever a petition is filed with the Public Officer by at least five (5) residents charging that any structure is dangerous, unsafe or unfit for human habitation, or whenever it appears to the Public Officer on his or her own motion that any structure is dangerous, unsafe or unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges, report such findings to the Governing Body.  
(Code 2021)

4-605 SAME; NOTICE. The Governing Body upon receiving a report as provided in section 4-604, shall fix by resolution a time and place to which the owner, the owner's agent, any lien holder of records and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished. (Code 2021)

4-606 SAME; PUBLICATION.

- a. The resolution shall be published once each week for two consecutive weeks on the same day of each week. At least thirty (30) days shall elapse between the last publication and the date set for the hearing.
- b. A copy of the resolution shall be mailed by Certified Mail within three (3) days after its first publication to each owner, agent, lien holder and occupant at the last known place of residence and shall be marked "deliver to addressee only".

(K.S.A. 12-1752; Code 2021)

4-607 SAME; HEARING, ORDER.

- a. If, after notice and hearing, the Governing Body determines that the structures under consideration is dangerous, unsafe or unfit for human use or habitation, it shall state in writing its findings of fact in support of such determination and shall cause to be served upon the owner or agent an order directing such owner to either repair or demolish or remove the structure.
- b. If the repair, alteration, or improvement of the structure can be made at a cost which shall not exceed fifty percent (50%) of the fair market value of the structure, the owner of the property shall, within the time specified in the order, repair, alter or improve the structure

to render it safe and fit for human use or habitation, or shall vacate and close the structure until such time as he or she has complied with the order.

- c. If the repair, alteration or improvement of the structure cannot be made at a cost of fifty percent (50%) or less of its fair market value, the owner shall, within the time specified in the order, remove or demolish the structure after securing a Demolition Permit from the City Clerk's office.

(Code 2021)

4-608 DUTY OF OWNER. Whenever any structure within the City shall be found to be dangerous, unsafe or unfit for human use or habitation, it shall be the duty and obligation of the owner of the property to render the same secure and safe or to remove the same. (Code 2021)

4-609 SAME; FAILURE TO COMPLY.

- a. If, within the time specified in the order, the owner fails to comply with the order to repair, alter, improve or vacate the structure, the Public Officer may cause the structure to be repaired, altered, improved or to be vacated and closed.
- b. If, within the time specified in the order, the owner fails to comply with the order to remove or demolish the structure, the Public Officer may cause the structure to be removed or demolished.

(Code 2021)

4-610 SAME; MAKE SITE SAFE. Upon removal of any structure, the owner shall fill any basement or other excavation located upon the premises and take any other action necessary to leave the premises in a safe condition. If the owner fails to take such action, the Public Officer may proceed to make the site safe. (Code 2021)

4-611 ASSESSMENT OF COSTS.

- a. The cost to the City of any repairs, alterations, improvements, attorneys fees, vacating, removal or demolition by the Public Officer, including making the site safe, shall be reported to the City Clerk.

- b. The City shall give notice to the owner of the structure by Certified Mail marked "Restricted Delivery" of the cost of removing the structure and making the premises safe and secure. The notice shall also state that payment of the cost is due and payable within thirty (30) days following receipt of the notice.
- c. If the costs remain unpaid after thirty (30) days following receipt of notice, the City Clerk may sell any salvage from the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing the structure and making the site safe. Any proceeds in excess of that required to recover the costs shall be paid to the owner of the premises upon which the structure was located.
- d. If the proceeds of the sale of salvage is insufficient to recover the cost, or if there is no salvage, the City Clerk shall, at the time of certifying other City taxes, certify the unpaid portion of the costs to the County Clerk who shall extend the same on the tax roll of the County.

(K.S.A. 12-1755; Code 2021)

4-612 IMMEDIATE HAZARD. When in the opinion of the Governing Body any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the Governing Body may direct the Public Officer to erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay. Such action may be taken without prior notice to or hearing of the owners, agents, lien holders and occupants. The cost of any action under this section shall be assessed against the property as provided in section 4-611. (K.S.A. 12-1756; Code 2021)

4-613 APPEALS FROM ORDER. Any person affected by an order issued by the Governing Body under this article may, within thirty (30) days following service of the order, petition the District Court of the County in which the structure is located for an injunction restraining the Public Officer from carrying out the provisions of the order pending final disposition of the case. (Code 2021)

4-614 SCOPE OF ARTICLE. Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the City to enforce any provisions of its charter or its

ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this article shall be in addition to and supplemental to the powers conferred by the constitution, any other law or ordinance. Nothing in this article shall be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise or to exercise those powers granted specifically by K.S.A. 12-1750:1756. (Code 2021)

## ARTICLE 7. MOBILE HOMES

4-701 TITLE. This Code shall hereinafter be referred to as the "Mobile Home Code of the City of Hoyt, Kansas." (Code 2021)

4-702 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this article, have the meanings indicated in this section:

- a. Accessory Use or Building shall mean a subordinate building or portion of the main building, the use of which customarily is incidental to that of the main building or to the main use of the premises.
- b. Approved Public Sanitary Sewer System shall mean a sewage disposal plant, main sanitary sewer lines and other lines approved by the Governing Body of the City, and by the Kansas Department of Health and Environment.
- c. Approved Public Water System shall mean water service lines approved by the Governing Body and by the Kansas Department of Health and Environment.
- d. Chief Building Officer shall mean The Mayor of the City or his or her designated agent.
- e. Lot or Plot shall mean a parcel of land occupied or intended for occupancy by one main building, together with its accessory building, including the open spaces required by this article. A lot or plot may include more than one platted lot.
- f. Lot, Corner shall mean a lot as defined above, abutting upon two or more streets at their intersection.
- g. Lot, Depth of shall mean the mean horizontal distance between the front and the rear lot lines.
- h. Lot, Double Frontage shall mean a lot having a frontage on two nonintersecting streets as distinguished from a corner lot.
- i. Lot of Record shall mean a lot which is a part of a subdivision, the map of which has been recorded in the Office of the Register of Deeds, or a lot described by metes and bounds, the description of which has been recorded in the Office of the Register of Deeds.

- j. Mobile Home (Trailer House) shall mean shall mean a moveable, detached single-family dwelling unit which requires a special permit for highway transportation with all of the following characteristics:
1. Designed for a long-term occupancy and containing accommodations, a flush toilet, a tub or shower bath, kitchen facilities, and having plumbing and electrical connections provided for attachment to public utilities.
  2. Designed and constructed on a chassis that is capable of being transported after fabrication on its own wheels or on detached wheels.
  3. Arrived at the site where it is to be occupied as a dwelling complete, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on supports, connection to utilities and the like.
- k. Mobile Home Lot: A tract of land designed for accommodation of one trailer house, which provides service facilities for water, sewage, and electricity, which has a minimum area of 3,750 square feet and which has dimensions that would permit compliance to all setback provisions of the laws of the City, pertaining to residential housing and is designated or zoned for use by a single mobile home placed on a permanent foundation and which is owned by the owner of the mobile home.
- l. Mobile Home Park: Any park, court, camp, lot, area, piece, parcel, tract or plot of ground upon which mobile homes are used, whether for compensation or not, including all accessory use thereof.
- m. Mobile Home Space: A tract within a mobile home park which is intended for use by a single mobile home.
- n. Modular Home: A dwelling structure located on a permanent foundation and permanently connected to public utilities, consisting of preselected, prefabricated units or modules, and transported to and/or assembled on the site of its permanent foundation; in contradistinction to a dwelling structure which is custom-built on the site of its permanent location; and also in contradistinction to a mobile home, either single-wide, double-wide, or multiple width, located on a permanent foundation and permanently connected to public utilities; and further, that it conforms to the present city building, housing, electrical and plumbing codes. Such conformity may be either to the adopted codes of the City or by reciprocal conformity agreement between the Chief Building Inspector of the City and a similar

municipal official who inspects and approves the modular home at the place of its manufacture, according to a previously and mutually agreed set of standards.

- o. Off-Street Parking Space: An area adjacent to, but off of the street right-of-way or private roadway surfaced for the purpose of storing one parked automobile. For the purpose of this article, one parking space shall have a minimum width of nine (9) feet and a minimum length of twenty (20) feet. Additional space shall be required off-street for access drives to each parking space.
- p. Public Utility: Any business which furnishes the general public telephone service, telegraph service, electricity, natural gas or water, and any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the State of Kansas.
- q. Structure: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences.
- r. Set Back: The distance between the lot line and the building line as required by the Zoning Regulations, or Ordinances or the Fire Code of the City.
- s. Travel Trailer or House Trailer: As used in this article shall mean a vehicular, portable dwelling unit designed especially for short term occupancy (one month or less). Such as: travel trailers, campers, converted busses, and similar units whether self-propelled, pulled or hauled and/or designed primarily for highway travel without a special permit; and/or does not comply with the requirements of the minimum housing code as a dwelling unit.
- t. Yard: A space on the same lot with a main building, open, unoccupied and unobstructed by buildings or structures from the ground upward.
- u. Yard -Front: A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way and the front building line. On corner lots (lots abutting two or more streets at the intersection of those streets), the front yard shall face the shortest street dimension of the lot.
- v. Yard -Rear: A yard extending across the full width of the lot between the rear of the main building and the rear lot line, the depth of which is the least distance between the rear lot line and the rear of such main building. Where an alley is platted at the rear of the lots, one-half of the width of the alley may be included in the rear yard requirements.



- w. Yard -Side: A yard between the main building and the side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally, at 90 degrees with the side lot line, from the nearest point of the side lot line toward the nearest part of the main building.
- x. Zone or District: An area of the City of Hoyt for which uniform regulations governing the use, height, area, size and intensity of use of buildings, land, and open spaces about buildings are established.
- y. Zoning Ordinance: The zoning requirements approved by ordinance for the City.

(Code 2021)

#### 4-703 INSTALLATION OF MOBILE HOMES.

- a. All mobile homes which are installed within the City shall be installed according to the standards, requirements, and specifications set out in this article. All mobile homes shall be inspected by the Chief Building Officer prior to occupancy to confirm that all installation requirements have been met. If the Chief Building Officer is satisfied that all such requirements have been met, he or she shall permit the utilities to be connected and the mobile home to be occupied.
- b. Exception: In approved mobile home parks, mobile homes may be inspected prior to the installation of skirting and if approved, such mobile homes may be occupied. The occupant and/or owner shall be given a period not to exceed sixty (60) days in which to install the required skirting.
- c. All mobile homes installed within the City of Hoyt shall have been constructed within ten (10) years immediately preceding their placement within the City.

(Code 2021)

4-704 MOBILE HOMES; STRUCTURAL QUALITY. No mobile home shall be permitted to be moved into the corporate area of the city, except for sale by a licensed dealer, until a building permit has been issued for its location in a specified mobile home park or other approved location, in compliance with the ordinances of the city. In addition to compliance with city laws, the mobile home shall comply with the minimum standards of the Model Building Code published by the Nation Fire Protection Association, Inc. (NFPA), including any revisions and supplementary

reports relative to the same. Compliance with these standards shall be shown by an approval report prepared by the NFPA, referring to the particular type and model of mobile home for which a permit is requested. In the event that a structural compliance report is unavailable, the city council may, at its discretion, appoint an inspector to inspect the structure prior to its transportation into the city, and to determine whether it complies with these standards. In the event that all standards, codes and ordinances are complied with, the applicant shall be issued a building permit and the mobile home shall be established in accordance therewith within six months, or the permit shall become invalid. (Code 2021)

4-705 AGE OF MOBILE HOME. No mobile homes manufactured more than twenty-five (25) years from the year of its initial install shall be allowed within a mobile home park. Exceptions may be allowed on a case by case upon approval of a majority of the city council. (Code 2021)

4-706 FOUNDATIONS FOR MODULAR HOMES. Modular homes located on individually owned lots shall be placed on a permanent masonry constructed foundation. A modular home being mounted on such foundation shall have its wheels, axles, suspension, and hitch permanently removed, prior to occupancy. (Code 2021)

4-707 FOUNDATION FOR MOBILE HOMES.

- a. All spaces on mobile home lots intended for the use of mobile homes shall be installed according to the minimum standards, requirements and specifications set out as follows:
  1. FOUNDATIONS for piers shall be installed directly under the main frame or chassis of the mobile home. All grass and organic material shall be removed and the pier foundation placed on stable soil. The piers shall not be farther apart than ten (10) feet on centers, and the main frame, front or face of the mobile home shall not extend farther than one (1) foot beyond the center line of the end of the piers. Each pier foundation shall consist of two concrete blocks, and each such block shall be eight (8) inches wide, eight (8) inches high and sixteen (16) inches long or shall be of such other materials and design as approved by the Chief Building Officer.

- b. Piers shall be constructed of either open cell or solid concrete blocks, each of which shall be eight (8) inches wide, eight (8) inches high and sixteen (16) inches long, with open cells vertical or combination with solid concrete blocks which are two (2) inches thick, eight (8) inches high and sixteen (16) inches long placed above the foundation block. A wood plate which is at least one (1) inch in actual thickness, either eight (8) inches wide and sixteen (16) inches long shall be placed on top of the pier, with weather proof wood shims, when needed, fitted and driven tightly between the wood plate and the main frame. Such shims shall not occupy more than one (1) inch of vertical space. Piers shall be installed perpendicular to the I-beam. All piers over thirty (30) inches in height, measured from the top of the foundation block to the I-beam, shall be double tiers with blocks interlocked and capped with a solid concrete block, which shall be four (4) inches high, sixteen (16) inches wide and sixteen (16) inches long, and cushioned with wood blocking as required. Piers shall not exceed forty-eight (48) inches in height, unless designed by a registered professional engineer or architect.

(Code 2021)

#### 4-708 MOBILE HOME COMMUNITY OR PARK; PERMIT.

- a. It shall be unlawful for any person to establish, maintain, operate or permit to be established, maintained or operated any mobile home community or park within the City limits, without first having secured a permit therefor as herein required, except those mobile home communities or parks and trailer parks that are already established. Each such presently established mobile home community and trailer park shall be considered a non-conforming use and will be permitted to remain as long as the use is continuous.
- b. The applicant for a permit for a mobile home community shall submit three (3) copies of the plan showing location, size and topography of the site for review by the Zoning Commission or Governing Body. The plan must show the trailer or modular house spaces or lots, roadways, sidewalks, parking areas, electrical lines, utility lines, methods of defining each mobile home or trailer space or lot and the location of paved patios in such a way to demonstrate that the proposed mobile home community will meet the requirements set out herein.

- c. Regulations for park and camp layouts shall be as follows:
1. Area. Mobile home parks shall contain a minimum area of twenty-five hundred (2500) square feet for each mobile home space.
  2. Setbacks. All mobile homes and house trailers shall be so located as to maintain a setback no less than fifteen (15) feet from any public street or highway right-of-way; as to maintain a setback no less than ten (10) feet from the edge of a park, roadway or sidewalk; and as to maintain a setback no less than ten (10) feet from any side or rear boundary line when such boundary is not common to any public street or highway right-of-way.
  3. Clearance. All mobile homes or house trailers shall be so located as to maintain a clearance of not less than twenty (20) feet from another mobile home, house trailer or appurtenance thereto within the same mobile home park or trailer camp; and as to maintain a clearance of not less than twenty (20) feet from any building or service building within the park or camp.
  4. Roadways and Sidewalks. All mobile home or house trailer spaces shall abut upon a park or camp roadway. All roadways shall not be less than twenty-four (24) feet wide. All roadways shall have an unobstructed access to a public street or highway, with all dead-end roadways being provided an adequate vehicular turnaround with a diameter of not less than eighty (80) feet. All park and camp roadways shall be surfaced with concrete, asphalt, asphaltic concrete, gravel or crushed rock.
- d. All persons operating parks existing on the effective date of this code shall obtain a park license, upon the expiration of their existing license, if any, with such new license being issued only after approval by the Chief Building Officer and only after payment of the required fee. The park licenses for both existing and new parks shall be renewed annually, twelve (12) months from the date of the previous license, after approval by the Chief Building Officer and after payment of the required fee. No person shall operate a park without a current park license.

- e. Annual license and permit fees for mobile home parks shall be determined by the City of Hoyt Rate and Fee Schedule.
- f. A temporary permit may be issued for a mobile home or house trailer to be occupied other than within a park for a period not to exceed thirty (30) day, upon the payment of a fee to be determined by the City of Hoyt Rate and Fee Schedule. There shall not be more than two (2) such permits issued for the placement of a mobile home or trailer house.

(Code 2021)

#### 4-709 SAME; REGISTER OF OCCUPANTS.

- a. It shall be the duty of the licensee to keep a register containing a record of all trailer or modular house owners and occupants located within the park. The register shall contain the following information:
  - 1. Name and address of each occupant.
  - 2. The make, model and year of all automobiles and trailer houses and modular houses.
- b. The park shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed for a period of three (3) years following the date of registration.

(Code 2021)

#### 4-710 OCCUPANCY, LOCATION, PARKING CONSTRUCTION AND USE OF MOBILE HOMES.

- a. It shall be unlawful for any person to place a mobile home or trailer within the corporate limits of the City without first obtaining the prior written consent and permission of a majority of the members of the Governing Body of the City.
- b. It shall be unlawful for any person to establish, operate or maintain or permit to be established, operated or maintained upon any property owned or controlled by him or her, a trailer camp or trailer lot, within the City limits, without having first secured a license to do so, granted and existing in accordance with the provisions of this article.

- c. License to establish, operate or maintain a trailer camp or trailer lot shall terminate with the calendar year which it is issued, but it may be renewed.
- d. Applications for license or for its renewal, shall be filed with the City Clerk, and a fee shall be paid in an amount to be determined by the City of Hoyt Rate and Fee Schedule, for each unit in the trailer camp or lot. Before any license shall be issued, a bond of \$1,000 for each trailer camp or lot shall be posted with the City Clerk to guarantee compliance with the provisions of this article.
- e. The application for a license to maintain a trailer camp or trailer lot shall be filed in duplicate stating the name of the owner of the land on which the trailer camp or trailer lot is to be conducted and, if owned by anyone other than the applicant, it shall be accompanied by a verified statement by the owner that the applicant is authorized to construct and maintain a trailer camp or trailer lot thereon. The application shall give a complete full legal description of the land to be used. The application shall be accompanied by two (2) copies of the camp plan showing the following either existing or as proposed:
  - 1. The extent and area used for camp purposes;
  - 2. Roadways and driveways;
  - 3. Location of units;
  - 4. Location of sanitary conveniences, including toilets, washrooms, laundries and utility rooms to be used by occupants of units;
  - 5. Method, plan and location of sewage disposal apparatus;
  - 6. Method and plan of garbage disposal and description of garbage disposal equipment;
  - 7. Plan for water supply;
  - 8. Plan for electric lighting;
- f. Upon the filing of such application, the City Clerk shall notify the Building Inspector, who shall make an inspection.
- g. When parking a mobile home within the City in compliance with this section; the owner of the mobile home must be the owner of the tract of land where such home is permanently located. The lot or tract width cannot be less than fifty (50) feet and of sufficient depth to provide a minimum area of 3750 square feet per trailer. The location of the mobile home on the lot or tract shall comply with the space and setback requirements of the code.

h. License and permit fee shall be determined by the City of Hoyt Rate and Fee Schedule.  
(Code 2021)

4-711 OFF-STREET PARKING. All mobile home lots and mobile home spaces shall be provided with at least one (1) off-street parking space. Such off-street parking space shall be surfaced with rock, asphaltic concrete or poured concrete. It shall be at least nine (9) feet by twenty (20) feet by four (4) inches in depth, excluding the street right-of-way. If a curb cut is necessary, the Chief Building Official must approve plans for the cut prior to construction.  
(Code 2021)

4-712 LOT GRADING. All mobile home lots and mobile home spaces shall be properly graded so as to insure rapid drainage and freedom from stagnant pools of water. This requirement is especially emphasized for that area of the space or lot which the mobile home will cover.  
(Code 2021)

4-713 TIE DOWNS. All mobile homes shall be tied down to the ground to prevent damage to the mobile home and surrounding property during high velocity winds. All tie down anchors shall be ANSI approved screw type. All turnbuckles, cinch screws and other interconnecting links between the tie down strap and tie down anchor shall be ANSI approved or shall be of at least one-half (1/2) inch in size with closed eye or jaw-end couplings and lock nuts. One (1) tie down is required for every twenty (20) feet or part thereof of the length of the mobile home. Tie downs shall be located no closer than ten (10) feet nor further apart than thirty (30) feet. Tie downs shall be located not more than fifteen (15) feet from each end of the mobile home. (Code 2021)

4-714 SKIRTING. All mobile homes shall be skirted with reinforced metal or noncombustible material approved by the Chief Building Official. All such skirting shall be permanently affixed to the mobile home by screws, rivets or in such manner as may be approved by the Chief Building Official. In order to be rodent free all skirting shall be flush with all concrete surfaces and shall be buried at least one and one-half (1.5) inches below grade when adjacent to earth surfaces. At least four (4) square feet of grate protected ventilation shall be provided in the skirting. Also, the skirting

shall have an easily accessible opening which will allow utility services to the shutoff in case of emergencies. (Code 2021)

4-715 ELECTRICAL, WATER, SEWER, GAS, TIE DOWNS. All electrical, water, sewer and gas utility services for mobile homes or modular homes shall be installed according to applicable City codes. All utility services and tie downs shall be inspected and approved by the Chief Building official prior to connection to the mobile homes or modular homes. (Code 2021)

4-716 INSPECTION FEE. The City Clerk shall collect a fee for each mobile home requiring inspection by this article, such fee to be determined by the City of Hoyt Rate and Fee Schedule. The payment of such fee shall not relieve such person or persons from prosecution for violating provisions of this article. The fees, location, size of mobile home, owner and any other information deemed necessary by the Chief Building Official shall be filed with the owner's signature on a building permit form normally used for new construction in the City. (Code 2021)

4-717 UTILITY BUILDINGS. All utility buildings used by mobile home owners for storage shall be placed on a concrete base and plans and construction must be approved by the Chief Building Official. (Code 2021)

4-718 INSTALLATION OF MODULAR HOMES. The Chief Building Official shall require a complete detailed set of construction plans for each modular dwelling and/or structure which shall show all building construction details, plumbing details and electrical details. Each set of plans must be inspected and approved by the Chief Building official before the modules may be transported to the job site or any construction started. (Code 2021)

4-719 ALTERATIONS OR ADDITIONS. Alterations and additions to mobile homes or modular homes which are within the City limits shall be made only after application to the Chief Building Official and in conformance with all applicable codes and ordinances. No additions of any kind shall be built onto or become a part of any mobile home or travel trailer. (Code 2021)



4-720 SAME; EXCEPTION. Accessory structures not exceeding an area of three hundred (300) square feet, carports and residential patio structures may be attached to or become a part of a mobile home if such structure complies in all respects to the Uniform Building Code and with the written approval of the Chief Building Official. (Code 2021)

4-721 LOCATION OF MODULAR HOMES. Modular homes and/or other modular structures constructed, inspected and installed according to the requirements of this article shall be considered similar to conventionally built structures, and thus allowed to be located in any zone in which a conventionally built structure may be located. (Code 2021)

4-722 LOCATION OF TRAVEL TRAILERS. Travel trailers shall be allowed to be stored on the property of the owner in any zone in the City. No travel trailer shall be allowed to be stored on any street, right-of-way, alley or sidewalk unless it is motorized (self-propelled) and has an overall width of nine (9) feet or less. No such trailer so stored shall be used for residential or commercial purposes except on a temporary basis when specifically approved in writing by the Governing Body. Only when a travel trailer is located in a travel trailer park or campground approved by the Chief Building Official, shall it be allowed to be used as intended without written approval of the Chief Building Official. (Code 2021)

## ARTICLE 8. FENCES

4-801 DEFINITIONS. Unless the context clearly indicates otherwise, the meaning of words and terms as used in this Article shall be as follows:

- a. Adjacent Grade shall be construed as the average grade measured at a point three (3) feet on either side of the fence. In the case of a fence on a retaining wall, adjacent grade shall be the grade of the top of the wall.
- b. Decorative Fence shall mean any fence not exceeding 3 ½ feet in height measured from the finished grade of the lot or property upon which the fence is being erected and the solid area thereof does not exceed 50% of the of the total fence surface. Such fences are intended to add beauty and should not substantially block the view so as to maintain the open space characteristic provided by applicable zoning standards.
- c. Fence shall mean any permanent partition, structure, or gate erected as a dividing marker, barrier, or enclosure, including hedges or living bushes or shrubs, encircling either wholly or any portion of any area.
- d. Height shall mean the permanent partition, structure, or gate erected as a dividing marker, barrier, or enclosure, including hedges or living bushes or shrubs, encircling either wholly or any portion of any area.
- e. Protective Measures Fence shall mean a fence erected for the express purpose of protecting an enclosed area and the property therein, or a fence intended to deny access to a dangerous property or location.

4-802 REQUIREMENTS. It shall be unlawful for any person, firm or corporation to construct, enlarge, alter, replace, remove or demolish any fence upon property within the corporate limits of the City of Hoyt, Kansas, except in accordance with the requirements and restrictions herein provided.

4-803 PERMIT REQUIRED. Any person desiring to erect, construct, enlarge, alter, repair, remove or demolish any fence upon property within the corporate limits of Hoyt, Kansas shall first apply to the zoning compliance officer for the city for a permit to do so. Application for such permit shall contain any and all information, including drawings, required and necessary for the determination of whether the erection of such fence would be contrary to the provisions of this Article or the laws of the State of Kansas. Any permit issued under the provisions of this Article

in which construction has not been completed within six (6) months from the date of issuance, shall expire. Permit extensions may be granted by the Zoning Administrator, or other city representative appointed to serve in such a capacity by the City Council, not to exceed one (1), six (6) month extension.

4-804 HEIGHT. Except for fences erected on public or parochial school grounds and commercial properties, no fence shall exceed eight (8) feet in height measured from the finished grade of the lot or property upon which the fence is being erected except as otherwise provided for in this ordinance. EXCEPTIONS:

- a. No fence other than Decorative Fences shall be built within the front yard of any residence.
- b. Fences constructed on any lot, and specifically corner lots, will be subject to, and shall not be erected in such a manner as to impede vision between a height of 2 ½ feet and 8 feet above the grades of the bottom of the curb (commonly referred to as “the Visibility Triangle”). The Visibility Triangle shall be measured from the point of the intersection 90 feet in each direction measured along the centerline of the streets then connecting the two points by a line diagonally across the corner lot. At the intersection of major streets, the 90-foot distance shall be increased to 120 feet.

4-805 SETBACKS FROM PROPERTY LINES. No fence, landscape wall, or decorative post shall be located closer than two (2) feet from the front yard or street yard property line. Fences may be located up to but not on or over any property line abutting a side or rear yard. Applicants for permits to build shall be responsible for finding and exposing or establishing through a survey the boundaries of the property upon which the fence is to be constructed.

Fencing within the public right of way or within a city utility easement is permitted only upon issuance of a valid Encroachment Permit approved by the City Council. Applicant will be responsible for repair or rebuilding of any fence constructed within a public right of way or city utility easement damaged or destroyed by the city or the utility company’s construction or maintenance activities on the property.

4-806 INGRESS AND EGRESS. All fences shall have a minimum of one gate for emergency ingress and egress. The minimum width of such gate shall be three (3) feet. A driveway approach, in conformance with the general development ordinance and approved by the Zoning Administrator, shall be required for all vehicle gates.

4-807 MATERIALS.

a. Permitted Materials: Materials permitted are wood, metal tubing or wrought iron, stone, masonry and chain link. Vinyl or fiberglass composite materials may be utilized if the material is listed, designed and constructed for fencing materials. Metal posts may be allowed on wood fences.

b. Prohibited materials:

1. No person shall use rope, string, wire products including, but not limited to chicken wire, hog wire, wire fabric, barbed wire, razor ribbon, wire and similar welded or woven wire fabrics, chain, netting, cut or broken glass, paper, metal panels, corrugated metal panels, galvanized sheet metal, plywood, snow fencing, fiberglass panels or plastic panels in any fence or any other materials that are not manufactured specifically as fencing materials. The zoning administrator may require the applicant to provide the manufacturer's standards to establish the intended use of the proposed fencing material.
2. No person shall construct a fence of wood, metal or plastic products that are designed specifically for uses other than fence construction.
3. No person shall construct a fence of used, damaged or unsafe materials.
4. No person shall weave or use slats of any material, including but not limited to metal, fiberglass, or bamboo, through a chain link fence to create a blind fence, screening fence or any other type of fence addressed in this ordinance.
5. Used materials, equipment and devices shall not be reused unless it can be determined by the zoning administrator that they meet the requirements of the building code for new materials.

c. EXCEPTIONS:

1. Any fence greater than 6 1/2 feet in height erected on public or parochial school grounds and commercial properties may utilize barbed wire so long as the barbed wire portion of the fence does not exceed a maximum height of two feet

vertically above the main portion of the fence and the overall fence is no higher than then (10) feet.

4-808 INSPECTIONS. Upon completion of work authorized under this Article it shall be the duty of the applicant to notify the zoning administrator that such work is ready for inspection.

Required inspections shall include:

- a. Alignment inspection. To be made after all posts or support structures are in place.
- b. Final inspection. To be made after the fence has been completed.

4-809 MAINTENANCE.

- a. All fences, both existing and new, and all parts thereof, shall be maintained in a condition of reasonable repair and not be allowed to become or remain in a condition of disrepair including noticeable leaning or missing sections, broken supports, non-uniform height and growing or noxious vegetation. All fences shall be maintained in a safe and aesthetically pleasing condition. Graffiti shall be removed immediately upon notification, and all vegetation adjacent thereto shall be maintained in a good condition or appropriately trimmed. All gates and latching devices shall be maintained in an operable condition.
- b. The owner or his/her designee shall be responsible for the maintenance of the fence, and to determine compliance with this ordinance, the zoning administrator may cause any fence to be re-inspected.

**CHAPTER V. BUSINESS REGULATIONS**

- Article 1. General Regulations and Licenses
- Article 2. Solicitors, Canvassers, Peddlers
- Article 3. Sexually Oriented Entertainment Businesses; Managers, Servers and Entertainers; Prohibiting Certain Acts and Conduct
- Article 4. Pawn Broker's License

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**ARTICLE 1. GENERAL REGULATIONS AND LICENSES**

5-101 LICENSE REQUIRED. It shall be unlawful for any person, firm or corporation, either as principal or agent or employee, to conduct, pursue, carry on, or operate any calling, trade, profession, or occupation within the City of Hoyt without first paying the license fee prescribed and procuring such a license from the City Clerk whenever the procuring of the license is required by the city. (Code 2021)

5-102 APPLICATION FOR LICENSE. Every person, firm, or corporation desiring to do business in the City shall apply to the City Clerk for a license to operate such business, and in the case of new licenses, shall appear before the governing body before the commencement of business and issuance of the license. Upon approval by the governing body, the clerk shall issue to the applicant a license which shall be signed by the City Clerk. It shall be the duty of the City Clerk to pay over the amount so collected on each license issued, to the City Treasurer of the City. (Code 2021)

5-103 NOT ASSIGNABLE OR TRANSFERABLE. No license granted by the City shall be assignable or transferable; nor shall such license authorize any person to do business or act under it but the person named therein, nor at more than one place. There shall be no refunds except as specifically provided. (Code 2021)

5-104 LICENSE PERIOD; DURATION. Unless otherwise provided, licenses shall commence and endure from January 1 and expire on December 31 of the same year, except that all semi-annual licenses issued as provided in this chapter shall expire on the 30<sup>th</sup> day of June or the 31<sup>st</sup> day of December, next following the date of their issuance. (Code 2021)

5-105 EXEMPTION OF FARMERS. No producer or grower, or his or her agents or employees, selling in the City, farm or garden products or fruits grown by him or her in the state shall be required to pay any license fee or occupation tax imposed by any law of this City, and he or she, and his or her agents or employees, are hereby exempt from the payment of any such fees or taxes, or the securing of a license. (K.S.A. 12-1617; Code 2021)

5-106 LICENSE FEES. Unless otherwise provided the annual license fee for each occupation, business, or profession shall be as shown on the City of Hoyt Rate and Fee Schedule.  
(Code 2021)

5-107 SAME; WHEN PAYABLE; TIME PERIOD.

- a. All license fees shall be due and payable before the commencement of a trade, occupation, business or profession for which license fees are required.
- b. No license shall be issued until the fee is paid.
- c. Licenses shall be renewed on or before the expiration date of the current licenses.
- d. If the license prescribed is for an annual, quarterly, monthly, weekly, or daily period, the license shall not be issued for any part or fraction of the year, quarter, month, week, or day, respectively.
- e. The license for a day shall expire at midnight.

(Code 2021)

5-108 PAYMENT OF FEES; RECEIPT. The City Clerk shall, upon payment of any license fee specified, give a receipt therefor stating the amount paid, the nature of the license issued, for what time, and to whom issued, the kind of business, and if possible, the exact location where the business is to be carried on. (Code 2021)

5-109 CONTENTS OF LICENSE. Unless otherwise provided, all licenses shall be dated on the date of their issue, and shall state the name of the licensee, the kind of business he or she desires to engage in and the location thereof, the amount paid, and time the license shall expire; and the person having such license shall be authorized to carry on the business therein named.

(Code 2021)

5-110 RECORD. The City Clerk shall keep a book in which shall be entered the name of each person licensed, his or her address, the date of the license, the purpose for which it is granted, the amount paid therefor, and the time the same shall expire. Within 24 hours after any license has expired, the City Clerk shall notify the chief of police of such expiration, unless the same shall have been renewed. (Code 2021)

5-111 DISPLAY OF LICENSE. All persons doing business in a permanent location are required to have their license conspicuously displayed in their place of business, and all persons to whom licenses are issued not having a permanent place are required to carry their licenses with them and any licensee shall present the license for inspection when requested to do so by any citizen or officer of the city. (Code 2021)



## ARTICLE 2. SOLICITORS, CANVASSERS, PEDDLERS

5-201 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this article, have the meanings indicated in this section:

- a. Soliciting shall mean and include any one or more of the following activities:
  1. Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatsoever, for any kind of consideration whatsoever, or
  2. Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or
  3. Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.
- b. Residence shall mean and include every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.
- c. Canvasser or Solicitor shall mean any individual, whether resident of the City or not, traveling from place to place within the City for the purpose of contacting individuals and requesting donations, or offering for sale any token items, whose intrinsic value does not equal the amount of the required donation or payment.
- d. Peddler shall mean any person, whether a resident of the City or not, not having a permanent established place of business in the City, traveling from place to place, from house to house, or from street to street, by foot or by any vehicle, carrying or conveying goods, wares, merchandise, or services and offering them for sale and delivering the same to purchasers, or soliciting orders and purchases for the sale of goods, wares, merchandise, or services, for later delivery, or who, without traveling from place to place shall sell or offer the same for sale from any temporary stand, or from any wagon, cart, or vehicle parked or standing in the city.
- e. Transient Merchant, Itinerant Merchant or Itinerant Vendor are defined as any person, whether as owner, agent, consignee or employee, whether a resident of the City or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within the City and who, in furtherance of such purpose, hires, leases, uses or occupies any

building, structure, motor vehicle, tent, railroad boxcar, or boat, public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the City, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. Such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

- f. Street Salesperson shall mean any person engaged in any manner in selling merchandise of any kind from a vehicle or stand temporarily located on the public streets or sidewalks of this City.

(Code 2021)

5-202 LICENSE REQUIRED. It shall be unlawful for any person to engage in any activities of a peddler, canvasser, street salesperson or solicitor, as defined in the preceding sections of this article, within the corporate limits of the City, without then having an unrevoked and unexpired license therefor in his or her possession issued by the City Clerk. Provided, that such city permit shall not be required if such person has in his or her possession an unrevoked and unexpired permit issued by Jackson County, Kansas, authorizing such activities. (Code 2021)

5-203 SAME; APPLICATION REQUIRED. Before the City Clerk may issue any license required by this article, he or she shall require a sworn application in writing prepared in duplicate on a form to be supplied by the City Clerk which shall give the following information:

- a. Name of applicant;
- b. Permanent home address and full local address of applicant;
- c. Valid phone number for applicant;
- d. Identification of applicant including driver's license number, date of birth, expiration date of license and description of applicant;

- e. A brief description of the nature of the business to be carried on or the goods to be sold and the length of time such applicant has been engaged in the business;
- f. If employed, the name and address of the employer, together with credentials establishing such relationship, including the authority by the employer authorizing the applicant to represent the employer in conducting business;
- g. A statement as to whether or not the applicant has within two years prior to the date of the application been convicted of any crime, misdemeanor (or other traffic infractions) or any violation of any municipal law regulating peddlers, solicitors or canvassers and giving the nature of the offenses, the punishment assessed therefor, if any, and the city and state where the conviction occurred.

(Code 2021)

5-204 SAME; INVESTIGATION AND ISSUANCE.

- a. Upon receipt of the above application from an applicant, the City Clerk shall refer the same to the Chief of Police who shall cause an investigation of the facts stated therein to be completed within five (5) days.
- b. If as a result of the investigation, the applicant's character or business responsibility is found to be unsatisfactory or the facts stated therein to be untrue, the Chief of Police shall endorse on such application his or her findings and endorse his or her disapproval of the application and the reasons for the same and shall return the application to the City Clerk who then shall notify the applicant that his or her application is disapproved and that no license will be issued.
- c. If, however, the investigation of such application discloses that the character and business responsibility and the facts stated in the application are satisfactory and true, the chief of police shall endorse his or her findings and approval of the application and return the same to the city clerk who shall, upon payment of the license and investigation fees prescribed, issue a license to the applicant to engage in the business described in the application. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the date it shall expire, and the nature of the business involved. The city clerk shall keep a permanent record of all such licenses issued and submit a copy

of such license to the Chief of Police. The licensee shall carry the license certificate at all times.

(Code 2021)

5-205 LICENSE FEE; TIME LIMITS; EXEMPTIONS .

- a. The fee for the license required pursuant to section 5-102 shall be per each day, or portion thereof, that the licensee shall solicit within the City limits. Said fee for the license required shall be determined by the City of Hoyt Rate and Fee Schedule.
- b. Any such license granted upon application as required hereinabove shall be limited to and effective only on the days set out in the license. Licenses may be issued for not to exceed six months. Solicitations or sales by any peddler, canvasser, street salesperson, or solicitor shall be conducted only between the hours of 8:00 a.m. and sunset.
- c. No license fee shall be required of:
  1. Any person selling products of the farm or orchard actually produced by the seller;
  2. Any business, trades or occupations which are part of affairs or celebrations sponsored by the City or any other governmental subdivision; and
  3. Any person associated with any public or private school, or any legitimate youth activities such as, but not limited to, Girl Scouts of America, Boy Scouts of America, church youth groups or youth athletic leagues, if a decision of whether an individual(s) should be excepted from this ordinance shall be made by the chief of police. Any decision of the chief of police shall be appealable to the city council.

(Code 2021)

5-206 DENIAL, REVOCATION OR SUSPENSION OF LICENSE; NOTICE.

The City Clerk or Chief of Police may deny any application or may revoke or suspend any license issued under this article for any of the following causes:

- a. Fraud, misrepresentation, or false statement contained in the application for license;
- b. Fraud, misrepresentation, or false statement made in the course of carrying on the business;
- c. Any violation of this article;
- d. Conducting a business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the city;

- e. Conviction of the crime of theft, larceny, fraud, embezzlement or any felony within two years prior the application date;
- f. Notice of the denial, revocation, or suspension of a license shall be given in writing to the applicant, or mailed to his or her last known address, and the City Clerk shall set for the grounds of such denial, revocation, or suspension.

(Code 2021)

#### 5-207 APPEAL TO GOVERNING BODY.

- a. Any person aggrieved by the action of the Chief of Police or City Clerk in the denial of an application or revocation or suspension of a license as provided in this article, shall have the right of appeal to the Governing Body.
- b. Such appeal shall be taken by filing the appeal with the City Clerk setting forth the grounds for appeal.
- c. The Governing Body shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant by mail to the applicant in the same manner as provided herein for notice of denial, revocation, or suspension. The decision and order of the governing body on such appeal shall be final and conclusive.

(Code 2021)

5-208 USE OF STREETS AND SIDEWALKS. Except when authorized in writing by the governing body, no peddler, canvasser, street salesperson, or solicitor, or any other person, shall have the exclusive right to any location in the public streets for the purpose of selling or soliciting sales, nor shall any person be permitted to operate in the sidewalks and streets in any congested area where his or her operations might impede or inconvenience the public.

(Code 2021)

5-209 REGULATIONS.

- a. It shall be unlawful for any licensee to make false or fraudulent statements concerning the quality or nature of his or her goods, wares and merchandise for the purpose of inducing another to purchase the same.
- b. It shall be unlawful for any peddler, canvasser, street salesperson, or solicitor who enters upon property owned or leased by another to willfully refuse to leave such property after having been notified to leave by the owner or possessor thereof.
- c. Licensees are required to exhibit their license at the request of any person to whom they attempt to sell their goods, wares, and merchandise or take orders for future delivery of the same.

(Code 2021)

5-210 DISTURBING THE PEACE. Except when authorized in writing by the governing body, no licensee nor any person on his or her behalf, shall use any sound amplifying device, upon any public places of the city or upon any private premises in the city for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

(Code 2021)

5-211 PENALTIES FOR VIOLATION. Any person found guilty in the municipal court of violating any provision of this article shall be fined in the amount of \$200.00 per occurrence and/or shall be ordered to be confined a term to be fixed by the court, not to exceed five days.

(Code 2021)

**ARTICLE 3. SEXUALLY ORIENTATED ENTERTAINMENT BUSINESSES;  
MANAGERS, SERVERS AND ENTERTAINERS;  
PROHIBITING CERTAIN ACTS AND CONDUCT**

5-301 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this article, have the meanings indicated in this section:

- a. Employee shall mean any and all persons, including managers, servers and entertainers who work in or at or render services directly related to the operation of a sexually oriented entertainment business.
- b. Entertainer shall mean any and all persons, including managers, servers and entertainers who work in or at or render services directly related to the operation of a sexually oriented entertainment business.
- c. Manager shall mean any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any activity involving sexually oriented entertainment business occurring at any sexually oriented entertainment business premises.
- d. Operator shall mean any person operating, conducting or maintaining a sexually oriented entertainment business.
- e. Patron shall mean any person attending, viewing the performance of an entertainer, purchasing or consuming food or drink, or otherwise entering a sexually oriented business, regardless of whether a fee or charge was exacted.
- f. Person shall mean any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity or group of persons however organized.
- g. Premises shall mean the physical location of a sexually oriented entertainment business, including all private property under ownership, lease or right of access by the owner of a sexually oriented entertainment business adjacent to the primary business location, including private parking lots and entrance areas.
- h. Server shall mean any person who serves food or drinks at a sexually oriented entertainment business.
- i. Sexually Oriented Entertainment shall mean any live exhibition, performance display or dance of any type, including but not limited to talking, singing, reading, listening, posing,

serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered for amusement on a premises where such exhibition, performance, display or dance is intended to seek to arouse or excite the sexual desires of the entertainer, other entertainers or patrons, or if the entertainment involves a person who is nude or in such attire, costume or clothing as to expose to view any portion of specified anatomical areas. Sexually oriented entertainment is sometimes hereinafter referred to "SOE".

- j. Sexually Oriented Entertainment Business shall mean any premises to which the public, patrons or members are invited or admitted on a continuing business basis and wherein an entertainer provides sexually oriented entertainment to a member of the public, a patron, an employee, or a member. A sexually oriented entertainment business is sometimes hereinafter referred to as an "SOE business".
- k. Specified Anatomical Areas shall mean uncovered or exposed human genitals, pubic region, vulva, pubic hair, anus, female breast or breasts below a point immediately above the top of the areola or nipple, or the human male genitals in a discernibly erect state, even if completely or opaquely covered.
- l. Specified Sexual Activities shall mean sexual conduct, being actual or simulated, acts of human masturbation, sexual intercourse, or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, anus, or the breast of a female, or any sadomasochistic abuse or acts including the use of animals or any latent objects, in an act of apparent sexual stimulation or gratification.

(Code 2021)

#### 5-302 LICENSE REQUIRED FOR SEXUALLY ORIENTED ENTERTAINMENT BUSINESS.

- a. It shall be unlawful for any person to operate or maintain a SOE business in the City unless the owner, operator or lessee has obtained an SOE business license from the City, or to operate such business after such license has been revoked or suspended by the City.
- b. It shall be unlawful for any entertainer, employee or manager to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed SOE business.



- c. It shall be prima facie evidence that any SOE business that fails to have posted, in the manner required by this section, a valid SOE business license, has not obtained a license or such license has been revoked or suspended by the City.
- d. It shall be prima facie evidence that any entertainer, employee or manager who performs any service or entertainment in an SOE business in which an SOE license is not posted, in the matter required by this Article, had knowledge that such business was not licensed.

(Code 2021)

5-303 LICENSE REQUIRED FOR MANAGERS AND ENTERTAINERS. It shall be unlawful for any person to work as an entertainer or manager at a SOE business without first obtaining a license to do so pursuant to this Article or to work as an entertainer or manager at a SOE business after such person's license to do so has been revoked or suspended. All managers, entertainers and servers shall be a minimum of twenty-one years of age. All managers, entertainers and servers shall be employees of the owner.

(Code 2021)

5-304 LICENSE, CLASSIFICATION AND FEES.

- a. The license year for all fees required under this Article shall be from each January 1 through December 31. The application for a license shall be accompanied by payment in full of the fee stated in this Article. Fees for a partial year shall be pro-rated on a monthly basis. No application shall be considered complete until such fee is paid.
- b. All licenses shall be issued for a specific location and shall be nonrefundable, nontransferable and non-assignable.
- c. The classification of licenses and fees for each year shall be as provided in the City of Hoyt Rate and Fee Schedule. Such fees shall be in addition to fees charged by the City of Hoyt Police Department pursuant to the City Code for fingerprinting and photographing applicants as required by this Article.

(Code 2021)

5-305 SOE BUSINESS LICENSE. All persons desiring to secure a license to operate a SOE business under the provisions of this Article shall make a verified application with the City Clerk. All applications shall be submitted in the name of the person proposing to conduct or operate the SOE business. All applications shall be submitted on a form supplied by the City Clerk and shall require the following information:

- a. The name, residence, address, home telephone number, occupation, date and place of birth, and social security number of the applicant. If a corporation or partnership, the Federal Tax Identification Number shall be supplied. The Kansas Retail Sales Tax Number shall be supplied;
- b. The name of the SOE business, a description of the SOE to be performed on the premises, and the name of the owner of the premises where the SOE business will be located. If the property is leased or rented, the applicant shall supply a copy of the lease or rental agreement. The applicant shall supply a site plan of the building or buildings;
- c. The names, residence addresses, social security numbers, and dates of birth of all partners, if the applicant is a partnership; and if the applicant is a corporation, the same information for all corporate officers and directors and stockholders who own more than ten percent (10%) or greater interest in the corporation;
- d. The addresses of the applicant, all partners, all corporate officers and directors for five (5) years immediately prior to the date of application;
- e. The names and addresses of security personnel and/or the security company management which is to provide security at the establishment;
- f. A statement from the applicant, all partners, all corporate officers and directors whether any such person or entity, in previously operating in this or any other city, county or state, has had a business license of any type revoked or suspended, and if so, the reason for the suspension or revocation and the business activity subjected to the suspension or revocation;
- g. A statement of the business, occupation or employment of the applicant, all partners, all corporate officers and directors for the three (3) years immediately preceding the date of the application;

h. A statement from the applicant, or from each partner, or from each corporate officer and director, that each such person has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:

1. A felony criminal act within five (5) years immediately preceding the application, or
2. A misdemeanor criminal act within five (5) years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Kansas Criminal Code or other state statutes of similar applicability, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Control Substances Act or other state statutes of similar applicability, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Controlled Substances Act or other state statutes of similar applicability or ordinances.

The statement shall also indicate that the applicant, each partner or each corporate officer and director has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics;

- i. A full set of fingerprints and a photograph, to be taken by the Police Department, of the applicant, all partners if the applicant is a partnership, and all corporate officers and directors if the applicant is a corporation;
- j. If the applicant is a corporation, a current certificate of registration issued by the Kansas Secretary of State. If the applicant is a foreign corporation, a certified copy of the registration as a foreign corporation; and
- k. A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this Article regulating SOE businesses.

Failure to provide the information required by the subsection shall constitute an incomplete application which shall not be processed.

(Code 2021)

5-306 SOE MANAGER AND ENTERTAINER LICENSE. All persons desiring to secure a license under the provision of this Article to be an SEO manager or entertainer shall make a verified application to the City Clerk. All applications shall be submitted on a form supplied by the City Clerk and shall require the following information:

- a. The applicant's name, residence address, residence telephone number, date and place of birth and social security number;
- b. The name and address of each SOE business where the applicant intends to work as a manger or entertainer, and an "intent to hire" statement from a SOE business that is licensed, or that has applied for a license, under the provisions of this Article, indicating the SOE business intends to hire the applicant to manage or entertain on the premises;
- c. A statement from the applicant, that the applicant has not been convicted or, released from confinement for conviction of, or diverted from prosecution on:
  1. A felony criminal act within five (5) years immediately preceding the application, or
  2. A misdemeanor criminal act within five (5) years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Kansas Criminal Code, or involved controlled substances or illegal drugs or narcotics as defined in the Kansas Controlled Substances Act or other statutes or ordinances.

The statement shall also indicate that the applicant has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics;

- d. A full set of finger prints and a photograph to be taken by the Police Department of the applicant; and

- e. The applicant shall present to the City Clerk for copying a document that the applicant has attained the age of twenty-one (21) years at the time the application is submitted. Any of the following shall be accepted as documentation of age:
  - 1. A motor vehicle operator's license issued by the State or other competent jurisdiction, 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 State of America; or
  - 4. An immigration card issued by the United State of America.

Failure to provide the information required by this Article shall constitute an incomplete application which shall not be processed.

(Code 2021)

5-307 APPLICATION PROCESSING. Upon receipt of a complete application for a SOE business license or a SOE manager or entertainment license, the City Clerk shall immediately transmit one (1) copy of the verified application to the Chief of Police for investigation of the application. 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 applicant is qualified to be issued the license applied for. The Chief of Police shall report the results of the investigation to the City Clerk not later than ten (10) working days from the date the application is received by the City Clerk.

It shall be the duty of the Zoning Administrator to determine whether the structure where the SOE business will be conducted complies with the requirements and meets the standards of the applicable zoning, building code and fire code provisions. They shall report the results of their investigation to the City Clerk not later than ten (10) working days from the date the application is received by the City Clerk.

(Code 2021)

5-308 EXAMINATION OF APPLICATION, ISSUANCE OF LICENSE, DISAPPROVAL.

If the application for a SOE business, SOE manager or entertainer license is in proper form and accompanied by the appropriate license fee, the City Clerk shall issue the license as provided by

law, provided a license shall not be issued to any person ineligible pursuant to Article 3, 5-309:310. The City Clerk shall either approve or disapprove a license application within fifteen (15) working days from the date the application is deemed complete by the City Clerk. Failure to approve or disapprove shall not mean approval if a valid reason exists for not making the determination within the stipulated timeframe.

The license shall state that it is not transferable to other persons or locations and the calendar year for which it is issued. The license shall be kept posted in a conspicuous place in the place of business that is licensed and where the licensee is working.

If the application for a license is disapproved, the applicant shall be immediately notified by 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 a manner provided by law.

(Code 2021)

**5-309 SOE BUSINESS LICENSE INELIGIBILITY/DISQUALIFICATION.** An SOE business license shall not be issued if any one of the following conditions are met:

- a. The applicant's premises are located within one thousand (1,000) feet of any school, church or bona fide religious assembly location, child care center licensed by the Kansas Department of Health and Environment, City park, property zoned Residential District or Residence Office District pursuant to Chapter 16 of the City Code. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the property line of the applicant's premises to the nearest point on the property line of such school, church or bona fide religious assembly location, licensed child care center, City park, or property zoned residential or residence-office district;
- b. The applicant's premises are located within one thousand (1,000) feet of any other SOE business for which there is a license issued. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the property line of the applicant's premises to the nearest point on the property line of such other SOE business;
- c. The applicant's premises are located within one thousand (1,000) feet of any business licensed by the City to sell 1) alcoholic liquor or cereal malt beverages establishment, or

2) alcoholic liquor or cereal malt beverages in the original package for consumption off of and away from the premises. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the property line of the applicant's premises to the nearest point on the property line of such other business;

- d. The applicant failed to supply all of the information required on the application;
- e. The applicant gave materially false, fraudulent or untruthful information on the application;
- f. The applicant's proposed business premises do not comply with or meet the requirements of the applicable health, zoning, building code, or fire and property maintenance provisions of the City Code;
- g. The applicant has been convicted, released from incarceration for conviction of, or diverted on any of the crimes set forth in 5-305 during the time period set forth in said section; or
- h. The applicant has had an SOE license revoked or suspended in this or any other jurisdiction during the past five (5) years.

(Code 2021)

5-310 SOE MANAGER OR ENTERTAINER LICENSE: INELIGIBILITY OR DISQUALIFICATION. No person is eligible nor shall a license be issued to an applicant for a SOE manager, server, or entertainer if one or more of the following conditions exist:

- a. The employer for whom the applicant intends to work does not have or is ineligible to receive a SOE business license for any of the reasons stated in 5-209;
- b. The applicant has been convicted, released from incarceration for conviction, or diverted on any of the crimes set forth in 5-206 during the time period set forth in such section;
- c. The applicant failed to provide all of the information required on the application;
- d. The applicant gave materially false, fraudulent or untruthful information on the application;  
or
- e. The applicant has had a SOE manager or entertainer license revoked or suspended in this or any other City during the past five (5) years.

(Code 2021)

5-311 STANDARDS OF CONDUCT. It shall be unlawful for any licensee, owner, manager or entertainer and patrons of a SOE business, while on or about the premises of the business, to fail to comply with the following standards of conduct:

a. Age Restriction. Only persons twenty-one (21) years of age or older shall be permitted on the premises of an SOE business. The manager or manager's representative shall verify the age by one of the following methods:

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; or
4. An immigration card issued by the United States of America.

Failure to verify the age of patrons shall be considered a violation of this Article.

b. Exterior Observation. The premises of all the SOE businesses shall be constructed to include a partition or other physical barrier on all customer entrances that will ensure that observation of the interior of the business is not observable from the exterior of the building. In addition, all windows will be covered to prevent viewing of the interior of the building from the outside and all doorways not constructed with a partition or other physical barrier shall be covered so as to prevent observation of the interior of the premises from the exterior of the building. No SOE business shall be conducted in a manner that permits the observation of live entertainers, servers or employees from the exterior of the buildings.

c. Exterior Signs. The SOE business shall not be permitted to display a sign advertising the sale, consumption or possession of alcoholic liquor or cereal malt beverages on the premises. The SOE business shall only be permitted to install one (1) wall sign, that shall not exceed the size of ten percent (10%) of the wall to which it is attached. The wall sign shall not display or depict "specified sexual activities" or "specified anatomical areas."

d. Nudity Prohibited, Exceptions:

1. No employee, server, entertainer or patron in an SOE business shall appear in any fashion that exposes to view any specified anatomical area, provided,



2. Persons licensed as adult entertainers are not subject to the restrictions of (d)(1) if the following conditions are met:
  - i. The SOE entertainer is performing solely on a stage or platform raised at least eighteen (18) inches above the primary level of the customer floor level and such stage is separated from patrons by a solid physical barrier at least thirty (30) inches in height and five (5) feet from the stage and the entertainer is performing on the stage.
  - ii. Patrons are prohibited from being on any portion of the stage. Patrons are prohibited from touching the entertainer while the entertainer is on the stage.
  - iii. There is a sign clearly posted and observable by patrons viewing the SOE entertainer that states: "Patrons are prohibited from being upon any portion of the stage and are prohibited from touching the entertainer while the entertainer is on stage."
- e. Certain Acts Prohibited:
  1. No employee, server, or entertainer shall perform any specified sexual activities as defined in this Article, wear or use any device or covering exposed to view which stimulates any specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities as defined in this Article, or participate in any act of prostitution.
  2. No employee, server, entertainer or patron of an SOE business shall knowingly touch, fondle or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle or caress any specified anatomical area of such employee, server, entertainer or patron, whether such specified anatomical areas are clothed, unclothed, covered or exposed. Touch shall mean "to put the hand, finger, or some other part of the body on, so as to feel.
  3. No employee, server or entertainer of an SOE business shall be visible from the exterior of the SOE business while such person is unclothed or in such attire, costume or clothing as to expose to view any specified anatomical area.
  4. No SOE entertainer shall solicit, demand or receive any payment or gratuity from any patron or customer for any act prohibited by this Article and no SOE entertainer

shall receive any payment or gratuity from any customer for any entertainment except as follows:

- i. While such entertainer is on the stage a patron may place such payment or gratuity into a box affixed to the stage, or
- ii. While such entertainer is not on the stage and is clothed so as to not expose to view any specified anatomical area, a patron may either place such payment or gratuity into the entertainer's hand, or under a leg garter worn by such entertainer at least four inches below the bottom of the pubic region.

5. No owner, operator, manager or other person in charge of the premises of an SOE business shall:

- i. Knowingly permit alcoholic liquor or cereal malt beverages to be brought upon or consumed on the premises;
- ii. Knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;
- iii. Knowingly allow or permit any person under the age of 21 years of age to be in or upon the premises;
- iv. Knowingly allow or permit any act of prostitution or patronizing prostitution on the premises; or
- v. Knowingly allow or permit a violation of this Article, other City of Hoyt Code provisions, or state law.

f. Hours of Operation. No sexually oriented entertainment business may be open or in use between the hours of 10:00 P.M and 9:00 A.M. Only employees of the SOE business shall be permitted in or upon the premises of the business between the hours of 12:00 Midnight and 9:00 AM.

g. Closed Booths or Rooms Prohibited. No employee, patron, manager, entertainer, owner or other person shall consume or possess any alcoholic liquor or cereal malt beverage in an SOE business or premises. An SOE business shall not share a common interior entrance or access area with a business licensed by the City to sell alcoholic liquor or cereal malt beverages. The owner and manager of the SOE business shall report all known violations of consumption or possession of alcoholic beverages or cereal malt beverages in the SOE

business, premises or private parking facility to the Hoyt Police Department in a timely manner.

- h. Intoxicated Persons Not Allowed Admittance. The manager and/or his or her agent shall not knowingly allow the admittance into an SOE business a person who is physically or mentally incapacitated by the consumption of alcoholic liquor or cereal malt beverages.
- i. Lighting Required: Interior and Exterior. The interior premises of an SOE business 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 one foot-candle as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in the interior premises. The exterior premises, including any private parking area owned, leased or with a right of access by the SOE business shall be equipped with adequate lighting pursuant to the Zoning Code provisions of the City Code.

(Code 2021)

5-312 OWNER RESPONSIBILITY. Every act or omission by an employee of an SOE business constituting a violation of the provisions of this Article shall be deemed the act or omission of the owner, if such act or omission occurs either with the authorization, knowledge, or approval of the owner, or as a result of the owner's negligent failure to supervise the employee's conduct, and the owner shall be punishable for such act or omission in the same manner as if the owner committed the act or caused the omission. The owner shall be responsible for the conduct of all employees while on the premises and any act or omission of any employee while on the premises constituting a violation of the provisions of this Article shall be deemed the act or omission of the owner for purposes of determining whether the owner's license shall be revoked, suspended or renewed.

(Code 2021)

5-313 LICENSE: POSTING AND DISPLAY. Every person, corporation, partnership, or association licensed under this Article as an SOE business shall post the license in a conspicuous place on the premises. Every person holding an SOE manager, server, or entertainers license shall post his or her license in a conspicuous place on the premises so that it shall be readily available for inspection by City authorities responsible for the enforcement of the Article.

(Code 2021)

5-314 MANAGER ON PREMISES. An SOE manager shall be on duty at an SOE business at all times the premises are open for business. The name of the manager on duty shall be prominently posted during business hours.

(Code 2021)

5-315 INSPECTOR AND INSPECTIONS. All SOE businesses shall permit representatives of the Police Department or any other City official acting in their official capacity to inspect the premises as necessary to ensure the business is complying with all applicable regulations and laws.

(Code 2021)

5-316 SUSPENSION OR REVOCATION OF LICENSE. Whenever the City Clerks has information that:

- a. The owner or operator of an SOE business or a holder of an SOE manager, server, or entertainers license has violated, or knowingly allowed or permitted the violation of any of the provisions of this Article; or
- b. The SOE license or SOE manager, server, or entertainer license was obtained through false statements in the application for such license, or renewal thereof; or
- c. The SOE licensee or the SOE manager, server, or entertainer licensee failed to make a complete disclosure of all information in the application for such license, or renewal thereof; or
- d. The owner or operator, or any partner, or any corporate officer or director holding an SOE business license has become disqualified from having a license by a conviction as provided in 5-209; or
- e. The holder of an SOE managers', servers', or entertainers' license has become disqualified from having a license by a conviction as provided in 5-310,

the City Clerk shall notify in writing at the address provided in the application or subsequent amended address, by certified mail, the person holding the license that pending an opportunity for a hearing before the City Council, the license shall be revoked. Such notification shall include the specific Code violation alleged. The person shall have ten (10) days from the mailing of the notice to request in writing a hearing before the City Council on the pending revocation. Such hearing shall be scheduled at the next available City Council meeting. Failure to request a hearing shall

result in a revocation of the license by the City Clerk. Based upon the evidence produced at the hearing, the City Council may take any of the following actions:

- i. Suspend the license for up to one hundred twenty (12) days;
- ii. Revoke the license for the remainder of the license year; or
- iii. Place the license holder on administrative probation for a period of up to one (1) year, on the condition that no further violations of the Article occur during the period of probation. If a violation does occur and after a hearing the violation is determined to have actually occurred, the license will be revoked for the remainder of the license year.

(Code 2021)

5-317 RENEWAL OF LICENSE. A license may be renewed by making application to the City Clerk on application forms provided for that purpose. Licenses shall expire on December 31st of each calendar year. Upon timely application and review as provided for a new license, a license issued under the provisions of this Article shall be renewed by issuance of a license in the manner provided in this Article. (Code 2021)

5-318 JUDICIAL REVIEW. An applicant, licensee, former licensee, or person aggrieved under the provisions of this Article, may seek judicial review in a manner provided by law.

(Code 2021)

5-319 PENALTY. It shall be unlawful for any person to violate any of the provisions of this Article. Upon conviction thereof, such person shall be fined not less than \$100 nor more than \$500, or be punished by incarceration for up to six (6) months, or by both such fine and incarceration. Each day's violation of, or failure, refusal or neglect to comply with any provisions of this Article shall constitute a separate punishable offense. (Code 2021)

5-320 SEVERABILITY OF THIS ARTICLE. If any court of competent jurisdiction rules that any section, provision, or clause of this Article is invalid, it is the intent of the Governing Body that the remaining provisions of the Article be in full force and effect, and to this end the provisions of this Article should be interpreted as severable. (Code 2021)

#### **ARTICLE 4. PAWN BROKER'S LICENSE**

5-401 CONDITIONS. The City of Hoyt may issue a Pawnbroker's License under the following conditions:

- a. The applicant will obtain an application from the City Clerk;
- b. The form of the application shall be approved by the Attorney General for the State of Kansas;
- c. The applicant shall complete the application and provide payment of the fee as determined by the City of Hoyt Rate and Fee Schedule, to be paid initially and annually upon renewal to the City Clerk of the City of Hoyt.
- d. The applicant shall be the holder of a valid registration certificate issued by the director of revenue pursuant to K.S.A. 79-3608 for each place of business for which the application for a license is made;
- e. The applicant shall give a detailed inventory and description of all goods, wares, merchandise, precious metals or other property held in pledge for the sale at the time of the application at each place of business stated therein, indicating whether the same was received in pledge, purchased as second-hand merchandise or precious metal purchased for resale.
- f. No license or renewal thereof shall be granted to:
  1. Any person who is not a citizen of the United States of America;
  2. Any person who has not been an actual resident of the State of Kansas for at least two (2) years immediately preceding the date of the application;
  3. 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 (10) years immediately prior to such person's application for license;
  4. Any person who has had his or her license revoked for cause under the provisions of this act;
  5. Any person who is not at least twenty-one (21) years of age;
  6. 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;

7. Any person who does not own the premises for which a license is sought, unless he or she has a written lease therefor for at least three-fourths (3/4) of the period for which the license is to be issued;
  8. Any person whose spouse would be ineligible to receive a license hereunder for any reason other than the age, citizenship or residence requirements;
  9. Any partnership, unless all of the partners shall be eligible to receive a license as an individual;
  10. A corporation, if any officer, manager, director or stockholder would be ineligible to receive a license as an individual;
  11. An applicant or their spouse if either has ever 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/her bond to appear in court to answer charges for any such offense within the ten (10) years immediately prior to such person's application for license;
- g. Records: Books, accounts and records shall be kept so as to enable the City or County issuing the licensee's license to determine whether the licensee is in compliance with the provisions of the Pawnbroker's Act. The City or County shall be allowed entrance to examine the books, accounts, records and files used by any licensee or by any other person engaged in the business of pawnbroking, irrespective of whether such person acts or claims to act as a principal, agent or broker, or under or without authority of this act. The duly designated representatives of the City or County shall have and be given free access to all such books, accounts, papers, records, files, safes and vaults.
- h. Every loan made for which goods are received in pledge as security shall be evidenced by a written contract, in ink, a physical copy of which shall be furnished to the borrower by broker. The loan contract shall set forth the loan period, which shall be one (1) month, the date on which the loan is due and payable and the charges, and it shall clearly inform the borrower of his right to redeem the pledge during the redemption period of two (2) months after the due date. 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. The pawnbroker shall

retain in his possession after the date on which the loan became due and payable, every article pledged to him for a redemption period of two (2) months.

During such period, the borrower may redeem the pledged articles, upon payment of the principal and charges. It shall be unlawful for any pawnbroker to sell or transfer title or possession of any pledged property until the expiration of such period of redemption. If any pledged article is not redeemed within such redemption period, the pawnbroker shall become vested with all right, title and interest of the pledgor, or his assigns, to such pledged article, to hold or 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 K.S.A. 16-714 and amendments thereto.

- i. On Tuesday of each week, every pawnbroker dealer shall make a report including the description of all property received in pledge or purchased as a pawnbroker, 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 dealer licensed in this state in a transaction involving the purchase or other acquisition from the other pawnbroker of the other pawnbroker's or dealer's stock in trade, or a substantial part thereof in bulk, where the pawnbroker has made the reports required by this section with respect to such property or merchandise.
- j. If a transaction required to be reported under this section takes place within or outside of this City/County, the report shall be submitted to the sheriff of the county in which the transaction takes place.
- k. All precious metal dealers shall retain in the dealer's possession for a period of ten (10) days all precious metal purchased as a precious metal dealer, and such metal shall remain in the condition in which it was purchased. The ten (10) day period shall commence on the date that the appropriate sheriff receives the report of its acquisition in compliance with the statutes of the state of Kansas. If the Chief of Police or Sheriff has probable cause to believe that any precious metal reported by a dealer has been stolen, the Chief of Police or Sheriff may give a written notice to the dealer to retain such metal for an additional period of fifteen (15) days. Upon such notice, the dealer shall retain such metal in an unaltered



condition for the additional fifteen (15) day period unless the Chief of Police or Sheriff notifies the dealer in writing that the waiting period is terminated at an earlier time.

1. The above reports shall be available for inspection only by law enforcement officers and county and district attorneys and their employees, for law enforcement purposes.
- m. Records of transactions:
  1. At the time of making a loan, the pawnbroker shall enter in a book kept for that purpose;
    - i. The date, duration and, amount of charges of every loan made by the pawnbroker;
    - ii. A full and accurate description of the property pledged; and
    - iii. The name, age, residence and driver's license or other personal identification number of the pledgor;
  2. At the time of purchasing precious metal, a precious metal dealer shall enter in a book kept for that purpose:
    - i. The date of the purchase;
    - ii. A full and accurate description of each item purchased, including any identifying letters, number or marks on the item; and
    - iii. The name, age, residence and driver's license or other personal identification number of the seller;
  3. The record required by this section shall be maintained by the pawnbroker at the pawnbroker's or dealer's place of business for not less than one year following the date of transaction.
- n. All sellers shall be required to make a fingerprint of their thumb for record keeping purposes.
- o. No pawnbroker shall receive in pledge, or as security for any loan, transfer, service, undertaking an advantage, anything of value from any person under the age of eighteen (18) years.
- p. The law enforcement officers of the City of Hoyt and the County of Jackson, Kansas, shall have access during regular business hours to the place of business of any pawnbroker conducting business in the City or the County. Access shall be for the purpose of periodically inspecting property pledged or purchased in the transaction of business of the

pawnbroker and records relating to those transactions, to determine if the pawnbroker or dealer is complying with the provisions of this act.

- q. 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 the statutes of the State of Kansas as amended.
- r. The document or other instrument evidencing the license of a pawnbroker 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 the 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 (1) place of business shall be maintained under the same license, but more than one (1) license may be issued to the same licensee upon compliance with all of the provisions of the statutes of the State of Kansas, as amended that govern the issuance of an initial license.
- s. Wherever a licensee shall change his place of business to another location within the City of Hoyt, he immediately shall give written notice to the City Clerk of the City of Hoyt who shall then 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 of Hoyt shall be permitted under the same license.
- t. It shall be unlawful for any shareholder of any corporate licensee to transfer 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. However, if any 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, then the legal representatives of said deceased stockholder's estate, shall have fourteen (14) months from

the date of 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 in compliance with the requirements of K.S.A. 16-709 and amendments thereto.

(Code 2021)

## **CHAPTER VI ELECTIONS**

### Article 1. City Elections

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#### **ARTICLE 1. CITY ELECTIONS**

6-101 The City of Hoyt, Kansas, by the power vested in it by Article 12, Section 5 of the Kansas Constitution hereby elects to and does exempt itself and make inapplicable to it the provisions of K.S.A. 15-201, which applies to this city, but is part of an enactment which does not apply uniformly to all cities. (Code 2021)

6-102 GOVERNING BODY. The governing body shall consist of a mayor and five council members to be elected to terms as set forth herein. The mayor and council members shall be residents and qualified electors of the City of Hoyt, Kansas. (Code 2021)

6-103 GENERAL ELECTIONS. General elections shall take place on the Tuesday succeeding the first Monday in November 2017. Succeeding elections will be held every two years for all such governing body positions whose terms have expired. A mayor and two council members shall be elected at one election, and the remaining three council members shall be elected at the succeeding election. The mayor and all council members shall have four-year terms. (Code 2021)

6-104 SAME; ELECTIONS. All elections for the City of Hoyt, Kansas shall be nonpartisan. (Code 2021)

6-105 VACANCIES, COUNCIL. In case of a vacancy in the council occurring by reason of resignation, death, or removal from office or from the city, the mayor, by and with the advice and consent of the remaining council members, shall appoint an elector to fill the vacancy until the next election for that office. In case any person elected as a council member neglects or refuses to qualify within 30 days after election, the council member shall be deemed to have refused to accept the office and a vacancy shall exist. The mayor may, with the consent of the remaining council members, appoint a suitable elector to fill the vacancy. (Code 2021)

6-106 VACANCY, MAYOR. In case of a vacancy in the office of mayor, the president of the council shall become mayor until the next regular election for that office and a vacancy shall occur in the office of the council member becoming mayor. (Code 2021)

6-107 CANDIDATES, REQUIREMENTS. In accordance with K.S.A. 25–205, and amendments thereto, any person may become a candidate for city office elected at large by having had filed on their behalf, a nomination petition or a declaration of candidacy, accompanied by any fee required by law. The nomination petition must be signed by five of the qualified electors of the City of Hoyt.

(Code 2021).

**CHAPTER VII      FIRE**

- Article 1.      FIRE DEPARTMENT
  - Article 2.      FIRE PREVENTION
  - Article 3.      FIREWORKS
  - Article 4.      FIRE INSURANCE PROCEEDS FUND
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**ARTICLE 1. FIRE DEPARTMENT**

7-101 FIRE DEPARTMENT/PROTECTION. The fire protection of the city of Hoyt is to be furnished by Hoyt Fire District #3. (Code 2021)

## ARTICLE 2. FIRE PREVENTION

7-201 FIRE PREVENTION CODE; INCORPORATED. There is hereby adopted by the governing body of the city, as the City Fire Code for the purpose of prescribing regulations and governing conditions hazardous to life and property from fire or explosion, that certain code and standards known as the International Fire Code, Edition of 2012, including all the Appendix chapters, published by the International Code Council. The same shall be hereby adopted and incorporated as fully as if set out at length herein, from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the City of Hoyt. One copy shall be kept on file by the city clerk for inspection by and use of the public during reasonable business hours. (Code 2021)

7-202 SAME; ENFORCEMENT. The code hereby adopted shall be enforced by the Chief of the Fire Department. (Code 2021)

7-203 SAME; AMENDMENTS.

- a. Wherever the word "municipality" is used in the code hereby adopted, it shall be held to mean the City of Hoyt.

(Code 2021)

7-204 OPEN BURNING.

WHEREAS, the Board of County Commissioners of Jackson County, Kansas have adopted Resolution No. 2015-19 regulating open burning within the unincorporated areas of the County; and

WHEREAS, the City of Hoyt, Kansas, desires to regulate open burning within the corporate limits of the City in the same manner and upon the same terms as those in effect in the unincorporated areas of the County:

1. INCORPORATION BY REFERENCE. Except as otherwise provided below, the Jackson County, Kansas Resolution No. 2015-19, Open Burning Resolution, is hereby incorporated by reference, to be effective within the corporate limits of the City of Hoyt, Kansas.

2. PENALTIES. The Municipal Court of the City of Hoyt, Kansas shall have jurisdiction over violations of this Ordinance. Persons convicted of violation of this Ordinance shall be fined not less than \$100.00 and not more than \$500.00. In addition to fines, the violator, if convicted, shall be responsible for the payment of Court costs. Nothing in this Ordinance shall be construed to limit or otherwise impair the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceeding therefore.

7-205 ACCUMULATION OF RUBBISH AND TRASH. It shall be unlawful for any person to allow to accumulate or to keep in any part of any building or outside of or adjacent to any building or in any alley, sidewalk, street or premises within thirty (30) feet of any building any rubbish, trash, waste paper, excelsior, empty boxes, barrels or other combustibles which shall constitute a fire hazard. (Code 2021)

7-206 STACKING OF HAY OR STRAW. It shall be unlawful for any person to deposit, stack or store any hay or straw within five hundred (500) feet of any building located inside the fire limits of the City. Nothing in this ordinance shall refer to the small amounts of straw or hay used in garden and lawn care. (Code 2021)

7-207 KEEPING OF PACKING MATERIALS. It shall be unlawful to keep excelsior or other packing material in anything other than metal or wood metal lined boxes or bins having self-closing or automatic covers. All refuse and trash from rooms where packing or unpacking is done shall be removed daily. (Code 2021)

7-208 STORAGE OF ASHES. It shall be unlawful to store ashes inside of any non-fireproof building unless they are stored in a noncombustible container or receptacle, and a clearance of at least five (5) feet shall be maintained between such container or receptacle and any combustible material not placed therein. Ashes shall not be stored outside of any building in wooden, plastic,



or paper project receptacles or dumped in contact with or in close proximity to any combustible materials. (Code 2021)

7-209 FILLING GASOLINE TANKS OF MOTOR VEHICLES. The engines of motor vehicles shall be stopped when the gasoline tanks of such vehicles are being filled with gasoline at service stations or other places where gasoline is supplied to motor vehicles. The driver or person in control of such vehicle when the gasoline tank of same is being filled who refuses, neglects or fails to stop the engine of such vehicle shall likewise be guilty of a violation of this code.

(Code 2021)

7-210 FIRE HAZARDS GENERALLY. It is unlawful for any person to cause or create anywhere within the City, or to permit on any premises under his or her control, any situation or condition that is conducive to or likely to cause or permit the outbreak of fire or spreading of fire. Any situation or condition conducive to the outbreak of fire or spreading of fire is declared to be a fire hazard. The violation of or failure to comply with any law pertaining to the storage, handling or use of inflammable oils, explosives, liquefied petroleum gases, or fertilizers and all wires and other conductors charged with electricity, is declared to be a fire hazard. The placing of stools, chairs or any other obstruction in the aisle, hallway, doorway, or exit of any theater, public hall, auditorium, church or indoor public assemblage, or the failure to provide any such place of public assemblage with sufficient, accessible and unobstructed fire exits and escapes is also declared to be a fire hazard. The obstruction of any street, avenue, alley, fire hydrant or any other condition that might delay the Fire Department in fighting fire is declared to be unlawful.

(Code 2021)

7-211 SAME; INSPECTIONS TO DISCOVER. It shall be the duty of the Fire Chief to inspect or cause to be inspected by the Fire Department officers or members, as often as may be necessary but not less than twice a year in outlying districts and four (4) times a year in the closely built portions of the City, all buildings, particularly all mercantile buildings, manufacturing plants, warehouses, garages, hotels, boarding houses, rooming houses, theaters, auditoriums and all places of public assemblage, for the purpose of discovering the violation of any fire preventive law or any fire hazard and ascertaining and causing to be corrected any conditions liable to cause fires,

and to see that all places of public assemblage, hotels and rooming houses have sufficient and unobstructed facilities for escape therefrom in case of fire.

(Code 2021)

7-212 ABATEMENT OF FIRE HAZARDS; ISSUING ORDER. Whenever any officer or member of the Fire Department shall find or discover any fire hazard or shall find in any building or upon any premises combustible or explosive material or dangerous accumulation of rubbish or unnecessary accumulation of paper, boxes, shavings or any other inflammable material, so situated as to endanger property by the probability of fire, or shall find or discover any violation of this chapter or any other law hazardous to public safety from fires, the Fire Chief shall order the fire hazard or danger from the fire forthwith abated and remedied and such order shall be complied with immediately by the owner or occupant of such buildings or premises. If the hazard or condition ordered abated and remedied is a violation of, or a failure to comply with any law, the Fire Chief shall report the matter to the City attorney and he or she shall, if he or she deems it advisable, prosecute the offender. (Code 2021)

7-213 SAME; SERVICE OF ORDER; RECORDS. Any order made under section 7-212 shall be in writing and may be served personally upon the owner or occupant of the premises or by leaving it with any person in charge of the premises or if the premises are unoccupied and the owner is a nonresident of the City, then by mailing a copy to the owner's last known post-office address. One notice to either the occupant or owner shall be sufficient. The Fire Chief shall keep a record of and copies of all such orders and notices and shall follow up such notices at the expiration of the time for compliance therewith and when complied with make proper entry, and if not complied with, file a complaint with the Municipal Court against the property owner and/or occupant. (Code 2021)

### **ARTICLE 3. FIREWORKS**

7-301 FIREWORKS DEFINED. For purposes of this article, the term "fireworks" shall mean those items as defined by the rules and regulations of the Kansas State Fire Marshal and

amendments thereto, and shall include but not be limited to: firecrackers, torpedoes, sparklers, roman candles, sky rockets, pin wheels, cap or toy pistols (except such pistols or any like device designed to discharge paper caps containing not more than .25 of grains of explosive mixture), canes, bombs, cannons or other like devices and all classes of fireworks that may be shot into the air or propelled over the ground by explosive discharges or any device using blank cartridges. (Code 2021)

#### 7-302 FIREWORKS PROHIBITED.

- a. Except as provided in section 7-303:306, it shall be unlawful for any person, firm or corporation to keep, store, display for sale, fire, discharge or explode any fireworks.
- b. Nothing in this article shall be construed as applying to:
  1. Toy smoke devices and smoke balls, or tubes containing a pyrotechnic mixture which upon ignition produces a visible cloud of colored smoke (white and black smokes are considered colored);
  2. Toy paper caps containing not more than .25 of a grain of explosive composition per cap;
  3. The manufacture, storage, sale or authorized use of signals necessary for the safe operation of railroads or other classes of public or private transportation;
  4. The military or naval forces of the United States or of this State while in the performance of official duty;
  5. Law Enforcement Officers while in the performance of official duty;
  6. The sale or use of blank cartridges for ceremonial, theatrical or athletic events; or
  7. Missiles when produced by a science class of any school and when under the supervision of the science instructor and when the place and time of firing the sky rockets or missals are approved by the Fire Chief as authorized by K.S.A. 31-133.

(Code 2021)

#### 7-303 SAME; EXCEPTIONS; DISCHARGES.

- a. Section 7-302 of this article shall not apply to the fire or discharge of fireworks in the City between the hours of 8:00am and 12:00 midnight on June 30th through July 5th.

- b. The Governing Body of the City may, in its discretion, grant permission at any time for the public display of fireworks by responsible individuals or organizations when such display or displays shall be of such a character and so located, discharged and fired as shall not be fire hazard or endanger persons or surrounding property.
- c. It shall be unlawful for any person, firm or corporation to give any public display of fireworks without having first obtained a permit thereof.

(Code 2021)

7-304 SAME; EXCEPTION; SALE OF FIREWORKS. Commencing 2007, any person, firm or corporation who or which has first obtained a valid permit to sell fireworks within the City may do so between the hours of 8:00am and 12:00 midnight commencing June 27th through July 5th of each year or as otherwise permitted by the City Council. (Code 2021)

7-305 PERMIT FOR SALE OF FIREWORKS REQUIRED; FEE; INSURANCE.

- a. It shall be unlawful for any person, firm or corporation to sell, display for sale, offer to sell or give away any type of fireworks within the City without first paying a fee in the amount set forth in the City of Hoyt Rate and Fee Schedule, per establishment or premises to the City Clerk and applying for and securing a permit therefore on or before ten (10) days before the date set for sale.
- b. A copy of the application shall be forwarded to the Chief of the Fire Department who shall make or cause to be made an investigation of the site of the proposed display and investigate the competence and skill of the person or persons to be in charge of the firing and discharging of the fireworks. If satisfied that the display on site will be conducted in accordance with the requirements of the ordinances of the City of Hoyt and the statutes of the State of Kansas, the Chief shall so advise the City Clerk in writing with said written report containing such restrictions as the Fire Chief may recommend, signed by the Fire Chief with the signature of applicant.
- c. Upon qualifying for the permit, the permit recipient shall prominently display the same at the establishment or premises where fireworks are to be sold or displayed for sale. The permit fee shall not be refundable upon failure to qualify for the permit or withdrawal or cancellation of the application or permit.

(Code 2021)

7-306 PERMIT FOR PUBLIC FIREWORKS DISPLAY AND SALE REQUIRED.

- a. It shall be unlawful for any person, firm or corporation to give or provide a fireworks display for the public or for organized groups or for sale to the public without first obtaining a permit from the City Clerk.
- b. No permit shall be approved unless the applicant furnishes a certificate of public liability by an insurance carrier licensed to do business in Kansas, conditioned as being non-cancellable except by giving ten (10) days advance written notice to the City Clerk. In the event of cancellation of the insurance prior to the display, the permit shall be automatically revoked and void.
- c. The application for the permit shall clearly state:
  1. The name of the applicant;
  2. The group for which the display is planned;
  3. The location of the display;
  4. The date and time of the display;
  5. The nature or kind of fireworks to be used;
  6. The name of the person, firm, or corporation that will make the actual discharge of the fireworks;
  7. Anticipated need for police, fire and other municipal services; and
  8. Signature of land owner indicating approval of use of said property for sale or public display of fireworks.
- d. No permit shall be issued if the location, nature of the fireworks or other relevant factor is such as to create an undue hazard or risk of harm or damage to persons or property.
- e. No permit shall be issued unless the Fire Chief has approved the application. The permit shall contain such restrictions as may be imposed by the Fire Chief in his approval.

(Code 2021)

7-307 APPROVED FIREWORKS, BOTTLE ROCKETS PROHIBITED.

- a. All fireworks offered for sale and discharge within the City shall be of a type that has been tested and approved for sale and use within the State by the State Fire Marshal.

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

(Code 2021)

7-308 FIREWORKS: PROHIBITED. Fireworks shall not be discharged within one hundred fifty (150) feet of any retail fireworks stand or facility where fireworks are stored; provided however, that public displays, sales and fireworks to be utilized in the same and approved as herein provided and in compliance with the laws of the State of Kansas shall be exempted from this section. (Code 2021)

7-309 THROWING PROHIBITED. It shall be unlawful for any person to throw, cast or propel fireworks of any kind in the direction of or into the path of any animal, person or group of persons, or from, in the direction of or into any vehicle of any kind. (Code 2021)

7-310 SALE OF FIREWORKS, WHERE PROHIBITED.

- a. It shall be unlawful for fireworks to be stored, sold or displayed for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable substances are kept, unless such fireworks are in a separate and distinct section or department of the premises.
- b. Where the Fire Chief deems there is a fire hazard, he or she is hereby authorized to have such hazard abated.

(Code 2021)

7-311 RETAIL DISPLAY OF FIREWORKS.

- a. All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where such fireworks are in the original package.
- b. All fireworks displayed for sale must remain in original packages, except where an attendant is on constant duty at all times where such fireworks are on display; provided, that fireworks that are open stock may be kept in show cases or counters out of the reach of the public without an attendant being on duty.

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

(Code 2021)

7-312 FIRE EXTINGUISHERS REQUIRED.

- a. Two (2) functioning and approved fire extinguishers (minimum size 10 lb. with current inspection logs) must be provided and kept in close proximity to the stock in all temporarily erected stands, trailers or permanent buildings where fireworks are sold or displayed for sale.
- b. One functioning and approved fire extinguisher (minimum size 10 lb. with current inspection logs) must be at each entrance where fireworks are stored in any temporarily erected stand, trailer or permanent building where fireworks are sold or displayed for retail sale.
- c. A minimum of a thirty (30) gallon barrel of water no less than three (3) feet high must be located at the entrance to any temporarily erected stands, trailers or permanent buildings where fireworks are sold or displayed for retail sale.

(Code 2021)

7-313 RESTRICTION AS TO GASOLINE INSTALLATIONS. It shall be unlawful to store, keep, sell, display for sale, or discharge any fireworks within one hundred (100) feet of the property line of any gasoline filling station, gasoline bulk station, Liquefied Petroleum Gas (L.P.G.) storage, filling station or any building which gasoline, L.P.G. or volatile liquids are sold in quantities in excess of one (1) gallon, one (1) liter, or one (1) pound, except in retail stores where cleaners, paints and oils are handled in sealed containers only.

(Code 2021)

7-314 AUTHORITY OF FIRE CHIEF. The Chief of the Fire Department is authorized to seize and confiscate all fireworks which may be kept, stored or used in violation of any section of this article, or any of the rules of the State Fire Marshal. The Chief of the Fire Department shall dispose of all such fireworks as may be directed by the Governing Body. (Code 2021)

7-315 VIOLATIONS. Violations of the conditions of the permit shall be a violation subject to the general penalty provisions of the Code of Ordinances of the City of Hoyt, Kansas, and shall consist of a fine not to exceed \$250.00. (Code 2021)

7-316 REMOVAL OF PROPERTY FROM SALE SITE.

- a. Commencing in 2006, any person, firm or corporation who or which has first obtained a valid permit to sell fireworks must have all property, equipment, supplies, and tent removed from the site premises no later than midnight on the 8th day of July of each year.
- b. A fine of \$25.00 per day shall be imposed for failure to remove the property, equipment, supplies and tent from the site premises in non-compliance with section 7-316(a).

(Code 2021)



#### **ARTICLE 4. FIRE INSURANCE PROCEEDS FUND**

7-401 SCOPE AND APPLICATION. The City is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the City, arising out of any fire or explosion, where the amount recoverable for the loss of 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 article. (Code 2021)

7-402 LIEN CREATED. The Governing Body of the City hereby creates a lien in favor of the City on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the City, caused by or arising out of any fire or explosion, 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 or policies 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, wither or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained un-discharged for at least one (1) year prior to the filing of a proof of loss. (Code 2021)

7-403 SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 7-402, the insurer or insurers shall contact the County Treasurer, Jackson 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, Jackson County, Kansas.  
(Code 2021)

7-404 SAME; PRO RATA BASIS. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure(s). (Code 2021)

7-405 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 structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the City Treasurer in an amount equal to the sum of five thousand dollars (\$5,000) or ten percent (10 %) of the covered claim payment, whichever is less, unless the Chief Building Inspector of the City has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.
- b. Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure(s). 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 insureds, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, 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 appraise them of the procedures to be followed under this article.

(Code 2021)

7-406 FUNDS CREATED; DEPOSIT OF MONEYS. The City Treasurer is hereby authorized and shall create a fund to be known as the "Fire Insurance Proceeds Fund." All moneys received by the City Treasurer as provided for by this article shall be placed in said fund and deposited in an interest-bearing account. (Code 2021)

7-407 BUILDING INSPECTOR; INVESTIGATION; REMOVAL OF STRUCTURE.

- a. Upon receipt of moneys as provided for by this article, the City Treasurer shall immediately notify the Chief Building Inspector of said receipt, and transmit all documentation received from the insurance company or companies to the Chief Building Inspector.
- b. Within twenty (20) days of the receipt of said moneys, the Chief Building Inspector shall determine, after prior investigation, whether the City shall instigate proceedings under the provisions of K.S.A. 12-1750 et seq., as amended.
- c. Prior to the expiration of the 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 and 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.

(Code 2021)

7-408 REMOVAL OF STRUCTURE; EXCESS MONEYS. If the Chief Building Inspector has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building structure, less salvage value, if any, shall be paid to the insured. (Code 2021)

7-409 SAME; DISPOSITION OF FUNDS. If the Chief Building Inspector, with regard to a building or other structure damaged by fire or explosion, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the City Treasurer under the authority of section 7-405(a) relating to that building or other structure shall be used to reimburse the City for 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 section 7-405(a), the Chief Building Inspector shall publish a new lien as authorized by K.S.A. 12-1756 in an amount equal to such excess expenses incurred.

(Code 2021)

7-410 EFFECT UPON INSURANCE POLICIES. This article shall not make the City a party to any insurance contract, nor the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy. (Code 2021)

7-411 INSURERS; LIABILITY. Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this article, or releasing or disclosing any information pursuant to this article. (Code 2021)

## **CHAPTER VIII HEALTH AND WELFARE**

Article 1.	BOARD OF HEALTH
Article 2.	HEALTH NUISANCES
Article 3.	JUNKED, ABANDONED VEHICLES
Article 4.	WEEDS
Article 5.	MINIMUM HOUSING CODE
Article 6.	RODENT CONTROL

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### **ARTICLE 1. BOARD OF HEALTH**

8-101 BOARD OF HEALTH CREATED. The City may create a Board of Health. Should it choose to do so, the Board of Health shall consist of a City Health Officer, who shall be a doctor of medicine or a registered nurse and two additional members who shall be members of the Governing Body. The City Health Officer and the two additional members of the Board of Health shall be appointed by the Mayor at the first regular meeting of the Governing Body in May of each year, to serve for one-year terms subject to confirmation by the Council. Provided, that the members of the Governing Body appointed to the Board of Health shall have adopted such rules and regulations as may be necessary to guide its operations. The City Clerk shall be secretary of the Board of Health but shall have no vote. He or she shall preserve its records, rules and regulations and shall issue all orders and notices which may be required by ordinances or order of the Board of Health.

(Code 2021)

8-102 CITY HEALTH OFFICER; DUTIES. The City Health Officer shall:

- a. Cause health investigations and inspections to be made as required by the laws of Kansas and of the City of Hoyt;
- b. Make recommendations to the Board respecting the improvement of health and the inhabitants of the City;
- c. Make all health reports required by the State Board of Health;
- d. Prepare an annual health report of the City for submission to the Governing Body;
- e. Perform such other duties as may be required of him or her under the laws of the State of Kansas or of the City.

(Code 2021)

## **ARTICLE 2. HEALTH NUISANCES**

- 8-201 NUISANCES UNLAWFUL; DEFINED. It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:
- a. Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;
  - b. All dead animals not removed within 24 hours after death;
  - c. Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;
  - d. All stagnant ponds or pools of water;
  - e. All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;
  - f. Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed therefrom;
  - g. All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;
  - h. Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city.

(K.S.A. 21-6204; Code 2021)

8-202 PUBLIC OFFICER. The Mayor with consent of the Council shall designate a Public Officer to be charged with the administration and enforcement of this article. (Code 2021)

8-203 COMPLAINTS; INQUIRY AND INSPECTION. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a report of such findings to the Council.

(Code 2021)

8-204 RIGHT OF ENTRY. The Public Officer has the right of access and entry upon private property at any reasonable time to the extent allowed by law for purposes of making inquiry and inspection to determine if a nuisance exists. (Code 2021)

8-205 ORDER OF VIOLATION.

- a. The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-201 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.
- b. If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first-class mail.

(K.S.A. 12-1617e; Code 2021)

8-206 SAME; CONTENTS. The order shall state the condition(s) which is (are) in violation of section 8-201. The order shall also inform the person, corporation, partnership or association that:

- a. He, she or they shall have 10 days from the receipt of the order to abate the condition(s) in violation of Section 8-201 provided, however, that the governing body [or its designee named in Section 8-205] shall grant one or more extensions of the 10 day period if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions in violation of Section 1; or,
- b. He, she or they have 10 days from the receipt of the order, plus any additional time granted under subsection (a), to request a hearing before the governing body or its designated representative of the matter as provided by Section 8-209;
- c. Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by Section 8-207 and/or abatement of the condition(s) by the city as provided by Section 8-2088.

(Code 2021)

8-207 FAILURE TO COMPLY; PENALTY. Should the person, corporation, partnership or association fail to comply with the order to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of Section 8-201, be fined in an amount not to exceed \$100 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Code 2021)

8-208 ABATEMENT. In addition to, or as an alternative to prosecution as provided in Section 8-207, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to Section 8-205 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in Section 8-206, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution



shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in Section 8-210. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- a. Personal service upon the person in violation;
- b. Certified mail, return receipt requested; or
- c. In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.
- d. If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first-class mail.

(Code 2021)

8-209 HEARING. If a hearing is requested within the 10-day period as provided in Section 8-206, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon

conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the manner provided in Section 8.

(Code 2021)

8-210 COSTS ASSESSED. If the city abates or removes the nuisance pursuant to Section 8-208, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115 and amendments thereto, but only until the full cost and applicable interest has been paid in full.

(K.S.A. 12-1,115; Code 2021)

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

8-301 FINDINGS OF GOVERNING BODY. The Governing Body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles, recreational vehicles, travel trailers, truck campers and boats affect the health, safety and general welfare of citizens of the City because they:

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

(Code 2021)

8-302 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this article, have the meanings indicated in this section:

- a. Inoperable shall mean a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed.
- b. Vehicle shall mean, without limitation, any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.
- c. Recreational Vehicle shall mean 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.
- d. Travel Trailer shall mean every vehicle without motor power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

- e. Truck Camper shall mean 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.
- f. Motor Vehicle shall include vehicles, recreational vehicles, travel trailers, truck campers and boats.

(Code 2021)

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

- a. A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of a City ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition. Any one of the following conditions shall raise the presumption that a motor vehicle is junked, wrecked or inoperable:
  - 1. Absence of a current registration plate upon the vehicle;
  - 2. Placement of the motor vehicle or parts thereof upon jacks, blocks, or other supports;
  - 3. Absence of one or more parts of the motor vehicle necessary for the lawful operation of the motor vehicle upon a street or highway.
- b. The provisions of this article shall not apply to:
  - 1. Any motor vehicle which is enclosed in a garage or other building;
  - 2. To the parking or storage of a motor vehicle inoperable for a period of thirty (30) consecutive days or less; or
  - 3. To any person conducting a business enterprise in compliance with existing zoning regulations or who places such motor vehicles behind screening of sufficient size, strength and density to screen such motor vehicles from the view of the public and to prohibit ready access to stored motor vehicles by children. However, nothing in the subsection shall be construed to authorize the maintenance of a public nuisance.

(Code 2021)

8-304 PUBLIC OFFICER. The Governing Body shall designate a Public Officer to be in charge with the administration and enforcement of this article. (Code 2021)

8-305 COMPLAINTS; INQUIRY AND INSPECTION. The Public Officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two (2) or more persons stating that a nuisance exists and describing the same and where located, or is informed that a nuisance may exist by City Council, the Board of Health, the Chief of Police or the Fire Chief. The Public Officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the Public Officer shall make a written report of findings. (Code 2021)

8-306 RIGHT OF ENTRY. The Public Officer has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Code 2021)

8-307 ORDER OF VIOLATION.

- a. The Governing Body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the Public Officer to be in violation of section 8-303 an order stating the violation. The order shall be served on the owner or agent of the owner of such property by:
  1. Personal service upon the person in violation;
  2. Service by residential service (tacking and mailing via certified mail); or
  3. Service by certified mail (return receipt requested) to the last known address.

All notices made under this article shall comply with K.S.A. 12-1617e and K.S.A. 8-1102, and any amendments thereto.

- b. If the owner or agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipts of a notice or order sent pursuant to this section during the preceding twenty-four (24) month period, the Governing Body of the City may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification,

telephone communication or first class-mail to the last known address of the owner. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first-class mail to the last known address of the owner.

(Code 2021)

8-308 SAME; CONTENTS. The order shall state the condition(s) which are in violation of Section 8-303. The notice shall also inform the person, corporation, partnership or association that:

- a. He, she or they shall have ten (10) days from the mailing of the order to abate the conditions in violation of 8-303; or
- b. He, she or they shall have ten (10) days from the mailing of the order to request a hearing before the Governing Body or its designated representative of the matter as provided in section 8-312.
- c. Failure to abate the conditions or request a hearing within the time allowed may result in prosecution as provided in section 8-309 and/or abatement of the conditions by the City as provided in section 8-310.

(Code 2021)

8-309 FAILURE TO COMPLY; PENALTY. Should the person fail to comply with the notice to abate the nuisance or request a hearing, the Public Officer may file a complaint in the Municipal Court of the City against such person and upon conviction of any violation of provisions to section 8-303, such person shall be fined in an amount not to exceed one hundred dollars (\$100) or be imprisoned not to exceed thirty (30) day or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Code 2021)

8-310 ABATEMENT. In addition to, or as an alternative to, prosecution as provided in section 8-309, the Public Officer may seek to remedy violations of this article in the following manner: If a person to whom a notice has been served pursuant to section 8-307 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the Governing Body within the time period specified in section 8-308, the Public Officer may present a resolution to the

Governing Body for adoption authorizing the Public Officer or other agents of the City to abate the conditions causing the violation at the end of ten (10) days after passage of the resolution. The resolution shall further provide that the costs incurred by the City shall be assessed against the lot or parcel of ground on which the nuisance was located as provided in section 8-313. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- a. Personal service upon the person in violation;
- b. Service by certified mail (return receipt requested);
- c. In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the Public Officer and filed with the City Clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official City newspaper and by posting a copy of the resolution on the premises where such condition exists.
- d. If the owner or agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four (24) month period, the Governing Body or its designated representative may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first-class mail to the last known address of the owner. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first-class mail to the last known address of the owner.

(Code 2021)

#### 8-311 DISPOSITION OF VEHICLE; RECOVERY OF VEHICLE.

- a. Disposition of any motor vehicle removed and abated from private property pursuant to this article shall be as provided by K.S.A. 8-1102, as amended.
- b. Any person attempting to recover a motor vehicle impounded as provided in this article shall show proof of valid registration and ownership of the motor vehicle before the motor vehicle shall be released. In addition, the person desiring the release of the motor vehicle

shall pay all reasonable costs associated with the impoundment of the motor vehicle, including transportation and storage fees, prior to the release of the motor vehicle.

(Code 2021)

8-312 HEARING. If a hearing is requested within the ten (10) day period as provided in section 8-408b, such request shall be made in writing to the Governing Body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the Public Officer before the Governing Body or its designated representative. The hearing shall be held by the Governing Body or its designated representative at the first regular meeting of the Governing Body after the filing of the request therefor, and the person shall be advised by the City Clerk of the time and place of the hearing at least five (5) days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the City may introduce such witnesses and evidence as is deemed necessary and proper by the Governing Body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the Governing Body or its designated representative shall be prepared in resolution form, adopted by the Governing Body, and the resolution shall be served upon the person in the manner provided in section 8-310.

(Code 2021)

8-313 COSTS ASSESSED. If the City abates or removes the nuisance pursuant to Section 8-310, the City shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the City. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city may also recover the cost of providing notice, including any postage, required by this Section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located, and the City Clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the City Clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the City as other city taxes are collected and paid. The City may pursue



collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.  
(Code 2021)

8-314 RESTORATION PERMIT. Upon written application and approval by the City Council, an applicant may receive a permit to park or store an inoperable vehicle actively used for vehicle restoration. A permit shall be valid for a period of three (3) months and shall be issued when an applicant demonstrates sufficient proof that the inoperable vehicle is actively being used for vehicle restoration. A written application shall be submitted to the City Clerk with a fee in an amount determined by the City of Hoyt Rate and Fee Schedule.

(Code 2021)

## ARTICLE 4. WEEDS

8-401 WEEDS, GRASSES, UNDERGROWTH AND UNCULTIVATED PLANTS TO BE REMOVED. It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises situated within the corporate City limits of the City of Hoyt, Kansas (herein City) to permit the existence of excessive accumulations or untended growth of weeds, grasses, undergrowth and uncultivated plants upon said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private, which threatens or endangers the public health, safety or welfare or may reasonably pose a fire hazard, cause disease, harbor vermin and insects, or which adversely affects and impairs the economic welfare of the adjacent property. Weeds, grass, undergrowth and uncultivated plants in excess of ten (10) inches in height will be presumed to be a nuisance. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided. (Code 2021)

8-402 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this article, have the meanings indicated in this section:

- a. Calendar Year shall mean that period of time beginning January 1 and ending December 31 of the same year.
- b. Weeds shall mean any of the following:
  1. Brush and woody vines;
  2. Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
  3. Weeds which bear or may bear seeds of a downy or wingy nature;
  4. Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare;
  5. Weeds and grasses on or about residential property which, because of their height, have a blighting influence on the neighborhood. Any such weeds and grasses shall be presumed to be blighting if they exceed ten (10) inches in height.

(Code 2021)

8-403 PUBLIC OFFICER; NOTICE TO REMOVE. The Governing Body of the City (herein Governing Body) shall designate the Public Officer, the Chief of Police, or such other public officers as it deems necessary to be charged with the administration and enforcement of this article. The Public Officer or other designated officer shall give written notice to the owner, occupant or agent in charge of the premises upon which weeds exist in violation of this ordinance, by

- a. Personal service upon the person in violation; or
- b. Service by residential service (tacking and mailing via certified mail); or
- c. Service by certified mail (return receipt requested),

to cut or destroy the weeds; provided, however, that if the property is unoccupied and the owner is a nonresident, such notice shall be sent by certified mail, return receipt requested, to the last known address of the owner, Such notice shall only be required to be given once per calendar year.

Such notice shall include the following:

- a. That the owner, occupant or agent in charge of the property is in violation of the City weed control law;
- b. That the owner, occupant or agent in charge of the property is ordered to cut or destroy the weeds within ten (10) days of the notice;
- c. That the owner, occupant or agent in charge of the property may request a hearing before the Governing Body or its designated representative within ten (10) days of the notice;
- d. That if the owner, occupant or agent in charge of the property does not cut or destroy the weeds, the City or its authorized agent will cut or destroy the weeds and assess the cost for the cutting or destruction, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property;
- e. That the owner, occupant or agent in charge of the property will be given the opportunity to pay the assessment and, if the assessment is not paid within thirty (30) days of such notice, it will be added to the property tax as a special assessment;
- f. That for the remainder of the current calendar year, no further notice is required or shall be given prior to removal of weeds from the property;
- g. That the Public Officer or his or her authorized assistant as may be designated by the Governing Body should be contacted if there are any questions regarding the order.

If there is a change in the record owner of title to property subsequent to the giving of the notice pursuant to this subsection, the City may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided notice as required by this section. (Code 2021)

#### 8-404 ABATEMENT, ASSESSMENT OF COSTS.

- a. Upon the expiration of ten (10) days after mailing of the notice required by 8-403, and in the event that the owner, occupant or agent in charge of the premises shall neglect or fail to comply with the requirements of 8-401, the Public Officer or an authorized assistant shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.
- b. The Public Officer or an authorized assistant shall give notice to the owner, occupant or agent in charge of the premises by restricted mail of the costs of abatement of the nuisance. The charge for the abatement of the nuisance shall be one hundred dollars (\$100) per hour with a minimum charge of one hundred dollars (\$100). The owner of the property shall be charged for any additional reasonable expenses incurred by the City to abate the condition, including, but not limited to, the costs of repair or replacement of City equipment which is damaged as a result of the abatement. The notice shall state that payment of the costs is due and payable within thirty (30) days following the mailing of the notice.
- c. If the costs of removal or abatement remain unpaid after thirty (30) days following mailing of the notice, a record of the costs of cutting, destruction, and/or removal shall be certified by the City Clerk to the County Clerk who shall cause such costs to be assessed against the particular lot or piece of land on which such weeds were so removed, and against such lots or pieces of land in front of or abutting such street or alley on which such weeds were so removed. The City Clerk shall certify the assessment to the County Clerk at the time other special assessments are certified for spreading on the tax rolls of the County.

(Code 2021)

8-405 RIGHT OF WAY. The Public Officer and the Public Officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this ordinance. (Code 2021)

8-406 UNLAWFUL INTERFERENCE. It shall be unlawful for any person to interfere with or attempt to prevent the Public Officer or his or her authorized representative(s) from entering upon such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute an ordinance violation. (Code 2021)

8-407 NOXIOUS WEEDS.

- a. Nothing in this ordinance shall affect or impair the rights of the City under the provisions of Chapter 2, Article 13 of Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.
- b. For the purpose of this section, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Confolvulus arvensis*), Russian knapweed (*Centaurea repens*), Hoary cress (*Cardaria draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agrophron repens*), leafy spurge (*Euphorbia esula*), bur ragweed (*Ambrosia grayii*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans L.*), Johnson grass (*Sorghum halepense*) and sericea lespedeza (*Lespedeza cuneata*).

(K.S.A. 2-1314; Code 2021)

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

8-501 TITLE. This article shall be known as the "Minimum Standard for Housing and Premises Code," and will be referred to herein as "this code." (Code 2021)

8-502 GENERAL. Buildings used in whole or in part as a home or residence of a single family or person and every building used in whole or in part as a home or residence of two (2) or more persons or families living in separate apartments and all premises, either residential or non-residential, shall conform to the requirements of this code. (Code 2021)

8-503 DECLARATION OF POLICY. The Governing Body declares the purpose of this code is to protect, preserve, and promote the physical and mental health of the people, investigate and control communicable diseases, regulate privately and publicly-owned structures or dwellings and all premises for the purpose of sanitation and public health, general appearance, to protect the safety of the people, and to promote the general welfare by legislation which shall be applicable to all dwellings, structures and premises now in existence or hereafter constructed or developed and which legislation:

- a. Establishes minimum standards for basic equipment and facilities for light, ventilation, and heating, for safety from fire, for the use and location and amount of space for human occupancy, and for safe and sanitary maintenance;
- b. Establishes standards concerning unsightly and blighted buildings and premises, and both residential and non-residential structures;
- c. Determines the responsibilities of owners, operators, and occupants; and
- d. Provides for the administration and enforcement thereof.

(Code 2021)

8-504 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this article, have the meanings indicated in this section:

- a. Basement shall mean a portion of a building located partly underground, but having less than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.
- b. Cellar shall mean a portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.
- c. Dwelling shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing hereinafter defined shall not be regarded as a dwelling.
- d. Dwelling Unit shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or are intended to be used for living, sleeping, cooking and eating.
- e. Habitable Dwelling shall mean any structure or part thereof that shall be used as a home or place of abode by one (1) or more persons.
- f. Habitable Room shall mean a room designed to be used for living, sleeping, eating or cooking purposes, excluding bathrooms, toilet rooms, closets, halls and storage places, or other similar places, not used by persons for extended periods.
- g. Infestation shall mean the presence, within or around a dwelling, of insects, rodents, or other pests.
- h. Multiple Dwelling shall mean any dwelling containing more than two (2) dwelling units.
- i. Occupant shall mean any person, over one (1) year of age, living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or room unit.
- j. Operator shall mean any person who has charge, care, owns, or has control of a premise or of a building or structure or part thereof, in which dwelling units or rooming units are let.
- k. Owner shall mean any person, firm, or corporation, who jointly or severally along with others, shall be in actual possession of, or have charge, care and control of any structure or dwelling unit or premises within the City as owner, employee, or agent of the owner, or as trustee or guardian of the estate or person of the title holder, and such person shall be deemed and taken to be the owner or owner of such property within the true intent and meaning of this code and shall be bound to comply with the provisions of the same extent as the record owner and notice to any such person shall be deemed and taken to be good

and sufficient notice as if such person or persons were actually the record owner or owner of such property.

- l. Person shall mean and include any individual, firm, corporation, association or partnership.
- m. Plumbing shall mean and include all of the following supplied facilities and equipment: gas or fuel pipes, gas or fuel burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer, gas, or fuel lines.
- n. Premise(s) shall mean any lot or area, either residential or nonresidential, not covered by a structure and which is subject to a City tax in part or in whole.
- o. Public Officer shall be appointed by the Mayor and approved by the Governing Body.
- p. Rooming House shall mean any dwelling, or that part of a dwelling containing one (1) or more rooming units in which space is let by the owner or operator to three (3) or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.
- q. Rooming Unit shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.
- r. Refuse for the purpose of this article, refuse shall include garbage and trash defined as follows:
  1. Garbage shall mean any accumulation of animal, fruit or vegetable waste matter that attends the preparation of, use of, cooking of, delivering of, or storage of meats, fish, fowl, fruit or vegetables.
  2. Trash (Combustible) shall mean waste consisting of papers, cartons, boxes, barrels, wood and excelsior, tree branches, yard trimmings, wood furniture, bedding, leaves, or any combustible materials.
  3. Trash (Non-Combustible) shall mean waste consisting of metals, tin cans, glass, crockery, other mineral refuse and ashes and street rubbish and sweepings, dirt, sand, concrete scrap, or any other non-combustible material.
- s. Structure shall mean anything constructed or erected on the ground or attached to something having a location on the ground.



- t. Supplied shall mean paid for, furnished, or provided by or under the control of, the owner or operator.
- u. Temporary Housing shall mean any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, housing building or another structure, or to any utilities system on the same premises for more than thirty (30) consecutive days, except when located in a mobile home court duly licensed under the laws of the City.
- v. Words; Meanings: Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit," or "premises" are used in this ordinance, they shall be construed as though they were followed by the words "or any part thereof."

(Code 2021)

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

- a. It shall be the duty of the owner of every occupied or unoccupied dwelling, building and premises or vacant premise, including all yards, lawns and courts to keep such property clean and free from any accumulation of filth, rubbish, garbage, or any similar matter.
- b. It shall be the duty of each occupant of a dwelling unit to keep in clean condition the portion of the property which he or she occupies and of which he or she has exclusive control, to comply with the rules and regulations, to place all garbage and refuse in proper containers. Where care of the premise is not the responsibility of the occupant then the owner is responsible for violations of this code applicable to the premise.
- c. If receptacles are not provided by the owner, then the occupant shall provide receptacles as may be necessary to contain all garbage and trash.
- d. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination whenever his or her dwelling unit is the unit primarily infested.

- e. Notwithstanding, the foregoing provisions of this section, whenever infestation is caused by failure of the owner to maintain a dwelling in a vermin proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner and operator.
- f. Whenever infestation exists in two (2) or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.

(Code 2021)

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

- a. Attached Garage or Non-Dwelling Areas. All non-dwelling occupancies shall be separated from the dwelling unit by a fire resistant wall and if the dwelling and garage are covered by a common or connecting roof, then the ceiling also must have a fire resistance rating of not less than one (1) hour as defined in the building code.
- b. Basement or Cellar. The basement or cellar of any dwelling shall be reasonably dry and ventilated and shall be kept free from rubbish accumulation.
- c. Basement Dwelling Units. The use of basements or cellars for dwelling units is prohibited unless they comply with section 8-506(r) governing ventilation, provided however, if occupied at the time of the passage of this code and if it complies with all other provisions of this code, the Public Officer may approve less than the required windows, if in his or her opinion, the window area is not detrimental to the occupants.
- d. Bathing Facilities. Every dwelling unit shall contain within it a room which affords privacy to a person in the room, a bathtub or shower in good working condition and properly connected to an approved water and sewer system.
- e. Boarding and Rooming Houses. No room shall be used for sleeping purposes unless the ceiling height is at least seven (7) feet and there are at least four hundred (400) cubic feet of air space for each occupant six (6) years of age or older. For sleeping rooms with sloping

ceilings, the ceiling height shall be at least seven (7) feet over at least fifty (50) percent (%) of the floor area.

1. Bathing facilities shall be provided in the form of a tub or shower for each eight (8) occupants. Separate facilities shall be provided for each sex and plainly marked.
  2. A flush water closet shall be provided for each six (6) occupants and shall be separated with the separate access from bathing facilities if more than four (4) occupants are served by each. Separate facilities shall be provided for each sex and shall be plainly marked.
- f. Drainage. All courts, yards, or other areas on the premises of any dwelling shall be so graded and drained that there is no pooling of water thereon. Properly constructed wading and swimming pools and fish ponds are exempted from this section.
- g. Entrances.
1. There shall be for each dwelling unit a normally used separate access either to a hallway, stairway, or street, which is safe and in good repair.
  2. A secondary exit to the ground shall be available in case of fire through windows, porch roofs, ladders or any combination that is free of hazard for egress.
- h. Floor Area. Every dwelling unit shall contain at least one hundred fifty (150) square feet of floor space for the first occupant thereof and at least one hundred (100) additional square feet of floor space for every additional occupant thereof. The floor space shall be calculated on the basis of total habitable room area, inside measurements. No floor space shall be included in determining habitable room area over which the ceiling is less than seven (7) feet above the floor for the purpose of this subsection.
- i. Garbage and Trash Receptacles. Every dwelling and every dwelling unit shall be provided with such receptacles, not exceeding thirty-nine (39) gallon capacity, as may be necessary to contain all garbage and trash, and such receptacles shall at all times be maintained in good repair.
- j. Heating. Every dwelling and every dwelling unit shall be so constructed, insulated, and maintained and be provided by owner or occupant with heating units so that it is capable of reaching an air temperature of seventy (70) degrees Fahrenheit under ordinary winter conditions. The chimney of the dwelling or dwelling unit shall be maintained in good order, and the owner of the approved heating equipment shall maintain it in good order and repair.

- k. Kitchen Sink. In every dwelling unit containing two (2) or more rooms, there shall be at least one kitchen sink with public water under pressure and connected to the public sewer, or if that sewer system is not available, to a sewage disposal system approved by the County Health Department.
- l. Lavatory Facilities. Every dwelling unit shall contain within its walls a lavatory basin in good working condition and properly connected to an approved water and sewer system and located in the same room as the required flush water closet or as near to the room as practicable.
- m. Lighting. Every habitable room shall have a duplex outlet in wall or floor, or at least two (2) wall or floor outlets.
- n. Lighting of Toilets and Bathrooms. Every toilet and every bathroom in every dwelling shall have at least one (1) electric light in either the ceiling or on the wall.
- o. Plumbing. All plumbing, water closets and other plumbing fixtures in every dwelling or dwelling unit shall be maintained in good working order.
- p. Privies. All pit privies, privy vaults, "dry hopper" sewer connected privies and frost-proof closets are hereby declared to be a public nuisance.
- q. Toilet Facilities. There shall be at least one (1) flush water closet in good working condition for each dwelling and in a room which affords privacy.
- r. Ventilation. Every habitable room in a dwelling or dwelling unit shall contain a window or windows that open directly to the outside air and the total area of such window or windows shall be not less than five (5) percent (%) of the floor area of such room. An approved system of mechanical ventilation or air conditioning may be used in lieu of opening windows. Such system shall be capable of providing not less than four (4) air changes per hour, except that in toilet compartments such systems shall provide a complete air change every five (5) minutes and be automatically put in operation when the toilet compartment light is in the "on" position.
- s. Water Heating Facilities. Every dwelling shall have supplied water heating facilities which are installed in an approved manner and are maintained and operated in a safe and good working condition and are properly connected with the hot water lines to the kitchen sink, lavatory and bathtub or shower.

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

(Code 2021)

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

(Code 2021)

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

- a. The Public Officer may determine, or five (5) citizens may petition in writing, that any dwelling unit is unfit for human use or habitation if he, she or they find that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such buildings or other residents of the neighborhood, or which shall have a blighting influence on properties in the area.
- b. Such conditions may include the following without limitation:
  - 1. Defects therein increasing the hazards of fire, accident or other calamities.
  - 2. Lack of:
    - i. Adequate Ventilation;
    - ii. Light;
    - iii. Cleanliness;
    - iv. Sanitary Facilities;
  - 3. Dilapidation;
  - 4. Disrepair;
  - 5. Structural defects;
  - 6. Overcrowding;
  - 7. Inadequate ingress and egress;

8. Unsightly appearance that constitutes a blight to the adjoining property, the neighborhood or the City;
  9. Air Pollution.
- c. Placarding Order to Vacate: any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the Public Officer shall be vacated within a reasonable time as so ordered.
  - d. Notice of Violation: procedures as outlined in section 8-512 are applicable hereto.
  - e. Compliance Required before Re-Occupancy: No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed, by the Public Officer.
    1. The Public officer shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based on have been eliminated.
    2. It shall be unlawful for anyone to let, lease, occupy or permit the occupancy, whether for a consideration or not, of any dwelling so posted, and any violation of this provision shall constitute a public offense within the meaning of this code.
    3. It shall be unlawful for any person to deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except the Public officer as herein provided, and any violation of this provision shall constitute a public offense within the meaning of this code.

(Code 2021)

8-508a ORDER TO CORRECT AND/OR REPAIR. REMOVE OR DEMOLISH. At the time of placarding the order to vacate specified by Section 8-508(c) hereof, the Public Officer shall also issue and cause to be served upon the owner a notice advising of the option of removal or demolition in lieu of correction and/or repair following the procedures as outlined in 8-512 of this code. (Code 2021)

8-509 DESIGNATION OF BLIGHTED PREMISES (RESIDENTIAL AND NON-RESIDENTIAL).

The designation of unsightly and blighted premises and elimination thereof shall be carried out in compliance with the following requirements:

- a. The Public Officer may determine, or five (5) citizens may petition in writing, if the appearance of a premise is not commensurate with the character of the properties in the neighborhood or otherwise constitutes a blight to the adjoining property or the neighborhood or the City for such reasons as, but not limited to:
  1. Dead trees or other unsightly natural growth;
  2. Unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof; vermin infestation, inadequate drainage;
  3. Violation of any other law or regulations relating to the use of land and the use and occupancy of the buildings and improvements.
- b. Notice of Violation: procedures as outlined in section 8-512 are applicable hereto.

(Code 2021)

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

- a. Certain blight conditions covered in sections 8-507 and 8-508 concerning buildings and premises which are on the tax roll of the City are applicable to all non-residential buildings and premises.
- b. Notice of Violation: procedures of notification shall follow those prescribed in section 8-512.

(Code 2021)

8-511 INSPECTION OF BUILDINGS AND STRUCTURES AND PREMISES.

- a. For the purpose of determining compliance with the provisions of this code, the Public Officer or his or her authorized representative is hereby authorized to make inspections to determine the condition, use and occupancy of dwellings, dwelling units, rooming units, and the premises upon which the same are located. This requirement is applicable to existing dwellings or buildings.

- b. The Public officer is not limited by the conditions in the above paragraph (a) where new construction or vacant premises are involved and may make such inspections at any appropriate time.
- c. The owner, operator and occupant of every dwelling, dwelling unit, and rooming unit shall give the Public Officer, or his or her authorized representative, during reasonable hours, free access to such dwelling, dwelling unit, and rooming unit, and its premises, for the purpose of such inspection, examination and survey after identification by proper credentials.
- d. Every occupant of a dwelling shall give the owner thereof, or his or her authorized agent or employee, access to any part of such dwelling, or its premises, at all reasonable times, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this code or with any rule or regulation adopted and promulgated, or any order issued pursuant to the provisions of this code.

(Code 2021)

#### 8-512 NOTICE OF VIOLATIONS; PROCEDURE.

- a. Informal Discussion. Whenever the Public Officer or his or her authorized representative determines that there has been a violation of any provision of this code, the Public Officer will arrange with the alleged violator for an informal discussion of violations, and whether repair and correction are justified.
- b. Formal Hearing. If a satisfactory solution to the violations, either by correction, demolition or removal, is not forthcoming, then a legal notice of a formal hearing will be issued according to the following procedures:
  - 1. Shall be in writing;
  - 2. Shall list the violations alleged to exist or to have been committed;
  - 3. Shall provide a reasonable time, but not less than thirty (30) days in any event, for the correction of the violations particularized;
  - 4. Shall be addressed to and served upon the owner of the property, the operator of the dwelling, and the occupant of the dwelling unit or the rooming unit concerned if the occupant is or may be responsible for the violation;



5. If one or more persons to whom the notice is addressed cannot be found or served after diligent effort to do so, service may be made upon such person or persons by posting a notice in a conspicuous place in or about the dwelling affected by the notice, in which event the Public Officer or his or her authorized representative shall include in the record a statement as to why such posting was necessary.
6. Delivery shall be by personal service or by registered or certified mail, return receipt requested, delivered to addressee only. If service is made by registered or certified mail, the Public Officer or his or her authorized representative shall include in the record a verified statement giving details regarding the mailing.

(Code 2021)

8-513 PUBLIC OFFICER; AUTHORITY. For the purpose of protecting the City against unsightly or blighted premises, and to protect the health, welfare, and safety of the inhabitants of dwellings or dwelling units, the Public Officer referred heretofore is hereby authorized, with the consent and prior knowledge of the Governing Body, to enforce the provisions of this code and of other laws which regulate or set standards affecting buildings and premises. (Code 2021)

8-514 GOVERNING BODY; AUTHORITY. The Governing Body is hereby authorized:

- a. To informally review all alleged violations as provided in section 8-512(a) prior to notification prescribed in section 8-512(b);
- b. To take action as prescribed in section 8-512(b);
- c. To hear appeals where there is opposition to any order, requirement, decision or determination by the Public officer in enforcement of this code as outlined in section 8-517;
- d. Discretionary authority may be exercised in specific cases where variance from the terms of the code:
  1. Will not adversely affect the public health, safety or welfare of inhabitants of the City;
  2. Is in harmony with the spirit of this code;
  3. Where literal enforcement of the code will result in unnecessary hardship.

(Code 2021)

8-515 DEMOLITION BY PUBLIC OFFICER; PROCEDURE AND COSTS.

- a. Upon failure to comply with the order under section 8-508a hereof for the alteration or improvement of such structure, the Public Officer, with the consent and prior knowledge of the Governing Body, may cause such condemned structure to be removed or demolished and the premises improved to eliminate the conditions outlined in section 8-508 of the code.
- b. The cost of demolition by a Public Officer shall be a lien upon the property upon which the cost was incurred and such lien, including as a part thereof an allowance of his or her costs and necessary attorney's fees, may be foreclosed in judicial proceedings in the manner provided or authorized by law for loans secured by liens on real property or shall be assessed as a special assessment upon the lot or parcel of land on which the structure was located and the City Clerk at the time of certifying other City taxes, shall certify the unpaid portion of the aforesaid costs and the County Clerk shall extend the same on the tax rolls against the lot or parcel of land.
- c. If the structure is removed or demolished by the Public Officer, he or she shall offer for bids and sell the structure or the materials of such structure. The proceeds of such sale shall be credited against the cost of the removal or demolition and, if there is any balance remaining, it shall be paid to the parties entitled thereto after deduction of costs of judicial proceedings, if any, including the necessary attorney's fees incurred therein, as determined by the court, if involved.

(Code 2021)

8-516 CONFLICT OF LAWS; EFFECT OF PARTIAL INVALIDITY.

- a. When conflicts arise between the provisions of this code and any provision of any zoning, building, fire, safety, or health ordinance or code of the City, existing on the effective date of this article, the provision which establishes the higher standard shall prevail.
- b. When conflicts arise between this article and any provision of any other ordinance or code of the City existing on the effective date of this article which establishes a lower standard, the provisions of this article shall be repealed to the extent that they may be found in conflict with this code.

(Code 2021)

8-517 GOVERNING BODY; APPEALS.

- a. Any person, firm, or corporation considering themselves aggrieved by the decision of the Public officer and who desires to present a formal protest to the Governing Body shall in writing, request a hearing before the Governing Body within ten (10) days after receiving notice of the decision from the Public officer, as provided in section 8-512(b). Such protest and request for a hearing shall be filed with the office of the City Clerk.
- b. Upon receipt of a protest and request for a hearing, the City Clerk shall notify in writing the Governing Body of such appeal.
- c. The Governing Body shall, within thirty (30) days of receipt of protest and request for hearing, determine a date for the hearing.
- d. Notice of the date for the hearing shall be sent to the appellant at least ten (10) days before the hearing.
- e. Except where an immediate hazard exists as described in section 4-612 of this code, the filing of a protest and request for a hearing before the Governing Body as specified in subsection (a) shall operate as a stay of the enforcement of the Public Officer's order until such time as the Governing Body has reached a decision on the matter.

(Code 2021)

8-518 RIGHT OF PETITION. After exhausting the remedy provided in section 8-517, any person aggrieved by an order issued by the Public Officer and approved by the Governing Body after a hearing on the matter, may within thirty (30) days from the date which the order became final petition the District Court of the County in which the property is located to restrain the Public Officer from carrying out the provisions of the order. (Code 2021)

8-519 PROHIBITION OF CARGO/SHIPPING CONTAINERS.

- a. Cargo Container shall mean any portable, weather-resistant receptacle, container or other structure that is designed or used for the storage or shipment of household goods, commodities, building materials, furniture, refuse, or merchandise. A cargo container is typically rented for temporary use, and is delivered and removed from the property via a truck.

- b. The term Cargo Container shall include, but not be limited to, shipping containers, Conex containers, semi-tractor trailers, train cars and any other structures which are placed on the frame of a truck for transportation or shipping.
- c. Prohibition: Cargo Containers shall not be allowed as an accessory building or structure to a residence, as the sole structure or accessory on a property, or in any other fashion on a property within the City of Hoyt except for the limited purposes described in (d) and (e) below.
- d. Cargo Containers may be used on a temporary basis for up to thirty (30) days within a calendar year for the purpose of waste and/or property disposal.
- e. All Cargo Containers existing prior to the passage of this ordinance shall be allowed, so long as they are not moved or substantially changed following the passage of this ordinance, and so long as their use does not constitute a nuisance.
- f. Violation of this section shall result in an Order of Violation, penalty, abatement, disposition and the assessment of costs as procedurally described in the City Code of the City of Hoyt, Section 8-307:313, as amended.

(Code 2021)

## ARTICLE 6. RODENT CONTROL

8-601 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this article, have the meanings indicated in this section:

- a. Building shall mean any structure, whether public or private, that is adapted for occupancy as a residence, the transaction of business, the rendering of professional services, amusement, the display, sale or storage of goods, wares or merchandise or the performance of work or labor, including office buildings, public buildings, stores, theaters, markets, restaurants, workshops and all other houses, sheds and other structures on the premises used for business purposes.
- b. Occupant shall mean the person that has the use of, controls, or occupies any business building or any portion thereof, whether owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, the owner, agent or other person having custody of the building shall have the responsibilities of an occupant of a building.
- c. Owner shall mean the owner of any building or structure, whether individual, firm, partnership or corporation.
- d. Rat Harborage shall mean any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside a structure of any kind.
- e. Rat Stoppage shall mean a form of rat-proofing to prevent the ingress of rats into buildings from the exterior or from one building to another, consisting essentially of the closing of all openings in the exterior walls, grounds or first floors, basements, roofs and foundations that may be reached by rats from the ground by climbing or by burrowing, with material or equipment impervious to rat-gnawing.

(Code 2021)

8-602 BUILDING MAINTENANCE. All buildings and structures located within the present or future boundaries of the City shall be rat-stopped, freed of rats and maintained in a rat-stopped and rat-free condition. (Code 2021)

8-603 NOTICE TO RAT-STOP; WHEN CITY TO DO WORK. Upon receipt of written notice from the Governing Body, the owner of any building or structure specified therein shall take immediate measures for the rat-stoppage of such building or structure. The work shall be completed in the time specified in the written notice, which shall be within fifteen (15) days of receipt of notice, or within the time of any written extension thereof that may have been granted by the Governing Body. (Code 2021)

8-604 FAILURE TO COMPLY. If the owner fails to comply with such written notice or extension, then the Governing Body is authorized to take such action as may be necessary to completely rat-stop the building or structure at the expense of the owner, and the City Clerk shall submit bills for the expense thereof to the owner of the building or structure. If the bills are not paid within sixty (60) days, the City Clerk shall certify to the County Clerk the amount due and the charge shall be a lien against property where the work has been done. The owner shall be promptly billed therefore. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for rat-stoppage. (Code 2021)

8-605 REPLACE RAT-STOPPAGE. It shall be unlawful for any occupant, owner, contractor, public utility company, plumber or any other person to remove the rat-stoppage from any building or structure for any purpose and fail to restore the same in a satisfactory condition or to make any new openings that are not closed or sealed against the entrance of rats. (Code 2021)

8-606 NOTICE TO ERADICATE RATS. Whenever the Governing Body notifies in writing the owner of any building or structure, that there is evidence of rat infestation of the building or structure, the owner shall immediately institute appropriate measures for freeing the premises so occupied of all rats. Unless suitable measures for freeing the building or structure of rats are instituted within five (5) days after the receipt of notice, and unless continually maintained in a

satisfactory manner, the City is hereby authorized to free the building or structure of rats at the expense of the owner thereof and the City Clerk shall submit bills for the expense thereof to the owner of the building or structure, and if the same are not paid, the City Clerk shall certify to the County Clerk the amount due from the owner, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for the eradication measures. (Code 2021)

8-607 CONDITIONS CONDUCTIVE TO HARBORAGE OF RATS.

- a. All food and feed kept within the City for feeding animals shall be kept and stored in rat-free and rat-proof containers, compartments, or rooms, unless kept in a rat-stopped building.
- b. It shall be unlawful for any person to place, leave, dump or permit to accumulate any garbage or trash in any building or premises so that the same shall afford food and harborage for rats.
- c. It shall be unlawful for any person to accumulate or to permit the accumulation on any premises or on any open lot any lumber, boxes, barrels, bricks, stone or similar materials that may be permitted to remain thereon and which are rat harborages, unless the same shall be placed on open racks that are elevated not less than twelve (12) inches above the ground, evenly piled or stacked.
- d. Whenever conditions inside or under any building or structure provide such extensive harborage for rats that the County Health Department deems it necessary to eliminate such harborage, he or she may require the owner to install suitable cement floors in basements or to replace wooden first or ground floors or require the owner to correct such other interior rat harborage as may be necessary in order to facilitate the eradication of rats in a reasonable time and thereby to reduce the cost of such eradication.

(Code 2021)

8-608 INSPECTIONS. The Public Officer is empowered to make such inspections and re-inspections of the interior and exterior of any building or structure as in his or her opinion may be necessary to determine full compliance with this article. (Code 2021)

**CHAPTER IX**

**MUNICIPAL COURT**

Article 1. GENERAL PROVISIONS

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**ARTICLE 1. GENERAL PROVISIONS**

9-101 MUNICIPAL COURT ESTABLISHED. There is hereby established a Municipal Court for the City of Hoyt, Kansas. The Municipal Court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the City. (Code 2021)

9-102 SAME; PRACTICE AND PROCEDURE. The Kansas Code of Procedure for Municipal Courts, as set forth in K.S.A. 12-4101 *et seq.*, and all acts amendatory or supplemental thereto shall govern the practice and procedure in all cases in the Municipal Court. (Code 2021)

9-103 TIME AND PLACE OF SESSIONS. Municipal Court shall be held in the Municipal Courtroom in the Hoyt City Hall on such days and at such hours as the Municipal Judge designates. (Code 2021)

9-104 MUNICIPAL JUDGE; APPOINTMENT. The Municipal Court shall be presided over by a Municipal Judge. The Mayor, subject to the approval of the City Council, shall appoint the Judge of the Municipal Court. (Code 2021)

9-105 SAME; ABSENCE; VACANCY; PRO TEMP. In the event the Municipal Judge is temporarily unable to preside due to absence, illness or disqualification, the Municipal Judge shall designate an attorney or other qualified person to act as Judge pro tempore. In the event the Municipal Judge fails to appoint a Judge pro tempore, the Judge pro tempore shall be appointed in the same manner as the Municipal Judge is selected. The Judge pro tempore shall receive compensation as shall be provided by ordinance, payable in the same manner as the compensation of the regular Municipal Judge.



In the event a vacancy shall occur in the office of the Municipal Judge, a successor shall be appointed to fill the unexpired term in the same manner as the Municipal Judge was appointed. (Code 2021)

9-106 SAME; POWERS AND DUTIES. The Municipal Judge shall have such powers and duties as set forth in the Kansas Code of Procedure for Municipal Courts (K.S.A. 12-4101 *et seq.*) and all acts amendatory or supplemental thereto. (Code 2021)

9-107 SAME; SALARY. The Municipal Judge shall receive a salary as shall be fixed by ordinance. (Code 2021)

9-108 COURT CLERK. There is hereby established the Office of the Clerk of the Municipal Court of the City of Hoyt, Kansas, which office shall be filled by appointment by the Municipal Judge of the Municipal Court. The duties of the office shall be those prescribed by the Code for the Municipal Courts set forth in Chapter 12, Article 41 of the Kansas Statutes, and shall include the following duties:

- a. The Court Clerk shall issue all process of the court, administer oaths, file and preserve all papers, docket cases, and set same for trial and shall perform such further acts as may be necessary to carry out the duties and responsibilities of the court. The Court Clerk shall receive, account for and pay to the City Treasurer monthly all fines and forfeited bonds paid into the court. The Court Clerk shall make reports to the judicial administrator and furnish the information when requested by him or her, or by a department justice, on such forms furnished by the judicial administrator, and approved by the Supreme Court.
- b. The Court Clerk shall within ten (10) days after selection and before entering upon the duties of office, execute to the City such bond as the Governing Body may require and which shall be approved by the Governing Body, and file in the Office of the City Clerk, conditioned for the faithful performance of the duties required of him or her by law, and for the faithful application and payment of all moneys that may come into his or her hands in the execution of the duties of the office. The City shall pay the cost of such bond.
- c. The monthly salary of the Court Clerk shall be fixed by ordinance.

- d. A majority of all members of the City Council may remove the Court Clerk appointed under the authority of this article, or for good cause the Mayor may temporarily suspend any such appointed Court Clerk.

(Code 2021)

9-109 PAYMENT OF FINE. Where a Municipal Court judgment against any person results in a fine and/or court costs only, the same shall be satisfied by paying the amount of such fine and/or court costs to the Municipal Court immediately on the rendition of judgment, or at such time as the Municipal Judge shall determine. (Code 2021)

9-110 SAME; FAILURE TO PAY SEPARATE VIOLATION. It shall be unlawful for any person to willfully fail to pay any lawfully imposed fine for a violation of any law of the City within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the fine is due. Such conduct constitutes a violation of this article, regardless of the full payment of the fine after such time. (Code 2021)

9-111 FAILURE TO APPEAR.

- a. It shall be unlawful for any person charged with violation of any law of the City to fail to appear before the Municipal Court when so scheduled to appear, unless lawful excuse for absence is presented to the Court on or before the time and date scheduled for appearance.
- b. For the purpose of subsection (a), failure to appear shall include willfully incurring a forfeiture of an appearance bond and failure to surrender oneself within thirty (30) days following the date of such forfeiture by one who is charged with a violation of the laws of the City and has been released on bond for appearance before the Municipal Court for trial or other proceeding prior to conviction, or the willful incurring of a forfeiture of an appearance bond and failing to surrender oneself within thirty (30) days after his or her conviction of a violation of the laws of the City has become final by one who has been released on an appearance bond by any court of this state.
- c. Any person who is released upon his or her own recognizance, without surety, or who fails to appear in response to a summons, notice to appear, or traffic citation duly served upon

him or her personally shall be deemed a person released on bond for appearance within the meaning of subsection (b) of this section.

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

(Code 2021)

9-112 COURT COSTS. Pursuant to Charter Ordinance No. 2 and No. 10 of the City of Hoyt, Kansas, and Ordinance No. 323 of the City of Hoyt, Kansas, passed on July 12, 2018 Kansas, when an accused person or persons plead(s) guilty or nolo contendere, is found guilty of a violation of the ordinances or City Code of the City of Hoyt, Kansas, or any other instance where the Court should find it necessary to assess court costs, there should be assessed costs for the administration of justice in said court which are identical to that court cost being assessed by the District Court of Jackson County, Kansas as of the date of assessment. Court costs for the City of Hoyt shall remain tied to the court costs for the District Court of Jackson County, Kansas, including all increases or decreases, until such time that the ordinance is repealed. (Code 2021)

**CHAPTER X POLICE**

Article 1. POLICE DEPARTMENT

Article 2. PROPERTY IN POLICE CUSTODY

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**ARTICLE 1. POLICE DEPARTMENT**

10-101 POLICE DEPARTMENT. The Law Enforcement Department shall consist of a Chief of Police and such number of regular law enforcement officers as shall be appointed as provided by K.S.A. 15-204. (Code 2021)

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

The Chief of Police and all sworn law enforcement personnel shall at all times have power to make arrest under proper process or without process on view of any offense against the laws of the State of Kansas or laws of the City and to keep all persons so arrested, unless admitted to bail, in the City jail, in the County jail or other proper place to prevent their escape until their trial can be held before the proper officer. If requested by the Sheriff of Jackson County to assist, the Chief of Police is to use his own discretion, but is permitted to assist Jackson County at such times when needed.

All persons arrested for violation of any law of the State and who shall not be charged with an offense under any law of the City shall be released to the custody of the Sheriff of Jackson County and such arrest shall be reported to the County Attorney.  
(Code 2021)

10-103 RULES AND REGULATIONS. The Chief of Police shall have the power to make such rules and regulations as may be necessary for the proper and efficient conduct of the department. Said written rules and regulations shall be submitted to and approved by the Governing Body. (Code 2021)

## **ARTICLE 2. PROPERTY IN POLICE CUSTODY**

10-201 REGULATIONS. The Police Department is required to establish regulations detailing the collection, storage, and inventory of property which may come under its control by any manner. (Code 2021)

10-202 DISPOSITION. Any property which has been acquired or turned over to the Police Department and has been classified in accordance with procedures existing in the Police Department as unclaimed or for which the proper owner cannot be ascertained shall be kept for a minimum of ninety (90) days. After a period of ninety (90) days, such property, except as provided in section 10-203, shall be sold at public auction to the highest bidder and the proceeds after expenses shall be paid to the City General Fund. (Code 2021)

10-203 SAME; EXEMPT PROPERTY. The following classes of property shall be considered exceptions to section 10-202 and shall be dealt with in the following manner:

- a. Cash money shall be turned over to the City General Fund unless it shall be determined to have collector's value, in which case it shall be auctioned according to the provisions in section 10-202.
- b. Firearms which are available for disposition may be dealt with in the following manner:
  1. If compatible with law enforcement usage, they may be turned over to the Police Department inventory.
  2. They may be sold to a firearms dealer who maintains the appropriate federal firearms license.
  3. They may be destroyed.
  4. In no case shall firearms be sold at public auction.
- c. Other weapons such as knives, etc., which are deemed to have a legitimate value may be sold at auction, however, homemade weapons or weapons of a contraband nature shall be destroyed.
- d. Any items determined to be contraband such as explosives, narcotics, etc., shall be destroyed.

- e. Items of a pharmaceutical nature, which, while not contraband when properly dispensed, or which are of an over-the-counter-variety, shall be destroyed.
- f. Foodstuffs, if sealed and undamaged may be turned over to any appropriate social service agency or destroyed, but shall not be auctioned.
- g. Alcohol products such as beer, wine, whiskey, etc., shall be destroyed.
- h. Items with a value in excess of five hundred dollars (\$500) which are herein permitted to be sold may be sold after advertising said item in a general circulation newspaper on at least two (2) occasions. Such sales shall be by closed bid.

(Code 2021)

10-204 CLAIMING PROPERTY. The Police Department shall be required to make reasonable attempts to locate the owner of any property in storage. However, the responsibility for claiming and identifying any such property shall rest solely with the owner. (Code 2021)

10-205 PROOF OF OWNERSHIP. Claimants to any property in police storage shall be required to present reasonable proof of ownership and no property shall be released unless such reasonable proof is presented. (Code 2021)

10-206 AUCTION. At such time as it has been determined that an auction is necessary to dispose of unclaimed property, an inventory listing of all property to be disposed of shall be prepared and kept on file in the Police Department. Notice of an auction shall be published at least twice (2) in a general circulation newspaper prior to the date of the auction. The notice shall specify the date, time and place of the auction and shall also notify prospective buyers or potential claimants that a list of items to be auctioned is available at the Police Department and any claims on property must be made prior to the start of the auction. (Code 2021)

**CHAPTER XI**

**PUBLIC OFFENSES**

- Article 1. UNIFORM PUBLIC OFFENSE CODE
  - Article 2. LOCAL REGULATIONS
  - Article 3. NOISE
  - Article 4. LOITERING
  - Article 5. DRUGS AND CONTROLLED SUBSTANCES
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**ARTICLE 1. UNIFORM PUBLIC OFFENSE CODE**

11-101 UNIFORM CODE INCORPORATED. There is hereby incorporated by reference the "Uniform Public Offense Code for Kansas Cities," revised, prepared and published by the League of Kansas Municipalities, in the most recent version incorporated by ordinance. No fewer than three (3) copies of said uniform code shall be marked or stamped "Official Copy as adopted by the Code of the City of Hoyt," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change shall be filed with the City Clerk's office and open for public inspection at all reasonable office hours.

(Code 2021)

**ARTICLE 2. LOCAL REGULATIONS**

11-201 REMOVING BARRICADES. It shall be unlawful for any person or persons to remove, throw down, run over, or interfere with any barricade or barricades erected by the City, or any contractor executing a municipal contract, placed to guard and protect any grading, paving, sidewalk construction, or other public work, and any person or persons who shall violate the provisions of this Section shall, upon conviction thereof, be deemed guilty of a misdemeanor.

(Code 2021)

### ARTICLE 3. NOISE

11-301 EXCESSIVE AND UNNECESSARY NOISE PROHIBITED. It shall be unlawful for any person to make, continue, maintain or cause to be made or continued any excessive, unnecessary, unreasonable or unusually loud noise or any noise that annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the City of Hoyt.

(Code 2021)

11-302 STANDARDS. The standards which shall be considered in determining whether a noise constitutes a violation of this section and article shall include, but shall not be limited to, the following:

- a. The volume of the noise;
- b. The intensity of the noise;
- c. Whether the nature of the noise is usual or unusual;
- d. Whether the origin of the noise is natural or unnatural;
- e. The volume and intensity of the background noise, if any;
- f. The proximity of the noise to residential sleeping facilities;
- g. The nature and zoning of the area from which the noise emanates;
- h. The density of the inhabitation of the area from which the noise emanates;
- i. The time of day or night the noise occurs;
- j. The duration of the noise;
- k. Whether the noise is recurrent, intermittent or constant; and
- l. Whether the noise is produced by a commercial or noncommercial activity.

(Code 2021)

11-303 AMPLIFIED NOISES. It shall be unlawful for any person to use, operate or permit the use or operation of any electronic device, digital device, radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or general public 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 the machine or device is operated and who are voluntary listeners.

- a. The operation of any such set, instrument, machine or device between the hours of 11:00 pm and 7:00 am in such manner as to be plainly audible at a distance of fifty (50) feet from the building or structure or twenty-five (25) feet from the vehicle in which it is located shall be prima facie evidence of a violation of this section.
- b. Persons shall mean any individual and/or the parent(s) or custodian(s) of any individual under the age of eighteen (18) who is living with such parent(s) or custodian(s).
- c. The provisions of this article shall not apply to noise and sounds made or generated by public festivals. "Public festival" shall mean any celebration, fair, event or festival that is open to the general public and is recognized by resolution or proclamation as a public festival by the Governing Body of the City.

(Code 2021)

#### 11-304 EXHAUST DEFECTS IN VEHICLE; LOUD VEHICLES.

- a. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle which creates loud noises which are described in section 11-0301 is unlawful.
- b. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or customized in such manner as to create loud and unnecessary grating, grinding, rattling or other noises in unlawful.

(Code 2021)

11-306 YELLING, SHOUTING, ETC. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 pm and 7:00 am, or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity, is unlawful. (Code 2021)

11-307 IN PROXIMITY TO SCHOOLS, COURTS, CHURCHES. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same

is in use, or which disturbs the workings of such institution, provided conspicuous signs are displayed in such streets indicating that the street is a school, church or court street, is unlawful.  
(Code 2021)

11-308 KEEPING OF ANIMALS. The keeping or harboring of any animal which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity is unlawful. (Code 2021)

11-309 PENALTY. Upon conviction of a violation of this section, the court shall impose a fine of not less than one hundred dollars (\$100), nor more than four hundred ninety-nine dollars (\$499). Upon a second conviction, within a three (3) year period, the court shall impose a fine of not less than two hundred dollars (\$200), nor more than four hundred ninety-nine dollars (\$499).  
(Code 2021)

#### **ARTICLE 4. LOITERING**

11-401 DEFINITION. Loitering is loading, wandering, standing or remaining idle, either alone or in concert with others, in a public place in such manner so as to:

- a. Obstruct any public street, public highway, public sidewalk or public building or any other public place of public access by hindering or impeding or by action that tends to hinder or impede the free and uninterrupted passage of vehicles, traffic, or pedestrians.
- b. Committing in or upon any public street, public highway, public sidewalk or public building or any other place of public access any act or thing which is an obstruction or interference to the free and uninterrupted use of property or interference with any business lawfully conducted by anyone in or upon or facing or fronting any such public street, public highway, public sidewalk or public building or any other place of public access, any of which prevents the free and uninterrupted ingress, egress, and regress therein, thereon, or thereto.

(Code 2021)

11-402 ORDER OF LAW ENFORCEMENT OFFICER. When any person causes any of the conditions or commits any of the acts enumerated in Section 11-401, a law enforcement officer shall order that person to stop causing such conditions or committing such acts and to move on or disperse. Any person who fails or refuses to obey such order is guilty of a violation of this article. (Code 2021)

11-403 VIOLATION; PENALTY. Any person violating any provision of this Article shall be punished as provided in Section 1-116 of this City Code. (Code 2021)

## **ARTICLE 5. DRUGS AND CONTROLLED SUBSTANCES**

The “Uniform Public Offense Code for Kansas Cities,” as incorporated by Section 11-101, is hereby supplemented by the following:

11-501 DEFINITIONS. Words and phrases used herein shall have the same meaning as their corresponding definitions set forth in K.S.A. 21-5701, K.S.A. 65-4101, K.S.A. 65-4105, K.S.A. 65-4107, K.S.A. 65-4109, K.S.A. 65-4111, K.S.A. 65-4113 and amendments thereto.  
(Ord. 299; Code 2021)

11-502 CONTROLLED SUBSTANCES AND CONTROLLED SUBSTANCE ANALOGS PROHIBITED. Except as authorized by the Kansas Uniform Controlled Substances Act, K.S.A. 65-4101 through 65-4149, and amendments thereto, it shall be unlawful for any person to possess or have under such person's control, prescribe, administer, deliver, distribute, dispense, compound, sell, offer for sale or have in such person's possession with intent to sell, deliver or distribute, any controlled substance or controlled substance analog, within the city limits of the City of Hoyt, provided K.S.A. 21-5705 to 21-5708 classifies the offense as a misdemeanor.  
(Ord. 299; Code 2021)

11-503 DRUG PARAPHERNALIA; USE OR POSSESSION PROHIBITED.

(a) It shall be unlawful for any person to use or possess with intent to use:

(1) 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 Kansas Uniform Controlled Substances Act; or

(2) Any drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, sell or distribute a controlled substance in violation of the Kansas Uniform Controlled Substances Act.

(b) The provisions of subsection (a) shall apply only if the offense is classified as a misdemeanor by K.S.A. 21-5709 and amendments thereto.

(Ord. 299; Code 2021)

11-504 DRUG PARAPHERNALIA; PROHIBITED ACTS.

(a) It shall be unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver or cause to be delivered:

(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. 21-5710, and amendments thereto;

(2) Any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Kansas Uniform Controlled Substances Act, and amendments thereto; or

(3) Any drug paraphernalia, knowing or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, sell or distribute a controlled substance in violation of the Kansas Uniform Controlled Substances Act.

(b) The provisions of subsection (a) shall apply only if K.S.A. 21-5709 and/or K.S.A. 21-5710, and amendments thereto, classify the offense as a misdemeanor.

(Ord. 299; Code 2021)

11-505 FACTORS FOR DETERMINING WHAT CONSTITUTES DRUG PARAPHERNALIA.

In determining whether an object is drug paraphernalia, the court shall consider the factors set forth in K.S.A. 21-5711, and amendments thereto, in addition to any other logically relevant factors.

(Ord. 299; Code 2021)

11-506 DISTRIBUTION OR POSSESSION OF A SIMULATED CONTROLLED SUBSTANCE.

(a) It shall be unlawful for any person to distribute, possess with the intent to distribute, possess with the intent to use or manufacture with the intent to distribute any simulated controlled substance.

(b) The provisions of subsection (a) shall apply only if K.S.A. 21-5713, and amendments thereto, classify the offense as a misdemeanor.

(Ord. 299; Code 2021)

11-507 REPRESENTATION THAT NONCONTROLLED SUBSTANCE IS A CONTROLLED SUBSTANCE.

(a) It shall be unlawful for any person to knowingly deliver or cause to be delivered 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; or

(2) Under circumstances which would give a reasonable person reason to believe that the substance is a controlled substance.

(b) 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 reason to believe that a substance is a controlled substance:

(1) The substance was packaged in a manner normally used for the illegal delivery of controlled substances.

(2) 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.

(3) The physical appearance of the capsule or other material containing the substance is substantially identical to a specific controlled substance.

(c) The provisions of subsection (a) shall apply only if K.S.A. 21-5714, and amendments thereto, classify the offense as a misdemeanor.

(Ord. 299; Code 2021)

11-508 PENALTIES. Any person who violates any of the provisions of the above within the corporate limits of the city shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$2,500.00, or by imprisonment not to exceed one year, or both such fine and imprisonment.

(Ord. 299; Code 2021)

**CHAPTER XII.**

**PUBLIC PROPERTY**

Article 1.	CITY PARK
Article 2.	CITY HALL

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**ARTICLE 1. CITY PARK**

12-101 CITY LAWS EXTENDED TO PARK. The laws of the City of Hoyt shall extend to and cover all city parks within the City of Hoyt. (Code 2021)

12-102 POLICE JURISDICTION OVER PARKS. The City shall have police regulations governing any public parks belonging to the City and the Chief of Police and law enforcement officers of the City shall have full power to enforce City laws governing City parks and shall maintain order therein. (Code 2021)

12-103 DAMAGING PARK PROPERTY. It shall be unlawful for any person, except duly authorized City employees, to willfully or wantonly remove, injure, tarnish, deface or destroy any building, walk, bench, tree or improvement or property of any kind belonging to any park owned by the City. (Code 2021)

12-104 DANGEROUS WEAPONS NOT ALLOWED.

- a. Except as provided in subsection (b), it shall be unlawful for any person to carry or have in his or her possession any firearm or dangerous weapon or to shoot or discharge the same within the limits of any City parks.
- b. The provisions of subsection (a) above shall not apply to duly authorized law enforcement officers in the performance of official duty.

(Code 2021)

12-105 VEHICLE REGULATIONS.

- a. Motor vehicles, including any vehicle licensed to operate on public streets, roads and highways and motorbikes, go-carts, and other motorized off-road vehicles shall be operated in a safe and prudent manner at all times in park areas.
- b. Except as provided in subsection (d), it shall be unlawful for any person to park any motor vehicle in any area not designated for such purpose.
- c. Except as provided in subsection (d), it shall be unlawful for any person to operate any motor vehicle, including any vehicle licensed to operate on public streets, roads and highways and motorbikes, go-carts, and other motorized off-road vehicles within any City park except upon roads, drives and parking areas established by the City.
- d. Subsections (b) and (c) above shall not apply to authorized City employees while engaged in the maintenance and care of the park or to duly authorized law enforcement officers in the performance of official duty.
- e. It shall be unlawful to operate any such vehicle in any park area at a speed in excess of fifteen (15) miles per hour.

(Code 2021)

12-106 HUNTING. It shall be unlawful for any person to pursue, catch, trap, maim, kill, shoot or take any wildlife, either bird or animal, in any manner at any time while in any City park.

(Code 2021)

12-107 FIRES. Unless otherwise having been approved by the Governing Body, it shall be unlawful for any person to build or kindle any fire in any City park except in the ovens, stoves, or grills provided for that purpose by the City, and such fire must be extinguished by the person, persons, or parties starting such fire, immediately after use thereof.

(Code 2021)

12-108 CAMPING PROHIBITED. Overnight camping is hereby prohibited in City parks except where posted. (Code 2021)



12-109 SANITATION. All waste material, paper, trash, rubbish, tin cans, bottles, containers, garbage and refuse of any kind whatsoever shall be disposed of in disposal containers provided for such purposes. No such waste or contaminating material shall be discarded otherwise. No sticks, stones, trash or other objects shall be thrown or discarded in or on any park lands, fountains, pools, drinking fountains, sanitary facilities, or other improvements. (Code 2021)

12-110 PROHIBITION AGAINST ALCOHOLIC BEVERAGES AND CEREAL MALT BEVERAGES. It shall be unlawful for any person or persons to use, consume or have on the premises of any park or other City property within the City any alcoholic liquor or cereal malt beverage. (Code 2021)

12-111 GLASS CONTAINER PROHIBITION. It shall be unlawful for any person to possess or bring any glass container of any kind upon any City park. (Code 2021)

12-112 PRESERVATION OF NATURAL STATE. It shall be unlawful for any person, except duly authorized City agents or City employees, to take, injure, or disturb any live or dead tree, plant, shrub, or flower, or wild bird, fowl, or animal, or otherwise interfere with the natural state of City parks. (Code 2021)

12-113 GENERAL REGULATIONS. The City may post such rules and regulations, as are approved by the Governing Body, pertaining to the use of the City parks in a conspicuous place in each City park. Violations of these posted rules shall constitute a violation of this code. (Code 2021)

12-114 TIME CITY PARKS ARE TO BE OPENED AND CLOSED. All City parks shall be opened to the public every day during the year from 6:00am to 10:00pm, or during such other hours as the Governing Body may from time to time fix by resolution. At all other times the City parks shall be closed to the public, and all persons other than law enforcement officers and personnel, fire fighters, and authorized City employees and authorized personnel, shall remain out of the public parks of the City during the time the City parks shall be closed.

(Code 2021)

**CHAPTER XIII.**

**STREETS AND SIDEWALKS**

- Article 1. STREETS
- Article 2. SIDEWALKS
- Article 3. TREES AND SHRUBS
- Article 4. SNOW AND ICE

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**ARTICLE 1. STREETS**

13-101 EXCAVATION PERMIT. No person, other than authorized City employees, shall dig or excavate any hole, ditch, trench or tunnel in or under any street, alley, sidewalk, park or other public property or public easement through private property without first having secured a permit for such excavation. Application shall be made to the City Clerk. (Code 2021)

13-102 SAME; BOND.

- a. The city may require a bond conditioned that the applicant will faithfully comply with all the terms and conditions of this article, and will indemnify and hold the City harmless against all costs, expenses, damages and injuries by persons or by the City sustained by reason of the carelessness or negligence of the permit holder. No bond for this purpose shall run for longer than two (2) years after the same has been made or completed.
- b. Any utility operating under a franchise or a contractor under contract with the City for municipal improvement shall not be required to give a bond as provided in subsection (a).
- c. Each bond given under this section shall be approved by the City Clerk and filed in the City Clerk's office.

(Code 2021)

13-103 SAME; FILED. If the application is approved by the City, the City Clerk shall issue a permit upon payment of a fee in an amount to be determined by the City Rate and Fee Schedule. Each permit issued under the provisions of this section shall cover only one specified excavation. (Code 2021)

13-104 SAME; BARRICADES. Any person to whom an excavation permit is issued shall enclose all excavations which they make with sufficient barricades and danger signs at all times, and shall maintain sufficient warning lights or flares at nighttime. The holder of an excavation permit shall take all necessary precautions to guard the public against all accidents from the beginning of the work to the completion of the same. (Code 2021)

13-105 SAME; UNLAWFUL ACTS. It shall be unlawful for any person, except those having authority from the City or any officer thereof to throw down, interfere with or remove any barriers, barricades, or lights placed in any street to guard and warn the traveling public of any construction work thereon or adjacent thereto. (Code 2021)

13-106 CUTTING CURBS; PAVEMENT.

- a. No person shall cut any curb, gutter, pavement, blacktop, sidewalk or excavate any street, alley or other public grounds of the City for any purpose without first obtaining a permit authorizing the same from the City Clerk.
- b. Once the work for which the excavation was made has been completed the City shall restore the pavement, blacktop, sidewalk or other surfacing at the expense of the person from whom the excavation was made.
- c. In lieu of the City replacing pavement, it may elect to authorize utility companies or contractors to resurface streets or sidewalks with like materials, subject to approval of the street superintendent.

(Code 2021)

13-107 ALTERING DRAINAGE. No person shall change or alter any gutter, storm sewer, drain or drainage structure which has been constructed, or is being lawfully maintained or controlled by the City unless such change or alteration has been authorized or directed by the Governing Body. (Code 2021)

13-108 UNFINISHED PAVEMENT. No person shall walk upon, drive or ride over or across any pavement, sidewalk or incomplete grading which has not been opened for traffic. (Code 2021)

13-109 USING STREETS.

- a. No person shall occupy any portion of any street, alley or sidewalk for the purpose of temporarily storing building materials without first obtaining a permit for such temporary use from the Governing Body.
- b. No person may use any portion of any sidewalk or street right-of-way for the purpose of displaying or offering for sale wares, goods, merchandise or other items. Nothing in this article, however, shall be construed as prohibiting the City Governing Body from temporarily waiving the prohibition of this subsection in connection with community promotions or community-wide celebrations when such waiver is considered to be in the best interest of the City.

(Code 2021)

13-110 DANGEROUS OBJECTS IN. It shall be unlawful for any person to place, throw or cause to be placed or thrown in or on any street, alley, sidewalk or other public grounds of the City, any glass, tacks, nails, bottles, wire or other dangerous objects that might wound any person or animal, or city or puncture any pneumatic tire while passing over the same. (Code 2021)

13-111 PETROLEUM PRODUCTS IN STREETS. It shall be unlawful for any person, firm or corporation to deposit or throw any waste oil, fuel oil, kerosene, gasoline or other products of petroleum or any acids into or upon any street or sidewalk or public grounds of the City, or to willfully permit the same to be spilled, dripped or otherwise to come into contact with the surface of any street, alley, or sidewalk within the City. (Code 2021)

13-112 DISCHARGING WATER ON STREETS. It shall be unlawful for any person, firm or corporation to throw or discharge water into any ditch, street, avenue or alley in the City or to cause any water to stand or form pools or to flow in a stream thereon. This section shall not apply to persons cleaning or flushing such streets, avenues or alleys under the authority of the Governing Body, nor to members of the Fire Department.

13-113 BURNING IN STREETS. It shall be unlawful for any person to make or cause to be made, any fire upon any of the paved streets, alleys, or street intersections within the City.  
(Code 2021)

13-114 THROWING IN STREETS. It shall be unlawful to throw or bat any ball, stone, or other hard substance into, on, or across any street or alley or at or against any building or vehicle.  
(Code 2021)

13-115 HAULING LOOSE MATERIAL. It shall be unlawful to haul over the streets or alleys of this City any loose material of any kind except in a vehicle so constructed or maintained as to prevent splashing, spilling, or scattering of any of the substances therein contained upon the streets or alleys. (Code 2021)

13-116 ALLEYS. It shall be the duty of the owner of property abutting any alleys to keep the alley in repair and maintained free of any violations of City codes. It shall be unlawful for any person to place, build, or construct any improvement or obstruction on any public alley, whether temporary or permanent, or to excavate in said alley without a validly issued permit from the City for excavation in the City right-of-way.

## **ARTICLE 2. SIDEWALKS**

13-201 PERMIT REQUIRED. It shall be unlawful to construct, reconstruct or repair any sidewalk within the City until the plans first have been approved by the Governing Body and a permit for such work issued by the City Clerk. (Code 2021)

13-202 SIDEWALK GRADE. Hereafter all sidewalks constructed or reconstructed in the City shall be construed on the established grade. When the Governing Body shall order a sidewalk constructed as hereafter provided, the City shall pay the cost of bringing the street to grade for the sidewalk. Where no grade has been established, the owner of abutting property may construct a sidewalk on the natural grade. if the grade has been established, the City Clerk shall furnish the property owner with the official grade by reference to a stated distance above or below the street grade. (K.S.A. 12-1801, 12-1807; Code 2021)

13-203 SAME; SPECIFICATIONS. Hereafter all sidewalks shall be of single course construction and shall be constructed and laid in accordance with standard plans and specifications hereby adopted by reference and filed in the office of the City Clerk as provided by K.S.A. 12-1802. It shall be unlawful for any person, firm or corporation to construct, reconstruct or repair any sidewalk except as provided by this article. (Code 2021)

13-204 SAME; PETITION. When a petition signed by no fewer than ten (10) citizens owning real estate in the City requesting construction of a sidewalk is filed with the City Clerk, the Governing Body may in its discretion, by a resolution, order such sidewalk constructed as herein provided. (K.S.A. 12-1803; Code 2021)

13-205 SAME; CONDEMNATION, RECONSTRUCTION. When any sidewalk, in the opinion of the Governing Body may adopt a resolution condemning such sidewalk and providing for the construction of a new sidewalk in the place of the sidewalk condemned. (K.S.A. 12-1804; Code 2021)

13-206 NOTICE; PUBLICATION. The resolution providing for the construction or reconstruction of a sidewalk, as the case may be, shall give the owner of the abutting property not less than thirty (30) days nor more than sixty (60) days after its publication one time in the official City paper in which to construct or cause to be constructed or reconstructed the sidewalk at his or her own expense. If the sidewalk is not constructed by the property owner within the time specified, the Governing Body shall cause the work to be done by contract. (K.S.A. 12-1805; Code 2021)

13-207 RIGHT OF ABUTTING OWNER. Nothing in this article shall be construed to prohibit the owner of property abutting on a street, who desire to construct or reconstruct a sidewalk at his or her own expense and in accordance with official plans and specifications for the purpose and which meet such other requirements as would have to be met if the sidewalk were constructed or reconstructed by the City, to construct or reconstruct a sidewalk without any petition or a condemning resolution by the Governing Body. If such property owner desires the sidewalk to be constructed and reconstructed by the City and an assessment levied as provided by law in other cases, he or she shall file a request with the Governing Body. The Governing Body, in its discretion, may provide for the construction or reconstruction of the sidewalk requested in the same manner as in other cases where citizens or taxpayers petition the Governing Body. (K.S.A. 12-1806; Code 2021)

13-208 REPAIRS BY OWNER OR CITY. It shall be the duty of the owner of the abutting property to keep the sidewalk in repair, but the City may, after giving five (5) days' notice to the owner or his or her agent, if known, of the necessity for making repairs or without notice if the lot or piece of land is unoccupied, make all necessary repairs at any time. The same shall be done and the cost thereof assessed against the lot or piece of land abutting on the sidewalk so repaired as may be provided by law. (K.S.A. 12-1808; Code 2021)

13-209 PERFORMANCE, STATUTORY BOND. In any case where the reconstruction or construction of a sidewalk is required to be done by contract as provided in section 13-206 hereof, the Governing Body may require the contractor to give a bond for the faithful performance of the contract and for the construction of a sidewalk in accordance with the plans and specifications, ordinances of the City or laws of Kansas, and for all contracts exceeding one thousand dollars

(\$1,000) entered into the City for such purpose a statutory lien bond required by K.S.A. 60-1111 shall be furnished. (Code 2021)

13-210 OBSTRUCTING SIDEWALKS. It shall be unlawful for any person to build or construct any step or other obstruction, whether temporary or permanent, or to store, leave or allow to be left any implements, tools, merchandise, goods, containers, display or show cases, on any sidewalks or other public ways in the City or to obstruct the same longer than necessary for the loading or unloading such article or object. (Code 2021)

13-211 SAME; EXCEPTION. The Governing Body may authorize the granting of temporary permits in connection with a building or moving permit for limited times only to the owner of property abutting on any sidewalk to use or encumber such sidewalk or public way of the City during the construction of any building or improvement thereon. No permit shall be issued for such purpose until plans for warning and safeguarding the public during such use of sidewalks shall have been submitted by the owner or his or her contractor and approved by the Governing Body. (Code 2021)

13-212 SAME; EXCEPTION. Store merchandise may be displayed temporarily on the sidewalk providing:

- a. Such merchandise covers no more than thirty-five percent (35%) of the sidewalk from the store to the curb; and
- b. Such merchandise is removed from the sidewalk at the end of each working day.
- c. Vending Machines may be displayed on the sidewalk providing such vending machines cover no more than thirty-five percent (35%) of the sidewalk from the store to the curb.

(Code 2021)



### **ARTICLE 3. TREES AND SHRUBS**

13-301 PUBLIC TREE CARE. The City shall have the right to plan, prune, maintain, and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to ensure safety when servicing city utilities or to preserve the symmetry and beauty of public grounds. The City may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest. (Code 2021)

3-302 DISEASED TREES; DETERMINATION. Whenever any competent City authority or competent State or Federal authority shall file with the Governing Body a statement in writing based upon a laboratory test or other supporting evidence that trees or tree materials or shrubs located upon private property within the City are infected or infested with or harbor any tree or plant disease or insect or larvae, the uncontrolled presence of which may constitute a hazard to or result in the damage or extinction of other trees or shrubs in the community, describing the same and where located, the Governing Body shall direct the City Clerk to forthwith issue notice requiring the owner or agent of the owner of the premises to treat or to remove any such designated tree, tree material or shrub within a time specified in the notice. (Code 2021)

13-303 SAME; NOTICE SERVED. Notice shall be served by the Public Officer as follows:

- a. Personal service upon the person in violation;
- b. Service by residential service (tacking and mailing via certified mail); or
- c. Service by certified mail (return receipt requested).
- d. In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, or if the same be unoccupied or the owner a non-resident of the City, then the City Clerk shall notify the owner by mailing the notice by certified mail to his or her last known address.

(Code 2021)

13-304 SAME; FAILURE OF OWNER, DUTY OF CITY. If the owner or agent shall fail to comply with the requirements of the notice within the time specified in the notice, then the Public Officer shall proceed to have the designated tree, tree material or shrub treated or removed and report the cost thereof to the City Clerk. In lieu of City employees performing any such work, the Governing Body may contract with any competent person, company or corporation for the performance of such work. (Code 2021)

13-305 SAME; PREVENT SPREAD OF DISEASE. No tree, tree materials or shrubs as mentioned herein which have been cut down, either by the property owner or by the City shall be permitted to remain on the premises, but shall immediately be treated, removed or burned upon the premises, if safe to do so as to prevent the spread of the tree disease. (Code 2021)

13-306 DANGEROUS, DEAD OR DISEASED TREES ON PRIVATE PROPERTY.

- a. Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of fourteen (14) feet above the surface of the street or right-of-way. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign.
- b. The City shall have the right to cause the removal of any dangerous, dead or diseased trees on private property within the City, when such trees constitute a hazard to life and property. The City will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove the trees and charge the cost of the removal on the owner's property tax notice.

(Code 2021)

13-307 TREES ON PUBLIC PROPERTY; COST BORNE BY CITY. The City shall have the authority to treat or remove any tree as defined in section 13-301 of this article, or to remove any dead tree as mentioned herein, which is located within the limits of any public right-of-way within the City. The adjacent property owners shall not be responsible for the cost of treatment or removal of any such trees within the public right-of-way and this expense shall be borne by the City at large. (Code 2021)

13-308 COSTS ON TAX ROLLS. The City Clerk shall, at the time of certifying other City taxes to the County Clerk, certify the unpaid costs for treatment or removal performed under the authority of section 13-304 through 13-306, and the County Clerk shall extend the same on the tax roll of the County against the lot or parcel of ground. The cost of such work shall be paid from the General Fund or other proper fund of the City, and such fund shall be reimbursed when payments therefor are received or when such assessments are collected and received by the City. (Code 2021)

13-309 INJURING TREES AND SHRUBS. No person shall willfully break, cut, take away, destroy, injure, mutilate, or attempt to willfully break, cut, take away, destroy, injure, or mutilate any tree, shrub, vine, flower, or landscaping standing, growing or being upon the premises in the possession of another, or growing on any public ground, street, sidewalk, promenade, or park in the City. (Code 2021)

13-310 FIRE HYDRANTS, PLANTINGS ADJACENT TO. No person shall plant or cause to be planted nor allow to grow upon property owned by him or her any shrubs, trees, or planting of any kind within ten (10) feet of any fire hydrant in the City, in order that every fire hydrant shall be in full view day or night, to fire apparatus approaching from any direction. (Code 2021)

## ARTICLE 4. SNOW AND ICE

### 13-401 SNOW AND ICE TO BE REMOVED.

- a. It shall be unlawful for the owner and/or the occupant of any lots abutting upon any sidewalks to fail to cause to be removed from such sidewalks all snow and ice within twelve (12) hours from the time that the snow falls or ice storm ceases. If the snow falls or ice accumulates upon the sidewalks in the nighttime, removal of same must be made within twelve (12) hours after sunrise of the following day.
- b. It shall be unlawful for any person to place snow removed from private property upon any public street, alley or sidewalk.

(Code 2021)

13-402 SAME; EXCEPTION; ALTERNATE REMEDY. Where there shall be ice or compacted snow on any such sidewalk of such character as to make it practically impossible to remove the same; the sprinkling of ashes, sand or other noncorrosive chemicals on the accumulation of snow or ice in such a manner as to make such sidewalk reasonably safe for pedestrian travel shall be deemed a sufficient compliance with the provisions of this article until the snow or ice can be removed. (Code 2021)

13-403 SAME; PENALTY. That any person violating the provisions of section 13-401 shall, upon conviction, be fined in the amount of twenty-five dollars (\$25). (Code 2021)

13-404 REMOVAL MAY BE MADE BY CITY. If any owner or occupant of any lot or lots shall refuse or neglect to clean or remove from the sidewalk abutting the lot or lots all snow and ice within the time specified, the City may cause such snow and ice to be removed from sidewalks and the cost thereof shall be assessed against such abutting lot or lots, and the City Clerk shall certify the same to the County Clerk for collection as provided by law. (Code 2021)

13-405 COSTS ON TAX ROLLS. The City Clerk shall, at the time of certifying other City taxes to the County Clerk, certify the unpaid costs for removal of snow and ice performed under the authority of section 13-404, and the County Clerk shall extend the same on the tax roll of the County against the lot or parcel of ground. The cost of such work shall be paid from the General Fund or other proper fund of the City, and such fund shall be reimbursed when payments therefore are received or when such assessments are collected and received by the City. (Code 2021)

## **CHAPTER XIV      TRAFFIC**

Article 1.	STANDARD TRAFFIC ORDINANCE
Article 2.	LOCAL TRAFFIC REGULATIONS
Article 3.	IMPOUNDMENT OF MOTOR VEHICLES
Article 4.	HAZARDOUS MATERIALS

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### **ARTICLE 1. STANDARD TRAFFIC ORDINANCE**

14-101 INCORPORATING STANDARD TRAFFIC ORDINANCE. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Hoyt, Kansas, that certain standard traffic ordinance known as the “Standard Traffic Ordinance for Kansas Cities,” prepared and published by the League of Kansas Municipalities, in the most recent version incorporated by ordinance, save and accept such articles, sections, parts or portions as are hereafter modified or changed. No fewer than three (3) copies of said Standard Traffic Ordinance shall be marked or stamped “Official Copy as Adopted by Ordinance No. \_\_\_\_\_,” with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this Ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The police department, municipal judge, and all administrative departments of the City charged with enforcement of the Ordinance shall be supplied, at the cost of the City, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient. (Code 2021)

14-102 SAME; TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES.

- a. An ordinance traffic infraction is a violation of any section of this article that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118.
- b. All traffic violations which are included within this article, and which are not ordinance traffic infractions as defined in subsection (a) of this section, shall be considered traffic offenses.

(Code 2021)

## ARTICLE 2. LOCAL TRAFFIC REGULATIONS

### 14-201 PARKING

- a. A No Parking Zone is designated on the east side of Highland Avenue from the Intersection of First Street and Highland Avenue to a point one hundred and forty-five (145) feet north on Highland Avenue in the City of Hoyt Kansas.
  1. In accordance with the provisions of Article 13, Section 96 of the Standard Traffic Ordinance, as incorporated by the City of Hoyt, that one hundred and forty-five (145) foot section of the east side of Highland Avenue is hereby designated as a No Parking Zone.
  2. A fine for violation of this section shall be as identified in the Standard Traffic Ordinance for Kansas cities, the most current adopted by the City of Hoyt and also any fine schedule that may be adopted by the city and supplemental thereto.
- b. A Permit-Only Parking Zone is designated on both sides of Highland Avenue from the intersection of First Street and Highland Avenue to the intersection of Second Street and Highland Avenue in the City of Hoyt, Kansas, such parking restrictions to be effective all day Monday through Friday.
  1. The section of Highland Avenue from the intersection of First Street and Highland Avenue to the intersection of Second Street and Highland Avenue in the City of Hoyt shall be designated a permit-only parking area Monday through Friday.
  2. A fine for violation of this ordinance shall be as identified in the Standard Traffic Ordinance for Kansas cities, the most current adopted by the City of Hoyt and also any fine schedule that may be adopted by the city and supplemental thereto.
  3. The City of Hoyt shall issue up to two parking permits per household for residences abutting the permit-only parking area.

(Code 2021)

14-202 TWO-WAY STOP AT THE INTERSECTION OF EAST FIFTH STREET AND ANNETTA AVENUE.

- a. In accordance with the provisions of Article 10, Section 59 of the Standard Traffic Ordinance, the intersection at East Fifth Street and Annetta Avenue is designated as a stop intersection and the drivers of northbound and southbound vehicles at said intersection shall stop as provided by Section 59 before entering the intersection,
- b. A fine for violation of this provision shall be identified in the Standard Traffic Ordinance for Kansas cities, the most current adopted by the City of Hoyt and also any fine schedule that may be adopted by the city and supplemental thereto.

14-203 SPEED LIMIT ON SIXTH STREET TERRACE

- a. The speed limit on 6<sup>th</sup> Street Terrace from North Eastern Avenue eastward to the eastern border of the city limits of the City of Hoyt, Kansas shall be twenty (20) miles per hour.
- b. A fine for violation of this provision shall be as identified in the Standard Traffic Ordinance for Kansas cities, the most current adopted by the City of Hoyt and also any fine schedule that may be adopted by the city and supplemental thereto.

**ARTICLE 3. IMPOUNDMENT OF MOTOR VEHICLES**

14-301 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this article, have the meanings indicated in this section:

- a. Highway shall mean 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 vehicle travel. Where the word "highway" or the word "street" is used in this article, it means street, avenue, boulevard, thoroughfare, alley, and other public way for vehicle travel by whatever name, unless the context clearly indicates otherwise.
- b. Motor Vehicle shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively on stationary rails or tracks.



- c. Owner or Occupant shall mean a party having fee simple title in the real property, or a party having a leasehold interest in the real property, or a party who is the beneficiary of a private easement for the purpose of egress or ingress to or from said real property.

(Code 2021)

14-302 IMPOUNDING VEHICLES. The Police Department may cause to be impounded:

- a. Any motor vehicle unlawfully parked on a highway in violation of any provision of a City ordinance which prohibits the parking of vehicles at the place where or time when the impounded motor vehicle is found;
- b. Any motor vehicle that has been abandoned and left on a highway or other property open to use by the public for a period in excess of forty-eight (48) hours pursuant to K.S.A. 8-1102;
- c. Any motor vehicle which:
  - 1. is subject to removal pursuant to K.S.A. 8-1570, or 8-1102; or
  - 2. is subject to seizure and forfeiture under the law of the State; or
  - 3. is subject to being held for use as evidence in a criminal trial.
- d. Any motor vehicle, the continued presence of which, because of the physical location or condition of the motor vehicle, poses a danger to the public safety or to the motor vehicle;
- e. Any motor vehicle which has been abandoned or parked on any real property, other than public property or property open to use by the public, may be removed and disposed of in accordance with the terms of this article by the Police Department upon the request of the owner or occupant of such real property. The real property referred to herein shall not be owned or leased by the person who abandons or parks said vehicle or by the owner or lessee of such vehicle. The City or any person, partnership, corporation or their agent conducting a business enterprise for the purpose of towing vehicles which removes such vehicle from the real property at the request of the Police Department shall have a possessory lien of such vehicle for the cost incurred in removing, towing and storing such vehicle. For purposes of this article, common areas shall be construed not to mean public property or property open to the public.

(Code 2021)

14-303 SAME. The Police Department may authorize storage of such impounded motor vehicles at any location, public or private, which is zoned for the storage of motor vehicles. (Code 2021)

14-304 NOTICE OF IMPOUNDMENT; STORAGE OF VEHICLES.

- a. When Owner Present. When the Police Department intends to impound a motor vehicle pursuant to section 14-302 and the owner of the vehicle is then present, the Police Department shall before the motor vehicle is removed, provide the owner with a notice, in the form prescribed by the Police Department that the motor vehicle is being impounded, that towing and storage charges will be assessed against the impounded motor vehicle, that the owner may claim and regain possession of the impounded motor vehicle at the location to which it is being removed for storage without prepayment of towing and storage charges and that the owner may request a hearing as to the propriety of the impoundment and as to the amount of and the owner's liability for the towing and storage charges. The notice shall also state the location where the owner may make his or her request for the hearing. The notice shall also state, in prominent language, that failure by the owner to request a hearing within five (5) days after receipt of the notice may act as a waiver of his or her right to a hearing and that this may result in the placing of a lien against the motor vehicle for the towing and storage charges without further notice to the owner; and that the motor vehicle be sold at public auction to the highest bidder for cash after fifteen (15) days from the date of the mailing of the notice. The owner of the impounded motor vehicle shall sign the notice as an acknowledgement that he or she has received a copy of the notice, and a copy of the notice shall be provided to the owner.
- b. When Owner Not Present. When the Police Department impounds and removes a motor vehicle pursuant to section 14-302 and the owner of the motor vehicle is not present at the time of the impoundment, the Police Department shall, if such motor vehicle has displayed thereon a registration plate with said division, mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the lien holder, if any, of record in the county in which the title shows the owner resides, if registered in this State. The notice shall be in the form prescribed by the Police Department containing the same information as required by section 14-304(a). The Police Department shall use reasonable diligence in determining the title owner, or if

from a non-title state, the registered owner, of the vehicle, and shall inquire by mail of the Office of the Register of Deeds of the county in which the title shows the owner resides, if registered in this state, as to whether there are any lien holders of record. If the owner cannot be served by certified mail at the address on the motor vehicle registration and there is no other known address of the owner, the owner shall be deemed to be a resident of the state whose whereabouts are unknown and service shall be made on the Secretary of State as provided in K.S.A. 8-401. If the owner does not reside in the state, as appears from the motor vehicle registration and the owner cannot be served by certified mail at the address on the motor vehicle registration and there is no other known address of the owner, the owner shall be deemed a nonresident of the state and service shall be made on the Secretary of State as provided in K.S.A. 8-401.

- c. Failure or Refusal to Sign Notice. If any person required by this section to sign a notice of impoundment willfully fails or refuses to do so, or if such person cannot be found, the Police Department shall note this fact on the face of the notice, which shall constitute prima facie evidence of delivery of service of notice as required by this section.

(Code 2021)

14-305 IMPOUNDMENT AFTER REQUEST TO LEAVE MOTOR VEHICLE. In all cases wherein the owner or operator of a motor vehicle which is on a public street has requested that the motor vehicle be left unattended at that location, in lieu of impoundment of the motor vehicle pursuant to section 14-302, the Police Department may honor said request for a period of time not exceeding twenty-four (24) hours, after which time the motor vehicle shall either be removed from the location by the owner or operator or be impounded by the Police Department pursuant to section 14-304. The Police Department shall be immune from liability for any damage, loss or destruction of the motor vehicle occasioned by its being left unattended pursuant to the request of the owner or operator thereof, in lieu of impoundment. Nothing in this section shall be construed to limit the authority of the Police Department to order the removal of a motor vehicle by its owner or operator or to impound a motor vehicle pursuant to section 14-304 at any time whenever in his or her judgment the presence of an unattended motor vehicle constitutes a danger to the public safety. (Code 2021)

#### 14-306 RELEASE OF MOTOR VEHICLE FROM IMPOUNDMENT.

- a. Generally. Unless the vehicle is impounded pursuant to section 14-302(c) herein, the owner of an impounded motor vehicle may secure the release of the motor vehicle from impoundment upon requesting such release and presenting proof of ownership satisfactory to the custodian of the place of where the motor vehicle is stored. If the custodian is satisfied that the person making the request is the owner or his or her authorized agent, he or she shall release the motor vehicle to the owner or his or her agent. Nothing in the preceding sentence shall preclude the owner of the impounded motor vehicle or his or her agent from paying any towing and storage charges that may be assessed against the motor vehicle, but neither the Police Department nor the custodian of the storage space may require payment of any towing or storage charges as a condition precedent to such release. At the same time as the owner or his or her agent requests release of the impounded motor vehicle, and if such request is made within forty (40) days after the owner receives a copy of the notice of impoundment, the Police Department shall provide him or her an opportunity to make a request for a hearing on the propriety of the impoundment and on the amount of his or her liability for the towing and storage charges occasioned by the impoundment; provided that if the owner or his or her agent requests release of the impounded motor vehicle more than forty (40) days after the owner receives a copy of the notice of impoundment, no hearing may be requested on the impoundment or on the towing and storage charges and the owner shall be conclusively presumed to have consented to the impoundment and to the amount of his or her liability for the towing and storage charges.
- b. Security for Payment of Charges. If the ownership of the impounded motor vehicle is evidenced by a title certificate issued by the Kansas Department of Highway Safety and Motor Vehicles, the owner or his or her agent may secure the release of the motor vehicle from impoundment without the payment of any towing or storage charges or the deposit of any security for the payment thereof. If the ownership of the impounded motor vehicle is evidenced by a foreign title instrument, or if the jurisdiction in which title is recorded is not evidenced from the document establishing ownership, the owner or his or her agent, before the custodian of the place where the motor vehicle is stored authorizes release of the motor vehicle from impoundment, shall deposit with the custodian cash in the amount of the towing and storage charges to the date of the request. If the owner or his or her agent

refuses to provide the cash deposit, the custodian shall not authorize release of the impounded motor vehicle but if request is timely made, a date shall be set for the hearing on the impoundment and charges.

(Code 2021)

#### 14-307 HEARING.

a. If the owner of an impounded motor vehicle or his or her agent timely requests the release of the motor vehicle from impoundment and a hearing on the impoundment and charges, as provided in section 14-306, a date shall be set, not more than five (5) days after the date of the request, for the hearing. The City Attorney shall provide a hearing examiner to conduct the hearings required by this section. At the hearing, the owner, his or her agent, or his or her attorney shall be afforded an opportunity to present, by oral testimony or documentary evidence, his or her objections to:

1. The impoundment of the motor vehicle; and
2. The amount of the towing and storage charges and his or her liability for the payment thereof.

b. If the owner or his or her agent requests the hearing more than five (5) days but no more than forty (40) days after the owner receives a copy of the notice of impoundment, the owner, his or her agent or his or her attorney shall be required at the hearing, as a condition precedent to the presentation of any objections by the owner, to show good cause for the delay in making the request more than five (5) days after the owner received a copy of the notice of impoundment. If good cause cannot be shown, the hearing officer shall dismiss the hearing and make the finding stated in subsection (b) below. Otherwise, the hearing examiner shall proceed to hear the owner's objections. At the conclusion of the hearing on the owner's objections, the hearing examiner shall render his or her decision.

- c. If the hearing examiner finds that the impoundment was improper, he or she shall:
1. Find that the owner is not liable for any towing or storage charges occasioned by the impoundment; and
  2. determine whether and to what extent the City shall bear the expense of the towing and storage charges; or
- d. If the hearing examiner finds that the impoundment was proper, he or she shall establish:

1. The amount of the towing and storage charges to be assessed against the impounded motor vehicle; and
2. The extent of the liability of the owner for payment of the towing and storage charges so established.

e. The decision of the hearing examiner shall be final, and a copy of the decision shall be furnished to the owner of the impounded motor vehicle, to the custodian of the place where the motor vehicle is stored, and to the City Attorney.

f. In the event that the impoundment was pursuant to K.S.A. 8-1102(b), the owner or occupant of the real property upon which the abandoned vehicle was located shall not be assessed the costs of towing and storage of the vehicle. Further, nothing within this article shall be construed to modify or effect the validity of the possessory lien of the person removing such vehicle from the real property established by K.S.A. 8-1102(b).

(Code 2021)

14-308 CHARGES CONSTITUTE A LIEN. The towing and storage charges occasioned by the impoundment of a motor vehicle pursuant to section 14-302 shall be and constitute a lien upon the impounded motor vehicle, except as provided in this section. If the hearing examiner finds pursuant to section 14-307(c) that the impoundment was improper and if he or she determines that the City shall bear all or part of the towing and storage charges, the lien created by this section shall be discharged. If the hearing examiner finds pursuant to section 14-306(d) that the impoundment was proper but that the towing and storage charges should be in an amount less than the amount of the lien, the lien created by this section shall be discharged to the extent that it exceeds the amount established by the hearing examiner. The holder of a lien seated by this section may perfect such lien in any manner provided by law, but he or she may not retain possession of the motor vehicle when it has been released pursuant to section 14-306(a). In the event that the impounded motor vehicle is released from impoundment and the owner or his or her agent has provided security for payment of charges as required by section 14-306(b), the lien created by this section shall also be a lien against the security so provided, subject to being wholly or partially discharged as provided in this section. (Code 2021)

14-309 SATISFACTION OF LIEN; NOTICE OF PUBLIC SALE. The holder of a lien against a motor vehicle by section 14-308, to the extent that such lien has not been discharged as provided in section 14-308 or otherwise satisfied, may enforce such lien in any manner provided by law after sixty (60) days from the date the motor vehicle is impounded by the Police Department. If the owner of the motor vehicle or his or her agent has provided security for the payment of the lien as provided in section 14306(b), the lien shall first be satisfied out of the security so provided and, if any portion of the lien remains unsatisfied and un-discharged, may then be enforced in any manner provided by law. If the motor vehicle against which the lien is created pursuant to section 14-308 is still under impoundment sixty (60) days from the date it is impounded by the Police Department and the owner has not requested release of the motor vehicle from impoundment nor paid the towing and storage charges that are the basis for the lien, the motor vehicle shall be sold at public sale to the highest and best bidder for cash to satisfy the lien. Notice of the sale shall be given in accordance with K.S.A. 8-1102. Publication, required by K.S.A. 8-1102, may be made before the termination of the sixty (60) day period for a sale thereafter. (Code 2021)

14-310 REDEMPTION. If the City is to conduct the sale:

- a. Any holder of a recorded lien or retained title on a motor vehicle to be sold by the City under the provisions of section 14-309 may claim and take possession thereof, upon payment of accrued charges and estimated costs of publication of the notice of sale to the Police Department and the deposit with the Police Department of sufficient assurance by surety bond or otherwise, approved by the City Attorney, that the motor vehicle will be forthcoming for public sale thereof or upon claim of the rightful owner prior to the sale. The Police Department shall, within three (3) days, make a report to the City Treasurer and deliver the charges and costs so paid to the City Treasurer, taking a receipt therefore and filing it, together with a duplicate copy of the report to the City Treasurer, with the records in his or her office. The funds shall be held in a trust account until final disposition of the motor vehicle. Not less than five (5) days before the date for sale of the motor vehicle, the Police Department shall notify the lien holder or retained title holder of the time and place for the sale, and the lien holder or retained title holder shall deliver such motor vehicle to the Police Department at or before 12:00 PM (Noon) of the day before the sale. At the sale the amount paid shall be credited on the bid of the lien holder or retained title holder. If the

lien holder or retained title holder is the successful bidder for the motor vehicle, the Police Department shall report this fact to the City Treasurer and then the funds previously paid by the lien holder or retained title holder shall be relieved of the trust previously impressed and become the same as other funds received by the city for storage costs of impounded motor vehicles. If the motor vehicle is sold for a higher bid to any person other than the lien holder or retained title holder, the Police Department shall report this fact to the City Treasurer, and the lien holder or retained title holder shall be refunded the amount previously paid by him or her out of the trust account.

- b. If the rightful owner of the motor vehicle claims the same before the sale by payment of the accrued charges, the Police Department shall immediately notify the lien holder or retained title holder in possession of the motor vehicle, and he or she shall return the same to the Police Department within twelve (12) hours. The Police Department shall report this redemption by the rightful owner to the City Treasurer, and the lien holder or retained title holder shall be refunded the amount previously paid by him or her out of the trust account.

(Code 2021)

14-311 SALE PROCEEDS. The proceeds of a public sale held pursuant to section 14-309, whether such sale was conducted by the City or by any other person, after payment of the towing and storage charges and costs and expenses incident to the sale, shall be deposited with the City Treasurer, if the owner of the motor vehicle is absent from the sale, for credit to the trust account. The funds deposited in the trust account pursuant to this section shall remain in the account subject to the order of the person legally entitled thereto, but if no claim is made for these funds within a period of one (1) year after the sale, the funds shall become the property of the City, be released from the trust account and be paid into the General Fund as miscellaneous revenues. (Code 2021)

14-312 STATUTORY PROCEDURES. Nothing in this article shall be construed to augment, diminish, supersede, or otherwise interfere with any statutory procedure established by the legislature for the collection of unpaid towing and storage charges. The procedures in this article are supplementary and cumulative to any statutory procedures. (Code 2021)



14-313 IMPLEMENTATION OF ARTICLE. The Police Department and City Treasurer are authorized to make rules for the implementation and administration of this article. (Code 2021)

14-314 REIMBURSEMENT FOR DISCHARGED LIENS. If a lien created by section 14-308 and held by a private wrecker or towing firm is discharged by section 14-308 pursuant to a determination by a hearing examiner that an impoundment was improper and that the City shall bear part all of the towing and storage charges, the City shall pay to the firm the amount determined by the hearing examiner. No payment shall be made until it is authorized by the City Attorney. (Code 2021)

## **ARTICLE 4. HAZARDOUS MATERIALS**

14-401 HAZARDOUS MATERIAL DEFINED. As used in this article, the term hazardous material shall mean any compressed gas, explosive, flammable liquid, flammable solid, oxidizer, poison, radioactive material or any substance that due to its nature may cause death or disability injury upon contact therewith. (Code 2021)

14-402 SAME; EXCEPTIONS. The provisions of this article shall not apply to any container which shall have a capacity of one hundred fifty (150) gallons or less which shall be used for the purpose of supplying fuel for the vehicle on which it is mounted. These provisions also shall not apply to vehicles, trailers, containers or tanks containing anhydrous ammonia or other material primarily used by farmers for fertilizer purposes when such vehicles, trailers, containers or tanks are parked or housed upon property designated for the placement of such vehicle, trailer, container or tank by any farmers cooperative, elevator company or farm supply store located within the City limits. (Code 2021)

14-403 TRANSPORTATION OF HAZARDOUS MATERIALS. Except as provided in section 14-404 it shall be unlawful for any person, firm, corporation or other entity to transport any hazardous material upon any street, avenue, highway, road, alley or any other public right-of-way in the City. (Code 2021)

14-404 HAZARDOUS MATERIALS ROUTES. The provisions of section 14-403 shall apply to all streets, avenues, highways, roadways, alleys or other public rights-of-way within the City except those specified within this section where transportation of hazardous materials shall be allowed. Transportation of hazardous materials shall be allowed upon the following streets, avenues, highways or roadways:

- a. Reserved
- b. Reserved

(Code 2021)

14-405 PARKING OF VEHICLES OR TRAILERS CARRYING HAZARDOUS MATERIALS.

- a. Except as provided in subsections (b) and (c), it shall be unlawful for any person, firm, corporation or other entity to park any vehicle, trailer or semi-trailer carrying any hazardous material within any of the following City zoning districts as defined in Chapter 16 of this code.
  - 1. (Reserved)
- b. Subsection (a) shall not apply to vehicle, trailers or semi-trailers parked for continuous periods of time not to exceed one (1) hour where such vehicles, trailers or semi-trailers are parked along those routes specified in section 14-404 of this code.
- c. Subsection (a) shall not apply to any vehicle, trailer or semi-trailer carrying any hazardous material where such vehicle, trailer or semi-trailer is not parked within five hundred (500) feet of any structure used for human habitation.

(Code 2021)

14-406 REMOVAL OF ILLEGALLY PARKED TRAILERS. If any vehicle, trailer or a semi-trailer is found parked in violation of the provisions of this article, the officers of the Police Department may require the owner, operator or lessee of the trailer to move it within two (2) hours. If such removal is not accomplished on the order of any such officer, it may be accomplished by any reasonable means, if the continued presence of the trailer or semi-trailer at its parked location constitutes, adds to or prevents correction of a situation threatening imminent injury to persons or property. (Code 2021)

**CHAPTER XV.**

**UTILITIES**

Article 1.	GENERAL PROVISIONS
Article 2.	WATER
Article 3.	SEWERS
Article 4.	SOLID WASTE

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**ARTICLE 1. GENERAL PROVISIONS**

15-101 DEFINITION. For purposes of this article, "utility services" shall include water, electrical, sewer, solid waste (refuse) and other utility services provided by the City. (Code 2021)

15-102 DELINQUENT ACCOUNTS. Unless otherwise provided, water, sewer, solid waste (refuse) or other utility service shall be terminated for nonpayment of service fees or charges in accordance with sections 15-103:104. (Code 2021)

15-103 NOTICE; HEARING.

- a. If a bill has not been paid on or before the due date as provided in this chapter, a delinquency and termination notice shall be issued by the City Clerk within ten (10) working days after the delinquency occurs and mailed to the customer at his or her last known address.
- b. The notice shall state:
  - 1. The amount due, plus delinquency charge;
  - 2. Notice that service will be terminated if the amount due is not paid within the timeframe stated on the notice unless the date on the notice to pay the charges due shall be on a Saturday, Sunday or legal holiday, in which event such notice will give the customer until the close of the next business day in which to pay the charges;
  - 3. Notice that the customer has the right to a hearing before the designated hearing officer;

4. Notice that the request for a hearing must be in writing and filed with the City Clerk no later than three days prior to the date for termination of service.
- c. Upon receipt of a request for a hearing, the City Clerk shall advise the customer of the date, time and place of the hearing which shall be held within five (5) working days following receipt of the request.

(Code 2021)

15-104 SAME; FINDING. Following the hearing, if the hearing officer shall find that service should not be terminated, then notice of such finding shall be presented to the City Clerk. If the officer finds that service should be terminated, an order shall be issued terminating service five (5) days after the date of the order. The customer shall be notified either in person or by mailing a letter to his or her last known address by certified mail, return receipt requested. However, if the order is made at the hearing in the presence of the customer, then no further notice need be given. The hearing officer has the right, for good cause, to grant an extension, not to exceed ten (10) days, for the termination of such service. (Code 2021)

#### 15-105 UTILITY DEPOSIT

- a. At the time of making application for water service, the property owner or customer shall make a deposit by way of cash, money order, check, credit card or debit card in the amount set by the Governing Body to secure payment of accrued bills or bills due on discontinuance of service. Receipt thereof shall be issued to each such depositor.
- b. Deposits for the indicated utility services shall be in amounts to be determined by the City Rate and Fee Schedule.
- c. The deposit so made shall be kept by the City Clerk in a separate account and deposited in a fund designated as the "Water Deposit Fund." Interest shall be payable at the rate determined by the State Corporation Commission yearly and credited to the customer's account January 1st of each calendar year.
- d. The deposit and interest accrued shall be payable upon demand by the property owner depositing the same or it may be credited on the payment of any bill rendered; provided, that at the second interest payment date following the deposit required above, the City Clerk shall refund the deposit of any depositor who is owner of the premises wherein such

water service is being furnished and has not been delinquent in payment of any water service charge during the past year. Interest due and accrued shall not draw interest.

- e. Upon the discontinuance of any service at the request of the depositor, the deposit shall be refunded upon surrender of the original receipt therefore together with the accrued interest thereon less any amount due and owing the City for services furnished prior thereto.
- f. Any security deposit not refunded within three (3) years after discontinuance of service shall be deposited in the Water Fund of the City upon compliance with the provisions of K.S.A. 12-822 as amended.

(Code 2021)

15-106 PETTY CASH FUND. A petty cash fund in the amount of fifty dollars (\$50.00) is established for the use of the City Clerk, for the purpose of giving customer change on utility payments, paying postage, freight, temporary labor, and other emergency expenses, including refund of deposits made to secure payment of accounts. (Code 2021)

15-107 SAME; VOUCHERS. Whenever the petty cash fund is used, becomes low or depleted, the City Clerk shall prepare vouchers covering expenses as have been paid from the petty cash fund and shall submit such vouchers together with the paid checks and a summary thereof to the Governing Body for review at the next regular Council meeting and for allowance of the amounts from the regular funds of the utilities. Warrants issued therefore shall be payable to the petty cash fund and shall be deposited therein to restore said petty cash fund to its original amount. (Code 2021)

#### 15-108 LANDLORD LIABILITY

- a. Owners of premises served by utility service under this article shall be liable for payment of the costs of any utility service account delinquency arising from service provided to such premises, regardless of whether the utility service was furnished upon the application and request of the owner or lessee of the premises. This provision shall also apply when the premises are leased by or through an agent or other representative of the owner.
- b. In the event that a delinquency arises involving leased premises, in addition to the tenant, the owner or owner's agent shall be notified in writing of the delinquency of the lessee by first class regular mail within ten (10) days after the billing to the lessee becomes

delinquent. Notice shall be sufficient if mailed to the last known address of the owner or owner's agent known to city personnel responsible for said mailing, after reasonable inquiry.

- c. If utility service is furnished to a leased premise on the application or request of the lessor of the premises, then all billings for utilities furnished to such leased premises shall be made directly to the lessor, and the lessor shall be fully liable for the cost of service furnished.
- d. The city may collect the amount of the unpaid bill for utility services by any lawful means. Provided, however, that in no event may the city place a lien on real estate of the lessor.

(Code 2021; Ord. 304)

## **ARTICLE 2. WATER**

15-201 SUPERINTENDENT OF WATER AND SEWER. The general management, care, control and supervision of the City water system shall be in the City Superintendent of Water and Sewer, who shall be appointed by the Mayor with the consent of the Governing Body. (Code 2021)

15-202 REGULATIONS. The furnishing of water to customers by the City through its waterworks system shall be governed by the regulations set out in this article. (Code 2021)

15-203 SERVICE NOT GUARANTEED. The City does not guarantee the delivery of water through any of its mains and connecting services at any time except only when its mains, pumping machinery, power service connection are in good working order, and the supply of water is sufficient for the usual demand on its consumers. (Code 2021)

15-204 SERVICE CONNECTIONS REQUIRED; SEPARATE METERS.

- a. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the City abutting on any street, alley, or right-of-way in which there is now located or may in the future be located public water mains, is hereby required at his or her own expense to make connection to such public water main.
- b. Before any connection is made to the City's water system, an application must be made in writing to the City Clerk by the owner of the premises, or his or her authorized representative, for a permit to make such connection.
- c. Each residence, business building, and public building where water service is desired shall be supplied with water from a separate tap or connection to the water main, unless by permit from the Mayor and City Council authorizing other arrangement, and each consumer shall be supplied with water through a separate meter.



15-205 APPLICATION FOR SERVICE.

- a. Any person, firm or corporation desiring a connection with the municipal water system shall apply in writing to the City Clerk, on a form furnished by the City for that purpose, for a permit to make the connection.
- b. The application shall:
  1. Contain an exact description including street address of the property to be served;
  2. State the full name of the individual(s) to be served;
  3. State the full name of the owner of the premises to be served if renting;
  4. State the full social security number of the individual(s) to be served;
  5. State the full driver's license number of the individual(s) to be served;
  6. State the full mailing address of the individual(s) to be served;
  7. State the full employment information of the individual(s) to be served;
  8. State the purpose for which the water is to be used (i.e. residential, commercial);
  9. State any other per pertinent information required by the City Clerk;
  10. Be signed by the owner or occupant of the premises to be served, or his or her authorized agent.
- c. Each application for a connection permit shall be accompanied by payment of fees and/or costs specified in section 15-207.

(Code 2021)

15-206 CITY TO MAKE CONNECTIONS. All taps shall be given, street excavations made, corporation cocks inserted, pipes installed from main to property line, and the curb cock installed in a meter box to which the service pipe is to be connected by the City employees only. (Code 2021)

15-207 CONNECTION FEES. The fees for connection to the City water main shall be as follows:

- a. For connecting a water main with a three-fourths (3/4) inch tap, three-fourths (3/4) inch service line and installing a three-fourths (3/4) inch meter, the fee shall be an amount to be determined by the City Rate and Fee Schedule.
- b. For connecting a water main with larger than a three-fourths inch tap, service line, or meter, the fee shall be in an amount to be determined by the City Rate and Fee Schedule.

(Code 2021)

15-208 CHECK VALVES. Check valves are required on all connections to steam boilers or on any other connection deemed necessary by the City Superintendent. Safety and relief valves shall be placed on all boilers or other steam apparatus connected with the water system where the steam pressure may be raised in excess of forty (40) pounds per square inch. (Code 2021)

15-209 UNAUTHORIZED SERVICE. It shall be unlawful for any person, firm, or corporation, other than duly authorized City officials or employees to turn water on at the water meter or curb cock shut off, with a key or in any other manner, without first obtaining written permission from the Mayor, the Governing Body, the City Superintendent or their agent. (Code 2021)

15-210 METERS.

- a. All water furnished to customers shall be metered.
- b. Meters shall be located between the sidewalk or property line and curbing when the main is in the street, and on private property within three (3) feet of the alley line when the main is in the alley. In the business district the meters in existence prior to the adoption of this code may be installed in the basement at a location specified by the City.
- c. The City's responsibility stops at the property line.

(Code 2021)

15-211 SAME; TESTING. Meters shall be tested before being set at any other time thereafter when they appear to be measuring incorrectly. If a test is requested by the customer and the meter is found to be accurate within two percent (2%), the meter will be deemed correct and a charge will be made to the customer in an amount to be determined by the City Rate and Fee Schedule. (Code 2021)

15-212 TAMPERING WITH METER. It shall be unlawful for any person to break the seal of any meter, to alter the register or mechanism of any meter, or to make any outlet or connection in any manner so that water supplied by the City may be used or wasted without being metered. It

shall be unlawful for any person except an authorized employee of the water department to turn any curb cock on or off. (Code 2021)

15-213 LEAKS PROHIBITED; PENALTY. Except those allowances made by an appeal according to Section 15-214, no allowances shall be made for water used or lost through leaks, carelessness, neglect or otherwise after the same has passed through the meter. Every customer shall have the right to appeal to the City their water bill or meter reading which he or she may consider excessive. (Code 2021)

15-214 APPEAL OF WATER BILL. Allowances may be made by the City Council for the cost of water lost through leaks or excusable neglect after the water has passed through the meter. Any customer seeking such an allowance must appeal the bill they deem excessive by filing a written appeal with the City Clerk, requesting that the matter be heard by the Council at its next, regularly scheduled meeting. The appealing customer must show that the leak was not due to carelessness or neglect and that the customer took immediate steps to remedy the leak and minimize the loss of water. Upon proof of those factors being presented to the Council, its members may decide to require the customer to pay only the cost of producing that portion of the water used which is above the average amount of water used by the customer based upon usage over the previous twelve (12) month period. The cost per thousand (1000) gallons shall be based on the City's cost to produce water. In the event that figure is not ascertainable, the City shall use the cost the City pays to purchase water.

(Code 2021; Ord. 301)

15-215 DISCONNECTION, RECONNECTION CHARGE. The Governing Body shall establish, by ordinance, a water service reconnection charge. A service disconnected for nonpayment of a delinquent bill shall be reconnected only upon payment in full of the delinquent bill, interest penalty thereon, and the reconnection charge as determined by the City Rate and Fee Schedule (Code 2021)

15-216 SERVICE INTERRUPTION. The City reserves the right to interrupt water service for the purpose of making repairs or extensions to water lines or equipment. (Code 2021)

15-217 PROHIBITED ACTS. It shall be a violation of this article for any unauthorized person to:

- a. Perform any work upon the pipes or appurtenances of the City's waterworks system beyond a private property line unless such person is employed by the City;
- b. Make any connections with any extension of the supply pipes of any consumer without written permission to do so having been first obtained from the Governing Body; or
- c. Remove, handle or otherwise molest or disturb any meter, meter lid, cutoff, or any other appurtenances to the water system of the City.

(Code 2021)

15-218 WASTING WATER. Water users shall prevent unnecessary waste of water and shall keep sprinklers, hydrants, faucets and all apparatus, including the service line leading from the property to the meter in good condition at their expense. (Code 2021)

15-219 WATER RATIONING. The City reserves the right to restrict or prohibit the use of water and to specify the purpose for which it may be used whenever the Governing Body determines the public exigency so requires. (Code 2021)

15-220 SAME; PROCEDURE. Whenever the Governing Body determines that water use must be restricted or prohibited, it shall forthwith issue a proclamation of emergency through the news media, social media and other appropriate methods of making the public proclamation. (Code 2021)

15-221 SAME; PRIORITY USE. In the event a proclamation of emergency is issued, water usage will be restricted or prohibited first for the uses in the following priority:

- a. Watering lawns, gardens, trees, shrubs, plants, and water use outside dwellings for such purposes as car, boat, or trailer washing, washing exteriors of dwellings, or filling privately-owned swimming pools;
- b. Industrial uses of water, including but not limited to car wash operations, commercial laundry and packing plant operations;

- c. Business use, other than industrial;
- d. Home uses other than those set forth in subsection (a).

(Code 2021)

15-222 RIGHT OF ACCESS. Authorized employees of the City may enter upon any premises at reasonable hours for the purpose of reading the meter or servicing or inspecting meters or water lines. (Code 2021)

15-223 RATES. The rates per month for the use of water in the City shall be as determined by the City Rate and Fee Schedule.

- a. Additional water shall be charged at a rate in an amount to be determined by the City Rate and Fee Schedule.

(Code 2021)

15-224 BULK SALES. The City Superintendent of Water shall have authority to sell water, when the same is available, to farmers and other cash and carry users of water. Such water shall be furnished in containers provided by such customers at a cash rate in an amount to be determined by the City Rate and Fee Schedule, payable on delivery to the customer's container. (Code 2021)

15-225 PAYMENT OF BILLS. All water bills for the previous month's water service shall be paid on or before the fifth (5<sup>th</sup>) day of each month following service. For any billing not paid when due, a late charge as determined by the City Rate and Fee Schedule.

15-226 DELINQUENT ACCOUNTS; NOTICE; HEARING; FINDING; LIABILITY. Water service shall be terminated for nonpayment of service fees or charges as provided in sections 15-102-104. (Code 2021)

15-227 USE DURING FIRE. No person owning or occupying premises connected to the municipal water system shall use or allow to be used during a fire any water from the water system except for the purpose of extinguishing the fire. Upon the sounding of a fire alarm it shall be the

duty of every person to see that all water services are tightly closed and that no water is used except in extraordinary cases of emergency during the fire. (Code 2021)

### ARTICLE 3. SEWERS

15-301 DEFINITIONS. Unless the context clearly indicates otherwise, the meaning of words and terms as used in this article shall be as follows:

- a. Building Drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the interface of the building wall.
- b. Building Sewer shall mean the extension from the building drain to the public sewer or place of disposal.
- c. Biochemical Oxygen Demand (B.O.D.) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees centigrade, expressed in parts per million by weight.
- d. PH shall mean the logarithm of the weight of hydrogen ions in grams per liter of solution.
- e. Individual Domestic shall mean any single-family residence, commercial business, office, institution, school, church or public entity having an individual direct or indirect connection to the wastewater facilities of the City and on individual City or private water service meter, or connection to any such water service.
- f. Industrial shall mean any industrial business engaged in the manufacturing or processing of one or more products, and in which wastewaters are produced from such manufacturing or processing and said wastewaters are discharged directly or indirectly to the wastewater facilities of the City.
- g. Multi-Domestic shall mean any multi-family residence, apartment or mobile home and any commercial business, office, institution, school, church or public entity having a direct or indirect connection to the wastewater facilities of the City and not having any individual water service meter but is served with City or private metered water by the owner of the property on which it is located.
- h. Superintendent shall mean the Superintendent of the City or his or her authorized deputy, agent or representative.

- i. Sewage shall mean a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, and storm waters as may be present.
- j. Sewer shall mean a pipe or conduit for carrying sewage.
- k. Public Sewer shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
- l. Combined Sewers shall mean sewers receiving both surface runoff and sewage.
- m. Sanitary Sewer shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
- n. Storm Sewer or Storm Drain shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.
- o. Sewage Treatment Plant shall mean any arrangement of devices and structures used for treating sewage.
- p. Suspended Solids shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
- q. User shall mean any person or entity including an institution, business, governmental agency or political subdivision producing wastewater requiring processing and treatment to remove pollutants and having premises connected to the wastewater facilities.
- r. Wastewater shall mean sewage, the combination of liquids and water carried waste from residences, commercial and industrial buildings, institutions, governmental agencies, together with any ground, surface or storm water that may be present.
- s. Normal Wastewater shall mean the strength of normal wastewater shall be considered within the following ranges:
  - 1. A five (5) day biochemical oxygen demand of 300 milligrams per liter or less;
  - 2. A suspended solid concentration of 350 milligrams or less;
  - 3. Hydrogen ion concentration of 5.0 to 9.0

(Code 2021)



15-302 SEWER CONNECTION REQUIRED. Any owner of any house, building, or property used for human occupancy, employment, recreation, or other purpose, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may be located a public sanitary sewer of the City, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within ninety (90) days after the date of official notice to do so, provided that said public sewer is within one hundred forty (140) feet of the property line. (Code 2021)

15-303 PERMIT; CONNECTION FEE.

- a. No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.
- b. There shall be a charged fee of one hundred dollars (\$100) payable at the time of making application for the permit.

(Code 2021)

15-304 APPLICATION. Any person desiring to make a connection to the City sewer system shall apply in writing to the City Clerk who shall forward the application to the City Superintendent.

The application shall contain:

- a. The legal description of the property to be connected;
- b. The name and address of the owner or owners of the property;
- c. The kind of property to be connected (residential, commercial or industrial);
- d. The point of proposed connection to the City sewer line.

(Code 2021)

15-305 COSTS. All costs and expenses incident to the installation and connection of the building sewer shall be paid by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (Code 2021)

15-306 SEWER CONNECTION. The connection of the building sewer into the public sewer shall be made at the "Y" branch if such branch is available at a suitable location. Where no properly located "Y" branch is available, the connection shall be made by the City Superintendent and at a location designated by the City Superintendent. (Code 2021)

15-307 SEWER FOR EACH BUILDING. A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available or can be feasibly constructed to the rear building. In such case, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. (Code 2021)

14-308 SAME; SPECIFICATIONS.

- a. The building sewer shall be constructed of an approved plastic pipe. Any plastic pipe to be installed on any building sewer shall not be approved by the City until the owner has furnished descriptive literature to the City for inspection and review. All joints on all pipe installed shall be tight and waterproof.
- b. The size and slope of the building sewer to be installed shall be subject to the approval of the City Superintendent, but in no event shall the diameter of the pipe be less than four (4) inches. The slope at which a six (6) inch pipe is to be laid shall be not less than one-eighth (1/8) inch per foot and for a four (4) inch pipe, not less than one-fourth (1/4) inch per foot. Any grades for the pipe which are proposed for installation at grades less than these specified, shall be approved by the City Superintendent prior to the placement.
- c. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three (3) feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with approved curved pipe and fittings, including cleanout fittings.
- d. At buildings in which the building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer. The use of any pumping equipment for which cross-

connections with a public water supply system are needed is prohibited. The total costs of pumping equipment and operational costs shall be those of the owner.

- e. No building sewer shall be laid across a cesspool, septic tank or vault until the cesspool, septic tank or vault has been well cleaned and filled with an approved earth or sand fill, then thoroughly tamped and water settled. Cast iron pipe may be used across cesspools or septic tanks, if proper bedding and support for the sewer pipe is acquired.
- f. All excavation required for the installation or repair of the building sewer shall be open trench work unless approved by the City. Pipe laying and backfill shall be performed in accordance with ASTM specifications C12-19, except that no backfill shall be placed until the work has been inspected and approved.
- g. All joints in the building sewer shall be made watertight. If recommended by the City Superintendent, a water pressure test shall be made on the completed sewer to ensure a compliance with this requirement, requiring that the sanitary sewer withstands an internal water pressure of five (5) psi., without leakage. All newly installed and replacement sewer lines shall be plastic pipe and shall be of a slip joint pipe or weld joint type approved by the City Superintendent. Joints between two types of pipe or of non-weldable joints shall be made with rubber sleeve and clamp type connections.

(Code 2021)

15-309 SEWER EXCAVATIONS; DAMAGES. All excavations for building sewers shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, curbs and gutters, sidewalks, parkways and other public property removed or damaged during the installation of the building sewer shall be repaired or replaced in a manner acceptable to the City and at the total expense of the owner. It is further agreed that any parties involved in any excavating or installation work for sewer installations as above set out, will hold the City harmless from any and all damages to persons or property resulting from or growing out of any opening or excavating or any negligent act or from any operation made within the City. (Code 2021)

15-310 FAILURE TO CONNECT.

- a. If any person or entity, institution, business, governmental agency, or political subdivision shall fail to connect any dwelling or building with the sewer system after being noticed,

the City may cause such dwelling or building to be connected with the sewer system as authorized by K.S.A. 12-631.

- b. The cost and expense, including inspection fees, shall be assessed against the property. Until such assessments shall have been collected and paid to the City, the cost of making such connection may be paid from the General Fund or through the issuance of no fund warrants.

(Code 2021)

15-311 PRIVY UNLAWFUL. It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in this article. (Code 2021)

15-312 PRIVATE SEWER SYSTEM. Where a public sanitary sewer is not available under the provisions of section 15-302, the building sewer shall be connected to a private sewage disposal system complying with the provisions of section 15-311 to 15-316. (Code 2021)

15-313 SAME; PERMIT. Before commencing construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the City Superintendent. The application shall be accompanied by any plans, specifications or other information deemed necessary by the City Superintendent. A permit and inspection fee as determined by the City Rate and Fee Schedule shall be paid to the City at the time the application is filed. (Code 2021)

15-314 SAME; INSPECTION. The City Superintendent or his or her authorized representative shall be allowed to inspect the work at any stage of construction and the applicant shall notify the City Superintendent when the work is ready for final inspection or before any underground portions are covered. The inspection shall be made within twenty-four (24) hours, or as soon as reasonably possible, of the receipt of notice by the City Superintendent. (Code 2021)

15-315 SAME; DISCHARGE.

- a. The type, capacities, location, and layout of the private sewage disposal system shall comply with all recommendations and requirements of the Water Control Section of the State of Kansas Department of Health and Environment. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than one (1) acre. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.
- b. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 15-302, a direct connection shall be made to the public sewer in compliance with this article, and any septic tank, cesspool, and similar private sewage disposal facilities shall be abandoned and filled with suitable and acceptable materials.

(Code 2021)

15-316 SAME; ADDITIONAL REQUIREMENTS. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the City, County or State health officers. (Code 2021)

15-317 DISPOSAL OF SEWAGE. It shall be unlawful for any person to deposit or discharge from any source whatsoever any sewage or human excrement upon any public or private grounds within the City, or to permit the contents of any privy vault or septic tank to be deposited or discharged upon the surface of any grounds. Any unauthorized or unapproved privy vault, septic tank or other means or places for the disposal of sewage, excrement and polluted water may be abated as a public nuisance upon the order of the City or County Board of Health in accordance with the laws of Kansas. (Code 2021)

15-318 DAMAGE TO SEWERS. It shall be a misdemeanor for any unauthorized person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any sewer, structure, appurtenance, or equipment which is part of the municipal sewer system. (Code 2021)

15-319 NATURAL OUTLET. It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City any sanitary sewage, industrial wastes or other polluted waters except where suitable treatment has been provided in accordance with the provisions of this article. (Code 2021)

15-320 STANDARDS. The size, slope, alignment, materials, excavations, placing of pipe, jointing, testing and backfilling shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City. (Code 2021)

15-321 OLD BUILDING SEWERS. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City Superintendent, to meet all requirements of this article. (Code 2021)

15-322 MUD, GREASE TRAPS. All garages, filling stations, food services, milk plants or other commercial or industrial plants connected to the public sewer system shall construct and maintain proper and sufficient interceptors or traps to prevent the discharge of any sand, mud, sediment, litter, waste or any substance harmful to the effective operation and maintenance of the City sewer system, into the building sewer. (Code 2021)

15-323 ROOF, FOUNDATION DRAINS.

- a. It shall be unlawful to connect downspouts from any roof area, drains from any building foundation, paved areas, yards or open courts, or to discharge liquid coolant wastes from any air conditioning unit or cooling device having a capacity in excess of one (1) ton per hour or one (1) horsepower into any City sanitary sewer.
- b. All discharges prohibited in subsection (a) may be discharged into the public gutter or storm drains or open drainage ditches provided such discharge does not create a nuisance. No such liquids may be discharged into any unpaved street or alley.

(Code 2021)

15-324 SAME; EXCEPTION. Discharges from air conditioning units in excess of one (1) ton per hour or one (1) horsepower may be permitted into a building sewer upon approval of the City

Superintendent where there is a finding that such cooling water cannot be re-circulated and that such waste water does not overload the capacity of the sewer or interfere with the effective operation of the sewage disposal works of the City. (Code 2021)

14-325 PROHIBITED DISCHARGES. No person shall discharge any of the following waters or wastes to any public sewer:

- a. Liquid or vapor having a temperature higher than one hundred fifty (150) degrees;
- b. Water or waste which may contain more than one hundred (100) parts per million, by weight, of fat, oil or grease;
- c. Gasoline, benzene, naphtha, fuel, oil, or other flammable or explosive liquid, solid or gas;
- d. Garbage that has not been properly shredded;
- e. Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, pauch manure, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;
- f. Waters or wastes having a ph lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;
- g. Waters or wastes containing a toxic poisonous substance in sufficient quantity to cause injury or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant;
- h. Water or wastes containing suspended solids of such character and quantity that unusual attention or expenses is required to handle such materials at the sewage treatment plant;
- i. Noxious or malodorous gas or substance capable of creating a public nuisance.

(Code 2021)

15-326 BILLS.

- a. Bills shall be rendered monthly as provided in section 15-328.
- b. Any person at the time of beginning or terminating service who received service for a period of less than thirty (30) consecutive days within the billing cycle shall be billed on a pro-rated basis.

(Code 2021)

15-327 DELINQUENT ACCOUNTS. In the event any person, except the United States and the State of Kansas or any political subdivision thereof, shall fail to pay the user charges when due, water service shall be terminated as provided in sections 15-102:104. (Code 2021)

15-328 SEWER SERVICE CHARGE. All sewer connections in the sewer district shall pay a monthly sewer fee in an amount determined by the City's most recent Sewer Rate Ordinance. (Code 2021)



## ARTICLE 4. SOLID WASTE

15-401 DEFINITIONS. Unless the context clearly indicates otherwise, the meaning of words and terms as used in this article shall be as follows:

- a. Commercial Waste shall mean refuse emanating from establishments engaged in business including but not limited to stores, markets, office buildings, restaurants, shopping centers, theaters, hospitals, governmental entities, and nursing homes.
- b. Dwelling Unit shall mean any enclosure, building or portion thereof occupied by one (1) or more persons for and as living quarters.
- c. Garbage shall mean waste resulting from the handling, processing, storage, packaging, preparations, sale, cooking and serving of meat, produce and other foods and shall include unclean containers.
- d. Multi-Family Unit shall mean any structure containing more than four (4) individual dwelling units.
- e. Refuse shall mean all garbage and/or rubbish or trash.
- f. Residential shall mean any structure containing four (4) or less individual dwelling units, rooming houses having no more than four (4) persons in addition to the family of the owner or operator, and mobile homes.
- g. Rubbish or Trash shall mean all nonperishable materials such as paper, tin cans, bottles, crockery, rags, ashes, lawn and tree trimmings, stumps, boxes, wood, street sweepings and mineral refuse. Rubbish or trash shall not include earth and waste from building operations or wastes from industrial processes or manufacturing operations.
- h. Single Dwelling Unit shall mean an enclosure, building or portion thereof occupied by one (1) family as living quarters.
- i. Solid Waste shall mean all non-liquid garbage or rubbish and trash.

(Code 2021)

15-402 COLLECTION. Solid waste accumulated within the City shall be collected, conveyed and disposed of by the City or by contractors specifically authorized to collect and dispose of solid waste. (Code 2021)

15-403 CONTRACTS. The City shall have the right to enter into contract with any responsible person for collection and disposal of solid waste. (Code 2021)

15-404 DUTY OF OWNER; OCCUPANT. The owner or occupant of every dwelling unit or commercial enterprise shall provide at his or her own expense a suitable container for the storage of solid waste as provided in this article, unless such container is provided as part of solid waste collection and disposal service provided by an authorized contractor. No owner or occupant shall permit to accumulate quantities of refuse or other waste materials within or close to any structure within the City to create a health or fire hazard. (Code 2021)

15-405 CONTAINERS. Residential containers shall have a capacity of not more than thirty (30) gallons. They shall be of galvanized metal or other non-rusting material of substantial construction. Each container shall have a tight-fitting lid and shall be leak-proof and fly-tight. All containers shall have handles of suitable construction to permit lifting. Plastic bags manufactured for garbage and refuse disposal may be substituted for residential containers when permitted by the solid waste collection and disposal contractor authorized by the City. Plastic bags, when used, shall be securely closed. All garbage shall be drained of all liquids before being placed in bags or containers. (Code 2021)

15-406 BULK CONTAINERS. On premises where excessive amounts of refuse accumulates or where cans or bags are impractical, bulk containers for the storage of refuse may be used. Containers shall have a capacity and shall be equipped for the collection equipment being used. Containers shall be constructed of durable rust and corrosion resistant material which is easy to clean. All containers shall be equipped with tight fitting lids or doors to prevent entrance of insects or rodents. Doors and lids shall be constructed and maintained so they can be easily opened. Containers shall be watertight, leak proof and weather proof construction. (Code 2021)

15-407 ENTER PRIVATE PREMISES. Solid waste collectors, employed by the City or operating under contract with the City, are hereby authorized to enter in and upon private property for the purpose of collecting solid waste therefrom as required by this article. (Code 2021)

15-408 OWNERSHIP OF SOLID WASTE. Ownership of solid waste when placed in containers by the occupants or owners of premises upon which refuse accumulates, shall be vested in the City and thereafter shall be subject to the exclusive control of the City, its employees or contractors. No person shall meddle with refuse containers or in any way pilfer or scatter contents thereof in any alley or street within the City. (Code 2021)

15-409 WRAPPING GARBAGE. All garbage shall be drained of all excess liquid, and wrapped in paper or other disposable container before being placed in solid waste containers. (Code 2021)

15-410 HEAVY, BULKY WASTE. Heavy accumulations such as brush, tree limbs, broken concrete, sand or gravel, automobiles or parts thereof, dead trees, and other bulky, heavy materials shall be disposed of at the expense of the owner or occupant of the premise from which such waste has originated. (Code 2021)

15-411 HAZARDOUS MATERIALS. No person shall deposit in a solid waste container or otherwise offer for collection any hazardous garbage, refuse, or waste. Hazardous material shall include:

- a. Explosive materials;
- b. Rags or other waste soaked in volatile and flammable materials;
- c. Chemicals;
- d. Poisons;
- e. Radio-Active Materials;
- f. Highly Combustible Materials;
- g. Soiled Dressing, Clothing, Bedding and/or other wastes, contaminated by infection, contagious disease, or infestation.
- h. Any materials which may present a special hazard to collection or disposal personnel, equipment, or to the public;

(Code 2021)

15-412 PROHIBITED PRACTICES. It shall be unlawful for any person to:

- a. Deposit solid waste in any container other than that owned or leased by him or under his control with the intent of avoiding payment of the refuse service charge;
- b. Interfere in any manner with employees of the City or its contractors in the collection of solid waste;
- c. Burn solid waste except in an approved incinerator and unless a variance has been granted and a written permit obtained from the City or the appropriate air pollution control agency;
- d. Bury refuse at any place within the City except that lawn and garden trimming may be composted.

(Code 2021)

15-413 OBJECTIONABLE WASTE. Manure from cow lots, stables, poultry yards, pigeon lofts and other animal or fowl pens, and waste oils from garages or filling stations shall be removed and disposed of at the expense of the person controlling the same and in a manner consistent with this article. (Code 2021)

15-414 UNAUTHORIZED DISPOSAL. No person shall haul or cause to be hauled any garbage, refuse or other waste material to any place, site or area within the limits of the City unless such site is a sanitary landfill, transfer point or disposal facility approved by the State of Kansas Department of Health and Environment. (Code 2021)

15-415 PRIVATE COLLECTIONS; LICENSE REQUIRED.

- a. It shall be unlawful for any person, except an employee of the City specially authorized for that purpose, to collect or transport any solid waste within the City, without securing a license from the City.
- b. Nothing herein shall be construed to prevent a person hauling or disposing of his or her own solid waste providing it is done in such manner as not to endanger the public health or safety or not to become an annoyance to the inhabitants of the City, and not to litter the street and alleys of the City.

(Code 2021)

15-416 SAME; APPLICATION. Any person desiring to collect or transport solid waste within the City shall make application for a license to the City Clerk. The application shall set forth the name and address of the applicant, the make and type of vehicle to be operated for collecting and transporting solid waste. The application shall be accompanied by a Certificate of Inspection and approval of said vehicle by the County health officer issued not more than fifteen (15) days prior to the date of application. (Code 2021)

15-417 SAME; FEE. No license shall be issued unless the applicant shall pay to the City Clerk the sum as determined by the City Rate and Fee Schedule on an annual basis for each vehicle used in the collection and transportation of solid waste. The permit shall be effective only for the calendar year issued and shall expire on December 31st of the calendar year in which said permit is issued. (Code 2021)

15-418 SAME; NUMBER TO BE DISPLAYED. The City Clerk shall issue a license receipt together with a number to be displayed by the license holder. (Code 2021)

15-419 CLOSED VEHICLE. Any vehicle used by any person for the collection and transportation of solid waste shall be maintained in a good mechanical condition. The vehicle shall be equipped with an enclosed covered body to prevent the contents from leaking or escaping therefrom. Only tree trimmings or brush may be transported in open-bodied vehicles provided the material is securely tied in place to prevent scattering along the streets and alleys. (Code 2021)

15-420 RULES AND REGULATIONS. The collections and transportation of trash and waste materials shall be at all times under the general supervision of the Mayor or his or her duly authorized agent, who shall have the authority by and with the consent of the Governing Body to make additional rules and regulations not inconsistent with the terms and provisions of this article requiring that the collection and transportation of trash and waste materials shall be conducted in such manner as not to endanger the public health, or to become an annoyance to the inhabitants of the City, and providing for a proper fee to be charged to the customer. (Code 2021)

15-421 FAILURE TO SECURE LICENSE. Any person who shall conduct or operate within the City limits any vehicle for the collecting and transporting solid waste without first obtaining a license as required by this article or who shall violate the terms and provisions of this article shall be deemed guilty of a violation of this code and upon conviction thereof shall be punished as provided in section 1-116. (Code 2021)

15-422 CHARGES. The City may establish and collect a service charge to defray the costs and maintenance of the collection and dispositions of solid waste within the City. (Code 2021)

15-423 SAME; FEE SCHEDULE. The fee for each residential unit of City solid waste collection shall be in an amount designated by the City of Hoyt Rate and Fee Schedule. (Code 2021)

15-424 BILLING. Solid waste charges may be billed monthly and shall be included on the water and sewer utility bills. No payment shall be accepted on utility bills except for the full amount billed for all services. Delinquent solid waste bills shall carry the same due dates, grace periods and penalties as the water bills. (Code 2021)

15-425 DELINQUENT ACCOUNTS. In the event any person, except the United States and the State of Kansas or any political subdivision thereof, shall fail to pay the service charges when due, solid waste service shall be terminated as provided in sections 15-102:104. (Code 2021)