

**CODE**  
**OF THE**  
**CITY OF CHETOPA**  
**KANSAS**

Published Under the Authority and by the Direction of  
The Governing Body of the City of Chetopa,  
Kansas, this 15th day of July, 2014

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

## PREFACE

This volume contains the Code of the City of Chetopa, Kansas, 2014. As expressed in the adopting ordinance, the code supercedes all ordinances passed prior to July 15, 2014 which are not included herein or recognized as continuing in force by reference thereto. The code was prepared by the staff of the League of Kansas Municipalities and Chetopa city officials under the authority of Sections 12-3014:3015 of the Kansas Statutes Annotated.

This code is arranged in chapters, articles, and sections in a manner similar to the Kansas Statutes Annotated arrangement. Head notes and footnotes are included; however, these do not constitute a part of the code and no implication or presumption of intent or construction is to be drawn therefrom.

Any section of this code may be amended or repealed by ordinary ordinance by reference to the code section number as follows:

"Section 1-105 of the Code of the City of Chetopa 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 Chetopa is hereby amended by adding a section (or article or chapter) which reads as follows: (the new provision shall be set out in full)."

All sections or articles or chapters to be repealed shall be repealed by specific reference as follows:

"Section 1-105 (or article or chapter) of the Code of the City of Chetopa is hereby repealed."

The user's attention is directed to the **Governing Body Handbook**, published by the League of Kansas Municipalities, both as a source of general information and as an index to the pertinent sections of the Kansas Statutes Annotated.

An index is included in this volume, and the user's attention is also directed to indexes which may appear in standard codes incorporated by reference in this Code.

PREPARED AND PUBLISHED BY  
THE LEAGUE OF KANSAS MUNICIPALITIES

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## CHAPTER I. ADMINISTRATION

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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 Chetopa, Kansas," and may be so cited. The Code may also be cited as the "Chetopa City Code."  
(Code 2014)
- 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 Chetopa, Kansas.
  - (b) Code - shall mean "The Code of the City of Chetopa, Kansas."
  - (c) Computation of Time. - The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be a Saturday, Sunday, or legal holiday, that day shall be excluded.
  - (d) County - means the County of Labette in the State of Kansas.
  - (e) Delegation of Authority. - Whenever a provision appears requiring or authorizing the head of a department or officer of the city to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.
  - (f) Gender. - Words importing the masculine gender include the feminine and neuter.
  - (g) Governing Body - shall be construed to mean the mayor and city council of the city, or those persons appointed to fill a vacancy in the office of mayor or the council as provided in this code.
  - (h) In the city - shall mean and include all territory over which the city now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.
  - (i) Joint authority. - All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
  - (j) Month - shall mean a calendar month.
  - (k) Number. - Words used in the singular include the plural and words used in the plural include the singular.
  - (l) Oath - includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the word "swear" is equivalent to the word "affirm."

(m) Officers, departments, etc. - Officers, departments, boards, commissions and employees referred to in this code shall mean officers, departments, boards, commissions and employees of the city, unless the context clearly indicates otherwise.

(n) Owner - applied to a building or land, shall include not only the owner of the whole but any part owner, joint owner, tenant in common or joint tenant of the whole or a part of such building or land.

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

(p) Property - includes real, personal and mixed property.

(q) Real Property - includes lands, tenements and hereditaments, and all rights thereto and interest therein, equitable as well as legal.

(r) Shall, May. - "Shall" is mandatory and "may" is permissive.

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

(t) Signature, subscription - includes a mark when the person cannot write, when his or her name is written near such mark and is witnessed by a person who writes his or her own name as a witness.

(u) State - shall be construed to mean the State of Kansas.

(v) Street - means and includes public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the city.

(w) Tenant or occupant - applied to a building or land, shall include any person holding a written or oral lease of, or who occupies the whole or 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 - means a calendar year, except where otherwise provided.

(Code 2014)

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 2014)

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 2014)

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 2014)

- 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 2014)
- 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 Chetopa 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 Chetopa is hereby amended by adding a section (or article or chapter) which reads as follows: . . .(the new provisions shall be set out in full). . ." All sections, or articles, or chapters to be repealed shall be repealed by specific reference as follows: "Section (or article or chapter) \_\_\_\_\_ of the code of the City of Chetopa is hereby repealed." (Code 2014)
- 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 2014)
- 1-109. SAME; SUBJECT AND TITLE; AMENDMENT. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3004; Code 2014)
- 1-110. SAME; PUBLICATION. (a) No ordinance, except those appropriating money, shall be in force until published in the official city newspaper by the city clerk. One publication of any 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.
- (b) In lieu of subsection (a), a city may opt to publish a summary of an ordinance so long as:
- (1) The publication is identified as a "summary" and contains notice that the complete text of the ordinance may be obtained or viewed free of charge at the office of the city clerk;
  - (2) The city attorney certifies the summary of the ordinance prior to publication to ensure that the summary is legally accurate and sufficient; and
  - (3) The publication contains the city's official website address where a reproduction of the original ordinance is available for a minimum of one week following the summary publication in the newspaper.
- If an ordinance is subject to petition pursuant to state law, then the summary shall contain a statement that the ordinance is subject to petition. (K.S.A. 12-3007; Code 2014)



- 1-111. SAME; ORDINANCE BOOK. Following final passage and approval of each ordinance, the city clerk shall enter the same in the ordinance book of the city as provided by law. Each ordinance shall have appended thereto the manner in which the ordinance was passed, the date of passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which published and the date of publication. (K.S.A. 12-3008; Code 2014)
- 1-112. RESOLUTIONS, MOTIONS. Except where a state statute or city ordinance specifically requires otherwise, all resolutions and motions shall be passed if voted upon favorably by a majority of a quorum of the city council. (Code 2014)
- 1-113. CITY RECORDS. The city clerk or any other officer or employee having custody of city records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 to 12-121 inclusive, which is incorporated by reference herein as if set out in full and as provided in the state open records act and the city policy regarding open public records. (K.S.A. 12-120:121; Code 2014)
- 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 Chetopa 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 2014)
- 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 2014)
- 1-116. GENERAL PENALTY. Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with this section.
- (a) A fine of not more than \$1,000; or,
  - (b) Imprisonment in jail for not more than 179 days; or,
  - (c) Both such fine and imprisonment not to exceed (a) and (b) above.
- (Code 2014)
- 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 2014)

## ARTICLE 2. GOVERNING BODY

- 1-201. GOVERNING BODY. The governing body shall consist of a mayor and six (6) councilmembers, to be elected as set out in Chapter 6 of this code. (Code 2014)
- 1-202. SAME; POWERS GENERALLY. All powers exercised by cities of the second class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law. 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 2014)
- 1-203. SAME; MEETINGS. (a) Regular meetings of the governing body shall be held on the 1st and 3rd 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 succeeding day not observed as a holiday as a meeting day.  
(b) Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the council, specifying the object and purpose of such meeting, which request shall be read at a 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. 14-111; Code 2014)
- 1-204. SAME; QUORUM. In all cases, it shall require a majority of the councilmembers-elect to constitute a quorum to do business. (K.S.A. 14-111; Code 2014)
- 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 may deem advisable;  
(f) Have the power to approve or veto any ordinance as the laws of the state shall prescribe;  
(g) Sign all orders and drafts drawn upon the city treasury for money. (K.S.A. 14-301:302, 305:306, 310; Code 2014)
- 1-206. PRESIDENT OF THE COUNCIL. The city council shall elect one of its own body as president of the council. The president of the council shall preside at all meetings of the council in the absence of the mayor. In the absence of both the mayor and the president of the council, the council shall elect one of its members as "acting president of the council." The president and acting president, when

occupying the place of mayor, shall have the same privileges as other councilmembers but shall exercise no veto. (K.S.A. 14-204; Code 2014)

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 2014)

1-208. VACANCIES IN GOVERNING BODY; HOW FILLED. When any vacancy shall happen in the office of mayor by death, resignation, removal from the city, removal from office, refusal to qualify, or otherwise, the president of the council for the time being shall exercise the office of mayor, with all the rights, privileges, and jurisdiction of the mayor, other than the appointment of officers pursuant to K.S.A. 14-201 and amendments thereto, until such vacancy be filled or such disability be removed, or, in case of temporary absence, until the mayor shall return. During the time the president of the council shall exercise the office of the mayor, the president shall receive the same compensation that the mayor would be entitled to, and in case of vacancy, other than a temporary absence or disability, the person exercising the office of mayor shall become mayor. Thereupon the council shall elect from its membership a new president of the council. Whenever a vacancy shall occur in the office of councilmember, the governing body shall appoint an elector of the ward where the vacancy occurs to be councilmember for the balance of the unexpired term. (K.S.A. 14-308; Code 2014)

1-209. COMPENSATION. Members of the governing body shall receive as compensation such amounts as may be fixed by ordinance. (Code 2014)

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.  
(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 2014)

1-211. INCORPORATING CODE OF PROCEDURE FOR KANSAS CITIES. There is hereby incorporated by reference for the purpose of establishing a code of procedure for the conduct of city council meetings of the City of Chetopa, Kansas, that certain code known as the "Code of Procedure for Kansas Cities," Edition of 2006, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said Code of Procedure for Kansas Cities shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Chetopa, Kansas," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this section, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.  
(Code 2014)

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 of 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 except with reference to positions filled by appointment by the city council.

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

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

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

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

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

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

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

(4) Representing Private Interest Before City Agencies or Courts - No elected or appointive city official or employee whose salary is paid in whole or in part by the city shall appear in behalf of private 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 2014)

### ARTICLE 3. OFFICERS AND EMPLOYEES

- 1-301. APPOINTMENT. The Mayor shall appoint, by and with the consent of the Council, a Municipal Judge of the Municipal court, a Chief of Police, City Treasurer, City Clerk, City Attorney, and may appoint police officers and such other officers as may be deemed necessary. Officers so appointed and confirmed shall hold their offices for a term on one (1) year and until their successors are appointed and qualified. The Council shall, by ordinance, specify their duties and compensation, and by ordinance abolish any office created by them whenever they deem it expedient. The Council may retain a licensed professional engineer to act in the capacity of City Engineer for specifically defined duties and provide for reasonable compensation for the services rendered.  
(K.S.A. 14-201; C.O. No. 14, Sec. 3; Code 2014)
- 1-302. EMPLOYEES. The mayor with the consent of the council shall have authority to hire all other employees, or such authority may be delegated to the respective department heads. (Code 2014)
- 1-303. REMOVAL. (a) A majority of all members elect of the governing body may remove any appointed officer.  
(b) The mayor may suspend at any time any appointed officer.  
(c) Employees, other than appointed officers, may be removed by the mayor upon recommendation of the respective department heads.  
(K.S.A. 14-205; Code 2014)
- 1-304. VACANCY IN OFFICE. Whenever a vacancy occurs in any appointive office for whatever reason, the vacancy shall be filled by appointment of the mayor with approval of the governing body. Any person appointed to fill such vacancy shall serve only until the next regular time for appointment. The removal from the city of any appointed officer or employee, without approval of the governing body, shall occasion a vacancy in such office or position.  
(K.S.A. 14-204; C.O. No. 7; Code 2014)
- 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;  
(f) Publish all ordinances, except those appropriating money, and such resolutions, notices and proclamations as may be required by law or ordinance.  
(Code 2014)

- 1-306. SAME; FISCAL RECORDS. The city clerk shall:  
(a) Prepare and keep suitable fiscal records according to generally accepted accounting principles;  
(b) Assist in preparing the annual budget;  
(c) Audit all claims against the city for goods or services rendered for the consideration of the governing body. His or her accounts shall properly show the amounts paid from any fund of the city and the cash balance existing in each fund;  
(d) Keep an accurate account of all bonds issued by the city;  
(e) Keep a record of all special assessments.  
(Code 2014)
- 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 2014)
- 1-308. SAME; WITHHOLDING AGENTS. The city clerk is designated as the withholding agent of the city for the purposes of the Federal Revenue (Income) Act, and shall perform the duties required of withholding agents by said act or any other act requiring withholding from the compensation of any city officer or employee. The clerk shall perform such other duties as may be prescribed by the governing body or the Kansas statutes. (Code 2014)
- 1-309. ASSISTANT CITY CLERK. (a) The office of assistant city clerk is hereby established. The mayor shall appoint, by and with the consent of the city council, the assistant city clerk. The person so appointed and confirmed shall hold the office for a term of one year and until a successor is appointed and confirmed.  
(b) The assistant city clerk shall perform those duties assigned to that office by the city clerk.  
(c) Whenever a vacancy occurs in the position of city clerk and the city is without a person appointed, confirmed or qualified to hold that office, the assistant city clerk shall become the acting city clerk and fulfill the duties of that office.  
(d) Compensation of the assistant city clerk shall be set by ordinance passed by the governing body.  
(Code 2014)
- 1-310. CITY TREASURER. The city treasurer shall:  
(a) Keep a full and accurate record of all money received and paid out in a ledger book provided by the governing body;  
(b) Publish a quarterly financial statement;  
(c) Deposit all public moneys and sign all checks of the city;  
(d) Pay out city funds only upon orders or warrants properly signed by the mayor and city clerk;  
(e) Perform such other duties as may be prescribed by the governing body or the Kansas statutes.  
(K.S.A. 10-803; K.S.A. 12-1608; Code 2014)

- 1-311. CITY ATTORNEY; OFFICE; DUTIES. There is hereby established the office of city attorney. No person shall be eligible for the office of city attorney who is not an attorney at law admitted to practice in the Supreme Court of the State of Kansas. The city attorney shall be a qualified elector of the county in which the city is located, or of an adjoining county. The city attorney shall be charged with the general direction and supervision of the legal affairs of the city. The city attorney shall:
- (a) Attend meetings of the city council when so directed to attend by the council;
  - (b) Advise the city council and all officers of the city upon such legal questions affecting the city and its offices as may be submitted to him or her;
  - (c) When requested by the city council give opinions in writing upon any such questions;
  - (d) Draft such ordinances, contracts, leases, easements, conveyances and other instruments in writing as may be submitted to him or her in the regular transaction of affairs of the city;
  - (e) Approve all ordinances of the city as to form and legality;
  - (f) Attend planning commission and board of zoning appeals meetings when so directed by the boards;
  - (g) 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.
- (C.O. No. 7; Code 2014)
- 1-312. CITY ENGINEER. The city engineer 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, sewers, water lines, public buildings and other public facilities;
  - (b) The inspection of all public works projects including streets, sewers, water lines and other public facilities;
  - (c) The general supervision of the maintenance and repair of all public facilities. (Code 2014)
- 1-313. 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 2014)
- 1-314. 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, whichever is less, individually or collectively with his or her spouse; or
  - (2) From which the officer or employee receives, in the current or immediately preceding or succeeding calendar year, any salary, gratuity, other compensation or a contract for or promise or expectation of any such salary,



gratuity or other compensation or remuneration having a dollar value of \$1,000 or more; or

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

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

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

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

(Code 2014)

1-315. SALARIES/WAGES. (a) That the following named offices and employees will receive an annual compensation for their services and classification by pay range.

1. \$900-\$20,000  
City Attorney  
Municipal Judge  
Fire Chief  
Fire Department Secretary/Treasurer
2. \$8,000-\$40,000  
Asst. Bookkeeper/Asst. Clerk/Court Clerk  
Water Plant Worker  
Sanitation Worker  
Street Department Worker  
Utility Worker/Lineman  
Swing Person  
Police Officer  
Mow Person
3. \$20,000-\$50,000  
Utilities Bookkeeper  
Street Department Leadman  
Utility Leadman  
Water Plant Leadman  
Sanitation Leadman  
City Clerk  
Police Chief

(b) Other employees and offices shall be compensated at the following rates:

All Extra Labor Minimum wage or as determined by the Governing Body.

Firepersons All fire calls, with or without using water or chemicals shall be \$4.00 per fire per person. For attendance at monthly meetings shall be \$4.00 per meeting per person.

First Responder \$20.00 per run.

Mayor/City Council \$20.00 per meeting, actually attended, both regular and special; and committee meetings, provided there shall not be more than four (4) meetings in one (1) month.

City Treasurer                    \$400.00 per year.  
City Attorney                    Besides compensation as provided for by Section (a)  
above, the City Attorney shall be paid an additional \$120.00 per hour for all  
Municipal Court prosecution, civil litigation, administrative hearings or any other  
litigated type of matter.

(c) That all salaries provided for in the foregoing sections shall be paid by  
warrant check duly drawn, signed and issued as provided by law.  
(Ord. 844; Code 2014)

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

- 1-401. PERSONNEL POLICIES AND GUIDELINES. There is hereby incorporated by reference for the purpose of establishing employee personnel rules and regulations the document entitled "Uniform Personnel Policies and Guidelines for the City of Chetopa." No fewer than three copies of said document shall be marked or stamped "Official Copy as adopted by the Code of the City of Chetopa" and 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.  
(Ord. 556, Sec. 1; Code 2014)

## 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:

Oath: "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."

Affirmation: " I do solemnly, sincerely and truly declare and affirm that I will support the Constitution of the United States and of the State of Kansas and faithfully discharge the duties of \_\_\_\_\_ (enter name of office or position). This I do under the pains and penalties of perjury. (K.S.A. 75-4308, 54-104, 54-106; Code 2014)

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 2014)

1-503. BONDS REQUIRED. (a) The following city officers shall each, before entering upon the duties of his or her office, give a good and sufficient corporate surety bond to the city. The bond shall be in the following amount, to wit:

- (1) City treasurer - \$50,000;
- (2) City clerk - \$50,000;
- (3) Asst. Utility Bookkeeper/Clerk of municipal court - \$25,000;
- (4) Judge of municipal court - \$1,000.

(b) The governing body may provide for the coverage by blanket bond of such officers and employees and in such amounts as the governing body may, by resolution, designate. (Code 2014)

1-504. SAME; PREMIUMS. All premiums on surety bonds shall be paid by the city. (K.S.A. 78-111; Code 2014)

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 2014)

1-506. APPROVAL OF BONDS. All bonds given to the city shall be approved as to their form by the city attorney and as to surety and sufficiency by the governing body, unless otherwise provided by the laws of the State of Kansas. (Code 2014)

## ARTICLE 6. OPEN RECORDS

- 1-601. POLICY. (a) It is hereby declared to be the policy of the city that all public records which are made, maintained or kept by or are in the possession of the city, its officers and employees, shall be open for public inspection as provided by, and subject to the restrictions imposed by, the Kansas Open Records Act.
- (b) Any person, upon request, shall have access to such open public records for the purpose of inspecting, abstracting or copying such records while they are in the possession, custody and control of the appointed or designated record custodian thereof, or his or her designated representative. (Code 2014)
- 1-602. RECORD CUSTODIANS. (a) All city officers and employees appointed or designated as record custodians under this article shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the city; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this city for inspecting and copying open public records.
- (b) The official custodian shall prominently display or distribute or otherwise make available to the public a brochure in the form prescribed by the Local Freedom of Information Officer that contains basic information about the rights of a requester, the responsibilities of a public agency, and the procedures for inspecting or obtaining a copy of public records under the Kansas Open Records Act. The official custodian shall display or distribute or otherwise make available to the public the brochure at one or more places in the administrative offices of the city where it is available to members of the public who request public information in person. (Code 2014)
- 1-603. LOCAL FREEDOM OF INFORMATION OFFICERS. The Local Freedom of Information Officer shall:
- (a) Prepare and provide educational materials and information concerning the Kansas Open Records Act;
- (b) be available to assist the city and members of the general public to resolve disputes relating the Kansas Open Records Act;
- (c) respond to inquiries relating to the Kansas Open Records Act;
- (d) establish the requirements for the content, size, shape and other physical characteristics of a brochure required to be displayed or distributed or otherwise made available to the public under the Kansas Open Records Act. In establishing such requirements for the content of the brochure, the Local Freedom of Information Officer shall include plainly written basic information about the rights of a requester, the responsibilities of the city, and the procedures for inspecting and obtaining a copy of public records under the Act. (Code 2014)
- 1-604. PUBLIC REQUEST FOR ACCESS. All city offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to an open public record. Such hours shall be no fewer than the hours each business day the office is regularly open to the public. For any city office not open Monday through Friday, hours shall be established by the record custodian for each such day at which time any person may request access to an open public record. (Code 2014)

- 1-605. FACILITIES FOR PUBLIC INSPECTION. All city offices keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. The office of the city clerk, being the principal record-keeper of the city, shall be used as the principal office for providing access to and providing copies of open records to the maximum extent practicable. Requesters of records shall be referred to the office of the city clerk except when the requested records are not in that office and are available in another city office. (Code 2014)
- 1-606. PROCEDURES FOR INSPECTION. Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the governing body for record inspection and copying, including those procedures established by record custodians as authorized by the governing body. Such procedures shall be posted in each city office keeping and maintaining open public records. (Code 2014)
- 1-607. APPOINTMENT OF OFFICIAL CUSTODIANS. The following city officers are hereby appointed as official custodians for purposes of the Kansas Open Records Act and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed public records:
- (a) City Clerk - All public records kept and maintained in the city clerk's office and all other public records not provided for elsewhere in this section.
  - (b) City Treasurer - All public records not on file in the office of the city clerk and kept and maintained in the city treasurer's office.
  - (c) Chief of Police - All public records not on file in the office of the city clerk and kept and maintained in the city police department.
  - (d) Fire Chief - All public records not on file in the office of the city clerk and kept and maintained in the city fire department.
  - (e) City Attorney - All public records not on file in the office of the city clerk and kept and maintained in the city attorney's office.
  - (f) Clerk of the Municipal Court - All public records not on file in the office of the city clerk and kept and maintained in the municipal court.
- (Code 2014)
- 1-608. APPOINTMENT OF LOCAL FREEDOM OF INFORMATION OFFICER. Assistant City Clerk is hereby appointed as the local freedom of information officer and charged with all of the duties as set forth in section 1-603. (Code 2014)
- 1-609. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS. (a) Each of the official custodians appointed in section 1-607 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.
- (b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations. (Code 2014)
- 1-610. REQUESTS TO BE DIRECTED TO CUSTODIANS. (a) All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the Kansas Open Records Act, shall address their requests to the

custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.

(b) Whenever any city officer or employee appointed or designated as a custodian under this article is presented with a request for access to, or copy of, a public record which record the custodian does not have in his or her possession and for which he or she has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. Further, the person making the request shall be informed as to which custodian the request should be addressed to, if such is known by the custodian receiving the request.

(Code 2014)

1-611. FEE ADMINISTRATION. The city clerk is hereby authorized to provide the clerk's office, and the office of each record custodian, with sufficient cash to enable the making of change for record fee purposes. Each custodian shall transmit all record fee moneys collected to the city treasurer not less than monthly. Each custodian shall maintain duplicates of all records and copy request forms, completed as to the amount of fee charged and collected, which amounts shall be periodically audited by the clerk-finance officer and treasurer of the city.

(Code 2014)

1-612. INSPECTION FEE. (a) Where a request has been made for inspection of any open public record which is readily available to the record custodian, there shall be no inspection fee charged to the requester.

(b) In all cases not covered by subsection (a) of this section, a record inspection fee shall be charged at the rate of \$15 per hour per employee engaged in the record search. A minimum charge of \$10 shall be charged for each such request.

(Code 2014)

1-613. COPYING FEE. (a) A fee of \$.25 per page shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment.

(b) For copying any public records which cannot be reproduced by the city's photocopying equipment, the requester shall be charged the actual cost to the city, including staff time, in reproducing such records.

(c) Fax charges will be \$1.00 for 1<sup>st</sup> page and \$.25 per each additional page.

(Code 2014)

1-614. PREPAYMENT OF FEES. (a) A record custodian may demand prepayment of the fees established by this article whenever he or she believes this to be in the best interest of the city. The prepayment amount shall be an estimate of the inspection and/or copying charges accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to inspection of the requested record or delivery of the requested copies.

(b) Prepayment of inspection and/or copying/fax fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed \$30.

(c) Where prepayment has been demanded by the record custodian, no record shall be made available to the requester until such prepayment has been made. (Code 2014)

1-615. PAYMENT. All fees charged under this article shall be paid to the custodian of the records inspected and/or copied unless the requester has established an account, for purposes of billing and payment, with the city. (Code 2014)



## 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 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 2014)

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 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 Labette 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 Labette 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 2014)

- 1-703. DEFINITIONS. As used in this article the following words and phrases shall mean:
- (a) Bank - means 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 in Kansas;
  - (b) Savings and loan association - means 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 - means any savings bank organized under the laws of the United States and which has a main or branch office in Kansas;
  - (d) Main office - means 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 - means any office within this 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 - means 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 2014)

- 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 a 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 State of Kansas;

(d) In United States treasury bills or notes 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 county or counties where 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 Chetopa 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 the 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 a 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 2014)

- 1-705.           PROCEDURES AND RESTRICTIONS. The city treasurer 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 2014)
- 1-706.           CUSTODY AND SAFEKEEPING. Securities purchased pursuant to this article shall be under the care of the city clerk, asst. city clerk and city treasurer and shall be held in custody of a state or national bank or trust company, or shall be kept by such officers in a safety deposit box of the city in a bank or trust company. Securities in the original or receipt form held in the custody of a bank or trust company shall be held in the name of the city, and their redemption, transfer, or withdrawal shall be permitted only upon the written instruction of 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 two of the abovementioned officers.  
(Code 2014)
- 1-707.           SALE OR TRANSFER. If, in order to maintain sufficient moneys on demand deposit in any fund as provided in 1-705, it becomes necessary to transfer or sell any securities of such funds, the officers specified in 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 2014)
- 1-708.           INTEREST ON TIME DEPOSITS. The city treasurer shall deposit the interest earned on invested idle funds to the general fund, unless otherwise required or authorized by law. (Code 2014)

## CHAPTER II. ANIMAL CONTROL AND REGULATION

Article 1. General Provisions

Article 2. Dogs

Article 3. Other Animals

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### ARTICLE 1. GENERAL PROVISIONS

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

(a) Abandon - includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care over a 48-hour-period.

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

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

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

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

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

(g) Dangerous or Vicious Animal - means any animal deemed to be dangerous or vicious per section 2-114.

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

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

(j) Harbor - means any person who shall allow 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.

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

(l) Humanely Euthanize - means the proper injection of a substance that quickly and painlessly terminates the life of an animal, or any other method

approved by the American Veterinary Medical Association or the American Humane Society.

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

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

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

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

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

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

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

(t) Veterinarian - means a doctor of veterinary medicine licensed by the State of Kansas.

(Code 2014)

2-102.

ANIMAL CONTROL OFFICER; DUTY TO IMPOUND; CITATION ALTERNATIVE. (a) Any person employed by the city as an animal control officer and commissioned by the chief of police of the city shall have such powers and authority as allowed by law in the enforcement of this chapter. All animal control officers shall be subject to the supervision and direction of the chief of police of the city.

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

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

(Code 2014)

2-103.

SAME; CAPTURE/DESTRUCTION. When deemed necessary by law enforcement officers or the animal control officer for the health, safety and welfare of the residents of the city, such officers and/or their agents may:

(a) Place a humane trap on public or a requesting resident's property for the purpose of capturing any animal defined in this chapter as creating a nuisance in the city;

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

(c) Use firearms or other suitable weapons to destroy any rabid animal, any vicious animal as defined in section 2-114, or any animal creating a nuisance as defined in section 2-110, where such animal is impossible or impractical to catch, capture or tranquilize.

(Code 2014)

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, to the extent allowed by law.

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

(Code 2014)

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

(a) Adequate pickup and impounding of all stray and ownerless dogs and cats and animals otherwise in violation of the provisions of this chapter.

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

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

(d) Facilities for the humane destruction of animals.

(Code 2014)

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

(b) It shall be unlawful for any person or persons, other than those duly authorized, to care for, feed, attempt to feed, or interfere in any way with the care of impounded animals.

(Code 2014)

2-107. CRUELTY TO ANIMALS. It shall be unlawful cruelty to animals for any person to own any animal and:

(a) Fail to provide such sufficient and wholesome food, potable water, shade and protection from the weather, which shall include a structurally sound, weatherproof enclosure large enough to accommodate the animal, opportunity for exercise, veterinary care when needed to treat injury or illness, unless the animal is instead humanely euthanized, or other care as is needed for the health or well-being of such kind of animal;

(b) Abandon or leave any animal in any place. For the purpose of this provision, abandon means for the owner or keeper to leave any animal without demonstrated or apparent intent to recover or to resume custody, leave any animal for more than 12 hours without providing for adequate food, potable water and

shelter for the duration of the absence, or turn out or release any animal for the purpose of causing it to be impounded;

(c) Leave any animal unattended in a vehicle when such vehicle does not have adequate ventilation and temperature to prevent suffering, disability or death to such animal.

(d) Any animal impounded for being kept in violation of this chapter may be humanely euthanized by the animal control officer if he or she deems it necessary to relieve suffering. The owner of any animal that is not euthanized shall be entitled to regain custody of such animal only after such custody is authorized by the court. All expenses accrued for the treatment or care of such animal shall be paid by the owner, whether or not he or she seeks to regain custody of such animal.

(e) No person shall willfully and wantonly kill, beat, cruelly, ill-treat, torment, overload, overwork or otherwise abuse any animal, or cause, instigate or permit any dog fight, cock fight, or other combat between animals or between animals and humans, nor shall any person attend such unlawful exhibition or be umpire or judge at such.

(f) The operator of a motor vehicle which strikes any animal shall, as soon as possible, report the accident to the animal control officer or the police department and shall report the accident to the animal's owner, if the owner can be reasonably ascertained.

(g) No person shall expose any known poisonous substance whether mixed with food or not, so that the same shall be liable to be eaten by any animal, providing that it shall not be unlawful for a person to expose, on his or her own property, poison mixed with only vegetable substances, except for commercial exterminators.

(h) It shall be unlawful for any person to use a spring steel trap in the city limits except rat and mice traps.

(i) No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which will cause or is likely to cause physical injury or suffering. All equipment used on a performing animal shall not harm or injure the animal.

In addition to the penalties provided in section 1-116 of 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. (Ord. 667, Sec. 1:7; Code 2014)

2-108.

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

(a) Normal or accepted veterinary or veterinary hospital practices or treatment of animals under active veterinary care;

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

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

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

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



veterinarian, at the request of the owner, or by any officer or agent of an incorporated humane society operator of an animal shelter or pound, a local or 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 2014)

2-109. ANIMAL TRAPS. It shall be unlawful for any person to use, place, set out, or deploy any animal trap aboveground, which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap; except that nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals.  
(Code 2014)

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 harbinger by its activities or with its excrement;
- (d) Scatters refuse that is bagged or otherwise contained;
- (e) Causes any condition which threatens or endangers the health or well-being of persons or other animals.

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

(Code 2014)

2-111. NOISY ANIMALS. It shall be unlawful for the owner of any animal to permit such animal to make excessive noise that disturbs a neighbor. The following definitions and conditions shall apply to this provision.

(a) Excess Noise - Any animal noise which is so loud and continuous or untimely as to disturb the sleep or peace of a neighbor.

(b) Neighbor - Any person residing in a residence structure which is within 100 yards of the property on which the animal is owned.

(c) If a summon is issued charging violation of this provision, a subpoena shall also be issued to the disturbed neighbor(s) to testify to the disturbance under oath.  
(Ord. 669, Sec. 1; Code 2014)

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 where said fences are 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 24 hours after notice is served on the owner. Any animal kept under any condition which could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected.

(Ord. 669, Sec. 2; Code 2014)

2-112A. SAME; STOCKYARDS; COMMERCIAL HOLDING PENS. Animal shelters owned or operated as a stockyard or commercial holding pen shall be adequately maintained and cleaned as often as is necessary, as determined by the health officer, to control fly breeding or to control other conditions adversely affecting the public health including the following:

(a) Collected fecal material and other solid organic waste shall be disposed of at a sanitary landfill, fertilizer processing plant, or by proper dispersal on land used for agricultural purposes.

(b) Grain or protein feed shall be stored in tightly covered rodent- proof metal containers or rodent-proof bins.

(c) Premises subject to the terms of this section shall be maintained free of rodent harborage and in accordance with sections 8-601:608 of this code.

(d) Wherever reasonable, use shall be made of anti-coagulant rodenticides for the control of rodents and organo-phosphorus insecticides for the control of flies or any other effective chemical means for the control of rodents and flies.

(e) Wherever reasonable, use shall be made of soil sterilants and herbicides or other effective means for the control of weeds and grass around structures and buildings.

(f) Enclosures including fences where animals such as horses, cows, sheep and goats are maintained shall be constructed in a manner, using dimension lumber materials, or other effective means to prevent such animals from breaking out or causing hazard to persons or property.

(g) The solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a residential classification permit as herein provided shall be stored in metal containers, with tight-fitting metal lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(h) Holding lots, pens and floors of sheds and buildings where animals are held and which are maintained by persons subject to a commercial, industrial or agricultural classification permit according to the terms of this chapter shall be surfaced with concrete or asphaltic materials and that the drainage system of such surfaced areas shall include proper retaining walls and traps to control the waste from draining into watercourses and such drainage system shall be subject to the approval of the health officer. The health officer shall waive this standard for domestic animal holding operations where such animal holding is longer than 24 hours for any domestic animal involved or where dirt lots are more appropriate to the proper care of cattle, horses or sheep.

(i) Solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a commercial, industrial or agricultural permit according to the terms of this chapter shall be stored on concrete slabs or other facilities, such as dirt lots on which is stockpiled manure with an exposed perimeter as approved by the health officer; provided that all solid waste shall be properly disposed of at least once each week or as may be approved by the health officer.

(Code 2014)

2-113. DEATH OF ANIMALS. All dead animals shall be disposed of by the owner or keepers within 24 hours of the animal's death, by burial, incineration in a facility approved by the animal control officer, by rendering or by other lawful means approved by the animal control officer. No dead animal shall be dumped on any public or private property. (Code 2014)

2-114. VICIOUS ANIMALS. (a) Definitions.

(1) A vicious dog as the term is used in this article means:

(A) Any dog with a propensity, tendency, or disposition to attack, to cause injury, or to otherwise endanger the safety of human beings or domestic animal;

(B) Any pit bull terrier which is defined as any Staffordshire Bull Terrier breed of dog or any mixed breed of dog which contains as an element of its breeding the breed of Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of Staffordshire Bull Terrier or American Staffordshire Terrier by a qualified veterinarian duly licensed as such by the State of Kansas.

(C) Any Rottweiler or mixed breed dog containing any Rottweiler bloodline.

(D) Dogs used to assist the vision-impaired or law enforcement officers in their official duties shall not be termed as vicious dogs.

(2) A vicious dog is unconfined as the term is used in this section if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the person described in section (b)(1) hereof. Such pen or structure must have secure sides and a secure top attached to the sides. If the pen or structures have no bottom secured to the sides, the sides must be imbedded in the ground no less than two feet. The entrance or gate of the structure must be securely latched. The structure must be adequately lighted, ventilated, and kept in a clean and sanitary condition.

(b) Requirements.

(1) No person owning or harboring or having the care of a vicious dog shall suffer or permit such animal to go unconfined on the premises of such person.

(2) No person owning or harboring or having the care of a vicious dog shall suffer or permit such dog to go beyond the premises of such person unless such dog is securely muzzled and restrained by a leash no longer than four feet in length which is in the physical control of a person of suitable age and discretion and may be transported if it is securely confined within a motor vehicle.

(3) In addition to complying with all other requirements of this article, the owner of a vicious dog shall:

(A) Register such dog within 10 days by reporting the following information in writing to the city clerk:

(i) The age, sex, breed, and weight of the dog;

(ii) The owner's name and the address where the animal will be kept.

(B) Post signs including but not limited to the following language: Warning, Vicious Dog. Such signs shall be posted in a conspicuous place visible from the public sidewalk or road.

(C) Within 10 days provide the city clerk two color photographs of the dog showing its color and approximate size.

(D) Allow the chief of police onto the premises where the dog is kept for the purpose of inspecting the pen or enclosure in which the dog is confined.

(E) Within 10 days provide proof to the city clerk of public liability insurance in a single incident amount of \$50,000 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping, or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless 10 days' written notice is first given to the city clerk.

(F) Report to the city clerk within 10 days of the incident, the following information in writing:

(i) The death or removal from the city of such dog;

(ii) The birth of offspring of such dog;

(iii) The new address of such dog if it is moved within the city limits;

(iv) The new acquisition of such dog.

(c) Grandfather Clause. All Rottweiler dogs shall be considered legal if they comply with all of the requirements of this article except for section (b)(3)(E) above; in other words, no Rottweiler dogs presented in the city shall be required to be insured pursuant to section (b)(3)(E).

(d) Impounding. If the law enforcement officer has probable cause to believe that a vicious dog is being kept, harbored, or cared for in violation of this article, the

officer may petition the municipal court to order the seizure and impoundment of the animal pending trial.

(e) Vicious Dogs 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.

(f) 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.

(g) 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.

(Ord. 736, Sec. 1:5; Code 2014)

2-115. **RUNNING AT LARGE.** It shall be unlawful for any person to willfully allow any animal or fowl under his or her control to be or to run at large within the city. Any animal or fowl found at large may be impounded. (Code 2014)

2-116. **IMPOUNDMENT OF RABIES SUSPECTS.** (a) Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in the city pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. If in the opinion of the local health officer symptoms develop justifying a microscopic examination, then the animal shall be killed and examination made by the state board of health.

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

animal control officer or any law enforcement officer to be killed and examination made by the state board of health.

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

(Code 2014)

2-116A.           **IMPOUNDMENT OF RABIES SUSPECTS.** 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 a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. (Code 2014)

2-117.           **ANIMALS BITTEN BY RABID ANIMALS.** Whenever a dog, cat or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten, to report that fact to the local health officer and/or the police department. It shall also be the duty of the owner of the bitten animal to either destroy or have his or her bitten animal destroyed unless:

(a) The animal which was bitten had been vaccinated against rabies at least three weeks before being bitten and has a current vaccination; and

(b) If the bitten animal has a current vaccination, it shall be confined for 90 days; and

(c) The bitten animal shall be released from confinement only upon written order from the local health officer, who declares the animal to be free of rabies; and

(d) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of.

(Code 2014)

2-118.           **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 2014)

2-119.           **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 2014)

2-120. KENNEL LICENSES. (a) No person or household shall own or harbor more than five dogs of six months of age or older or more than one litter of pups, or more than five cats of more than six months of age or more than one litter of kittens, or more than a total of five dogs and cats more than six months of age in any combination, or engage in the commercial business of breeding, buying, selling, trading, training, or boarding cats or dogs or both cats and dogs, without having obtained a license from the State of Kansas as an animal distributor, pet shop operator, pound or animal shelter, hobby breeder, research facility, animal breeder, retail breeder, or kennel operator.

(b) The city treasurer shall collect an annual registration fee of \$1.00 per animal, 6 months of age or older from any individual licensed under subsection (a).

(c) This section shall not apply to and will not be construed to require any license for a licensed veterinarian to operate an animal hospital.  
(K.S.A. 47-1701, *et seq.*; Code 2014)

## ARTICLE 2. DOGS

2-201. REGISTRATION AND VACCINATION REQUIRED; FEE. (a) Every owner of any dog 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 dog owned and kept within the city. It shall be unlawful for the owner of any newly acquired dog or any dog brought into the city to fail to register such animal within 30 days from acquisition or bringing the dog into the city. It shall be unlawful for the owner of any previously registered dog to fail to maintain current registration of such dog.

(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 dog over six months of age to fail to maintain effective rabies immunization of such dog.

(c) The owner or harbinger of any dog shall, at the time of registering such dog, present to the city treasurer a certificate from an accredited veterinarian showing that a male dog has been neutered or a female dog has been spayed, if the dog has been neutered or spayed.

(d) The city treasurer shall collect an annual registration fee of \$1.00 for each neutered male dog and for each spayed female dog, and \$25.00 for each unneutered male dog and for each unspayed female dog.

(e) The registration year shall be January 1st of each year. The fee shall be payable before January 1st of each year without penalty.

Registration fees as enumerated above may be prorated for newly acquired dogs or for dogs owned by a person or persons moving to and establishing a home in the city during a calendar year. Every owner or harbinger of dog or dogs who shall fail to register the same prior to the 1st day of January of each year shall pay in addition to the registration fee herein provided, a penalty for late registration of \$2.00 for each neutered male dog and for each spayed female dog, and \$37.50 for each unneutered male dog and for each unspayed female dog.

(Ord. 852; Code 2014)

2-202. DOG TAGS. It shall be the duty of the city treasurer or designated agent, upon a showing of current rabies immunization and receipt of the registration fee hereinbefore required, to keep in a book suitable for the registration of dogs, the time of the registration, the name of the owner or keeper, the number of the registration and the amount paid therefor, and shall deliver to the owner or keeper of the dog a certificate in writing, stating that the person has registered the dog and the number by which the dog is registered, and shall also deliver to the owner or keeper of the dog 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 dog so registered. When any tag has become lost during a registration period, the owner of the dog may request a duplicate tag for the remainder of the registration period. When so requested, the city treasurer shall, upon presentation of the registration certificate, issue a duplicate of such tag. It shall be unlawful for any person to take off or remove the city registration tag from any dog belonging to another, or remove the strap or collar on which the same is fastened.

(Ord. 852; Code 2014)



- 2-203. SAME; COUNTERFEIT TAG. It shall be unlawful for any person to place on any dog a tag issued for any other dog or to make or use any false, forged or counterfeited tag or imitation thereof. (Code 2014)
- 2-204. EVIDENCE OF VACCINATION. It shall be unlawful for the owner of any dog 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 dog within two years, when requested by the animal control officer or any law enforcement officer. (Code 2014)
- 2-205. VISITING DOGS. The provisions of this article with respect to registration shall not apply to any dog owned by any person visiting or temporarily remaining within the city for less than 30 days. However, such dogs shall be kept under restraint by the owner thereof at all times. (Code 2014)
- 2-206. RUNNING AT LARGE. (a) It shall be unlawful for the owner or harbinger of any dog to permit such dog to run at large within the city at any time;  
(b) Any dog running at large within the city may be impounded.  
(c) Any dog impounded may not be released without a current rabies vaccination.  
(d) The redemption of any dog impounded for a violation of any provision of this chapter shall be prima facie evidence of the violation of such provision by the person redeeming the dog.  
(Ord. 650, Sec 2; Ord. 689, Sec. 1; Code 2014)
- 2-207. CONFINEMENT OF DOGS IN HEAT. Any unspayed female dog in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog or dogs may gain voluntary access to the confined animal except for purposes of planned breeding. Any animal that is in the state of estrus (heat) and that is not properly confined, or any such animal that is creating a neighborhood nuisances, may be removed to a boarding kennel, or to a veterinary clinic. All expenses incurred as a result of the confinement shall be paid by the owner. The owner of animals removed to the animal shelter shall be charged at the rate established from time to time by the animal shelter for routine confinement.  
(Code 2014)
- 2-208. MUZZLING. Whenever the mayor shall deem it necessary for the protection and welfare of the inhabitants of the city, he or she shall issue an order requiring all dogs kept within the city 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 2014)
- 2-209. PENALTY. Any person or persons owning any dog and violating any provisions of this article shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed \$100.00 with the fine not to exceed \$25.00 for the first violation. (Ord. 522, Sec. 2; Code 2014)

### ARTICLE 3. OTHER ANIMALS

2-301.

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

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

- (1) All poisonous animals including rear-fang snakes.
- (2) Apes: Chimpanzees; gibbons; gorillas, orangutans; and siamangs.
- (3) Baboons.
- (4) Badgers.
- (5) Bears.
- (6) Bison.
- (7) Bobcats.
- (8) Cheetahs.
- (9) Crocodilians, 30 inches in length or more.
- (10) Constrictor snakes, six feet in length or more.
- (11) Coyotes.
- (12) Deer; includes all members of the deer family, for example, white-tailed deer, elk, antelope and moose.
- (13) Elephants.
- (14) Game cocks and other fighting birds.
- (15) Hippopotami.
- (16) Hyenas.
- (17) Jaguars.
- (18) Leopards.
- (19) Lions.
- (20) Lynxes.
- (21) Monkeys.
- (22) Ostriches.
- (23) Pumas; also known as cougars, mountain lions and panthers.
- (24) Raccoons.
- (25) Rhinoceroses.
- (26) Skunks.
- (27) Tigers.
- (28) 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) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.

(2) 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.

(e) Any person owning any exotic animal and violating any provision of this article shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed \$100, with the fine not to exceed \$25 for the first violation. (Code 2014)

## 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 CMB Permits
Article 9.	Keg Registration

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

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

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

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

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

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

(g) Club - means a Class A or Class B club.

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

(i) General Retailer - means a person who has a license to sell cereal malt beverages at retail.

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

(k) Place of Business. - Any place at which cereal malt beverages or alcoholic beverages or both are sold.

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

(m) Wholesaler or distributor. - Any individuals, firms, co-partnerships, corporations and associations which sell or offer for sale any beverage referred to in this chapter, to persons, co-partnerships, corporations and associations authorized by this chapter to sell cereal malt beverages at retail.

(Ord. 664, Sec. 1; Code 2014)

3-102. RESTRICTION 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, exchanging or delivering of any alcoholic beverage in any building, structure or premises, for consumption in such building or upon such premises if such consumption is within 300 feet from the nearest property line of any existing hospital, school, church or library.

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

(c) No license or permit shall be issued for the sale of alcoholic liquor if the building conflicts with other city laws, including building and health codes.

(Ord. 664, Sec. 2; Ord. 750, Sec. 5; Code 2014)

3-103. MINORS ON PREMISES. (a) It shall be unlawful for any person under the age of 21 years to remain on any premises where the sale of alcoholic liquor is licensed for on-premises consumption, or where a caterer or temporary permit holder is serving alcoholic liquor.

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

(c) This section shall not apply if the person under the age of 21 years is accompanied by his or her parent or guardian, or if the licensed or permitted premises derive not more than 50 percent of its gross receipts in each calendar year from the sale of alcoholic liquor for on-premises consumption.

(Ord. 664, Sec. 3; Code 2014)

3-104. CONSUMPTION ON PUBLIC PROPERTY. No person shall drink or consume any alcoholic liquor or CMB on city owned public property. However, this prohibition shall not apply to the Fire Station, East River Park, or Elmore Park, which are properties owned by the city.

(K.S.A. 41-719(d); Ord. 664, Sec. 4; Code 2014)

3-105. PUBLIC SALE; CONSUMPTION. (a) 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) It shall be unlawful for any person to drink or consume any cereal malt beverage or alcoholic beverage 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 2014)

3-106. 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 issued 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 in 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 alcoholic liquor.

(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 the sale, purchase or consumption of any cereal malt beverage.

(Code 2014)

## ARTICLE 2. CEREAL MALT BEVERAGES

- 3-201. LICENSE REQUIRED OF RETAILERS. (a) It shall be unlawful for any person to sell any cereal malt beverage at retail without a license for each place of business where cereal malt beverages are to be sold at retail.
- (b) It shall be unlawful for any person, having a license to sell cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any cereal malt beverage in any other manner.
- (K.S.A. 41-2702; Ord. 687, Sec. 1; Code 2014)
- 3-202. 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 five years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States;
- (f) Each application for a general retailer's license shall be accompanied by a certificate from the county or state health officer certifying that he or she has inspected the premises to be licensed and that the same comply with the health code and/or ordinances of the city.
- The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the chief of police of the city for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The chief shall report to the city attorney not later than five working days subsequent to the receipt of such application. The application shall be scheduled for consideration by the governing body at the earliest meeting consistent with current notification requirements.
- (Ord. 687, Sec. 2; Code 2014)
- 3-202A. LICENSE APPLICATION PROCEDURES. (a) All applications for a new and renewed cereal malt beverage license shall be submitted to the city clerk 10 days in advance of the governing body meeting at which they will be considered.
- (b) The city clerk's office shall notify the applicant of an existing license 30 days in advance of its expiration.

(c) The clerk's office shall provide copies of all applications to the police department when they are received.

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

(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.

(Ord. 687, Sec. 3; Code 2014)

3-203. LICENSE GRANTED; DENIED. (a) The journal of the governing body shall show the action taken on the application.

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

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

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

(Ord. 687, Sec. 4; Code 2014)

3-204. LICENSE TO BE POSTED. Each license shall be posted in a conspicuous place in the place of business for which the license is issued.

(Ord. 687, Sec. 5; Code 2014)

3-205. LICENSE, DISQUALIFICATION. No license shall be issued to:

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

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

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

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

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

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

(g) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 25 percent of the stock, of a corporation which: (A) Has had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or (B) has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state.

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

(i) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, retailer residency requirements or age, except that this subsection (i) shall not apply in determining eligibility for a renewal license. (Ord. 687, Sec. 6; Code 2014)

3-206. RESTRICTION UPON LOCATION. (a) No license shall be issued for the sale at retail of any cereal malt beverage on premises which are located in areas not zoned for such purpose.

(b) It shall be unlawful to sell or dispense at retail any cereal malt beverage at any place within the city limits that is within a 300-foot radius of any church, school or library.

(c) Provisions of this section shall not apply to any establishment holding a private club license issued by the State of Kansas.

(d) The distance limitation of subsection (b) above shall not apply to any establishment holding a cereal malt beverage license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation. The governing body shall grant such a waiver only following public notice and hearing. (K.S.A. 41-2704; Ord. 687, Sec. 7; Code 2014)

3-207. 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 for consumption on premises, \$75.00 per calendar year, in addition to the \$25 CMB stamp fee.

(b) Limited Retailer - for each place of business selling only at retail cereal malt beverages in original and unopened containers and not for consumption on the premises, \$50.00 per calendar year, in addition to the \$25 CMB stamp fee.

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

(K.S.A. 41-2702; Ord. 687, Sec. 8; Code 2014)

3-208. SUSPENSION OF LICENSE. The chief of police, upon five days' written notice, shall have the authority to suspend such license for a period not to exceed 30 days, for any violation of the provisions of this chapter or other laws pertaining to cereal malt beverages, which violation does not in his or her judgment justify a recommendation of revocation. The licensee may appeal such order of suspension to the governing body within seven days from the date of such order.

(Ord. 687, Sec. 9; Code 2014)

3-209. 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 may permanently revoke or cause to be suspended for a period of not more than 30 days such license for any of the following reasons:

(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 to any person under 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 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 persons under 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 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. 21-4106 or K.S.A. 21-4107 (public nuisance) in or upon the licensee's place of business. (K.S.A. 41-2708; Code 2014)

3-210. SAME; APPEAL. The licensee, within 20 days after the order of the governing body revoking any license, may appeal to the district court of Labette 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 or suspension during the pendency of such appeal. In case of the revocation of the license of any licensee, no new license be issued to such person or any person acting for or on his or her behalf, for a period of six months thereafter. (K.S.A. 41-2708; Ord. 687, Sec. 11; Code 2014)

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 the current CMB stamp fee. If the application is in proper form and the location is not in a prohibited zone and all other requirements relating to such place of business are met, a new license shall be issued for the new location for the balance of the year for which a current license is held by the licensee. (Ord. 687, Sec. 12; Code 2014)

- 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 within the city, to persons authorized under this article to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the State of Kansas authorizing such sales.  
(K.S.A. 41-307:307a; Ord. 687, Sec. 13; Code 2014)
- 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 subsection (d), no cereal malt beverages may be sold or dispensed between the hours of 12:00 midnight and 6:00 a.m., and the premises shall be cleared of all people except a reasonable maintenance crew between the hours of 12:30 a.m. and 6:00 a.m., or on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30 percent of its gross receipts from the sale of food for consumption on the licensed premises. Closing hours for clubs shall conform to K.S.A. 41-2614 and any amendments thereto. No cereal malt beverages shall be carried out from the premises after 12:05 a.m.
- (d) Cereal malt beverages may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. 41-2601 *et seq.*, and licensed as a club by the State Director of Alcoholic Beverage Control.
- (e) The place of business shall be open to the public and to the police at all times during business hours, except that premises licensed as a club under a license issued by the State Director of Alcoholic Beverage Control shall be open to the police and not to the public.
- (f) It shall be unlawful for any licensee or agent or employee of the licensee to become intoxicated in the place of business for which such license has been issued.
- (g) No licensee or agent or employee of the licensee shall permit any intoxicated person to remain in the place of business for which such license has been issued.
- (h) No 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.
- (i) No licensee or agent or employee of the licensee shall permit any gambling in the place of business for which such license has been issued.
- (j) No licensee or agent or employee of the licensee shall permit any person to mix alcoholic drinks with materials purchased in said place of business or brought in for such purpose.
- (k) No licensee or agent or employee of the licensee shall employ any person under 21 years of age in dispensing cereal malt beverages. No licensee shall employ any person who has been judged guilty of a felony.  
(Ord. 687, Sec. 14; Code 2014)

- 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 breasts below the top of the areola or any portion of males/females pubic hair, anus, buttocks or genitals;
  - (b) Permitting any employee on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva or genitals of any other employee or any patron;
  - (c) Encouraging or permitting any patron on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva, or genitals of any employee;
  - (d) Performing or permitting any person to perform on the licensed premises acts of or acts which simulate:
    - (1) Sexual intercourse, masturbation, sodomy, or any other sexual act which is prohibited by law; or
    - (2) Touching, caressing or fondling such persons' breasts, buttocks, anus or genitals.
  - (e) Using or permitting any person to use on the licensed premises, any artificial devices or inanimate objects to depict any of the acts prohibited by paragraph (d) of this section.
  - (f) Showing or permitting any person to show on the licensed premises any motion picture, film, photograph, electronic reproduction, or other visual reproduction depicting:
    - (1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, or any sexual act which is prohibited by law;
    - (2) The touching, caressing or fondling of the buttocks, anus, genitals or the female breasts;
    - (3) Scenes in which a person displays the buttocks, anus, genitals or the female breasts.
  - (g) As used in this section, the term premises means the premises licensed by the city as a cereal malt beverage establishment and such other areas, under the control of the licensee or his or her employee or employees, that are in such close proximity to the licensed premises that activities and conduct of persons within such other areas may be viewed by persons on or within the licensed premises.
- (Code 2014)

- 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 lighted, and be furnished at all times with paper towels or other mechanical means of drying hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self closing and toilet paper at all times shall be provided. Easily cleanable receptacles shall be provided for waste material and such receptacles in toilet rooms for women shall be covered. The restrooms shall at all times be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspection by the city health officer or designee. (Ord. 687, Sec. 15; Code 2014)

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 50 percent of its gross receipts in each calendar year from the sale of cereal malt beverages for on-premises consumption.

(Ord. 687, Sec. 16; Code 2014)

### 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 treasurer 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.  
(Ord. 740, Sec. 1; Code 2014)
- 3-302. OCCUPATIONAL TAX. There is hereby levied an annual occupation tax of \$150 on any person holding a license issued by the state director of alcoholic beverage control for the retail sale within the city of alcoholic liquors for consumption off the premises. Such tax shall be paid by the retailer to the city treasurer before business is begun under an original state license and shall be paid by the last business day of January.  
(Ord. 740, Sec. 2, 6; Code 2014)
- 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.  
(Ord. 740, Sec. 3; Code 2014)
- 3-304. HOURS OF SALE. No person shall sell at retail any alcoholic liquor:  
(a) On any Sunday;  
(b) On Decoration Day or Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day;  
(c) Before 9:00 a.m. or after 11:00 p.m. on any day when the sale thereof is permitted.  
(K.S.A. 41-712; Ord. 740, Sec. 4; Code 2014)
- 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 unless the person is preparing or mixing samples for the purposes of conducting wine, beer, or distilled spirit tastings, or any combination thereof, as authorized by K.S.A. 2012 Supp. 41-308d, and amendments thereto;  
(b) Employ any person under the age of 21 years in connection with the operation of the retail establishment;  
(c) Employ any person in connection with the operation of the retail establishment who has been adjudged guilty of a felony;  
(d) Furnish any entertainment in his or her premises or permit any pinball machine or game of skill or chance to be located in or on the premises; or  
(e) Have in his or her possession for sale at retail any bottles, cask, or other containers containing alcoholic liquor, except in the original package.  
(f) Sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person under 21 years of age.  
(K.S.A. 41-713; Code 2014)

3-306.           RESTRICTIONS ON LOCATION. No alcoholic liquor shall be sold or served by a person holding a license or permit from the city whose place of business or other premises are located within 300 feet of any church, school, nursing home, library, or hospital, said distance to be measured from the nearest property line of such church, school, nursing home, library, or hospital, to the nearest portion of the building occupied by the premises.  
(K.S.A. 41-710; Ord. 740, Sec. 2; Code 2014)

#### 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. (Ord. 664, Art. 2; Sec. 1; Code 2014)
- 3-402. LICENSE FEE. (a) There is hereby levied an annual license fee on each private club located in the city which has a private club license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license. The city license fee for a Class A club shall be \$200.00 and the city license fee for a Class B club shall be \$250.00.
- (b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.
- (c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.
- (d) Every licensee shall cause the city club license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises. (Ord. 664, Art. 2, Sec. 2; Code 2014)
- 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 21 years of age, nor shall alcoholic beverages or cereal malt beverages be given, sold or traded to any person under 21 years of age. (K.S.A. Supp. 41-2614; Ord. 664, Art. 2, Sec. 3; Code 2014)

## 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 2014)
- 3-502. LICENSE FEE. (a) There is hereby levied an annual license fee in the amount of \$250.00 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 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 city drinking establishment license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.  
(Code 2014)
- 3-503. BUSINESS REGULATIONS. (a) No drinking establishment licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.
- (b) Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverage for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.
- (c) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age.  
(K.S.A. Supp. 41-2614; Code 2014)



## 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. (Ord. 664, Art. 3, Sec. 1; Code 2014)
- 3-602. LICENSE FEE. (a) There is hereby levied an annual license fee in the amount of \$500 on each caterer doing business in the city who has a caterer's license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five 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 license to be placed in plain view on any premises within the city where the caterer is serving or mixing alcoholic liquor for consumption on the premises.  
(Ord. 664, Art. 3, Sec. 2; Code 2014)
- 3-603. BUSINESS REGULATIONS. (a) No caterer licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 9:00 a.m. on any day.
- (b) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age.  
(K.S.A. Supp. 41-2614; Ord. 664, Art. 3, Sec. 3; Code 2014)
- 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 10 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.  
(Ord. 664, Art. 3, Sec. 4; Code 2014)

## 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.  
(Ord. 664, Art. 4, Sec. 1; Code 2014)
- 3-702. PERMIT FEE. (a) There is hereby levied a temporary permit fee in the amount of \$25.00 per day 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.  
(Ord. 664, Art. 4, Sec. 2; Code 2014)
- 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 10 days in advance of the governing body meeting at which issuance of said permit will be considered. Written application for the local temporary permit shall be made to the city clerk and shall clearly state:
- (1) The name of the applicant;
  - (2) The group for which the event is planned;
  - (3) The location of the event;
  - (4) The date and time of the event;
  - (5) Any anticipated need for police, fire or other municipal services.
- (b) Upon presentation of a state temporary permit, payment of the city's temporary permit fee and a written application as provided for in subsection (a), the city clerk shall issue a local temporary permit to the applicant if there are no conflicts with any zoning or other ordinances of the city.  
(c) The city clerk shall notify the chief of police whenever a temporary permit has been issued and forward a copy of the permit and application to the chief of police.  
(Ord. 664, Art. 4, Sec. 3; Code 2014)
- 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 21 years of age.  
(Ord. 664, Art. 4, Sec. 4; Code 2014)

## ARTICLE 8. SPECIAL EVENT CMB PERMITS

- 3-801. SPECIAL EVENT CMB PERMITS; PERMIT REQUIRED. It shall be unlawful for any person to sell or serve any CMB at any special event within the city without first obtaining a local special event permit from the city clerk. (Code 2014)
- 3-802. SAME; PERMIT FEE. (a) There is hereby levied a special event permit fee in the amount of \$75 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. The special event permit fee may be waived at the discretion of the governing body.  
(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 CMB for consumption on the premises.  
(Code 2014)
- 3-803. SAME; CITY SPECIAL EVENT PERMIT. (a) It shall be unlawful for any person to serve CMB at a special event without first applying for a local special event permit at least 10 days before the governing body meeting at which issuance of said permit will be considered. 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 CMB 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 2014)
- 3-804. SAME; PERMIT REGULATIONS. (a) No special event permit holder shall allow the serving of CMB 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 CMB shall be given, sold or traded to any person under 21 years of age.  
(c) No more than four 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 CMB apply to holders of special event permits.  
(Code 2014)

## ARTICLE 9. KEG REGISTRATION

3-901. DEFINITIONS. As used in this article, the words and phrases herein defined shall have the following meaning, unless the context otherwise requires:

(a) Beer means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

(b) Cereal malt beverage means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any such liquor which is more than 3.2% alcohol by weight.

(c) Keg means a reusable container of beer or cereal malt beverage having a liquid capacity of four or more gallons.

(d) Legal age for consumption means 21 years of age.

(e) Person means any natural person, corporation, partnership, limited liability company, trust or association.

(f) Retailer means a person who sells at retail, or offers for sale at retail, beer or cereal malt beverage pursuant to a valid state and/or municipal license.

(g) Sell or sell at retail refers to and means sales of beer or cereal malt beverage for use or consumption and not for resale in any form, and includes sales of beer or cereal malt beverage in a keg returnable to the seller. Such terms shall not refer to or mean sales by a distributor or sales by one retailer to another.

(h) Proper proof of identification means a photographic motor vehicle operator's license, a valid passport, a United States military identification card, a Kansas photographic non-driver's identification card or other official or apparently official document, containing a photograph, signature and birth date of the person.  
(Code 2014)

3-902. RETAILER DUTIES. A retailer, or retailer's employee or agent, prior to or at the time of any sale at retail of a keg, shall:

(a) Affix or cause to be affixed to the keg a keg identification tag, in accordance with the provisions of Article 9;

(b) Require the purchaser to exhibit proper proof of identification. If the purchaser fails to provide such proof of identification, the retailer shall refuse to sell the keg to such person;

(c) Require the purchaser to sign a Declaration and Receipt for the keg in the form provided for in Article 9;

(d) Record on the declaration the keg identification tag number, the date of sale, the purchaser's name and address, and the type, number and expiration date of the purchaser's identification;

(e) Inform the purchaser, that any deposit paid by the purchaser for the keg, if required, shall be forfeited if the keg is returned without the original keg identification tag intact and readable;

(f) Require each purchaser of any such keg to acknowledge as part of the declaration that persons under 21 are not of legal age for consumption of beer or cereal malt beverage and that the declaration is subject to inspection by law enforcement personnel; and

(g) Provide a copy of the Declaration and Receipt to the purchaser.  
(Code 2014)

- 3-903. PURCHASER REQUIREMENTS. Any person who purchases a keg or the contents thereof shall:
- (a) Be of legal age to purchase, possess, or use beer and cereal malt beverage;
  - (b) Provide proof of identification and such other information as the retailer may require in accordance with Article 9.
  - (c) Sign a Declaration and Receipt in the form required by section 3-902;
  - (d) Not allow any person under the age of 21 to consume the keg contents except as allowed by law;
  - (e) Not remove, obliterate, or allow to be removed or obliterated, the keg identification tag required by Article 9; and
  - (f) Maintain a copy of the Declaration and Receipt with the keg during the time the keg is in the purchaser's possession or control.
- (Code 2014)

- 3-904. IDENTIFICATION REQUIREMENTS. (a) The keg identification tag required under this article shall be in the form of a uniquely numbered and coded tag or label, prescribed and furnished by the city clerk. Such tag or label is used for a single sale of the marked keg and is to be removed from the keg by the retailer upon return of the keg to the retail seller and maintained with the records of the sale. Such tags shall be fabricated and made attachable in such a manner as to make the tag removable for the purpose of the cleaning and reusing the keg by a manufacturer.
- (b) The Declaration and Receipt required shall be on a form prescribed and furnished by the city clerk and shall include the information as required by Article 9 and may include such other identifying information as the city clerk may deem necessary and appropriate.
- (c) Retailers may apply for and receive keg identification tags and Declaration and Receipt forms from the city clerk upon submittal of an application on a form as prescribed by the city clerk and such proof as may be required by the city clerk that the applicant is duly licensed to sell beer or cereal malt beverages in a keg. The city clerk may charge a reasonable fee for furnishing the tags and forms required by this article not to exceed the actual cost of furnishing such tags and forms.
- (d) The retailer shall retain a copy of all such Declarations and Receipts required on the retailer's licensed premises for a period of six months. Such Declarations and Receipts shall be available for inspection and copying by any law enforcement officer during normal business hours for the purpose of identifying persons suspected of a violation of law.
- (e) Falsifying any information on a Declaration and Receipt shall be a violation of this section.
- (Code 2014)

- 3-905. DEPOSIT REFUND. No retailer may refund any deposit upon return of a keg that:
- (a) Does not have the required identification tag; or
  - (b) Has an identification tag that has been defaced to the extent that the information contained on the tag cannot be read.
- (Code 2014)

3-906.

VIOLATIONS. It shall be unlawful for any person to:

- (a) Remove from a keg all or part of a keg identification tag required pursuant to this article;
- (b) Deface a keg identification tag to the extent the information contained on the tag cannot be read;
- (c) Fail to return a keg within 10 days of the due date; or
- (d) Possess a keg that does not have the keg identification tag.

Provided that the provisions of this section shall not apply to a manufacturer, distributor, or retailer, and; subsection (d) shall not apply to any person who finds a discarded keg on such person's property.

(Code 2014)

## **CHAPTER IV. BUILDINGS AND CONSTRUCTION**

- Article 1. Fire Limits
- Article 2. Building Code
- Article 3. (Reserved)
- Article 4. (Reserved)
- Article 5. Moving Buildings
- Article 6. Dangerous and Unfit Structures

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### **ARTICLE 1. FIRE LIMITS**

4-101. FIRE LIMITS ESTABLISHED. The following shall be and are hereby declared to be the fire limits of the city:

All portions of the city bounded by a line commencing at a point in the center of Third Street and in range with the center line of the alley between Maple and Locust Streets. Running thence west along the center line of said alley to the center of Sixth Street, running thence north along the center line of Sixth Street to a point in range with the center line of the alley between Maple and Walnut Streets, running thence east along the center line of the alley last mentioned to a point in the center of Third Street, running thence south along the center line of Third Street to point of beginning, shall be the fire limits of said city.  
(Rev. Ord. 1948; Code 1969)

## ARTICLE 2. BUILDING CODE

- 4-201. DEFINITIONS. As used in this article, the words and phrases herein defined shall have the following meanings unless the context otherwise requires:
- (a) Whenever the word municipality is used in the building code, it shall be held to mean the City of Chetopa, Kansas;
  - (b) Whenever the term corporation counsel is used in the building code, it shall be held to mean the city attorney of the City of Chetopa;
  - (c) Whenever the term building inspector is used in the building code, it shall be held to mean a council member who volunteers for such position or his or her designee.  
(Ord. 599, Sec. 2; Code 2014)
- 4-202. INTERNATIONAL 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. One copy of the International Building Code, 2012 Edition, shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Chetopa," 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 2014)
- 4-203. BUILDING INSPECTOR. (a) The mayor may approve a council member who volunteers to be and perform the duties of building inspector.
- (b) The building inspector shall have the following duties:
    - (1) To enforce all regulations relating to construction, alteration, repair, removal and demolition of building and structures;
    - (2) May permit, with the approval by the governing body, on the basis of duly authenticated reports from recognized sources, the use of new materials or modes of construction, not provided for in this article, and may, for the purpose of carrying out the intent of this article adopt an accepted standard of material or workmanlike practices of federal or state bureaus, national, technical organizations or fire underwriters. The building inspector, in his or her capacity as council member, shall abstain from any discussion of approving such actions.  
(Code 2014)
- 4-204. BUILDING INSPECTOR; POWERS; DUTIES. (a) This and other articles of the city relating generally to building and structures may be administered and enforced by a council member, with approval by the governing body. The building inspector, in his or her capacity as council member, shall abstain from any discussion of approving the building inspector's actions. The council member may act as building inspector and may appoint such other assistants as may be advisable for the issuance of building permits and the inspection of building work.
- (b) The building inspector may prepare such application, permit, inspection and record forms as may be required for the purposes of the article. The building



inspector may make and promulgate the necessary rules and regulations to obtain conformity with this article pertaining to the making of applications for building or demolition permits, issuing of building or demolition permits, and inspecting of buildings and building works.

(c) The building inspector shall abstain from any discussion of the compensation or duties of the building inspector during governing body meetings. (Ord. 599, Sec. 2; Code 2014)

- 4-205. SAME; POWERS. The building inspector 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 chapter;
  - (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 chapter 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 builder or owner to appeal to the governing body. The building inspector, in his or her capacity as council member, shall abstain from participating in any appeal. (Code 2014)
- 4-206. CITY TREASURER; PERMIT RECORD KEEPING. After the building permit or demolition permit is approved and signed by the building inspector, the permit will be returned to the city treasurer, who shall keep comprehensive records of applications, or permits or certificates issued, of inspections made, of reports rendered, and of notices or orders issued. All such records shall be open to public inspection during stated office hours, but shall not be removed from the office of the city treasurer without his or her written consent. (Code 2014)
- 4-207. CLARIFICATION OF POWERS. (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. The building inspector, in his or her capacity as council member, shall abstain from any council discussions about the building code.
- (b) The building inspector shall have 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 inspector shall see that the spirit of the code is observed, public safety secured and substantial justice done. The particulars of a modification when granted or allowed and the decision of the inspector thereon shall be entered upon the records of the building inspector and a signed copy shall be furnished to the applicant. (Code 2014)
- 4-208. BUILDING PERMIT REQUIRED; APPLICATION; APPROVAL. (a) A building permit shall be required to construct, enlarge, or alter any structure within the City. No building permit shall be issued until a plan of the proposed work, together with a statement of the material to be used, shall have been submitted to the city council, and notice given to the resident and landowners in the immediate vicinity of the proposed structure. The building inspector, in his or her capacity as council member, shall not vote on the issuance of building permits.

(b) Notice pursuant to this section shall be deemed to have been given if the person requesting said permit has published in a newspaper of general circulation in the City a notice of intent to construct, notifying of their intent to build, enlarge, or alter a structure and a sufficient description of the proposed construction to inform interested persons as to the general size, nature, and type of structure posed to be constructed, and a statement that a hearing on the granting of the permit will be held before the governing body of the City.

(c) Upon receipt of the application from the city treasurer, the city clerk shall set a hearing of the proposed structure on the agenda of the next scheduled meeting of the governing body after the required publication. If the proposed structure is found to be in the best interest of the community and is in accordance with good building practice and the standards of the community, the council may order said permit to be issued after hearing all interested parties, by majority vote of those councilpersons present. The building inspector, in his or her capacity as council member, shall abstain from voting on building permits. Any permit issued under this article shall be valid and subsisting for a period of not more than six (6) months from the date of issuance and all such work pursuant to any building or demolition permit which is issued pursuant to this Article shall be completed within the said six (6) months from the date of issuance. (Ord. 825, Sec. 2; Code 2014)

4-209. DEMOLITION PERMIT REQUIRED; APPLICATION; APPROVAL. (a) A demolition permit shall be required to demolish any building within the City. No demolition permit shall be issued until a plan of the proposed work shall be submitted to the governing body. The building inspector, in his or her capacity as council member, shall not vote on the issuance of demolition permits.

(b) Upon receipt of the application from the city treasurer, the city clerk shall set a hearing of the proposed demolition on the agenda of at the next scheduled meeting of the governing body. If the proposed demolition is found to be in the best interest of the community and is in accordance with good building practices and the standard of the community, the governing body may order said permit to be issued by a majority vote of the councilpersons present. The building inspector, in his or her capacity as council member, shall abstain from voting on demolition permits. Any permit under this article shall be valid and subsisting for a period of not more than six (6) months from the date of issuance and all such work pursuant to any demolition permit which is issued pursuant to this article shall be completed within the said six (6) months from the date of issuance. (Ord. 825, Sec. 2; Code 2014)

4-210. SAME; APPLICATION INFORMATION REQUIRED FOR BUILDING OR DEMOLITION PERMITS. (a) A building or demolition permit shall be issued upon an application in writing to the office of city treasurer on a form or forms provided for the purpose. This 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 kind of materials to be used for walls, floors, ceilings, roofs, and foundations;
- (6) The estimated cost of the work;
- (7) The date work will commence;

- (8) Expected date of completion;
- (9) Such other information as may be pertinent to the issuance of the required permit.

(b) An application for a building or demolition permit shall be signed by the owner or his or her duly authorized agent, or a building contractor. If the application is made by the owner or his or her agent, it shall contain the name or names of the contractor or contractors 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 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 city treasurer or his or her assistant shall issue a permit to the owner or contractor 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 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 2014)

4-211. SAME; PLANS AND SPECIFICATIONS. Whenever an application for a building or demolition permit is made, the building inspector 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 inspector may require the applicant to file complete architectural and engineering plans and specifications for such building, or any part thereof, as may be necessary for the inspector 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 2014)

4-212. SAME; FEES. The fee for a building permit shall be an amount specified by the governing body. The fee herein shall be paid to the city treasurer upon obtaining a building or demolition permit and the same shall be credited to the general operating fund of the city. (Code 2014)

**ARTICLE 3. ELECTRICAL CODE  
(Reserved)**

**ARTICLE 4. PLUMBING AND GAS-FITTING CODE  
(Reserved)**

**ARTICLE 5. MOVING BUILDINGS**

- 4-501. NOTIFICATION OF PROPOSED ROUTE. Any person, firm or corporation wishing to move, haul, or transport any house, building, derrick, or other structure upon, across or over any street, alley or sidewalk in this city shall first notify the city of their proposed transportation route. (Code 2014)
- 4-502. BUILDING INSPECTOR; DUTIES OF. The building inspector or his or her authorized designee shall check the proposed route and determine if it is practical to move such house or other structure over the route proposed. If it shall appear that such route is not practical and another route may be used equally well with less danger to street and travel, then he or she may designate such other route as the one to be used and shall notify the person, firm, or corporation of such. The building inspector 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 building inspector 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 2014)
- 4-503. DUTY OF OWNERS. It shall be the duty of the person, firm or corporation engaged in the moving to give adequate notice to the person, firm or the city owning or operating such poles or wires that may have to be removed, raised or cut to facilitate the moving of such house or structure. Any expenses would be incurred by the person, firm or corporation initiating the move. (Code 2014)
- 4-504. INTERFERING WITH POLES; WIRES. It shall be unlawful for the person engaged in moving any house or other structure to raise, cut or in any way interfere with the wires or poles bearing wires or any other aerial equipment. (Code 2014)

## ARTICLE 6. DANGEROUS AND UNFIT STRUCTURES

- 4-601. PURPOSE. The governing body has found that there exist within the corporate limits of the city structures which are unfit for human use or habitation because of dilapidation, defects increasing the hazards of fire or accidents, structural defects or other conditions which render such structures unsafe, unsanitary or otherwise inimical to the general welfare of the city, or conditions which provide a general blight upon the neighborhood or surrounding properties. It is hereby deemed necessary by the governing body to require or cause the repair, closing or demolition or removal of such structures as provided in this article. (K.S.A. 12-1751; Ord. 694, Sec. 1; Code 2014)
- 4-602. DEFINITIONS. For the purpose of this article, the following words and terms shall have the following meanings:
- (a) Public Officer - means the chief of police or his or her authorized representative.
  - (b) Structure - shall include any building, wall, superstructure or other structure which requires location on the ground, or is attached to something having a location on the ground. (K.S.A. 12-1750; Ord. 694, Sec. 2; Code 2014)
- 4-603. PUBLIC OFFICER; DUTIES. The public officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this article, including the following:
- (a) Inspect any structure which appears to be unsafe, dangerous or unfit for human habitation;
  - (b) Have authority to enter upon premises at reasonable hours for the purpose of making such inspections. Entry shall be made so as to cause the least possible inconvenience to any person in possession of the structure. If entry is denied, the public officer may seek an order for this purpose from a court of competent jurisdiction;
  - (c) Report all structures which he or she believes to be dangerous, unsafe or unfit for human habitation to the governing body;
  - (d) Receive petitions as provided in this article. (Ord. 694, Sec. 3; Code 2014)
- 4-604. PROCEDURE; PETITION. Whenever a petition is filed with the public officer by a resident charging that any unoccupied 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. (Ord. 694, Sec. 4; Code 2014)
- 4-605. SAME; NOTICE. The governing body upon receiving a report as provided in section 4-604 shall by resolution fix a time and place at which the owner, the owner's agent, any lienholder 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. (K.S.A. 12-1752; Ord. 694, Sec. 5; Code 2014)

- 4-606. SAME; PUBLICATION. (a) The resolution shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing.  
(b) A copy of the resolution shall be mailed by certified mail within three days after its first publication to each owner, agent, lienholder and occupant at the last known place of residence and shall be marked "deliver to addressee only."  
(K.S.A. 12-1752; Ord. 694, Sec. 6; Code 2014)
- 4-607. SAME; HEARING, ORDER. If, after notice and hearing, the governing body determines that the structure under consideration is dangerous, unsafe or unfit for human use or habitation, it shall state in writing its findings of fact in support of such determination and shall cause the resolution to be published once in the official city newspaper and a copy mailed to the owners, agents, lienholders of record and occupants in the same manner provided for the notice of hearing. The resolution shall fix a reasonable time within which the repair or removal of such structure shall be commenced and a statement that if the owner of such structure fails to commence the repair or removal of such structure within the time stated or fails to diligently prosecute the same until the work is completed, the governing body will cause the structure to be razed and removed.  
(Ord. 694, Sec. 7; Code 2014)
- 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. (Ord. 694, Sec. 8; Code 2014)
- 4-609. SAME; FAILURE TO COMPLY. (a) If, within the time specified in the order, the owner fails to comply with the order to repair, alter, improve or vacate the structure, the public officer may cause the structure to be repaired, altered, improved, or to be vacated and closed.  
(b) If, within the time specified in the order, the owner fails to comply with the order to remove or demolish the structure, the public officer may cause the structure to be removed and demolished.  
(Ord. 694, Sec. 9; Code 2014)
- 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.  
(Ord. 694, Sec. 10; Code 2014)
- 4-611. ASSESSMENT OF COSTS. (a) The cost to the city of any repairs, alterations, improvements, vacating, removal or demolition by the public officer, including making the site safe, shall be reported to the city clerk.  
(b) The city shall give notice to the owner of the structure by certified mail of the cost of removing the structure and making the premises safe and secure. The notice shall also state that payment of the cost is due and payable within 30 days following receipt of the notice.  
(c) If the costs remain unpaid after 30 days following receipt of notice, the city clerk may sell any salvage from the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing the structure and making the

site safe. Any proceeds in excess of that required to recover the costs shall be paid to the owner of the premises upon which the structure was located.

(d) If the proceeds of the sale of salvage or from the proceeds of any insurance policy in which the city has created a lien pursuant to K.S.A. 40-3901, *et seq.*, and amendments thereto, are insufficient to recover the above stated costs, or if there is no salvage, the balance shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments against the lot or parcel of land on which the structure was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs to the county clerk and who 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.

(e) If there is no salvage material, or if the moneys received from the sale of salvage or from the proceeds of any insurance policy in which the city has created a lien pursuant to K.S.A. 40-3901, *et seq.*, and amendments thereto, are insufficient to pay the costs of the work and the costs of providing notice, such costs or any portion thereof in excess of that received from the sale of salvage or any insurance proceeds may be financed, until the costs are paid, out of the general fund or by the issuance of no-fund warrants.

(K.S.A. 12-1755; Ord. 694, Sec. 11; Code 2014)

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, lienholders 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; Ord. 694, Sec. 12; Code 2014)

4-613. APPEALS FROM ORDER. Any person affected by an order issued by the governing body under this article may, within 30 days following service of the order, petition the district court of the county in which the structure is located for an injunction restraining the public officer from carrying out the provisions of the order pending final disposition of the case. (Ord. 694, Sec. 13; Code 2014)

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. (Ord. 694, Sec. 14; Code 2014)

## CHAPTER V. BUSINESS REGULATIONS

### Article 1. Solicitors, Canvassers, Peddlers

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

5-101. DEFINITIONS. For the purpose of this article, the following words shall be considered to have the following meanings:

(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 whatever, for any kind of consideration whatever; or

(2) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or

(3) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

(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, whose business is mainly or principally carried on by traveling either by foot, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales or not. Such definition shall include any person, who, for himself, herself or for another person, hires, leases, uses, or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.

(d) Peddler - shall mean any person, whether a resident of the city or not, traveling by foot, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad boxcar or other vehicle or conveyance, and further provided, that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this article shall be deemed a peddler.

(e) Transient merchant, itinerant merchant or itinerant vendor - are defined as any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within such city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, 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 salesman - 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.

(Ord. 537, Sec. 1; Code 2014)

5-102. ENTERING BUSINESSES AND RESIDENCES. Any solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise who enter private residences and businesses in the city for the purpose of soliciting orders for the sale of goods, wares and merchandise and/or disposing of and/or peddling or hawking the same without having been requested or invited so to do by the owner(s) or occupant(s) of the businesses or private residences, or without having obtained the license described in section 5-103, are declared to be a nuisance and may be punished pursuant to section 5-109.

(Ord. 537, Sec. 1; Code 2014)

5-103. LICENSE REQUIRED. (a) It shall be unlawful for any person to engage in any of the activities defined in Section 5-102 of this article, within the corporate limits of the city without then having an unrevoked and unexpired license therefor in his or her possession and issued by the city clerk.

(b) The governing body may waive the license requirements of this section for any person, firm or corporation exempt from the payment of a license fee under section 5-106(d).

(Code 2014)

5-104. 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 and description of applicant;

(b) Permanent home address and full local address of applicant;

(c) Identification of applicant including driver's license number, date of birth, expiration date of license and description of applicant;

(d) Identification of vehicle used by applicant including license therefor used by applicant in conducting his or her business;

(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) The length of time which business is proposed to be carried on;

(h) The place where services are to be performed or where the goods or property proposed to be sold or orders taken for the sale thereof are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;

(i) The applicant's Kansas Sales Tax number.  
(Code 2014)

5-105. SAME; ISSUANCE. The licensee shall carry the license certificate at all times.  
(Code 2014)

5-106. LICENSE FEE; TIME LIMITS; EXEMPTIONS. (a) Except as provided in subsection (c), the fee for the license required pursuant to section 5-103 shall be in the amount of \$25 flat fee, or portion thereof, that the licensee shall operate within the city limits. In no event, however, shall fees in excess of \$50 be collected from a licensee during any six-month period of time.

(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. Solicitation or sales by any peddler, solicitor or canvasser shall be conducted only between the hours of 8:00 a.m. and 9:00 p.m.

(c) Persons and firms not having a permanently established place of business in the city, but having a permanently established house-to-house or wholesale business shall receive a license as required by section 5-103 free of charge for any year, and may make solicitations or sales only between the hours of 8:00 a.m. and 9:00 p.m., or upon invitation at any hour.

(d) No license fee shall be required of: (1) any person selling products of the farm or orchard actually produced by the seller; (2) any businesses, trades or occupations which are part of fairs or celebrations sponsored by the city or any other governmental subdivision, or the state, or when part of all of the expenses of the fairs or celebrations are paid for by the city, any other governmental subdivision, or the state; and (3) any not-for-profit or charitable organization as determined by the governing body.

(K.S.A. 12-1617; Code 2014)

5-107. DENIAL, REVOCATION OR SUSPENSION OF LICENSE; NOTICE. (a) The city clerk or chief of police may deny any application or may revoke or suspend for a period of not to exceed 30 days any license issued under this article, for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for license.

(2) Fraud, misrepresentation or false statement made in the course of carrying on the business.

(3) Any violation of this article.

(4) Conducting a business as defined in section 5-101 in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the city. Notice of the 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 forth the grounds of such denial, revocation or suspension.

(5) Conviction of the crime of theft, larceny, fraud, embezzlement or any felony within two years prior to the application date.

(Code 2014)

5-108.           SELLING IN STREETS OR ON SIDEWALKS. No part of any street or sidewalk shall be used by any person as a place to sell goods, wares, or merchandise, and no vehicle or conveyance shall be stopped or let stand upon any street for that purpose and no stand or booth or other structure shall be permitted in the driveway of any street; provided, however, that all merchants doing business in the City of Chetopa may utilize three (3) feet in width of the sidewalk and along the full length of the front and any side of the building of said business for displaying their goods, wares, or merchandise so long as the business owner or lessee has an interest in the property in which the goods, wares, or merchandise are to be displayed. Further, said sellable items may only be displayed during regular business hours of operation.

(Ord. 853; Code 2014)

5-109.           SAME; PENALTY. Any person or persons violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined one hundred dollars (\$100.00). Each day any person or persons required by this article is to procure a license or comply shall constitute a separate offense. In addition, any person or persons violating Section 5-108 of this article shall be subject to forfeiture of all sellable items remaining on the sidewalk outside of the business, with all such sellable items to be removed by the City of Chetopa Sanitation Department and disposed of as the City deems appropriate. Upon a second or subsequent violation of this article, the mandatory forfeiture of all sellable items as set out in the proceeding sentence shall apply.

(Ord. 853; Code 2014)

## CHAPTER VI. ELECTIONS

### Article 1. City Elections

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#### ARTICLE 1. CITY ELECTIONS

- 6-101. CONDUCT OF ELECTION. In lieu of K.S.A. 14-201, the Governing Body of the City of Chetopa, Kansas, hereby adopts the following substitute provision:  
There shall be elected on the first Tuesday in April 2015 and every four years afterwards, a Mayor and three Council members from the general population of the City of Chetopa to serve a four year term. There shall be elected on the first Tuesday in April 2017 and every four years afterwards, three council members from the general population of the City of Chetopa to serve a four year term. For election purposes, all previous wards and/or precincts established by the City of Chetopa are abolished.  
(K.S.A. 25-2101 et seq.; C.O. 14, Sec. 4; Code 2014)
- 6-102. HOURS OF VOTING. At all city elections the polls shall be open at 7:00 a.m. and close at 7:00 p.m., unless different hours are set and publicly announced by the county election officer. (K.S.A. 25-2111, 26-206; Code 2014)
- 6-103. COMMENCEMENT OF TERMS OF OFFICE; OATH OF OFFICE. (a) The term of office for newly elected city officials shall commence with and include the first regular meeting of the governing body following certification of the election by the county election officer.  
(b) Every person elected or appointed to city office, before entering upon the duties of such office shall take and subscribe an oath or affirmation as specified in K.S.A. 54-106, and amendments thereto, and every such oath or affirmation shall be filed with the city clerk.  
(K.S.A. 25-2120; Code 2014)

## CHAPTER VII. FIRE

Article 1. Fire Department

Article 2. Fire Prevention

Article 3. Fireworks

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### ARTICLE 1. FIRE DEPARTMENT

- 7-101. CITY FIRE DEPARTMENT ESTABLISHED. There is hereby established a fire department in the city to consist of a fire chief, assistant fire chief, secretary/treasurer and volunteers, the total number of which shall not exceed 30 members nor shall there be more than five active reserve members. (Ord. 708, Sec. 1; Code 2014)
- 7-102. DEFINITIONS. (a) Regular Volunteer Member - An individual who is subject to all of the requirements as set forth in this article.  
(b) Active Reserve Volunteer Member - An individual who is subject to all of the requirements as set forth in this article except as required in the second and fourth sentences of section 7-103 and further must have had at least 25 years of service as a regular volunteer member with at least 10 years of that service being consecutive years within the last five years before he or she seeks reserve volunteer member status.  
(c) Member - Defined as either a regular volunteer member or an active reserve member. (Ord. 708, Sec. 2; Code 2014)
- 7-103. MEMBERSHIP; FIRE DRILL. Members of the fire department shall all be volunteers. They shall meet at least once each month for practice and drill. The secretary shall keep a record of attendance of such meetings. Any member who shall fail to attend seven consecutive meetings in a calendar year shall automatically become expelled from membership. The members of the fire department, other than the fire chief and assistant fire chief, shall be appointed by the fire chief, subject, however, to confirmation by the governing body. The appointment shall be made annually after each regular city election in the city and at the time of the reorganization of the city council following such election. (Ord. 708, Sec. 3; Code 2014)
- 7-104. JUNIOR FIREFIGHTER PROGRAM ESTABLISHED. There is hereby established a junior firefighter program within the fire department of the city to consist of not more than five members at a time. Applicants cannot become a member until they are at least 16 years old, have a way to a call and be in good physical and mental health and understand and follow direction without difficulty. Membership in the junior firefighter program terminates when the firefighter reaches the age of 18 and graduates, then they are eligible to apply as a volunteer fireman. Junior firemen are expected to follow all rules and regulations, as set forth in the bylaws of the junior firefighter program and can be terminated by a majority of the officer's vote at any time. (Code 2014)

- 7-105.            APPOINTMENT.    The fire chief, assistant fire chief, and the secretary/treasurer shall be appointed by the mayor with the consent of the council, and shall hold office for one year and until their successors have been appointed and qualified. The appointment shall be made annually after each regular city election in the city and at the time of the re-organization of the city council following such election.  
(Ord. 708, Sec. 4; Code 2014)
- 7-106.            SUPERVISION OF DEPARTMENT.    The chief of the fire department shall be under the supervision of the mayor and shall have supervision and control of and be responsible for the care and condition of the fire apparatus and equipment. It shall be the chief's duty to see that all such apparatus and equipment shall be at all times ready for immediate use.  
(Ord. 708, Sec. 5; Code 2014)
- 7-107.            FIRE CHIEF; POWERS.    The fire chief shall be responsible for the discipline of the members and is hereby given authority to suspend or expel any member for refusal to obey orders or for misconduct or failure to do his or her duty at a fire. The chief shall also have the right to summon any and all persons present to aid in extinguishing a fire, or to aid in removing personal property from any building on fire or in danger thereof and in guarding the same. At fires the chief shall have full power, control and command of all persons present and shall direct the use of the fire apparatus and equipment, and command the firefighters in the discharge of their duties. He or she shall take such measures as he or she shall deem necessary in the preservation and protection of property and extinguishing of fires.  
(Ord. 708, Sec. 6; Code 2014)
- 7-108.            SAME; RECORDS.    The secretary/treasurer of the fire department shall keep in convenient form a complete record of all fires. Such information shall include the time and location, construction of building, owner, occupancy, how extinguished, value of building and contents, loss on building and contents, insurance on building and contents, members responding to the alarm, and any other information deemed advisable. (Ord. 708, Sec. 7; Code 2014)
- 7-109.            SAME.    It shall be the duty of the chief of the fire department to adopt all prudent measures for the prevention of fires and for this purpose the chief's assistant under his or her direction may, upon request or whenever he or she has reason to believe that the safety of life and property demands it, and as often as he or she may deem necessary, enter any building, yard, or premises in the city during reasonable hours for the purpose of inspection, and where dangerous, unsafe, or hazardous conditions are found to exist he or she shall give such directions for the alteration, change, or removal or better care of management of the same as he or she may deem proper, and such directions shall be obeyed and complied with by the person directed in that regard and at their expense.  
(Ord. 708, Sec. 8; Code 2014)
- 7-110.            ASSISTANT CHIEF.    In the absence of the chief, the assistant fire chief shall perform all the duties and have all the authority and responsibility of the chief as conferred by this chapter. (Ord. 708, Sec. 9; Code 2014)

- 7-111. FIRE EQUIPMENT; EMERGENCY RIGHT-OF-WAY AND USE. (a) All fire apparatus and equipment is hereby given and granted the exclusive right-of-way over and through all streets, avenues, alleys and public thoroughfares in the city while enroute to fires or in response to any alarm of fire, and no person or person shall in any manner obstruct or hinder the apparatus as aforesaid stated or equipment.
- (b) All emergency vehicles of the fire department, while proceeding on official business, shall be operated in strict accordance with the requirements of the Kansas Statutes regarding the operation of emergency vehicles, and each departmental member assigned to the operation of emergency vehicles shall familiarize himself or herself with the requirements of the law and govern himself or herself accordingly. Any operator violating the provisions of the state law shall be liable for disciplinary action.  
(Ord. 708, Sec. 11; Code 2014)
- 7-112. SAME; FIRE HOSE. It shall be unlawful for any person or persons to drive any vehicle over any fire hose laid on any street, alley or lot. This section shall not apply to any apparatus or vehicle being driven by members of the fire department.  
(Ord. 708, Sec. 12; Code 2014)
- 7-113. OBSTRUCTION OF FIRE HYDRANT. It shall be unlawful for any person to place or cause to be placed upon or about any fire hydrant any rubbish, building material, fence or other obstruction of any character, or in any manner obstruct, hinder, or delay the fire department in the performance of its duties in case of fire. Nor shall any person hitch or cause to be hitched to any fire hydrant any animal or animals, nor fasten any guy rope or brace, nor back or stand any wagon, truck, automobile or other vehicle within 15 feet of any such hydrant.  
(Ord. 708, Sec. 13; Code 2014)
- 7-114. FALSE ALARM. It shall be unlawful for any person or persons to make or sound or cause to be made or sounded, or by any other means, any false alarm of fire without reasonable cause. (Ord. 708, Sec. 14; Code 2014)
- 7-115. PRIVATE USE OF FIRE EQUIPMENT. No person or persons shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority remove, take away, keep or conceal any tool, appliance, or other article used in any way by the fire department.  
(Ord. 708, Sec. 15; Code 2014)
- 7-116. VIOLATIONS. Any person or persons violating any of the provisions of this article or refusing or neglecting to comply with any of the requirements thereof, shall, upon conviction, be deemed guilty of a violation and fined not less than \$5.00 nor more than \$100.00. (Ord. 708, Sec. 16; Code 2014)
- 7-117. ELECTIONS; OFFICERS. The members of the fire department shall have the power and authority to elect from the department such other officers as they may deem necessary. Provided, however, the office of secretary/treasurer is hereby established and, after the members of the fire department have duly elected a secretary/treasurer, the fire chief shall inform the governing body of the city, in writing, as to the name of such duly elected officer.  
(Ord. 708, Sec. 17; Code 2014)

7-118. FIREMEN'S RELIEF ASSOCIATION. The office of secretary/treasurer of the Firemen's Relief Association of the city is hereby established. The person elected to the office of secretary/treasurer of the fire department shall be one and the same person as the treasurer of the Firemen's Relief Association. The treasurer of the Firemen's Relief Association shall give bond for the safekeeping of the funds belonging to the association in the amount of \$1,000. Such bond shall be given by the treasurer immediately after his or her election, and shall be good until his or her successor is elected and qualified. Such bond shall be to the Firemen's Relief Association of Chetopa, Kansas. (Ord. 708, Sec. 18; Code 2014)

7-119. SAME. All moneys received by or for the benefit of the Firemen's Relief Association, and shall be used solely and entirely for the objects and purposes of the laws of Kansas, relating thereto. The funds belonging to such association shall be expended in such manner as is prescribed by the laws of Kansas, and as the members of the association shall by resolution direct and other otherwise. (Ord. 708, Sec. 19; Code 2014)



## ARTICLE 2. FIRE PREVENTION

- 7-201. FIRE PREVENTION CODE INCORPORATED. There is hereby adopted by the governing body of the city, for the purpose of prescribing regulations, governing conditions hazardous to life and property from fire or explosion, that certain code and standards known as the International Fire Code, edition of 2012, including all the Appendix chapters, published by the International Code Council, one copy shall be filed in the office of the clerk of the City of Chetopa, Kansas, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city. (Code 2014)
- 7-202. SAME; ENFORCEMENT. The code hereby adopted shall be enforced by the chief of the fire department. (Code 2014)
- 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 Chetopa.  
(b) All sections of the Uniform Fire Code relating to fireworks are hereby deleted in their entirety.  
(Code 2014)
- 7-204. OPEN BURNING; RESTRICTIONS; VIOLATION; PENALTY. (a) That upon Resolution by the City Council of the City of Chetopa, Kansas, or by the Board of County Commissioners of Labette County, Kansas, that conditions are such that a fire hazard exists within the City or County or both, the following acts shall be prohibited:  
(1) The careless use or discard of smoking materials, including but not limited to, cigarettes, cigars, and smoking pipes. Discard shall be in a manner so as to preclude threat from smoldering remains and litter.  
(2) The building, maintaining, attending, or using of any open fire or flame, trash fire, or campfire, except in permanent stoves or fireplaces or barbecue grills, in developed recreational sites or residential lawns which specifically preclude the escape of flame or ash.  
(3) The burning of all fence rows, yards, fields, trash, and debris.  
(4) The discharge or explosion of any fireworks. Fireworks are those items as defined by the rules and regulations of the Kansas State Fire Marshal, and shall include, but not be limited to, firecrackers, torpedoes, sparklers, Roman candles, sky rockets, pinwheels, 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.  
(b) Any violation of this provision shall be considered a Class C violation as defined by the Uniform Public Offense Code adopted and in effect by the City at the time of the offense.  
(Ord. 784, Sec. 1:2; Code 2014)
- 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 and adjacent to any building or in any alley, sidewalk, street or premises within 30 feet of any building any rubbish, trash, waste paper, excelsior, empty boxes, barrels or other combustibles which shall constitute a fire hazard. (Code 2014)

- 7-206.           STACKING OF HAY OR STRAW. It shall be unlawful for any person to deposit, stack or store any hay or straw within 500 feet of any building located inside the fire limits of the city, and limit storage not to exceed 50 square bales anywhere within the city limits. (Code 2014)
- 7-207.           KEEPING OF PACKING MATERIALS. It shall be unlawful to keep excelsior or other packing material in any other than metal or wood metal line 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 2014)
- 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 feet shall be maintained between such container or receptacle and any combustible materials not placed therein. Ashes shall not be stored outside of any building in wooden, plastic, or paper product receptacles or dumped in contact with or in close proximity to any combustible materials. (Code 2014)
- 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 2014)
- 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 the spreading of fire. Any situation or condition conducive to the outbreak of 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 aisles, hallways, doorway, or exit of any theater, public hall, auditorium, church or other place of indoor public assemblage, or the failure to provide any such place of public assemblage with sufficient, accessible and unobstructed fire exits and escapes is also declared to be a fire hazard. The obstruction of any street, avenue, alley, fire hydrant or any other condition that might delay the fire department in fighting fire is declared to be unlawful. (Code 2014)
- 7-211.           SAME; INSPECTIONS TO DISCOVER. It shall be the duty of the fire chief to inspect or cause to be inspected by fire department officers or members, as often as may be necessary all 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 2014)

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 2014)

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 city shall keep a record of and copies of all such orders and notices and shall follow up such notices at the expiration of the time for compliance therewith and when complied with make proper entry, and if not complied with, file complaint with the municipal court against the property owner and/or occupant. (Code 2014)

### 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 shall include but not be limited to: firecrackers, torpedoes, sparklers, Roman candles, sky rockets, pin wheels, cap or toy pistols (except such pistols or any like device designed to discharge paper caps containing not more than .25 grains of explosive mixture), canes, bombs, cannons or other like devices and all classes of fireworks that may be shot into the air or propelled over the ground by explosive discharges or any device using blank cartridges.  
(Code 2014)
- 7-302. FIREWORKS PROHIBITED. (a) Except as provided in sections 7-303:306; it shall be unlawful for any person 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 paper caps containing not more than .25 of a grain of explosive composition per cap;  
(2) The manufacture, storage, sale or authorized use of signals necessary for the safe operation of railroads or other classes of public or private transportation;  
(3) The military or naval forces of the United States or of this state while in the performance of official duty;  
(4) Law enforcement officers while in the performance of official duty; or  
(5) The sale or use of blank cartridges for ceremonial, theatrical or athletic events. (Code 2014)
- 7-303. SAME: EXCEPTIONS; DISCHARGES. (a) Section 7-302 of this article shall not apply to the firing or discharge of fireworks in the city between the hours of 8:00 a.m. and 10:00 p.m. from June 27th through July 5th except on the 4th which will end at midnight.  
(b) The governing body of the city may, in its discretion, grant permission at any time for the public display of fireworks by responsible individuals or organizations when such display or displays shall be of such a character and so located, discharged and fired as shall not be a fire hazard or endanger persons or surrounding property.  
(c) It shall be unlawful for any person, firm or corporation to give any public display of fireworks without having first obtained a permit thereof.  
(Code 2014)
- 7-304. SAME: EXCEPTION; SALE OF FIREWORKS. Any person who has first obtained a valid permit to sell fireworks within the city may do so between the hours of 8:00 a.m. and 12:00 midnight commencing June 27th and through July 5th of each year. (Code 2014)
- 7-305. PERMIT FOR SALE OF FIREWORKS REQUIRED; FEE; ISSUANCE. (a) It shall be unlawful for any person to sell, display for sell, offer to sell or give away any type of fireworks within the city without first paying a fee of \$25 per establishment or premises to the city clerk and applying for and securing a permit therefor on or before June 25th of the permit year.

(b) No permit shall be issued for any location where retail sales are not permitted under the zoning laws. Prior to the issuance of the permit, an inspection will be made of the applicant's facility for compliance with this chapter and other pertinent laws, and no permit shall be issued for any premises not in compliance with such laws. Upon qualifying for the permit, the permittee 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 2014)

7-306. APPROVED FIREWORKS; BOTTLE ROCKETS PROHIBITED. (a) All fireworks offered for sale and discharged within the city shall be of a type that has been tested and approved for sale and use within the state by the state fire marshal.

(b) Bottle rockets and other similar self-propelled firework or fireworks devices consisting of a tube and attached guiding stock or rod shall not be sold or discharged in the city.  
(Code 2014)

7-307. THROWING PROHIBITED. It shall be unlawful for any person to throw, cast or propel fireworks of any kind in the direction of or into the path of any animal, person or group of persons, or from, in the direction of or into any vehicle of any kind. (Code 2014)

7-308. SALE OF FIREWORKS; WHERE PROHIBITED. (a) It shall be unlawful for fireworks to be stored, sold or displayed for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable substances are kept, unless such fireworks are in a separate and distinct section or department of the premises.

(b) Where the fire chief deems there is a fire hazard, he or she is hereby authorized to have such hazard abated.  
(Code 2014)

7-309. RETAIL DISPLAY OF FIREWORKS. (a) All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where such fireworks are in the original package.

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

(c) Signs reading "Fireworks for Sale--No Smoking Allowed" shall be displayed in the section of a store or premises set aside for the sale of fireworks.  
(Code 2014)

7-310. FIRE EXTINGUISHERS REQUIRED. (a) Two functioning and approved fire extinguishers must be provided and kept in close proximity to the stock of fireworks in all permanent buildings where fireworks are stored, sold or displayed for sale.

(b) Small stands, temporarily erected to be used as a place for storing and selling fireworks only, shall have one such fire extinguisher, or in lieu of the fire extinguisher, a pressurized water hose with nozzle end within five feet of the fireworks stand. (Code 2014)

- 7-311.           **RESTRICTIONS AS TO GASOLINE INSTALLATIONS.** It shall be unlawful to store, keep, sell, display for sale or discharge any fireworks within 50 feet of any gasoline pump, gasoline filling station, gasoline bulk station or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon, except in stores where cleaners, paints and oils are handled in sealed containers only. (Code 2014)
- 7-312.           **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, and all of the rules of the state fire marshal. He or she shall dispose of all such fireworks as may be directed by the governing body. (Code 2014)
- 7-313.           **APPROVED BY STATE FIRE MARSHAL.** It shall be unlawful for any person, firm, or corporation to keep, store, sell, or discharge within the city any fireworks, except and provided that fireworks which have been approved by the State Fire Marshal of the State of Kansas in the published rules and regulations of the State Fire Marshal may be stored in a safe and proper place from June 20th to July 5th of each year and may be sold to individuals at retail during such periods as are provided by the published rules and regulations of the State Fire Marshal, and may be discharged from June 27th to July 5th inclusive, provided, however, the discharge of any fireworks as allowed by this article shall be completely prohibited during the entire year (with the exception of the fire department's fireworks display) and shall not be allowed whatsoever in the following public area of the city: Elmore Park, Veterans Memorial Park, East River Park, and any other city public parks that may be established from time to time by the city.  
Notwithstanding any other provisions of this section to the contrary, there shall be no fireworks kept, stored, sold, or discharged within the fire district of the city, which is defined by that portion of the city from 3rd Street to 6th Street from the alley between Locust and Maple Street to the alley between Walnut and Maple Street. (Ord. 678, Sec. 1; Code 2014)
- 7-314.           **TENTS.** It shall be unlawful for any person to erect, pitch, or maintain any tent, part-tent structure, or fireworks stand within the fire district of the city as the district is now established by ordinance or may hereafter be established; provided, however, that the city council may, upon petition made to it for such purpose, cause to issue a special permit for such tents, part-tent structures, or fireworks stands upon such terms and conditions as it shall impose. (Ord. 679, Sec. 1; Code 2014)
- 7-315.           **BANNING FIREWORKS.** The Chief of the Chetopa Fire Department or Mayor shall have the authority and discretion to ban the discharge of all fireworks within the corporate limits of the City of Chetopa if the weather conditions make discharge of fireworks in the City hazardous to persons or property. (Code 2014)

**CHAPTER VIII. HEALTH AND WELFARE**

- Article 1. (Reserved)
- Article 2. Health Nuisances
- Article 2A. (Reserved)
- Article 3. Junked Motor Vehicles on Private Property
- Article 4. Weeds
- Article 5. (Reserved)
- Article 6. (Reserved)
- Article 7. Insurance Proceeds Fund

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**ARTICLE 1. (Reserved)**

**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.
- (Ord. 806; Code 2014)

8-202. PUBLIC OFFICER. The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of Section 8-201.

(Ord. 806; Code 2014)

- 8-203. COMPLAINTS; INQUIRY AND INSPECTION. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where it is located. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings. (Ord. 806; Code 2014)
- 8-204. 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. (Ord. 806; Code 2014)
- 8-205. ORDER OF VIOLATION. (a) Any 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 shall be served 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; Ord. 806; Code 2014)
- 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 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 8-201; 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 representation 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 8-208. (Ord. 806; Code 2014)



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 \$500.00 or be imprisoned not to exceed 30 days or be both fined and imprisoned. (Ord. 806; Code 2014)

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 conditions 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. (Ord. 806; Code 2014)

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 8-208.  
(Ord. 806; Code 2014)

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. (Ord. 806; Code 2014)

## ARTICLE 2A. (Reserved)

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

- 8-301. FINDINGS OF GOVERNING BODY. The governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens of the city because they:
- (a) Serves as a breeding ground for flies, mosquitoes, rats and other insects and rodents;
  - (b) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;
  - (c) Are a ready source of fire and explosion;
  - (d) Encourage pilfering and theft;
  - (e) Constitute a blighting influence upon the area in which they are located;
  - (f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures.
- (Ord. 807A, Sec. 1; Code 2014)
- 8-302. DEFINITIONS. As used in this article, unless the context clearly indicates otherwise:
- (a) Inoperable - means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed;
  - (b) Vehicle - means, without limitation, any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.
- (Ord. 807A, Sec. 2; Code 2014)
- 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 that is in a junked, wrecked or inoperable condition. There is a presumption that a vehicle is junked, wrecked or inoperable if the vehicle or parts thereof have been placed upon jacks, blocks, or other supports;
  - (b) The provisions of this section shall not apply to:
    - (1) Any motor vehicle which is enclosed in a garage or other building;
    - (2) To the parking or storage of a vehicle inoperable for a period of 30 consecutive days or less; or
    - (3) To any person who places such vehicles out of view of the public and prohibits ready access to stored vehicles by children. However, nothing in this subsection shall be construed to authorize the maintenance of a public nuisance.
- (Ord. 807A, Sec. 3; Code 2014)
- 8-304. PUBLIC OFFICER. The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this article. (Ord. 807A, Sec. 4; Code 2014)
- 8-305. COMPLAINTS; INQUIRY AND INSPECTION. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing

the same and where located or is informed that a nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings. (Ord. 807A, Sec. 5; Code 2014)

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. (Ord. 807A, Sec. 6; Code 2014)

8-307. ORDER OF VIOLATION. (a) Any 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 shall be served 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 if 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; Ord. 807A, Sec. 7; Code 2014)

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

(a) He, she or they shall have 10 days from receipt of the order to abate the condition(s) in violation of section 8-303; or

(b) He, she or they have 10 days from receipt of the order to request a hearing before the governing body or its designated representative of the matter as provided by section 8-312;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-309 and/or abatement of the condition(s) by the city as provided by section 8-310. (Ord. 807A, Sec. 8; Code 2014)

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 of section 8-303, be fined in an amount not to exceed \$500.00 or be imprisoned not to exceed 30 days or be both fined and imprisoned. (Ord. 807A, Sec. 9; Code 2014)

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 an order has been sent pursuant to section

8-307 has neither alleviated the conditions causing the alleged violation or requested a hearing before the governing body within the time period specified in section 8-308, 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 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 8-313. 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; 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.

(Ord. 807A, Sec. 10; Code 2014)

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. Supp. 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.

(Ord. 807A, Sec. 11; Code 2014)

8-312. HEARING. If a hearing is requested within the 10 day period as provided in section 8-308, 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 matter provided in section 8-310.  
(Ord. 807A, Sec. 12; Code 2014)

- 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 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.  
(Ord. 807A, Sec. 13; Code 2014)

## ARTICLE 4. WEEDS

- 8-401. WEEDS TO BE REMOVED. It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided.  
(Ord. 805, Sec. 1; Code 2014)
- 8-402. DEFINITIONS. (a) Calendar Years as used herein means that period of time beginning January 1 and ending December 31 of the same year.  
(b) Weeds as used herein, means any of the following:  
(1) Brush and woody vines shall be classified as weeds;  
(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 its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height.  
(Ord. 805, Sec. 2; Code 2014)
- 8-403. PUBLIC OFFICER; NOTICE TO REMOVE. (a) The mayor with consent of the council shall designate a public officer to be charged with the administration and enforcement of this article. The public officer or authorized assistant shall give written notice to the owner, occupant or agent of such property by certified mail, return receipt requested, or by personal service to cut or destroy weeds; provided, however, that if the property is unoccupied and the owner is a nonresident, such notice shall be sent by certified, return receipt requested, to the last known address of the owner. Such notice shall only be given once per calendar year.  
(b) The notice to be given hereunder shall state:  
(1) that the owner, occupant or agent in charge of the property is in violation of the city weed control law;  
(2) that the owner, occupant or agent in control of the property is ordered to cut or destroy the weeds within 10 days of the receipt of the notice;  
(3) that the owner, occupant or agent in control of the property may request a hearing before the governing body or its designated representative within five days of the receipt of the notice;  
(4) that if the owner, occupant or agent in control of the property does not cut or destroy the weeds or fails to request a hearing within the allowed time the city or its authorized agent will cut or destroy the weeds and assess the cost of the cutting or destroying the weeds, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property;

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

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

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

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

(Ord. 805, Sec. 3; Code 2014)

8-404. ABATEMENT; ASSESSMENT OF COSTS. (a) If the owner, occupant or agent in charge of the property has neither alleviated the conditions causing the alleged violation nor requested a hearing within the time periods specified section 8-403, the public officer or an authorized assistant shall abate or remove the conditions causing the violation.

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

(c) The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115 and amendments thereto, but only until the full cost and applicable interest has been paid in full.

(d) For the purposes of determining cost to be assessed for abatement or removal, the following charges will be applied: \$75.00 per hour plus a \$30.00 administration fee for each mowing.

(K.S.A. 12-1617f; Ord. 805, Sec. 4; Code 2014)

8-405. RIGHT OF ENTRY. The public officer, and the public officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this article. (Ord. 805, Sec. 5; Code 2014)



8-406. UNLAWFUL INTERFERENCE. It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute a code violation. (Ord. 805, Sec. 6; Code 2014)

8-407. NOXIOUS WEEDS. (a) Nothing in this article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.

(b) For the purpose of this article, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L.), and Johnson grass (*Sorghum halepense*). (K.S.A. 2-1314; Ord. 805, Sec. 7; Code 2014)

**ARTICLE 5. (Reserved)**

**ARTICLE 6. (Reserved)**

**ARTICLE 7. INSURANCE PROCEEDS FUND**

- 8-701. SCOPE AND APPLICATION. The city of Chetopa is hereby authorized to utilize the procedures established by K.S.A. 40-3901 *et seq.*, whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this article.  
(Ord. 821, Sec. 1; Code 2014)
- 8-702. LIEN CREATED. The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.  
(Ord. 821, Sec. 2; Code 2014)
- 8-703. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 8-702, the insurer or insurers shall contact the county treasurer, Labette 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, Labette County, Kansas. (Ord. 821, Sec. 3; Code 2014)
- 8-704. SAME; PRO RATA BASIS. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.  
(Ord. 821, Sec. 4; Code 2014)
- 8-705. 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 75 percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the Chetopa

city treasurer in an amount equal to the sum of 15 percent of the covered claim payment, unless the chief building inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.

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

(c) Upon the transfer of the funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the named insured or 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 certified mail, return receipt requested, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this article.

(Ord. 821, Sec. 5; Code 2014)

8-706. FUND CREATED; DEPOSIT OF MONEYS. The city treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this article shall be placed in said fund and deposited in an interest-bearing account.  
(Ord. 821, Sec. 6; Code 2014)

8-707. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.

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

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

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

(d) If the chief building inspector has determined that proceedings under K.S.A. 12-1750 *et seq.*, as amended shall be initiated, he or she will do so immediately but no later than 30 days after receipt of the monies 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 monies received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within 30 days of the receipt of the monies from the insurance company or companies.

(Ord. 821, Sec. 7; Code 2014)

- 8-708.           REMOVAL OF STRUCTURE; EXCESS MONIES. If the chief building inspector has proceeded under the provisions of K.S.A. 12-1750 *et seq.*, as amended, all monies in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured. (Ord. 821, Sec. 8; Code 2014)
- 8-709.           SAME; DISPOSITION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged by fire, explosion, or windstorm, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of section 8-705(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city including but not limited to a one time administrative fee of \$50.00 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 8-705(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. (Ord. 821, Sec. 9; Code 2014)
- 8-710.           EFFECT UPON INSURANCE POLICIES. This article shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy. (Ord. 821, Sec. 10; Code 2014)
- 8-711.           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. (Ord. 821, Sec. 11; Code 2014)

## 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 Chetopa, Kansas. The municipal court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city. (Code 2014)
- 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 2014)
- 9-103. TIME AND PLACE OF SESSIONS. Municipal court shall be held in the municipal courtroom in the city hall building on such days and at such hours as the municipal judge designates. (Code 2014)
- 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 2014)
- 9-105. SAME; ABSENCE; VACANCY; PRO TEM. In the event the municipal judge is temporarily unable to preside due to absence, illness or disqualification, the municipal judge shall designate an attorney or other qualified person to act as judge pro tempore. In the event the municipal judge fails to appoint a judge pro tempore, the judge pro tempore shall be appointed in the same manner as the municipal judge is selected. The judge pro tempore shall receive compensation as shall be provided by ordinance, payable in the same manner as the compensation of the regular municipal judge.  
In the event a vacancy shall occur in the office of municipal judge, a successor shall be appointed to fill the unexpired term in the same manner as the municipal judge was appointed.  
(K.S.A. 12-4107; Code 2014)
- 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 2014)
- 9-107. SAME; SALARY. The municipal judge shall receive an annual salary between \$900 - \$20,000. (Ord. 844, Sec. 1; Code 2014)
- 9-108. COURT CLERK. There is hereby established the office of the clerk of the municipal court of the City of Chetopa, Kansas, which office shall be filled by appointment by the mayor with consent of the council. The duties of the office shall

be those prescribed by the Code for Municipal Courts set forth in Chapter 12, Article 41 of the Kansas Statutes, and shall include the following duties:

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

(b) The clerk of the municipal court shall within 10 days after selection and before entering upon the duties of office, execute to the city such bond as the governing body may require, which shall be approved by the governing body, and file in the office of the city clerk, conditioned for the faithful performance of the duties required of him 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) A majority of all members of the council may remove the clerk appointed under the authority of this article, or for good cause the mayor may temporarily suspend any such appointed clerk.  
(K.S.A. Supp. 12-4108; Code 2014)

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 2014)

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 2014)

9-111. FAILURE TO APPEAR. (a) It shall be unlawful for any person charged with violation of any law of the city to fail to appear before the municipal court when so scheduled to appear, unless lawful excuse for absence is presented to the court on or before the time and date scheduled for appearance.

(b) For the purpose of subsection (a), failure to appear shall include willfully incurring a forfeiture of an appearance bond and failure to surrender oneself within 30 days following the date of such forfeiture by one who is charged with a violation of the laws of the city and has been released on bond for appearance before the municipal court for trial or other proceeding prior to conviction, or willfully incurring a forfeiture of an appearance bond and failing to surrender oneself within 30 days after his 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 30 days and/or a fine of up to \$250.00.  
(Code 2014)

9-112. COURT COSTS. (a) Every person who is found guilty, pleads guilty or *nolo contendere*, or is placed on diversion, shall pay court costs in the amount of \$75.00. In each case in which court costs are collected, the assessments for the training for law enforcement will be collected as specified by the State of Kansas, as well as an additional \$10.00, from each court cost collected shall be set aside, accumulated, and carried over in a law enforcement training fund. Said fund shall carry over on a yearly basis.

(b) In any cases where the municipal court of the city finds that prosecution was instituted without probable cause and for malicious motives pursuant to Charter Ordinance No. 8, the court costs assessed pursuant to subsection (a) in the amount of \$75.00 shall be assessed against the person bringing prosecution.  
(Ord. 850, Sec. 1:2; Code 2014)

## **CHAPTER X. POLICE**

- Article 1. Police Department
- Article 2. Property in Police Custody
- Article 3. Police Fees

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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. (C.O. No. 11; Code 2014)
- 10-102. **LAW ENFORCEMENT PERSONNEL; GENERAL DUTIES.** It shall be the general duty of the chief of police and all sworn law enforcement personnel to the best of their ability to preserve good order, peace and quiet throughout the city as provided by law or ordinance.
- The chief of police and all sworn law enforcement personnel shall at all times have power to make arrest under proper process or without process on view of any offense against the laws of the State of Kansas or laws of the city and to keep all persons so arrested, unless admitted to bail, in the city jail, county jail or other proper place to prevent their escape until their trial can be had before the proper officer.
- All persons arrested for violation of any law of the state and who shall not be charged with an offense under any law of the city shall be released to the custody of the sheriff of the county and such arrest shall be reported to the county attorney. (Code 2014)
- 10-103. **RULES AND REGULATIONS.** The chief of police shall have power to make such rules and regulations as may be necessary for the proper and efficient conduct of the department. Such rules and regulations shall be approved by the governing body. (Code 2014)



## 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. (Ord. 665, Sec. 1; Code 2014)
- 10-202. DISPOSITION. Any property which has been acquired or turned over to the police department and has been classified in accordance with procedures existing in the police department as unclaimed or for which the proper owner cannot be ascertained shall be kept for a minimum of 90 days. After a period of 90 days, such property, except as provided in section 10-203, shall be sold at public auction to the highest bidder and the proceeds after expenses shall be paid to the city general fund. (Ord. 665, Sec. 2; Code 2014)
- 10-203. SAME; EXEMPT PROPERTY. The following classes of property shall be considered exceptions to section 10-202 and shall be dealt with in the following manner:
- (a) Cash money shall be turned over to the city general fund unless it shall be determined to have collector's value, in which case it shall be auctioned according to the provisions in section 10-202.
  - (b) Firearms which are available for disposition may be dealt with in the following manner:
    - (1) If compatible with law enforcement usage, they may be turned over to the police department inventory.
    - (2) They may be sold to a firearms dealer who maintains the appropriate federal firearms license.
    - (3) They may be destroyed.
    - (4) In no case shall firearms be sold at public auction.
  - (c) Other weapons such as knives, etc., which are deemed to have a legitimate value may be sold at auction, however, homemade weapons or weapons of a contraband nature shall be destroyed.
  - (d) Any items determined to be contraband such as explosives, narcotics, etc., shall be destroyed.
  - (e) Items of a pharmaceutical nature, which, while not contraband when properly dispensed, or which are of an over-the-counter-variety, shall be destroyed.
  - (f) Foodstuffs, if sealed and undamaged may be turned over to any appropriate social service agency or destroyed, but shall not be auctioned.
  - (g) Alcohol products such as beer, wine, whiskey, etc., shall be destroyed.
  - (h) Items with a value in excess of \$500.00 may be sold after advertising said item in a general circulation newspaper on at least two occasions. Such sales shall be by closed bid.
- (Ord. 665, Sec. 3; Code 2014)
- 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. (Ord. 665, Sec. 4; Code 2014)

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.  
(Ord. 665, Sec. 5; Code 2014)

10-206. AUCTION. At such time as it has been determined that an auction is necessary to dispose of unclaimed property, an inventory listing all property to be disposed of shall be prepared and kept on file in the police department. Notice of an auction shall be published at least twice in a general circulation newspaper prior to the date of the auction. The notice shall specify the date, time and place of the auction and shall also notify prospective buyers or potential claimants that a list of items to be auctioned is available at the police department and any claims on property must be made prior to the start of the auction.  
(Ord. 665, Sec. 6; Code 2014)

### ARTICLE 3. POLICE FEES

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

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

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

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

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

(Code 2014)

10-302. INITIAL POLICE RESPONSES TO PARTIES, GATHERINGS OR EVENTS. When any police officer responds to any party, gathering or event, and that police officer determines that there is a threat to the public peace, health, safety, or general welfare, the police officer shall issue a written notice to the host or hosts that a subsequent response to that same location or address within 24 hours of the first response shall be deemed a special security assignment rendered to provide security and order on behalf of the party, gathering or event and that the host may be liable for a police services fee as defined in this article. (Code 2014)

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

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

(Code 2014)

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

(Code 2014)

## **CHAPTER XI. PUBLIC OFFENSES**

Article 1. Uniform Offense Code

Article 2. Local Regulations

Article 3. Nocturnal Curfew

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

11-101. INCORPORATING UNIFORM PUBLIC OFFENSE CODE. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Chetopa Kansas, that certain code known as the "Uniform Public Offense Code," Edition of 2013, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. One copy of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Chetopa, Kansas," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this section, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.  
(Ord. 857; Code 2014)

11-102. SAME; OMITTING PROVISION. Article 6 - Section 6.14 of the Uniform Public Offense Code relating to unlawful deposits in sewers, Article 9 - Section 9.5 of the Uniform Public Offense Code relating to maintaining a public nuisance, and Article 10 - Section 10.13 of the Uniform Offense Code relating to barbed wire are hereby omitted.  
(Ord. 857; Code 2014)

## ARTICLE 2. LOCAL REGULATIONS

- 11-201. INJURING PUBLIC PROPERTY. It shall be unlawful for any person or persons to carelessly, willfully, unlawfully, or maliciously break, destroy, damage, remove, deface, or injure any property, either real or personal belonging to, in the lawful possession of, or within the jurisdiction of, the city. (Ord. 596, Sec. 2)
- 11-202. CURFEW VIOLATIONS AND TRESPASSING ON PUBLIC PROPERTY IN VIOLATION OF POSTED SIGNS UPON THE PREMISES. It shall be unlawful for any person to violate curfew restrictions and to enter into, remain upon, or trespass upon any public property of the city in violation of posted signs upon the premises.  
Provided, however, that the provisions of this section shall not apply to any duly authorized employee or agent of the city, in the conduct of his or her official business for or on behalf of the city, nor to any person engaged in any authorized act on behalf of the city, nor to any bona fide owners of lands adjacent to the public property, or their employees, lessees, or agents, who must use a common lane or road for ingress to and egress from the lands adjacent to any such public property. (Ord. 600, Sec. 2)
- 11-203. PROHIBITION OF THE USE OR POSSESSION OF SIMULATED CONTROLLED SUBSTANCES AND DRUG PARAPHERNALIA. No person shall use or possess with intent to use:  
(a) Any simulated controlled substances, or,  
(b) Any drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the uniform controlled substances act.  
For purposes of this section, definition as set forth in K.S.A. 65-4150, and determination of what is drug paraphernalia; facts to consider as set forth in K.S.A.. 65-4151 shall be the governing factors. (Ord. 601, Sec. 2)
- 11-204. LOUD SOUND AMPLIFICATION SYSTEMS PROHIBITED. (a) No person operating or occupying a motor vehicle on a street, highway, alley, parking lot, or driveway shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of 50 or more feet from the vehicle.  
(b) Sound amplification system means any radio, tape player, compact disk player, loudspeaker, or other electronic device used for the amplification of sound.  
(c) Plainly audible means any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of 50 feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and bass reverberations are included. The motor vehicle may be stopped, standing, parked, or moving on a street, highway, alley, parking lot, or driveway.  
(d) It is an affirmative defense to a charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:  
(1) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;

- (2) The vehicle was and emergency or public safety vehicle;
  - (3) The vehicle was owned and operated by the city or a gas, electric, communications or refuse company;
  - (4) The system was used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any person or assemblages of person in compliance with ordinances of the city.
  - (5) The vehicle was used in authorized public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the city authorized to grant such approval.
- (Ord. 676, Sec. 1)

### ARTICLE 3. NOCTURNAL CURFEW

11-301.

DEFINITIONS. For the purposes of the Article the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words, used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

(a) City - is the City of Chetopa, Kansas, with administrative offices at 618 N. 11th Street, Chetopa, Kansas.

(b) Emergency - means an unforeseen combination of circumstances on the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, or automobile accident, or any situation requiring the immediate action to prevent serious bodily injury or loss of life.

(c) Establishment - means an privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

(d) Juvenile or minor - is any un-emancipated person under the age of eighteen (18) years.

(e) Operator - is any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term including the members or partners of an association or partnership and the officers of a corporation.

(f) Parent - is any person having legal custody of a juvenile (i) as a natural or adoptive parent, (ii) as a legal guardian, (iii) as a person who stands *in loco parentis*. or (iv) as a person to whom legal custody has been given by court order.

(g) Public place - means any place to which the public or substantial group of the public has access and includes, but is not limited to, streets, common areas of schools, shopping centers, parking lots, parks, playgrounds, transportation facilities, theaters, restaurants, shops, bowling alleys, taverns, cafes, arcades, and similar areas that are open to the use of the public. As a type of public place, a street is a way or place, of whatever nature, open to the use of the public as a matter of right for purposes of vehicular travel or the case of a sidewalk thereof for pedestrian travel. "Street" includes that legal right of way, including but not limited to the cart way of traffic lands, the curb, the sidewalks whether paved or unpaved, and any grass plots or other grounds found within the legal right of way of a street.

(h) Remain - means to stay behind to tarry and to stay unnecessarily in a public place including the congregating of groups (or of interacting minors) totaling four or more persons in which any juvenile involved would not be using the streets for ordinary or serious purposes such as mere passage or going home, or to fail to leave the premises or an establishment when requested to do so by a police officer or the operator of an establishment. To implement this provision with additional precision and precaution, numerous exceptions are expressly defined in the article. More and more exceptions become available with a juveniles increasing years and advancing maturity as appropriate in the interest of reasonable regulation.

(i) Time of night - referred to herein is based upon the prevailing standard of time, whether Central Standard Time or Central Daylight Savings Time, generally observed at that hour by the public in the City; prima facie the time then observed in the City Administrative Offices and police station.

(j) Years of age - continues from one birthday, such as the sixteenth to (but not including the day of) the next, such as the seventeenth birthday, making it clear that sixteen or less years of age is herein treated as equivalent to the phrase "under

seventeen years of age,” the latter phrase in practice, unfortunately, having confused a number of person into the mistaken thought that seventeen (17) year olds might be involved. Similarly, for example, 11 or less years of age means “under 12 years of age.” (Ord. 830, Sec. 1; Code 2014)

11-302. CURFEW FOR JUVENILES. At the discretion of a law enforcement officer, it shall be unlawful for any person fifteen (15) years or less of age (under sixteen (16)) years to be or remain in or upon a public place within the City of Chetopa, Kansas during the period ending at 5:00 a.m. and beginning at 10:00 p.m. on any night and it shall be unlawful for any person sixteen (16) years of age or seventeen (17) years of age (between the ages of sixteen (16) years to under eighteen (18) years) to be or remain in or upon a public place within the City of Chetopa, Kansas, during the period ending at 5:00 a.m. and beginning at midnight (12:00 a.m.) on any night. (Ord. 830, Sec. 2; Code 2014)

11-303. SAME; EXCEPTIONS. The following shall constitute valid exceptions to the operation of the Article:

(a) When a juvenile is accompanied by a parent of such juvenile.

(b) When a juvenile is accompanied by an adult authorized by a parent of such juvenile to take said parents place in accompanying said juvenile for a designated period of time and purpose within a specified area.

(c) When the juvenile is on an errand as directed by her parent until the hour of 12:30 a.m.

(d) When a juvenile is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly, by first delivering to the person City’s Chief of Police to receive such information a written communication, signed by the juvenile and countersigned, if practicable, by a parent of the juvenile with their home address and telephone number, specifying when, where and in what manner the juvenile will be in a public place during hours when the curfew is applicable to said minor in the exercise of a First Amendment right specified in such communication.

(e) When a juvenile is on the sidewalk or property where the juvenile resides, or on either side of or across the street from the place where the juvenile resides and the adult owner or resident of that property has given permission for the juvenile to be there.

(f) When a juvenile is returning home by a direct route (without any unnecessary detour or stop) from and within one (1) hour of the termination of a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event.

(Ord. 830, Sec. 3; Code 2014)

11-304. PARENTAL RESPONSIBILITY. It shall be unlawful for a parent having legal custody of a juvenile knowingly to permit or by inefficient control to allow the juvenile to remain in any City public place under circumstances not constituting an exception to, or otherwise beyond the scope of the Article. The term “knowingly” included knowledge that a parent should reasonable be expected to have concerning the whereabouts of a juvenile in that parents legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such juvenile. (Ord. 830, Sec. 4; Code 2014)



11-305. ENFORCEMENT PROCEDURES. (a) If a police officer reasonably believes that a juvenile is in a public place in violation of this article, the officer shall notify the juvenile that he or she is in violation of this article and shall require the juvenile to provide his or her name; address, and telephone number and how to contact his or her parent or guardian. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate, a police officer shall, in the first instance of violation of this article, use his or her best judgment in determining age.

(b) The police officer shall issue the juvenile a written warning that the juvenile is in violation of this article and order the juvenile to go promptly home. The Chief of Police shall send the parent or guardian of the juvenile written notice of the violation pursuant to Section 11-304.

(c) Police procedures shall constantly be refined in the light of experience and may provide that the police officer may deliver to a parent or guardian thereof a juvenile under appropriate circumstances; for example, a juvenile of tender age, near home, whose identity and address may readily be ascertained or are known. (Ord. 830, Sec. 6; Code 2014)

11-306. PENALTIES. (a) If, after, the warning notice pursuant to Section 11-305 of a first violation by a juvenile, a parent violates Section 11-304 (in connection with a second violation by the juvenile), this shall be treated as a first offense by the parent. For the first offense by a parent, the fine shall be \$50.00, and for each subsequent offense by a parent the fine shall be increased by an additional \$50.00, e.g., \$100.00 for the second offense, \$150.00 for the third offense. The Judge of the Municipal Court of the City of Chetopa, Kansas, upon finding a parent guilty, shall sentence the parent to pay this fine and the cost of prosecution.

(Ord. 830, Sec. 7; Code 2014)

11-307. SAME; CONSTRUCTION AND SEVERABILITY. (a) Severability is intended throughout and within the provisions of this Article. If any provision, including any exception, part, phrase, or term, or the application thereof to any person or circumstances is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of this Article in any and all other respects shall not be affected thereby.

(b) Advisory Opinions. The Chief Executive after consultation with the City Attorney is hereby authorized to give advisory opinions in writing, which shall be binding and shall be adhered to by the police, until this Article is amended in such respect, interpreting terms, phrases, parts or any provisions. Normally, such advisory opinions shall be in response to good faith, signed letters addressed to the Chief Executive or to a member of the City Council, questioning the Curfew as: (1) ambiguous; (2) having a potentially chilling effect on constitutional rights specifically invoked; or (3) otherwise invalid, in all three categories with respect to proposed conduct definitely described. This administrative remedy must be exhausted prior to presenting to any court a question in any of the three categories. The City Council does not intend a result through the enforcement of the curfew that is absurd, impossible or execution or unreasonable. Council intends that the curfew be held inapplicable in such cases, if any, where its application would be unconstitutional under the Constitution of the State of Kansas or the Constitution of the United States of America.

(Ord. 830, Sec. 8; Code 2014)

## CHAPTER XII. PUBLIC PROPERTY

- Article 1. City Parks
  - Article 2. Library
  - Article 3. Historical Museum
  - Article 4. Management of Public Rights-of-Way
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### ARTICLE 1. CITY PARKS

- 12-101. CITY LAWS EXTENDED TO PARK. The laws of the city shall extend to and cover all city parks. (Code 2014)
- 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 2014)
- 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 2014)
- 12-104. REGULATIONS. (a) Motor vehicles, including any vehicle licensed to operate on public streets, roads and highways and motorbikes, go-carts, snowmobiles and other motorized off-the-road vehicles shall be operated in a safe and prudent manner at all times in park areas.
- (b) Except as provided in subsection (d), it shall be unlawful for any person to park any motor vehicle in any area not designated for such purpose.
- (c) Except as provided in subsection (d), it shall be unlawful for any person to operate any motor vehicle within any city park except upon roads, drives and parking areas established by the city.
- (d) Golf carts will be allowed as governed by ordinance when engaging in any special event or activity.
- (e) Subsections (b) and (c) above shall not apply to authorized city employees while engaged in the maintenance and care of the park or others as authorized by the chief of police.
- (f) The speed limit in the parks system of the city of Chetopa, Kansas is fifteen (15) mph unless otherwise posted.
- (g) Except as hereinafter provided, there shall be established a Fourteen (14) day period of park habitation; upon the expiration of said Fourteen (14) day period the park shall be vacated by the persons who have been in residence for that period the park shall be vacated by the persons who have been in residence for that period and they must remain outside the park system for at least seven (7) days, and at the expiration of which that may again enter the park and remain for another fourteen (14) day period; provided, however, that this rule shall not apply to anyone who resides outside a fifty (50) mile radius of the city of Chetopa, and they shall be allowed to inhabit the park for a period not to exceed thirty (30) days, and upon the expiration of said thirty (30) day period, they must vacate the park and

remain outside the park system for at least seven (7) days; and at the expiration of which they may again enter the park system and remain for another thirty (30) day period.

(h) There is hereby established a fee and charge of ten dollars (\$10.00) per day the use of electric service and a fee and charge of two dollars (\$2.00) per day for non-electric usage in the park system in the city of Chetopa; said fees are to be paid at the City Utility Office or to any city Police Officer therein for each day of service or usage in the park system of the city of Chetopa. Non-payment of said fees shall be prima facie evidence of intent to leave the park on that day and non-payers will be requested to do so.

(Ord. 651, Sec. 2; Ord. 803, Sec. 1; Code 2014)

12-105. 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 2014)

12-106. FIRES. It shall be unlawful for any person to build or kindle any fire in any city park except in the ovens, stoves, grills, or pits, and such fire must be extinguished by the person, persons or parties starting such fire, immediately after use thereof. (Code 2014)

12-107. CAMPING PROHIBITED. Overnight camping is hereby prohibited in city parks except where posted. (Code 2014)

12-108. SANITATION. All waste material, paper, trash, rubbish, tin cans, bottles, containers, garbage and refuse of any kind whatsoever shall be deposited in disposal containers provided for such purposes. No such waste or contaminating material shall be discarded otherwise. No sticks, stones, trash or other objects shall be thrown or discarded in or on any park lands, fountains, pools, drinking fountains, sanitary facilities, or other improvements. (Code 2014)

12-109. 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 Veteran's Park any alcoholic liquor or cereal malt beverage. (Code 2014)

12-110. PRESERVATION OF NATURAL STATE. It shall be unlawful for any person, except duly authorized city employees, to take, injure, or disturb any live or dead tree, plant, shrub, or flower, or otherwise interfere with the natural state of city parks. (Code 2014)

12-111. 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 2014)

12-112. HOURS. No person, other than bona fide fishermen, campers, those engaged in activities as authorized by the city council, or law enforcement personnel shall be permitted to enter into or remain upon the premises of Elmore Park from the hours of 10:00 p.m. until 5:00 a.m. (Ord. 574; Code 2014)

## **ARTICLE 2. LIBRARY**

- 12-201. LIBRARY BOARD. No less than five members of the library board shall be residents of the city. The remaining two members of the board may either be residents or nonresidents of the city, but in any event shall be residents of Labette County.  
(C.O. No. 10, Sec. 2; Code 2014)

### ARTICLE 3. HISTORICAL MUSEUM

- 12-301. HISTORICAL MUSEUM MISSION. The Chetopa Historical Museum's major function will be to discover and collect any material which will help to establish and illustrate the history of the area, its exploration, founding, development and activities during peace or in war. It will collect printed material such as histories, descriptions, circulars, hand bills, and any printed matter pertaining to this area. It will collect pictures, paintings, original relics and artifacts illustrating the life, conditions, activities of the past and the present. The Museum will cooperate with the Kansas State Historical Society to collect and preserve materials of State-wide interest so that these can be made available to students and scholars for study. (Ord. 763, Sec. 1; Code 2014)
- 12-302. BOARD OF DIRECTORS; MEMBERSHIP; DUTIES. (a) The Chetopa Historical Museum Board of Directors shall consist of seven (7) members. Each of the members shall be subject to a term of two (2) years and shall be appointed by the Mayor of the City of Chetopa with each said appointment to be subject to approval by a majority of the City Council, for said term. At the end of said term each member shall be eligible for reappointment for two (2) years with no limitation as to the number of terms that shall be served by any member of the Chetopa Historical Museum Board of Directors.
- (b) The Board of Directors shall be responsible for the operation of the Museum and shall select the Curator of the Museum. The Board of Directors shall meet at least quarterly and shall have at least four (4) members present in order to conduct business. The Board of Directors shall designate members of the Board to serve as Presiding Officer, Secretary, and Treasurer of the Board on a yearly basis.
- (c) The Curator of the Chetopa Historical Museum shall be ineligible to serve on the Board of Directors while holding the position of Curator of the Chetopa Historical Museum. (Ord. 763, Sec. 2:4; Code 2014)
- 12-303. SAME; TERMINATION. The City of Chetopa shall have the authority to terminate the operation of the Chetopa Historical Museum and its Board of Directors at any time should the City of Chetopa deem said termination necessary. (Ord. 763, Sec. 5; Code 2014)

#### ARTICLE 4. MANAGEMENT OF PUBLIC RIGHTS-OF-WAY

- 12-401. DEFINITIONS. Unless the context clearly indicates otherwise, the meanings of words and terms used in this article shall be as follows:
- (a) Public right-of way means only the area of real property in which the city has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquire as right-of-way. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other non-wire telecommunications or broadcast service, easements obtained by utilities or private easements in platted subdivisions or tracts.
- (b) Occupant means any person, firm, corporation, association, utility, or entity, which enters upon the right-of-way of the city, or in any manner establishes a physical presence on, upon, in or over the right-of-way of the City, for the purpose of installing, construction, maintaining or operating lines, conduits, wires, fiber optic wires, cables, pipes, pipelines, poles, towers, vaults or appliances, or related facilities or appurtenances thereto.
- (c) Facility and facilities mean lines, conduits, wires, fiber optic wires, cables, pipes, pipelines, poles, towers, vaults or appliances, or related items or appurtenances.  
(Code 2014)
- 12-402. AUTHORIZATION FROM CITY REQUIRED. (a) No person, firm, corporation, association, utility, or entity, shall enter upon the right-of-way of the city, or in any manner establish a physical presence on, upon, in or over the right-of-way of the City, for the purpose of installing, construction, maintaining or operating lines, conduits, wires, fiber optic wires, cables, pipes, pipelines, poles, towers, vaults or appliances, or related facilities or appurtenances thereto, without the express written permission of the City. The permission of the City may be granted by a franchise agreement pursuant to the provisions of K.S.A. 12-2001 *et seq.* or by such other agreement as the governing body determines best protects the public interest in the right-of-way.
- (b) Nothing in this section shall be interpreted as granting any occupant the authority to construct, maintain or operate any facility or related appurtenance on property owned by a city outside of the public right-of-way.  
(Code 2014)
- 12-403. HEALTH, SAFETY, AND WELFARE REGULATIONS. The authority of a provider to use and occupy the public right-of-way shall always be subject and subordinate to the reasonable public health, safety and welfare requirements and regulations of the city.  
(Code 2014)
- 12-404. SPECIFIC PORTIONS OF RIGHT-OF-WAY RESTRICTED. (a) The city hereby prohibits the use or occupation of the following specific portions of public right-of-way:  
(Reserved - See K.S.A. 17-1902(e) for the standards which must be followed when prohibiting use of a specific portion of the right-of-way.)

(b) If the city denies a request to use or occupy a specific portion of the public right-of-way, the requester shall be served a notice of such denial by first class mail. The notice shall indicate that the requester shall have 10 days from the date of receipt of the notice to request a public hearing by the city governing body concerning the denial. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the denial before the governing body. The hearing shall be held by the governing body within 30 days after the filing of the request therefore, and the potential occupant shall be advised by the city of the time and place of the hearing. Following the public hearing, if the city governing body denies a potential occupant's request to use or occupy a specific portion of the public right-of-way, such determination may be appealed to district court.  
(Code 2014)

12-405. COMPLIANCE WITH MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES. Any occupant of the public right-of-way shall comply with the provisions of Standards and Guides for Traffic Controls for Street and Highway Construction, Maintenance, Utility, and Incident Management Operations Part VI of the Manual of Uniform Traffic Control Devices (MUTCD), published by the U.S. Department of Transportation, Federal Highway Administration, 1988 Edition, Revision 3, dated September 3, 1993, which is incorporated herein by reference as if fully set forth herein.  
(Code 2014)

12-406. ADDITIONAL REQUIREMENTS. (Reserved)

12-407. EMERGENCIES. If there is an emergency necessitating response work or repair, any person, firm, corporation, association, utility, or entity which has been granted permission to occupy the public right-of-way may begin that repair or emergency response work or take any action required under the circumstances, provided that the person, firm, corporation, association, utility, or entity notifies the city promptly after beginning the work and timely thereafter meets any permit or other requirement had there not been such an emergency.  
(Code 2014)

12-408. REPAIR. Any occupant of the public right-of-way is hereby required to repair all damage to a public right-of-way caused by the activities of that occupant, or of any agent affiliate, employee, or subcontractor of that occupant, while occupying, installing, repairing or maintaining facilities in a public right-of-way and to return the right-of-way, to its function equivalence before the damage pursuant to the reasonable requirements and specification of the city. If the occupant fails to make the repairs required by the city, the city may affect those repairs and charge the occupant the cost of those repairs. (Code 2014)

12-409. RELOCATION. Whenever requested by the city, in order to accomplish construction and maintenance activities directly related to improvements for the health, safety and welfare of the public, an occupant promptly shall remove its facilities from the public right-of-way or shall relocate or adjust its facilities within the public right-of-way at no cost to the political subdivision. Such relocation or adjustment shall be completed as soon as reasonably possible within the time set forth in any request by the city for such relocation or adjustment. Any damages

suffered by the city or its contractors as a result of such occupant's failure to timely relocate or adjust its facilities shall be borne by such occupant.  
(Code 2014)

12-410. INDEMNITY. (a) Occupants shall indemnify and hold the city and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of the occupant, any agent, officer, director, representative, employee, affiliate or subcontractor of the provider, or their respective officers, agents, employees, directors or representatives, while installing, repairing or maintaining facilities in a public right-of-way.

(b) The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the city, its officers, employees, contractors or subcontractors. If an occupant and the city are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the city under state law and without waiving any defenses of the parties under state or federal law.

(c) This section is solely for the benefit of the city and occupant and does not create or grant any rights, contractual or otherwise, to any other person or entity. (Code 2014)

12-411. CLAIM NOTIFICATION. An occupant shall promptly advise the other in writing of any known claim or demand against the provider or the city related to arising out of the occupant's activities in a public right-of-way.  
(Code 2014)

12-412. PENALTY PROVISION. Any person, firm, corporation, association, utility, or entity, or agent, contractor or subcontractor thereof, violating any provision of this article, shall be guilty of a municipal offense, and shall upon conviction be subject to a maximum fine of \$500.00. Each day of violation shall constitute a separate and distinct offense.  
(Code 2014)



## CHAPTER XIII. STREETS AND SIDEWALKS

Article 1. Sidewalks

Article 2. Streets

Article 3. Trees and Shrubs

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### ARTICLE 1. SIDEWALKS

- 13-101. APPROVAL REQUIRED. It shall be unlawful to construct, reconstruct or repair any city sidewalk without approval by the governing body and a permit issued for such work by the city clerk. (Code 2014)
- 13-102. SIDEWALK GRADE. Hereafter all sidewalks constructed or reconstructed in the city shall be constructed on the established and/or natural grade. (Code 2014)
- 13-103. SAME; PETITION. When a petition signed by no fewer than 10 citizens owning real estate in the city requesting construction of a sidewalk is filed with the city clerk, the governing body may in its discretion, by a resolution, order such sidewalk constructed as herein provided. (K.S.A. 12-1803; Code 2014)
- 13-104. 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, benches, display or show cases, on any sidewalks or other public ways in the city or to obstruct the same longer than is necessary for loading or unloading any such article or object. (Code 2014)
- 13-105. 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 2014)

## ARTICLE 2. STREETS

- 13-201. EXCAVATION APPROVAL. 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 permission for such excavation. Requests for permission shall be made at the city office. (Code 2014)
- 13-202. SAME; BOND. (a) No permit authorized in this article shall be issued until the applicant has given to the city a good and sufficient bond in the sum of \$5,000 conditioned that the applicant will faithfully comply with all the terms and conditions of this article, and will indemnify and hold the city harmless against all costs, expenses, damages and injuries by persons or by the city sustained by reason of the carelessness or negligence of the permit holder. No bond for this purpose shall run for longer than two years without being renewed. The bond shall remain in full force and effect as to each excavation for two years after the same has been made or completed.
- (b) Any utility operating under a franchise or a contractor under contract with the city for municipal improvement shall not be required to give bond as provided in subsection (a).
- (c) Each bond given under this section shall be approved by the city attorney and filed with the city clerk.  
(Code 2014)
- 13-203. SAME; BARRICADES. Any person to whom excavation approval has been granted 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. All necessary precautions shall be taken to guard the public against all accidents from the beginning of the work to the completion of the same.  
(Code 2014)
- 13-204. 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 2014)
- 13-205. 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 approval from the city office.
- (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 2014)

- 13-206. 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 2014)
- 13-207. 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 2014)
- 13-208. 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 approval 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 2014)
- 13-209. DANGEROUS OBJECTS IN. It shall be unlawful for any person to place, throw or cause to be placed or thrown in or on any street, alley, sidewalk or other public grounds of the city, any glass, tacks, nails, bottles, wire or other dangerous objects that might wound any person or animal, or cut or puncture any pneumatic tire while passing over the same. Any and all portable items impeding traffic shall be removed from any street or alley by the person who caused such object to be placed in the street or alley. (Code 2014)
- 13-210. PETROLEUM PRODUCTS IN STREETS. It shall be unlawful for any person, firm or corporation to deposit or throw any waste oil, fuel oil, kerosene, gasoline or other products of petroleum or any acids into or upon any street or public grounds of the city, or willfully to permit the same to be spilled, dripped or otherwise to come into contact with the surface of any street, alley, or sidewalk within the city. (Code 2014)
- 13-211. 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. (Code 2014)
- 13-212. 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 2014)
- 13-213. 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 2014)

### ARTICLE 3. TREES AND SHRUBS

13-301. AUTHORITY AND POWER. (a) The City Utility Leadman shall be the City Forester, who shall administer this section and he or she shall be the final authority on the matters concerning this section. This section provides full power and authority over all trees, shrubs, and woody vegetation within the street rights-of-way, utility plats and easements, parks and public places of the city, and to trees, shrubs, and woody vegetation located on private property that constitutes a hazard or threat as described herein.

(b) For the purpose of this section, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the content, words used in the present tense include future, words in plural include the singular, and the words in the singular include the plural. The word shall is mandatory and not merely directory.

(1) CITY - The city of Chetopa, Labette County, State of Kansas

(2) UTILITIES DEPARTMENT - The designated department for the city of Chetopa under whose jurisdiction public trees fall.

(3) CITY UTILITY LEADMAN - The designated official for the city of Chetopa assigned to carry out the enforcement of this section.

(4) PERSON - Any person, firm, partnership, association, corporation, company of any kind.

(5) STREET - The entire width of every public way of right-of-way and utility plats and easements when any part thereof is open to the use of the public, as a matter of right for the purpose of vehicular and pedestrian traffic.

(6) PUBLIC PLACES - This shall include all other grounds owned by the city of Chetopa.

(7) BOULEVARD (PARKWAY) - That part of the public right-of-way, utility plats and easements not covered by a sidewalk, or other paving lying between the property line and the curb line of any street. . (In the absence of a curb, the curb line of the street shall be deemed to be the edge of that portion of the public right-of-way maintained and open to the use of the public for purposes of vehicular travel.)

(8) PUBLIC TREES - All shade and ornamental trees, shrubs, and woody vegetation growing on any street or any public area.

(9) PROPERTY OWNER - the person owning such property as recorded at the Register of Deeds Offices of Labette County, State of Kansas.

(10) PRIVATE TREES - Any and all trees growing on private property within the city limits as of, or after, the effective date of the article from which this section or successor sections derives, and which are not defined or designated in this chapter as street trees, park trees, or public trees.

(11) PUBLIC UTILTIY - Any public, private, or cooperatively owned line, facility or system for producing, transmitting or distributing communication, power, electricity, light, heat, gas oil products, water, waste water or storm water, which directly or indirectly serves the public or any part thereof within the corporate limits of the city.

(12) TREE TOPPING - The specific reduction in overall size of a tree and/or the severely cutting back of branches or limbs to such a degree as to remove the normal canopy and disfigure the tree.

(13) RIGHTS-OF-WAY - Any city owned, controlled, or maintained easement or right-of-way.

(14) NORMAL TRIM (PRIMARY) – Normal trim for primary electric lines will be 15 feet (15') vertical to the nearest conductor.

(15) NORMAL TRIM (SECONDARY) – Normal trim for secondary electric, tri-plex to be trimmed so as not to rub the electric lines with a minimum of one foot (1') allowing for customary grow back.

(16) REMOVABLE TREES – Trees with the main trunk within 15 feet (15') vertical plane of the nearest conductor are a consideration for removal. (Ord. 818, Code 2014)

13-302. TREE PLANTING, MAINTENANCE, AND REMOVAL. The city shall have the right to plant, trim, spray, preserve and remove plants, shrubs, and woody vegetation within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure safety when servicing city utilities or to reserve the symmetry and beauty of such public grounds. The City Utility Leadman 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 lights, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insects, or other pest. (Ord. 818; Code 2014)

13-303. DISTANCE FROM STREET CORNERS AND FIRE HYDRANTS. No street tree shall be planted closer than twenty feet (20') from any street corner, measured from the point of nearest intersection curbs or curb lines. No street tree shall be planted closer than ten feet (10') from any fire plug. No street tree shall be planted closer than fifteen feet (15') from any alley/street or driveway/street intersection. (Ord. 818; Code 2014)

13-304. TRIMMING CLEARANCES FOR TREES. Any tree overhanging any sidewalk or utility plats and easements within the city shall trim the branches so that such branches shall not obstruct the view of any street intersection and so that there shall be a clear space of fourteen feet (14') above the surface of street or right-of-way, utility plats and easements and eight feet (8') above the sidewalks. 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 trim any tree, shrubs, or woody vegetation 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, or interferes with visibility at any traffic intersection, such trimming to confined to the area immediately above the right-of-way, utility plats and easements. (Ord. 818; Code 2014)

13-305. UTILITIES. No street trees, other than those species shorter than twenty-five feet (25') at maturity may be planted under or within ten feet (10') from any overhead utility wire or over or within eight (8) lateral feet from any underground water line, sewer line, transmission line, or other utility. (Ord. 818; Code 2014)

13-306. TREE TOPPING. (a) It shall be unlawful for any person or firm to top, dehorn, or pollard any public tree. Trees severely damaged by storms or other causes, or trees creating emergency hazard situations, are exempt from this section. Trees under utility wires or other obstructions, where standard pruning

practices are impractical, may be exempted from this article at the determination of the City Utility Leadman.

(b) the city shall have the right to plant, trim, spray, preserve, and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure safety when servicing city utilities or to preserve the symmetry and beauty of such public grounds. The City Utility Leadman may remove or cause or order to be removed, any tree or part thereof which by reason of its nature, is injurious to sewers, electric power lights, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest. (Ord. 818; Code 2014)

13-307.           **REMOVAL OF STUMPS.** Stumps of all removed trees by the city of Chetopa shall be cut to at least six inches (6") below ground, or ground out by a commercial stump grinder. Surface and soil shall be replaced and the area leveled. If the area where the tree is removed is to be paved, the stump shall be removed to meet general construction standards. (Ord. 818; Code 2014)

13-308.           **ADJACENT LANDOWNERS RESPONSIBILITY.** Property owners abutting rights-of-way, utility plats and easements, as defined herein shall be responsible for maintaining trees, shrubs, and other woody vegetation within such right-of-way in a manner which promotes safe and healthy plants and which protects the health, safety, and welfare of the public. Said property owners shall not allow such plants to hinder or obstruct the rights-of-way or to create a public nuisance. Further, the provisions contained in this section shall not exempt, or otherwise waive, any other duties and responsibilities imposed upon such property owners by the city of Chetopa. (Ord. 818; Code 2014)

13-309.           **TREE PROTECTION, DAMAGE TO PUBLIC TREES.** Unless specifically authorized by the City Utility Leadman, it is unlawful for any person to intentionally damage, cut, carve, transplant, or remove any public tree; attach any rope, wire, nails, or other contrivance, to any public tree; allow any gaseous liquid or solid substance, which is harmful to such tree, to come in contact with said tree; or such tree to come in contact with said liquid or substance; or set fire or permit any fire to burn when such fire or the heat thereof could injure an portions. (Ord. 818; Code 2014)

13-310.           **PUBLIC NUISANCE.** The following are hereby declared to be public nuisances wherever they may be found within the city:

(a) Any tree or shrub located on private property having a destructive or communicable disease, or other pestilence, which endangers the growth, health, life, or well-being of trees, shrubs, or plants in the city or which is capable of causing an epidemic spread of a communicable disease or insect infestation to include, but not be limited to, Dutch Elm Disease, Oak Wilt, Pin Wilt, Asian Longhorn Beetle, dead and/or unsound trees, and/or portions of trees that constitute a hazard to the public or public property.

(b) The roots of any tree or shrub, located on private property which cause the surface of the public street, curb or sidewalk to be upheaved or otherwise disturbed.

(c) Any tree, shrub, or portion thereof located on private property, which, by reason of location or condition, constitutes an imminent danger to the health, safety, or well-being of the general public on city property. (Ord. 818; Code 2014)

13-311. UNLAWFULLY PERMITTING ANY PUBLIC HAZARD. It shall be unlawful for any person to permit any tree deemed as a public hazard (as defined in Section 13-310) to remain on any premise owned or controlled by him or her within the city. (Ord. 818; Code 2014)

13-312. INSPECTION OF PREMISES AND TREES. The City Utility Leadman, or his or her authorized agent, shall inspect, or cause to be inspected, all premises and places within the city as necessary to determine whether any public nuisance, as defined in Section 13-310, exists thereon. (Ord. 818; Code 2014)

13-313. WORK MAY BE DONE BY CITY EMPLOYEES OR CONTRACTOR CONTRACT REQUIREMENTS. For the purpose of abating the public nuisances and hazards defined in this Article, the City of Chetopa may use regular employees of the city to perform the work, or the City Council may negotiate contracts to perform the work. Such contracts shall be negotiated subject to approval by the governing body. (Ord. 818; Code 2014)

13-314. RIGHT OF ENTRY TO ENFORCE ARTICLE. The City Utility Leadman, or his or her authorized agent, shall have the authority to enter upon private premises at all reasonable times for the purpose of carrying out any of the provisions of this Article. (Ord. 818; Code 2014)

13-315. INTERFERENCE WITH ENFORCEMENT OF ARTICLE.  
(a) It shall be unlawful for any person to delay or interfere with the City Utility Leadman, or any of his or her agents or City employees, or any contractor employed by the city of Chetopa, in the performance of a duty imposed upon him or her by or pursuant to this Article. (Ord. 818; Code 2014)

## CHAPTER XIV. TRAFFIC

- Article 1. Standard Traffic Ordinance
- Article 2. Local Traffic Regulations
- Article 3. Abandoned Motor Vehicles on Public Property
- 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 Chetopa, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2013, prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. 12-3009 through 12-3012, inclusive, as amended. One copy of said standard ordinance shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Chetopa, Kansas," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this section, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. 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 deemed expedient. Article 7-Sec. 33(a)(2) of said Standard Traffic Ordinance is hereby changed to read as follows: "In any urban district, 20 miles per hour." (Ord. 856; Code 2014)
- 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. Supp. 8-2118.  
(b) All traffic violations which are included within this article, and which are not ordinance traffic infractions as defined in subsection (a) of this section, shall be considered traffic offenses. (Ord. 856; Code 2014)
- 14-103. PENALTY FOR SCHEDULED FINES. The fine for violation of an ordinance traffic infraction or any other traffic offense for which the municipal judge establishes a fine in a fine schedule shall not be less than \$25.00 nor more than \$2,500.00, except for speeding which shall not be less than \$35.00 nor more than \$500.00. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed \$2,500.00. (Ord. 856; Code 2014)



## ARTICLE 2. LOCAL TRAFFIC REGULATIONS

- 14-201.        **TRAFFIC CONTROL DEVICES AND MARKINGS.** The Standard Traffic Ordinance as adopted is hereby modified by adding thereto the following:  
The governing body may, by resolution, establish and fix the location of such traffic control devices as may be deemed necessary to guide and warn traffic under the provisions of this chapter, other traffic ordinances and the state laws. The city shall place and maintain such traffic control signs, signals and devices when and as may be required by the authority of the governing body to make effective the provisions of this chapter and other ordinances for the regulation of traffic. Any official traffic control device placed pursuant to this section shall be marked and labeled on a map of the City of Chetopa for the purpose of displaying all such traffic control devices and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business.  
(Code 2014)
- 14-202.        **PROHIBITED PARKING.** (a) It shall be unlawful for any vehicles to park at any time on the north or south side of Maple Street from the corner of 10th Street to the north-south alley of Blocks Seven and Ten of Hodges Addition in the city.  
(b) Any person in violation of this article shall be liable to a fine, a minimum of \$20.00. For purposes of this article, it shall be assumed that, absent evidence to the contrary, the vehicle was parked by the registered owner of the vehicle.  
(c) Any vehicle parked in violation of this article may be removed at the direction of the police department. The owner of the vehicle shall be liable for all costs of towing of, and storage cost for, the vehicle.  
(Ord. 559, Sec. 1:3)
- 14-203.        **EMERGENCY VEHICLE; FOLLOWING PROHIBITED.** The driver of any vehicle other than one on official business shall not follow any emergency vehicle traveling in response to official business closer than 500 feet or stop such vehicle within 500 feet of any emergency vehicle stopped in answer to a call or official business. (Ord. 668, Sec. 1)
- 14-204.        **USE OF COMPRESSION RELEASE TYPE ENGINE BRAKES/PENALTY.**  
(a) That it shall be unlawful for any person operating any motor vehicle within the City limits of Chetopa, Kansas, to use or operate or cause to be used or operated any compression released type engine brake or any mechanical exhaust device designed to aid in the braking or deceleration of any vehicle which results in the excessive, loud, unusual, or explosive noise from such vehicle, or otherwise known as jake-braking. Compression release type engine brakes are not prohibited in times of emergency. Emergencies would include a risk of danger to the driver, other drivers, pedestrians, or property.  
(b) That the first violation of the above provisions shall be punishable with a fine of not less than \$100.00 and not more than \$500.00. The second violation of the above provisions shall be punishable with a fine of not less than \$200.00 and not more than \$500.00. The third violation of the above provisions shall be punishable with a fine of not less than \$300.00 and not more than \$500.00. The fourth violation and subsequent violations of the above provisions shall be punishable with a fine of not less than \$400.00 and not more than \$500.00.  
(Ord. 823; Code 2014)

### ARTICLE 3. GOLF CARTS AND ATV'S

- 14-301. LEGAL OPERATION OF GOLF CARTS IN THE CITY LIMITS OF CHETOPA, KANSAS. (a) It shall be lawful to operate golf carts on the streets of Chetopa, Kansas, from sunrise to sunset provided the golf cart is registered with the City of Chetopa, Kansas, and provided, further, that all other provisions of this article are complied with and followed.
- (b) It shall be unlawful to operate golf carts from sunset to sunrise unless equipped with headlights and taillights.  
(Ord. 808; Code 2014)
- 14-302. REGISTRATION. All golf carts that are so operated on the streets of Chetopa, Kansas, shall be registered and the owner shall pay a twelve dollar (\$12.00) annual registration fee to the City of Chetopa, Kansas. The registration fee shall be paid at the City Utility Office, 618 N. 11<sup>th</sup> Street, Chetopa, Kansas. Any owner registering a golf cart shall present the vehicle title, proof of current insurance, and valid driver's license at the time of registration. Further, a registration form will need to be completed and upon completion of said form, all paperwork for the registration of the golf car will be forwarded to the Chetopa Police Department for verification. A new golf registration must be acquired anytime an ownership change occurs. (Ord. 808; Code 2014)
- 14-303. RESTRICTIONS REGARDING OPERATION OF GOLF CARTS. (a) Golf carts cannot be driven on any State or Federal highways, except across at a ninety degree angle. US Highway 166, US Highway 59, east and west Maple Street, and Third Street south of Maple are the streets that golf carts cannot be operated on within the City of Chetopa.
- (b) A valid driver's license is required to operate a golf cart on the streets of Chetopa, Kansas. Furthermore, for the purposes of this article, an alley is classified as a street. If the person operating a golf cart does not have a valid driver's license as required by this article, said person shall be subject to the penalties as prescribed in the Uniform Standard Traffic Ordinance for Kansas Cities and is also subject to having said driver's license in possession as required in the Uniform Standard Traffic Ordinance for Kansas Cities.
- (c) Parents who allow their children to operate a golf cart on private lots shall make sure the golf cart is not driven down any alley in Chetopa, Kansas, if the child does not have a valid driver's license. Parents should also insure permission is received from the property owner or owners before the golf cart is ridden on private property. (Ord. 808; Code 2014)
- 14-304. ANNUAL REGISTRATION FEE. A twelve dollar (\$12.00) annual registration fee shall be due and payable each calendar year which is defined as January 1 through December 31 of each year that any such golf cart is registered with the City of Chetopa, Kansas. Current proof of insurance shall be required with each annual renewal of any registration of a golf cart. (Ord. 808; Code 2014)
- 14-305. LEGAL OPERATION OF ATV'S AND MICRO UTILITY TRUCKS IN THE CITY LIMITS OF CHETOPA, KANSAS. (a) It shall be lawful, except as stated in the second sentence of this Section, to operate all-terrain vehicles, hereinafter referred to as ATV's, or micro utility trucks, on the streets of Chetopa, Kansas, from sunrise to sunset provided the ATV or micro utility truck is registered with the City of

Chetopa, Kansas, and provided, further, that all other provisions of this article are complied with and followed. Further, it shall be unlawful to operate ATV's that are built for the purpose of high speed racing and/or jumping, and are equipped with raised suspensions and racing tires, commonly referred to as "quads", on the streets of Chetopa, Kansas.

(b) It shall be unlawful to operate ATV's from sunset to sunrise unless equipped with headlights and taillights. (Ord. 828; Code 2014)

14-306. REGISTRATION. All ATV's and micro utility trucks that are operated on the streets of Chetopa, Kansas, shall be registered and the owner shall pay a ten dollar (\$10.00) annual registration fee to the City of Chetopa, Kansas. The registration fee shall be paid at the City Utility Office, 618 N. 11<sup>th</sup> Street, Chetopa, Kansas. Any owner registering an ATV shall present the vehicle title, proof of current insurance, and valid driver's license at the time of registration. Further, a registration form will need to be completed and upon completion of said form, all paperwork for the registration of the ATV will be forwarded to the Chetopa Police Department for verification. A new registration must be acquired anytime an ownership change occurs. (Ord. 828; Code 2014)

14-307. RESTRICTIONS REGARDING OPERATION OF ATV'S AND MICRO UTILITY TRUCKS. (a) ATV's and micro utility trucks cannot be driven on any State or Federal highways, except across at a ninety degree angle. US Highway 166, US Highway 59, east and west Maple Street, and Third Street south of Maple are the streets that ATV's and micro utility trucks cannot be operated on within the City of Chetopa.

(b) Eye protection is required for all drivers. Helmets are required for drivers under the age of eighteen (18) years of age.

(c) A valid driver's license is required to operate an ATV and micro utility trucks on the streets of Chetopa, Kansas. Furthermore, for the purposes of this article, an alley is classified as a street. If the person operating an ATV does not have a valid driver's license as required by this article, said person shall be subject to the penalties as prescribed in the Uniform Standard Traffic Ordinance for Kansas Cities and is also subject to having said driver's license in possession as required in Standard Traffic Ordinance for Kansas Cities.

(d) Parents who allow their children to operate an ATV on private lots shall make sure the ATV is not driven down any alley in Chetopa, Kansas, if the child does not have a valid driver's license. Parents should also insure permission is received from the property owner or owners before the ATV is ridden on private property. (Ord. 828; Code 2014)

14-308. ANNUAL REGISTRATION FEE. A twelve dollar (\$12.00) annual registration fee shall be due and payable each calendar year which is defined as January 1 through December 31 of each year that any such ATV is registered with the City of Chetopa, Kansas. Current proof of insurance shall be required with each annual renewal of any registration of an ATV. (Ord. 828; Code 2014)

14-309. SUPPLEMENT TO SECTION 114.1 OF THE UNIFORM STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES. This article shall be in addition to and supplemental to Section 114.1 of the 2013 Uniform standard Traffic Ordinance for Kansas cities, except Subsection (c) of Section 114.1 shall not be considered applicable to this article. (Ord. 828; Code 2014)

#### ARTICLE 4. HAZARDOUS MATERIALS

- 14-401. HAZARDOUS MATERIAL DEFINED. As used in this article, the term hazardous material shall mean any material or combination of materials which, because of its quantity, concentration, or physical, chemical, biological, or infectious characteristics, poses a substantial present or potential hazard to human health or safety or the environment if released into the workplace or environment or when improperly treated, stored, transported, or disposed of or otherwise managed. (Code 2014)
- 14-402. SAME; EXCEPTIONS. The provisions of this article shall not apply to any container which shall have a capacity of 150 gallons or less which shall be used for the purpose of supplying fuel for the vehicle on which it is mounted. These provisions shall also not apply to vehicles, trailers, containers or tanks containing anhydrous ammonia or other material primarily used by farmers for fertilizer purposes when such vehicles, trailers, containers or tanks are parked or housed upon property designated for the placement of such vehicle, trailer, container or tank by any farmers cooperative, elevator company or farm supply store located within the city limits. (Code 2014)
- 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 2014)
- 14-404. HAZARDOUS MATERIALS ROUTES. The provisions of section 14-403 shall apply to all streets, avenues, highways, roadways, alleys or other public right-of-ways within the city except those specified within this section where transportation of hazardous materials shall be allowed. Transportation of hazardous materials shall be allowed upon the following streets, avenues, highways or roadways:
- (a) Hwy 166
  - (b) Hwy 59
  - (c) Maple Street
- (Code 2014)
- 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 the city.
- (b) Subsection (a) shall not apply to vehicles, trailers or semi-trailers parked for continuous periods of time not to exceed one hour where such vehicles, trailers or semi-trailers are parked along those routes specified in section 14-404 of this code.
- (c) Local convenient store parking areas.
- (Code 2014)

14-406.           REMOVAL OF ILLEGALLY PARKED TRAILERS. If any vehicle, trailer or a semi-trailer is found parked in violation of the provisions of this article, the fire chief or assistant chief or any law enforcement officer may require the owner, operator or lessee of the trailer to move it within two hours. If such removal is not accomplished on the order of any such officer, it may be accomplished by any such officer, by any reasonable means, if the continued presence of the trailer or semi-trailer at its parked location constitutes, adds to or prevents correction of a situation threatening imminent injury or damage to persons or property.  
(Code 2014)

## CHAPTER XV. UTILITIES

- Article 1. General Provisions
- Article 2. Water
- Article 3. Electricity
- Article 4. Sewers
- Article 5. Solid Waste
- Article 6. Water Conservation

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### ARTICLE 1. GENERAL PROVISIONS

- 15-101. DEFINITIONS. As used in this Article, the following definitions shall apply:
- (a) Customer - shall mean the utility service account holder of record.
  - (b) Person - shall mean natural persons and all corporations, partnerships, associations and all other types and kinds of organizations and entities, without limitation.
  - (c) Utility Services - shall mean electrical service, garbage and refuse service, sanitary sewer service and/or water service.  
(Ord. 794, Sec. 1; Code 2014)
- 15-102. DISCONTINUANCE OF UTILITY SERVICES. (a) The City may discontinue or refuse a particular utility service to any customer, without notice or hearing, for any of the following reasons:
- (1) V/hen the customer so requests.
  - (2) When it is determined by an employee of the City Utility Department, Fire Department, or Police Department that the continuance of a particular utility service constitutes a dangerous condition presenting a likely immediate threat to health or safety of persons or to property on or near the customer's premises.
- (b) The City may discontinue or refuse a particular utility service to any customer, following compliance with the notice and hearing requirements of Section 15-104 for any of the following reasons:
- (1) Non-payment of utility bills and charges as provided in Section 15-104.
  - (2) When the customer misrepresents his or her identity or otherwise intentionally provides false information for the purpose of obtaining utility services from the City.
- (c) The City may discontinue or refuse a particular utility service to any customer, following notice to the customer, for any of the reasons set out in this subsection. The customer shall have the right to a hearing within a reasonable time, not to exceed 10 day, following termination or refusal of service. If, after such hearing the hearing officer finds in favor of the customer the hearing officer may order connection or reconnection of the service at no cost to the customer.
- (1) When the customer refuses to grant employees of the City's Utility Department access to equipment, installed upon the premises of the customer, for the purpose of inspection, meter reading, maintenance or replacement.
  - (2) When the customer violates any rule, regulation or ordinance of the City pertaining to utility services, which violation adversely affects the safety of

the customer or other persons, or the integrity of the City's utility services' delivery system situated or delivered on or about the customer's premises.  
(Ord. 794, Sec. 2; Code 2014)

15-103. UTILITY BILLING DATE, DELINQUENCY NOTICE, AND DELINQUENCY DATE. Utility billings shall be mailed on approximately the 1st of the day of each month for the previous month services. All billings for utility services shall be due and payable in full at the Office of the City Treasurer on or before the 15th day of the month. A 10% penalty will then be added. If full payment has not been received by the City Treasurers Office by the 20th of the month, which is five days past the due date, services will be terminated on the next business day. The immediately preceding three sentences of this section shall constitute the only notice of delinquency that the customer will receive, and such provisions are to be placed on the back of each utility bill mailed out to customers on approximately the first day of each month for the previous months utility charges, and such notice will be highlighted on each utility bill or emphasized in some other appropriate manner.  
(Ord. 794, Sec. 3; Code 2014)

15-104. NONPAYMENT OF UTILITY BILLS. Any utility customer that has had their utilities disconnected for nonpayment shall have the right to a hearing to regain services. The hearing shall be conducted by the Mayor, or such other hearing officer as may be appointed by with the consent of the governing body. In the event the hearing officer finds utility service(s) should be reinstated, or a satisfactory payment arrangement can be reach, the hearing officer shall so order and advise the City thereof unless otherwise ordered by the hearing officer, utility service(s) shall be discontinued on the first business day following the 20th day of the month. Extensions of the date of discontinuance may be granted to enable the customer to make arrangements for reasonable installment payments or for good cause shown. In granting an extension the hearing officer shall consider, but not be limited to, the following factors: Whether discontinuance is dangerous to the health of the customer, the customers family or any other residents of the premises affected; the weather; unforeseen financial hardship of the customer; and the medical conditions, ages or disabilities of the customer, the customers family or other residents of the premises. (Ord. 794, Sec. 4; Code 2014)

15-105. DISCONTINUANCE OF UTILITY SERVICES. City Utility Departments are hereby authorized to discontinue and disconnect utility services to any customer pursuant to the procedure set out in this Article. Customers shall remain responsible for furnishing the City with a current & correct address for billing purposes. (Ord. 794, Sec. 5; Code 2014)

15-106. LIEN UPON CUSTOMER'S PROPERTY. In the event any person shall neglect, fail or refuse to pay the utility billings and delinquency charges due the City by the 20th of the month, such billings and charges shall constitute a lien upon the real property served by the connection to the utility service if the customer is the owner and title holder of record of said real property, and shall be certified by the City Clerk to the County Clerk of Labette County, Kansas, to be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other taxes are by law collectible. (Ord. 794, Sec. 6; Code 2014)

15-107. LATE PAYMENT CHARGES AND RECONNECTION FEES. (a) Late Payment Charges - All bills delinquent after the 15th day of the month of the billing shall be subject to a ten (10) percent penalty.

(b) Reconnection Charges - Prior to reconnecting a utility service, disconnected following a delinquency, the customer shall pay to the City the entire balance due and owing to the City at the time of reconnection. The customer shall also pay a reconnection charge of twenty-five dollars (\$25.00) for reconnection of electric and water service, or fifty dollars (\$50) if not during regular business hours. (Ord. 794, Sec. 7; Code 2014)

15-108. UTILITY DEPOSITS. (a) Each new customer making application for utility service shall make a cash deposit to the city to serve as a guaranty for payment of service thereafter furnished to the customer's premises unless that customer can provide one of the following:

(1) A letter of credit from their previous utility provider with an attachment that contains at least one year payment history.

(2) A letter of guaranty from a parent or legal guardian that is a current resident of the City of Chetopa and has maintained a good credit history with the City of Chetopa.

(b) Any person, firm or corporation desiring to use electrical current or water, supplied by the City of Chetopa, Kansas, with the exception of those providing item (1) or (2) under subsection (a), shall at the time of making application for connection, deposit with the City Treasurer the following amounts for Utility Deposits:

Electric Utility Deposits for Residence & Business Consumers, excluding Residential Renters - .....\$200.00.  
Electric Utility Deposits for Residence Consumers, Renters - .....\$400.00.  
Water Utility Deposits for Residence & Business Consumers - .....\$100.00.

As used in the above paragraph, the term "Residence" and "Business" shall be used in their usual and customary manner, and if there shall be a dispute about a consumer being a "Residence" or "Business" consumer, an interpretation shall be made by the Governing Body of the City.

The above-described utility deposits shall not apply to either water or electric utility deposits now in force, as existing utility deposits shall remain the same, and if any consumer using electric or water service of the City of Chetopa moves to a new residence or business location in the City of Chetopa, he or she shall not have to increase his or her deposit, provided her or she has been current on his or her electric and water billing payments as determined by the City Treasurer. The Governing Body shall decide any dispute over this decision.

(c) Any consumer who shall have made an electric or water deposit to the City of Chetopa, Kansas, who shall have paid all charges for water and electric service for a period of two (2) continuous years from the date of the deposit, shall be entitled to the return of the deposit so made, if they have made payments on said charges in a timely manner during the past two years. All such returns of deposits shall be processed by the City treasurer.

(d) At any time a consumer of either electric or water service of the City of Chetopa, Kansas, desires to discontinue the use of electricity or water, the said electric or water utility deposit will be returned by the City Treasurer to the person depositing the same, less any amount then owing by such person to the City at the time the demand for the return of the said electric or water utility deposit is made.



(e) Any service disconnected for nonpayment of a delinquent bill shall be reconnected only upon payment of the delinquent bill, and penalty thereon, and the reconnection charge, which shall be \$25, or \$50 if done after regular business hours or on a holiday.

(f) At the time a consumer makes application for residential service, and they have an electric range, electric water heater (20-gallon or more), or heat pump they must apply for the range rate, otherwise they will be billed the regular rate until application is made for the range rate.  
(Ord. 843; Code 2014)

15-109. PETTY CASH FUND. A petty cash fund in the amount of \$2,500 is established for the use of the city utilities department, for the purpose of paying postage, freight, temporary labor, and other emergency expenses, including refund of deposits made to secure payment of accounts. (Code 2014)

15-110. SAME; DEPOSITS. The petty cash fund shall be deposited in the regular depository bank of the city and paid out on the order of the city treasurer by check which shall state clearly the purpose for which issued. (Code 2014)

15-111. SAME; VOUCHERS. Whenever the petty cash fund becomes low or depleted, the assistant city clerk shall prepare vouchers covering expenses as have been paid from the petty cash fund and shall submit such vouchers together with the paid checks to the governing body for review and allowance of the amounts from the regular funds of the utilities. Warrants issued therefor shall be payable to the petty cash fund and shall be deposited therein to restore said petty cash fund to its original amount.  
(Code 2014)

## ARTICLE 2. WATER

- 15-201. SUPERINTENDENT OF WATER AND SEWAGE. The general management, care, control and supervision of the city water system shall be in the superintendent of water and sewage, who shall be appointed by the mayor with the consent of the governing body. (Code 2014)
- 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 2014)
- 15-203. SERVICE NOT GUARANTEED. The city does not guarantee the delivery of water through any of its mains and connecting services at any time except only when its mains, pumping machinery, power service connection are in good working order, and the supply of water is sufficient for the usual demand of its consumers. (Code 2014)
- 15-204. SERVICE CONNECTIONS REQUIRED. (a) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the city abutting on any street, alley, or right-of-way in which there is now located or may in the future be located near public water mains, is hereby required at his or her own expense to make connection to such public water main. (Code 2014)
- 15-205. CITY TO MAKE CONNECTIONS. All taps shall be given, street excavations made, corporation cocks inserted, pipes installed from main to curb, and the curb cock installed in a meter box to which the service pipe is to be connected by city employees only. (Code 2014)
- 15-206. CONNECTION FEE. The fees for connection to the city waterworks system shall be a \$75.00 tapping fee. (Code 2014)
- 15-207. CURB COCKS. There shall be a curb cock in every service line attached to the city main, the same to be placed within the meter box. (Code 2014)
- 15-208. CHECK VALVES. Check valves are required on all connections to steam boilers or on any other connection deemed necessary by the water superintendent. Safety and relief valves shall be placed on all boilers or other steam apparatus connected with the water system where the steam pressure may be raised in excess of 40 pounds per square inch. (Code 2014)
- 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 or off at the water meter or curb cock shut off, with a key or in any other manner, without first obtaining permission from water maintenance personnel. (Code 2014)
- 15-210. METERS. (a) All water furnished to customers shall be metered.  
(b) The city's responsibility stops at the meter can. (Code 2014)

- 15-211. 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.  
(Code 2014)
- 15-212. LEAKS PROHIBITED; PENALTY. No allowances shall be made for water used or lost through leaks, carelessness, neglect or otherwise after the same has passed through the meter. However, every customer shall have the right to appeal to the city from water bill or meter reading which he or she may consider excessive.  
(Code 2014)
- 15-213. DISCONNECTION, RECONNECTION CHARGE. (a) The governing body shall establish, by ordinance, a water service disconnection and reconnection charge.  
(b) Reconnection Charges - Prior to reconnecting a utility service disconnected following a delinquency, the customer shall pay to the city the entire balance due and owing to the city at the time of reconnection. The customer shall also pay a reconnection charge of \$25.00 for reconnection of electric and water service, or \$50.00 if reconnection is done outside of regular business hours.  
(Ord. 673, Sec. 7; Code 2014)
- 15-214. UTILITY DEPOSIT. At the time of making application for water service, the property owner or customer shall make a cash deposit in the amount and manner specified in section 15-108 to secure payment of accrued bills or bills due on discontinuance of service. (Code 2014)
- 15-215. INTERRUPT SERVICE. The city reserves the right to interrupt water service for the purpose of making repairs or extensions to water lines or equipment.  
(Code 2014)
- 15-216. 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 the meter can 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;  
(Code 2014)
- 15-217. 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 2014)
- 15-218. 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 2014)

- 15-219. WATER RATES; RESIDENCE AND INDUSTRIAL. Rates for water furnished by the City of Chetopa, Kansas, to residential, commercial and industrial users who are residents of said City of Chetopa, Kansas, shall be as follows:  
For the first one thousand (1,000) gallons, or fractional part thereof, consumed per month a minimum charge of Twenty-two Dollars and Fifteen Cents (\$22.15).  
For all in excess of one thousand (1,000) gallons consumed per month a charge of Five Dollars and Seventy-seven Cents (\$5.77) per thousand (1,000) gallons. (Ord. 859; Code 2014)
- 15-220. WATER RATES; USERS OUTSIDE THE CITY BOUNDARIES. Rates for water furnished by the City of Chetopa, Kansas to residential, commercial and industrial users who are non-residential of the said City of Chetopa, Kansas, shall be as follows:  
For the first one thousand (1,000) gallons, or fractional part thereof, consumed per month a minimum charge of Thirty-two Dollars Twenty-two Cents (\$33.22)  
For all in excess of one thousand (1,000) gallons consumed per month a charge of Eight Dollars and Sixty-five Cents (\$8.65) per thousand (1,000) gallons. (Ord. 859; Code 2014)
- 15-221. PAYMENT OF BILLS. All water bills for the previous month's water service shall be paid on or before the 15th day of the month following the service. For any billing not paid when due a late charge of 10% will be added to the bill. (Ord. 673, Sec. 7; Code 2014)
- 15-222. 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 2014)
- 15-223. USE DURING FIRE. No person owning or occupying premises connected to the municipal water system shall use or allow to be used during a fire any water from the water system except for the purpose of extinguishing the fire. Upon the sounding of a fire alarm it shall be the duty of every such person to see that all water services are tightly closed and that no water is used except in extraordinary cases of emergency during the fire. (Code 2014)
- 15-224. GENERAL INFORMATION. (a) Purpose. The purpose of this article is:  
(1) To protect the public potable water supply of the city from pollution or contamination due to cross connection;  
(2) To prohibit and eliminate all cross connections within the public potable water supply system; and,  
(3) To provide for the maintenance of a continuing effective cross connection control program and thus protect the public health.  
(b) Responsibility. The superintendent of water shall be responsible for effectively conducting the cross connection control program of the city public potable water supply. If in the judgment of the water superintendent an approved backflow prevention device is required the water superintendent or his or her agent will give notice in writing to the customer to install the proper device. The customer shall immediately install the proper device at the customer's expense. Failure to comply shall be grounds for discontinuing water service to the customer until the device is properly installed. (Ord. 628, Sec. 1)

15-225.

DEFINITIONS. (a) Agency - The department of the municipal government or water purveyor invested with the responsibility for enforcement of this article.

(b) Air Gap - The unobstructed vertical distance at least twice the diameter of the supply line and no less than one inch, through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle.

(c) Approved Device - Devices tested and accepted by a recognized testing laboratory approved by the Kansas Department of Health and Environment and the water plant lead person.

(d) Backflow - The flow of water or other substances into the distribution system of a potable supply of water from any source other than its intended source. Backsiphonage is one type of backflow.

(e) Backflow Preventer - A device or means to prevent backflow.

(f) Backsiphonage - The flowing back of contaminated or polluted substances from a plumbing fixture or any vessel or source into the potable water supply system due to negative pressure in the system.

(g) Contaminant - Any substance that upon entering the potable water supply would tender it a danger to the health or life of the consumer.

(h) Cross Connection - Any physical connection or arrangement between two otherwise separate piping system, one of which contains potable water and the other of water or any substance of unknown or questionable quality whereby there may be flow from one system to the other.

(i) Double Check Valve Assembly - A device consisting of two internally loaded soft seated check valves with positive shut-off valves on both upstream and downstream ends, and properly located test ports.

(j) Dual Check Valve - A device consisting of two internally loaded soft seated check valves. This device does not contain test ports and is acceptable for use only at the meter of residential customers.

(k) Free Water Surface - A water surface at atmospheric pressure.

(l) Flood Level Rim - The edge of the receptacle from which water overflows.

(m) Frost Proof Closet - A hopper with no water in the bowl and with the trap and water supply control valve located below frost line.

(n) KDHE - The Kansas Department of Health and Environment.

(o) Plumbing - The practice, materials and fixtures used in the installation maintenance and alteration of all piping fixtures, appliances and appurtenances.

(p) Pollution - The presence of any foreign substance (organic, inorganic or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely affect the water.

(q) Reduced Pressure Zone Backflow Preventer - An assembly of two independently acting soft seated approved check valves together with a hydraulically operating mechanically independent differential pressure relief valve located between the check valves and at the same time below the first check valve. The unit shall contain properly located test cocks and resilient seated shut-off valves at each end of the assembly. To be approved these assemblies must be accessible for inspection and testing and be installed in an above ground location where no part of the assembly will be submerged.

(r) Tester - A trained technician certified in the testing and repair of backflow preventers.

(s) Vacuum - Any absolute pressure less than that exerted by the atmosphere.

(t) Vacuum Breaker - A device that permits entrance of air into the water supply distribution line to prevent backsiphonage.

(u) Water, Potable - Water free from impurities in amounts sufficient to cause disease or harmful physiological effects. Its quality shall conform to Kansas Department of Health and Environment requirements for public water supplies.

(v) Water, Non-Potable - Water that is not safe for human consumption or that is of questionable portability.

(Ord. 628, Sec. 2)

15-226.

REQUIREMENTS. (a) General. A public potable water supply system shall be designed, installed and maintained in such a manner as to prevent contamination from non-potable sources through cross-connections or any piping connection to the system.

(b) Cross Connections Prohibited. Cross connections are prohibited except when and where as approved by the water plant lead person, suitable backflow preventers are properly installed, tested, and maintained to insure proper operation on a continuing basis.

(c) Interconnections. Interconnections between two or more public water supplies shall be permitted only with the approval of the Kansas Department of Health and Environment. (K.S.A. 65-163[a])

(d) Individual Water Supplies. Connections between a private water supply and the public potable water are prohibited. (K.S.A. 65-163[a])

(e) Connections to Boilers. Potable water connections to boiler feed water systems in which boiler water conditioning chemicals are or can be introduced shall be made through an air gap or through a reduced pressure zone principle backflow preventer located in the potable water line before the point where such chemicals may be introduced.

(f) Prohibited Connections. Connection to the public potable water supply system for the following is prohibited unless properly protected by the appropriate backflow prevention device.

(1) Bidets.

(2) Operating, dissection, embalming, and mortuary tables or similar equipment in such installations the hose used for water supply shall terminate at least 12 inches away from every point of the table or attachments.

(3) Pumps for non-potable substances. Priming connections only through an air gap.

(4) Building drainage, sewer, or vent systems.

(5) Commercial buildings or Industrial plants manufacturing or otherwise using polluting or contaminating substances.

(6) Any fixture of similar hazard.

(g) Refrigeration Unit Condensers and Cooling Jackets. Except when potable water provided for a refrigeration condenser or cooling jacket is entirely outside the piping or tank containing a toxic refrigerant, the inlet connection shall be provided with an approved backflow preventer. Heat exchangers used to heat water for potable use shall be of the double wall type.

(h) Protective Devices Required. The type of protective device required under this article shall be determined by the degree of hazard which exists as follows:

(1) Premises having auxiliary water supply shall protect the public system by either an approved air gap or an approved reduced pressure principle backflow prevention assembly.

(2) Premises having water of substances which would be nonhazardous to the health and well-being of the consumers shall protect the public system with no less than an approved double check valve assembly.

(c) Premises where material dangerous to health is handled in a manner which creates an actual or potential hazard shall protect the public system by an approved air gap or an approved reduced pressure principle backflow prevention assembly.

(d) Premises where cross connections are uncontrolled shall protect the public water supply by installing an approved air gap or an approved reduced pressure principle backflow prevention device at the service connection.

(e) Premises where because of security requirements or other prohibitions it is impossible to complete an in plant cross connection inspection, the public system shall be protected by an approved air gap or an approved reduced pressure principle backflow prevention assembly.

Premises which may fall into one or more of the above mentioned categories may be, but are not limited to the following:

- (1) Beverage bottling plants.
- (2) Building - hotels, apartment, public or private building or other structures having actual or potential cross connections.
- (3) Car wash facilities.
- (4) Chemical manufacturing, handling or processing plants.
- (5) Chemically contaminated water.
- (6) Dairies and cold storage facilities.
- (7) Film or photography processing laboratories.
- (8) Fire systems.
- (9) Hospitals, medical centers, morgues, mortuaries, autopsy facilities, clinics or nursing and convalescent homes.
- (10) Irrigation systems.
- (11) Laundries.
- (12) Metal cleaning, processing or fabricating plants.
- (13) Oil and gas production, storage or transmission facilities.
- (14) Packing or food processing plants.
- (15) Paper and paper products plants.
- (16) Power plants.
- (17) Radio active materials plants or handling facilities.
- (18) Restricted or classified facilities.
- (19) Rubber plants.
- (20) Sand, grave or asphalt plants.
- (21) Schools or colleges.
- (22) Sewage and storm drainage facilities and reclaimed water systems.
- (23) Solar heating systems.
- (24) Temporary service - fire hydrants, air valves, blow-offs and other outlets.
- (25) Water front marinas.

(Ord. 628, Sec. 3)

15-227. INSTALLATION. Approved devices shall be installed at all fixtures and equipment where backflow or backsiphonage may occur and where a minimum air gap between the potable water outlet and the fixture or equipment flood level rim cannot be maintained. Backflow and backsiphonage devices of all types shall be in an accessible location. Installation in pits or any other location not properly drained shall be prohibited, except that dual check valves may be installed in the meter box.

(a) Connections not subject to back pressure. Where a water connection is not subject to back pressure, a vacuum breaker shall be installed on the discharge side of the valve on the line serving the fixture or equipment. A list of some conditions requiring protective devices of this kind are given in the following table titled "Cross Connections Where Protective Devices are Required".

**Cross Connections Where Protective Devices Are Required  
and Critical Level (C-L) Setting for Vacuum Breakers.**

FIXTURES OR EQUIPMENT	METHOD OF INSTALLATION
Aspirators and ejectors	C-L at least 6 in. above flood level of receptacle served.
Dental units	On models without built-in vacuum breakers--C-L at least 6 in. above flood level rim of bowl.
Commercial dishwashing machines	C-L at least 6 in. above flood level of machines. Installed on both hot and cold water supply lines.
Garbage can cleaning machines	C-L at least 6 in. above flood level of machine. Installed on both hot and cold water supply lines.
Hose outlets	C-L at least 6 in. above highest point on hose line
Commercial laundry machines	C-L at least 6 in. above flood level of machine. Installed on both hot and cold water supply lines.
Lawn sprinklers	C-L at least 6 in. above highest sprinkler head or discharge outlet.
Steam tables	C-L at least 6 in. above flood level rim.
Tanks and vats	C-L at least 6 in. above flood level rim or line.
Trough urinals	C-L at least 30 in. above perforated flush pipe.
Flush tanks	Equipment with approved ball cock, installed according to manufacturer's instructions.
Hose bibs	C-L at least 6-in. above flood level of receptacle served.



(b) Connections Subject to Backpressure. Where a potable water connection is made to a line, fixture, tank, vat, pump, or other equipment with a hazard of backflow or backpressure, and an air gap cannot be installed, the water superintendent may require the use of an approved reduced pressure principle backflow preventer. A partial list of such connections is shown in the following table "Partial List of Cross Connections Subject to Back Pressure".

**PARTIAL LIST OF CROSS-CONNECTIONS  
SUBJECT TO BACKPRESSURE**

Chemical lines	Pumps
Dock water outlets	Steam lines
Individual water supplies	Swimming pools
Industrial process water lines	Pressure tanks
Tanks and Vats - bottom inlets	Hose bibs

(c) Barometric Loop. Water connections where an actual or potential backsiphonage hazard exists may in lieu of devices specified above with a barometric loop. Barometric loops shall precede the point of connection.

(d) Dual Check Valve. Dual check valves may be installed at the meter. These valves shall be inspected and repaired not less frequent than every third year. These valves shall be installed only in situations where the water superintendent is assured that only non-contaminating substances are subject to backflow into the potable system.

(e) Vacuum Breakers. Atmospheric vacuum breakers shall be installed with the critical level at least six inches above the flood rim of the fixture they serve and on the discharge side of the last control valve to the fixture. No shut off valve or faucet shall be installed beyond the atmospheric vacuum breaker. Pressure vacuum breakers shall be installed with the critical level at least 12 inches above the flood rim but may have control valves downstream from the vacuum breaker. For closed equipment or vessels such as pressure sterilizers the top of the vessel shall be considered the flood level rim and a check valve shall be installed on the discharge side of the pressure vacuum breaker.  
(Ord. 628, Sec. 4)

15-228. **MAINTENANCE AND REPAIR.** It shall be the responsibility of building and premise owners to maintain all backflow preventers and vacuum breakers within the building or on the premises in good working order and to make sure no piping or other arrangements have been installed for the purpose of bypassing the backflow devices. Testing and repair of these devices should be made by qualified technicians. (Qualified technicians are those technicians who have completed a Kansas Department of Health and Environment approved training course and have passed a written examination such as the American Backflow Prevention Association device testers examination.) The water superintendent shall certify the device testers after ascertaining the technician meets the above qualifications. The water superintendent will also assure the proper installation of all backflow preventers and will set appropriate testing and overhaul schedules for such devices. Testing intervals shall not exceed one year and overhaul intervals shall not exceed five years.

(a) Certified Tester/Repair Technicians. All certified tester/repair technicians shall be re-certified at no less than three year intervals. Persons certified as tester/repair technicians at the time of the adoption of this article shall continue to be certified for a period of no more than three years as determined by the water superintendent.  
(Ord. 628, Sec. 5)

15-229

PROTECTION FROM CONTAMINANTS. Pursuant to the city's constitutional home rule authority and K.S.A. 65-163a, the city by its utility superintendent may refuse to deliver water through pipes and mains to any premises where a condition exists which might lead to the contamination of the public water supply system and it may continue to refuse the delivery of water to the premises until that condition is remedied. In addition, the city utility superintendent may terminate water service to any property where the cross connections or backsiphonage condition creates, in the judgment of the superintendent, an emergency danger of contamination to the public water supply. (Code 2014)

### ARTICLE 3. ELECTRICITY

15-301. RESIDENCE AND INDUSTRIAL ELECTRICAL RATES. (a) The residence for electricity, when no electric range or electric hot water heater is connected, furnished by the City of Chetopa shall be as follows:

- (1) Inside the city limits:  
Minimum charge (50) KWH - \$8.66 per month.  
Next 550 KWH - 0.13 per KWH.  
Excess KWH - 0.07 per KWH.
- (1) Outside the city limits:  
Minimum charge (50) KWH - \$10.97 per month.  
Next 550 KWH - 0.14 per KWH.  
Excess KWH - 0.08 per KWH.

(b) The residence rates for electricity when an electric range, electric heat pump, or electric hot water heater is connected, furnished by the City of Chetopa shall be as follows:

- (1) Inside the city limits:  
Minimum charge (50) KWH - \$12.13 per month.  
Next 550 KWH - 0.12 per KWH.  
Excess KWH - 0.07 per KWH.
- (1) Outside the city limits:  
Minimum charge (50) KWH - \$14.44 per month.  
Next 550 KWH - 0.13 per KWH.  
Excess KWH - 0.07 per KWH.

(c) The industrial and commercial rate for electricity furnished by the city shall be as follows:

- Minimum charge 100 KWH - \$17.90 per month.  
Next 1,000 KWH - 0.11 per KWH.  
Excess KWH - 0.07 per KWH.

(Ord. 792, Sec. 1; Code 2014)

15-302. LIGHTS USING CITY ELECTRICITY.

(a) That the city shall charge \$5.00 per month for all lights hooked up to City electricity other than the regular street lights installed or placed on the city streets, including, but not limited to alleyways.

(b) That the City shall include the \$5.00 fee in the residential City monthly utility bill.

(Ord. 811, Sec. 1:2; Code 2014)

## ARTICLE 4. SEWERS

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) Building Drain - shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

(b) Building Sewer - shall mean the extension from the building drain to the public sewer or other place of disposal.

(c) B.O.D. (denoting Biochemical Oxygen Demand) - shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees centigrade, expressed in parts per million by weight.

(d) PH - shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(e) Individual Domestic - means any single family residence, commercial business, office, institution, school, church or public entity having an individual direct or indirect connection to the wastewater facilities of the city and on individual city or private water service meter, or connection to any such water service.

(f) Industrial - means any industrial business engaged in the manufacturing or processing of one or more products, and in which wastewaters are produced from such manufacturing or processing and said wastewaters are discharged directly or indirectly to the wastewater facilities of the city.

(g) Multi-domestic - means any multi-family residence, apartment or mobile home and any commercial business, office, institution, school, church or public entity having a direct or indirect connection to the wastewater facilities of the city and not having an individual water service meter but is served with city or private metered water by the owner of the property on which it is located.

(h) Superintendent - shall mean the superintendent of the city or his or her authorized deputy, agent or representative.

(i) Sewage - shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, and storm waters as may be present.

(j) Sewer - shall mean a pipe or conduit for carrying sewage.

(k) Public Sewer - shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

(l) Combined Sewers - shall mean sewers receiving both surface runoff and sewage, are not permitted.

(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 - means any person as defined in section 1-102, including an institution, governmental agency or political subdivision producing wastewater requiring processing and treatment to remove pollutants and having premises connected to the wastewater facilities.

(r) Wastewater - means sewage, the combination of liquids and water carried wastes from residences, commercial and industrial buildings, institutions, governmental agencies, together with any ground, surface or storm water that may be present.

(s) Normal wastewater. - The strength of normal wastewater shall be considered within the following ranges:

(1) A five day biochemical oxygen demand of 300 milligrams per liter or less;

(2) A suspended solid concentration of 350 milligrams or less;

(3) Hydrogen ion concentration of 5.0 to 9.0.

(Code 2014)

15-402. SEWER CONNECTION REQUIRED. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at his 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 90 days after date of official notice to do so, provided that said public sewer is within 140 feet of the property line. (Code 2014)

15-403. 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 permission from the city.

(b) There shall be charged a tap fee of \$50.00. All taps shall be installed by city personnel.

(c) If city personnel have to excavate the main line for any reason, a fee of \$100.00 will be charged.

(Code 2014)

15-404. COSTS. All costs and expense 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 2014)

15-405. SEWER EXCAVATIONS: DAMAGES. All excavations for buildings sewers shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, curb and gutters, sidewalks, parkways and other public property removed or damaged during the installation of the building sewer, shall be repaired or replaced in a manner acceptable to the city and at the total expense of the owner. It is further agreed that any parties involved in any excavating or installation work for sewer installations as above set out, will hold the city harmless from any and all damages to persons or property resulting from or growing out of any opening or excavation or any negligent act or from any operation made within the city. (Code 2014)

- 15-406.        **FAILURE TO CONNECT.** (a) If any person as defined in section 1-102 shall fail to connect any dwelling or building with the sewer system after being noticed, the city may cause such buildings to be connected with the sewer system as authorized by K.S.A. 12-631.
- (b) The cost and expense, including inspection fees, shall be assessed against the property. Until such assessments shall have been collected and paid to the city, the cost of making such connection may be paid from the general fund or through the issuance of no fund warrants.  
(Code 2014)
- 15-407.        **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 without approval by the governing body. (Code 2014)
- 15-408.        **PRIVATE SEWER SYSTEM.** Where a public sanitary sewer is not available under the provisions of section 15-402, the building sewer may be connected to a private sewage disposal system with approval by the governing body. (Code 2014)
- 15-409.        **SAME; ADDITIONAL REQUIREMENTS.** No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the city or county health officer. (Code 2014)
- 15-410.        **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. (K.S.A. 12-1617e; 12-1617g; Code 2014)
- 15-411.        **DAMAGE TO SEWERS.** It shall be unlawful for any unauthorized person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any sewer, structure, appurtenance, or equipment which is part of the municipal sewer system. (Code 2014)
- 15-412.        **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 2014)
- 15-413.        **STANDARDS.** The size, slope, alignment, materials, excavation, placing of pipe, jointing, testing and backfilling shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city.  
(Code 2014)
- 15-414.        **OLD BUILDING SEWERS.** Old building sewers may be used in connection with new buildings only when they are found, on the authorization of the utility superintendent, to meet all requirements of this article. (Code 2014)

- 15-415. MUD, GREASE TRAPS. All garages, filling stations, milk plants or other commercial or industrial plants connected to the public sewer shall construct and maintain proper and sufficient interceptors or traps to prevent the discharge of any sand, mud, sediment, litter, waste or any substance harmful to the effective operation and maintenance of the city sewer system, into the building sewer.  
(Code 2014)
- 15-416. ROOF, FOUNDATION DRAINS. (a) It shall be unlawful to connect downspouts from any roof area, drains from any building foundation, paved areas, yards or open courts, or to discharge liquid wastes from any air conditioning unit or cooling device having a capacity in excess of one ton per hour or one horsepower into any city sanitary sewer.  
(b) All discharges prohibited in subsection (a) may be discharged into the public gutter or storm drains or open drainage ditches provided such discharge does not create a nuisance. No such liquids may be discharged into any unpaved street or alley.  
(Code 2014)
- 15-417. SAME; EXCEPTION. Discharges from air conditioning units in excess of one ton per hour or one horsepower may be permitted into a building sewer upon approval of the utility superintendent where there is a finding that such cooling water cannot be recirculated 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 2014)
- 15-418. PROHIBITED DISCHARGES. No person shall discharge any of the following waters or wastes to any public sewer:  
(a) Liquid or vapor having a temperature higher than 150 degrees Fahrenheit;  
(b) Water or waste which may contain more than 100 parts per million, by weight, of fat, oil or grease;  
(c) Gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;  
(d) Garbage that has not been properly shredded;  
(e) Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;  
(f) Waters or wastes having a ph lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;  
(g) Waters or wastes containing a toxic poisonous substance in sufficient quantity to injury or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant;  
(h) Water or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;  
(i) Noxious or malodorous gas or substance capable of creating a public nuisance.  
(Code 2014)

15-419.           BILLS. Bills shall be rendered monthly as provided in section 15-103 and shall be collected as a combined utility bill.  
(Code 2014)

15-420.           DELINQUENT ACCOUNTS; LIEN AGAINST PROPERTY; OTHER REMEDIES.

(a) In the event any person, except the United States and the state of Kansas, shall fail to pay the user charges when due, water service shall be terminated as provided in sections 15-102:104.

(b) All other remedies regarding delinquent accounts, and exceptions thereto, contained in section 15-106 shall apply to sewer service fees, charges and services.

(Code 2014)

15-421.           SEWER SERVICE CHARGE. The rates to be charged and collected for the use of the services rendered by the sewage disposal plant and facilities of the City of Chetopa, Kansas shall be as follows:

Residential and Business users inside the city limits:

(1) Flat fee to all users - \$15.45

(2) All volume of water per month will be \$4.41 per 1,000 gallons of water used. Usage shall be determined by the average water usage for the preceding months of December, January and February for all residential customers. If the user has not established an average water usage for said months, they shall be charged based on the city's average water usage per month in those months for in-city usage. Business usage shall be determined by the most recently calculated water usage.

Residential and Business users outside the city limits:

(1) Flat fee to all users - \$23.17

(2) All volume of water per month will be \$6.62 per 1,000 gallons of water used. Usage shall be determined by the average water usage for the preceding months of December, January and February for all residential customers. If the user has not established an average water usage for said months, they shall be charged based on the city's average water usage per month in those months for out of city usage. Business usage shall be determined by the most recently calculated water usage.

(Ord. 858; Code 2014)



## ARTICLE 5. SOLID WASTE

- 15-501. 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. - All refuse emanating from establishments engaged in business including, but not limited to stores, markets, office buildings, restaurants, shopping centers, theaters, hospitals, governments and nursing homes.
  - (b) Dwelling Unit. - Any enclosure, building or portion thereof occupied by one or more persons for and as living quarters;
  - (c) Garbage. - Waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking and serving of meat, produce and other foods and shall include unclean containers;
  - (d) Multi-Family Unit. - Any structure containing more than four individual dwelling units;
  - (e) Refuse. - All garbage and/or rubbish or trash;
  - (f) Residential. - Any structure containing four or less individual dwelling units, rooming houses having no more than four persons in addition to the family of the owner or operator, and mobile homes;
  - (g) Rubbish or Trash. - All non-putrescible materials such as paper, tin cans, bottles, glass, 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. - An enclosure, building or portion thereof occupied by one family as living quarters.
  - (i) Solid Waste. - All non-liquid garbage, rubbish or trash.
- (Code 2014)
- 15-502. COLLECTION. All 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 2014)
- 15-503. CONTRACTS. The city shall have the right to enter into a contract with any responsible person for collection and disposal of solid waste.  
(Code 2014)
- 15-504. 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. No owner or occupant shall permit to accumulate quantities of refuse or other waste materials within or close to any structure within the city unless the same is stored in approved containers and in such a manner as not to create a health or fire hazard.  
(Code 2014)
- 15-505. CONTAINERS. Residential containers shall have a capacity of not more than 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. Plastic bags, when used, shall be securely closed. All garbage shall be drained of all liquids before being placed in bags or containers. (Code 2014)

- 15-506.        **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 with appurtenances for attaching mechanical lifting devices which are compatible with 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 2014)
- 15-507.        **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 2014)
- 15-508.        **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 2014)
- 15-509.        **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 2014)
- 15-510.        **HEAVY, BULKY WASTE.** Heavy accumulations such as brush, tree limbs, broken concrete, sand or gravel, automobile frames, dead trees, and other bulky, heavy materials shall be disposed of at the expense of the owner or person controlling same. (Code 2014)
- 15-511.        **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 dressings, clothing, bedding and/or other wastes, contaminated by infection or contagious disease;
  - (h) Any other materials which may present a special hazard to collection or disposal personnel, equipment, or to the public.
- (Code 2014)

- 15-512.           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 without written consent of the owner and/or 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;
  - (d) Bury refuse at any place within the city except that lawn and garden trimmings may be composted.
- (Code 2014)
- 15-513.           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 2014)
- 15-514.           UNAUTHORIZED DISPOSAL. No person shall haul or cause to be hauled any garbage, refuse or other waste material of any kind to any place, site or area within or without the limits of the city unless such site is a sanitary landfill, transfer point or disposal facility approved by the Kansas State Department of Health and Environment. (Code 2014)
- 15-515.           PRIVATE COLLECTORS; LICENSE REQUIRED. (a) It shall be unlawful for any person, except an employee of the city specifically 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 from hauling or disposing of his or her own solid waste providing it is done in such a 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 streets and alleys of the city.
- (Code 2014)
- 15-516.           SAME; PERMISSION. Any person desiring to collect or transport solid waste within the city shall request permission from the city clerk. (Code 2014)
- 15-517.           CLOSED VEHICLE. Any vehicle used by any person for the collection and transportation of solid waste shall be maintained in a good mechanical condition. Vehicle shall be equipped with an enclosed covered body to prevent the contents 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 2014)
- 15-518.           RULES AND REGULATIONS. The collection 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 2014)

15-519. CHARGES. The city shall establish and collect a service charge to defray the cost and maintenance of the collection and disposition of solid waste within the city. (Code 2014)

15-520. SAME; FEE SCHEDULE. Sanitation services shall be rendered by the city for the following charges to be paid monthly to the city as herein provided:

(a) Residential. Each single family or residential unit for collection and disposal of refuse:

Alley or street pick up, twice-weekly.....\$13.42  
Carryout service, twice weekly.....\$14.58

(b) Sanitation services shall be rendered to commercial and business establishments, for the collection of trash only, at the following rates, based on the frequency of collection:

Weekly, less than one-half cubic yard.....\$17.32  
Twice weekly, less than one-half cubic yard.....\$23.44  
Daily, less than one-half cubic yard.....\$43.80

(c) For collection of refuse from commercial and business establishments, container service, based on frequency and compressed volume:

Weekly:

1 Cubic yard.....\$37.68  
2 Cubic yards.....\$56.03

Twice Weekly:

1 Cubic yard.....\$50.94  
2 Cubic yards.....\$72.32

Daily:

1 Cubic yard.....\$90.66  
2 Cubic yards.....\$115.10

(d) In exceptional cases, due to unusual circumstances, or due to the character of the item(s) to be removed, special rates applicable to the collection of trash or refuse from such premises may be established by the City Council for sanitation services.

(e) Sanitation services may be furnished, at the discretion of the City Council in each instance, to persons residing outside the city limits to whom the city furnishes water or electricity, or who reside along the direct route followed by the truck or trucks carrying refuse to the city landfill dump, once weekly, at the monthly rate of: \$15.89.

(f) For individuals that bring trash to town there is a charge of \$12.45.

(g) The city may make such changes, from time to time, in the rates and charges for said sanitation service may be necessary or desirable to defray the expenses of providing and improving said services to the inhabitants of the city.

(Ord. 854; Code 2014)

15-521. BILLING. Solid waste charges shall be billed monthly and shall be included on water or 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 due dates, grace periods and penalties as water bills. (Code 2014)

15-522. SAME; DELINQUENT ACCOUNT. In the event the owner or occupant of any property shall fail to pay the solid waste bills within 60 days following the date upon which it becomes due, the city clerk shall annually certify such unpaid bills to the county clerk as a lien upon the property. The lien shall be collected subject to the same regulations and penalties as other property taxes are collected.  
(K.S.A. 65-3410; Code 2014)

## ARTICLE 6. WATER CONSERVATION

- 15-601. PURPOSE. The purpose of this article is to provide for the declaration of a water supply watch, warning or emergency and the implementation of voluntary and mandatory water conservation measures throughout the city in the event such a watch, warning or emergency is declared. (Ord. 696, Sec. 1; Code 2014)
- 15-602. DEFINITIONS. (a) Water shall mean water available to the city for treatment by virtue of its water rights or any treated water introduced by the city into its water distribution system, including water offered for sale at any coin-operated site.
- (b) Customer shall mean the customer of record using water for any purpose from the city's water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.
- (c) Waste of Water includes, but is not limited to (1) permitting water to escape down a gutter, ditch, or other surface drain, or (2) failure to repair a controllable leak of water due to defective plumbing.
- (d) The following classes of uses of water are established:
- Class 1: Water used for outdoor watering, either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational area; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.
- Class 2: Water used for any commercial or industrial, including agricultural, purposes; except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their place of employment.
- Class 3: Domestic usage, other than that which would be included in either classes 1 or 2.
- Class 4: Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.  
(Ord. 696, Sec. 2; Code 2014)
- 15-603. DECLARATION OF WATER WATCH. Whenever the governing body of the city finds that conditions indicate that the probability of a drought or some other condition causing a major water supply shortage is rising, it shall be empowered to declare, by resolution, that a water watch exists and that it shall take steps to inform the public and ask for voluntary reductions in water use. Such a watch shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water watch shall be effective upon their publication in the official city newspaper.  
(Ord. 696, Sec. 3; Code 2014)
- 15-604. DECLARATION OF WATER WARNING. Whenever the governing body of the city finds that drought conditions or some other condition causing a major water supply shortage are present and supplies are starting to decline, it shall be empowered to declare by resolution that a water warning exists and that it will recommend restrictions on nonessential uses during the period of the warning. Such a warning shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the beginning and ending of the water warning shall be effective upon their publication in the official city newspaper. (Ord. 696, Sec. 4; Code 2014)

- 15-605.           **DECLARATION OF A WATER EMERGENCY.** Whenever the governing body of the city finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare by resolution that a water supply emergency exists and that it will encourage voluntary water conservation or impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water supply emergency shall be effective upon their publication in the official city newspaper. (Ord. 696, Sec. 5; Code 2014)
- 15-606.           **VOLUNTARY CONSERVATION MEASURES.** Upon the declaration of a water supply emergency as provided in sections 15-603:604, the mayor is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate non-essential water uses including, but not limited to, limitations on the following uses:
- (a) Sprinkling of water on lawns, shrubs or trees (including golf courses).
  - (b) Washing of automobiles.
  - (c) Use of water in swimming pools, fountains and evaporative air conditioning systems.
  - (d) Waste of water.
- (Ord. 696, Sec. 6; Code 2014)
- 15-607.           **MANDATORY CONSERVATION MEASURES.** Upon the declaration of a water supply emergency as provided in section 15-605, the mayor is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following:
- (a) Suspension of new connections to the city's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered into by the city prior to the effective date of the declaration of the emergency;
  - (b) Restrictions on the uses of water in one or more classes of water use, wholly or in part;
  - (c) Restrictions on the sales of water at coin-operated facilities or sites;
  - (d) The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per consumer restrictions;
  - (e) Complete or partial bans on the waste of water; and
  - (f) Any combination of the foregoing measures.
- (Ord. 696, Sec. 7; Code 2014)
- 15-608.           **EMERGENCY WATER RATES.** Upon the declaration of a water supply emergency as provided in section 15-605, the governing body of the city shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for, but are not limited to:
- (a) Higher charges for increasing usage per unit of the use (increasing block rates);
  - (b) Uniform charges for water usage per unit of use (uniform unit rate); or
  - (c) Extra charges in excess of a specified level of water use (excess demand surcharge).
- (Ord. 696, Sec. 8; Code 2014)

15-609. REGULATIONS. During the effective period of any water supply emergency as provided for in section 15-605, the mayor (or water superintendent) is empowered to promulgate such regulations as may be necessary to carry out the provisions of this article, any water supply emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the governing body at its next regular or special meeting.  
(Ord. 696, Sec. 9; Code 2014)

15-610. VIOLATIONS, DISCONNECTIONS AND PENALTIES. (a) If the mayor, city manager, water superintendent, or other city official or officials charged with implementation and enforcement of this article or a water supply emergency resolution or ordinance learn of any violation of any water use restrictions imposed pursuant to sections 15-607 or 15-609, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record and any other person known to the city who is responsible for the violation or its correction shall be provided with either actual or mailed notice. The notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the city determines is reasonable under the circumstances. If the order is not complied with, the city may terminate water service to the customer subject to the following procedures:

(1) The city shall give the customer notice by mail or actual notice that water service will be discontinued within a specified time due to the violation and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the city governing body or a city official designated as a hearing officer by the governing body.

(2) If such a hearing is requested by the customer charged with the violation, he or she shall be given a full opportunity to be heard before termination is ordered; and

(3) The governing body or hearing official shall make findings of fact and order whether service should continue or be terminated.

(b) A fee of \$50 shall be paid for the reconnection of any water service terminated pursuant to subsection (a). In the event of subsequent violations, the reconnection fee shall be \$200 for the second violation and \$300 for any additional violations.

(c) Violation of this article shall be a municipal offense and may be prosecuted in municipal court. Any person so charged and found guilty in municipal court of violating the provisions of this article shall be guilty of a municipal offense. Each day's violation shall constitute a separate offense. The penalty for an initial violation shall be a mandatory fine of \$100. In addition, such customer may be required by the court to serve a definite term of confinement in the city or county jail which shall be fixed by the court and which shall not exceed 30 days. The penalty for a second or subsequent conviction shall be a mandatory fine of \$200. In addition, such customer shall serve a definite term of confinement in the city or county jail which shall be fixed by the court and which shall not exceed 30 days.

(Ord. 696, Sec. 10; Code 2014)

15-611. EMERGENCY TERMINATION. Nothing in this article shall limit the ability of any properly authorized city official from terminating the supply of water to any or all customers upon the determination of such city official that emergency termination of water service is required to protect the health and safety of the public.  
(Ord. 696, Sec. 11; Code 2014)



## CHAPTER XVI. ZONING AND PLANNING

### Article 1. Flood Hazard Areas

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#### ARTICLE 1. FLOOD HAZARD AREAS

- 16-101. PERMITS REQUIRED. (a) A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.
- (b) The City Clerk is hereby appointed to administer and implement the provisions of this article as the Floodplain Administrator.
- (c) Duties of the Floodplain Administrator shall include, but not be limited to:
- (1) Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this article have been satisfied;
  - (2) Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
  - (3) Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
  - (4) Issue floodplain development permits for all approved applications;
  - (5) Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
  - (6) Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse; and
  - (7) Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures;
  - (8) Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been flood proofed; and
  - (9) When flood proofing techniques are utilized for a particular non-residential structure, the Floodplain Administrator shall require certification from a registered professional engineer or architect.
- (d) To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

- (1) Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed building or work;
  - (2) Identify and describe the work to be covered by the floodplain development permit;
  - (3) Indicate the use or occupancy for which the proposed work is intended;
  - (4) Indicate the assessed value of the structure and the fair market value of the improvement;
  - (5) Identify the existing base flood elevation and the elevation of the proposed development;
  - (6) Give such other information as reasonably may be required by the Floodplain Administrator;
  - (7) Be accompanied by plans and specifications for proposed construction; and
  - (8) Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
- (Ord. 815; Code 2014)

16-102.

**PROVISIONS FOR FLOOD HAZARD REDUCTION.**

**(a) General Standards**

- (1) No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any unnumbered A zone unless the conditions of this section are satisfied.
- (2) All areas identified as unnumbered A zones on the Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM) are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this article. If the Flood Insurance Study is not available; the community shall obtain, review, and reasonably utilize any base flood elevation or flood way data currently available from State, Federal and other sources.
- (3) All new construction, subdivision proposals, substantial-improvements, prefabricated buildings, placement of manufactured homes, and other developments shall require:
  - (A) Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - (B) Construction with materials resistant to flood damage;
  - (C) Utilization of methods and practices that minimize flood damages;
  - (D) All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - (E) New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination from them during flooding; and

(F) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:

i) All such proposals are consistent with the need to minimize flood damage;

ii) All public utilities and facilities, such as sewer, gal, electrical, and water systems are located and constructed to minimize or eliminate flood damage:

iii) Adequate drainage is provided so as to reduce exposure to flood hazards; and

iv) All proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty(50) lots, whichever is lesser, include within such proposals base flood elevation data.

(4) (A) The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.

(B) Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent floatation or if readily removable from the area within the time available after a flood warning.

(5) A Structure, or the use of a structure or premises that was lawful before the passage or amendment of the article, but which is not in conformity with the provisions of this article, may be continued subject to the following conditions:

(A) If such structure, use, or utility service is discontinued for three (3) consecutive months, any future use of the building shall conform to this article.

(B) If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply either existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

**(b)** (1) In all areas of special flood hazard, once base flood elevation data is obtained, as set forth in this article, the following provisions are required:

(A) Residential Construction. New construction or substantial-improvement of any residential structure, including manufacture homes, shall have the lowest floor, including basement, elevated to a minimum of one (1) foot above base flood level. **The elevation of the lowest flood shall be certified by a licensed land surveyor or professional engineer.**

(B) Non-Residential Construction. New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be flood proofed to a minimum of one (1) foot above the base flood elevation. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. **The elevation of the lowest flood shall be certified by a licensed land surveyor or professional engineer.** Such certification shall be provided to the floodplain administrator as set forth in this article.

(C) Require for all new construction and substantial-improvements, that fully enclosed areas below the lowest floor used solely for

parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

i) a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and

ii) The bottom of all opening shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(2) In all areas of special flood hazard, once floodway data is obtained, as set forth in this article, the following provisions are required:

(A) The designated floodway shall be based on the standard that the area chosen for the floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation more than one (1) foot at any point; and

(B) The community shall prohibit any encroachments, including fill, new construction, substantial-improvements, and other developments within the designated regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

**(c)** (1) All manufactured homes to be placed within special flood hazard areas shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(2) Require manufactured homes that are placed or substantially improved within unnumbered A zones on the community's FIRM or FHBM on sites:

(A) Outside of a manufactured home park or subdivision;

(B) In a new manufactured Home Park or subdivision;

(C) In an expansion to an existing manufactured home park or subdivision; or

(D) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to a minimum of (1) foot above the base flood level and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. **The elevation of the lowest flood shall be certified by a licensed land surveyor or professional engineer.**

(3) Require that manufactured homes to be placed or substantially improved on sites in an existing manufacture home park or subdivision within unnumbered A zones on the community's FIRM or FHBM, that are not subject to the provisions of this article, be elevated so that either:

(A) The lowest floor of the manufactured home is a minimum of one (1) foot above the base flood level; or

(B) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist floatation, collapse, and lateral movement. **The elevation of the lowest flood shall be certified by a licensed land surveyor or professional engineer**

(d) Recreational vehicles. Require that recreational vehicles placed on sites within unnumbered A zones on the community's FIRM or FHBM either:

(1) Be on the site for fewer than 180 consecutive days, or

(2) Be fully licensed and ready for highway use\*; or

(3) Meet the permitting, elevating, and the anchoring requirements for manufactured homes of this article.

\* A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

(Ord. 815; Code 2014)

16-103. FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES. (a) The members of the City Council, Appeal Board, as established by the City of Chetopa shall hear and decide appeals and requests for variances from the floodplain management requirements of this article.

(b) Where an application for a floodplain development permit is denied by the Floodplain Administrator, the applicant may apply for such floodplain development permit directly to the Appeal Board, as defined in 16-403(a).

The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this article.

(c) Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court of the County as provided in K.S.A.12-759 and 12-760.

(d) In passing upon such applications for variances, the Appeal board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this article, and the following criteria:

(1) Danger to life and property due to flood damage;

(2) Danger that materials may be swept onto other lands to the injury of others;

(3) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) Importance of the services provided by the proposed facility to the community;

(5) Necessity to the facility of a waterfront location, where applicable;

(6) Availability of alternative locations, not subject to flood damage, for the proposed use;

(7) Compatibility of the proposed use with existing and anticipated development;

(8) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) Safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,

(11) Costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

(e) Conditions for approving floodplain management variances.

(1) Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing items two (2) through six (6) below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(2) Variances may be issued for the reconstruction, repair, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provided the proposed activity will not preclude the structure's continued historic designation and the variance is the minimum necessary to preserve the historic character and design of the structure.

(3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) Variances shall only be issued upon: (a) showing of good and sufficient cause, (b) determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) determination that the granting of a variance will not result in increased flood heights, additional threats to public, or conflict with existing local laws or ordinances.

(6) A community shall notify the applicant in writing over the signature of a community official that: (a) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variances actions as required by this article. (Ord. 815; Code 2014)

16-104.

**PENALTIES FOR VIOLATION.** Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Chetopa or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 815; Code 2014)

16-105.

**DEFINITIONS.** Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this article its most reasonable application.

Accessory Structure – means the same as “*appurtenant structure*.”

Actuarial Rates – see “*risk premium rates*.”

Administrator – means the Federal Insurance Administrator.

Agency – means the Federal Emergency Management Agency (FEMA).

Appeal – means a request for review of the Floodplain administrator's interpretation of any provision of this article or a request for a variance.

Appurtenant Structure – means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

Areas of Special Flood Hazard – The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Base Flood – means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement – means any area of the building having its floor subgrade (below ground level) on all sides.

Building – see “*structure.*”

Chief Engineer – means the chief engineer of the division of water resources, Kansas Department of Agriculture.

Chief Executive Officer – means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

Community – means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

Development – means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Elevated Building – means for insurance purposes, a non-basement building which has its lowest elevate floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Eligible Community – means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

Existing Construction – means for the purposes of determining rates, structures for which the “*start of construction*” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date, “*existing construction*” may also be referred to as “*existing structures.*”

Existing Manufactured Home Park or Subdivision – means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring or concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an Existing Manufactured Home Park or Subdivision – means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or Flooding – means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other

body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

Flood Hazard Boundary Map (FHBM) – means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

Flood Hazard Map – means the document adopted by the City Council showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

Flood Insurance Rate Map (FIRM) – means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Floodplain or Flood-prone Area – means any land area susceptible to being inundated by water from any source (*see “flooding”*).

Floodplain Management – means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations – means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power.

Flood proofing – means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

Floodway or Regulatory Floodway – means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot

Freeboard- means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

Functionally Dependent Use – means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities

Highest Adjacent Grade – means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure- means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for the individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c)



individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

Lowest Floor – means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable flood proofing design requirements of this article.

Manufactured Home – means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “*manufactured home*” does not include a “*recreational vehicle*.”

Manufactured Home Park or Subdivision – means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map- means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

Market Value or Fair Market Value – means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

Mean Sea Level – means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

New Construction – means, for the purposes of determining insurance rates, structures for which the “*start of construction*” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “*new construction*” means structures for which the “*start of construction*” commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision – means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

(NFIP) – means the National Flood Insurance Program (NFIP)

Participating community – also known as an “*eligible community*,” means a community in which the Administrator has authorized the sale of flood insurance.

Permit – means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

Person – includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

Principally Above Ground – means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

Recreational Vehicle – means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Remedy A Violation – means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

Risk Premium Rates – means those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. “*Risk premium rates*” include provisions for operating costs and allowances.

Special Flood Hazard Area – see “*area of special flood hazard.*”

Special Hazard Area – means an area having special flood hazards and shown on a FIRM or FHBM as zones (unnumbered or numbered) A, AO, AE, or AH.

Start of Construction – includes substantial-improvements, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footing, piers, foundations, the erection of temporary forms, nor installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State Coordinating Agency – means the Division of Water Resources, Kansas Department of Agriculture, other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the NFIP in the state of Kansas.

Structure – means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. “*Structure*” for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation, or a travel trailer, without wheels on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

Substantial-Damage – means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial-Improvement – means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before “*start of construction*” of the improvement. This term includes structures which have incurred “*substantial-damage*,” regardless of the actual repair work performed. The term does not, however, include either (1) any project or improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a “*historic structure*,” provided that the alteration will not preclude the structure’s continued designation as a “*historic structure*.”

Variance – means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by community.

Violation – means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this article is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation – means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

100-Year Flood – see “*base flood*”.  
(Ord. 815; Code 2014)

## **APPENDIX A - CHARTER ORDINANCES**

NOTE: The charter ordinances included herein are for information only. Each of them contains the substance as adopted by the governing body but enacting clauses, publication clauses and signatures have been omitted to conserve space. Complete copies of each charter ordinance as adopted are on file in the office of the city clerk and with the Kansas secretary of state. Date of passage by the governing body of each charter ordinance is shown in parentheses at the end of the text.

### **CHARTER ORDINANCE NO. 1**

A CHARTER ORDINANCE EXEMPTING THE CITY OF CHETOPA, KANSAS, FROM THE PROVISIONS OF SECTION 14-201 OF THE GENERAL STATUTES SUPPLEMENT OF 1961, RELATING TO THE ELECTION AND APPOINTMENT OF CITY OFFICERS AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

Section 1. The City of Chetopa, Kansas, under the authority of Article 12, Section 5, of the constitution of the State of Kansas, hereby elects to exempt itself from and makes inapplicable to it, Section 14-201 of the General Statutes Supplement of 1961, which applies to said city but the provisions of which do not apply uniformly to all cities, and provide substitute and additional provisions on the same subject.

Section 2. On the first Tuesday in April of each odd-numbered year, there shall be elected, a mayor and one councilman from each ward and city treasurer and on the first Tuesday in April of each even-numbered year there shall be elected, one councilman from each ward. All such officers shall hold their office for a term of two years. Any person elected to the office of justice of the peace may also be appointed to and hold the office of police judge.

Section 3. The mayor shall appoint, by and with the consent of the council, a city attorney, city clerk, police judge, assistant city clerk, patrolman, street commissioner, superintendent light and water distribution, assistant superintendent light and water distribution, superintendent light and water plant, and such policemen and other officers as they may deem necessary. Officers so appointed and confirmed shall hold their offices for a term of one year and until their successors are appointed and qualified; provided, that the elected police judge serving at the effective date of this charter ordinance shall continue to serve for the term for each elected. The council shall by ordinance specify their duties and compensation, and by ordinance abolish any office created by them whenever they deem it expedient. The council may retain a licensed professional engineer to act in the capacity of city engineer for specifically defined duties, and provide for reasonable compensation for the services rendered.

(09-04-62)

## **CHARTER ORDINANCE NO. 2**

A CHARTER ORDINANCE CHANGING THE TERM OF OFFICE OF THE COUNCILMEN AND THE TIME OF THEIR ELECTION OF THE CITY OF CHETOPA, LABETTE COUNTY, KANSAS PURSUANT TO ARTICLE 12, SECTION 5 OF THE CONSTITUTION OF THE STATE OF KANSAS AND CHANGING CHAPTER 14, ARTICLE 2, SECTION 1 OF THE KANSAS STATUTES ANNOTATED.

(Repealed by C.O. No. 5)

## **CHARTER ORDINANCE NO. 3**

A CHARTER ORDINANCE EXEMPTING THE CITY OF CHETOPA, KANSAS, FROM THE PROVISIONS OF K.S.A. 25-2108a, RELATING TO THE HOLDING OF PRIMARY ELECTIONS WITHIN SAID CITY AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS THERETO.

Section 1. The City of Chetopa, Kansas, under authority of Article 12, Section 5, of the constitution of the State of Kansas, hereby exempts itself from, and make inapplicable to it, the provisions of K.S.A. 25-2108a, which applies to the said city, but the provisions of which do not apply uniformly to all cities, and providing substitute and additional provisions on the same subject, as hereinafter provided.

Section 2. Regardless of the number of candidates who have filed for election for any city office, there shall be no necessity of a primary election, and every person who has filed for any city office shall be listed on the ballot and shall be voted on by the voters at the general election of city officers, to be held on the first Tuesday in April. The person from among the candidates who receives the largest number of votes at such general election shall be declared the winner in said election.

(05-15-79)

## **CHARTER ORDINANCE NO. 4**

A CHARTER ORDINANCE EXEMPTING THE CITY OF CHETOPA, KANSAS FROM K.S.A. 14-205, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT FOR THE PURPOSE OF ALLOWING APPOINTED CITY OFFICES TO BE NON-RESIDENTS.

(Repealed by C.O. No. 7)

## **CHARTER ORDINANCE NO. 5**

A CHARTER ORDINANCE EXEMPTING THE CITY OF CHETOPA, KANSAS, FROM K.S.A. 14-201, PURSUANT TO ARTICLE 12, SECTION 5 OF THE CONSTITUTION OF THE STATE OF KANSAS AND REPEALING CHARTER ORDINANCE NO. 2.

(Repealed by C.O. No. 6)

## **CHARTER ORDINANCE NO. 6**

A CHARTER ORDINANCE EXEMPTING THE CITY OF CHETOPA, KANSAS, FROM K.S.A. 14-201, PURSUANT TO ARTICLE 12, SECTION 5 OF THE CONSTITUTION OF THE STATE OF KANSAS AND REPEALING CHARTER ORDINANCE NO. 5.

(Repealed by C.O. No. 11)

## **CHARTER ORDINANCE NO. 7**

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 4 AND PROVIDING A NEW ORDINANCE TO EXEMPT THE CITY OF CHETOPA, KANSAS, FROM K.S.A. 14-205, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT FOR THE PURPOSE OF ALLOWING APPOINTED CITY OFFICERS TO BE NON-RESIDENTS.

Section 1. The City of Chetopa, Kansas, by the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, elects to and hereby exempts itself from and makes inapplicable to it K.S.A. 14-205 which are applicable to this city but are not applicable uniformly to all cities, and elects to and hereby does provide substitute and additional provisions as hereafter set forth in this ordinance.

Section 2. The elected officers of the City of Chetopa, Kansas, shall be qualified electors of said city and the city may appoint nonresidents as city attorney, municipal judge and as law enforcement officers when deemed necessary, including the appointment of nonresidents who also serve as city attorney, municipal judge or law enforcement officers of another municipality or public agency.

Section 3. All other appointed officers and employees of the City of Chetopa, Kansas shall be a resident of the City of Chetopa, Kansas, unless approved by the governing body of said city, provided that nothing herein shall authorize the appointment of nonresidents of this state.

Section 4. The city attorney shall be a qualified elector of the county in which said city is located or of an adjoining county.

Section 5. The removal from the city of any elected officer, who is required to be a qualified elector of said city, or the removal from said city of any appointed officer, or employee, without approval of the governing body, shall occasion a vacancy in such office or position. All vacancies in appointive offices may be filled until the next regular time for appointment by the mayor with the consent of the council. The clerk shall enter every appointment to office, and the date thereof, on the journal of proceedings of the council.

Section 6. All provisions of K.S.A. 14-205, not otherwise conflicting with this ordinance, shall remain in full force and effect.

(05-17-83)

## **CHARTER ORDINANCE NO. 8**

A CHARTER ORDINANCE EXEMPTING THE CITY OF CHETOPA, KANSAS, FROM THE PROVISIONS OF SECTION 12-4110 AND SECTION 12-4112 OF THE KANSAS STATUTES ANNOTATED AS ADOPTED BY THE LEGISLATURE OF KANSAS IN THE SESSION LAWS OF 1973, CHAPTER 61, AND ANY AMENDMENTS THEREOF; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECTS; PRESCRIBING CONDITIONS UNDER WHICH THE CITY ATTORNEY SHALL PROSECUTE CASES HEARD BY THE MUNICIPAL COURT OF SAID CITY, AND AUTHORIZING THE ASSESSMENT OF COURT COSTS IN CASES HEARD IN THE MUNICIPAL COURT OF SAID CITY; AND PROVIDING FOR THE ASSESSMENT OF COSTS AGAINST THE PERSON BRINGING PROSECUTION IF THE COURT DETERMINES THE PROSECUTION WAS INSTITUTED WITHOUT PROBABLE CAUSE AND FOR MALICIOUS MOTIVES.

Section 1. That the City of Chetopa, Kansas, a city of the second class, by virtue of the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, hereby elects to exempt and does exempt itself from and makes inapplicable to it, Section 12-4110 and Section 12-4112 of the Kansas Statutes Annotated as adopted by the legislature of Kansas in Session Laws of 1973, Chapter 61, which are not uniformly applicable to all cities, the legislature having made special provisions applying to certain classes of cities in said enactment.

Section 2. That in lieu of K.S.A. 12-4110, the governing body of the City of Chetopa, Kansas, hereby adopts the following provision:

The city attorney, in person or by his assistants, shall prosecute all contested cases in municipal court, and shall appear to prosecute such other cases as the judge of the municipal court shall deem necessary.

Section 3. That in lieu of K.S.A. 12-4112, the governing body of the City of Chetopa, Kansas, hereby adopts the following provisions:

Every person found guilty of a violation of the ordinances of the City of Chetopa, Kansas, shall be assessed costs for the administration of justice in the municipal court of the City of Chetopa, Kansas, and such costs shall be determined by ordinance.

Section 4. In any cases where the municipal court of the City of Chetopa, Kansas, finds that prosecution was instituted without probable cause and for malicious motives, the court costs assessed pursuant to Section 3 shall be assessed against the person bringing prosecution.

(09-15-87)

## **CHARTER ORDINANCE NO. 9**

A CHARTER ORDINANCE EXEMPTING THE CITY OF CHETOPA, KANSAS, FROM THE PROVISIONS OF K.S.A. 79-5028, AND K.S.A. 79-1952 AMENDED BY 1990 HOUSE BILL NO. 2700, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

Section 1. The City of Chetopa, Kansas, by the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas and as provided by K.S.A. 79-5036(a) and K.S.A. 79-1952, as amended by 1990 House Bill 2700, hereby elects to exempt itself from the provisions of K.S.A. 79-5028, as amended by 1990 House Bill 2700. K.S.A. 79-5028, as so amended, is part of an enactment which is applicable to this city but does not apply uniformly to all cities.

Section 2. The following is hereby substituted for the provisions of K.S.A. 79-5028, as amended: The provisions of K.S.A. 79-5021 to 79-5035, inclusive, and amendments thereto, shall not apply to nor limit the levy of taxes by the City of Chetopa for the payment of:

- (a) Principal and interest upon state infrastructure loans, bonds, temporary notes, no-fund warrants and payments made to a public building commission;
- (b) Judgments, settlements and expenses for protection against liability to the extent such expenses are authorized by Article 61 of Chapter 75 of the Kansas Statutes Annotated and amendments thereto;
- (c) Employer contributions for social security, workers compensation, unemployment insurance, health care costs, employee benefit plans, and employee retirement and pension programs;
- (d) Library.

Section 3. The City of Chetopa shall establish by simple ordinance mill levy rate limits for the library fund.

(07-03-90)

### **CHARTER ORDINANCE NO. 10**

A CHARTER ORDINANCE EXEMPTING THE CITY OF CHETOPA, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-1222 AND AMENDMENTS THERETO INsofar AS THE SAME PROHIBITS NON-RESIDENTS OF SAID CITY FROM SERVING ON THE LIBRARY BOARD.

Section 1. That the City of Chetopa, Kansas, by the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it K.S.A. 12-1222, and any amendments thereto, insofar as said statute prohibits non-residents of said city from serving on the library board.

Section 2. That the following is hereby ordained as a substitution for said provision, to-wit:

No less than five members of the board shall be residents of the City of Chetopa, Kansas.

The remaining two members of the board may either be residents or non-residents of said city, but in any event shall be residents of Labette County, Kansas.

(05-07-91)



**CHARTER ORDINANCE NO. 11**

A CHARTER ORDINANCE EXEMPTING THE CITY OF CHETOPA, KANSAS, FROM THE PROVISIONS OF K.S.A. 14-201, RELATING TO ELECTIVE AND APPOINTIVE OFFICERS; TERMS, AND COMPENSATION WITHIN SAID CITY AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISION THEREOF.  
(Repealed by C.O. No. 12)

**CHARTER ORDINANCE NO. 12**

A CHARTER ORDINANCE EXEMPTING THE CITY OF CHETOPA, KANSAS, FROM THE PROVISIONS OF K.S.A. 14-103, 14-201, 25-2107 AND 25-2108 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, RELATING TO THE ELECTION AND APPOINTMENT OF CITY OFFICERS AND THE TERMS OF OFFICERS.  
(Repealed by C.O. No. 14)

**CHARTER ORDINANCE NO. 13**

A CHARTER ORDINANCE EXEMPTING THE CIT OF CHETOPA FROM THE PROVISIONS OF K.S.A. 66-1801 ET SEQ., THE KANSAS UNDERGROUND UTILITY DAMAGE PROTECTION ACT, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

Section 1. The City of Chetopa, by virtue of the power vested it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects and does exempt itself and make inapplicable to it K.S.A. 66-1801 through K.S.A. 66-1816, the enactment known as the Kansas Underground Utility Damage Protection Act, which enactment applies to this city, but does not apply uniformly to all cities.

Section 2. All underground water and wastewater facilities installed after July 1, 2008 shall be locatable.

Section 3. Any excavator may, prior to excavating, call the city and request that the city locate any underground wastewater and water facilities.  
(9-1-09)

## CHARTER ORDINANCE NO. 14

A CHARTER ORDINANCE EXEMPTING THE CITY OF CHETOPA, KANSAS, FROM THE PROVISIONS OF K.S.A. 14-103, 14-201, 25-2107, AND 25-2108A, AND AMENDMENTS THERETO, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, RELATING TO THE ELECTION AND APPOINTMENT OF THE MAYOR, COUNCILMEMBERS, AND CITY OFFICERS AND THE TERMS OF THE SAME AND REPEALING ALL CONFLICTING ORDINANCES.

Section 1. The City of Chetopa, Kansas, a Mayor-Council city of the second class, by virtue of the home rule power vested in it by article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it the provisions of K.S.A.14-103, 14-201, 25-2107, and 25-2108a, and amendments thereto, and provide substitute and additional provisions as hereinafter set forth in this ordinance. K.S.A.14-103, 14-201, 25-2107, and 25-2108a, and amendments thereto, as adopted by the Kansas Legislature are not uniformly applicable to all cities inasmuch as the legislature has made special provisions applicable to certain classes of cities, and these provisions only apply to cities of the second class.

Section 2. The general election of city officers shall be on the first Tuesday of April of each odd numbered year. There shall be no primary elections.

Section 3. In lieu of K.S.A. 14-201, the Governing Body of the City of Chetopa, Kansas, hereby adopts the following substitute provision:

There shall be elected on the first Tuesday in April, 2011, a Mayor and three Council members from the general population of the City of Chetopa to serve a four year term. There shall be elected on the first Tuesday in April, 2013, three council members from the general population of the City of Chetopa to serve a four year term. For election purposes, all previous wards and/or precincts established by the City of Chetopa are hereby abolished.

Section 4. The Mayor shall appoint, by and with the consent of the Council, a Municipal Judge of the Municipal court, a Chief of Police, City Treasurer, City Clerk, City Attorney, and may appoint police officers and such other officers as may be deemed necessary. Officers so appointed and confirmed shall hold their offices for a term on one (1) year and until their successors are appointed and qualified. The Council shall, by ordinance, specify their duties and compensation, and by ordinance abolish any office created by them whenever they deem it expedient. The Council may retain a licensed professional engineer to act in the capacity of City Engineer for specifically defined duties and provide for reasonable compensation for the services rendered.

(2-16-10)

## APPENDIX B. FRANCHISES

### ORDINANCE NO. 681

AN ORDINANCE GRANTING A FRANCHISE TO UNITED CITIES GAS COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO CONSTRUCT, MAINTAIN, AND OPERATE A SYSTEM OF GAS MAINS AND SERVICE PIPES FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING GAS IN, UPON, ACROSS, ALONG AND UNDER THE HIGHWAYS, STREETS, AVENUES, ROADS, ALLEYS, LANES, WAYS, UTILITY EASEMENTS, PARKWAYS AND OTHER PUBLIC GROUND OF THE CITY OF CHETOPA, LABETTE COUNTY, KANSAS.

Section 1. There is hereby granted to United Cities Gas Company, a corporation organized and existing under the laws of the State of Illinois, its successors and assigns (hereinafter for convenience, individually and collectively, referred to as company), the right, authority, privilege, and franchise to construct, maintain and operate a system of gas mains, service pipes, regulator stations and all other necessary and appropriate equipment and facilities for the distribution of gas, in, upon, under, along, across and over the highways, streets, avenues, roads, alleys, lanes, ways, utility easements, parkways and other public grounds in the present or future corporate limits of the City of Chetopa (hereinafter for convenience referred to as municipality), for the supplying and selling of gas and its by-products to the municipality and the inhabitants, institutions and businesses thereof, and for such purposes to construct, lay down, maintain, and operate all necessary gas mains, service pipes and other appliances, fixtures and facilities as may be necessary for the transmission, distribution and sale of such gas to the municipality and the inhabitants thereof for domestic, commercial, industrial and institutional uses, and other purposes for which it is or may hereafter be used, for a period of 20 years from and after the passage and approval of this ordinance.

Section 2. All gas mains, services pipes, fixtures, facilities and other appliances so laid, constructed and maintained by virtue of this ordinance, shall be so laid, constructed and maintained in accordance with the best, latest and most acceptable engineering practices and in full accord with any and all applicable engineering codes adopted or approved by the natural gas distribution industry and/or engineering profession and in accordance with any applicable statutes of the State of Kansas and the Rules and Regulations of the Kansas Corporation Commission or of any other governmental regulatory commission, board or agency, having jurisdiction over the company. The facilities shall be so constructed as not to interfere with the drainage of the municipality or interfere with or injure any sewer or any other improvement which the municipality has heretofore made or may hereafter make in, upon or along any highway, street, avenue, road, alley, lane, way, utility easement, parkway, or other public ground, or unnecessarily impede or obstruct such highways, streets, avenues, roads, alleys, lanes, ways, utility easements, parkways and other public grounds of the municipality, and shall conform to the grade as then or hereafter established.

Section 3. When the streets, avenues, alleys and other public ways are opened, or any other opening is made by the company within the municipality, whether the same be made for the purpose of laying, constructing, replacing or repairing the mains, pipes and other appliances and fixtures of the company, the company shall place and maintain all necessary safety devices, barriers, lights and warnings to properly notify all persons of any dangers resulting from such entrances, and shall comply with all safety regulations required by federal, state and local laws.

Section 4. In the event it becomes necessary or expedient for the municipality to change the course of grade of any highway, street, avenue, road, alley, lane, way, utility easement, parkway, or other public ground in which the company is maintaining gas mains, pipes or other appliances and fixtures, upon the written request of the municipality, the company will remove or change the location or depth of such mains, pipes or other appliances and fixtures in accordance with the direction of the city engineer or any other designated responsible agent of the municipality.

Section 5. When any highway, street, avenue, road, alley, lane, way, utility easement, parkway, or other public way is entered by the company, it shall, within a reasonable time, restore the same to its former condition and shall be restored in such a manner as to meet the approval of the municipality engineer or other designated responsible agent of the municipality. In the event the company shall fail to restore said streets, avenues, alleys or other public ways to their former state, the municipality may, after giving the company reasonable written notice, make said restoration itself and charge the costs thereof to the company.

Section 6. The company shall at all times defend, indemnify, and hold harmless the municipality from any and all lawful claims for injury to any person or property by reason of the company or its employees to exercise due care and diligence in and about the installing and maintenance of the system, guarding trenches and excavations while the system is being installed or subsequent extensions, repairs or alterations are being made or generally in the operation and maintenance of the system, provided the company shall have been notified in writing of any claims against the municipality or account thereof, and shall have been afforded the opportunity fully to defend the same.

Section 7. The municipality and the company hereby agree that this ordinance shall from time to time be subject to rules and regulations adopted by the company and approved by the Kansas Corporation Commission or any other regulatory body having jurisdiction thereof during the term of this ordinance, and shall also be subject to all the rules and regulations adopted and approved by the Kansas Corporation Commission or any other regulatory body and that all such rules and regulations shall be and become a part of this ordinance to the same extent and with the same effect as if said rules and regulations were herein set out in full. The company shall not be obligated or required to make any extension of distribution mains or service lines except in accordance with the provisions relating thereto adopted or approved by the Kansas Corporation Commission.

Section 8. Nothing herein contained shall be construed as preventing the company in installing, placing, replacing, taking up, repairing or removing gas pipes, mains, service pipes or other devices for furnishing gas services, from using any easements for gas service which are shown on any plat or plats of any portion of municipality heretofore or hereafter platted or recorded or any such easement which may hereafter be created, granted or dedicated for any such utility purposes by any person, firm or corporation whatsoever.

Section 9. If any section or portion of any section of this ordinance shall hereafter be declared or determined by any court of competent authority to be invalid, the company at its election (to be given to the municipality by notice in writing within 30 days after any such declaration or determination) may ratify or confirm the remaining portions of this ordinance and upon such ratification or confirmation the remaining portions of this ordinance shall remain in full force and effect.

Section 10. The company shall, within 60 days after the passage of the ordinance, file with the city clerk of the City of Chetopa its unconditional acceptance signed by its authorized representative of the terms and conditions of this ordinance and after the filing of such acceptance, this ordinance shall constitute a contract between the parties thereto and shall, subject to the rights and powers vested in the Kansas Corporation Commission or such other regulatory body of the State of Kansas as may hereafter succeed to the rights and powers of the Kansas Corporation Commission or as may exercise statutory jurisdiction of gas companies furnishing gas service in the State of Kansas, be the measure of the rights, powers, obligations, privileges and liabilities of the municipality and of the company.

Section 11. All the privileges given and obligations created by this ordinance shall be binding upon the successor and assigns of the company.

Section 12. This new ordinance shall take effect and be in force immediately upon its passage and approval by the city and 10 days after the publication thereof according to law.  
(05-17-94)

#### **ORDINANCE NO. 724**

AN ORDINANCE GRANTING TO SOUTHWESTERN BELL TELEPHONE COMPANY, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE, MAINTAIN AND EXTEND A TELECOMMUNICATIONS SYSTEM IN THE CITY OF CHETOPA, KANSAS, PRESCRIBING THE TERMS OF SAID GRANT AND RELATING THERETO; AND REPEALING ORDINANCE 175 AND ALL OTHER ORDINANCES AND RESOLUTIONS AND PARTS THEREOF INCONSISTENT OR IN CONFLICT WITH THE TERMS HEREOF.

Section 1. Definitions. For purposes of this ordinance, the following words and phrases shall have the meanings given herein:

(a) Access Lines - shall mean the following billed main lines and trunks, whether provided on a retail or wholesale basis: residential lines; business lines; ISDN lines (channels); PBX trunks; Centrex or Centrex-like stations; simulated exchange access lines provided by a central office based switching arrangement where all stations served by such simulated exchange access lines are used by a single customer of the provider of such arrangement; where stations are served by simulated exchange access lines provided by a central office based switching arrangement and the stations served are not used by a single customer of the provider of such arrangement, each station shall constitute an access line; and pay phone lines. 'Access Line" shall include wireless telecommunication services subject to 47 C.F.R. Part 24. 'Access Line" shall not include the following: wireless telecommunication services subject to 47 C.F.R. Part 22; unbundled loop facilities; and special access services.

(b) City - shall mean the City of Chetopa, Kansas.

(c) Cable Service - means the one way transmission to subscribers of video programming, or other programming service, and subscriber interaction, if any, which is required for selection and use of such video programming or other programming service. Cable service does not include point to point, point to multipoint, and switched video services that telephone company has historically offered or other similar services that telephone company may in the future offer.

(d) Facilities - shall mean telephone and telecommunication lines, conduits, fiber optic cables, wires, cables, pipes, poles, towers, vaults, and appliances, either under or above ground.

(e) Public Improvement - shall mean any existing or contemplated public facility, building, or capital improvement project, including without limitation streets, alleys, sidewalks, sewer, water, drainage, rights-of-way improvement, and public projects.

(f) Public Project - shall mean any project planned or undertaken by the city or any governmental entity for construction, reconstruction, maintenance or repair of public facilities or improvements or any other purpose of a public nature.

(g) Rights-of-way - shall mean present and future streets, alleys, rights-of-way, and public easements, including easements dedicated in plats of the City of Chetopa, Kansas.

(h) Street rights-of-way - shall mean the entire width between property lines of land, property or an interest therein of every way publicly maintained where any part thereof is open to the use of the public for purposes of vehicular traffic, including street, avenue, boulevard, highway, expressway, alley or any other public way for vehicular travel by whatever name.

(i) Telecommunications. - The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

(j) Telecommunications Service. - The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(k) Telephone Company - shall mean Southwestern Bell Telephone Company, its successors and assigns.

Section 2. Grant. (a) There is hereby granted to telephone company the right, privilege and franchise to construct, maintain, extend and operate its facilities,

in, through and along the rights-of-way for the purpose of supplying telecommunications services to the city and the inhabitants thereof for the full term of this franchise; subject, however, to the terms and conditions herein set forth.

(b) This franchise does not provide the telephone company the right to provide cable service to city and inhabitants thereof. For purposes of this ordinance, cable service is defined as the one-way transmission to subscribers of video programming or other programming services, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service; but cable service does not include point to point, point to multi-point, and switched video services that telephone company has historically offered or other similar services that telephone company may in the future offer. Nothing in this franchise is intended to preclude the city from seeking, or authorize the city to seek, a franchise from any subsidiary, affiliate, or third party providing

Cable Services. Telephone company and city agree that nothing in this franchise is intended to authorize the city to seek from telephone company nor to require telephone company to obtain a franchise to offer Open Video Systems as that term is used in section 653 of the Telecommunications Act of 1996 (codified at 47 U.S.C. 573). Telephone company and city further agree, however, that this ordinance does not authorize telephone company to offer Open Video Systems without paying the fee on the gross revenues of the system operator for the provision of cable service in lieu of a franchise fee, pursuant to and in the manner described in 47 U.S.C. 573(c) (2) (b) and without complying with FCC regulations promulgated pursuant to 47 U.S.C. 573.

(c) Upon written request from Telephone Company, the city agrees to begin negotiations in good faith with Telephone Company within 30 days to provide Telephone Company a franchise to provide "Cable Service" to the City and inhabitants thereof on terms no more burdensome than the franchise(s) granted to other providers of "Cable Service" with the City."

Section 3. Use of Rights-of-Way. In the use of rights-of-way under this franchise, the telephone company shall be subject to all rules, regulations, policies, resolutions and ordinances now or hereafter adopted or promulgated by the city in the reasonable exercise of its police power. In addition, the telephone company shall be subject to all rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the city relating to permits and fees, sidewalk and pavement cuts, utility location, construction coordination, beautification, and other requirements on the use of rights-of-way and shall comply with the following:

(a) The telephone company's use of rights-of-way shall in all matters be subordinate to the city's use of rights-of-way for any public purpose. The telephone company shall coordinate placement of its facilities in a manner which minimizes adverse impact on public improvements, as reasonably determined by the city. Where placement is not otherwise regulated, facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted by such public improvement.

(b) All earth, materials, sidewalks, paving, crossings, utilities, public improvements, or improvements of any kind, injured or removed by the telephone company in its activities under this franchise, shall be fully repaired or restored promptly by the telephone company at its sole expense and to the reasonable satisfaction of the city or owner thereof.

(c) All facilities constructed, replaced, or relocated in the right-of-way after the date hereof shall be placed underground unless otherwise agreed to by the city. Where there are obstructions in the right-of-way such as trees, shrubs, other utilities, commercial signs, man-made structures, or other like obstructions which make the cost of such underground burial unreasonable, the telephone company may request waiver of this requirement, in which event the city will not unreasonably withhold consent. Any vaults, boxes, pedestals, and similar facilities placed above ground in street right-of-way shall be located behind the sidewalk where feasible.

(d) The telephone company shall keep and maintain accurate records and as-built drawings depicting accurate horizontal and vertical location of all facilities constructed, reconstructed, or relocated in the street right-of-way after the date hereof and provide location information regarding specific future project locations to the City upon request. Where such information is available electronically, upon request from the City, Telephone Company agrees to provide such information in an electronic format. (City agrees to use information only to locate utility facilities in connection with municipal projects and further agrees not to disclose such information to anyone other than City employees requiring such information to locate utility facilities in connection with municipal projects, except as required by law. Telephone Company and City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of the Telephone Company and agree that pursuant to K.S.A. 45-221(12), (18), as amended, such information does not constitute public records subject to K.S.A. 45-218, as amended. In the event that city is required by law to disclose such information, city shall provide the telephone company seven days advance notice of its intended disclosure of such information and shall take such action as may be reasonably required to cooperate with the telephone company to safeguard such information. The telephone company agrees to indemnify and hold the city harmless from any and all penalties or costs, including attorney's fees, arising from the actions of the telephone company, or of the city at the written request of the telephone company, in seeking to safeguard the confidentiality of information provided by telephone company to city under this section. In the event such information is required by force of law to be publicly disclosed, the telephone company shall have no further obligation under this section to provide the city with such information). Such facilities shall be horizontally and vertically located at least every 100 feet and at any other alignment change. All points of facilities shall be horizontally located from street centerline, or section or quarter section lines or corners. Vertical locations or all points of facilities shall consist of elevations in either city datum or United States Geological Survey datum.

(e) All work performed in the traveled way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected. Such signing shall be in conformance with the latest edition of the Federal Highway Administration's Standards and Guideline for Work Zone Traffic Control, unless otherwise agreed to by the city.

(f) The telephone company shall notify the city not less than three working days in advance (such notice to be adequate for timely notice on the governing body agenda under city procedures) of any construction, reconstruction, repair, or relocation of facilities which would require any street closure which reduces traffic flow to less than two lanes of moving traffic. Except in the event of an emergency, as reasonably determined by the telephone company, no such closure shall take place without prior authorization from the city.



(g) The telephone company shall cooperate promptly and fully with the city and take all reasonable measures necessary to provide accurate and complete information regarding the nature and horizontal and vertical location of its facilities located within rights-of-way when requested by the city or its authorized agents for a public project. Such location and identification shall be at the sole expense of the telephone company without expense to the city, its employees, agents, or authorized contractors. The telephone company shall designate and maintain a local agent, familiar with the facilities, who is responsible for satisfying information needs of the city and other users of the rights-of-way.

(h) The telephone company shall promptly remove, relocate, or adjust any facilities located in rights-of-way if reasonably necessary and directed by the city for a public project. Such removal, relocation, or adjustment for a particular public project shall be performed by the telephone company once at its sole expense without expense to the city, its employees, agents, or authorized contractors and shall be specifically subject to rules and regulations of the city pertaining to such. If additional removal, relocation, or adjustment is the result of the inaccurate or mistaken information of the telephone company, the telephone company shall be responsible for such at its sole expense.

(i) It shall be the responsibility of the telephone company to take adequate measures to protect and defend its facilities in the rights-of-way from harm or damage. If the telephone company fails to accurately or timely locate facilities when requested, it has no claim for costs or damages against the city and its authorized contractors unless such party is solely responsible for the harm or damage by its negligence or intentional conduct. Telephone company shall be responsible to the city and its agents, representatives, and authorized contractors for all damages including, but not limited to, delay damages, repair costs, down time, construction delays, penalties or other expenses of any kind arising out of the failure of the telephone company to perform any of its obligations under this agreement unless the damaged party is solely responsible for the harm or damage by its negligence or intentionally caused harm. However, the city and its authorized contractors shall be responsible to take reasonable precautionary measures including calling for utility locations and observing marker posts when working near telephone company facilities.

(j) The telephone company, on the request of any applicant, shall remove or raise or lower its wires temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the party or parties requesting the same, and the telephone company may require such payment in advance. The telephone company shall be given not less than 15 days' written notice from the applicant detailing the time and location of the moving operations, and not less than 24 hours' advance notice from the applicant advising of the actual operation. The city shall not be liable for any such expense or notice requirement for the moving of houses or structures by the city or its contractors.

(k) Permission is hereby granted to the telephone company to trim trees upon and overhanging streets, alleys, sidewalks and public places of the city so as to prevent the branches of such trees from coming in contact with the wires and cables of the telephone company, all of the trimming to be done under the supervision and direction of any city officials to whom the duties have been or may be designated in accordance with the Chetopa City Code.

(l) All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of the facilities in

the rights-of-way shall be in accordance with applicable present and future federal, state, and city laws and regulations, including but not limited to the most recent editions of the National Electrical Code, the National Electrical Safety Code, and the Fiber Optic Cable Installation Standard of the Telecommunications Industry Committee, or such substantive equivalents as may hereafter be adopted or promulgated. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this ordinance may be additional to or stricter than such minimum standards.

(m) The city encourages the conservation of right-of-way by the sharing of space by all utilities. To the extent required by federal or state law, the telephone company shall permit any other franchised entity by appropriate contract or agreement negotiated by the parties to use any and all facilities constructed or erected by the telephone company. All the agreements and installations shall be subject to all existing and future ordinances and regulations of the city. Telephone Company agrees that it will not grant any entity rights to occupy the rights-of-way without providing notice to the city. Nothing in this section shall be construed as requiring Telephone Company to provide city notice when it provides telecommunications services to any entity.

Section 4. Indemnity and Hold Harmless. The telephone company shall hold and save the city, its officers, employees, agents, and authorized contractors, harmless from and against all claims, damages, expense, liability and costs including attorney fees, to the extent occasioned in any manner by the telephone company's occupancy of rights-of-way, except to the extent otherwise specified in section 3(i). In the event a claim shall be made or an action shall be instituted against the city growing out of such occupancy of the right-of-way by facilities of the telephone company, then upon notice by the city to the telephone company, the telephone company will assume liability for the defense of such actions at the cost of the telephone company, subject to the option of the city to appear and defend, at its own cost, any such case.

Section 5. Payments and Charges. The payments herein provided shall be in lieu of all other licenses, taxes, charges, fees or impositions, except that the usual general property taxes and special ad valorem property taxes, and any charges for pavement cuts or other charges based on restoring premises to their same condition, or charges made for privileges which are not in any way connected with telephone business, as such, will be imposed on the telephone company, and are not covered by the payments herein. The telephone company shall have the privilege of crediting such sums payable hereunder with any unpaid balance due the telephone company for telephone service rendered or facilities furnished to the city; provided, that the balance due is liquidated and uncontested.

Section 6. Compensation to City. (a) In consideration of the franchise granted to Telephone Company by city, Telephone Company agrees to pay to city, a sum of \$0.10 per month for each access line served by Telephone Company for local service within the city limits of city. Compensation required by this franchise shall be paid on an annual basis and shall become due and payable 60 days after the end of the year with the first payment due October 31, 1999. The number of access lines as of August 31 shall be used to calculate payments to city for the following year.

(b) If during the term of this ordinance any entity provides local service in city and provides compensation to city at an amount less than the telephone company is required to pay under section 6(a) per month for each access line within the city or provides no compensation to city for each such access line, this ordinance shall require compensation no greater than such amounts, if any, during such time remaining of the term of this ordinance that the lesser compensation, if any, is paid by such other entity.

(c) The parties agree that if federal law or state law is enacted setting forth a maximum allowable level of compensation for franchise rights and if such maximum allowable level is less than the level of compensation required by this ordinance, this ordinance shall require telephone company to pay the reduced level required by law the remainder of the term of this ordinance.

(d) If during the term of this ordinance, telephone company believes that it is entitled to reduction in compensation pursuant to subsections (b) and (c) above, telephone company agrees to notify city in writing and agrees that it will continue to pay city the monthly rate set forth in section 6(a) for each access line served by telephone company for local service within the city until final agreement is reached with the city 60 days following such notice to city.

(e) The telephone company shall correctly code all customers that are located within the corporate limits of the city, provided that the city shall give telephone company notice of boundary changes as provided below. Coding shall be updated to reflect annexation and other changes in city boundaries, and the associated changes in customers and access lines, within 30 days of the date city provides telephone company written notice of the annexation or other changes in boundaries and a listing of addresses affected by such changes. Such notice shall be sent to Southwestern Bell Telephone Company, 823 Quincy, Room 801, Topeka, Kansas 66612. In the event of annexations, telephone company may request additional time in writing to re-code customers, which request will not be unreasonably denied.

Section 7. Collection of Compensation. This franchise may be terminated by the telephone company if authority to collect the amounts of such payments, or part of such payments, from its customers within the city shall be removed, canceled or withdrawn by legislative, judicial or regulatory act. City and telephone company acknowledge and agree that telephone company has collected and paid city all amounts due and owing for telephone company's use and occupancy of city rights-of-way at all times prior to September 1, 1998.

Section 8. Attachment to Poles. Nothing in this ordinance shall be construed to require or permit any telephone, electric light or power wire attachments by either the city or the telephone company on the poles of the other. If such attachments are desired by the city or the telephone company, then a separate non-contingent agreement shall be prerequisite to such attachments.

Section 9. Termination of Franchise. In case of failure on the part of Southwestern Bell Telephone, its successors and assigns, to comply with any of the provisions of this ordinance, or if Southwestern Bell Telephone, its successors and assigns, should do or cause to be done any act or thing prohibited by or in violation of the terms of this ordinance, Southwestern Bell Telephone, its successors and assigns, shall forfeit all rights and privileges and granted by this ordinance and all rights hereunder shall cease, terminate and become null and void, provided that

said forfeiture shall not take effect until the city shall carry out the following proceedings. Before the city proceeds to forfeit said franchise, as in this section prescribed, it shall first serve a written notice upon the manager of Southwestern Bell Telephone Company at its principal office in the city and upon the trustee or trustees in any deed of trust securing bonds of Southwestern Bell Telephone of record in Labette County, Kansas, by mailing notice to such trustee or trustees to the address designated in such trust deed, setting forth in detail in such notice the neglect or failure complained of, and Southwestern Bell Telephone shall have 90 days thereafter in which to comply with the conditions of this franchise. If at the end of such 90 day period the city deems that the conditions of such franchise have not been complied with by Southwestern Bell Telephone and that such franchise is subject to cancellation by reason thereof, the city, in order to terminate such franchise, shall enact an ordinance setting out the grounds upon which said franchise or agreement is to be canceled or terminated. If within 30 days after the effective date of said ordinance Southwestern Bell Telephone shall not have instituted an action, either in the District Court of Labette County, Kansas, or some other court of competent jurisdiction to determine whether or not Southwestern Bell Telephone has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such 30 day period, If within such 30 day period Southwestern Bell Telephone does institute action, as above provided, to determine whether or not Southwestern Bell Telephone has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof and prosecutes such action to final judgment with due diligence, then, in that event, in case the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall terminate 30 days after such final judgment is rendered.

Provided, however, that the failure of Southwestern Bell Telephone to comply with any of the provisions of this ordinance or the doing or causing to be done by Southwestern Bell Telephone of anything prohibited by or in violation of the terms of this ordinance shall not be a ground for the forfeiture thereof when such act or omission on the part of Southwestern Bell Telephone is due to any cause or delay beyond the control of Southwestern Bell Telephone, its successors and assigns, or to bona fide legal proceedings.

Section 10. Rights and Duties of Grantee upon Expiration of Franchise. Upon expiration of this franchise, whether by lapse of time, by agreement between the telephone company and the city, or by forfeiture thereof, the telephone company shall have the right to remove from public property any and all of its lines, poles, towers and other appurtenances and equipment used in its business within a reasonable time after such expiration, but in such event, it shall be the duty of the telephone company, immediately upon such removal, to restore the streets, avenues, alleys, parks and other public ways and grounds from which the lines, poles, towers, other appurtenances and other equipment are removed to as good condition as the same were before the removal was effected.

Section 11. Term and Termination Date. The term of this franchise shall be five years commencing September 1, 1998. The telephone company or city, at its option, shall have the right to extend this franchise upon the same terms and conditions for a subsequent term of five years, by providing written notice of its desire to extend the franchise not later than 180 days prior to the expiration of the initial term. The telephone company or city may reject the additional term by

providing written notice within 90 days of receipt of written notice of its desire to extend the franchise. The additional term shall be deemed a continuation of this franchise and not as a new franchise or amendment.

Section 12. Acceptance of Terms by the Telephone Company. The telephone company shall have 60 days after the final passage and approval of this ordinance to file with the city clerk of the city its acceptance in writing of the provisions, terms and conditions of this ordinance, which acceptance shall be duly acknowledged before some officer authorized by law to administer oaths; and when so accepted the ordinance and acceptance shall constitute a contract between the city and the telephone company subject to the provisions of the laws of the State of Kansas.

Section 13. Right to Assign. This franchise shall be assignable only in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made.

Section 14. Conditions of Franchise. This contract, franchise, grant and privilege is granted and accepted under and subject to all applicable laws and under and subject to all of the orders, rules and regulations now or hereafter adopted by governmental bodies now or hereafter having jurisdiction, each and every provision hereof shall be subject to Acts of God, fires, strikes, riots, floods, war and other causes beyond the telephone company's control. This franchise shall not be exclusive.

Section 15. Invalidity of Ordinance. If any clause, sentence, or section of this ordinance shall be held to be invalid, it shall not affect the remaining provisions of this ordinance.

Section 16. Venue. This agreement shall be construed under and in accordance with the laws of the State of Kansas, and all obligations of the parties hereunder are performable in Labette County, Kansas. In the event that any legal proceeding is brought to enforce the terms of this agreement, the same shall be brought in Labette County, Kansas limited to state court action. Nothing in Section 16 shall be construed to limit or restrict telephone company's right to initiate action in federal court (Kansas District) or to remove a state court action to federal court (Kansas District).

Section 17. Notice. For the purpose of this agreement, notice to the city will be to:

City Clerk  
City of Chetopa  
P.O. Box 203  
Chetopa, KS 67336

Notice to the telephone company will be to:

Southwestern Bell Telephone  
Area Manager-Municipal Affairs  
220 E. 6th, Room 505  
Topeka, KS 66603

Notice will be effective upon delivery by hand delivery or by first class mail to the above address until the city or the telephone company notifies the other, in writing, of a change in address.

Section 18. Repealed of Ordinance 175. Ordinance 175 shall be canceled, annulled, repealed and set aside.

Section 19. Public Purpose. All of the regulations provided in this ordinance are hereby declared to be for a public purpose and the health, safety, and welfare of the general public. Any member of the governing body or city official or employee charged with enforcement of this ordinance, acting for the city in the discharge of his duties, shall not thereby render himself personally liable; and he is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his said duties. Neither the city nor the telephone company by accepting this ordinance waives its right to seek all appropriate legal and equitable remedies as allowed by law upon violation of the terms of this ordinance, including seeking injunctive relief in a court of competent jurisdiction.

(05-19-98)

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**CHETOPA**  
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**ORDINANCE NO. 864**

AN ORDINANCE ADOPTING THE CODIFICATION OF ORDINANCES OF THE CITY OF CHETOPA, KANSAS, AUTHORIZED BY ORDINANCE NO. 750 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 Chetopa, Kansas:

Section 1. The codification of ordinances of the City of Chetopa, Kansas, authorized by Ordinance No. 750 and K.S.A. 12-3014 and 12-3015, as set out in the following chapters, Chapters I to XVI and Appendices A and B, all inclusive, and entitled the "Code of the City of Chetopa, Kansas, 2014," is hereby adopted and ordained as the "Code of the City of Chetopa, Kansas, 2014," and said codification shall become effective upon publication of no fewer than 10 copies of said code in book form.

Section 2. All ordinances and parts of ordinances of a general nature passed prior to July 15, 2014, in force and effect at the date of the publication of no fewer than 10 copies of the "Code of the City of Chetopa, Kansas, 2014," 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 or 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 Chetopa, Kansas, 2014," 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 Chetopa, Kansas, 2014," as provided in K.S.A. 12-3015.

Passed by the Governing Body of the City of Chetopa, Kansas, this 15th day of July, 2014.

/s/ Ron Wood, Mayor

ATTEST: /s/ Toni Crumrine, City Clerk

(SEAL)

**ORDINANCE NO. 750**

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE CODIFICATION OF THE GENERAL ORDINANCES OF THE CITY OF CHETOPA, KANSAS, AND THE PUBLICATION OF SUCH CODIFICATION IN PERMANENTLY BOUND OR LOOSELEAF BOOK FORM.

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

Section 1. That a codification of the general ordinances of the City of Chetopa, Kansas, including supplements thereto, as authorized by K.S.A. 12-3014 and 12-3015, is hereby ordered, authorized and provided for, the preparation of which shall be done by the League of Kansas Municipalities as provided by contract. When completed, the codification shall be adopted by ordinance and published together with the adopting ordinance in loose-leaf book form. No fewer than 10 copies shall be published. Such codification shall be entitled, "Code of the City of Chetopa, 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 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 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 2nd day of January, 2002

/s/Robert Kirkwood, Mayor

ATTEST: /s/ Toni Crumrine, City Clerk

(SEAL)