

CODE OF THE CITY OF BAZINE KANSAS

Published Under the Authority and by the Direction of
The Governing Body of the City of Bazine,
Kansas, this 13th day of June 2022

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

ROSTER OF CITY OFFICIALS

CITY OF BAZINE

GOVERNING BODY

Mayor

Patricia Showalter

Councilmembers

Jeff Werth

~~Debra LeDoux~~

Cindy Fuentes

Mike Tyrell

Scott Corsair

Beverly Hall

Administrative Officials

~~Lori Hertel~~
City Clerk

Debbie LeDoux

Tony Rues
City Attorney

City Treasurer

Chuck R. Pike
Municipal Judge

Bob Black
Fire Chief

Chief of Police

PREFACE

This volume contains the Code of the City of Bazine, Kansas, 2022.5. As expressed in the adopting ordinance, the code supersedes all ordinances passed prior to June 13, 2022 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 Bazine 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. Headnotes 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Any section of this code may be amended or repealed by ordinary ordinance by reference to the code section number as follows: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 Bazine 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 Bazine 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All sections or articles or chapters to be repealed shall be repealed by specific reference as follows:

"Section 1-105 (or article or chapter) of the Code of the City of Bazine is hereby repealed."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

CERTIFICATE OF THE CITY CLERK

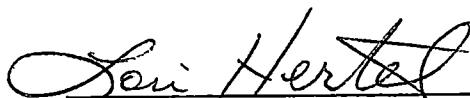
Office of the City Clerk
City of Bazine, Kansas

State of Kansas)
)
Ness County)

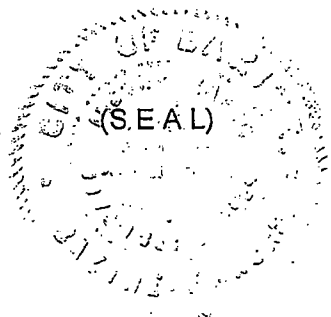
I, Lori Hertel, City Clerk of the City of Bazine, Ness County, Kansas do hereby certify that said city is a city of the third class of the mayor-council form of government under the statutes of Kansas; that this codification of the general ordinances of said city and the publication thereof in book form were ordered and authorized by the governing body by Ordinance No. 285 and in accordance therewith is entitled the "Code of the City of Bazine, Kansas, 2022.5," that said codification was adopted as the "Code of the City of Bazine, Kansas, 2022.5," by the governing body by Ordinance No. 322 passed on the 13th day of June, 2022, as authorized by Section 12-3015 of the Kansas Statutes Annotated; that said Ordinance No. 322 and said codification of general ordinances as contained in this volume will take effect upon publication of 10 or more copies; that the publication of 10 copies of this code and adoptive Ordinance No. 322 constitute due passage of this code and all general ordinances contained therein; that the codification and adoptive Ordinance No. 322 as contained herein are true and correct copies; and that said publication imports absolute verity and is to be received in evidence in all courts and places without further proof as provided by 12-3015 of the Kansas Statutes Annotated.

I further certify that the "Code of the City of Bazine, Kansas, 2022.5," and the matter therein contained will take effect upon publication and be in force from and after June 13, 2022.

Witness my hand and the seal of the City of Bazine, Kansas, at my office in Bazine, Kansas, this 13th day of June, 2022.



Lori Hertel, City Clerk
City of Bazine, Kansas



ORDINANCE NO. 285

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE CODIFICATION OF THE GENERAL ORDINANCES OF THE CITY OF BAZINE, KANSAS, AND THE PUBLICATION OF SUCH CODIFICATION IN LOOSELEAF BOOK FORM.

Be It Ordained by the Governing Body of the City of Bazine:

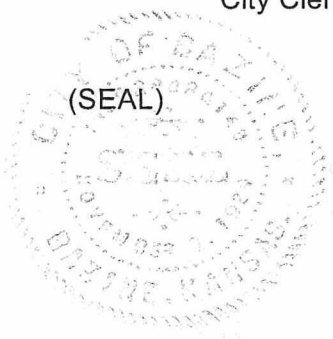
Section 1. That a codification of the general ordinances of the City of Bazine, Kansas, including supplements thereto, as authorized by K.S.A. 12-3014 and 12-3015, is hereby ordered, authorized and provided for, the preparation of which shall be done by the League of Kansas Municipalities as provided by contract. When completed, the codification shall be adopted by ordinance and published together with the adopting ordinance in loose-leaf book form and no fewer than 10 copies shall be published. Such codification shall be entitled, "Code of the City of Bazine, 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 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 14th day of January, 2013.

Patricia Hovatter
Mayor

ATTEST: Lori Hertel
City Clerk



ORDINANCE NO. 322

AN ORDINANCE ADOPTING THE CODIFICATION OF ORDINANCES OF THE CITY OF BAZINE, KANSAS, AUTHORIZED BY ORDINANCE NO. 285 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 Bazine, Kansas:

Section 1. The codification of ordinances of the City of Bazine, Kansas, authorized by Ordinance No. 285 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 Bazine, Kansas, 2022.5," is hereby adopted and ordained as the "Code of the City of Bazine, Kansas, 2022," 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 June 13, 2022, in force and effect at the date of the publication of no fewer than 10 copies of the "Code of the City of Bazine, Kansas, 2022.5," 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 Bazine, Kansas, 2022.5," 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 Bazine, Kansas, 2022.5," as provided in K.S.A. 12-3015.

Passed by the Governing Body of the City of Bazine, Kansas, this 13th day of June, 2022.

Patricia Shawalter Mayor

ATTEST: Ken Hertel City Clerk

(SEAL)

BAZINE
COMPARATIVE TABLE OF ORDINANCES

This table shows the location within this code of all ordinances of a general nature passed prior to August 11, 2014.

<u>Ordinance</u>	<u>Section</u>
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204	1-611:615
214	15-225:228
223	15-601:611
227	11-201:205
234	App. B
238	15-205
243	15-215,222
245	1-203
246	4-601:614; 8-201:204; 8-301,303:306, 308:310,312,313
255	9-112
256	15-523
262	2-102,105,115,117,118 2-201,204,206,207,211,213
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266	8-401:407
267	8-803,807:813
267A	8-804
271	11-206:210
275	8-802,805:807,814
276	8-801:802
277	16-101:126
278	8-802
282	App. B
287	15-221,428
289	1-305
C.O. #1	App. A
C.O. #2	App. A; 1-208
C.O. #3	App. A
C.O. #4	App. A; 9-112
C.O. #5	App. A
C.O. #6	App. A
C.O. #7	App. A
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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 Bazine, Kansas," and may be so cited. The Code may also be cited as the "Bazine 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 Bazine, Kansas.
 - (b) Code - shall mean "The Code of the City of Bazine, 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 Ness 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 Bazine 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 Bazine 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 Bazine 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 Bazine 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 five (5) council members 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 third class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law. All executive and administrative authority granted or limited by law shall be vested in the mayor and city 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 second Monday of each month at the hour of seven (7) o'clock PM. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the city offices, the governing body shall 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. 15-106; Ord. 245; Code 2014)
- 1-204. SAME; QUORUM. In all cases, it shall require a majority of the city council-elect to constitute a quorum to do business. (K.S.A. 15-106; 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. 15-301:302; 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. 15-310; 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.** (a) In case of a vacancy in the council occurring by reason of resignation, death, or removal from office or from the city, the Mayor, by and with the advice and counsel of the remaining Councilmen, shall appoint some suitable elector to fill the vacancy until the next election for that office.
 (b) In case of a vacancy in the office of Mayor, the President of the Council shall become Mayor until the next regular election for that office and a vacancy shall occur in the office of the Councilman becoming Mayor.
(C.O. 2; 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 Bazine, 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. One copy of said Code of Procedure for Kansas Cities shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Bazine, 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 non-pecuniary gift, of only nominal value or (b) an award publicly presented in recognition of public service or (c) any gift which would have been offered or given to him or her if not an official or employee.

(4) Representing Private Interest Before City Agencies or Courts - No elected or appointive city official or employee whose salary is paid in whole or in part by the city shall appear 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. At the first regular meeting in May of each year the mayor, by and with the consent of the council, shall appoint a city clerk and may appoint a city attorney, municipal judge and such other officers as may be deemed necessary for the best interest of the city. Such officers shall hold their respective offices until their successors have been appointed and qualified. All such appointments shall be entered on the journal of proceedings of the governing body. The duties and salaries of all appointed officers shall be fixed by ordinance. (K.S.A. 15-204; Code 2014)
- 1-302. EMPLOYEES. The governing body shall have authority to hire all other employees. (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. 15-204; Code 2014)
- 1-304. VACANCY IN OFFICE. Whenever a vacancy occurs in any appointive office for whatever reason, the vacancy shall be filled by the governing body. Any person appointed to fill such vacancy shall serve only until the next regular time for appointment. (K.S.A. 15-209; Code 2014)
- 1-305. SALARIES OF OFFICERS AND EMPLOYEES. The following employee shall receive as compensation for their services the following amount:
(a) City Clerk, ~~per month~~ per year..... ~~\$847.54~~ \$11,000.00
(Code 2021)
(b) Municipal Judge \$125.00 per hour
(Code 2021)
- 1-306. 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)
- 1-307. 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)

1-308. 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)

1-309. 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)

1-310. ASSISTANT CITY CLERK. (Reserved)

1-311. CITY TREASURER. (Reserved)

1-312. CITY ATTORNEY; OFFICE; DUTIES. There is hereby established the office of city attorney. No person shall be eligible for the office of city attorney who is not an attorney at law admitted to practice in the Supreme Court of the State of Kansas. The city attorney shall be charged with the general direction and supervision of the legal affairs of the city. The city attorney shall:

- (a) Attend meetings of the city council when so directed to attend by the governing body;
- (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 governing body give opinions in writing upon any such questions;
- (d) Draft such ordinances, contracts, leases, easements, conveyances and other instruments in writing as may be submitted to him 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.

(Code 2014)

- 1-313. CITY PROSECUTOR; OFFICE; DUTIES. (a) There is hereby established the office of city prosecutor. No person shall be eligible for the office of city prosecutor who is not an attorney at law admitted to practice law in the State of Kansas. The city prosecutor shall:
- (1) Attend meetings of the governing body when so directed to attend by the mayor or city attorney;
 - (2) Advise the city council and all officers of the city upon legal questions affecting the city and its officers as may be submitted to him or her;
 - (3) Draft such ordinances and other instruments in writing as may be submitted to him or her in the regular transactions of the affairs of the city;
 - (4) Appear and prosecute all violations of city ordinances in municipal court;
 - (5) Perform such other duties as may be prescribed by the governing body and the Kansas statutes.
- (b) The governing body may appoint a city prosecutor in accordance with section 1-301. In the event that there is no city prosecutor, the city attorney shall serve in such capacity.
(Code 2014)
- 1-314. CITY ENGINEER. (Reserved)
- 1-315. 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)
- 1-316. 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)

ARTICLE 4. PERSONNEL POLICY AND EMPLOYEE BENEFITS
(Reserved)

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. (Reserved)

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 – Reserved.
 - (c) Chief of Police – Reserved..
 - (d) Fire Chief - Reserved
 - (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. The 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.
(Ord. 204; 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 \$20 per hour per employee engaged in the record search. A minimum charge of \$20 shall be charged for each such request. (Ord. 204; Code 2014)

1-613. COPYING FEE. (a) A fee of \$0.25 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.
(Ord. 204; 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 fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed \$20.

(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. (Ord. 204; 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.
(Ord. 204; 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 Ness 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 Ness 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 Bazine 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 clerk shall periodically report to the governing body as to the amount of money available for investment and the period of time such amounts will be available for investment, and shall submit such recommendations as deemed necessary for the efficient and safe management of city finances. The recommendations of the city clerk shall provide for an investment program which shall so limit the amounts invested and shall schedule the maturities of investments so that the city will, at all times, have sufficient moneys available on demand deposit to assure prompt payment of all city obligations. (Code 2014)
- 1-706. CUSTODY AND SAFEKEEPING. Securities purchased pursuant to this article shall be under the care of the mayor, council president and city clerk and shall be held in the custody of a state or national bank or trust company, or shall be kept by such officers in a safety deposit box of the city in a bank or trust company. Securities in 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 clerk 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

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 2-115.

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

(i) Fowl - means all animals that are included in the zoological class aves, which shall include, but not 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 4 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) There is hereby created the position of animal control officer for the city and such officer shall be charged with the enforcement of this chapter. Any person employed by the city as an animal control officer and commissioned by the city council 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 mayor 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, harborer or keeper of an animal in violation of this chapter, and the person receiving the citation shall, within 10 days, appear in the municipal court of the city to answer the charged violation of this chapter.

(Ord. 262; 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 2-115, or any animal creating a nuisance as defined in section 2-111, 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.

(Ord. 262; 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 for any person to:

(a) Intentionally abandon or leave any animal in any place without making provisions for its proper care;

(b) Have physical custody of any animal and intentionally fail to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal;

(c) Intentionally use a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment; or

(d) Intentionally cause any physical injury other than acts constituting a felony as defined in K.S.A. 21-4310, and amendments thereto

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

In addition to the penalties provided in section 1-116 of this code, the municipal court judge may order a person convicted of violation under this section to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be placed with another or more suitable person or destroyed humanely as soon thereafter as is conveniently possible.
(Code 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. KEEPING ANIMALS. It shall be unlawful for the owner, lessee, occupant or person in charge of any premises in the city to possess and maintain any animal or fowl within the city or permit to be maintained thereon any stable, shed, pen or other place where horses, mules, cattle, sheep, goats or swine, or undomesticated animals are kept. This provision shall not apply to:

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

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

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

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

(e) The maintaining of chickens not to exceed 10.
(Code 2014)

2-110. ANIMAL TRAPS. It shall be unlawful for any person to use, place, set out, or deploy any animal trap aboveground, which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap; except that nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals.
(Code 2014)

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

- (a) Molests or interferes with persons in the public right-of-way;
- (b) Attacks or injures persons, or other domestic animals;
- (c) Damages public or private property other than that of its owner or harbored 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)

2-112. NOISY ANIMALS. The keeping or harboring of any animal which by loud, frequent and habitual barking, howling, yelping, mewing, roaring or screeching shall disturb the peace of any neighborhood is hereby prohibited. It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the condition, and if he or she fails to do so, the city may abate it by taking up, impounding and/or disposing of the animal at the expense of the owner.
(Code 2014)

2-113. ANIMAL CONFINES; SHELTERS. (a) It shall be unlawful for any person to keep or maintain any animal in any yard, structure or area that is not clean, dry and sanitary, free from debris and offensive odors that annoy any neighbor, and devoid of rodents and vermin.

(b) Excrement shall be removed at least once each week from any animal shelter, pen or yard area where animals are kept, or more often if necessary to prevent or control odors, fly breeding, or rodent infestation. If excrement is stored on the premises by any animal owner, it shall be stored in adequate containers with fly-tight lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(c) All animal shelters, pens and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.

(d) All animal shelters and board fences confining animals shall be maintained in good repair, and all animal shelters and board fences confining animals subject to residential and commercial classification shall be protected from deterioration by painting or comparable treatment.

(e) Barbed wire fences and electrically charged fences shall not be permitted for animal confines except on properties for which an agricultural classification permit is held or where the barbed wire fence or electrically charged fence is protected by an exterior fence.

(f) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized law enforcement officer, or public health official. If the officer or official determines from such inspection that the premises are not being maintained in a clean and sanitary manner, he or she shall notify the owner of the animals in writing to correct the sanitation deficiencies within 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.

(Code 2014)

2-113A.

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 8-602:607 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)

2-114. DEATH OF ANIMALS. All dead animals shall be disposed of by the owner or keepers within 24 hours of the animal's death, by burial, incineration in a facility approved by the animal control officer, by rendering or by other lawful means approved by the animal control officer. No dead animal shall be dumped on any public or private property. (Code 2014)

2-115. VICIOUS ANIMALS. (a) Prohibited: It shall be unlawful for any person to keep, possess or harbor a vicious animal within the city. Impoundment of animals whose owners have been cited for violation of this section shall be at the discretion of the animal control officer. If the animal presents a clear and present danger to the public health or safety, it shall be the duty of the animal control officer or his or her agent to impound such animal.

(b) Defined: For purposes of this chapter a vicious animal shall include:

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

(2) Any animal which attacks a human being or domestic animal without provocation;

(3) Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting;

(4) Any animal which is urged by its owner or harborer to attack, or whose owner or harborer threatens to provoke such animal to attack, any law enforcement officer while such officer is engaged in the performance of official duty.

(c) Complaint: Whenever a sworn complaint is filed in the municipal court against the owner of an animal alleging that such animal is vicious and in

violation of this section, the municipal judge shall hold a hearing to determine whether or not the animal is vicious within the meaning of this section and thereby in violation of this section. The owner of the animal shall be notified in writing of the time and place of the hearing at least one week prior to the hearing. In making a determination, the municipal judge shall consider the following:

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

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

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

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

(f) Release of: If a complaint has been filed in the municipal court against the owner of an impounded animal for a charge under this section, the animal shall not be released except on the order of the municipal judge, who may also direct the owner to pay all impounding fees in addition to any penalties for violation of this chapter. The municipal judge may, upon making a finding that an animal is vicious or that it represents a clear and present danger to the citizens or to other animals in the community, order the animal to be destroyed in a humane manner by the animal shelter. Surrender of an animal by the owner thereof to the animal control officer does not relieve or render the owner immune from the decision of the court, nor to the fees and fines which may result from a violation of this section. (Ord. 262; Code 2014)

2-116. **RUNNING AT LARGE.** It shall be unlawful for any person to willfully allow any animal or fowl under his or her control to be or to run at large within the city. Any animal or fowl found at large shall be impounded as provided in section 2-117 or 2-207 (dogs). (Code 2014)

2-117. IMPOUNDMENT; FEE; NOTICE; RECORD. (a) The animal control officer or law enforcement officer shall impound any animal or fowl found at large in the city or constituting a nuisance or otherwise in violation of this chapter in a suitable pound or enclosure provided or contracted for by the city. The impounding officer shall make diligent inquiry as to the owner of the animal and shall notify the owner thereof of such impoundment as soon as reasonably possible.

(b) The city shall be entitled to receive from such owner an impoundment fee of \$50 plus the actual cost of feeding and maintaining the animal while impounded.

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

(d) The animal control officer shall each month submit a report to the governing body showing the number of animals impounded and disposed of, and the fees collected pursuant to this article and shall pay those fees to the city clerk for credit to the general operating fund. (Ord. 262; Code 2014)

2-118. REDEMPTION OF IMPOUNDED ANIMALS. At any time before the sale or destruction of any animal impounded under the provisions of this article, except for animals impounded under sections 2-115 (vicious) and 2-119 (rabid), the owner thereof may redeem the animal by paying the animal control officer or any person in charge, the impounding fee and all costs incurred as a result of such impoundment. (Ord. 262; Code 2014)

2-119. IMPOUNDMENT OF RABIES SUSPECTS. (a) Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in the city pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. If in the opinion of the local health officer symptoms develop justifying a microscopic examination, then the animal shall be killed and examination made by the state board of health.

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

(c) Any animal desired for observation by the local health officer under this section shall be delivered to the animal control officer or any law enforcement officer upon demand and shall not be withheld, hidden or harbored. Any person violating this provision shall be guilty of a violation of this code. Upon refusal of any person to so deliver such animal, the municipal judge shall cause a warrant to be issued for the arrest of such person, which warrant shall also provide for the surrender of the animal and shall be lawful authority for the apprehending and forcible taking of such animal.
(Code 2014)

2-120. ANIMALS BITTEN BY RABID ANIMALS. Whenever a dog, cat or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten, to report that fact to the local health officer and/or the police department. It shall also be the duty of the owner of the bitten animal to either destroy or have 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)

2-121. VEHICULAR ACCIDENTS INVOLVING ANIMALS. Any person who as the operator of a motor vehicle strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained, and located, the operator shall at once report the accident to the animal control officer or any law enforcement officer. (Code 2014)

2-122. EMERGENCY; PROCLAMATION. The mayor or designee 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)

2-123 KENNEL LICENSES. No person or household shall own or harbor more than four dogs six months of age or older or more than one litter of pups, or more than four cats more than six months of age or more than one litter of kittens, or more than a total of eight 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 kennel license from the city clerk.

(a) Kennel licenses must be renewed annually. No kennel license shall be issued until an inspection certificate has been issued by the animal control officer certifying approval of the kennel and compliance with the applicable laws of the city and the state of Kansas, and a certificate by the code enforcement officer has been issued certifying that the applicant for the kennel license is not violating laws of the city. If the city clerk has not received any protest against the kennel, the city clerk may issue a renewal of an existing kennel license at the same location without any report from the animal control officer and zoning code enforcement officer. If the animal control officer or the zoning code enforcement officer finds that the holder of any kennel license is violating any zoning law, or any other law of the State of Kansas, or of the city, or is maintaining the facility in a manner detrimental to the health, safety or peace of mind of any person, residing in the immediate vicinity, he or she shall report such fact to the city clerk, and the license shall not be renewed except after a public hearing before the governing body.

(b) The kennel must comply with all applicable codes governing animals as specified in Chapter II. The maximum number of dogs allowed shall be twenty-five (25). The maximum number of litters per year is three (3). When applying for dog tags a photo ID must be provided. (Code 2022)

(c) The animal control officer, the zoning enforcement officer, or any law enforcement officer shall have the right to inspect any premises licensed under this section at any reasonable time and nothing shall prevent the entry onto private property for the purpose of inspection. The application for a kennel shall constitute consent to such entry and inspection.

(d) The governing body may suspend or revoke a kennel license if, pursuant to a public hearing, it finds any of the following:

(1) The kennel is maintained in violation of any applicable laws of the State of Kansas, or of the city.

(2) The kennel is maintained so as to be a public nuisance.

(3) The kennel is maintained so as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity.

(e) The annual kennel license fee shall be \$50. Payment of such license fee is in addition to, and not in lieu of, the dog license fees otherwise required under the chapter.

This section shall not apply to and will not be construed to require a kennel license for a licensed veterinarian to operate an animal hospital. (Code 2021)

2-124 Picket or Tethering of Dogs. No person, entity or household shall continuously picket a dog for more than one (1) continuous hour, except that picketing of the same dog may resume after a hiatus of three (3) consecutive hours, for up to three (3) hours total time on picket per day.

For the purpose of picketing a dog, a chain, leash, rope or tether shall be at least ten (10) feet in length but shall not be of a length to allow the dog to come within two feet of any property line.

(a) A chain, leash, rope, collaring device, tether, or any assembly or attachments

thereto used to picket a dog shall not weigh more than 1/8th of the animal's body weight or due to weight, inhibit the free movement of the animal within the area picketed.

(b) Dogs shall be picketed in such a manner as to prevent injury, strangulation, or entanglement on fences, trees, or other man made or natural obstacles.

(c) It is unlawful to attach chains or other tether restraint implements directly to a dog without the proper use of a collar, harness or other device designed for that purpose and made from a material that prevents injury to the animal.

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 clerk 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 clerk shall collect an annual registration fee of \$5 for each neutered male dog and for each spayed female dog, and \$15 for each unneutered male dog and for each unspayed female dog.

(e) The registration year shall be from April 1st through March 31st of each year. The fee shall be payable before May 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 May of each year shall pay in addition to the registration fee herein provided a penalty fee for late registration of \$5 per month.

(Ord. 262; Code 2014)

2-202. DOG TAGS. It shall be the duty of the city clerk or designated agent, upon a showing of current rabies immunization and receipt of the registration fee hereinbefore required, to keep 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 clerk 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.
(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. (Ord. 262; 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; FINE. (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 shall be impounded as set out in section 2-207;
(c) The owner of any dog impounded for running at large without the tag required by section 2-202 shall, for the first offense, pay a fine of \$50 plus the board bill;
(d) For the first offense of an animal running at large with a tag as required by section 2-202, the owner or harbinger claiming any animal, shall, in addition to presenting a registration receipt, pay the cost of the board bill. For a second offense within a one year period, the owner or harbinger shall pay a fine of \$100 plus the board bill. For a third offense within a one year period, the owner or harbinger shall pay a fine of \$200 plus the board bill. All subsequent offenses within a one year period, the owner or harbinger shall pay a fine of \$400 plus the cost of the board bill.
(Ord. 262; Code 2014)
- 2-207. IMPOUNDMENT; RECORD; NOTICE; REDEMPTION; MINIMUM FEE.
(a) Any dog found in violation of the provisions of this article shall be subject to impoundment by the city.
(b) A record of all dogs impounded shall be kept by the city containing the following information: color, sex, weight, height, identifying marks, registration number (if any) and the date of impoundment.
(c) No dog impounded under this section shall be disposed of until after expiration of a minimum of three full business days of custody during which the public has clear access to inspect and recover the dog through time periods ordinarily accepted as usual business hours. During such time of custody, the city shall attempt to notify the owner or custodian of any dog impounded by such facility if the owner or custodian is known or reasonably ascertainable. Such dog may at any time be released to the legal owner, moved to a veterinary hospital for treatment or observation, released in any manner, if such dog was a gift to the animal shelter, or euthanized by a licensed veterinarian if it appears to the veterinarian that the dog is diseased or disabled beyond recovery. If within three full business days the owner does not appear to claim the dog, then the dog may be sold, euthanized or otherwise disposed of.
(d) If at any time before the sale or destruction of any dog impounded under the provisions of this article, the owner of an impounded dog does appear and redeem the dog, it shall be turned over to the person claiming it upon payment of any impoundment fees or penalties plus the actual costs of impoundment, and

shall not apply to any dog alleged as being vicious under section 2-115 or suspected of rabies under section 2-119 of this code.

(e) The minimum impoundment fee shall be \$ 50.

(f) Any dog impounded may not be released without a current rabies vaccination.

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

(h) 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. 262; Code 2014)

2-208. DISPOSITION OF UNCLAIMED DOGS. (a) If any dog is not redeemed by its owner or harbinger within the time allowed for redemption as specified in section 2-117 thereof, the animal control officer, any authorized law enforcement officer, any authorized veterinarian or any duly authorized pound personnel may destroy such dog or sell the same for the costs of impoundment and keeping, plus any registration fee due for the current year.

(b) No dog may be transferred to the permanent custody of a prospective owner unless:

(1) Such dog has been surgically spayed or neutered before the physical transfer of the dog occurs; or

(2) The prospective owner signs an agreement to have the dog spayed or neutered and deposits with the city not less than the lowest nor more than the highest cost of spaying or neutering in the community as determined by the city. Any funds deposited pursuant to such an agreement shall be refunded to such person upon presentation of a written statement signed by a licensed veterinarian that the dog has been spayed or neutered. If such person does not reclaim the deposit within six months after receiving custody of the dog, the city shall keep the deposit and may reclaim the unsplayed or unneutered dog.

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

(Code 2014)

2-209. CONFINEMENT OF DOGS IN HEAT. Any unsplayed 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, shall be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner. The owner of animals removed to the animal shelter shall be charged at the rate established from time to time by the animal shelter for routine confinement. (Code 2014)

- 2-210. 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)
- 2-211. VIOLATION OF VICIOUS ANIMAL PROVISIONS. Any person who owns or possesses a vicious dog in violation of Section 2-115 shall be guilty of a misdemeanor, punishable as follows:
(a) First offense, a fine shall be set at \$500. The fine shall be mandatory and the court shall have no authority to suspend the fine or any portion thereof. In addition, the court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of ninety (90) days.
(b) Second offense committed within five years of a prior offense, a fine, which shall be set at \$1,000. The fine shall be mandatory and the court shall have no authority to suspend the fine or any portion thereof. In addition, the court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of six months.
(Ord. 262; Code 2014)
- 2-212. VICIOUS ANIMAL; IMMEDIATE DESTRUCTION OF. Any law enforcement officer of Ness County, Kansas or the Mayor's designee may kill without notice, any animal that is vicious, or is infected with rabies or hydrophobia or any animal so injured that humane disposal of the animal is necessary.
(Ord. 262; Code 2014)
- 2-213. NOISY ANIMALS. (a) The keeping or harboring of any dog which by loud, frequent and habitual barking, howling, yelping, mewing, roaring or screeching shall disturb the peace of any neighborhood is hereby prohibited and declared to be a public nuisance and unlawful. It shall be the duty of any person harboring or keeping such loud or noisy dog or dogs to abate such nuisance by taking up, impounding and/or disposing of the dog(s) in the manner provided for in section 2-207.
(b) Any person convicted of a violation of this section shall be punished as follows:
(1) Upon a 1st conviction a minimum fine of \$15 plus court costs.
(2) Upon a 2nd conviction within one year a minimum fine of \$30 plus court costs.
(3) Upon a 3rd conviction within one year a minimum fine of \$60 plus court costs.
(4) Upon a 4th or subsequent conviction within one year a minimum fine of \$120 plus court costs.
(Ord. 262; Code 2014)
- 2-214. NUMBER OF DOGS ALLOWED. (a) It is unlawful for any person to possess, keep or harbor, or allow to be possessed, kept or harbored, in or at a single-family residence or individual unit in a multifamily residence, or any other structure or residence, regardless of ownership of the animals, more than four (4) dogs with exception that a litter of pups may be kept for a period of time not to exceed five (5) months from birth.

(b) A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. Each dog kept in excess of the limits set forth in this section shall be deemed to be a separate offense. In addition to any fine that might be imposed, the court may also order the immediate impoundment and destruction of each and every dog being kept in excess of the limit established in this section. Upon order of the court, the City may seize and impound each animal kept in violation of this section.

(Ord. 262; Code 2015)

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) Their location conforms to the provisions of the zoning ordinance of the city.

(2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.

(3) Animals are maintained in quarters so constructed as to prevent their escape.

(d) The municipal judge shall have the authority to order any animal deemed vicious confined, destroyed or removed from the city. (Code 2014)

CHAPTER III. BEVERAGES

- Article 1. General Provisions
- Article 2. Enhanced Cereal Malt Beverages
- Article 3. Special Event CMB Permits

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 enhanced 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) Enhanced Cereal Malt Beverage - means cereal malt beverage as that term is defined in K.S.A. 41-2701, and amendments thereto, and such term shall include beer containing not more than 6% alcohol by volume when such beer is sold by a retailer licensed under the Kansas cereal malt beverage act.

(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 enhanced cereal malt beverages at retail.

(j) Limited Retailer - means a person who has a license to sell enhanced 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 enhanced 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 enhanced cereal malt beverages at retail.
(Code 2019)

3-102. RESTRICTION ON LOCATION. (a) No alcoholic liquor shall be sold or served by a person holding a license or permit from the city whose place of business or other premises are located within 200 feet of any (church, school, nursing home, library, hospital, said distance to be measured from the nearest property line of such (church, school, nursing home, library, hospital), to the nearest portion of the building occupied by the premises.

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

(c) No license or permit shall be issued for the sale of alcoholic liquor if the building or use does not meet the zoning ordinance requirements of the city or conflicts with other city laws, including building and health codes.
(Code 2019)

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 30 percent of its gross receipts in each calendar year from the sale of alcoholic liquor for on-premises consumption.
(Code 2019)

3-104. CONSUMPTION ON PUBLIC PROPERTY. No person shall drink or consume any alcoholic liquor on city owned public property.
(K.S.A. Supp. 41-719; Code 2019)

3-105. PUBLIC SALE; CONSUMPTION. (a) It shall be unlawful for any person to sell, serve or dispense any enhanced 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 enhanced 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 2019)

ARTICLE 2. ENHANCED CEREAL MALT BEVERAGES

- 3-201. **LICENSE REQUIRED OF RETAILERS.** (a) It shall be unlawful for any person to sell any enhanced cereal malt beverage at retail without a license for each place of business where enhanced cereal malt beverages are to be sold at retail.
- (b) It shall be unlawful for any person, having a license to sell enhanced cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any enhanced cereal malt beverage in any other manner.
- (K.S.A. 41-2702; Code 2019)
- 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 two years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States;
- (Code 2019)
- 3-202A. **LICENSE APPLICATION PROCEDURES.** (a) All applications for a new and renewed enhanced 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) An applicant who has not had an enhanced cereal malt beverage license in the city shall attend the governing body meeting when the application for a new license will be considered. (Code 2019)
- 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. (Code 2019)
- 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. (Code 2019)

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 Ness county for at least six months prior to filing of such application.

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

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

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

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

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

(g) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 25 percent of the stock, of a corporation 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 enhanced cereal malt beverage laws of this state.

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

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

(j) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under the Kansas Cereal Malt Beverage Act. (Code 2019)

3-206.

RESTRICTION UPON LOCATION. (a) No license shall be issued for the sale at retail of any enhanced 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 enhanced cereal malt beverage at any place within the city limits that is within a 200-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 enhanced 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; Code 2019)

- 3-207. LICENSE FEE. The rules and regulations regarding license fees shall be as follows:
- (a) General Retailer - for each place of business selling enhanced cereal malt beverages at retail, \$98 per calendar year.
 - (b) Limited Retailer - for each place of business selling only at retail enhanced cereal malt beverages in original and unopened containers and not for consumption on the premises, \$73 per calendar year.
- Full amount of the license fee shall be required regardless of the time of the year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued. (K.S.A. 41-2702; Code 2019)
- 3-208. SUSPENSION OF LICENSE. Reserved.
- 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 enhanced 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 enhanced 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 enhanced 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 enhanced cereal malt beverage;
 - (6) The employment or continuation in employment of a person in connection with the sale, serving or dispensing of enhanced 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 2019)

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 Ness 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 shall 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; Code 2019)

3-211. CHANGE OF LOCATION. Reserved.

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 enhanced 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; Code 2019)

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 enhanced cereal malt beverages may be sold or dispensed between the hours of 12:00 midnight and 6:00 a.m., or consumed between the hours of 12:30 a.m. and 6:00 a.m., or on Sunday, except in a place of business which is licensed to sell enhanced 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.

(d) Enhanced 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 enhanced 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 enhanced cereal malt beverages. No licensee shall employ any person who has been judged guilty of a felony.
(Code 2019)

3-214. PROHIBITED CONDUCT ON PREMISES. The following conduct by a enhanced cereal malt beverage licensee, manager or employee of any licensed enhanced 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 enhanced 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 2019)

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. (Code 2019)

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 enhanced 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 30 percent of its gross receipts in each calendar year from the sale of enhanced cereal malt beverages for on- premises consumption.
(Code 2019)

ARTICLE 3. SPECIAL EVENT CMB PERMITS

- 3-301. 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 2019)
- 3-302. SAME; PERMIT FEE. (a) There is hereby levied a special event permit fee in the amount of \$25 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 for a total fee of \$50.
(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)
- 3-303. 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 7 days before the event. Written application for the local special event permit shall be made to the city clerk on the form used for annual enhanced 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 2019)
- 3-304. 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 2019)

CHAPTER IV. BUILDINGS AND CONSTRUCTION

Article 1. Fire Limits (Reserved)

Article 2. Moving Buildings

Article 3. Dangerous and Unfit Structures

Article 4. Fences

ARTICLE 1. FIRE LIMITS (Reserved)

ARTICLE 2. MOVING BUILDINGS

- 4-201. **BUILDING OFFICIAL; AUTHORITY.** The mayor or his or her authorized designee shall be responsible for the administration and enforcement of this article and appointment of an inspector.
(Code 2014)
- 4-202. **PERMIT REQUIRED.** No person, firm or corporation shall move, haul, or transport any house, building, derrick, or other structure of the height when loaded for movement of 16 feet or more from the surface of the highway, road, street or alley, or a width of eight feet or more or which cannot be moved at a speed of four miles per hour or faster, upon, across or over any street, alley or sidewalk in this city without first obtaining a permit therefor. (K.S.A. 17-1914; Code 2014)
- 4-203. **SAME: APPLICATION FOR PERMIT.** All applications for permits required under the provisions of this article shall be made in writing to the city clerk specifying the day and hour said moving is to commence and the route through the city's streets over which the house, building, derrick or other structure shall be moved and stating whether it will be necessary to cut and move, raise, or in any way interfere with any wires, cables or other aerial equipment of any public or municipally-owned utility, and if so, the application shall also state the name of the public or municipally-owned utility, and the time and location that the applicant's moving operations shall necessitate the cutting, moving, raising or otherwise interfering with such aerial facilities. (K.S.A. 17-1915; Code 2014)
- 4-204. **SAME; BOND, INSURANCE REQUIRED.** (a) It shall be the duty of any person at the time of making application for a permit as provided in this article to give a good and sufficient surety bond to the city, to be approved by the governing body, indemnifying the city against any loss or damage resulting from the failure of any such person to comply with the provisions of this article or for any damage or injury caused in moving any such house or structure. The bond herein shall be in the sum of \$5,000, or cash may be deposited in lieu of such surety bond.
(b) A public liability insurance policy issued by an insurance company authorized to do business in the State of Kansas, in the amount of \$100,000 per person, \$300,000 per accident as to personal injury, and \$50,000 property damage may be permitted in lieu of a bond.
(Code 2014)
- 4-205. **SAME; FEE.** Before any permit to move any house or structure is given under the provisions of this article, the applicant shall pay a fee of not less than \$5 to the city clerk; plus the additional cost for the time for any city crews involved in such moving. (Code 2014)
- 4-206. **CONTRACTOR; LICENSE REQUIRED; FEE.** Any contractor, house wrecker, or mover shall pay a license fee of \$500 before any work can begin. (Code 2014)
- 4-207. **ROUTE; DUTIES OF BUILDING OFFICIAL.** The city clerk shall, upon filing of the above application, refer the same to the chief building official or his or her authorized designee to check the proposed route and determine if it is practical to move such house or other structure over the route proposed. If it shall appear that such route is not practical and another route may be used equally well with less

danger to street and travel, then he or she may designate such other route as the one to be used and shall notify the applicant of the same. The building official may also require the planking of any street, bridge or culvert or any part thereof to prevent damage thereto. It shall also be the duty of the chief building official or his or her authorized designee to inspect the progress of moving any house or other structure to see that the same is being moved in accordance with the provisions of this article. (Code 2014)

4-208. NOTICE TO OWNERS. (a) Upon issuance of a moving permit the applicant shall give not less than 15 days written notice to any person owning or operating any wires, cables or other aerial equipment along the proposed route of the intent to move the structure, giving the time and location that the applicants moving operation shall necessitate the cutting, moving, raising or interfering of any wires, cables or other aerial equipment.

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

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

(K.S.A. 17-1916; Code 2014)

4-209. DUTY OF OWNERS. (a) It shall be the duty of the person or the city owning or operating such poles or wires after service of notice as provided herein, to furnish competent lineman or workmen to remove such poles, or raise or cut such wires as will be necessary to facilitate the moving of such house or structure. The necessary expense which is incurred thereby shall be paid by the holder of the moving permit.

(b) The owner of any wires, cables or other aerial equipment, after service of notice as provided in section 4-208, shall be liable to the permit holder for damages in an amount not to exceed \$100.00 per day for each day the owner shall fail or refuse to accommodate the permit holder's moving operations.

(K.S.A. 17-1917; Code 2014)

4-210. INTERFERING WITH POLES; WIRES. It shall be unlawful for any person engaged in moving any house or other structure to raise, cut or in any way interfere with any wires or poles bearing wires or any other aerial equipment.

(K.S.A. 17-1918; Code 2014)

4-211. DISPLAY OF LANTERNS. It shall be the duty of any person moving any of the structures mentioned in this article upon or across any street, alley or sidewalk or other public place, in this city, to display red lanterns thereon in such a manner as to show the extreme height and width thereof from sunset to sunrise.

(Code 2014)

4-212. RESTORATION AND REMEDIATION OF SITE. The owner shall be responsible for the restoration and remediation of the site from any structure(s) that is relocated.

(a) The owner shall be responsible for the removal and disposal of any and all debris associated from removal of any structure(s) that is relocated. The owner shall comply with any and all federal, state and local regulations and laws regarding

the relocating of any structures(s) and the disposal of any and all debris associated with said removal. Furthermore, the disposal of any resulting debris will not be disposed of on subject property from which said structure(s) was removed. The removal of any structure and of any debris resulting from said removal shall be completed within 30 days of the commencement of either. The owner assumes any and all liability associated with the removal of structure(s) and resulting debris.

(b) The owner shall be responsible for the restoration of any site from which the owner relocates a structure(s). The owner shall be responsible for complying with any and all federal, state and local regulations and laws regarding the restoration of said site. Site restoration includes, but is not limited to, removal of any foundation and basement material that is upon said site with the same being disposed of other than on the said site. Appropriate backfill material, at owner's expense, shall be used to bring the site to grade with allowance for settling. All such restoration shall be completed within 30 days of commencement of removal of structure(s). (Code 2014)

ARTICLE 3. DANGEROUS AND UNFIT STRUCTURES

4-301. **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. 246; Code 2014)

4-302. **DEFINITIONS.** For the purpose of this article, the following words and terms shall have the following meanings:

(a) Enforcing officer - means the public officer 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. 246; Code 2014)

4-303. **ENFORCING OFFICER; DUTIES.** The enforcing 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 enforcing 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. 246; Code 2014)

4-304. **PROCEDURE; PETITION.** Whenever a petition is filed with the enforcing officer by at least five residents charging that any structure is dangerous, unsafe or

unfit for human habitation, or whenever it appears to the enforcing 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. 246; Code 2014)

4-305. SAME; NOTICE. The governing body upon receiving a report as provided in section 4-304 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. 246; Code 2014)

4-306. 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, priority mail, commercial courier service, overnight delivery service or other reliable personal delivery service, in each instance evidenced by a written or electronic receipt showing to whom delivered, the date of delivery, the address where delivered and the person or entity effecting delivery, 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. 246; Code 2014)

4-307. 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. 246; Code 2014)

4-308. 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. 246; Code 2014)

4-309. 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 enforcing 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 enforcing officer may cause the structure to be removed and demolished.
(Ord. 246; Code 2014)

4-310. PENALTY. The public officer may file a complaint in the municipal court against any person found to be in violation of section 4 - 301 , provided however, that such person shall first have been sent a notice as provided in section 4 - 305 and that the person has not alleviated the conditions causing the alleged

violation. Upon such complaint in the municipal court, any person found to be in violation of section 4 - 301 shall upon conviction be punished by a fine of not less than \$50.00 nor more than \$100.00, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purposes of this article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. (Ord. 246; Code 2015)

4-311. 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 takesuch action, the enforcing officer may proceed to make the site safe. (Ord. 246; Code 2014)

4-312. ASSESSMENT OF COSTS. (a) The cost to the city of any repairs, alterations, improvements, vacating, removal or demolition by the enforcing officer, including making the site safe, shall be reported to the city clerk.

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

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

(d) If the proceeds of the sale of salvage 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. 246; Code 2014)

4-313. 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 enforcing officer to erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay. Lack of electricity, potable water, heating facilities during cold weather, or sewer service may be considered

prima facie evidence of a health or safety hazard sufficient to require the property to be vacated. 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. 246; Code 2016)

4-314. 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 enforcing officer from carrying out the provisions of the order pending final disposition of the case. (Ord. 246; Code 2014)

4-315. 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. 246; Code 2014)

ARTICLE 4. FENCES

4-401. PURPOSE. Permit is required for all fences before construction, there shall be no fee for this permit. The governing body has found that fences shall not be constructed or placed closer than four (4) feet from any curb, alley or street. This section does supersede Section 13-110 of this code, sidewalks cannot be obstructed. The four (4) foot restriction does not relieve the owner from ascertaining the location of their property line and City of Bazine right of way and/or property. If the four (4) foot set back means the fence is located on City of Bazine right of way and/or property, the fence may be removed at owners' expense by the city or their agents.

4-402. DEFINITIONS.

(a) Enforcing officer - means the public officer or his or her authorized representative.

(b) Fence – shall include any barrier enclosing or bordering a field, yard, etc., usually made of posts and wire or wood, used to prevent entrance, to confine, or to mark a boundary.

4-403. ENFORCING OFFICER; DUTIES. The enforcing 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 fence to determine if it is located at least four (4) feet from curb or street.

(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 fence. If entry is

denied, the enforcing officer may seek an order for this purpose from a court of competent jurisdiction;

(c) Report all fences which he or she believes to be located closer than four (4) feet to a curb or street to the governing body;

4-404. ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 4-401 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, priority mail, commercial courier service, overnight delivery service or other reliable personal delivery service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, priority mail, commercial courier service, overnight delivery service or other reliable personal delivery service, 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 fence 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.

4-405. SAME; CONTENTS. The order shall state the condition(s) which is (are) in violation of section 4-401. The order shall also inform the person, corporation, partnership or association that

(a) He, she or they shall have 45 days from the receipt of the order to abate the condition(s) in violation of section 4-401; provided, however, that the governing body [or its designee named in section 4-403] shall grant one or more extensions of the 45 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 4-401; or,

(b) He, she or they have 10 days from the receipt of the order, plus any additional time granted under subsection (a), to request a hearing before the governing body or its designated representative of the matter as provided by section 4-408;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 4-406 and/or abatement of the condition(s) by the city as provided by section 4-407.

4-406. FAILURE TO COMPLY; PENALTY. Should the person, corporation, partnership or association fail to comply with the order to abate the condition 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 4-401, be fined in an amount not to exceed \$100.00 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Code 2014)

4-407. ABATEMENT. In addition to, or as an alternative to prosecution as provided in

section 4-406, 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 4-404 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 4-405, 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 4-. 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, priority mail or commercial courier service; or
- (c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.
- (d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.
(Code 2014)

4-408. HEARING. If a hearing is requested within the 10 day period as provided in section 4-405, 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 4-207. (Code 2014)

4-409. COSTS ASSESSED. If the city abates or removes the nuisance pursuant to section 4-407, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, priority mail or commercial courier service, 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. (Code 2015)

CHAPTER V. BUSINESS REGULATIONS

Article 1. General Regulations and Licenses

ARTICLE 1. GENERAL REGULATIONS AND LICENSES

- 5-101. **BUILDING PERMIT REQUIRED; NO FEE.** No building shall be erected, enlarged or moved within the city without a permit therefor from the city clerk, who may require a plan of the proposed work. Such permit shall be issued upon approval of the Governing Body and conditioned upon the compliance with the provisions of this article. The requirements for building permits shall be as follows:
- (a) Application shall be submitted to city clerk 45 days prior to any work starting.
 - (b) Approval of the governing body.
- (Ord. 250; Code 2014)
- 5-102. **SAME; PENALTY.** Any person, firm or corporation violating any of the provisions of this article shall, upon conviction thereof, be fined in any sum not exceeding \$100, or be imprisoned not to exceed 30 days, or be both fined and imprisoned.
- (Ord. 250; Code 2014)

CHAPTER VI. ELECTIONS

Article 1. City Elections

ARTICLE 1. CITY ELECTIONS

- 6-101. **CONDUCT OF ELECTION.** The election of city officials shall be conducted in all respects as provided by the laws of Kansas governing the holding of city elections. (K.S.A. 25-2101 et seq.; 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. Reserved

Article 2. Fire Prevention

Article 3. Fireworks

ARTICLE 1. FIRE DEPARTMENT (Reserved)

ARTICLE 2. FIRE PREVENTION

7-201. ENFORCEMENT. This article shall be enforced by the fire chief of Ness County Fire District 2. (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 Bazine.

(b) All sections of the Uniform Fire Code relating to fireworks are hereby deleted in their entirety. (Code 2014)

7-204. OPEN BURNING

(a) Definitions

For the purposes of this article, the term open burning shall mean the burning of a bonfire, rubbish fire or other fire in an outdoor location where fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit.

(b) OPEN BURNING PROHIBITED

(1) It shall be unlawful for any person to kindle or maintain any bonfire or any rubbish fire or authorize any such fire to be kindled or maintained on or in any public sidewalk, street, alley, road or other public ground, except in authorized fireplaces in park locations, unless permission from the fire department shall have first been obtained.

(2) It shall be unlawful for any person to kindle or maintain any bonfire, rubbish fire or trash fire nor permit any such fire to be kindled or maintained on any private property within the City except as authorized by the governing body of the City of Bazine, Kansas.

(c) PENALTIES

Any person who shall violate any of the provisions of this code shall, upon conviction, be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) and each day of failure to comply with such provisions of this ordinance shall constitute a separate offense. (Code 2016)

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. (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 lined boxes or bins having self-closing or automatic covers. All refuse and trash from rooms where packing or unpacking is done shall be removed daily. (Code 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 of the Ness County Fire District 2 to inspect or cause to be inspected by fire district 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 district 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 of the Ness County Fire District 2 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 fire chief of Ness County Fire District 2 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 12:00 midnight on July 1st through July 4th.
- (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 July 1st and through July 4th 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 applying for and securing a permit therefor from the city clerk 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. PERMIT FOR PUBLIC FIREWORKS DISPLAY REQUIRED. (a) It shall be unlawful for any person to give or provide a fireworks display for the public or for organized groups without first obtaining a permit to do so by making application at least 30 days in advance of the desired display. Approval of the permit shall be by the governing body. No permit shall be approved unless the applicant furnishes a certificate of public liability insurance for the display in a minimum amount of \$2,000,000, written by an insurance carrier licensed to do business in Kansas, conditioned as being non-cancellable except by giving 10 days advance written notice to the city clerk. In the event of cancellation of the insurance prior to the display, the permit shall automatically be revoked and void. The application for the permit shall clearly state:

- (1) The name of the applicant.
- (2) The group for which the display is planned.
- (3) The location of the display.
- (4) The date and time of the display.
- (5) The nature or kind of fireworks to be used.
- (6) The name of the person, firm or corporation that will make the actual discharge of the fireworks.
- (7) Anticipated need for police, fire or other municipal services.

(b) No permit shall be issued if the location, nature of the fireworks or other relevant factor is such as to create an undue hazard or risk of harm or damage to persons or property. (Code 2014)

7-307. 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)

7-308. DISCHARGE ON STREETS AND PUBLIC PROPERTY PROHIBITED. It shall be unlawful for any person to discharge, ignite or fire any fireworks upon any public street, alley or avenue or in any park or public place within the city.
(Code 2014)

7-309. THROWING PROHIBITED. It shall be unlawful for any person to throw, cast or propel fireworks of any kind in the direction of or into the path of any animal, person or group of persons, or from, in the direction of or into any vehicle of any kind. (Code 2014)

- 7-310. SALE OF FIREWORKS; WHERE PROHIBITED. (a) It shall be unlawful for fireworks to be stored, sold or displayed for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable substances are kept, unless such fireworks are in a separate and distinct section or department of the premises.
(b) Where the Ness County district fire chief deems there is a fire hazard, he or she is hereby authorized to have such hazard abated. (Code 2014)
- 7-311. RETAIL DISPLAY OF FIREWORKS. (a) All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where such fireworks are in the original package.
(b) All fireworks displayed for sale must remain in original packages, except where an attendant is on constant duty at all times where such fireworks are on display; provided, that fireworks 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)
- 7-312. 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)
- 7-313. 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)
- 7-314. AUTHORITY OF DISTRICT FIRE CHIEF. The district fire chief 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)
- 7-315. BANNING FIREWORKS. The mayor or designee shall have the authority and discretion to ban the discharge of all fireworks within the corporate limits of the City of Bazine 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. Board of Health (Reserved)
- Article 2. Health Nuisances
- Article 2A. Environmental Code
- Article 3. Junked Motor Vehicles on Private Property
- Article 4. Rodent Control
- Article 5. Insurance Proceeds Fund
- Article 6. Oil & Gas Drilling/other Mineral Mining

ARTICLE 1. BOARD OF HEALTH (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;

(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. 266; Code 2015)

(f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed therefrom;

(g) All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;

(h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city. (K.S.A. 21-4106:4107; Ord. 246; Code 2015)

8-202. **PUBLIC OFFICER.** The governing body shall designate a public officer to be charged with the administration and enforcement of this article. (Ord. 246; 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 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.

246; Code 2014)

8-204. RIGHT OF ENTRY. The public officer has the right of access and entry upon private property at any reasonable time to the extent allowed by law for the purpose of making inquiry and inspection to determine if a nuisance exists. (Ord. 246; Code 2014)

8-205. ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-201 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, priority mail, commercial courier service, overnight delivery service or other reliable personal delivery service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, priority mail, commercial courier service, overnight delivery service or other reliable personal delivery service, to the last known address of the owner. If violation is for Section 8-201(e) such notice shall only be given once per year.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.
(K.S.A. 12-1617e; Code 2015)

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

(a) He, she or they shall have 10 days from the receipt of the order to abate the condition(s) in violation of section 8-201; provided, however, that the governing body [or its designee named in section 8-205] shall grant one or more extensions of the 10 day period if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions in violation of section 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 representative of the matter as provided by section 8-209;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-207 and/or abatement of the condition(s) by the city as provided by section 8-208.

(d) If violation is for Section 8-201(e) no further notice will be given during the current calendar year prior to the removal of weeds from the property.
(Code 2015)

8-207. FAILURE TO COMPLY; PENALTY. Should the person, corporation, partnership or association fail to comply with the order to abate the nuisance or request a hearing the public officer may file a complaint in the

municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of section 8-201, be fined in an amount not to exceed \$100.00 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Code 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, priority mail or commercial courier service; or
- (c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

- (d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.
(Code 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. (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, priority mail or commercial courier service, 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. (Code 2014)

- 8-211. **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 (*Argropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmanseggia densiflora*), musk (nodding), thistle (*Carduus nutans* L.), and Johnson grass (*Sorghum halepense*), as well as all weeds which have been defined by the Ness County Weed Department and/or Ness County Commissioners as noxious weeds, including, but not limited, to the following: Field Bindweed, Musk Thistle, Sericea Lespedeza, Johnsongrass, Burragweed, Canada Thistle, and Bull Thistle. (K.S.A. 2-1314; Ord. 266; Code 2015)

ARTICLE 2A. ENVIRONMENTAL CODE

- 8-2A01. TITLE. This article shall be known as the "Environmental Code." (Code 2014)
- 8-2A02. LEGISLATIVE FINDING OF FACT. The governing body has found that there exist within the city unsightly and hazardous conditions due to: dilapidation, deterioration or disrepair of walls, siding, fences or structure exteriors; accumulations increasing the hazards of accidents or other calamities; structural defects; uncleanness; unsightly stored or parked material, equipment, supplies, machinery, vehicles or parts thereof. Such conditions are inimical to the general welfare of the community in that they have a blighting influence on the adjoining properties, the neighborhood and the city, or are injurious to the health and safety of the residents of the city. The governing body desires to promote the public health, safety and welfare by the repair, removal, abatement, and regulation of such conditions in the manner hereafter provided. (Code 2014)
- 8-2A03. PURPOSE. The purpose of this article is to protect, preserve, upgrade, and regulate the environmental quality of industrial, commercial and residential neighborhoods in this city, by outlawing conditions which are injurious to the health, safety, welfare or aesthetic characteristics of the neighborhoods and to provide for the administration and enforcement thereof. (Code 2014)
- 8-2A04. RULES OF CONSTRUCTION. For the purpose of this article, the following rules of construction shall apply:
- (a) Any part thereof - Whenever the words premises, structure, building or yard are used they shall be construed as though they were followed by the words "or any part thereof."
 - (b) Gender - Words of gender shall be construed to mean neuter, feminine or masculine, as may be applicable.
 - (c) Number - Words of number shall be construed to mean singular or plural, as may be applicable.
 - (d) Tense - Words of tense shall be construed to mean present or future, as may be applicable.
 - (e) Shall - The word shall is mandatory and not permissive.
- (Code 2014)
- 8-2A05. DEFINITIONS. The words and phrases listed below when used in this article shall have the following meanings:
- (a) Abandoned Motor Vehicle - any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of the ordinance; or incapable of moving under its own power; or in a junked or wrecked condition.
 - (b) Accessory Structure - a secondary structure detached from the principal structure but on the same premises, including, but not limited to, garages, sheds, barns, or outbuildings.
 - (c) Commercial or Industrial - used or intended to be used primarily for other than residential purposes.
 - (d) Dilapidation, Deterioration or Disrepair - shall mean any condition characterized by, but not limited to: holes, breaks, rot, decay, crumbling, cracking,

peeling or flaking paint, rusting, or other evidence of physical damage, neglect, lack of maintenance, excessive use or weathering.

(e) Exterior - those parts of a structure which are exposed to the weather or subject to contact with the elements; including, but not limited to: sidings, facings, veneers, masonry, roofs, foundations, porches, screens, shutters, windows, doors or signs.

(f) Garbage - without limitation any accumulation of animal, fruit or vegetable waste matter that results from the handling, preparation, cooking, serving, delivering, storage, or use of foodstuffs.

(g) Person - any individual, individuals, corporation, partnership, unincorporated association, other business organization, committee, board, trustee, receiver, agent or other representative who has charge, care, control or responsibility for maintenance of any premises, regardless of status as owner, renter, tenant or lessee, whether or not in possession.

(h) Premises - any lot, plot or parcel of land including the structures thereon.

Premises shall also mean any lot, plot or parcel of land without any structures thereon.

(i) Refuse - garbage and trash.

(j) Residential - used or intended to be used primarily for human habitation.

(k) Structure - anything constructed or erected which requires location on the ground or is attached to something having a location on the ground including any appurtenances belonging thereto.

(l) Trash - combustible waste consisting of, but not limited to: papers, cartons, boxes, barrels, wood, excelsior, furniture, bedding, rags, leaves, yard trimmings, or tree branches and non-combustible waste consisting of, but not limited to: metal, tin, cans, glass, crockery, plastics, mineral matter, ashes, clinkers, or street rubbish and sweepings.

(m) Weathered - deterioration caused by exposure to the elements.

(n) Yard - the area of the premises not occupied by any structure.

(Code 2014)

8-2A06. PUBLIC OFFICER. The governing body shall designate a public officer to be charged with the administration and enforcement of this article.
(Code 2014)

8-2A07. ENFORCEMENT STANDARDS. No person shall be found in violation of this article unless the public officer, after a reasonable inquiry and inspection of the premises, believes that conditions exist of a quality and appearance not commensurate with the character of the neighborhood. Such belief must be supported by evidence of a level of maintenance significantly below that of the rest of the neighborhood. Such evidence shall include conditions declared unlawful under section 8-2A08 but shall not include conditions which are not readily visible from any public place or from any surrounding private property. (Code 2014)

8-2A08. UNLAWFUL ACTS. It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood or the city. For the purpose of fair and efficient enforcement and administration, such unlawful conditions shall be classified as follows:

(a) Exterior conditions (yard) shall include, but not be limited to, the scattering over or the parking, leaving, depositing or accumulation on the yard of any of the following:

- (1) lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, junk or refuse;
- (2) abandoned motor vehicles; or
- (3) furniture, stoves, refrigerators, televisions, sinks, bicycles, lawn mowers, or other such items of personal property.
- (4) nauseous substances, carcasses of dead animals or places where animals are kept in an offensive manner.

(b) Exterior conditions (structure) shall include, but not be limited to, deteriorated, dilapidated, or unsightly:

- (1) exteriors of any structure;
- (2) exteriors of any accessory structure; or
- (3) fences, walls, or retaining walls.

(Code 2014)

8-2A09.

ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-2A09 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, priority mail or commercial courier service, 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, or priority mail or commercial courier service, 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. The order shall state:

- (1) The condition which has caused the violation of this article; and
- (2) That the person in violation shall have:
 - (A) 10 days from the receipt of the order to alleviate the exterior conditions (yard) violation; and/or;
 - (B) 45 days from the receipt of the order to alleviate the exterior conditions (structure) violation; or in the alternative to subsections (1) and (2) above,

(C) 10 days from the receipt of the order, plus any additional time granted under subsection (c), to request, as provided in section 8-2A12 a hearing before the governing body or its designated representative on the matter; and;

(c) Provided, however, that the governing body [or its designee named herein] shall grant one or more extensions to the time periods stated in subsections (2) and (3), above, if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions which have caused the violation of this article; and,

(d) That failure to alleviate the condition or to request a hearing may result in prosecution under section 8-2A10 and/or abatement of the condition by the city according to section 8-2A11 with the costs assessed against the property under section 8-2A14.
(K.S.A. 12-1617e; Code 2014)

8-2A10. PENALTY. The public officer may file a complaint in the municipal court against any person found to be in violation of section 8-2A08, provided however, that such person shall first have been sent a notice as provided in section 8-2A09 and that the person has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-2A09. Upon such complaint in the municipal court, any person found to be in violation of section 8-2A08 shall upon conviction be punished by a fine of not less than \$50.00 nor more than \$100.00, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purposes of this article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. (Code 2014)

8-2A11. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-2A10, 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 8-2A09 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-2A09, 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 8-2A14.

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, priority mail or commercial courier service; or

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

(d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.
(Code 2014)

- 8-2A12. HEARING. If a hearing is requested within the 10 day period as provided in section 8-2A09 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 therefor, 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 8-2A11. (Code 2014)
- 8-2A13. APPEALS. Any person affected by any determination of the governing body under sections 8-2A11:2A12 may appeal such determination in the manner provided by K.S.A. 60-2101. (Code 2014)
- 8-2A14. COSTS ASSESSED. If the city abates or removes the nuisance pursuant to section 8-2A11, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, priority mail or commercial courier service, 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. (Code 2014)
- 8-2A15. CONSTRUCTION. 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 laws nor to prevent or punish violations thereof. The powers conferred by this article shall be in addition to and supplemental to the powers conferred by the Kansas Constitution, by any other law or by ordinance. (Code 2014)

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. 246; 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.
 - (c) Vehicle shall not include, without limitation, any automobile, truck, tractor, or motorcycle which is licensed with, titled under, or held on the real property in Bazine, Kansas of any Kansas registered salvage dealer, or Kansas new or used motor vehicle seller. These Kansas registered businesses are hereby excluded and made exempt from the provisions of this junked motor vehicle ordinance.
- (Ord. 264; 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 which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable;
 - (1) Absence of a current registration plate upon the vehicle;
 - (2) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;
 - (3) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway.
 - (b) The provisions of this article shall not apply to:
 - (1) Any motor vehicle which is enclosed in a garage or other building;
 - (2) To the parking or storage of a vehicle inoperable for a period of 30 consecutive days or less; or

(3) To any person conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this subsection shall be construed to authorize the maintenance of a public nuisance. (Ord. 246; Code 2014)

8-304. PUBLIC OFFICER. The governing body shall designate a public officer to be charged with the administration and enforcement of this article. (Ord. 246; 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. 246; 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. 246; Code 2014)

8-307. ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-303 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, priority mail, commercial courier service 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, priority mail or commercial courier service, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (K.S.A. 12-1617e; Code 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. 246; 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 \$100.00 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Ord. 246; 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, priority mail, commercial courier service; 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. 246; 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. (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. 246; 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, priority mail or commercial courier service, 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. 246; Code 2014)

ARTICLE 4. RODENT CONTROL

8-401. DEFINITIONS. For the purposes of this article, the following words and phrases shall have the following meanings:

(a) Building. - Any structure, whether public or private, that is adapted for occupancy as a residence, the transaction of business, the rendering of professional services, amusement, the display, sale or storage of goods, wares or merchandise or the performance of work or labor, including office buildings, public buildings, stores, theaters, markets, restaurants, workshops and all other houses, sheds and other structures on the premises used for business purposes.

(b) Occupant. - The person that has the use of, controls or occupies any business building or any portion thereof, whether owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, the owner, agent or other person having custody of the building shall have the responsibilities of an occupant of a building.

(c) Owner. - The owner of any building or structure, whether individual, firm, partnership or corporation.

(d) Rat harborage. - Any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside a structure of any kind.

(e) Rat-stoppage. - A form of rat-proofing to prevent the ingress of rats into buildings from the exterior or from one building to another, consisting essentially of the closing of all openings in the exterior walls, ground or first floors, basements, roofs and foundations, that may be reached by rats from the ground by climbing or by burrowing, with material or equipment impervious to rat-gnawing.

(Code 2014)

8-402. BUILDING MAINTENANCE. All buildings and structures located within the present or future boundaries of the city shall be rat-stopped, freed of rats and maintained in a rat-stopped and rat-free condition. (Code 2014)

8-403. NOTICE TO RAT-STOP; WHEN CITY TO DO WORK. Upon receipt of written notice from the governing body, the owner of any building or structure specified therein shall take immediate measures for the rat-stoppage of such building or structure. The work shall be completed in the time specified in the written notice, which shall be within 15 days, or within the time of any written extension thereof that may have been granted by the governing body. (Code 2014)

8-404. FAILURE TO COMPLY. If the owner fails to comply with such written notice or extension, then the governing body is authorized to take such action as may be necessary to completely rat-stop the building or structure at the expense of the owner, and the city clerk shall submit bills for the expense thereof to the owner of the building or structure. If the bills are not paid within 60 days, the city clerk shall certify the amount due to the city treasurer and the charge shall be a lien against the property where the work has been done, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for rat-stoppage. (Code 2014)

- 8-405. REPLACE RAT-STOPPAGE. It shall be unlawful for any occupant, owner, contractor, Public Utility Company, plumber or any other person to remove the rat-stoppage from any building or structure for any purpose and fail to restore the same in a satisfactory condition or to make any new openings that are not closed or sealed against the entrance of rats. (Code 2014)
- 8-406. NOTICE TO ERADICATE RATS. Whenever the governing body notifies in writing the owner of any building or structure theretofore rat-stopped as hereinabove defined, that there is evidence of rat infestation of the building or structure, the owner shall immediately institute appropriate measures for freeing the premises so occupied of all rats. Unless suitable measures for freeing the building or structure of rats are instituted within five days after the receipt of notice, and unless continually maintained in a satisfactory manner, the city is hereby authorized to free the building or structure of rats at the expense of the owner thereof and the city clerk shall submit bills for the expense thereof to the owner of the building or structure and if the same are not paid, the city clerk shall certify the amount due from the owner to the city treasurer, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for the eradication measures. (Code 2014)
- 8-407. CONDITIONS CONDUCIVE TO HARBORAGE OF RATS. (a) All food and feed kept within the city for feeding animals shall be kept and stored in rat-free and rat-proof containers, compartments, or rooms unless kept in a rat-stopped building.
- (b) It shall be unlawful for any person to place, leave, dump or permit to accumulate any garbage or trash in any building or premises so that the same shall afford food and harborage for rats.
- (c) It shall be unlawful for any person to accumulate or to permit the accumulation on any premises or on any open lot any lumber, boxes, barrels, bricks, stone or similar materials that may be permitted to remain thereon and which are rat harborages, unless the same shall be placed on open racks that are elevated not less than 12 inches above the ground, evenly piled or stacked.
- (d) Whenever conditions inside or under any building or structure provide such extensive harborage for rats that the health department deems it necessary to eliminate such harborage, he or she may require the owner to install suitable cement floors in basements or to replace wooden first or ground floors or require the owner to correct such other interior rat harborage as may be necessary in order to facilitate the eradication of rats in a reasonable time and thereby to reduce the cost of such eradication. (Code 2014)
- 8-408. INSPECTIONS. The public officer is empowered to make such inspections and re-inspections of the interior and exterior of any building or structure as in his or her opinion may be necessary to determine full compliance with this article. (Code 2014)

ARTICLE 5. INSURANCE PROCEEDS FUND

- 8-501. SCOPE AND APPLICATION. The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this article. (Code 2014)
- 8-502. 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. (Code 2014)
- 8-503. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 8-602, the insurer or insurers shall contact the county treasurer, Ness 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, Ness County, Kansas. (Code 2014)
- 8-504. 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. (Code 2014)
- 8-505. 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 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, priority mail or commercial courier service, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this article.
(Code 2014)

8-506. 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. (Code 2014)

8-507. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.

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

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

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

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

(e) Upon notification to the city treasurer by the chief building inspector that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the city treasurer shall return all such moneys received, plus accrued interest, to the insured or 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 moneys from the insurance company or companies.
(Code 2014)

8-508. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the chief building inspector has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured. (Code 2014)

8-509. 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 8-605(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the

insurance proceeds, the chief building inspector shall immediately 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 8-605(a), the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred. (Code 2014)

8-510. 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.
(Code 2014)

8-511. INSURERS; LIABILITY. Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this article, or releasing or disclosing any information pursuant to this article. (Code 2014)

ARTICLE 6. OIL AND GAS DRILLING/OTHER MINERAL MINING

8-601. LICENSES, PERMITS, FEES. It shall be unlawful for any person, firm or corporation to drill/mine or commence operations for the drilling/mining of oil, gas well or other mineral mining or to operate the same within the city limits without having first obtained from the governing body one of the following licenses or permits:

(a) Original License Application. Before commencing the drilling of an oil or gas well or mining of other minerals within the city, the person, firm or corporation, LLC or other entity desiring to drill a well/mine shall first obtain a license from the city. The applicant shall, at the time of making application for the drilling/mining license, deposit with the city clerk a fee of \$500, payable to the city. If the city grants the application, the fee shall be retained by the city. If a license is not granted, the city shall retain the sum of \$100 for administrative expenses and the balance of the fee shall be returned to the applicant.

(b) License Transfer. No license or renewal license shall be assigned or transferred to any other person, firm or corporation unless a notice of transfer is filed with the city, giving the name of the assignee. A fee of \$100 shall accompany the notice of transfer and a transfer of any bond, security or other requirement for the licensing of wells/mines within the city shall be made. No transfer shall be complete until all of the requirements of this section shall have been met.

(c) Dry Well-Reworking License. The license for any well that has been determined to be a dry well or nonproductive by the licensee is terminated upon such determination. The licensee shall furnish the city with such information. If any well/mine that has been determined to be a dry well/abandoned mine is reworked, reopened or work done to make it a producing well/mine, the owner of such well/mine shall first obtain an original license for drilling a well/mining of minerals before commencing such rework, reopening of any similar activity.

(d) Annual Renewal Fee. All persons, firms, corporations or other legal entities having obtained a drilling license for oil or gas wells/mining of other minerals within the city, which wells are producing oil or gas/mines producing minerals, shall pay an annual license renewal fee of \$250 per each year. Such fee shall be due and payable by December 31st of each year.

(e) Overriding Royalty Interest. All persons, firms, corporations or other legal entities having obtained production of oil, gas or other mineral production within the city shall assign an overriding royalty interest in the amount of three percent (3%). (Ord. 276; Code 2014)

8-602. EVIDENCE TO BE PRESENTED BY LICENSEE. No such permit required by this article shall be granted by the governing body until the applicant shall have submitted the following information and agreements:

(a) The applicant has a valid oil and gas lease or leases signed by the person or persons owning at least 51% of the territory in the area attributable to or which might be attributed to the location which it proposes to develop. The lease or leases shall contain a provision, or shall be accompanied by an agreement in writing, which stipulates, that all mineral rights within each drilling unit shall be pooled. This pooling shall include all interests arising from the leases or from production in each drilling unit. It shall provide that all revenue from minerals produced be distributed among the owners and lessees of the minerals in

accordance with the number of square feet owned by each property owner and lessee in the area or territory, none of whom may be excluded.

(b) The licensee shall provide to the city a copy of valid oil and gas lease or leases signed by the person or persons owning at least 51% of the territory within the city drilling unit, as hereafter defined, in which such well is located. The lease or leases shall contain a provision, or shall be accompanied by an agreement in writing, which stipulates, that all mineral rights within each city drilling unit shall be pooled. This pooling shall include all interests arising from the leases or from production in each city drilling unit. It shall provide that all revenue from minerals produced be distributed among the owners and lessees of the minerals in accordance with the number of square feet owned by each property owner and lessee in the city drilling unit or units, none of whom may be excluded. It is the intent of the City of Bazine to implement K.S.A. 55-1611 and other Kansas Corporation Commission unitization rules and regulations. Furthermore, mandatory pooling between City Drilling Units shall be instituted whenever a well location for vertical drilling or bottom hole location for deviated hole drilling is less than 330 feet from any City Drilling Unit boundary. Once mandatory pooling is instituted between City Drilling Units, any such City Drilling units shall be thereafter unitized with regard to future drilling. The above leasing requirements for with City Drilling Units are applicable to leasing requirements for the unitized City Drilling Units.

(c) The applicant must provide a written agreement providing for the protection to all persons and property that might be affected with such drilling operations with respect to the following:

(1) The handling of slush, drilling mud, sediments, salt water and other material produced in connection with drilling such well. Specifically the applicant shall agree to use steel pits, not earthen pits, in all instances. Disposal of all the above described material/matter shall be in accordance with this ordinance including incidental material/matter. All such steel pits shall be removed immediately upon completion of drilling operations.

(2) Surface pipe used in connection with an oil or gas well shall be set a minimum of fifteen (15) feet into the anhydrite formation (AKA Stone Corral Formation). The surface pipe shall be cemented from said point to ground level/surface. The surface pipe process shall in all other aspects comply with the Kansas Corporation Commission regulations. Furthermore, a conductor pipe shall be set no less than eighty (80) feet below ground level/surface. If production casing is set, the licensee shall pump cement from ground level/surface down the annular space, which is defined as that between the surface casing and production casing, in the amount equal to the volume of this space with an additional 25% excess factor.

(3) No crude oil, salt water, other fluids or other minerals shall be stored within the city limits.

(4) The applicant shall agree that, in the event the well is nonproductive, all tools, equipment and machinery used in connection with the drilling/mining thereof shall be removed within 60 days after completion thereof, and the premises restored to their original condition. Including but not limited to plugging the nonproductive well/mines in accordance with Kansas Corporation Commission regulations.

(5) No oil or gas well or other mining of minerals will be drilled/mined within 200 feet of a municipal water supply well.

(6) The applicant shall submit a proposed agreement authorizing the construction of an oil pipeline along city streets. All such pipeline construction shall be approved by the governing body and subject to subsequent conditions and restrictions. (Ord. 275; 276; 278; Code 2014)

- 8-603. **BOND REQUIRED.** No person shall drill or operate any oil, gas or other mineral well/operation within the city limits, until the applicant has deposited with the city a good and sufficient bond in the amount of \$500,000, conditions that the applicant will comply with the provisions of this article. (Ord. 267; Code 2014)
- 8-604. **INSURANCE FOR OPERATOR.** No permit shall be granted by the governing body and no oil or gas well shall be drilled or operated within the city until the operator shall have filed with the city clerk a certification of insurance insuring the operator against bodily injury to person in an amount not less than \$2,000,000 for each person and \$2,000,000 for each accident and insuring the operator against damage to property including city utility lines in an amount not less than \$2,000,000 for each accident and further insuring the operator against bodily injury from motor vehicle and trucking operations in an amount not less than \$2,000,000 combined single limit for each accident or incident. Evidence of such insurance shall be kept on file with the city clerk continuously so long as any such well or wells are being drilled or operated within the city. (Ord. 267A; Code 2014)
- 8-605. **DRILLING OIL, GAS WELLS: DUTY, GOVERNING BODY.** All oil, gas or other mineral wells/production hereafter commenced or drilled within the city after enactment of this ordinance shall be drilled as neatly as practicable in the geographical center of a unit of city territory, as determined by the governing body, of no less than ten (10) acres nor more than twenty three (23) acres; provided, that the governing body, at the time granting of the permit hereinafter provided for, may permit such variations as may be deemed necessary in the amount of acreage required, and the location of the drill site, depending upon geographical factors, upon the location of houses and other buildings, and the area available which might be attributed to such proposed well. (Ord. 275; Code 2014)
- 8-606. **MAPPING: LOCATIONS.** The governing body shall make a determination of the territory which is to be included in each unit within the city, each unit consisting of no less than ten (10) acres nor more than twenty three(23) acres of city territory, but in making such determination the governing body shall not be required to split or divide any platted lot or lots; and the unit or units which such well or wells under a particular lease or leases shall be located in shall be described in the drilling permit issued thereof. (Ord. 275; Code 2014)
- 8-607. **RESTRICTIONS REGARDING EXPLORATION AND PRODUCTION.**
(a) Utilities. It shall be the responsibility of the entity, owner or operator, drilling an oil or gas well to determine the locations of all utility lines including but not limited to cable television, telephone, water, electric, gas or sewer and any other existing pipelines. Such drilling shall be performed 50 feet from all such utility lines and in accordance with all other existing regulations or industry standards. Any utility lines damaged in the process of drilling oil or gas well shall be immediately repaired and the financial responsibility of the entity, owner or operator, drilling said well.

(b) Steel pits. Steel pits shall be used in all instances when handling slush, drilling mud, sediments, salt water and other material produced in connection with the exploration and the production of oil or gas. In no instance shall earthen pits be used. All such steel pits shall be removed immediately upon completion of drilling operations.

(c) Surface pipe. Surface pipe used in connection with an oil or gas well shall be set a minimum of fifteen (15) feet into the Anhydrite formation (AKA Stone Corral Formation). The surface pipe shall be cemented from said point and to the ground level/surface. The surface pipe process shall in all other aspects comply with the Kansas Corporation Commission regulation. Furthermore, a conductor pipe shall be set no less than eighty (80) feet below ground level/surface. If production casing is set, the licensee shall pump cement from ground level/surface down the annular space, which is defined as that between the surface casing and production casing, in the amount equal to the volume of this space with an additional 25% excess factor.

(d) Protection from Blowing oil. Adequate measures shall be taken to protect persons and property from blowing oil. This protection shall include, but not limited to, the use of a reverse circulation tank procedure during drill stem testing.

(e) City Water Supply Setback. No oil or gas well or other mining of minerals will be drilled/mined within 200 feet of a municipal water supply well.

(f) Nonproductive wells. In the event the well is nonproductive, all tools, equipment and machinery used in connection with drilling/mining thereof shall be removed within 60 days after completion thereof, and the premises restored to its original condition. Furthermore, this includes, but not limited to, plugging the nonproductive well in accordance with Kansas Corporation Commission regulations.

(g) Fencing. During exploration, the entire drilling rig and associated equipment for any oil, gas wells or mining of other minerals shall be fenced in a manner to protect life and property. During production, the pumping units and associated equipment of oil or gas wells/mining equipment shall be surrounded or enclosed with a ten foot chain link fence, and on top of such fence there shall be a protruding extension of three barbed wires at 45 degree angles to the outside, and the above described fencing shall be of the nature that it conceals the view of all equipment and associated items involved with the production phase. The construction and erection of such fence shall be subject to plans and specifications as may be approved by the governing body.

(h) Storage of crude oil and other. No crude oil, salt water, other fluids or other minerals shall be stored within the city limits.

(i) Pumping units, retaining wall or curb. A retaining wall constructed of at least 4.5 inch pipe shall be placed around the pumping unit of an oil or gas well or, in lieu thereof, a reinforced concrete curb may be erected which shall be approved by the governing body. In either instance, the area therein shall be filled with material of a highly absorbent quality material such as fill sand.

(j) Powering of pumping units. All pumping units at an oil, gas or other mineral production must be electrically driven with power belt shields.

(k) Maintenance of pumping units. All pumping units and associated equipment at oil, gas or other minerals production must be kept clean, tidy and painted in a manner satisfactory to the governing body.

(l) Odor. With regard to toxic gases, any toxic gas, including but not limited to hydrogen sulfide, shall be properly monitored for and if there is detection of the same shall be the responsibility of the owner and/or operator to provide proper

monitoring equipment for the same. If such monitoring detects any toxic gas, the owner and/or operator shall be solely responsible for utilizing industry accepted practices to prevent or remove such toxic gases. With regard to nontoxic gases, the owner/operator shall be solely responsible for the prevention or removal of any odor from such nontoxic gases according to industry accepted practices.

(m) Right of inspection and verification. The City or its designee shall have the right at any time to enter upon and/or remain on the drilling and/or production site for purposes of confirming compliance with said ordinance by the licensee or others with regard to any and all obligations and duties as set forth in said ordinance. At least a 24 hour advance notice shall be given to the City or its designee with regard to the following procedures: conductor pipe setting depth and cement operation including cementing tickets; plugging procedure and cement operation including cementing tickets for plugging well(s); production case setting and cement operation including cementing tickets as defined in 8-702(c)(2) and 8-707(c). (Ord. 267; 275; Code 2014)

8-608. SALT WATER DISPOSAL WELLS. No salt water disposal wells are permitted within the city limits. (Ord. 267; Code 2014)

8-609. TRANSMISSION PIPELINES.

(a) All proposed crude oil/gas transmission pipeline construction along city streets must have prior approval and under the direction of the governing body.

(b) All such pipelines construction shall be buried by use of the boring method unless otherwise approved by the governing body. In all other respects, the construction shall be in conformance with accepted industry standards and compliance with any state or federal regulations.

(c) It shall be the responsibility of the entity, owner or operator, installing crude oil/gas transmission pipelines to determine the locations of all utility lines including but not limited to cable television, telephone, water, electric, gas or sewer and any other existing pipelines. Such transmission lines shall be installed two feet from all such utility lines and in accordance with existing regulations and industry standards.

(d) Any utility lines damaged in the process of the installation of crude oil/gas transmission pipelines shall be immediately repaired and the financial responsibility of the entity, owner or operator, installing said pipelines.

(e) When any alteration, realignment or change of grade of any street, alley or thoroughfare, or alternation of utility lines and drains located therein, necessitates a change in the alignment or grade of any crude oil/gas pipeline used in connection with the production of oil/gas within the city limits, as determined by the governing body, such change in alignment or grade of said transmission pipeline shall be the financial responsibility of the owner or operator of said transmission pipeline. (Ord. 267; Code 2014)

8-610. GEOPHYSICAL ACTIVITY. Geophysical exploration utilizing dynamite or other explosives is prohibited. When conducting geophysical exploration utilizing vibroseis or similar method, the source of the vibration shall not be located within 200 feet of pipelines including but not limited to gas, water and sewer. (Ord. 267; Code 2014)

- 8-611. STATE REGULATIONS. Any oil, gas or other mineral well/production drilled within the city shall be constructed in accordance with applicable regulations of the Kansas Corporation Commission and the Kansas Department of Health and Environment or other regulatory body. Any person, firm or corporation before commencing drilling operations shall notify the appropriate representatives of the commission and department as to the date when drilling operations will commence. (Ord. 267; Code 2014)
- 8-612. ADDITIONAL REQUIREMENTS. At the time of the granting of any permit or license under the provisions of this article the governing body may make such additional requirements by resolution as it may deem necessary for the protection and safety of persons and property in the territory likely to be affected by the drilling of the well. (Ord. 267; Code 2014)
- 8-613. SAVING CLAUSE. If any section, subsection, sentence, clause or other part of this article shall be held to be invalid or inoperative for any reason, such invalidity shall not be deemed to affect the remaining provisions of this article. (Ord. 267; Code 2014)
- 8-614. VIOLATION – PENALTY. Any person, who knowingly and willfully, drills or commencing operations for the drilling of any oil or gas well/mining operation in violation of the provisions of this chapter, or pumping or operating any well drilled in violation of this chapter, shall, upon conviction thereof, be punished by a fine of not more than \$500, or by imprisonment, and each day's violation shall be deemed a separate offense. (Ord. 275; Code 2014)

CHAPTER IX. MUNICIPAL COURT

Article 1. General Provisions

ARTICLE 1. GENERAL PROVISIONS

- 9-101. MUNICIPAL COURT ESTABLISHED. There is hereby established a municipal court for the City of Bazine, 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 a salary as shall be fixed by ordinance or specified in The Code of the City of Bazine. (Code 2021)

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

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

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

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

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

(K.S.A. 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. In all cases wherein the accused person or person pleads guilty or nolo contendere, or is found guilty of an ordinance violation before the Municipal Court of the City of Bazine, an assessment of \$108 shall be imposed and collected for the cost of the administration of justice.

(C.O. 4; Code 2015)

CHAPTER X. POLICE

(Reserved)

CHAPTER XI. PUBLIC OFFENSES

Article 1. Uniform Offense Code (Reserved)

Article 2. Local Regulations

ARTICLE 1. UNIFORM OFFENSE CODE

(Reserved)

ARTICLE 2. LOCAL REGULATIONS

11-201. CURFEW. (a) It shall be unlawful for any person under 18 years of age to loiter, lounge, loaf, wander, or play in or upon any public street, alley, public park, square or municipal parking lot or any sidewalk appurtenant thereto within the city after the hour of 12:00 o'clock midnight and before the hour of 6:00 o'clock the following day, seven days a week.

(b) The provisions of subsection (a) shall not apply to any person under the age of 18 who is legally married or who has had right of majority conferred upon him or her by a court of competent jurisdiction. (Ord. 227; Code 2014)

11-202. SAME; EXCEPTIONS. The curfew restrictions set out in section 11-201 of this article shall not apply under the following circumstances:

(a) When the person under 18 years of age is accompanied by his or her parent or guardian;

(b) When the person under 18 years of age is attending a church or school or other activity organized or sponsored by parents and under the supervision of a church or school or sponsored by parents or while returning home from any such function or activity by way of the most direct route;

(c) When the person under 18 years of age is going to or from a place of lawful employment by way of the most direct route;

(d) When the person under 18 years of age is engaged in normal travel through, to or from the city to or from another destination.

(Ord. 227; Code 2014)

11-203. SAME; VIOLATIONS. (a) Any police officer finding a person under 18 years of age in violation of section 11-201 of this article shall ascertain the name and address of the minor and warn the minor that he or she is in violation of the curfew and shall direct the minor to proceed at once to his or her home or usual place of abode.

(b) If any minor refuses to heed the warning or direction by any police officer or refuses to give his or her correct name and address, he or she shall be taken to the police department and the parent, guardian or other adult having the care and custody of the minor shall be notified to come and take charge of the minor.

(Ord. 227; Code 2014)

- 11-204. SAME; PERMITTING VIOLATION OF CURFEW. It shall be unlawful for a parent, guardian or other person lawfully entitled to the care, custody or control of any person under 18 years of age to knowingly permit such person to violate section 11-201 of this article. (Ord. 227; Code 2014)
- 11-205. SAME; PENALTY. Any adult in violation of section 11-204 of this article shall upon conviction thereof be fined in an amount not less than twenty-five dollars (\$25) and not more than one hundred dollars (\$100), and shall pay court costs as assessed by the Court. (Ord. 227; Code 2014)
- 11-206. EXCESSIVE NOISE; PURPOSE. The governing body of the City of Bazine, Kansas, recognizes that excessive loud noise may disrupt the peaceful environment of its citizens and can present a safety hazard to residents of the City of Bazine, Kansas. (Ord. 271; Code 2014)
- 11-207. SAME; DEFINITIONS.
- (a) Sound amplification system. means any radio, television, tape player, compact disc player, loud speaker, or other electronic device used for the amplification of sound.
 - (b) "Plainly audible". means any sound produced by a sound amplification system, which clearly can be heard at a distance of 50 feet or more. Measurement standards shall be by the auditory senses based on direct line. Words or phrases need not be discernible and bass reverberations are included. (Ord. 271; Code 2014)
- 11-208. SAME; PROHIBITED CONDUCT.
- (a) No person operating or occupying a motor vehicle on a street, highway, alley, parking lot or driveway, whether public or private property shall operate or permit the operation of any sound amplification system from any vehicle so that the sound is plainly audible at a distance of 50 or more feet from vehicle.
 - (b) No person shall operate or permit the operation of any loud speaker or sound amplification system on any public property or on private property that is generally accessible to the public in a manner whereby the sound is plainly audible at a distance of more than 50 feet from such loud speaker or sound amplification system.
 - (c) No person shall operate or permit the operation of any loud speaker or sound amplification system in a private building or dwelling unit in a manner whereby the sound is plainly audible outside said building structure or outside the dwelling unit. (Ord. 271; Code 2014)
- 11-209. SAME; EXEMPTIONS. The following shall not be considered to be noise disturbances for purposes of this article.
- (a) Sound from law enforcement motor vehicles and other emergency motor vehicles, including, but not limited to, snow clearing equipment.
 - (b) Sound from vehicles or equipment belonging to the city, state, county, federal government, school or other governmental agencies, or utilities, engaged in preparing for or correcting a potentially hazardous situation.
 - (c) Sound that a person is making or causing to be made when said person has received and maintains a valid license or permit which specifically allows said

sound from any department, board or commission of the City authorized to issue such license or permit.

(d) The amplification system used in authorized public activities such as parades, sporting events, school activities, public auctions, and other activities which have the approval of the governing body, or an agent of the City authorized to grant such approval. (Ord. 271; Code 2014)

11-210. SAME; PENALTIES. Any person, individual, partnership, corporation, or association, who violates any of the provisions of 11-206 or 11-211 is guilty of a misdemeanor or upon conviction, shall be punished as follows:

(1) For a first offense, a fine of not less than \$100 plus court costs.

(2) For a second offense in a calendar year, a fine of not less than \$200 plus court costs.

(3) For a third offense in a calendar year, a fine of not less than \$400 plus court costs.

(4) Subsequent convictions within the calendar year a fine not less than \$800 plus court costs. (Ord. 271; Code 2014)

11-211. CLIMBING ONTO CITY OWNED BUILDINGS PROHIBITED. (a) It shall be unlawful for any person, other than city employees and approved vendors, to climb onto any city owned building or structure.

(b) Any person violating subsection (a) shall be subject to penalties as provided in 11-210. (Code 2014)

11-212. PARKING IN YARD. (a) Except in an improved parking space, its shall be unlawful for any person, firm, company or corporation or any driver or person having actual physical control or being in charge of any motor vehicle, to park or be stored or permit to be part of a motor vehicle in the front set-back area of any lot or parcel, or the side set-back area facing a street on a corner or reserve corner; any lot or parcel; except temporarily for the purpose of, and while actually engaged in, loading or unloading property or passengers.

(b) The presumption in reference to illegal parking as set forth in the Standard Traffic ordinances then in effect shall apply to this section.

(c) This section shall not apply to the temporary parking of emergency motor vehicles, delivery vehicles and motor vehicles of public and private utilities. (Code 2014)

11-213. SAME; DEFINITIONS.

(a) Improved parking space shall mean an area covered with a non-vegetation/non-grassed hard surface such as brick, gravel, rock, asphalt, concrete or equivalent material.

(b) Motor vehicle shall mean any vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled; as defined in the Standard Traffic Ordinances Manual published by the League of Kansas Municipalities. (Code 2014)

11-214. SAME; PENALTIES. Except for violations for which apparently is stated therein, violation of any part of 11-212 shall be deemed a class C misdemeanor. (Code 2014)

11-215. PARKING OF MOTOR VEHICLES AND TRAILERS. Parking on streets within the City of Bazine are hereby restricted by weight and size of the vehicle and also to the use of certain vehicles such as recreational vehicles, utility trailers, boat trailers, and commercial vehicles because of both size and weight. Parking of vehicles defined in this section in the front yard of any residence is prohibited. Parking of trailers for the purpose of storage of the trailer is prohibited.

(Code 2014)

11-216. SAME; DEFINITIONS.

(1) Motor Vehicle means any self-propelled land vehicle which can be used for towing or transporting people or materials, including; but not limited to, automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, and other off road vehicles.

(2) Recreational Vehicle means camper, motor home, travel trailer, camping trailer, truck camper, converted bus, fifth wheeler, and any other motor vehicle so designed, constructed or reconstructed as well permit the vehicle to be used as a place for human habitation by one or more persons and customarily or ordinarily used for vacation or recreational purposes. It also includes a unit that may be mounted on or drawn by another vehicle, which is primarily designed for temporary living or recreational use.

(3) Utility Trailer means a vehicle without motive power designed for carrying property on its own structure and to be drawn by a vehicle with motive power and includes boats and boat trailers.

(4) Vehicle means motor vehicle as defined herein.

(5) Permanent hard surface means a hard surface with material which is at least 4" thick for concrete and at least 2" for other materials and shall be made of a dustless material such as gravel, brick, rock, pavers, or asphalt. The surface must be the width of the vehicle not just under the tire portion of the vehicle.

(Code 2014)

11-217. SAME; EXCEPTIONS. The provisions of 11-215 above shall not be applicable in the following instances:

(1) Parking on grass, gravel or crushed material of similar consistency for events presented on an intermittent basis such as sporting events, car shows, music concerts, holidays or social celebrations or other events of a similar temporary nature.

(2) Real estate under active construction and improvement pursuant to a duly issued city building permit.

(3) Any vehicles parked completely to the rear of the front wall of the main building on the subject property and concealed from view from all public street right-of-way by:

- A solid, opaque screened fence or wall of at least six feet in height; or
- Vegetation consisting of a solid hedge row of coniferous shrubs, providing full screening from the ground to a minimum height of six feet;
- Any combination of the above that effectively conceals the vehicle from view or accomplishes the required screening height.

(Code 2014)

- 11-218. SAME; PARKING. (a) It shall be unlawful to park or store any trailer or recreational vehicle, as defined in section 11-216 of this article, on any city street, except as provided in section 11-219 below.
- (b) It shall be unlawful to park or store utility or boat trailers, as defined in section 11-216 of this article, on any city street for a period to exceed 48 hours except as provided in section 11-219. Trailers parked or stored for more than 48 hours shall be tagged and may be removed by the city at owner's expense. (Code 2016)
- 11-219. SAME; PERMITS. Utility trailers actively engaged in construction, landscaping, loading, or unloading may be allowed for the duration of ongoing constant active work at a particular site by permit from the city clerk or governing body. Permits may be issued dependent on the area the trailer is to be parked, traffic volume, street conditions, time of year, and forecasted weather for the permitted time period. A permit for use of the city street for a period to exceed 14 days shall require approval of the governing body. Recreational vehicles that are a part of an emergency parking in and around an emergency shelter shall not be required to have a permit. (Code 2014)
- 11-220. SEMI TRUCK/TRAILER. It shall be unlawful for any person or persons to park, cause to be parked or permit to remain parked on any city street or alley or parking lot any trucks, semi-trailer, or any trailer of any kind, except those types allowed in section 11-219, or except if parked in those areas designated as truck parking zones.
- For purposes of this section, the following defines a truck:
 - Trucks with an actual gross vehicle weight in excess of 30,000 pounds;
 - Any semi-trailer or semi-truck and trailer combination, whether loaded or unloaded; and
 - All trucks are required to follow certain truck routes as designated by the city.
- A vehicle, except those allowed in section 11-219, which alone or in combination, is twenty-four feet or more in length, may be parked for such a period of time as may be reasonably necessary to actively load or unload merchandise, freight, or cargo. (Code 2014)
- 11-221. SAME. It shall be unlawful for any person or persons to park or stand a motor vehicle that is licensed to carry a gross load of fifty thousand pounds or more in the street or roadway upon the streets within the City of Bazine, unless such person is delivering goods or services to a resident of such street, or is performing a governmental duty. (Code 2014)
- 11-222. SAME; PENALTY. A violation of section 11-215 *et seq.* shall be deemed a class C misdemeanor. (Code 2014)
- 11-223. ILLEGAL DUMPING AT CITY DUMP SITE. It shall be unlawful for any person or persons to dump anything except trees, brush and grass clippings at the City Dump Site located north and west of the intersection of Ness County EE Road and Road 125.
- 11-224. SAME; PENALTY. A violation of section 11-223 *et seq.* shall be deemed a class C misdemeanor. (Code 2022.5)

CHAPTER XII. PUBLIC PROPERTY

Article 1. City Parks

Article 2. Management of Public Rights-Of-Way

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 regulations governing any public parks belonging to the city and the Ness County Sheriff and law enforcement officers for 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. VEHICLE 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) Subsections (b) and (c) above shall not apply to authorized city employees while engaged in the maintenance and care of the park.
(e) It shall be unlawful to operate any such vehicle in any park area at a speed in excess of 20 m.p.h.
(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, or grills provided for that purpose by the city, and such fire must be extinguished by the person, persons or parties starting such fire, immediately after use thereof. (Code 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 any park or other city property within the city any alcoholic liquor or cereal malt beverage, except if CMB Temporary Permit 3-801 *et. seq.* (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)

ARTICLE 2. MANAGEMENT OF PUBLIC RIGHTS-OF-WAY

12-201. 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)

12-202. 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 article 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.

(c) The city shall process each valid and administratively complete application for use of the right-of-way within 30 days.

(Code 2014)

12-203. 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)

- 12-204. **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:
[Insert and specifically describe those portions of right-of-way where prohibitions exist. 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)
- 12-205. **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)
- 12-206. **ADDITIONAL REQUIREMENTS.** Reserved
- 12-207. **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)
- 12-208. **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 effect those repairs and charge the occupant the cost of those repairs.
(Code 2014)

- 12-209. 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)
- 12-210. FEES. Reserved.
- 12-211. 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)
- 12-212. 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 or arising out of the occupant's activities in a public right-of-way.
(Code 2014)
- 12-213. 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
- Article 4. Snow and Ice

ARTICLE 1. SIDEWALKS

- 13-101. **PERMIT REQUIRED.** It shall be unlawful to construct, reconstruct or repair any sidewalk within the city until the plans first have been approved by the governing body and a permit issued for such work by the city clerk. (Code 2014)
- 13-102. **SIDEWALK GRADE.** Hereafter all sidewalks constructed or reconstructed in the city shall be constructed on the established grade. When the governing body shall order a sidewalk constructed as hereafter provided, the city shall pay the cost of bringing the street to grade for the sidewalk. Where no grade has been established, the owner of abutting property may construct a sidewalk on the natural grade. If the grade has been established, the city clerk shall furnish the property owner with the official grade by reference to a stated distance above or below the street grade. (K.S.A. 12-1801, 12-1807; Code 2014)
- 13-103. **SAME; SPECIFICATIONS.** Hereafter all sidewalks shall be of single- course construction and shall be constructed and laid in accordance with standard plans and specifications hereby adopted by reference and filed in the office of the city clerk as provided by K.S.A. 12-1802. It shall be unlawful for any person, firm or corporation to construct, reconstruct or repair any sidewalk except as provided by this article. (Code 2014)
- 13-104. **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)
- 13-105. **SAME; CONDEMNATION, RECONSTRUCTION.** When any sidewalk, in the opinion of the governing body, become inadequate or unsafe for travel thereon, the governing body may adopt a resolution condemning such walk and providing for the construction of a new walk in the place of the walk condemned. (K.S.A. 12-1804; Code 2014)
- 13-106. **NOTICE; PUBLICATION.** The resolution providing for the construction or reconstruction of a sidewalk, as the case may be, shall give the owner of the abutting property not less than 30 days nor more than 60 days after its publication one time in the official city paper in which to construct or cause to be constructed or reconstructed the sidewalk at his or her own expense. If the sidewalk is not constructed by the property owner within the time specified, the governing body shall cause the work to be done by contract. (K.S.A. 12-1805; Code 2014)

- 13-107. **RIGHT OF ABUTTING OWNER.** Nothing in this article shall be construed to prohibit the owner of property abutting on a street, who desires to construct or reconstruct a sidewalk at his or her own expense and in accordance with official plans and specifications for the purpose and which meet such other requirements as would have to be met if the sidewalk were constructed or reconstructed by the city, to construct or reconstruct a sidewalk without any petition or a condemning resolution by the governing body. If such property owner desires the sidewalk to be constructed and reconstructed by the city and an assessment levied as provided by law in other cases, he or she shall file a request with the governing body. The governing body, in its discretion, may provide for the construction or reconstruction of the sidewalk requested in the same manner as in other cases where citizens or taxpayers petition the governing body. (K.S.A. 12-1806; Code 2014)
- 13-108. **REPAIRS BY OWNER OR CITY.** It shall be the duty of the owner of the abutting property to keep the sidewalk in repair, but the city may, after giving five days' notice to the owner or his or her agent, if known, of the necessity for making repairs or without notice if the lot or piece of land is unoccupied, make all necessary repairs at any time. The same shall be done and the cost thereof assessed against the lot or piece of land abutting on the sidewalk so repaired as may be provided by law. (K.S.A. 12-1808; Code 2014)
- 13-109. **PERFORMANCE, STATUTORY BOND.** In any case where the reconstruction or construction of a sidewalk is required to be done by contract as provided in section 13-106 hereof, the governing body may require the contractor to give a bond for the faithful performance of the contract and for the construction of the sidewalk in accordance with the plans and specifications, ordinances of the city or laws of Kansas, and for all contracts exceeding \$1,000 entered into by the city for any such purpose a statutory lien bond required by K.S.A. 60-1111 shall be furnished.
(Code 2014)
- 13-110. **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)
- 13-111. **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 PERMIT. No person, other than authorized city employees, shall dig or excavate any hole, ditch, trench or tunnel in or under any street, alley, sidewalk, park or other public property or public easement through private property without first having secured a permit for such excavation. Application shall be made to the city clerk. (Code 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; FILED. If the application is approved by the city, the city clerk shall issue a permit upon payment of a fee of \$5.00. Each permit issued under the provisions of this section shall cover only one specified excavation. (Code 2014)
- 13-204. SAME; BARRICADES. Any person to whom an excavation permit is issued shall enclose all excavations which they make with sufficient barricades and danger signs at all times, and shall maintain sufficient warning lights or flares at nighttime. The holder of an excavation permit shall take all necessary precautions to guard the public against all accidents from the beginning of the work to the completion of the same. (Code 2014)
- 13-205. SAME; UNLAWFUL ACTS. It shall be unlawful for any person, except those having authority from the city or any officer thereof to throw down, interfere with or remove any barriers, barricades, or lights placed in any street to guard and warn the traveling public of any construction work thereon or adjacent thereto.
(Code 2014)
- 13-206. CUTTING CURBS; PAVEMENT. (a) No person shall cut any curb, gutter, pavement, blacktop, sidewalk or excavate any street, alley or other public grounds of the city for any purpose without first obtaining a permit authorizing the same from the city clerk.
- (b) Once the work for which the excavation was made has been completed the city shall restore the pavement, blacktop, sidewalk or other surfacing at the expense of the person 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)

- 13-207. **ALTERING DRAINAGE.** No person shall change or alter any gutter, storm sewer, drain or drainage structure which has been constructed, or is being lawfully maintained or controlled by the city unless such change or alteration has been authorized or directed by the governing body. (Code 2014)
- 13-208. **UNFINISHED PAVEMENT.** No person shall walk upon, drive or ride over or across any pavement, sidewalk or incomplete grading which has not been opened for traffic. (Code 2014)
- 13-209. **USING STREETS.** (a) No person shall occupy any portion of any street, alley or sidewalk for the purpose of temporarily storing building materials without first obtaining a permit for such temporary use from the governing body.
 (b) No person may use any portion of any sidewalk or street right-of- way for the purpose of displaying or offering for sale wares, goods, merchandise or other items. Nothing in this article, however, shall be construed as prohibiting the city governing body from temporarily waiving the prohibition of this subsection in connection with community promotions or community-wide celebrations when such waiver is considered to be in the best interest of the city. (Code 2014)
- 13-210. **DANGEROUS OBJECTS IN.** It shall be unlawful for any person to place, throw or cause to be placed or thrown in or on any street, alley, sidewalk or other public grounds of the city, any glass, tacks, nails, bottles, wire or other dangerous objects that might wound any person or animal, or cut or puncture any pneumatic tire while passing over the same. (Code 2014)
- 13-211. **PETROLEUM PRODUCTS IN STREETS.** It shall be unlawful for any person, firm or corporation to deposit or throw any waste oil, fuel oil, kerosene, gasoline or other products of petroleum or any acids into or upon any street or public grounds of the city, or willfully to permit the same to be spilled, dripped or otherwise to come into contact with the surface of any street, alley, or sidewalk within the city. (Code 2014)
- 13-212. **DISCHARGING WATER ON STREETS.** It shall be unlawful for any person, firm or corporation to throw or discharge water into any ditch, street, avenue or alley in the city or to cause any water to stand or form pools or to flow in a stream thereon. This section shall not apply to persons cleaning or flushing such streets, avenues or alleys under the authority of the governing body, nor to members of the fire department. (Code 2014)
- 13-213. **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)
- 13-214. **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)
- 13-215. **HAULING LOOSE MATERIAL.** It shall be unlawful to haul over the streets or alleys of this city any loose material of any kind except in a vehicle so constructed or maintained as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alleys. (Code 2014)

ARTICLE 3. TREES AND SHRUBS

- 13-301. PUBLIC TREE CARE. The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure safety when servicing city utilities or to preserve the symmetry and beauty of public grounds. The city may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest. (Code 2014)
- 13-302. DISEASED TREES; DETERMINATION. Whenever any competent city authority or competent state or federal authority shall file with the governing body a statement in writing based upon a laboratory test or other supporting evidence that trees or tree materials or shrubs located upon private property within the city are infected or infested with or harbor any tree or plant disease or insect or larvae, the uncontrolled presence of which may constitute a hazard to or result in the damage or extinction of other trees or shrubs in the community, describing the same and where located, the governing body shall direct the city clerk to forthwith issue notice requiring the owner or agent of the owner of the premises to treat or to remove any such designated tree, tree material or shrub within a time specified in the notice. (Code 2014)
- 13-303. SAME; NOTICE SERVED. Notice shall be served by a police officer by delivering a copy thereof to the owner, and the person in possession of such property, or if the same be unoccupied or the owner a nonresident of the city, then the city clerk shall notify the owner by mailing a notice by certified mail, priority mail or commercial courier services, to his or her last known address. (Code 2014)
- 13-304. SAME; FAILURE OF OWNER; DUTY OF CITY. If the owner or agent shall fail to comply with the requirements of the notice within the time specified in the notice, then the chief of police shall proceed to have the designated tree, tree material or shrub, treated or removed and report the cost thereof to the city clerk. In lieu of city employees performing any such work, the governing body may contract with any competent person, company or corporation for the performance of such work. (Code 2014)
- 13-305. SAME; PREVENT SPREAD OF DISEASE. No tree, tree materials or shrubs as mentioned herein which have been cut down, either by the property owner or by the city, shall be permitted to remain on the premises, but shall be immediately treated, removed and burned or immediately burned upon the premises, if safe to do so, so as to prevent the spread of the tree disease. (Code 2014)
- 13-306. DANGEROUS, DEAD OR DISEASED TREES ON PRIVATE PROPERTY.
(a) Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 14 feet above the surface of the street or right-of-way. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the

proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign.

(b) The city shall have the right to cause the removal of any dangerous, dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property. The city will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. The owners, within 30 days of the notice, may request a hearing covering the ordered removal. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove the trees and charge the cost of removal on the owner's property tax notice.
(Code 2014)

13-307. TREES ON PUBLIC PROPERTY; COST BORNE BY CITY. The city shall have the authority to treat or to remove any tree as defined in section 13-301 of this article, or to remove any dead tree as mentioned herein, which is located within the limits of any public right-of-way within the city. The adjacent property owners shall not be responsible for the cost of treatment or removal of any such trees within the public right-of-way and this expense shall be borne by the city at large.
(Code 2014)

13-308. COSTS ON TAX ROLLS. The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for treatment or removal performed under the authority of sections 13-304:306 and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the general fund or other proper fund of the city, and such fund shall be reimbursed when payments therefor are received or when such assessments are collected and received by the city. (Code 2014)

13-309. INJURING TREES AND SHRUBS. No person shall willfully break, cut, take away, destroy, injure, mutilate, or attempt to willfully break, cut, take away, destroy, injure or mutilate any tree, shrub, vine, flower or landscaping standing, growing, or being upon the premises in the possession of another, or growing on any public ground, street, sidewalk, promenade or park in the city. (Code 2014)

13-310. FIRE HYDRANTS, PLANTINGS ADJACENT TO. No person shall plant or cause to be planted nor allow to grow upon property owned by him or her any shrubs, trees, or planting of any kind within 10 feet of any fire hydrant in the city, in order that every fire hydrant shall be in full view day or night, to fire apparatus approaching from any direction. (Code 2014)

ARTICLE 4. SNOW AND ICE

- 13-401. **SNOW AND ICE TO BE REMOVED.** (a) It shall be unlawful for the owner and/or the occupant of any lots abutting upon any sidewalks to fail to cause to be removed from such sidewalks all snow and ice within 12 hours from the time that the snow fall or ice storm ceases. If the snow falls or ice accumulates upon the sidewalks in the nighttime, removal of same must be made within 12 hours after sunrise on the following day.
- (b) It shall be unlawful for any person to place snow removed from private property upon any public street, alley or sidewalk.
(Code 2014)
- 13-402. **SAME: EXCEPTION; ALTERNATE REMEDY.** Where there shall be ice or compacted snow on any such sidewalk of such a character as to make it practically impossible to remove the same, the sprinkling of ashes, sand or other noncorrosive chemicals on the accumulation of ice or snow in such a manner as to make such sidewalk reasonably safe for pedestrian travel shall be deemed a sufficient compliance with the provisions of this article until the ice or snow can be removed.
(Code 2014)
- 13-403. **SAME; PENALTY.** That any person violating the provisions of section 13-401 shall, upon conviction, be fined \$25.00. (Code 2014)
- 13-404. **REMOVAL MAY BE MADE BY CITY.** If any owner or occupant of any lot or lots shall refuse or neglect to clean or remove from the sidewalk abutting the lot or lots all snow and ice within the time specified, the city may cause such snow and ice to be removed from sidewalks and the cost thereof shall be assessed against such abutting lot or lots, and the city clerk shall certify the same to the county clerk for collection as provided by law. (Code 2014)
- 13-405. **COSTS ON TAX ROLLS.** The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for removal of snow or ice performed under the authority of section 13-404 and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the general fund or other proper fund of the city, and such fund shall be reimbursed when payments therefor are received or when such assessments are collected and received by the city. (Code 2014)

CHAPTER XIV. TRAFFIC

Article 1. Standard Traffic Ordinance

Article 2. Local Traffic Regulations

Article 3. Work-Site Utility Vehicles, Micro-Site Trucks, Golf Carts
and All Terrain Vehicles on City Streets

Article 4. Hazardous Materials

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 Bazine, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2019, 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 Bazine, 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. 309 Code 2019)
- 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. (Code 2019)
- 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 \$10 nor more than \$30, except for speeding which shall not be less than \$10 nor more than \$500. 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 \$500. (Code 2019)

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 Bazine 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 2019)
- 14-202. **TRUCK PROHIBITION.** No trucks, trailers or any other vehicle weighing over 16,000 pounds shall be driven or pulled or parked on any city street which is surfaced in the City of Bazine, Kansas, except for the express purpose of loading or unloading its cargo. (Ord. 196; Code 2019)
- 14-203. **TRUCK ROUTE ESTABLISHED.** There is hereby established a truck route through the City of Bazine, as follows:
(a) Rice Street from the south city limits to the south line of Repine Avenue; Repine Avenue from the west line of Rice Street to the east line of Main Street; Main Street from the north line of Repine Avenue to the south line of State Highway K-96; and Burgess Avenue from the east line of Main Street to the east city limits of the City of Bazine. (Ord. 196; Code 2019)
- 14-204. **SAME; SIGNAGE.** Appropriate signs shall be placed on all streets leading into said city apprising travelers of the prohibition provided in this article. (Ord. 196; Code 2019)
- 14-205. **PENALTY.** Any person violating this article shall be deemed guilty of a misdemeanor and shall be fined not less than \$10 nor more than \$100 for the first violation and not exceeding \$200 for any subsequent violation. (Ord. 196; Code 2019)

ARTICLE 3. WORK-SITE UTILITY VEHICLES, MICRO UTILITY TRUCKS, GOLF CARTS AND ALL TERRAIN VEHICLES ON CITY STREETS

14-301. DEFINITIONS. As used in this article, the following words and phrases shall have the meanings respectively ascribed to them in this section, except when the context requires otherwise.

(a) Work-site utility vehicle means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. Work-site utility vehicle does not include a micro utility truck.

(b) Micro Utility truck means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 160 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. Micro utility truck does not include a work-site utility vehicle.

(c) Golf cart means a motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be operated at not more than 25 miles per hour and is designed to carry not more than six persons seated, including the driver.

(d) All-terrain vehicle" means any motorized non-highway vehicle 50 inches or less in width, having a dry weight of 1,500 pounds or less, traveling on three or more nonhighway tires, and having a seat to be straddled by the operator. As used in this subsection, "nonhighway tire" means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 15 inches or less. (Code 2019)

14-302. OPERATION OF SPECIAL PURPOSE VEHICLES ON CITY STREETS; SPECIAL CONDITIONS AND RESTRICTIONS ON OPERATION.

(a) Work-site utility vehicles may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city.

(1) No work-site utility vehicle shall be operated on any public highway, street, road or alley between sunset and sunrise unless such vehicle is equipped with lights as required by law for motorcycles.

(2) No work-site utility vehicle shall be operated on any federal highway or state highway; provided, however, that the provisions of this subsection shall not prohibit a work-site utility vehicle from crossing a federal or state highway.

(b) Micro Utility trucks may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city.

(1) No micro utility truck shall be operated on any public highway, street, road or alley, unless such truck complies with the equipment requirements under Article 17 of Chapter 8 of the Kansas Statutes Annotated, and amendments thereto.

(c) Golf carts may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city.

(1) No golf cart may be operated upon any public highway, street, road and alley with a posted speed limit in excess of 30 miles per hour.

(2) No golf cart shall be operated on any federal highway, state highway; provided, however, that the provisions of this subsection shall not prohibit a golf cart from crossing a federal or state highway.

(3) No golf cart shall be operated on any public highway, street, road or alley between sunset and sunrise, unless such vehicle is equipped with lights as required by law for motorcycles.

(d) All-terrain vehicles may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city; provided, however, no all-terrain vehicle shall be operated on any interstate highway, federal highway or state highway.

(1) No all-terrain vehicle shall be operated on any public highway, street, road or alley between sunset and sunrise unless equipped with lights as required for motorcycles.

(2) Every person operating an all-terrain vehicle on the public highways, streets, roads and alleys of the city shall be subject to all of the duties applicable to a driver of a motor vehicle imposed by law.

(3) A person operating an all-terrain vehicle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on an all-terrain vehicle, unless such all-terrain vehicle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the all-terrain vehicle at the rear or side of the operator.

(4) A person shall ride upon an all-terrain vehicle only while sitting astride the seat, facing forward, with one leg on each side of the all-terrain vehicle.

(5) No person shall operate an all-terrain vehicle while carrying any package, bundle, or other article which prevents such person from keeping both hands on the handlebars.

(6) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the all-terrain vehicle or the view of the operator. (Code 2019)

14-303. SAME; AGE; VALID DRIVER'S LICENSE REQUIRED; PENALTY; DUTIES AND RESPONSIBILITIES.

(a) No person shall operate any special purpose vehicle within the corporate limits of the city that is under 18 years of age.

(b) No person shall operate a special purpose vehicle on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver's license. Violation of this section is punishable by a fine of not more than \$1,000 or by imprisonment for not more than six months or by both such fine and imprisonment. (Code 2019)

14-304. LAWN MOWERS. Lawn mowers may be operated upon the public streets, roads and alleys within the corporate limits of the city in so far as the lawn mower and operator are engaged in mowing work or traveling to or from mowing work. No lawn mower shall travel upon any highway except to cross safely by the most direct path of travel. There shall be no requirement for permit, insurance, age or driver's license

for operation of a lawn mower. (Code 2019)

14-305. SPECIAL PURPOSE VEHICLES SUBJECT TO APPLICABLE TRAFFIC LAWS. Every person operating a special purpose vehicle on the public highways, streets, roads and alleys of the city shall be subject to all of the duties applicable to a driver of a motor vehicle as imposed by state law and the Standard Traffic Ordinances adopted by the City of Bazine, Kansas, that are not otherwise inconsistent with the specific requirements set forth in this article. (Code 2019)

14-306. SAME; INSURANCE REQUIRED; PENALTY. (a) Every owner of a special purpose vehicle shall provide liability coverage in accordance with Section 200 of the Standard Traffic Ordinance, and amendments thereto.

(b) All provisions of Section 200 of the 2019 Standard Traffic Ordinance, and amendments thereto, including penalty provisions, shall be applicable to all owners and operators of special purpose vehicles. (Code 2019)

14-307. SAME; REGISTRATION AND LICENSE; FEE; APPLICATION. Before operating any special purpose vehicle on any public highway, street, road or alley within the corporate limits of the city, the vehicle shall be registered with the City of Bazine and display a valid registration decal affixed and displayed in such a manner as to be clearly visible from the rear of the vehicle. The application shall be made upon forms provided by the city and each application shall contain the name of the owner, the owner's residence address, or bona fide place of business, a brief description of the vehicle to be registered (including make, model and serial number, if applicable). Proof of insurance, as required in Section 14-306 shall be furnished at the time of application for registration. The annual registration fee for a special purpose vehicle shall be \$25. Any business that deals in the sale and/or repair of the above-described special purpose vehicles may purchase a dealer permit at the annual registration fee of \$50, said dealer permit may be used on multiple special purpose vehicles as needed, all other requirements must be satisfied. Said business shall produce proof that said business is legitimate, such proof shall be, but not limited to the following: Articles of Incorporation/Organization, Kansas Sales Tax License, IRS EIN/TIN confirmation letter. The full amount of the license fee shall be required regardless of the time of year that the application is made. The license issued hereunder is not transferable. (Code 2019)

14-308. PENALTY. Unless specifically provided for herein, a violation of this section shall be deemed an ordinance traffic infraction. Upon any entry of a plea of guilty or not contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2019 Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the city may then have in effect. (Code 2019)

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 2019)
- 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 2019)
- 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 2019)
- 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) (Reserved)
 - (b) (Reserved)
 - (c) (Reserved)
- (Code 2019)
- 14-405. PARKING OF VEHICLES OR TRAILERS CARRYING HAZARDOUS MATERIALS. (a) Except as provided in subsections (b) and (c), it shall be unlawful for any person, firm, corporation or other entity to park any vehicle, trailer or semi-trailer carrying any hazardous material within any of the following city zoning districts as defined in Chapter 16 of this code:
- (1) (Reserved)
 - (b) Subsection (a) shall not apply to vehicles, trailers or semi-trailers parked for continuous periods of time not to exceed one hour where such vehicles, trailers or semi-trailers are parked along those routes specified in section 14-404 of this code.
 - (c) Subsection (a) shall not apply to any vehicle, trailer or semi-trailer carrying any hazardous material where such vehicle, trailer or semi-trailer is not parked within 500 feet of any structure used for human habitation.
- (Code 2019)

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 2019)

CHAPTER XV. UTILITIES

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

ARTICLE 1. GENERAL PROVISIONS

- 15-101. DEFINITION. For purposes of this article utility services shall include water, electrical, sewer, solid waste (refuse) and other utility services provided by the city. (Code 2014)
- 15-102. DELINQUENT ACCOUNTS. Unless otherwise provided, water, electric, sewer, solid waste (refuse) or other utility service shall be terminated for nonpayment of service fees or charges in accordance with sections 15-103:104. (Code 2014)
- 15-103. NOTICE; HEARING. (a) If a utility bill has not been paid on or before the due date as provided in this chapter, a delinquency and termination notice shall be issued by the city clerk within five days after the delinquency occurs and mailed to the customer at his or her last known address. A copy also shall be mailed to the occupant of the premises if the occupant and the customer are not the same person.
- (b) The notice shall state:
- (1) The amount due, plus delinquency charge of \$25.00;
 - (2) Notice that service will be terminated if the amount due is not paid within 10 days from the date of the notice unless the date on the notice to pay the charges due shall be on a Saturday, Sunday or legal holiday, in which event such notice will give the consumer until the close of the next business day in which to pay the charges;
 - (3) Notice that the customer has the right to a hearing before the designated hearing officer;
 - (4) Notice that the request for a hearing must be in writing and filed with the city clerk no later than three days prior to the date for termination of service.
- (c) Upon receipt of a request for hearing, the city clerk shall advise the customer of the date, time and place of the hearing which shall be held within three working days following receipt of the request. (Code 2022)
- 15-104. SAME; FINDING. Following the hearing, if the hearing officer shall find that service should not be terminated, then notice of such finding shall be presented to the city clerk. If the officer finds that service should be terminated, an order shall be issued terminating service five days after the date of the order. The customer shall be notified either in person or by mailing a letter to his or her last known address by

certified mail, return receipt requested, priority mail or commercial courier service. However, if the order is made at the hearing in the presence of the customer, then no further notice need be given. The hearing officer has a right, for good cause, to grant an extension, not to exceed 10 days, for the termination of such service. (Code 2014)

15-105. UTILITY DEPOSIT. (a) At the time of making application for utility service, the property owner or customer shall make a cash deposit to secure payment of accrued bills or bills due on discontinuance of service. Receipt thereof shall be issued to each such depositor.

(b) The deposit(s) required by subsection (a) shall be in the amount of \$150.00.

(c) The deposit so made shall be kept by the city clerk in a separate account and deposited in a fund designated as the "meter deposit fund." Interest shall be payable at the rate determined by the state corporation commission yearly and credited to the customer's account January 1st of each calendar year.

(d) On the second interest payment date following the deposit required above, the city clerk shall refund the deposit of any depositor who is owner of the premises wherein such utility service is being furnished and has not been delinquent in payment of any utility service charge during the past year. Interest due and accrued shall not draw interest.

(e) Upon the discontinuance of any service at the request of the depositor, the deposit shall be refunded upon surrender of the original receipt therefor together with the accrued interest thereon less any amount due and owing the city for services furnished prior thereto or it may be credited towards the payment of the final bill rendered to the customer.

(f) Any security deposit not refunded within three years after discontinuance of service shall be deposited in the utility fund of the city upon compliance with the provisions of K.S.A. 12-822 as amended.
(Code 2022)

15-105A. UTILITY DEPOSIT. (a) Each new customer making application for utility service shall make a cash deposit to the city to serve as a guaranty for the payment of service thereafter furnished to the customer's premises.

(b) The deposit(s) required by subsection (a) shall be in the amount of \$150.00.

(c) In the event that utility service shall be disconnected or discontinued for failure to pay any bill due the city for such utility, such cash deposit shall be applied as a credit against all amount due from the customer to the city, and if there shall remain any surplus of such deposit, the same shall be returned to the customer.

(d) Deposits collected pursuant to this ordinance shall be governed by the provisions of K.S.A. 12-822 as amended.
(Code 2022)

15-106. DELINQUENT ACCOUNTS; REFUSAL OF SERVICE; TERMINATION OF SERVICE; LIEN AGAINST PROPERTY. (a) In the event that any person, except the United States or the state of Kansas, shall fail to pay the fees or charges for such utility services(s), utility service shall be terminated as provided in sections 15-102:104. The governing body may refuse the delivery of utility service(s), as permitted by law, until such time as the fees and charges are paid in full.

(b) In the event that any person, except the United States or the state of Kansas, residing, occupying, using or operating on property to which utility service(s) furnished by the city is not paid, the unpaid fees or charges shall constitute a lien upon the property to which the utilities are furnished. The amount of the unpaid fees or charges shall be certified by the governing body to the county clerk of the county in which the property is located, to be placed upon the tax roll for collection, subject to the same penalties and collected in the same manner as other taxes are collected by law.

(c) The lien, described in subsection (b) of this section, shall not attach to property for unpaid utility fees or charges when the utility service(s) have been contracted for by a tenant and not by the landlord or owner of the property to which the utility service is provided.

(d) If at the time of application for utility service the applicant has an outstanding balance or unpaid fees or charges for utility services provided by the city, the application shall not be accepted until all fees or charges are paid in full.
(Code 2014)

15-107. LANDLORD LIABILITY. (a) Owners of premises served by utility service under this article shall be liable for payment of the costs of any utility service account delinquency arising from service provided to such premises, regardless of whether the utility service was furnished upon the application and request of the owner or lessee of the premises. This provision shall also apply when the premises are leased by or through an agent or other representative of the owner.

(b) In the event that a delinquency arises involving leased premises, in addition to the tenant, the owner or owner's agent shall be notified in writing of the delinquency of the lessee by first class regular mail within 10 days after the billing to the lessee becomes delinquent. Notice shall be sufficient if mailed to the last known address of the owner or owner's agent known to city personnel responsible for said mailing, after reasonable inquiry.

(c) If utility service is furnished to a leased premises on the application or request of the lessor of the premises, then all billings for utilities furnished to such leased premises shall be made directly to the lessor, and the lessor shall be fully liable for the cost of service furnished.

(d) The city may collect the amount of the unpaid bill for utility services by any lawful means. Provided, however, that in no event may the city place a lien, as provided in subsection (b) of 15-106, on real estate of the lessor.
(Code 2014)

- 15-108. PETTY CASH FUND. A petty cash fund in the amount of \$1,000 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)
- 15-109. SAME; DEPOSITS. The petty cash fund shall be deposited in the regular depository bank of the city and paid out on the order of the city clerk by check which shall state clearly the purpose for which issued. (Code 2014)
- 15-110. SAME; VOUCHERS. Whenever the petty cash fund becomes low or depleted, the city clerk shall prepare vouchers covering expenses as have been paid from the petty cash fund and shall submit such vouchers together with the paid checks to the governing body for review and allowance of the amounts from the regular funds of the utilities. Warrants issued 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.
(b) Before any connection is made to the city's water system an application must be made in writing to the city clerk by the owner of the premises, or his or her authorized representative, for a permit to make such connection. (Code 2014)
- 15-205. **APPLICATION FOR SERVICE.** (a) Any person, firm or corporation desiring a connection with the municipal water system shall apply in writing to the city clerk, on a form furnished by the city for that purpose, for a permit to make the connection.
(b) The application shall:
(1) Contain an exact description including street address of the property to be served;
(2) State the size of tap required;
(3) State the size and kind of service pipe to be used;
(4) State the full name of the owner of the premises to be served;
(5) State the purpose for which the water is to be used;
(6) State any other pertinent information required by the city clerk;
(7) Be signed by the owner or occupant of the premises to be served, or his or her authorized agent.
(c) Each application for a connection permit shall be accompanied by payment of fees and/or costs specified in section 15-207. (Ord. 238; Code 2014)
- 15-206. **CITY TO MAKE CONNECTIONS.** All taps shall be given, street excavations made, corporation cocks inserted, pipes installed from main to curb, and the curb cock installed in a meter box to which the service pipe is to be connected by city employees only. (Code 2014)

- 15-207. CONNECTION FEES. The fees for connection to the city waterworks system shall be at cost. (Code 2014)
- 15-208. CURB COCKS. There shall be a curb cock in every service line attached to the city main, the same to be placed within the meter box. Curb cocks shall be supplied with strong and suitable "T" handles. (Code 2014)
- 15-209. CHECK VALVES. Check valves are required on all connections to steam boilers or on any other connection deemed necessary by the water superintendent. Safety and relief valves shall be placed on all boilers or other steam apparatus connected with the water system where the steam pressure may be raised in excess of 40 pounds per square inch. (Code 2014)
- 15-210. 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 written permission from the mayor or the governing body. (Code 2014)
- 15-211. METERS. (a) All water furnished to customers shall be metered.
(b) Meters shall be located between the sidewalk or property line and curbing when the main is in the street and on private property within three feet of the alley line when the main is in the alley. In the business district the meters may be installed in the basement at a location specified by the city.
(c) The city's responsibility stops at the property line.
(Code 2014)
- 15-212. SAME; TESTING. Meters shall be tested before being set and at any other time thereafter when they appear to be measuring incorrectly. If a test is requested by the customer and the meter is found to be accurate within two percent, the meter will be deemed correct and a charge of \$10.00 will be made to the customer. (Code 2014)
- 15-213. TAMPERING WITH METER. It shall be unlawful for any person to break the seal of any meter, to alter the register or mechanism of any meter, or to make any outlet or connection in any manner so that water supplied by the city may be used or wasted without being metered. It shall be unlawful for any person except an authorized employee of the water department to turn any curb cock on or off. (Code 2014)
- 15-214. LEAKS PROHIBITED; PENALTY. No allowances shall be made for water used or lost through leaks, carelessness, and 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)

- 15-215. DISCONNECTION, RECONNECTION CHARGE. The governing body shall establish, by ordinance, a water service disconnection and reconnection charge. Whenever the city receives a request from a customer for termination of water service the disconnection charge shall be added to the customer's final bill. Any service disconnected for nonpayment of delinquent bill shall be reconnected only upon payment of the delinquent bill, interest penalty thereon, and the reconnection charge of \$150.00. (Code 2022)
- 15-216. UTILITY DEPOSIT. At the time of making application for water service, the property owner or customer shall make a cash deposit in the amount and manner specified in section 15-105 to secure payment of accrued bills or bills due on discontinuance of service. (Code 2014)
- 15-217. INTERRUPT SERVICE. The city reserves the right to interrupt water service for the purpose of making repairs or extensions to water lines or equipment. (Code 2014)
- 15-218. PROHIBITED ACTS. It shall be a violation of this article for any unauthorized person to:
- (a) Perform any work upon the pipes or appurtenances of the city's waterworks system beyond a private property line unless such person is employed by the city;
 - (b) Make any connections with any extension of the supply pipes of any consumer without written permission to do so having been first obtained from the governing body;
 - (c) Remove, handle or otherwise molest or disturb any meter, meter lid, cutoff, or any other appurtenances to the water system of the city.
- (Code 2014)
- 15-219. WASTING WATER. Water users shall prevent unnecessary waste of water and shall keep sprinklers, hydrants, faucets and all apparatus, including the service line leading from the property to the meter in good condition at their expense. (Code 2014)
- 15-220. RIGHT OF ACCESS. Authorized employees of the city may enter upon any premises at reasonable hours for the purpose of reading the meter or servicing or inspecting meters or water lines. (Code 2014)
- 15-221. RATES. The rates per month for the use of water in the city shall be as follows:
- (a) Service charge per month \$15.00
 - (b) Per 1,000 gallons..... \$ 4.40
- (Ord. 318; Code 2022)
- 15-222. 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 15% percent will be added to the bill. (Code 2018)
- 15-223. 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)

- 15-224. USE DURING FIRE. No person owning or occupying premises connected to the municipal water system shall use or allow to be used during a fire any water from the water system except for the purpose of extinguishing the fire. Upon the sounding of a fire alarm it shall be the duty of every such person to see that all water services are tightly closed and that no water is used except in extraordinary cases of emergency during the fire. (Code 2014)
- 15-225. CROSS-CONNECTIONS PROHIBITED. No person shall establish or permit to be established or maintain or permit to be maintained, any cross connection whereby a private, auxiliary, or emergency water supply other than the regular public water supply of the city may enter the supply and distributing system of the city unless specifically approved by the Kansas Department of Health and Environment and the governing body. (Ord. 214; Code 2014)
- 15-226. SAME; PROTECTIVE BACKFLOW DEVICES REQUIRED. Approved devices to protect against backflow or backsiphonage shall be installed at all fixtures and equipment where backflow and/or backsiphonage may occur and where there is a hazard to the potable water supply in that polluted water or other contaminating materials may enter into the public water supply. Any situation in which a heavy withdrawal of water, such as a sudden break in the main or water being used from a fire hydrant, may cause a negative pressure to develop which could lead to backsiphonage of polluted water into the system shall be improper and must be protected by approved backflow preventive valves and systems as determined by the superintendent. (Ord. 214; Code 2014)
- 15-227. SAME; INSPECTION. The city utility superintendent or other designee of the governing body shall have the right of entry into any building or premises in the city as frequently as necessary in his or her judgment in order to ensure that plumbing has been installed in accordance with the laws of the city so as to prevent the possibility of pollution of the water supply of the city. (Ord. 214; Code 2014)
- 15-228. SAME; 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. (Ord. 214; Code 2014)

ARTICLE 3. ELECTRICITY
(Reserved)

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 innerface 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. APPLICATION. Any person desiring to make a connection to the city sewer system shall apply in writing to the city clerk who shall forward the application to the utility superintendent. The application shall contain:

(a) The legal description of the property to be connected;

(b) The name and address of the owner or owners of the property;

(c) The kind of property to be connected (residential, commercial or industrial);

(d) The point of proposed connection to the city sewer line.

(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)

15-406. SEWER CONNECTION. The connection of the building sewer into the public sewer shall be made at the "Y" branch if such branch is available at a suitable location. Where no properly located "Y" branch is available, the connection shall be made in the manner approved by the utility superintendent and at a location designated by the superintendent. (Code 2014)

- 15-407. SEWER FOR EACH BUILDING. A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available or can be feasibly constructed to the rear building. In such case, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. (Code 2014)
- 15-408(1) SAME; SPECIFICATIONS. The building sewer shall be constructed of cast iron pipe, ASTM specifications A74-42, or approved equal; vitrified clay sewer pipe, ASTM specifications C13-44T, or approved equal; or an approved plastic pipe. Any plastic pipe to be installed on any building sewer shall not be approved by the city until the owner has furnished descriptive literature and typical sample section of the plastic pipe proposed for installation, to the city for inspection and review. All joints on all pipe installed shall be tight and waterproof. Any part of the building sewer that is located within 10 feet of a water service pipe or city water main shall be constructed of approved cast iron soil pipe with approved joints. No building sewer shall be installed within three feet of existing gas lines. If installed in filled or unstable ground, the building sewer shall be constructed of cast iron soil pipe, except that non-metallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the city. (Code 2014)
- 15-408(2) SAME. The size and slope of the building sewer to be installed shall be subject to the approval of the city inspector, but in no event shall the diameter of the pipe be less than four inches. The slope at which a six inch pipe is to be laid shall be not less than 1/8 inch per foot and for four inch pipe, not less than 1/4 inch per foot. Any grades for the pipe, which are proposed for installation at grades less than these specified, shall be approved by the city inspector prior to placement. (Code 2014)
- 15-408(3) SAME. Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with approved curved pipe and fittings, including cleanout fittings. (Code 2014)
- 15-408(4) SAME. At buildings in which the building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer. The use of any pumping equipment for which cross-connections with a public water supply system are needed, is prohibited. The total costs of pumping equipment and pumping equipment operational costs shall be those of the owner. (Code 2014)
- 15-408(5) SAME. No building sewer shall be laid across a cesspool, septic tank or vault until the cesspool, septic tank or vault has been well cleaned and filled with an approved earth or sand fill, then thoroughly tamped and water settled. Cast iron pipe may be used across cesspools or septic tanks, if proper bedding and support for the sewer pipe is acquired. (Code 2014)

- 15-408(6) SAME. All excavation required for the installation of the building sewer shall be open trench work unless otherwise approved by the city. Pipe laying and backfill shall be performed in accordance with ASTM specifications C12-19, except that no backfill shall be placed until the work has been inspected and approved. (Code 2014)
- 15-408(7) SAME. All joints in the building sewers shall be made watertight. If recommended by the city inspector, a water pressure test shall be made on the completed sewer to insure a compliance with this requirement, requiring that the building sewer withstand an internal water pressure of 5 psi., without leakage.
- Cast iron pipe with lead joints shall be firmly packed with oakum or hemp and filled with molten lead, Federal Specifications QQ-L-156, not less than one inch deep. Lead shall be run in one pour and caulked and packed tight. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved.
- All joints in vitrified clay pipe shall be the polyurethane-compression type joints, approved by the city inspector.
- Joints for all plastic pipe used in building sewers shall be the slip type joints or solvent weld type, approved by the city.
- Joints between any two different type of pipes shall be made with lead, asphaltic jointing materials or concrete, as approved by the city. All joints shall be watertight and constructed to insure minimum root penetration and to the satisfaction of the city. (Code 2014)
- 15-409. 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)
- 15-410. 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)
- 15-411. PRIVY UNLAWFUL. It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in this article. (Code 2014)

- 15-412. PRIVATE SEWER SYSTEM. Where a public sanitary sewer is not available under the provisions of section 15-402 the building sewer shall be connected to a private sewage disposal system complying with the provisions of sections 15-411 to 15-416. (Code 2014)
- 15-413. SAME; PERMIT. Before commencing construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the utility superintendent. The application shall be accompanied by any plans, specifications or other information deemed necessary by the utility superintendent. (Code 2014)
- 15-414. SAME; INSPECTION. The utility superintendent or his or her authorized representative shall be allowed to inspect the work at any stage of construction and the applicant shall notify the superintendent when the work is ready for final inspection or before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the superintendent. (Code 2014)
- 15-415. SAME; DISCHARGE. (a) The type, capacities, location, and layout of the private sewage disposal system shall comply with all recommendations and requirements of the Water Pollution Control Section of the Kansas State Department of Health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than one acre. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.
(b) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 15-402, a direct connection shall be made to the public sewer in compliance with this article, and any septic tank, cesspool, and similar private sewage disposal facilities shall be abandoned and filled with suitable and acceptable materials. (Code 2014)
- 15-416. 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)
- 15-417. 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)
- 15-418. 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)

- 15-419. 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)
- 15-420. 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)
- 15-421. OLD BUILDING SEWERS. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the utility superintendent, to meet all requirements of this article. (Code 2014)
- 15-422. 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)
- 15-423. 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)
- 15-424. 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)
- 15-425. 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)

15-426. **BILLS.** (a) Bills shall be rendered monthly as provided in section 15-222 and shall be collected as a combined utility bill.

(b) Any person at the time of beginning or terminating service who receives service for a period of less than 17 consecutive days shall be billed at no less than one-half of the regular minimum monthly rate. For service of 17 consecutive days or more the charge shall be not less than full regular minimum monthly rate. (Code 2014)

15-427. **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)

15-428. **SEWER SERVICE CHARGE.** The following monthly sewer rates and charges are hereby established for sewer hookups furnished by the City of Bazine, Kansas, to be calculated once a year using a 3 month average water usage during winter months:

(a) 0 to 3,000 gallons water usage per month\$16.00

(b) per 1,000 gallons over minimum usage\$ 4.40

(Ord. 318; Code 2022)

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 nonputrescible 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 accumulate 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 anyway 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 except in an approved incinerator and unless a variance has been granted and a written permit obtained from the city or the appropriate air pollution control agency;

(d) Bury refuse at any place within the city except that lawn and garden 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; APPLICATION. Any person desiring to collect or transport solid waste within the city shall make application for a license to the city clerk. The application shall set forth the name and address of the applicant, the make and type of vehicle to be operated for collecting and transporting solid waste. The application shall be accompanied by a certificate of inspection and approval of said vehicle by the county health officer issued not more than 15 days prior to the date of application. (Code 2014)

15-517. COSTS OF SOLID WASTE LANDFILL USAGE. All residential utility customers through the City of Bazine, Kansas, shall be assessed monthly an additional one dollar \$1 per residence to be applied towards the solid waste Ness County Landfill inspection charge, as required by the Ness County Commissioners. At the end of each month, upon the date that regular bills and assessment are paid

by the city, the accumulated utility payment of one dollar \$1 per residence per month shall be paid out by the City of Bazine to the Road and Bridge Department of Ness County, Kansas, as required for the use of the Ness County Landfill, for deposit of City of Bazine solid waste.

(Ord. 256; Code 2014)

15-518. 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)

15-519. 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. 223; 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. 223; Code 2014)
- 15-603. DECLARATION OF A 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. (Ord. 223; Code 2014)
- 15-604. DECLARATION OF A 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 non-essential 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. (Ord. 223; Code 2014)

- 15-605. **DECLARATION OF 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 impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be effective upon their publication in the official city newspaper.
(Ord. 223; Code 2014)
- 15-606. **VOLUNTARY CONSERVATION MEASURES.** Upon the declaration of a water watch, or water warning, as provided in section 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. 223; 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. 223; 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. 223; Code 2014)

15-609. REGULATIONS. During the effective period of any water supply emergency as provided for in section 15-605, the mayor 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. 223; Code 2014)

15-610. VIOLATIONS, DISCONNECTIONS AND PENALTIES. (a) If the mayor, 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. 223; 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 service connections as required to protect the health and safety of the public. (Ord. 223; Code 2014)

CHAPTER XVI. ZONING AND PLANNING

Article 1. Flood Hazard Prevention

Article 2. City Limits

ARTICLE 1. FLOOD HAZARD PREVENTION

16-101. STATUTORY AUTHORIZATION. (a) The legislature of the State of Kansas delegated the responsibility to local governmental units to adopt regulations designed to protect the health, safety and general welfare. Therefore, the city council ordains as follows:

(b) Findings of Fact.

(1) Flood Losses Resulting from Periodic Inundation. The flood hazard areas of Bazine, Kansas are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare.

(2) General Causes of the Flood Losses. These flood losses are caused by:

(A) The cumulative effect of obstructions in floodways causing increases in flood heights and velocities,

(B) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

(3) Methods Used to Analyze Flood Hazards. The Flood Insurance Study (FIS) that is the basis of this article uses a standard engineering method of analyzing flood hazards, which consist of a series of interrelated steps.

(A) Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this ordinance is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this ordinance. The base flood is the flood that is estimated to have a one percent chance of being equaled or exceeded in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated July 4 1989 as amended, and any future revisions thereto.

(B) Calculation of water surface profiles that are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.

(C) Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.

(D) Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.

(E) Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

(Ord. 277; Code 2014)

- 16-102. **STATEMENT OF PURPOSE.** It is the purpose of this article to promote the public health, safety, and general welfare, to minimize those losses previously described, to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(b) and K.A.R. 5-44-4 by applying the provisions of this article to:
- (a) Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
 - (b) Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
 - (c) Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard. (Ord. 277; Code 2014)
- 16-103. **LANDS TO WHICH ARTICLE APPLIES.** This article shall apply to all lands within the jurisdiction of the City identified as numbered and unnumbered A, AE, AO, and AH zones on the Index Map dated July 4, 1989, of the Flood Insurance Rate map (FIRM) as amended, and any future revisions thereto. In all areas covered by this article, no development shall be permitted, except through the issuance of a floodplain development permit, granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in the provisions for flood hazard reduction in this article. (Ord. 277; Code 2014)
- 16-104. **COMPLIANCE.** No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations. (Ord. 277; Code 2014)
- 16-105. **ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article imposes greater restrictions, the provisions of this article shall prevail. All other ordinances inconsistent with this article are hereby repealed to the extent of the inconsistency only. (Ord. 277; Code 2014)
- 16-106. **INTERPRETATION.** In their interpretation and application, the provisions of this article shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes. (Ord. 277; Code 2014)
- 16-107. **WARNING AND DISCLAIMER OF LIABILITY.** The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This article shall not create a liability on the part of the City of Bazine, Kansas, any officer or employee

thereof, for any flood damages that may result from reliance on this article or any administrative decision lawfully made there under.
(Ord. 277; Code 2014)

16-108. SEVERABILITY. If any section; clause; provision; or portion of this article is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this ordinance shall not be affected thereby.
(Ord. 277; Code 2014)

16-109. ADMINISTRATION; FLOODPLAIN DEVELOPMENT PERMIT. A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Section 16-103. 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.
(Ord. 277; Code 2014)

16-110. SAME; DESIGNATION OF FLOODPLAIN ADMINISTRATOR. The Bazine City Superintendent is hereby appointed to administer and implement the provisions of this article as the Floodplain Administrator.
(Ord. 277; Code 2014)

16-111. SAME; DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR. Duties of the Floodplain Administrator shall include, but not be limited to:

(a) Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this article have been satisfied.

(b) Review 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.

(c) 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.

(d) Issue floodplain development permits for all approved applications;.

(e) 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).

(f) Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse.

(g) 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.

(h) 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.

(i) 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.
(Ord. 277; Code 2014)

16-112. SAME; APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT. 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:

(a) 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 structure or work.

(b) Identify and describe the work to be covered by the floodplain development permit.

(c) Indicate the use or occupancy for which the proposed work is intended.

(d) Indicate the assessed value of the structure and the fair market value of the improvement.

(e) Specify whether development is located in designated flood fringe or floodway;

(f) Identify the existing base flood elevation and the elevation of the proposed development.

(g) Give such other information as reasonably may be required by the Floodplain Administrator.

(h) Be accompanied by plans and specifications for proposed construction.

(i) Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

(Ord. 277; Code 2014)

16-113. PROVISIONS FOR FLOOD HAZARD REDUCTION; GENERAL STANDARDS.

(a) No permit for floodplain development shall be granted for new construction, substantial improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A, AE, AO, and AH zones unless the conditions of this section are satisfied.

(b) All areas identified as unnumbered A zones on the Flood Insurance Rate Map (FIRM) 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 ordinance. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.

(c) Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or number A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(d) All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:

(1) 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;

(2) Construction with materials resistant to flood damage;

(3) Utilization of methods and practices that minimize flood damages;

(4) 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;

(5) 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

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

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

(B) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;

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

(D) 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.

(e) Storage, Material, and Equipment.

(1) 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.

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

(f) Nonconforming Use. 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:

(1) If such structure, use, or utility service is discontinued for twelve (12) consecutive months, any future use of the building shall conform to this article.

(2) 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 with 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.

(Ord. 277; Code 2014)

16-114. SAME; SPECIFIC STANDARDS. (a) In all areas of special flood hazard, once base flood elevation data is obtained, as set forth in Section 16-113(b), the following provisions are required:

(1) Residential Construction. New construction or substantial-improvement of any residential structure, including manufactured 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 floor shall be certified by a licensed land surveyor or professional engineer.

(2) Non-Residential Construction. New construction or substantial-improvement of any commercial, industrial, or other non-residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood level or, together with attendant utility and sanitary facilities, be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer. Such certification shall be provided to the Floodplain Administrator as set forth in Section 16-111(g)(h) and (i).

(3) Require, for all new construction and substantial-improvements that fully enclosed areas below 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:

(A) 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

(B) 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. (Ord. 277; Code 2014)

16-115. SAME; MANUFACTURED HOMES. (a) All manufactured homes to be placed within all unnumbered and numbered A, AE, and AH zones on the community's FIRM 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.

(b) Require manufactured homes that are placed or substantially improved within unnumbered or numbered A, AE, and AH zones on the community's FIRM on sites:

- (1) Outside of a manufactured home park or subdivision;
- (2) In a new manufactured home park or subdivision;
- (3) In an expansion to an existing manufactured home park or subdivision; or

(4) 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 one (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

(c) Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within unnumbered and numbered A, AE, and AH zones on the community's FIRM that are not subject to the provisions of (b) above, be elevated so that either:

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

(2) 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 flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer. (Ord. 277; Code 2014)

16-116. AREAS OF SHALLOW FLOODING. (AO and AH zones) Located within the areas of special flood hazard as described in 16-103 are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:

(a) AO Zones

(1) All new construction and substantial-improvements of residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).

(2) All new construction and substantial-improvements of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least two (2) feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely flood proofed to that level so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(3) Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

(b) AH Zones

(1) The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in 16-114.

(2) Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures. (Ord. 277; Code 2014)

- 16-117. FLOODWAY. Located within areas of special flood hazard established in 16-103, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the following provisions shall apply:
- (a) The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designated to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
 - (b) The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted 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) If 16-117(b) is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of this article.
 - (d) In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in 16-113.
(Ord. 277; Code 2014)
- 16-118. SAME; RECREATIONAL VEHICLES. Require that recreational vehicles placed on sites within unnumbered and numbered A, AE, AH, and AO zones on the community's FIRM either:
- (a) Be on the site for fewer than 180 consecutive days, or
 - (b) Be fully licensed and ready for highway use. 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; or
 - (c) Meet the permitting, elevation, and the anchoring requirements for manufactured homes of this article. (Ord. 277; Code 2014)
- 16-119. FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES; ESTABLISHMENT OF APPEAL BOARD. The Bazine City Council shall serve as an Appeal Board and shall hear and decide appeals and requests for variances from the floodplain management requirements of this article.
(Ord. 277; Code 2014)
- 16-120. SAME; RESPONSIBILITY OF BAZINE CITY COUNCIL - APPEAL. 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 Bazine City Council, as defined in Section 16-119. The Bazine City Council 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. (Ord. 277; Code 2014)
- 16-121. SAME; FURTHER APPEALS. Any person aggrieved by the decision of the Bazine City Council 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.
(Ord. 277; Code 2014)

- 16-122. SAME; FLOODPLAIN MANAGEMENT VARIANCE CRITERIA. In passing upon such applications for variances, the Bazine City Council shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:
- (a) Danger to life and property due to flood damage;
 - (b) Danger that materials may be swept onto other lands to the injury of others;
 - (c) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) Importance of the services provided by the proposed facility to the community;
 - (e) Necessity to the facility of a waterfront location, where applicable;
 - (f) Availability of alternative locations, not subject to flood damage, for the proposed use;
 - (g) Compatibility of the proposed use with existing and anticipated development;
 - (h) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) Safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
 - (k) 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.
- (Ord. 277; Code 2014)
- 16-123. SAME; CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES. (a) Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 2-6 below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (b) 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.
 - (c) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - (d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (e) Variances shall only be issued upon:
 - (1) showing of good and sufficient cause,
 - (2) determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (3) determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public

expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(f) A community shall notify the applicant in writing over the signature of a community official that:

(1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and

(2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this article. (Ord. 277; Code 2014)

16-124. **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, 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 Bazine, Kansas, or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 277; Code 2014)

16-125. **AMENDMENTS.** The regulations, restrictions, and boundaries set forth in this article may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Bazine, Kansas. At least 20 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the FEMA Region VII office. The regulations of this article are in compliance with the NFIP regulations. (Ord. 277; Code 2014)

16-126. **DEFINITIONS.** Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the same meaning they have in common usage and to give this article its most reasonable application.

(a) "100-year Flood" see "base flood. "

(b) "Accessory Structure" means the same as "appurtenant structure. "

(c) "Actuarial Rates" see "risk premium rates. "

(d) "Administrator" means the Federal Insurance Administrator.

(e) "Agency" means the Federal Emergency Management Agency (FEMA).

(f) "Appeal" means a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

(g) "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.

(h) "Ares of shallow Flooding" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and

where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(i) "Area of Special Flood Hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

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

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

(l) "Building" see "structure."

(m) "Chief Engineer" means the chief engineer of the division of water resources, Kansas, Department Of Agriculture.

(n) "Chief Executive Officer" or "Chief Elected Official" means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

(o) "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.

(p) "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.

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

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

(s) "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."

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

(u) "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).

(v) "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).

(w) "Flood Boundary and Floodway Map (FBFM)" means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

(x) "Flood Elevation Determination" means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

(y) "Flood Elevation Study" means an examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations.

(z) "Flood Fringe" means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

(aa) "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.

(bb) "Flood Hazard Map" means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

(cc) "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.

(dd) "Flood Insurance Study (FIS)" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

(ee) "Floodplain" or "Flood-prone Area" means any land area susceptible to being inundated by water from any source (see "flooding").

(ff) "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.

(gg) "Floodplain Management Regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof that provide standards for the purpose of flood damage prevention and reduction.

(hh) "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.

(ii) "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.

(jj) "Floodway Encroachment Lines" means the lines marking the limits of floodways on Federal, State and local floodplain maps.

(kk) "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.

(ll) "Functionally Dependent Use" means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

(mm) "Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(nn) "Historic Structure" means any structure that is (a) listed individually in the National Register of Historic Places (which is a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

(oo) "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 ordinance.

(pp) "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."

(qq) "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.

(rr) "Map" means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

(ss) "Market Value" or "Fair Market Value" means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

(tt) "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.

(uu) "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.

(vv) "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.

(ww) "(NFIP)" means the National Flood Insurance Program (NFIP).

(xx) "Participating Community" also known as an "eligible community," means a community in which the Administrator has authorized the sale of flood insurance.

(yy) "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.

(zz) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

(aaa) "Principally above Ground" means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

(bbb) "Reasonably Safe from Flooding" means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

(ccc) "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.

(ddd) "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.

(eee) "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.

(fff) "Special Flood Hazard Area" see "area of special flood hazard."

(ggg) "Special Hazard Area" means an area having special flood hazards and shown on a FIRM, FHBM or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.

(hhh)"Start of Construction" includes substantial-improvements, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory 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.

(iii)"State Coordinating Agency" means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the NFIP in the state of Kansas.

(jjj)"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, which is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

(kkk)"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.

(lll)"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 for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(mmm)"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 the community.

(nnn)"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. (ooo)"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 riverine areas. (Ord. 277; Code 2014)

ARTICLE 2. CITY LIMITS

16-201

Commencing at the Northwest corner of Section 31, Township 18 South, Range 21 West of the 6th Principal Meridian, Ness County, Kansas, said point also being the Southwest corner of Section 30, Township 18 South, Range 21 West, the Southeast corner of Section 25, Township 18 South, Range 22 West, and the Northeast corner of Section 36, Township 18 South, Range 22 West; THENCE West along the South line of said Section 25, a distance of 330.00 feet to the POINT OF BEGINNING of the land to be described; THENCE North, parallel with the East line of said Section 25, a distance of 330.00 feet; THENCE East, parallel with the South line of said Section 25, a distance of 330.00 feet to a point on the West line of said Section 30; THENCE East, parallel with the South line of said Section 30, a distance of 1,996.00 feet to the Northeast corner of the Fred Foos Subdivision to the City of Bazine, Kansas; THENCE South, along the East line of said Fred Foos Subdivision, a distance of 330.00 feet to a point on the North line of said Section 31; THENCE South along the East line of Blocks 8, 7, 6 and 5 of the Humburg Addition to the City of Bazine, Kansas, a distance of 1,344.9 feet to the Northeast corner of Lot 6, in Block 5, of said Humburg Addition; THENCE East, along a line that coincides with the North line of Lot 7, in Block 4, of said Humburg Addition, a distance of 200.00 feet; THENCE South, parallel with the West line of Elm Street, a distance of 442.5 feet, to a point on the Northerly right of way line of the Kansas and Oklahoma (K&O) Railway; THENCE Westerly along said Northerly right of way line, said line running parallel with, and 150.00 feet Northerly of the center of said railway, for a distance of 91.8 feet, to the intersection with the extension of the Easterly line of King Street of the South Bazine Addition to the City of Bazine, Kansas; THENCE Southerly, along said extension of the Easterly line of King Street, a distance of 300.00 feet to a point on the southerly right of way line of the K&O Railway; THENCE continuing Southerly, along the Easterly line of King Street, a distance of 360.00 feet to the intersection with the Southerly line of Farnsworth Avenue extended; THENCE Easterly, along the Southerly line of Farnsworth Avenue extended, a distance of 200.00 feet; THENCE Southerly, parallel with the Easterly line of King Street, a distance of 300.00 feet to a point on the Northerly line of Nickerson Avenue extended; THENCE Westerly, along the Northerly line of Nickerson Avenue extended, a distance of 200.00 feet to a point on the Easterly line of King Street; THENCE Southerly along the Easterly line of King Street, a distance of 360.00 feet; THENCE South, a distance of 56.2 feet, to a point 10 feet West of the West end of the bridge; THENCE South, a distance of 83.7 feet, to the Westerly bank of Walnut Creek; THENCE South, a distance of 82.0 feet, along the Westerly bank of Walnut Creek to a point on the Easterly line of King Street; THENCE Southerly along the Easterly line of King Street, a distance of 191.52 feet, to the Westerly and Northerly bank of Walnut Creek; THENCE along the Northerly bank of Walnut Creek the following eight (8) approximate courses; (1) S05°W a distance of 37.8 feet; (2) S81°W a distance of 40.5 feet; (3) N77°W a distance of 95.5 feet; (4) S64°W a distance of 83.7 feet; (5) N84°W a distance of 166.3 feet; (6) S76°W a distance of 201.8 feet; (7) S53°W a distance of 136.0 feet; (8) S18°W a distance of 135.4 feet to a point 117.00 South of the Southerly right of way line of Repine Avenue;

THENCE Westerly along a line 117.00 South of and parallel with the Southerly right of way line of the Repine Avenue, a distance of 343.3 feet, to the Easterly line of Lawrence Street; THENCE Southerly, along the Easterly line of Lawrence Street, a distance of 213.00 feet to the intersection with a line running parallel with, and 30.00 feet Southerly of the Southerly line of Blocks 26, 27 and 28 of Hopper Addition to South Bazine of Bazine, Kansas; THENCE Westerly, along said line running parallel with, and 30.00 feet Southerly of the Southerly line of said Blocks 26, 27 and 28, a distance of 1000.00 feet to the extended Westerly line of the alley in said Block 28; THENCE Northerly, along the Westerly line of said alley, a distance of 180.00 feet to a point that is 150.00 feet Southerly of the Southerly line of Repine Avenue; THENCE Westerly, along a line that runs parallel with, and 150.00 feet Southerly of the Southerly line of Repine Avenue, a distance of 451.96 feet to a point on the East line of said Section 36; THENCE Westerly, along a line running parallel with the Southerly right of way line of the K&O Railway, a distance of 30.75 feet to a point on a line running parallel with, and 30.00 feet West of the East line of said Section 36; THENCE North, along said line running parallel with, and 30.00 feet West of the East line of said Section 36, a distance of 80.48 feet to a point that is 1,600.00 feet South of the intersection of said line with the Southerly right of way line of said railway; THENCE Westerly, parallel with the Southerly right of way line of said railway, a distance of 307.57 feet to a point on a line running parallel with, and 330.00 feet West of the East line of said Section 36; THENCE North, on said line running parallel with, and 330.00 feet West of the East line of said Section 36, a distance of 1,600.00 feet to a point on the Southerly right of way line of the K&O Railway; THENCE Easterly, along said Southerly right of way line, said line running parallel with, and 100.00 feet Southerly of the center of said railway, a distance of 307.57 feet to a point on a line running parallel with, and 30.00 feet West of the East line of said Section 36; THENCE North, along said line running parallel with, and 30.00 feet West of the East line of said Section 36, a distance of 205.05 feet to the intersection with the Northerly right of way line of said railway; THENCE Westerly, along the Northerly right of way line of said railway, said line running parallel with, and 100.00 feet Northerly of the center of said railway, a distance of 533.13 feet to a point on a line running parallel with, and 550.00 feet West of the East line of said Section 36; THENCE North, on said line that runs parallel with, and 550.00 feet West of the East line of said Section 36, a distance of 2419.82 feet, to the South right of way line of State Highway 96; THENCE East, along the southerly right of way line of State Highway 96, a distance of 220.00 feet to the intersection with the East line of Foos Avenue; THENCE North, along said East line of Foos Avenue extended, a distance of 65.0 feet to a point on the North line of said Section 36, said point being the POINT OF BEGINNING. The total area of the City of Bazine, Kansas is 260.7 acres, more or less.



Washington St

Washington Ave

Bellevue Ave

Park Ave

Forrest Ave

Wambaugh St

A Ave

Avenue A

Elm St

Bazine

Bazine

Farnsworth Ave

Nickerson Ave

King St

Burgess Ave

N Main St

Repine Ave

Rice St

Austin St

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

THIS IS A CHARTER ORDINANCE STAGGERING THE TERM OF THE MAYOR AND CITY COUNCIL OF THE GOVERNING BODY OF THE CITY OF BAZINE, KANSAS.

(Repealed by C.O. No. 2)

CHARTER ORDINANCE NO. 2

A CHARTER ORDINANCE EXEMPTING THE CITY OF BAZINE, KANSAS, FROM THE PROVISIONS OF THE K.S.A. 15-201 AND PROVIDING SUBSTITUTE PROVISIONS FOR THE ELECTION OF THE COUNCILMEN AND MAYOR OF THE CITY, THEIR TERMS OF OFFICE, FAILURE TO QUALIFY OR ACCEPT OFFICE, AND FILLING OF VACANCIES.

Section 1. That the City of Bazine, Kansas, a Mayor-Council city of the third class, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to and exempts itself from and makes inapplicable to it the K.S.A. 15-201, which statute applies only to Mayor-Council cities of the third class and applying to said city, and to provide substitute and additional provisions as hereinafter provided.

Section 2. A regular city election shall be held on the first Tuesday in April, 1983, and every two years thereafter an election shall be held by the authorities of the City of Bazine, Kansas, for the election of Mayor and five councilmen. The three councilmen obtaining the largest number of votes first elected in 1983 shall hold office for four years and until their successors are elected and qualified. The Mayor and two councilmen, receiving the fourth and fifth number of votes, elected in the April 1983 election shall hold office for two years and until their successors are elected and qualified. At the election in 1985 and each four years thereafter the Mayor and two councilmen shall be elected to hold office for four years and until their successors are elected and qualified.

Section 3. In case of a vacancy in the council occurring by reason of resignation, death, or removal from office or from the city, the Mayor, by and with the advice and counsel of the remaining councilmen, shall appoint some suitable elector to fill the vacancy until the next election for that office. In case any person elected as a councilman neglects or refuses to qualify within thirty (30) days after his or her election, he or she shall be deemed to have refused to accept such office

and a vacancy shall exist, and thereafter the Mayor may, with the consent of the remaining councilmen, appoint some suitable elector to fill said vacancy in the office of Mayor, the President of the Council shall become Mayor until the next regular election for that office and a vacancy shall occur in the office of the councilman becoming Mayor.
(2-9-81)

CHARTER ORDINANCE NO. 3

A CHARTER ORDINANCE EXEMPTING THE CITY OF BAZINE, KANSAS, FROM K.S.A. 79-5001 TO 79-5017, INCLUSIVE, AND ANY AMENDMENTS THERETO.

Section 1. The City of Bazine, Kansas, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it K.S.A. 79-5001 to 79-5017, inclusive, and any amendments thereto, which is an enactment by the legislature applicable to this city but which is not applicable uniformly to all cities.

Section 2. The provisions of K.S.A. 79-5001 to 79-5017, inclusive, and any amendments thereof, shall apply to any taxes levied by the City of Bazine, Kansas.
(5-19-81)

CHARTER ORDINANCE NO. 4

A CHARTER ORDINANCE EXEMPTING THE CITY OF BAZINE, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-4112, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS THEREFORE AUTHORIZING AND SETTING THE ASSESSMENTS FOR COURT COSTS IN CASES HEARD IN THE MUNICIPAL COURT OF THE CITY OF BAZINE, KANSAS.

Section 1. The City of Bazine, Kansas, a city of the third 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 make inapplicable to it K.S.A. 12-4112 adopted by the Kansas Legislature that is not uniformly applicable to all cities, the legislature having made special provisions applying to certain classes of cities in said enactment.

Section 2. In all cases before the Municipal Court of the City of Bazine, Kansas, where the accused person or persons pleads guilty or nolo contendere, or is found guilty of a violation of the ordinance of the City of Bazine, Kansas, there shall be assessed costs for the administration of justice in said Court, and such costs shall be determined by a properly adopted ordinance of the City of Bazine, Kansas.
(10-9-89)

CHARTER ORDINANCE NO. 5

A CHARTER ORDINANCE EXEMPTING THE CITY OF BAZINE, KANSAS, FROM THE PROVISIONS OF K.S.A. 1990 SUPP. 79-5028, AS AMENDED BY 1991 HB NO. 2222, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

Section 1. The City of Bazine, 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. 1990 Supp. 79-5036(a), hereby elects to exempt itself from the provisions of K.S.A. 1990 Supp. 79-5028, as amended by 1991 HB No. 2222. K.S.A. 1990 Supp. 79-5028, as amended by 1991 HB No. 2222, is part of an enactment commonly known as the Kansas property tax lid law, which enactment applies to this city but does not apply uniformly to all cities.

Section 2. The following is hereby substituted for the provisions of K.S.A. 1990 Supp. 79-5028, as amended: The provisions of K.S.A. 1990 Supp. 79-5021 to 79-5034, inclusive, and amendments thereto, shall not limit the levy of taxes by the Governing Body of the City of Bazine.
(4-13-92)

CHARTER ORDINANCE NO. 6

A CHARTER ORDINANCE EXEMPTING THE CITY OF BAZINE, KANSAS, FROM PROVISIONS OF K.S.A. 15-106, SPECIFICALLY THE INCREASING OF QUORUM REQUIREMENT, AND PROVIDING SUBSTITUTE PROVISIONS ON THE SAME SUBJECT.
(Repealed by C.O. No. 8)

CHARTER ORDINANCE NO. 7

A CHARTER ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF BAZINE, KANSAS, ELIMINATING THE OFFICE OF THE CITY TREASURER AND TRANSERRING THE DUTIES OF THE CITY TREASURER TO THE CITY CLERK.

Section 1. The City of Bazine, Kansas, by the power invested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby adopts the following:

1. The office of City Treasurer for the City of Bazine, Kansas, is hereby eliminated.
2. All duties of the office of the City Treasurer for the City of Bazine, Kansas, are hereby transferred to the City Clerk.

(4-13-09)

CHARTER ORDINANCE NO. 8

A CHARTER ORDINANCE REPEALING THE EXEMPTING THE CITY OF BAZINE, KANSAS, FROM PROVISIONS OF K.S.A. 15-106, SPECIFICALLY THE INCREASING OF QUORUM REQUIREMENT, AND PROVIDING SUBSTITUTE PROVISIONS ON THE SAME SUBJECT.

Section 1. On the 14th day of April, 2008, the City of Bazine, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, adopted Charter Ordinance #6 whereby the City of Bazine elected to exempt itself from quorum requirements pursuant to K.S.A. 15-106.

Section 2. The City of Bazine hereby repeals Charter Ordinance No. 6. Therefore a legal quorum is established by the presence of a majority of the city council members which would require the presence of three board members.
(8-8-11)

CHARTER ORDINANCE NO. 9

A HOME RULE CHARTER ORDINANCE OF THE CITY OF BAZINE, KANSAS, EXEMPTING THE CITY FROM THE PROVISIONS OF K.S.A. 75-1122, ALL PURSUANT TO SECTION 5, ARTICLE 12 OF THE KANSAS CONSTITUTION.

Section 1. That the City of Bazine, Kansas, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to and exempts itself from the provisions of K.S.A. 75-1122, which are not uniformly applicable to all Kansas cities.

Section 2. Now therefore be it ordained by the city council of the City of Bazine, Kansas that the city hereby exempts itself from the audit requirements of K.S.A. 75-1122; provided however, the council shall continue to cause to be prepared annual financial statements of the city reflecting receipts and expenditures of all funds of the city.
(8-20-13)

ORDINANCE NO. 319

An ordinance granting the Lane-Scott Electric Cooperative and its successors and assigns, the franchise and right to construct, operate and maintain electric transmission and distribution lines or systems within the corporate limits of the City of Bazine, State of Kansas, to transmit, distribute and sell electric energy to the said City and its inhabitants, and to transmit electric energy through the said City for distribution and sale to residents outside and beyond the City.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BAZINE, STATE OF KANSAS, THAT:

Section 1. FRANCHISE RIGHTS GRANTED: Lane-Scott Electric Cooperative, organized and existing under and by virtue of the laws of the State of Kansas, hereinafter referred to as the "Cooperative", its successors, lessees or assigns, said Cooperative being a cooperation, operating a system for the transmission of electric current between two or more incorporated cities in the State of Kansas, into and through which it has built transmission lines, is hereby granted the franchise, privilege and right for five (5) years, to construct, operate and maintain electric transmission and distribution lines or systems with the limits of the City of Bazine, hereinafter referred to as City - as said limits are presently constructed or may in the future be extended-, to transmit distribute and sell electric energy to the City for distribution, and sale to residents outside and beyond the City. The Cooperative agrees that for the term of this grant, it will maintain facilities and equipment sufficient to assure good and adequate service to meet the current and future energy requirements of City, its inhabitants, and industries.

Section 2. GRANT: The grant herein made includes the further right and privilege to construct, operate, maintain and repair, relocate and extend said electric lines or systems including all poles, wires, cables, conductors, conduits, anchors, guys, transformers, transformer stations, and all fixtures and facilities necessary for the convenience of the Cooperative's business along, upon, over, under, through and across the streets, alleys, and public grounds, with the said City, as said streets, alleys, and public grounds are presently laid out or as they may be laid in the future.

Section 3. USE OF RIGHT-OF WAY AND CONSTRUCTION AND MAINTENANCE OF COOPERATIVE FACILITIES: The Cooperative's electric lines or systems, poles, wires, cables, conductors, conduits, anchors, guys, transformers, transformer station, and all fixtures and facilities necessary for the operation of the Cooperative's business, shall be constructed, operated, maintained, repaired or relocated in such places and manner as will be consistent with necessity and the least interfere with other public uses of such streets, alleys or public grounds and as more fully set forth hereafter. The use of the Right-of-Way under this Franchise agreement is defined as present and future streets, alleys, rights-of-way, and public easements, including easements dedicated to the City in plats of the City for Streets and alleys. The use of the Right-of-Way under this Franchise by the 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 relating to use, placement, location, or management of utilities located in the City's Right-of-Way. In addition, the Cooperative shall be subject to all laws, rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power relating to permits, fees, sidewalk and pavement cuts, utility location, construction coordination, screening, and other requirements on the use of the Right-of-Way; provided, however, that nothing contained herein shall constitute a waiver of or be construed as waiving the right of the Cooperative to oppose, challenge, or seek judicial review of, in such manner as is

now or may hereafter be provided by law, any such rules, regulation, policy, resolution, or ordinance proposed, adopted, or promulgated by the City. Further, the Cooperative shall comply with the following:

- A. The Cooperative's use of the Right-of-Way shall in all matters be subordinate to the City's use of the Right-of-Way for any public purpose. The Cooperative shall coordinate the installation of its Facilities in the Right-of-Way in a manner which minimizes adverse impact on Public Improvements, as reasonably determined by the City. Where installation is not otherwise regulated, the Facilities shall be placed with adequate clearance from such Public Improvements so as not to conflict with such Public Improvement.
- B. All earth, materials, sidewalks, paving, crossings, utilities, Public Improvements, or improvements of any kind located within the Right-of-Way damaged or removed by the Cooperative in its activities under this Franchise shall be fully repaired or replaced promptly by the Cooperative without cost to the City and promptly restore the condition to that as good condition as before such work was commenced. However, when such activity is a joint project of utilities or franchise holders, the expenses thereof shall be prorated among the participants, and to the reasonable satisfaction of the City. The Cooperative shall give the City reasonable advance written notice of such activity by the Cooperative.
- C. Except in the event of an emergency, as reasonably determined by the Cooperative, the Cooperative shall comply with all laws, rules, regulations, policies, resolutions, or ordinances now or hereinafter adopted or promulgated by the City relating to any construction, reconstruction, repair, or relocation of Facilities which would require any street closure which reduces traffic flow. Notwithstanding the foregoing exception all work, including emergency work performed in the Right-of-Way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected.
- D. The Cooperative shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete information regarding the location of its Facilities located within the Right-of-Way when requested by the City or its authorized agents. Such location and identification shall be promptly communicated in writing to the City without cost to the City, its employees, agents, or authorized contractors. The Cooperative shall designate and maintain an agent, familiar with the Facilities, who is responsible for providing timely information needed by the City for the design and replacement of Facilities in the Right-of-Way.
- E. The Cooperative shall promptly locate, remove, relocate, or adjust any Facilities located in the Right-of-Way, City's easements, or platted utility easements which contain City utilities or facilities if reasonably necessary and requested by the City for a Public Project. Such location, removal, relocation, or adjustment for a particular Public Project shall be performed by the Cooperative 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 location, removal, relocation, or adjustment is the result of the inaccurate or mistaken information of the Company, the Company shall be responsible for costs associated with such without expense to the City. Likewise, if additional location, removal, relocations, or adjustment is the result of inaccurate or mistaken information of the City, the City shall reimburse the Cooperative for any additional expense necessarily incurred by the Cooperative directly due to such inaccurate or mistaken information.

If the City shall order the Cooperative to locate any facilities located in the public Right-of-Way or other City easements, the Cooperative shall have the right to recover from the City the difference in cost between locating such facilities overhead as per current practice and that of placing such facilities underground.

The City may continue to provide a location in the Right-of-Way for the Cooperative's Facilities as part of a Public Project, provided that the Cooperative has cooperated promptly and fully with the City in the design of its Facilities as part of the Public Project.

- F. It shall be the responsibility of the Cooperative to take adequate measures to protect and defend its Facilities in the Right-of-Way from harm or damage. If the Cooperative fails to accurately locate Facilities when requested, it shall have no claim for costs or damages against the City. The Cooperative 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 Cooperative to perform any of its obligations under this Franchise. The above general provisions notwithstanding, the City and its authorized contractors shall take reasonable precautionary measures including calling for utility locations through Kansas One Call and exercising due caution when working near the Cooperative's Facilities.
- G. All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of the Facilities in the Right-of-Way shall be in accordance with applicable present and future federal, state, and City laws and regulations, including but not limited to the most recent standards of the U.S. Department of Transportation, and further, to the extent they are not inconsistent with federal or state laws and regulations, the City of Bazine standard technical specifications as may be amended from time to time, 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 Franchise may be additional to or stricter than such minimum standards.
- H. The City encourages the conservation of the Right-of-Way by the sharing of space by all utilities. Notwithstanding provisions of this Franchise prohibiting third (3rd) party use, to the extent required by federal or state law, the Cooperative will permit any other franchised entity by an appropriate grant, or a contract, or agreement negotiated by the parties, to use any and all Facilities constructed or erected by the Cooperative.

Section 4. COOPERATIVES OBLIGATIONS: As consideration for the granting of this franchise, the Cooperative shall:

- A. Grantee will furnish, erect, maintain, clean, repair and operate, in accordance with its current rate structure, electric streetlights within the corporate limits of Grantor. Grantor will receive and pay for the street light service at the rates stipulated by the Grantee's current rate structure as implemented under the laws of the State of Kansas.

The City, at its sole discretion, may from time to time require the Cooperative to adjust the type, number, capacity, and location of the streetlights desired by the City. Upon such a written request by the City of the Cooperative, the Cooperative shall complete such request within thirty (30) days, unless mutually agreed upon otherwise by both parties. In the event of a major change in the street

light system the parties agree that the Cooperative shall have a reasonable time in which to make the changes

- B. For the cost of operation and maintenance of said street lighting system, the City agrees to pay the Cooperative, at the latest public street lighting rate schedule or succeeding rate schedule which is implemented under the laws of the State of Kansas.
- C. The cooperative agrees to sell and deliver unto the City during the period of this franchise such energy as may be required by the City for heat, power and other uses governing body of the City shall direct, all in accordance with its current municipal power service rate schedule or any succeeding rate schedule implemented under the laws of the State of Kansas.
- D. With Regard to the City's streetlight mounted holiday decorations, including but not limited to Christmas Decorations, the Cooperative agrees to provide all labor, at no cost to the City, for the installation and removal of said decorations including the appropriate electrical drops for such. The City shall be responsible for supplying all such decorations and parts and materials associated with such. With Regard to the City of Bazine Park, the Cooperative agrees to provide all labor, at no cost to the City, for the erecting, repositioning maintaining, cleaning, repairing and operating of all such park lights. The City shall be responsible for the supplying of the lights and all associated parts and material for the same. Upon the request of the City regarding streetlight mounted holiday decorations and city park lighting, the Cooperative with provide the above-described services in a timely and reasonable manner.

Section 5. COMPENSATION TO THE CITY: As further consideration for the rights, privileges and franchise hereby granted, and in lieu of occupation and licenses taxes, the Cooperative shall make an accounting to the City of Bazine of all electric energy that has been distributed on a monthly basis. The Cooperative shall pay the City:

A sum equal to six percent (6%) of the Gross Receipts received from the sale, distribution, and/or transportation of electric energy from consumers, but not the City, within the corporate limits of the said City, with such payments being made to the City monthly for the preceding monthly period; and

The Cooperative every six (6) months shall make a report to the governing body of the City of Bazine of its six percent (6%) franchise tax receipts from the sale, distribution and/or transportation of electric energy as used by customers within the corporate limits of the said City, for the previous months.

The above sum shall be adjusted for uncollectible receivables and for uncollectible receivables which are later collected.

Payment of compensation above shall be effective on the first day of the first month after final passage and approval by the City and acceptance by the Cooperative. Prior to that date, payments shall continue to be calculated and be paid in the manner previously provided in previous Ordinance regarding franchise agreement.

In the event the accounting rendered to the City by the Cooperative is found to be incorrect, then payment shall be made on the corrected amount, it being agreed that the City may accept any amount offered by the Cooperative, but the acceptance thereof by the City shall not be deemed a settlement of such item if the amount is in dispute or later found to be incorrect. The Cooperative agrees that all of its books, records, documents, contracts and agreements as may be reasonably necessary for an effective compliance review of this Franchise shall at all reasonable times be opened to the inspection and examination of the officers

of the City and its duly authorized agents, auditor, and employees for the purpose of verifying said accounting. Notwithstanding the obligation herein, the Cooperative shall have the right to request the reasonable protection of proprietary information of the Cooperative.

For each and every month, or any part thereof, that the compensation provided for by this Franchise remains unpaid after the same becomes due and payable by the City, there shall be added to such payment, as a late charge, a sum equivalent to the statutory rate for interest on the unpaid amount. Such late charge shall be applicable to sums that are delinquent as well as any sums due the City as the result of an audit of the Cooperative's records.

Section 6. INDEMNITY AND HOLD HARMLESS AND INSURANCE COVERAGE: That the Cooperative, its successors and assigns, in the construction, maintenance and operation of its electric system, under the rights and privileges herein granted, shall exercise all reasonable and proper precaution to avoid damage or injury to persons or property, and The Cooperative shall indemnify and hold and save harmless the City of Bazine, its officers, employees, agents, and authorized contractors, from and against all claims, damages, expense, liability, and costs including reasonable attorney fees, to the extent occasioned in any manner by the Cooperative's occupancy of the Right-of-Way. 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 Cooperative, then upon notice by the City to the Cooperative, the Cooperative shall assume responsibility for the defense of such actions at the cost of the Cooperative, subject to the option of the City to appear and defend.

Cooperative shall provide and keep in force public liability insurance with limit of One Million Dollars (\$1,000,000.00) for bodily injury and property damage and a Five Million Dollars (\$5,000,000.00) Umbrella policy, such policies naming both Cooperative and City as insured parties. Cooperative shall maintain on file at the Office of the City Clerk a current Certificate of Insurance verifying such public liability coverage.

Section 7. TREE TRIMMING. The Cooperative is hereby granted the right, under supervision of the City, and within the city limits, to trim, spray, treat, and/or cut such trees and foliage as may be reasonably necessary to prevent the same from interfering with the safe and efficient operation and maintenance of its transmission line, distribution system, street lighting equipment.

Section 8. RIGHT OF ASSIGNMENT. No assignment of Cooperative's rights granted by this Ordinance shall be effective without the prior written consent of City.

Section 9. FILING WITH CITY CLERK. Within Sixty (60) days from and after the passage and approval of this Ordinance, said Cooperative shall file with the City Clerk of said City of Bazine, Kansas, its unconditional acceptance of this Ordinance.

Section 10. TERMINATION OF FRANCHISE FOR BREACH. The parties agree that in the event of a breach of this Franchise by either party, the nonbreaching party has the right to terminate the Franchise as set forth herein. Prior to terminating the Franchise, the nonbreaching party shall first serve a written notice upon the breaching party, setting forth in detail the nature of the breach, and the breaching party shall have thirty (30) days thereafter in which to cure the breach. If at the end of such thirty (30) day period the nonbreaching party deems that the breach has not been cured, the nonbreaching party may take action to terminate this Franchise.

Nothing herein shall serve to bar either party from pursuing any legal or equitable remedy available in a court of competent jurisdiction.

Section 11. NOTICES. Any notices required herein shall be sent to the following:

If to the City:

City Clerk
City of Bazine 214 S. Main
Bazine, KS 67516

If to Cooperative:

Mr. Richard McLeon, General Manager
Lane-Scott Electric Cooperative, Inc
410 South High
P.O. Box 758
Dighton, KS 67839

Section 12. ORDINANCE CONFLICT. Any and all Ordinances in conflict with the terms hereof are hereby repealed.

Section 13. EFFECTIVE DATE. This Ordinance shall become effective and be in force and shall be a binding contract between the parties hereto, their successors and assigns, from and after its passage and approval, publication as is required by law.

Section 14. STATUTORY AUTHORITY. This franchise is granted pursuant to the provisions of K.S.A. 12-2001.

PASSED AND APPROVED THIS 13th day of December, 2021.

Patricia Showalter, Patricia Showalter, Mayor



Lori Hertel, Lori Hertel, City Clerk

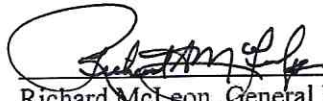
ACCEPTANCE OF FRANCHISE ORDINANCE

To the Governing Body of the City of Bazine, Ness County, Kansas:

The Lane Scott Electric Cooperative for itself, its successors and assigns, hereby accepts in writing the Ordinance and all rights and privileges therein granted, passed by the Governing Body of the City of Bazine, Kansas, on the 13th day of December, 2021, designated as Ordinance No. 319, and entitled:

An ordinance granting the Lane-Scott Electric Cooperative and its successors and assigns, the franchise and right to construct, operate and maintain electric transmission and distribution lines or systems within the corporate limits of the City of Bazine, State of Kansas, to transmit, distribute and sell electric energy to the said City and its inhabitants, and to transmit electric energy through the said City for distribution and sale to residents outside and beyond the City.

This acceptance is executed and filed as provided in Section 9 of said Franchise Ordinance No. 319 and said Cooperative hereby agrees to all terms and conditions of said Ordinance.


Richard McLeon, General Manager
Lane-Scott Electric Cooperative, Inc.

21 December 2021
Date

ORDINANCE NO. 302

AN ORDINANCE GRANTING A FRANCHISE BY THE CITY OF BAZINE, COUNTY OF NESS, KANSAS TO ATMOS ENERGY CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO FURNISH, SELL AND DISTRIBUTE GAS TO THE CITY AND TO ALL PERSONS, BUSINESSES AND INDUSTRIES WITHIN THE CITY AND THE RIGHT TO ACQUIRE, CONSTRUCT, INSTALL, LOCATE, MAINTAIN, OPERATE AND EXTEND INTO, WITHIN AND THROUGH SAID CITY ALL FACILITIES REASONABLY NECESSARY TO FURNISH, SELL AND DISTRIBUTE GAS TO THE CITY AND TO ALL PERSONS, BUSINESSES AND INDUSTRIES WITHIN THE CITY AND IN THE TERRITORY ADJACENT THERETO AND THE RIGHT TO MAKE REASONABLE USE OF ALL STREETS AND OTHER PUBLIC PLACES AS MAY BE NECESSARY, AND FIXING THE TERMS AND CONDITIONS THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BAZINE, NESS COUNTY, KANSAS:

ARTICLE I

Definitions

For the purpose of this franchise, the following words and phrases shall have the meaning given in this Article. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined in this Article shall be given their common and ordinary meaning.

- 1.1 "Governing Body" refers to and is the governing body of the City of Bazine.
- 1.2 "Company" refers to and is Atmos Energy Corporation and its successors and assigns.
- 1.3 "Distribution Facilities" refer to and are only those facilities reasonably necessary to provide gas within the City.

1.4 "Facilities" refer to and are all facilities reasonably necessary to provide gas into, within and through the City and include plants, works, systems, lines, equipment, pipes, mains, underground links, gas compressors and meters.

1.5 "Gas" or "Natural Gas" refers to and is such gaseous fuels as natural, artificial, synthetic, liquefied natural, liquefied petroleum, manufactured or any mixture thereof.

1.6 "Kansas Corporation Commission" and/or "KCC" refer to and is the State Corporation Commission of the State of Kansas or other authority succeeding to the regulatory powers of the KCC.

1.7 "Revenues" refer to and are those amounts of money which the Company receives from its customers within the City for the sale of gas under rates, temporary or permanent, authorized by the KCC and represents amounts billed under such rates as adjusted for refunds, the net write-off of uncollectible accounts, corrections or other regulatory adjustments.

1.8 "Streets and Other Public Places" refer to and are streets, alleys, viaducts, bridges, roads, lanes, easements, public ways and other public places in said City.

1.9 "City" refers to and is the City of Bazine, Ness County, Kansas, and includes the territory as currently is or may in the future be included within the boundaries of the City of Bazine.

ARTICLE II

Grant of Franchise

2.1 Grant of Franchise. The City hereby grants to the Company, for the period specified and subject to the conditions, terms and provisions contained in this Ordinance, the right to furnish, sell and distribute gas to the City and to all persons, businesses and industries within the City, the right to acquire, construct, install, locate, maintain, operate and extend into, within and through the City all facilities reasonably necessary to provide gas to the City and to all persons, businesses and industries within the City and in the territory adjacent thereto; and the right to make reasonable use of all streets and other public places as may be necessary to carry out the terms of the Ordinance.

2.2 Term of Franchise. The term of this franchise shall be for a period of five (5) years from the date of its final passage and approval; provided, this franchise and all rights and privileges herein provided shall be extended for three (3) successive periods of five (5) years unless the City by notice given to the Company and by Ordinance duly enacted and approved at least ninety (90) days before the end of each such term of five (5) years, shall declare such termination effective.

ARTICLE III
Franchise Fee

3.1 Franchise Fee. In consideration for the grant of this franchise, the Company shall collect and remit to the City a sum equal to Five percent (5%) of the revenues derived annually from the sale of gas within the City. The Franchisee fee prescribed herein shall be paid to the City annually. Payments at the beginning and end of the franchise shall be prorated.

3.2 Franchise Fee Payment in Lieu of Other Fees. The payments and compensation herein provided shall be in lieu of all other licenses, taxes, charges, and fees, except that the usual general property taxes and special ad valorem property assessments, sales, and excise taxes or charges made for privileges, which are not connected with the natural gas business, will be imposed on the Company and are not covered by the payments herein. From and after the date hereof, however, the permit fees required of the Company by any ordinance presently in effect or hereafter adopted for a permit to excavate in or adjacent to any street, alley, or other public place shall be deemed a part of the compensation paid in Section 2 and shall not be separately assessed or collected by the City; in no event, however, shall this provision be interpreted to waive the requirement of notice to the City and the procedural requirements of such ordinance.

ARTICLE IV
Conduct of Business

4.1 Conduct of Business. The Company may establish, from time to time, such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights and perform its obligations under this franchise; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the laws of the state of Kansas.

4.2 Tariffs on File. The Company shall keep on file in its nearest office copies of all its tariffs currently in effect and on file with the KCC. Said tariffs shall be available for inspection by the public.

4.3 Compliance with KCC Regulations. The Company shall comply with all rules and regulations adopted by the KCC.

4.4 Compliance with Company Tariffs. The Company shall furnish gas within the City to the City and to all persons, businesses and industries within the City at the rates and under the terms and conditions set forth in its tariffs on file with the KCC.

4.5 Applicability of Company Tariffs. The City and the Company recognize that the lawful provisions of the Company's tariffs on file and in effect with the KCC are controlling over any inconsistent provision in this franchise dealing with the same subject matter.

ARTICLE V

Construction, Installation & Operation of Company Facilities

5.1 Location of Facilities. Company facilities shall not interfere with the City's water mains, sewer mains or other municipal use of streets and other public places. Company facilities shall be located so as to cause minimum interference with public use of streets and other public places and shall be maintained in good repair and condition. The Governing Body acknowledges that as of the date of this Ordinance, the Company and its facilities are in compliance with the provisions of this Section 5.1.

5.2 Excavation and Construction. All construction, excavation, maintenance and repair work done by the Company shall be done in a timely and expeditious manner that minimizes the inconvenience to the public and individuals. All such construction, excavation, maintenance and repair work done by the Company shall comply with all applicable state and federal codes. All public and private property whose use conforms to restrictions in easements disturbed by Company construction or excavation activities shall be restored as soon as practicable by the Company at its expense to substantially its former condition. The Company shall comply with the City's requests for reasonable and prompt action to remedy all damage to private property adjacent to streets or dedicated easements where the Company is performing construction, excavation, maintenance or repair work. The City reserves the right to restore property and remedy damages caused by Company activities at the expense of the Company in the event the Company fails to perform such work within a reasonable time after notice from the City.

5.3 Relocation of Company Facilities. If at any time the City requests the Company to relocate any distribution gas main or service connection installed or maintained in streets or other public places in order to permit the City to change street grades, pavements, sewers, water mains or other City works, such relocation shall be made by the Company at its expense. The Company is not obligated hereunder to relocate any facilities at its expense that were installed in private

easements obtained by the Company, the underlying fee of which was, at some point subsequent to installation, transferred to the City. Following relocation, the Company, at its expense, shall restore all property to substantially its former condition.

5.4 Service to New Areas. If during the term of this franchise the boundaries of the City are expanded, the Company may, subject to the terms of Company's applicable tariff provisions for main extensions, extend service to the newly incorporated areas. Service to annexed areas shall be in accordance with the terms of this franchise agreement. The City will promptly notify Company in writing of any geographic areas annexed by the City during the term hereof ("Annexation Notice"). Any such Annexation Notice shall be sent to Company by certified mail, return receipt requested, and shall contain the effective date of the annexation, maps showing the annexed area and such other information as Company may reasonably require in ascertaining whether there exist any customers of Company receiving natural gas service in said annexed area. To the extent there are such Company customers therein, then the gross revenues of Company derived from the sale and distribution of natural gas to such customers shall become subject to the franchise fee provisions hereof effective on the first day of Company's billing cycle immediately following Company's receipt of the Annexation Notice. The failure by the City to advise Company in writing through proper Annexation Notice of any geographic areas which are annexed by the City shall relieve Company from any obligation to remit any franchise fees to City based upon gross revenues derived by Company from the sale and distribution of natural gas to customers within the annexed area until City delivers an Annexation Notice to Company in accordance with the terms hereof.

5.5 Restoration of Service. In the event the Company's gas system, or any part thereof, is partially or wholly destroyed or incapacitated, the Company shall use due diligence to restore its system to satisfactory service within the shortest practicable time.

5.6 Supply and Quality of Service. The Company shall make available an adequate supply of gas to provide service in the City. The Company's facilities shall be of sufficient quality, durability and redundancy to provide adequate and efficient gas service to the City.

5.7 Safety Regulations by the City. The City reserves the right to adopt, from time to time, reasonable regulations in the exercise of its police power which are necessary to ensure the health, safety and welfare of the public, provided that such regulations are not destructive of the rights granted herein. The Company agrees to comply with all such regulations, in the construction, maintenance and operation of its facilities and in the provision of gas within the City.

5.8 Inspection, Audit and Quality Control. The City shall have the right to inspect, at all reasonable times, any portion of the Company's system used to serve the City and its residents.

The City also shall have the right to inspect and conduct an audit of Company records relevant to compliance with any terms of this Ordinance at all reasonable times at Company's principal offices where said records are kept and maintained. The Company agrees to cooperate with the City in conducting the inspection and/or audit and to correct any discrepancies affecting the City's interest in a prompt and efficient manner.

ARTICLE VI

Assignment; Saving Clause

6.1 Assignment. Nothing in this Ordinance shall prevent the Company from assigning its rights under this franchise.

6.2 Saving Clause. If any portion of this franchise Ordinance is declared illegal or void by a court of competent jurisdiction, the remainder of the Ordinance shall survive and not be affected thereby.

ARTICLE VII

Force Majeure

7.1 Company shall not be required to perform any covenant or obligation in this Ordinance, or to be liable in damages to City, so long as the performance or non-performance of the covenant or obligation is delayed, caused or prevented by an act of God, force majeure or by the other party. An "act of God" or "force majeure" is defined for purposes of this Ordinance as strikes, lockouts, sit-downs, material or labor restrictions by any governmental authority, unusual transportation delays, riots, floods, washouts, explosions, earthquakes, fire, storms, weather (including wet grounds or inclement weather which prevents construction), acts of the public enemy, wars, terrorism, insurrections, and/or any other cause not reasonably within the control of Company or which by the exercise of due diligence Company is unable wholly or in part, to prevent or overcome.

ACCEPTANCE

ORDINANCE NO. 302

WHEREAS, the governing body of the City of Bazine, Kansas did on the 8th day of May, 2017, adopt and pass Ordinance No. 302 entitled:

AN ORDINANCE GRANTING A FRANCHISE BY THE CITY OF BAZINE, COUNTY OF NESS, KANSAS TO ATMOS ENERGY CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO FURNISH, SELL AND DISTRIBUTE GAS TO THE CITY AND TO ALL PERSONS, BUSINESSES AND INDUSTRIES WITHIN THE CITY AND THE RIGHT TO ACQUIRE, CONSTRUCT, INSTALL, LOCATE, MAINTAIN, OPERATE AND EXTEND INTO, WITHIN AND THROUGH SAID CITY ALL FACILITIES REASONABLY NECESSARY TO FURNISH, SELL AND DISTRIBUTE GAS TO THE CITY AND TO ALL PERSONS, BUSINESSES AND INDUSTRIES WITHIN THE CITY AND IN THE TERRITORY ADJACENT THERETO AND THE RIGHT TO MAKE REASONABLE USE OF ALL STREETS AND OTHER PUBLIC PLACES AS MAY BE NECESSARY, AND FIXING THE TERMS AND CONDITIONS THEREOF.

and

WHEREAS, said Ordinance was duly signed by the Mayor of said City of Bazine, Kansas, and the seal of said City affixed and attested thereto by the City Clerk of the said City, and said Ordinance was duly published according to law in the State of Kansas, and

NOW, THEREFORE, in compliance with the terms of said Ordinance so enacted and approved and attested,

Atmos Energy Corporation, for itself, its trustees, successors and assigns, hereby accepts Ordinance No. 302 and all rights and privileges therein granted, passed by the City Council of the City of Bazine, Kansas, on the 8th day of May, 2017, and files this its written acceptance with the City Clerk of the City of Bazine.

Dated this 8th day of May, 2017.

ATMOS ENERGY CORPORATION

By: [Signature]
Gary W. Gregory
President (Colorado-Kansas Division)

Acceptance filed in the office of the City Clerk of Bazine, Kansas, this 8 day of May, 2017.

By: [Signature]
City Clerk

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