

CHAPTER 4. CIVIL OFFENSES

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ARTICLE 1. ANIMAL CONTROL

4-101 **DEFINITIONS.** For the purpose of this chapter, the following words and phrases shall mean:

(a) *Abandon* means the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.

(b) *Animals* means all vertebrate and invertebrate animals such as, but not limited to bovine cattle, horses and other equines, hogs, goats, 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. (*Ord 2900 12/99*)

(c) *Animal Shelter* means the facility or facilities operated by the city or its authorized agents for the purpose of impoundment 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) *Dog* means any member of the species *canis familiaris*, regardless of sex.

(h) *Fowl* means all animals that are included in the zoological class *aves*.

(i) *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.

(j) *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.

(k) *Humanely Euthanasia* 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.

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

(m) *Kennel* means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure in one (1) location only, five (5) or more dogs. (*Ord.3010 8/04*)

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

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

(p) *Own* means and includes own, keep, harbor, shelter, manage, possess, or have a part interest in any animal, including, but not limited to cats, dogs, exotic animals, fowl and livestock. 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.

(q) *Pit Bull Dog* means:

(1) The bull terrier breed of dog

(2) The Staffordshire bull terrier breed of dog

(3) The American pit bull terrier breed of dog

(4) The American Staffordshire terrier breed of dog

(5) Dogs of mixed breed or of other breeds than listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers

(6) Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit

bull terrier, American Staffordshire terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers, or a combination of any of these breeds

(r) *Owner* means the one who owns, an employee, agent, or other competent person into whose charge the actual owner has placed an animal described in Subsection (p) 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.

(u) *Vicious animal* means:

(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

(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 or Animal Control Officer while such officer is engaged in the performance of official duty

4-102 **ENFORCEMENT.** The Police Chief shall be charged with the enforcement of this chapter. Any person employed by the city and commissioned by the Police chief as a Law Enforcement Officer or as an Animal Control Officer shall have such powers and authority as allowed by law in the enforcement of this chapter.

4-103 **CAPTURE OF ANIMALS.** A Law Enforcement Officer or an Animal Control Officer is authorized to employ the following means to capture an animal:

(a) When deemed necessary for the health, safety and welfare of the residents of the city, such officers and/or their agents may place a humane trap on the property, if the resident requests such a trap, for the purpose of capturing any animal creating a nuisance in the city.

(b) When deemed necessary for the health, safety and welfare of the residents of the city, such officers and/or their agents may use any tranquilizer guns, firearms,

humane traps, or other suitable devices to capture, subdue or destroy any animal that is deemed by the officer, in the discretion of the officer, to be of a danger to itself or to the public health and safety.

4-104 **RIGHT OF ENTRY.** A Law Enforcement Officer or an Animal Control 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. It shall be unlawful for any person to interfere with such officer in the exercise of this right.

4-105 **IMPOUNDMENT.** A Law Enforcement Officer or an Animal Control Officer shall impound animals at an animal shelter or a veterinarian clinic having the following facilities:

(a) Adequate impoundment 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 all unwanted and wanted animals

4-106 **CRUELTY TO ANIMALS.** It shall be unlawful for any person to:

(a) Willfully or maliciously kill, maim, disfigure, torture, beat with a stick, chain, club or other object; mutilate, burn or scald with any substance; or otherwise cruelly set upon any animals, except that reasonable force may be employed to drive vicious animals away.

(b) Drive or work any animal cruelly or cruelly work any maimed, mutilated, infirm, sick or disabled animal, or cause, allow or permit the same to be done.

(c) Have, keep or harbor any animal which is infected with any dangerous, incurable and/or painfully crippling condition, except as hereinafter provided. The Municipal Court may order a person convicted of violation under this subsection to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be destroyed humanely as soon thereafter as is possible. This section shall not be construed to include veterinary hospitals or animals under active veterinary care.

(d) Sell or offer for sale, barter, give away, or use as an advertising device or promotional display, living baby chicks, rabbits, ducklings or other fowl, except pigeons, under two (2) months of age in any quantity less than twelve (12); or to sell, offer for sale, barter, give away, or display animals or fowl as specified in this section which have

been dyed, colored or otherwise treated so as to impart to them an artificial or unnatural color; provided, however, that this section shall not be construed to prohibit the sale of animals or fowls as specified in this subsection, in proper facilities by hatchery or persons engaged in raising and selling such animals and fowls for recognized animal husbandry purposes.

(e) Promote, stage, hold, manage, or in any way conduct any game, exhibition, contest or fight in which one (1) or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animals.

(f) Abandon, or otherwise neglect or refuse to supply such animals with necessary and adequate care, food, drink, air, light, space, shelter and protection from the elements as necessary for health and well-being of such kind of animal.

(g) To set or cause to be set within the city, any steel-jaw let hold strap, snare, or any trap, other than a humane trap, as defined, for the purpose of capturing any animal, whether wild or domestic.

4-107 **PROHIBITED ANIMAL ACTIVITIES.**

(a) The owner or person in possession of any animal shall take all reasonable measures to keep such animal from becoming a nuisance. It shall be unlawful for the owner or person in possession of any animal to cause, permit or fail to exercise proper care and control to prevent such animal from performing, creating or engaging in an animal nuisance activity. For the purpose of this provision, “animal nuisance activity” is defined as any animal which: *(Ord 3001 8/04)*

(1) When unprovoked, chases or approaches a person or domestic animal in a menacing fashion or apparent attitude of attack upon public property, public rights-of-way, or private property owned by any person other than the owner or possessor of the animal, or on the owner or possessor’s property if the person is lawfully on the property in the performance of public duties, including public utility, mail delivery, or law enforcement purposes. Menacing shall mean the display by an animal of a disposition, determination or intent to attack or inflict injury or harm to a human being or other domestic animal, including displays of growling, charging, lunging, snapping or biting;*(Ord#3001 8/04)*

(2) When unprovoked, engages in a menacing behavior causing a person lawfully on abutting or adjoining private or public property or rights of way to reasonably believe the safety of the person is threatened. Particular attention shall be paid to threatened safety of children. Such menacing behavior may include displays of growling, snapping or biting, or behaviors such as charging or lunging at or against a fence or other barrier separating the animal owner or possessor’s premises from other public or private property. Attempts by an animal to cross outside the owner or possessor’s premises through, over or under a fence or barrier may constitute menacing behavior;*(Ord#3001 8/04)*

(3) Attacks or injures a person or other domestic animal;(Ord 3001 8/04)

(4) Damages public or private property by its activities; (Ord 3001 8/04)

(5) Scatters refuse that is bagged or otherwise contained; or(Ord 3001 8/04)

(6) Causes any condition which threatens or endangers the health or well being of a person or other animal;(Ord 3001 8/04)

(7) Is repeatedly running at large.(Ord 3001 8/04)

(b) If a summons is issued charging violation of this section, a subpoena may also be issued to a complainant, witness or other person to testify under oath as to the animal nuisance activity.(Ord 3001 8/04)

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4-108 **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 and declared to be a public nuisance and unlawful under this chapter.

4-109 **ANIMAL CONFINES.** 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.

4-110 **INSPECTION.** All premises on which animals are kept shall be subject to inspection by a Law Enforcement Officer or an Animal Control Officer. If a Law Enforcement Officer or an Animal Control Officer determines from such inspection that the premises are not being maintained in a clean and sanitary manner, the owner of the animals shall be notified in writing to correct the sanitation deficiencies within twenty-four (24) hours after notice is served on the owner. Any animal kept under any condition which could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected.

4-111 **DEATH OF ANIMALS.** All animals which die shall be disposed of by the owner or keepers within twenty-four (24) hours by burial, incineration in a facility approved by the Police Chief, by rendering or by other lawful means approved by the Police Chief. No dead animal shall be dumped on any public or private property. Dead animals the ownership of which cannot be determined and which are found on public property shall be removed by the Department of Public Works.

- 4-112 **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 Public Safety Department.
- 4-113 **IMPOUNDMENT OF RABIES SUSPECTS.** Any Law Enforcement Officer, Animal Control Officer or City Health Officer may take, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in a veterinary hospital or animal care facility for a period of not more than thirty (30) days during which time the City Health Officer shall determine whether or not such animal is suffering from a disease and, if not, the City Health Officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The City 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.
- 4-114 **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 City Health Officer. It shall also be the duty of the owner of the bitten animal to either destroy or have the bitten animal destroyed unless the animal which was bitten has been vaccinated against rabies at least three (3) weeks before being bitten and has a current vaccination. If the bitten animal has a current vaccination, it shall be confined for ninety (90) days and shall be released from confinement only upon written order from the City Health Officer. If the animal is found to have contracted rabies during confinement, it shall be destroyed and disposed of in a proper manner.
- 4-115 **EMERGENCY PROCLAMATION.** The Mayor is hereby authorized, whenever 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 Law Enforcement Officer or Animal Control Officer.
- 4-116 **VICIOUS ANIMALS.** It shall be unlawful to keep, harbor, own or in any way possess a vicious animal. The following provisions shall be applicable to vicious animals:
- (a) The impoundment of any animal whose owner has been cited for violation of this section shall be in the discretion of the Law Enforcement Officer or Animal Control Officer.
 - (b) Any animal whose owner has been cited for violation of this section, which has not been impounded, shall be muzzled and secured in such a manner as to prevent such animal from biting any person or other animal until such time as a determination has

been made by the municipal court as to whether such animal is vicious, as defined by this chapter.

(c) Nothing in this chapter shall be construed to prevent a Law Enforcement Officer or Animal Control Officer from taking such action deemed reasonably necessary to protect such person or members of the public from injury or danger, including the immediate destruction of any vicious animal without notice to the owner.

(d) Upon a finding that an animal is a vicious animal as defined by this chapter, the Municipal Court may order such animal to be destroyed in a humane manner.

(e) Surrender of an animal by the owner to a Law Enforcement Officer or Animal Control Officer shall not relieve the owner from responsibility for fees and fines which may result from the violation of this section.

4-117 **PROHIBITED ANIMALS.** It shall be unlawful to keep, harbor, own or in any way possess:

(a) Any domestic livestock or fowl, including but not limited to cattle, swine, horses, mules, sheep, goats, chickens, ducks, geese and turkeys, except that registered purebred miniature Vietnamese pot-bellied pigs and other similar registered purebred miniature pigs may be maintained within the city limits, subject to the conditions stated in Section 4-123 below.

(b) Any warm-blooded, carnivorous or omnivorous, wild or exotic animal (including, but not limited to nonhuman primates, raccoons, skunks, foxes and wild and exotic cats, but excluding fowl, ferrets and small rodents of varieties used for laboratory purposes)

(c) Any animal having poisonous bites

(d) Any pit bull dog

4-118 **EXCEPTIONS.** The provisions of this article are not applicable to owners, keepers or harborers of pit bull dogs registered with the city on the effective date of this article. The keeping of such dogs, however, shall be subject to the following standards:

(a) **Leash and Muzzle.** No person shall permit a registered pit bull dog to go outside its kennel or pen unless such dog is securely controlled with a leash no longer than four (4) feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be secured by leash to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(b) Confinement. All registered pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine registered pit bull dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the city. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(c) Confinement Indoors. No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(d) Signs. All owners, keepers or harborers of registered pit bull dogs within the city shall within ten (10) days of the effective date of this article display in a prominent place on their premises a sign easily readable by the public using the words "BEWARE OF DOG." In addition, a similar sign is required to be posted on the kennel or pen of such an animal.

(e) Insurance. All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the effective date of this article provide proof to the City Clerk of public liability insurance in a single incident amount of fifty thousand dollars (\$50,000.00) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days' written notice is first given to the City Clerk.

(f) Identification Photographs. All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the effective date of this article provide to the City Clerk two color photographs of the registered animal clearly showing the color and approximate size of the animal.

(g) Reporting Requirements. All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the incident, report in writing to the City Clerk the removal from the city or death of a registered pit bull dog; the birth of offspring of a registered pit bull dog; or the new address of a registered pit bull dog owner should the owner move within the corporate city limits.

(h) Sale or Transfer of Ownership Prohibited. No person shall sell, barter or in any other way dispose of a pit bull dog registered with the city, unless the recipient person resides permanently within the same household and on the same premises as the

registered owner of such dog, provided that the registered owner of a pit bull dog may sell or otherwise dispose of a registered dog or the offspring of such dog to persons who do not reside within the city.

(i) **Animals Born of Registered Dogs.** All offspring born of pit bull dogs registered with the city must be removed from the city within six (6) weeks of the birth of such animal.

(j) **Irrebuttable Presumption.** There shall be an irrebuttable presumption that any dog registered with the city as a pit bull dog or any of those breeds prohibited by this section is in fact a dog subject to the requirements of this section.

(k) **Failure to Comply.** It shall be unlawful for the owner, keeper or harbinger of a pit bull dog registered with the city to fail to comply with the requirements and conditions set forth in this article. Any dog found to be the subject of a violation of this article shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the city.

4-119 **IMPOUNDMENT.** Any animal found in violation of the provisions of this article shall be subject to impoundment by the city. A record of all animals impounded shall be kept by the city containing the species, color, sex, weight, height, identifying marks, and the date of impoundment.

4-120 **PROCEDURE UPON IMPOUNDMENT.** The City Clerk shall notify the owner of the impoundment of such animal as soon as possible. If at the end of (5) five days, the City Clerk has been unable to locate the owner, or the owner, upon having been located, refuses to claim or redeem said animal, then the animal, may be sold, euthanized or otherwise disposed of. (*Ord 2900 12/99*)

4-121 **RELEASE FROM IMPOUNDMENT.** If during the impoundment period, the owner of an impounded animal claims the animal, it shall be released to the person claiming it upon payment of the actual costs of impoundment, and upon compliance with all other applicable provisions of this article. Release from impoundment and the payment of impoundment fees shall not preclude the Municipal Court from imposing any fine which might otherwise be levied under this article for violation of any of the provisions thereof.

4-122 **PENALTY.** Any person violating or permitting the violation of any provision of this article shall upon conviction in Municipal Court be fined a sum not more than five hundred dollars (\$500.00). In addition to the fine imposed the court may sentence the defendant to imprisonment for a period not to exceed thirty (30) days. Each day that a violation of this article continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this article shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this article.

EXCEPTION, MINATURE PIGS. The provisions of this article are not applicable to owners, keepers or harborers of registered purebred miniature Vietnamese pot-bellied pigs and other similar registered purebred miniature pigs which may be maintained within the city limits, subject to the following restriction:

(a) **REQUIREMENTS.** It shall be unlawful for any person to maintain a registered purebred miniature pig which is:

- (1) not spayed or neutered upon reaching maturity or
- (2) has not undergone a blood test to show that the animal is free from pseudorabies or
- (3) is maintained as a food source.

(b) **IT SHALL BE UNLAWFUL FOR ANY PERSON TO:**

- (1) keep a registered purebred miniature pig without a current city issued license; or
- (2) maintain more than one registered purebred miniature pig at one licensed premise.

(c) **LICENSE.** A one time application fee of \$25.00 shall be paid to the city before a registered purebred miniature pig may be licensed and maintained within the city limits. Thereafter, an annual license fee of \$5.00 shall be paid to the City of Abilene, renewable in January of each year in order for any person to continue to maintain a registered purebred miniature pig within the city limits.

(d) **REVOCAION OF LICENSE.** The license may be revoked by the city if the licensee shall fail to abide by all applicable city codes and ordinances. No person who has had a permit revoked shall be permitted to make application for another license within one year from the date of the revocation of the previous license.

- (1) the license shall continue until any of the following shall occur:
 - (a) the annual renewal fee is not timely paid;
 - (b) the license is revoked;
 - (c) The animal dies;
 - (d) the animal is no longer kept or maintained at the location stated in the license; or
 - (e) the licensee no longer resides at the location stated in the license.

(e) **PENALTY.** A violation of this Section shall constitute a class C violation. Any person who shall be convicted in municipal court of violating any provision of this section shall be punished by a fine of not more than \$500.00. Each day that a violation occurs shall constitute a separate offense and shall be punishable hereunder as a separate violation.

ARTICLE 2. DOGS

- 4-201 **REGISTRATION.** The owner of any dog over six (6) months of age shall register under the name of the owner the name, sex, and description of each dog so owned with the City Clerk.
- 4-202 **VACCINATION.** Upon registration, the owner shall present a current, completed certificate of immunization against rabies. No dog shall be registered without evidence of this document.
- 4-203 **EVIDENCE OF NEUTERING OR SPAYING.** The owner of any dog shall, at the time of applying for a license, 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.
- 4-204 **REGISTRATION FEE.** The City Clerk shall collect an annual registration fee of two dollars (\$2.00) for each neutered male dog or spayed female dog, and five dollars (\$5.00) for each unneutered male dog or unspayed female dog, without regard to the time of ownership or acquisition of such dog. The registration year shall be from January 1 through December 31 of each year. The fee shall be due on January 1 and payable before March 1 of each year without penalty. Every owner of a dog who shall fail to register and license the same prior to March 1 of each licensing year or within thirty (30) days of the acquisition of a dog, whichever is later, shall pay in addition to the license fee hereinabove provided a penalty fee for late registration of two dollars (\$2.00). (*Ord 2547 11/82*)
- 4-205 **DOG TAGS.** It shall be the duty of the City Clerk or designated agent, upon receipt of the registration fee, to keep a suitable record of the time of the registration, the name of the owner or keeper, the number of the registration and the amount paid therefor. The City Clerk shall deliver to the owner or keeper of a 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 licensed year thereon, which shall be attached to the collar to be used on the dog so registered by the owner or keeper. Whenever the City Clerk is notified that any tag has been lost, upon presentation of the certificate, a duplicate of such tag shall be issued. It shall be unlawful for any person to remove the city license tag from any dog belonging to another, or remove the strap or collar on which the same is fastened.
- 4-206 **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 in the city for less than thirty (30) days. However, such dogs shall be kept under restraint by the owner thereof at all times.
- 4-207 **RUNNING AT LARGE.** 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. (*Ord 2172 11/68*)

- 4-208 **IMPOUNDMENT.** Any dog found in violation of the provisions of this article shall be subject to impoundment by the city. A record of all dogs impounded shall be kept by the city containing the color, sex, weight, height, identifying marks, registration number, if any, and the date of impoundment. (*Ord 832 2/48*)
- 4-209 **PROCEDURE UPON IMPOUNDMENT.** If the dog impounded has a current registration tag attached to its collar, the owner of such dog, as shown by the records of the City Clerk shall be notified in writing as soon as possible. If at the end of five (5) days, the City Clerk has been unable to locate the owner, or the owner, upon having been located, refuses to claim or redeem said dog, then the dog may be sold, euthanized or otherwise disposed of. If the dog impounded has no current registration tag, it shall be kept for seventy-two (72) hours. If within that time the owner does not appear to claim the dog, it may be sold, euthanized or otherwise disposed of.
- 4-210 **RELEASE FROM IMPOUNDMENT.** If during the impoundment period, the owner of an impounded dog claims the dog, it shall be released to the person claiming it upon payment of the actual costs of impoundment, and upon compliance with the registration and vaccination provisions of this article. Release from impoundment and the payment of impoundment fees shall not preclude the Municipal Court from imposing any fine which might otherwise be levied under this article for violation of any of the provisions thereof.
- 4-211 **KENNELS.** No person or household shall own or harbor more than four (4) dogs of six (6) months of age or older or more than one (1) litter of pups, or more than four (4) cats of more than six (6) months of age or more than one (1) litter of kittens or more than a total of five (5) dogs and cats more than six (6) 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. 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.
- 4-212 **KENNEL LICENSES.** Kennel licenses must be renewed annually. The annual kennel license fee shall be twenty-five dollars (\$25.00). Payment of such license fee is in addition to, and not in lieu of, the dog license fees otherwise required under this article. No kennel license shall be issued until an inspection certificate has been given by the Animal Control Officer certifying approval of the kennel and compliance with the applicable laws of the city and State of Kansas, and a certificate by the Zoning Administrator has been issued certifying that the applicant for the kennel license is not violating zoning laws of the city. If the City Clerk has not received a 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 Administrator. If the Animal Control Officer or the Zoning Administrator 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 City Commission.

- 4-213 **KENNEL INSPECTION.** The Zoning Administrator or City Health Officer shall have the right to inspect any premises licensed under this section at any 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.
- 4-214 **LICENSE REVOCATION.** The Governing Body may suspend or revoke a kennel license if, pursuant to a public hearing, it finds any of the following:
- (a) The kennel is maintained in violation of any applicable law of the State of Kansas, or of the city.
 - (b) The kennel is maintained so as to be a public nuisance.
 - (c) The kennel is maintained so as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity.
- 4-215 **CONFINEMENT OF DOGS IN HEAT.** Any unspayed female dog in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog or dogs may gain voluntary access to the confined animal except for the purpose of planned breeding. Any animal that is in the state of estrus (heat) and that is not properly confined, or any such animal that is creating neighborhood nuisances, shall be removed to a boarding kennel, veterinary hospital, or 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. Failure to comply with the order of the Animal Control Officer shall be a violation of this article, and the animal will then be impounded.
- 4-216 **PENALTY.** Any person violating or permitting the violation of any provision of this article shall upon conviction in Municipal Court be fined a sum not more than five hundred dollars (\$500.00). In addition to the fine imposed the court may sentence the defendant to imprisonment for a period not to exceed thirty (30) days. Each day that a violation of this article continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this article shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this article.

ARTICLE 3. NUISANCES

4-301 **DEFINITION.** Nuisances include, but are not limited to, conditions which: *(Ord 2961 7/02)*

(a) Increase the hazard of fire or accident

(b) Cause or permit emissions into water or air that will tend to be significantly injurious to human health or welfare, animal or plant life, or property, or is or will be unreasonably interfering with the enjoyment of life and property of any inhabitant of the city of Abilene, Kansas.

(c) Contribute to blight by reason of uncleanliness or lack of maintenance

(d) Result in unsightliness, particularly with respect to the storage of material, supplies, equipment, machinery, motor vehicles and parts thereof

(e) Endanger health or safety by reason of dilapidation, disrepair, or structural defect

(f) Promote vermin and insect infestation

(g) Violate any of the fire, building, or zoning regulations, or other laws or regulations relating to the use of land and the use and occupancy of buildings and improvements

4-302 **RIGHT OF ENTRY.** It shall be a violation of this article to deny the City Health Officer or an authorized representative 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 2954 12/01)*

4-303 **NOTICE.** Any person found by the Public Officer to be in violation of Section 4-301 of this code shall be served a notice of such violation. The notice shall be served by certified mail, return receipt requested; or by personal service. *(Ord 2978 5/03)*

The notice shall state the condition(s) which is (are) in violation of Section 4-301. The notice shall also inform the person that:

(a) He, she or they shall have 10 days from the date of serving the notice to abate the condition(s) in violation of Section 4-301; or

(b) He, she or they have 10 days from the date of serving the notice to request in writing a hearing before a hearing officer appointed by the City Manager of the matter as provided by Section 4-305;

(c) Failure to abate the condition(s) or to request in writing a hearing within the time allowed may result in prosecution as provided by Section 4- 304 and/or abatement of the condition(s) by the city as provided by Section 4-307.

- 4-304 **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 4-301, be fined in an amount not to exceed \$500.00. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. *(Ord 2978 5/03)*
- 4-305. **HEARING.** If a hearing is requested within the 10 day period as provided in Section 4-303, such request shall be made in writing to the hearing officer. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the hearing officer. The hearing shall be held by the hearing officer 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 hearing officer. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the hearing officer shall record his or her determination of the matter in writing and serve a copy upon the person requesting the hearing. Such person shall have the right to appeal the hearing officer's decision to the Governing Body by filing a request for hearing with the City Clerk within 5 days of receipt of the hearing officer's decision. The hearing shall take place at the next regularly scheduled meeting of the Governing Body. The City Clerk shall provide the person requesting the hearing a notice stating the date, time and place of the hearing. At 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. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the Governing Body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person as required by 4-303. *(Ord 2978 5/03)*
- 4-306 **ABATEMENT.** The provisions of K. S. A. 12-1617e are incorporated by reference, with relation to the abatement of nuisances, unless specific provision is made otherwise in this article. *(Ord 2954 12/01)*
- 4-307 **PROCEDURE.** The following procedure shall be followed in the abatement of nuisances:*(Ord 2954 12/01)*

(a) Whenever the City Health Officer files with the Governing Body a statement in writing that a nuisance exists describing the same and where located, the Governing Body shall by resolution fix a time and place at which the owner, the owner's agent, any lienholders of record and any occupant of such property may appear and show cause why such nuisance should not be ordered abated. Such resolution shall be published once

each week for two (2) consecutive weeks on the same day of each week. At least thirty (30) days shall elapse between the last publication and the date set for the hearing. A copy of the resolution shall be mailed by certified mail within three (3) days after its first publication to each such owner, agent, lienholder and occupant, at the last known place of residence, and shall be marked "deliver to addressee only."

(b) On the date fixed for hearing or any adjournment thereof, the Governing Body shall hear all evidence submitted by the owner, an agent of the owner, lienholders of record and occupants having an interest in such property, as well as evidence submitted by the City Health Officer filing the statement, and shall make findings by resolution. If the Governing Body shall find that such nuisance exists, such resolution shall direct the nuisance to be abated. Such resolution shall be published once in the official city paper 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 nuisance shall be abated, and a statement that if the owner of such property fails to commence the abatement of such nuisance within the time stated or fails to diligently prosecute the same until the work is completed, the Governing Body will cause the nuisance to be abated.

(c) If the owner of any structure has failed to commence the abatement of such nuisance within the time stated in the resolution or has failed to diligently prosecute the same thereafter, the city may proceed to abate such nuisance, or let the same to contract. The city shall keep an account of the cost of such work and may sell the salvage from such abatement and apply the proceeds or any necessary portion thereof to pay the cost of abating such nuisance. All moneys in excess of that necessary to pay such costs and the cost of publications of notice and any postage for mailing of notice, after the payment of all costs, shall be paid to the owner

(d) The city shall give notice to the owner of such property by restricted mail of the total cost incurred by the city in abating such nuisance and the cost of providing notice. Such notice also shall state that payment of such cost is due and payable within thirty (30) days following receipt of such notice. If the cost is not paid within the thirty (30) day period and if there is no salvageable material or if moneys received from the sale of salvage are insufficient to pay the cost of such work, the balance shall be assessed as a special assessment against the lot or parcel of land in 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.

ARTICLE 4. DANGEROUS STRUCTURES

4-401 **DANGEROUS STRUCTURES.** The provisions of K. S. A. 12-1750 to K. S. A. 12-1756 inclusive are incorporated by reference with relation to the abatement of unsafe or dangerous structures. (*Ord 2603 3/85*)

ARTICLE 5. ABANDONED AND INOPERABLE MOTOR VEHICLES

- 4-501 **REMOVAL OF ABANDONED MOTOR VEHICLES.** The provisions of K. S. A. 8-1101 and K. S. A. 8-1102 are incorporated by reference with relation to the removal of abandoned vehicles, providing for the removal thereof, notice, sale of property and disposition of funds.
- 4-502 **DEFINITION OF INOPERABLE MOTOR VEHICLE.** For the purposes of this chapter the following words shall mean:
- (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 any automobile, truck, tractor, aircraft, or motorcycle or other motorized vehicle, which, as originally built, contained an engine or designed to contain an engine, regardless of whether it contains an engine at any time.
- (c) *Demolition Derby Vehicle* means any motor vehicle which has been specifically modified for demolition derby competition, and which has been registered as provided herein.
- 4-503 **UNLAWFUL POSSESSION OF INOPERABLE MOTOR VEHICLE.** Except as provided in Sections 4-505, 4-506, and 4-507, it shall be unlawful for any person, partnership, corporation, or their agent either as owner, lessee, tenant or occupant of any lot or land within the city to possess, store or park, or permit to be possessed, stored, or parked thereon, an inoperable vehicle unless it is enclosed in a garage or other building.
- 4-504 **RIGHT OF ENTRY.** It shall be a violation of this article to deny an enforcing officer or an authorized representative 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 violation of this article exists.
- 4-505 **TEMPORARILY DISABLED VEHICLES.** The provisions of Section 4-503 shall not apply to any person, partnership or corporation or their agent with one (1) inoperable vehicle for a period of thirty (30) consecutive days or less. (*Ord 2929 3/01*)
- 4-506 **SCREENING.** The provisions of Section 4-503 shall not apply to any person, firm, corporation or their agent who is conducting a business enterprise in compliance with existing zoning regulations and who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public using the streets and sidewalks and to prohibit ready access to such vehicles by children, and who is not maintaining a ‘Salvage Yard’ as defined in the Zoning Regulations, provided that nothing in this section shall authorize the maintenance of a public nuisance.

4-507 **DEMOLITION DERBY VEHICLES.** The provisions of Section 4-503 shall not apply to any person, partnership, or corporation with respect to demolition derby vehicles, between June 1 and September 15, subject to the following:

(a) There shall not be more than two (2) demolition derby vehicles located on a tract at a time.

(b) Demolition derby vehicles shall be registered at the office of the City Clerk without charge.

(c) Demolition derby vehicles shall not be operated within the City between the hours of 10:00 p.m. and 8:00 a.m., unless the engine is properly muffled or the vehicle is participating in a demolition derby competition event.

4-508 **PRESUMPTIONS.** Any one of the following conditions shall raise the presumption that a vehicle is inoperable:

(a) Absence of an effective registration plate upon such vehicle

(b) Placement of the vehicle or parts thereof, upon jacks, blocks, chains or other support

(c) Absence of one (1) or more parts of the vehicle necessary for the lawful operation of the vehicle upon the streets and highways

4-509 **NOTICE.** Any person found by the Public Officer to be in violation of Section 4-503 of this code shall be served a notice of such violation. The notice shall be served by certified mail, return receipt requested; or by personal service.*(Ord 2978 5/03)*

The notice shall state the condition(s) which is (are) in violation of Section 4-503. The notice shall also inform the person that:

(a) He, she or they shall have 10 days from the date of serving the notice to abate the condition(s) in violation of Section 4-503;or

(b) He, she or they have 10 days from the date of serving the notice to request a hearing before a hearing officer appointed by the City Manager of the matter as provided by Section 4-511;

(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- 510 and/or abatement of the condition(s) by the city as provided by Section 4-512.

4-510 **FAILURE TO COMPLY; PENALTY.** Should the person fail to comply with the notice to remove the vehicle or vehicles 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 4-503, be fined in an amount not to exceed \$500.00. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. *.(Ord 2978 5/03)*

4-511 HEARING. If a hearing is requested within the 10 day period as provided in Section 4-509, such request shall be made in writing to the hearing officer. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the hearing officer. The hearing shall be held by the hearing officer 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 hearing officer. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the hearing officer shall record his or her determination of the matter in writing and serve a copy upon the person requesting the hearing. Such person shall have the right to appeal the hearing officer's decision to the Governing Body by filing a request for hearing with the City Clerk within 5 days of receipt of the hearing officer's decision. The hearing shall take place at the next regularly scheduled meeting of the Governing Body. The City Clerk shall provide the person requesting the hearing a notice stating the date, time and place of the hearing. At 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. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the Governing Body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person as required by 4-509..*(Ord 2978 5/03)*

4-512 ABATEMENT. The provisions of K.S.A. 12-1617e are incorporated by reference, with relation to the abatement of nuisances, unless specific provision is made otherwise. *(Ord 2978 5/03)*

ARTICLE 6. WEEDS

4-601 **WEEDS TO BE REMOVED.** It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way, and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided.

4-602 **DEFINITIONS.** For the purposes of this chapter, the following and words and phrases shall mean:

(a) *Calendar Year* means that period of time beginning January 1 and ending December 31 of the same year.

(b) *Weeds* means any of the following:

(1) Brush and woody vines shall be classified as weeds

(2) Grasses and comparable vegetation which may attain such large growth as to become, when dry, a fire menace to adjacent improved property

(3) Grasses and comparable vegetation which bear or may bear seeds of a downy or wingy nature

(4) Grasses and comparable vegetation 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) Grasses and comparable vegetation on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such grasses and comparable vegetation shall be presumed to be blighting if they exceed twelve (12) inches in height.

4-603 **NOTICE TO REMOVE.** The City Manager shall designate a public officer to be charged with the administration and enforcement of the city weed control law. The public officer or an authorized assistant shall notify in writing the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of the city weed control law, by mail or following:

(a) The owner, occupant or agent in charge of the property is in violation of the city weed control law.

(b) The owner, occupant, or agent in charge of the property is ordered to cut the weeds within ten (10) days of the receipt of notice.

(c) Hearing. The owner, occupant or agent in charge of the property may request a hearing before a hearing officer appointed by the City Manager within 10 days of the serving of notice. If a hearing is requested within the 10 day period as provided herein, such request for a hearing shall constitute a waiver of the person's right to contest the findings of the hearing officer. The hearing shall be held by the hearing officer 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 hearing officer. The hearing not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the hearing officer shall record his or her determination of the matter in writing and serve a copy upon the person requesting the hearing. Such person shall have the right to appeal the hearing officer's decision to the Governing Body by filing a request for hearing with the City Clerk within 5 days of receipt of the hearing officer's decision. The hearing shall take place at the next regularly scheduled meeting of the Governing Body. The City Clerk shall provide the person requesting the hearing notice stating the date, time and place of the hearing. At 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. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the Governing Body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person as required by 4-604.

(d) If the owner, occupant or agent in charge of the property does not cut the weeds, the city or its authorized agent will cut the weeds and assess the cost of the cutting, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property.

(e) The owner, occupant or agent in charge of the property will be given an opportunity to pay the assessment, and, if it is not paid, it will be added to the property tax as a special assessment

(f) No further notice shall be given prior to removal of weeds during the current calendar year.

(g) The public officer should be contacted, if there are any questions regarding the order.

4-604 **ABATEMENT.** Upon the expiration of ten (10) days after receipt of the notice required by Section 4-603, and in the event that the owner, occupant or agent in charge of the premises shall neglect or fail to comply with the requirements of Section 4-601, the public officer or an authorized assistant shall cause to be cut, destroyed, and/or removed

all such weeds and abate the nuisance created thereby at any time during the current calendar year.

- 4-605 **NOTICE OF COSTS.** The public officer or an authorized assistant shall give notice to the owner, occupant or agent in charge of the premises by registered mail of the costs of abatement of the nuisance. The notice shall state that payment of the costs is due and payable within thirty (30) days following receipt of the notice.
- 4-606 **ASSESSMENT OF COSTS.** If the costs of removal or abatement remain unpaid after thirty (30) days following receipt of notice, a record of the costs of cutting and destruction and/or removal shall be certified to the City Clerk who shall cause such costs to be assessed against the particular lot or piece of land on which such weeds were so removed, and against such lots or pieces of land in front of or abutting on such street or alley on which such weeds were so removed. The City Clerk shall certify the assessment to the County Clerk at the time other special assessments are certified for spreading on the tax rolls of the county. If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this article, the city may not recover any costs or levy an assessment for the destruction of weeds on such property, unless the new record owner of title to such property is provided notice as required by this article.
- 4-607 **RIGHT OF ENTRY.** The public officer, and authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with the city weed control law.
- 4-608 **UNLAWFUL INTERFERENCE.** It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or authorized representatives from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute a violation of the city weed control law.
- 4-609 **NOXIOUS WEEDS.** Nothing in the city weed control law 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.
- 4-610 **DEFINITION OF NOXIOUS WEEDS.** For the purpose of this article, the term *noxious weeds* shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), musk (*nodding*) thistle (*Carduus nutans L.*), and Johnson grass (*Sorghum halepense*).
- 4-611 **FAILURE TO COMPLY; PENALTY.** Should the person fail to comply with the notice to abate the weeds 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 4-601, be fined in an amount not to exceed \$500.00. Each day

during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

ARTICLE 7. SOLID WASTE

4-701 **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* means 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* means any enclosure, building or portion thereof occupied by one (1) or more persons for and as living quarters.

(c) *Garbage* means 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* means any structure containing more than four (4) individual dwelling units.

(e) *Refuse* means all garbage and/or rubbish or trash.

(f) *Residential* means any structure containing four (4) 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* means 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* means an enclosure, building or portion thereof occupied.

(i) *Solid waste* means all non-liquid garbage, rubbish or trash.

4-702 **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, provided that nothing herein shall be construed to prevent a person from hauling or disposing of solid waste of such person, 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.

4-703 **DUTY OF OWNER AND OCCUPANT.** The owner or occupant of every dwelling unit or commercial enterprise shall provide at the expense of such owner or occupant 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.

4-704 **CONTAINERS.** Residential containers shall have a capacity of not more than thirty (30) gallons. Such containers shall be of galvanized metal or other non-rusting material of substantial construction. Each container shall have a tightfitting lid and shall be leakproof and flytight. 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.

4-705 **BULK CONTAINERS.** On premises where excessive amounts of refuse accumulates or where cans or bags are impractical, bulk containers for the storage of refuse may be used. Containers shall have a capacity and shall be equipped with appurtenances for attaching mechanical lifting devices which are compatible with the collection equipment being used. Containers shall be constructed of durable rust and corrosion resistant material which is easy to clean. All containers shall be equipped with tight fitting lids or doors to prevent entrance of insects or rodents. Doors and lids shall be constructed and maintained so they can be easily opened. Containers shall be watertight, leakproof and weatherproof construction.

4-706 **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.

4-707 **HAZARDOUS MATERIALS.** No person shall deposit in a solid waste container or otherwise offer for collection any hazardous substance, 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

4-708 **PROHIBITED PRACTICES.** It shall be unlawful for any person to:

(a) Deposit solid waste in any container other than that owned or leased by such person or under his control without written consent of the owner and/or with the intent of avoiding payment of a refuse service charge.

(b) Interfere in any manner with employees of the city or solid waste collectors 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.

(e) Place, deposit or permit to be deposited any human or animal excrement, garbage or other objectionable waste in any unsanitary manner on public or private property within the city or in any area under the jurisdiction of the city.

(f) Discharge any wastewater or other polluted waters into any natural outlet, except where suitable treatment has been provided in accordance with the provisions of this code.

(g) Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater, except as specifically authorized by the provisions of this code.

4-709 **OBJECTIONABLE WASTE.** Waste from animal 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.

4-710 **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.

4-711 **PENALTY.** Any person, firm, partnership or corporation violating any provision of this article shall, upon conviction, be fined a sum not to exceed five hundred dollars (\$500.00), or be imprisoned for a period not to exceed thirty (30) days, or be both so fined and imprisoned.