

City of St. Marys Municipal Code



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CHAPTER I. ADMINISTRATION

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ARTICLE 1. GENERAL PROVISIONS

1-101 CODE DESIGNATED. The chapters, articles and sections herein shall constitute and may be designated as the Code of the City of St. Marys, Kansas, and may be so cited. (Code 1983)

1-102 DEFINITIONS. The following definitions and rules of construction shall be observed in the construction of this code and of all ordinances unless they are inconsistent with the manifest intent of the governing body or the context clearly requires otherwise:

- a) City. Shall mean the City of St. Marys, in Pottawatomie County, Kansas.
- b) 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. If the last day is a Sunday or legal holiday, that day shall be excluded.
- c) County. Shall mean the County of Pottawatomie, Kansas.
- d) Delegation of Authority. Whenever a provision appears requiring or authorizing the head of a department or other 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.
- e) Gender. Words importing the masculine gender include the feminine and neuter.
- f) In the city means and includes any territory within the corporate limits of the City of St. Marys, Kansas, and the police jurisdiction thereof and any other territory over which regulatory power has been conferred on the city by law, except as otherwise specified.
- g) 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.
- h) Number. Words used in the singular include the plural and words used in the plural include the singular.
- i) Oath includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath and in such cases, the words "swear" and "sworn" are equivalent to the words "affirm" and "affirmed".
- j) 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 buildings or land.
- k) Person includes a firm, partnership, association of persons, corporation, organization or any other group acting as a unit, as well as an individual.

- l) Property includes real, personal and mixed property.
- m) Real property includes land, tenements and hereditaments.
- n) Shall and will are mandatory.
- o) Sidewalk means any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.
- p) 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.
- q) Tenant, occupant applied to a building or land, means any person who occupies the whole or part of such building or land, whether alone or with others. (Code 1983)

1-103 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 to the 1924 revised ordinances (RO. 1924 and to later ordinances 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 1983)

1-104 CATCHLINES. The catchlines or headings of the sections of this code are intended as mere words to indicate the contents of the sections 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 so deemed when any section, including its catchline, is amended or reenacted. (Code 1983)

1-105 AMENDMENTS: REPEAL. Any portion of this code may be amended by specific reference to the section number as follows: "That section _____ of the code of the City of St. Marys is hereby amended to read as follows: (The section as amended shall then be set out in full)".... A new section not heretofore existing in the code may be added as follows: "That the code of the City of St. Marys is hereby amended by adding a section (or article or chapter) which reads as follows: (the new section 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 St. Marys is hereby repealed. (Code 1983)

1-106 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. (Code 1983)

1-107 ORDINANCES. The governing body shall pass all ordinances needed for the welfare of the city. No ordinance shall be valid unless a majority of all the members-elect of the city commission vote in favor. (K.S.A. 12-3002; Code 1983)

1-108 SAME; PUBLICATION. No ordinance, except those appropriating money, shall be in force until published in the official city newspaper by the city clerk. One publication of any such ordinances shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication. (K.S.A. 12-3007; Code 1983)

1-109 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 1983)

1-110 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 commission. (Code 1983)

1-111 EMERGENCY GOVERNMENT. In the event of a catastrophe in which all or a majority of the members of the governing body are fatally injured, the interim governing body shall be composed of the surviving members, the city manager, the city attorney, the city clerk and a sufficient number of the appointed officials selected in the order of the greatest seniority in office to make up a governing body of the prescribed number. (Code 1983)

1-112 CONFLICT OF INTEREST.
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:

- a) In which said 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
- b) From which said 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
- c) 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 said business.
- d) 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. (K.S.A. 75-4301; Code 1983)

1-113 MEETINGS. Regular meetings of the board of commissioners shall be held on the first and third Tuesday of each month at 7:00 p.m. A majority of the members elect of the commission shall constitute a quorum to conduct business. In the event the regular meeting shall fall on any legal holiday, or any day observed as a holiday by the City offices, no meeting shall be held unless otherwise determined by the Governing Body. (K.S.A. 12-1020; 15-1409; ORD 771, Sec. 1; ORD 1190/121906; ORD 1307/080117)

1-114 SPECIAL MEETINGS. Special meetings of the board of commissioners may be called by the mayor and any one commissioner. The object of any special meetings shall be stated in the call and no other business may be considered at such special meeting. A notice of such special meeting shall be served personally upon each commissioner or left at his or her usual place of residence at least two hours before the time of such meeting. The notice shall be issued by the city clerk and delivered to the chief of police for delivery to the commissioners. (K.S.A. 12-1020; 15-1503; Code 1983)

1-115

CITY RECORDS.

- a) The City of St. Marys does hereby adopt The Kansas State Historical Society, Department of Archives, Local Government Records Management Manual, as amended, as the guide to the retention of official records of the City of St. Marys, unless exempted as provided by law or herein.
- b) The city clerk or other officer or employee having custody of city records and documents shall maintain such records and documents in accordance with paragraph (a) and in compliance with K.S.A. 12-120 to 12-121 inclusive, which is incorporated by reference herein as if set out in full. (K.S.A. 12-120: 12-121)
- c) The City of St. Marys City Commission, Planning Commission, Board of Zoning Appeals and Board of Building Code Appeals shall electronically record all meetings of such entities and such recordings of such meetings shall be maintained for a period of six (6) months after the approval of minutes of such meetings. A recorded document may be kept longer than the provided term upon a statement of need for retention of a specific meeting recording and by resolution of the City Commission of the City of St. Marys. Such electronic recordings of such meetings shall be part of the official record of the City of St. Marys and subject to open meetings records request. (K.S.A. 12-120:12-121; Code 1983; ORD 1216/102108)

1-116

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 St. Marys 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 1983)

1-117

SCOPE OF APPLICATION. Any person convicted of doing any of the acts or things prohibited, made unlawful or misdemeanor, or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed guilty of a misdemeanor and punished in accordance with Section 1-118. Each day any violation of this code continues shall constitute a separate offense. (Code 1983)

1-118

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 less than \$1 or more than \$500; or,
- b) Imprisonment for not more than 180 days; or
- c) Both such fine and imprisonment not to exceed (a) and (b) above. (Code 1983)

1-119

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 1983)

ARTICLE 2. GOVERNING BODY

- 1-201 GOVERNING BODY DEFINED. The term "governing body" as used in this code shall be defined as the board of city commissioners of the City of St. Marys. (Code 1983)
- 1-202 POWERS GENERALLY. The governing body shall exercise all powers conferred upon cities of the third class by the constitution and laws of the State of Kansas and shall enact, ordain, alter, modify or repeal ordinances which it shall deem expedient for the good government of the city. (Code 1983)
- 1-203. BOARD OF COMMISSIONERS. The board of commissioners shall consist of five commissioners as provided by Charter Ordinance No. 11 of the City of St. Marys, and the board of commissioners shall choose its own chairperson annually at its first regular meeting held in December and the chairperson shall have the title of Mayor and the board of commissioners may further organize as may be deemed necessary. (ORD1315/052119)
- 1-204 SAME; VACANCY. In case of any vacancy for any cause in the office of mayor or any commissioner, the remaining members of the governing body, within 30 days after the date of vacancy, shall by majority vote elect some suitable person to fill the vacancy for the balance of the unexpired term of such office. If the remaining members cannot agree upon some such suitable person, then they shall call in the city attorney, who shall cast the decisive vote for such appointment. In case of the temporary absence or disability of the chairperson, the vice chairperson of the governing body shall act as mayor. (K.S.A. 15-1405; RO. 1924, Sec. 26) (C.O. 9) (ORD 1192/011607)
- 1-205 SAME; QUALIFICATIONS.
- a) Each of the commissioners of the City of St. Marys shall be a citizen of the United States and a qualified elector of the city.
 - b) Prior to entering upon his or her duties, each member of the commission shall give a surety bond in the amount of \$2,000, said bond to be approved by the district judge of Pottawatomie County. (Code 1983)
- 1-206 COMPENSATION.
- a) That the salary of the elected Mayor shall be paid monthly at the rate of (\$125) per month, except that during 2010 the Mayor shall not receive any salary.
 - b) That the salary of the elected Commissioners shall be paid monthly at the rate of one hundred dollars (\$100) a month, except that during 2010 the Commissioners shall not receive any salary.
 - c) The salaries provided for in sections (a) and (b) shall be paid by the City Clerk at the second pay period of the month. The City Clerk will withhold the required amount for payroll taxes.
 - d) In addition to such compensation, the city shall, upon claim properly presented, reimburse any member of the governing body for expenditures made in carrying out their official duties. (ORD 907, ORD1229/090109; ORD1291/02162016)
- 1-207 VICE CHAIRPERSON OF COMMISSION.
- a) The city commission, at its first regular meeting held in December, shall elect one of its members to serve as vice-chairperson of the

commission, and the vice-chairperson shall have the title of vice-mayor. (ORD1315/052119)

- b) In the absence of the chairperson, the vice chairperson of the commission shall serve as chairperson and shall perform all other duties of the chairperson. (Code 1983)

ARTICLE 3. OFFICERS AND EMPLOYEES

1-301 CITY MANAGER. The administration of the city's business shall be in the hands of a city manager who shall have all powers vested in such office by the laws of the State of Kansas, and shall have such further powers and duties as may hereinafter be provided. (Code 1983)

1-302 SAME; APPOINTMENT. The board of commissioners shall appoint a city manager who shall hold office at the pleasure of the board. The city manager shall be chosen solely on the basis of administrative ability and the choice shall not be limited by any residence requirement. (RO. 1924, Sec. 29; Code 1983)

1-303 SAME; SALARY, BOND. The city manager shall receive a salary to be fixed by the governing body and shall give surety bond for the faithful performance of his or her duties in such amount as may be fixed by ordinance. (K.S.A. 12-1013; Code 1983)

1-304 SAME; DUTIES. The city manager shall be responsible for the administration of all the affairs of the city including without limitation the following. The city manager:

- a) Shall appoint and remove all officers and employees of the city. All appointments shall be made upon the basis of merit and fitness alone;
- b) Shall be responsible for the conduct of all officers and employees;
- c) Shall, when deemed necessary, have full authority to discipline any appointive officer or employee;
- d) May, without notice, cause the affairs or conduct of any appointive officer or employee to be examined. He or she may require such reports from said officers or employees as he or she deems necessary;
- e) Shall be responsible for the preparation of the annual budget and submission of same to the governing body;
- f) Shall keep the governing body fully advised as to the financial condition and needs of the city;
- g) Shall make recommendations to the governing body on all matters respecting the discharge of his or her duties and the general welfare of the city;
- h) Shall perform such other and further duties as may be required by law or ordinance of the city;
- i) Shall have a seat, but no vote, in all public meetings of the governing body. (K.S.A. 12-1014; RO. 1924, Sec. 31; Code 1983)

1-305 COUNTERSIGN WARRANTS. The city manager shall countersign all warrants and combined warrant checks issued as provided by law. (K.S.A. 10-803; Code 1983)

1-306 MAY ACT IN ANY CAPACITY. The city manager may perform the duties of any officer whose office he or she is qualified to fill and in such cases the appointment of employment of such officer may be dispensed with. The manager

may appoint one person to hold and perform the duties of more than one office. However, such person may not hold offices which are incompatible or when such dual holding is prohibited by law. (K.S.A. 12-1024; Code 1983)

- 1-307 CITY CLERK. The city clerk shall:
- a) Be custodian of all the city records, books, files, papers, documents and other personal effects belonging to the city not properly pertaining to any other office. He or she shall carry on all the official correspondence of the city.
 - b) Attend and keep a record of the proceedings of all meetings of the governing body. He or she shall enter every appointment of office and the date thereof in the journal. He or she shall enter or place each ordinance of the city in the ordinance books after its passage. He or she shall publish all ordinances (except those appropriating money) and such resolutions, notices and proclamations as may be required by law or ordinance. (RO. 1924, Sec. 32; Code 1983)
- 1-308 SAME; SEAL. The city clerk shall 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. He or she shall have power to administer oaths for all purposes pertaining to the business and affairs of the city. He or she shall keep suitable files of all such oaths required to be deposited in his or her office. (RO. 1924, Sec. 32; Code 1983)
- 1-309 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. (RO. 1924, Sec. 32; Code 1983)
- 1-310 SAME; WITHHOLDING AGENTS. The city clerk is designated as the withholding agent of the city for the purposes of the Federal Revenue (Income Tax) 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. (Code 1983)
- 1-311 CITY TREASURER. The city treasurer shall keep a full and accurate record of all moneys received and disbursed by him or her in behalf of the city. He or she shall publish an annual financial statement. He or she shall deposit all public moneys. He or she shall pay out the funds of the city upon warrant and checks properly signed by the city manager and treasurer. (K.S.A. 10-803; Code 1983; ORD1291/02162016)
- 1-312 STREET SUPERINTENDENT. The street superintendent shall supervise the maintenance and repair of all streets, alleys and other public thoroughfares of the city. His or her duties shall include:
- a) Maintain and repair all streets, sidewalks, cross-walks and gutters;
 - b) Report to the city clerk property upon which weeds are growing in

violation of the ordinance of the city:

- c) Cut such weeds, following notice and hearing, and report the cost thereof to the city clerk;
- d) Trim trees standing in the street right-of-way and;
- e) Cause to be removed all obstructions from city streets, sidewalks and alleys. (RO 1924, Sec. 34; Code 1983)

1-313 CITY ENGINEER. The city engineer shall fix grades on all streets and sidewalks of the city. He or she shall also have charge of and supervise the laying of all sewers and other underground structures in the streets of the city except water mains. He or she shall cause to be made and deposited in the office of the city clerk and kept up to date, a map of all the substructures in the city except water mains, including the location and size of sewers and further particulars which may from time to time be required by the city commission. (RO. 1924, Sec. 36)

1-314 CITY ATTORNEY. The city manager shall appoint a city attorney who shall hold office until his successor has been appointed. The city attorney shall:

- a) Represent the city in all actions to which the city is a party;
- b) Prosecute all cases in the police court of the city;
- c) Advise the city manager and other city officers regarding any matters relating to their official duties;
- d) Assist the city manager in the writing and preparation of city ordinances.
- e) The city attorney shall be a licensed and practicing attorney in the State of Kansas. (ORD 57; Code 1983)

ARTICLE 4. OATHS AND BONDS

1-401 OATH REQUIRED. All officers and employees of the city, whether elected or appointed, either under the laws of the State of Kansas or ordinance of the city shall, before entering upon the duties of their respective offices, take and subscribe an oath or affirmation as follows: "I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Kansas and faithfully discharge the duties of (here enter the name of office). So help me God." K.S.A. 75-4308; Code 1983)

1-402 OATHS FILED. All officers and employees required by Section 1-401 of this article 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 1983)

1-403 BONDS REQUIRED. The following city officers shall each before entering upon the duties of his or her office, give a good and sufficient surety bond to the city, which shall be approved by the governing body. The bond shall be in the following amounts:

- a) City manager - \$10,000;
- b) City treasurer - \$10,000;
- c) City clerk - \$10,000. (RO. 1924, Sec. 37)

1-404 CONDITION OF BOND. All surety bonds required by any provision of this article shall be conditioned for the faithful performance of duty and of all acts required by the laws of the State of Kansas and the ordinances of the City of St. Marys and for the application and payment over to the proper persons of all moneys or property coming into the hands of each such officer or employee by virtue of his or

her office or employment. (Code 1983)

1-405 PREMIUMS. The premiums on all surety bonds required by this article shall be paid as a claim against the city. (K.S.A. 78-111; Code 1983)

1-406 BOND FOR OFFICERS HOLDING MORE THAN ONE OFFICE. Where one person fills two or more offices, it shall not be necessary for him or her to file bond for both offices, but shall file the bond which shall be the largest amount required for any single office. (RO. 1924, Sec. 37)

ARTICLE 5. INVESTMENT OF TEMPORARILY IDLE FUNDS

1-501 INVESTMENT OF IDLE FUNDS. Temporarily idle funds of the City of St. Marys, not currently needed, may be invested in conformance with the provisions of K.S.A. 12-1675, as amended or subsequently amended. (K.S.A. 12-1675; Code 1983; ORD1220/020309)

1-502 CITY MANAGER TO REPORT. The city manager shall periodically report to the governing body as to the amount of moneys available for investment and the period of time such amounts will be available for investment and shall submit such recommendations as deemed necessary for the efficient and safe management of city finances. The recommendations of the city manager shall provide for an investment program which shall so limit the amounts invested and scheduled the maturities of investments so that the city will at all times have sufficient moneys available on demand deposit to assure prompt payment of all city obligations. The governing body shall determine by resolution the amount, method and term of any investment and the type of investment made, subject to the provisions of this article. (ORD 709)

1-503 SECURITIES; JOINT CARE. Securities purchases pursuant to this article shall be under the joint care of the city clerk, city treasurer and city manager, and shall be held in the custody of a state or national bank or trust company, or shall be kept by such officers in a safety deposit box of the city in a bank or trust company. Securities in original or receipt form held in the custody of a bank or trust company shall be held in the name of the city and their redemption, transfer or withdrawal shall be permitted only upon the written instruction of at least two such city officers. Securities not held in the custody of a bank or trust company shall be personally deposited by such officers in a safety deposit box in the name of the city in a bank or trust company, access to which shall be permitted only in the personal presence and under the signature of at least two such officers. (ORD 709)

1-504 TRANSFER, SELL SECURITIES. If, in order to maintain sufficient moneys on demand deposit in any fund, as provided in section 1-502 of this article, it becomes necessary to transfer or sell any securities of such funds, any two or more of the officers specified in section 1-503 of this article, may transfer the securities to any other fund or funds in which there are temporarily idle moneys or shall sell such securities and for such purpose they shall have authority to make any necessary written directions, endorsements or assignments for and on behalf of the city. Any such transfer or sales shall be reported in writing to the governing body at its next regular meeting. (ORD 709)

1-505 INTEREST. The interest or other earnings from investments made pursuant to this article shall be credited pro rata to the fund or funds from which the investments were made and shall be used, insofar as possible, to relieve the ad

valorem tax levies of the city. The city clerk shall maintain a complete and detailed record at all times of all investments made pursuant to this article. (ORD 709)

ARTICLE 6. PERSONNEL AND EMPLOYEE BENEFITS

1-601 RETIREMENT. The city is a member of the Kansas Public Employees Retirement System.

- a) All city employees who work 1,000 hours or more per year are required to enroll in the Kansas Public Employees Retirement System.
- b) All covered employees shall have a state mandated percentage of their gross monthly earning deducted from their paycheck as the employee contribution to the retirement system.
- c) Employees shall give at least one (1) month notice prior to their retirement. (ORD898; ORD1291/02162016)

1-602 EMPLOYEE RESIDENCY REQUIREMENTS. The City Manager may require an employee, as a condition of employment, to live within the city limits of St. Marys. New employees having this requirement will have six (6) months within which to come in compliance. (ORD889; ORD1041/60695; ORD1291/02162016)

1-603 DEFERRED COMPENSATION PLAN.

- a) To enable the City of St. Marys to attract and retain in its employment persons of competence and to provide a means for supplementing the retirement benefits of city employees, the City of St. Marys hereby elects to join and participate in the Kansas Public Employees Deferred Compensation Plan, as authorized by K.S.A. 75-5529a and 75-5529b.
- b) There is hereby established a city deferred compensation committee, which shall consist of three officers and employees of the City. The city manager shall be a member and chairman of the committee. The city clerk shall be a member and secretary of the committee. The remaining member shall be appointed by the mayor and shall serve until replaced by a new appointee.
- c) The city clerk is hereby charged with the duties of serving as local administrator of the plan and shall provide forms to all full time employees to specify the amount of any compensation voluntarily deferred; make appropriate reductions from the gross compensation of such employees; transfer to the state designated applicable agency, or the successor manager of the fund, the amount so deferred in accordance with the conditions established under the Plan Joinder Agreement, and serve as secretary of the deferred compensation committee established in Section (b).
- d) The City of St. Marys, being authorized to become a joint contract owner with the State of Kansas of the group annuity contract issued by the state designated applicable agency, in conjunction with the Kansas Public Employees Deferred Compensation Plan, hereby authorizes and approves execution of a Plan Joinder Agreement and a Contract Joinder Agreement to implement a deferred compensation plan. Such agreements shall be signed by the mayor.
- e) The City of St. Marys shall determine whether matching funds will be paid into said employee accounts. However, if funds from the City are contributed, they shall be matching amounts of the employee's contribution but shall not exceed Twenty Dollars (\$20.00) per pay

period. Nothing herein shall limit the amount an employee can contribute. The City shall determine the amount, if any, that the City contributes in the subsequent year. (ORD1087/040798)

- f) The state designated applicable agency shall periodically cause an accounting to be made to each employee participating in the City's deferred compensation plan of the amount contributed and such other information as may be required by the committee. The City shall not be responsible for any loss incurred by an employee under the City's deferred compensation plan adopted and approved by this ordinance. All conditions of the plan shall be controlling. (ORD976/31991; ORD1291/02162016)

ARTICLE 7. LOCAL SALES TAX

1-701 TAX LEVIED. There is hereby levied a city retailers' sales tax in the amount of one percent to take effect on the first day of November, 1984. (ORD 826, Sec. 1; ORD 839)

1-702 SAME; APPLICATION. Except as may otherwise be provided by law, such tax shall be identical in its application and exemptions there from to the Ks Retailers' Sales Tax Act and all laws and administrative rules and regulations of the Kansas Department of Revenue relating to the state retailers' sales tax shall apply to such city retailers' sales tax insofar as such laws and regulations may be made applicable. The service of the Department of Revenue shall be utilized to administer, enforce and collect such tax. (ORD 826, Sec. 2)

ARTICLE 8. ACCESSING PUBLIC RECORDS

1-801 STATEMENT OF PURPOSE, REVIEW. It is the purpose of this article to establish reasonable fees and charges for the provision of access to or copies of open public records in the possession of the City to avoid the necessity of using general public funds of the City to subsidize special services and benefits to a record requester. The official record custodian shall periodically recommend to the governing body such changes in this ordinance as may be necessary to secure this purpose. (ORD 837)

1-802 INSPECTION FEE.
a) Where a request has been made for inspection of any open record which is readily available to the record custodian, there shall be no inspection fee charged to the requester.
b) In all cases not covered by subsection (a) of this section, a record inspection fee shall be charged at the rate of \$15.00 per hour per employee engaged in the record search. A minimum charge of \$10.00 shall be charged for each such request.

1-803 COPYING FEE.
a) A fee of 25 cents per page shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment.
b) The following fees will be charged for the sending or receiving of records across a facsimile machine.
 1. Receiving \$1.00 for first page
 .25 for each page after

2. Sending \$2.00 for first page
.50 for each page after

c) For copying any public record 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. (ORD967/082190; ORD1048/091995)

1-804

PREPAYMENT OF FEES.

- a) A record custodian may demand prepayment of the fees established by this ordinance 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 \$25.00.
- 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 837)

1-805

PAYMENT. All fees charged under this ordinance 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. All fees received shall be deposited in the general funds. (ORD 837)

ARTICLE 9. LEASE PURCHASE AGREEMENTS

1-901

LEASE PURCHASE AGREEMENTS. From time to time, the City of St. Marys may determine that the acquisition of property, as authorized and allowed under the home rule authority, is necessary and is appropriate through lease purchase agreements for equipment and machinery for the use and benefit of the City of St. Marys, as authorized in K.S.A. 10-116b and K.S.A. 10-116c. That entering into such lease purchase agreements shall be hereafter approved by adoption of a resolution by the governing body of the City of St. Marys providing for all statutory compliance which shall include the term of lease purchase but shall not be for a period greater than three years, shall provide for the ability of the City to terminate the agreement at the expiration of each annual renewal without penalty or obligation of the City to continue such lease purchase. That the City of St. Marys, Kansas, may, from time to time, enter into lease purchase agreements for equipment and machinery for the use and benefit of the City of St. Marys by Resolution adopted by such governing body, upon compliance with the terms and provisions of state law as to lease purchases, to include a lease term not to exceed three years, that no annual payment is greater than that which is budgeted for such lease payment for the calendar year and that there be no continuation of liability or responsibility beyond the budgeted period. (ORD1159/030105)

ARTICLE 10. BOARDS AND COMMISSIONS MEMBERSHIP AND CONDITIONS OF SERVICE

1-1001

TERMINATION. The City of St. Mary, Kansas, hereby adopts, by ordinance, the statutory provisions of K.S.A. 25-4302 as it pertains to termination of an
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individual serving on a board or commission because of certain conduct. The application of this code shall be to all those who serve the City as an appointed member of a Board or Commission of the City of St. Marys.

- a) The provisions for termination for cause shall be conviction of a felony during the term of office, misconduct in office, or failure to perform duties prescribed by law as applicable to the office. Misconduct in office means a violation of law by a member of a board or commission that impacts the person's ability to perform the official duties of the office. A disagreement as to the positions, decisions, or votes of a commission or board member shall not be grounds for removal for cause.
- b) All members of Boards and Commissions established by the City of St. Marys shall be subject to these standards and any conflict with a previous adopted standard this section shall apply.
- c) This code applies to the following Boards and Commission: Board of Zoning Appeals, Planning Commission, Parks and Recreation Advisory Board, Golf Course Advisory Board, Citizens Advisory Committee, and Building Code Appeals Board, and the Housing Authority of the City of St. Marys.
- d) The commission states its policy that all appointments of members on such boards and commissions serve at the pleasure of the City Commission and may be removed without cause by action of the City Commission. (ORD1205/020508; ORD 1223/040709)

CHAPTER II. ANIMALS AND FOWL

- Article 1. Animals and Fowl Generally
- Article 2. Dogs
- Article 3. Pit Bull Dogs
- Article 4. Keeping of Fowl

ARTICLE 1. ANIMALS AND FOWL GENERALLY

- 2-101 **ANIMALS AT LARGE: UNLAWFUL ACTS.** It shall be unlawful for any person to suffer or permit any domestic animals, owned or under the care or charge of such person or persons, to run or be at large within the corporate limits of the city. The word "animal" as used herein shall not be construed to mean or include any dog or cat for the purposes of this article. (Code 1983)
- 2-102 **PASTURING OR PICKETING ANIMALS.** It shall be unlawful for any person or persons to picket any domestic animals upon or near any street, avenue or alley in such manner that the animal can, while so picketed, graze or pasture or be upon any such street, avenue or public ground. Any animal being pastured, grazed or picketed in violation of this section shall be deemed at large and may be taken up and held as a stray animal as hereinafter provided. (Code 1983)
- 2-103 **TAKING UP ANIMALS.** When any domestic animal shall be found at large in the city, contrary to the provision of Sections 2-101:102 of this article, it shall be the duty of the chief of police or other police officer of the city, to take up such animal and keep the same in a safe place temporarily until the owner or keeper thereof may be found. The officer shall make a diligent inquiry for the owner or keeper of such animals and shall return the same to the person lawfully entitled thereto when found. The city shall be entitled to receive from any person the actual cost of feeding and keeping of any animal taken up hereunder and any city officer having charge of such animal shall keep an account of the cost incurred thereby and report the same to the city clerk. Any animal taken up which shall be a "stray" as defined by the laws of Kansas and whose owner or keeper cannot be found, the chief of police shall report such taking up to the sheriff of the county and the animal shall be disposed of as provided by law. (Code 1983) NOTE: See Article 3, Chapter 47, Kansas Statutes Annotated.
- 2-104 **KEEPING LIVESTOCK.** It shall be unlawful for any person to keep, maintain or harbor within the limits of the city any horses, cattle, swine, goats, sheep or any other livestock or domestic animal, other than chinchillas, rabbits, cats, dogs, or chickens when kept in accordance with the regulations set forth in this Chapter. For the purposes provided herein, the keeping and harboring of such animals shall not include temporary custody of any such animal while held under the order of a licensed veterinarian for the purpose of treatment or while such animal is in the process of being sold through a recognized sale barn or while such animal is kept or harbored on a tract of land, owned by the owner of the animal, that is ten (10) acres or more, or while such animal is in the process of being transported by ordinary and customary means. (ORD 938/011690; ORD 1295/051716)
- 2-105 **ANIMAL NUISANCES.** This article shall not be construed to authorize the keeping or maintenance of any domestic animal or livestock on any premises within the city under any condition constituting a public nuisance. The city shall be authorized to abate any animal nuisance as provided by law and ordinances of the city. (Code 1983)

ARTICLE 2. DOGS

- 2-201 DOGS AT LARGE PROHIBITED. It shall be unlawful for the owner, harborer or keeper of any dog to permit or allow such dog to run at large within the city at any time from January 1 through December 31 of any year, whether tagged or not tagged. The owner, keeper or harborer of any dog shall keep such securely confined on the premises of such owner, keeper or harborer. Any dog securely restrained within a vehicle or by a leash or chain held or controlled by some person when off the premises of the owner, harborer or keeper shall not be deemed to be running at large within the meaning of this section. (ORD 688, Sec. 4)
- 2-202 HARBORER DEFINED. Any person who shall allow any dog to habitually remain or to lodge or be fed within his or her home, store, yard, enclosure or place of business or any other premises in which he or she resides or controls shall be considered as harboring such dog within the meaning of this article. (ORD 688, Sec. 1)
- 2-203 PENALTY. Every person who is convicted of violation of Section 2-201 shall be punished by a fine of not less than \$10 nor more than \$100. Every person who is convicted of a second violation of Section 2-201 shall be punished by a fine of not less than \$25 nor more than \$200. Every person convicted of a third or subsequent violation of Section 2-201 shall be punished by a fine of not less than \$50 nor more than \$500. (ORD 850, Sec. 1)
- 2-204 DOG REGISTRATION REQUIRED; FEES. The owner, keeper or harborer of any dog six months of age or more shall register the name, sex and description of such dog with the city clerk and shall pay an annual registration fee to the city clerk in the amount of:
- a) Four dollars for each male dog or each spayed female dog;
 - b) Six dollars for each unspayed female dog;
 - c) No person shall harbor more than three dogs that are more than six months old. This section shall not apply to dogs owned by nonresidents of the city, such dogs of nonresidents not being allowed to remain in the city for more than 30 days without being properly tagged. (ORD 948/022090; ORD 1222/040709)
- 2-205 SAME; WHEN DUE. The registration fee shall be due and payable on March 1 of each year. On or after March 31 of each year, a penalty of \$5 shall be assessed in addition to the regular license fee specified in Section 2-204. In the event a person becomes an owner, keeper or harborer of a dog subsequent to March 31, no penalty shall be assessed so long as the dog is registered and the fees paid as stipulated within 30 days of acquisition. No pro-ration of fees will be allowed for ownership of less than one year. (ORD 688, Sec. 2; ORD 1222/040709)
- 2-206 VACCINATION REQUIRED. Any person making application for a dog tag shall be required to present to the city clerk at the time of making such application a certificate issued by a licensed veterinarian showing that the dog has been vaccinated or inoculated with a recognized rabies vaccine and showing that the inoculation so administered to such dog shall be effective for the entire period of time for which such tag is issued. (Code 1983)
- 2-207 TAX RECEIPT. The city clerk shall upon payment of the dog tax issue to the person paying the same a receipt showing payment of the current tax. The city clerk shall also supply the taxpayer with a suitable tag which shall bear an identifying number and shall show the year for which the tax shall have been paid. The city

clerk shall keep a suitable book in which he shall enter the names and addresses of the persons paying taxes on dogs, the names of the dogs, the sex, each female if spayed, the color and general description which may be helpful in identifying such animal. (Code 1983)

2-208 DISPLAYING TAG ON DOG. It shall be the duty of the person receiving the dog tag to affix it by permanent metal fasteners to the collar or harness of the dog on which the tax shall have been paid. The metal tag issued for any dog shall be securely affixed to the collar or harness of the dog in such manner that the same may at all times be visible to any police officer of the city. If such tag be lost, the city clerk, on application and satisfactory proof of the same and upon payment of the sum of \$2.00 shall issue a duplicate tag and enter a record of the same in his or her book. (ORD948/022090)

2-209 TAGS NOT TRANSFERABLE. Dog tags shall not be transferable from one dog to another and no refunds shall be made of any tax paid because of the owner leaving the city or because of the death of the dog before the expiration of the license. (Code 1983)

2-210 COUNTERFEITING OR REMOVING TAGS. It shall be unlawful for any person to counterfeit or attempt to counterfeit, the dog tag provided in this article or to take from any dog the tag legally placed on it by its owner with the intent to place the same upon another dog. (Code 1983)

2-211 CITY POUND. The city pound is hereby established for the purpose of carrying out the provisions of this article and it shall be the duty of the Street Superintendent to construct the same and keep it in good repair. (Code 1983; ORD 1222/040709)

2-212 IMPOUNDING; DESTRUCTION.

- a) From and after the last day of March of each year, the chief of police or the police chief's designee shall take up and impound any dog running at large, tagged or untagged, as provided by this article and shall make a diligent inquiry for the owner thereof. Such dog shall be destroyed, sold or otherwise disposed of if not claimed or redeemed within 240 hours of the time of impounding. If the dog is wearing a tag, an effort shall be made to contact the owner.
- b) No dog may be released for adoption unless such dog has been first surgically spayed or neutered. The adopting party must sign an agreement to have the dog spayed or neutered and make a deposit of \$100.00 with the city to ensure that the dog will be sterilized. The spaying or neutering shall be completed within 30 days of the adoption. The City will refund the deposit pursuant to such an agreement to the adopting party upon presentation of a written statement signed by a licensed veterinarian that the adopted dog has been spayed or neutered. (ORD 688, Sec. 6; K.S.A. 21-4310, ORD1059/090396; ORD 1222/040709)

2-213 REDEEMING DOGS. A person wishing to redeem an impounded dog shall pay to the city clerk the tax provided for such dog by this article, including late penalties plus an impounding fee of \$25.00 plus \$8.50 per day per dog. A person wishing to redeem an impounded dog must reimburse the City for any advertisement fees incurred on behalf of such dog. When the owner of an impounded dog presents to pound keeper the tag and receipt from the City showing such charges

have been paid, his or her dog shall then be released to him or her. (ORD 948/022090;ORD1133/100102; ORD1222/040709)

2-214 **BREAKING POUND.** It shall be unlawful for any person to break open, aid or assist, counsel or advise the breaking open of the city pound or to take, or to let out, or to attempt to take or let out, any dog placed therein by a police officer, except by authority of a city police officer or the city clerk. (Code 1983)

2-215 **SUSPECTED RABIES.** Whenever any police officer believes a dog has been exposed to or is infected by rabies, such dog shall be immediately impounded and notice of impounding given to the owner. No dog impounded under this section shall be released until the owner thereof has furnished the certificate of a licensed veterinarian that the dog is not infected with rabies. In the event the dog is found to be incurably infected with rabies, the dog shall be destroyed. (ORD 688, Sec. 10)

2-216 **MUZZLING DOGS: MAYORS PROCLAMATION.** The mayor is hereby authorized, when danger from rabid dogs is imminent, to issue a proclamation ordering all persons owning or harboring any dogs in this city to muzzle or confine the same in an enclosure from which the dog cannot escape or fasten such dog securely on the premises where the owner or harborer may reside for such time designated in the proclamation. Any dog suspected of having rabies shall be impounded for a period of at least 10 days on the premises of the owner or impounded elsewhere at the owner's expense to determine if the dog is suffering from rabies and any dog afflicted shall be immediately killed. (Code 1983)

2-217 **NOISY DOGS.** It shall be unlawful for any person to keep, own or harbor, within the city, any dog which is in the habit of barking or howling by day or night, disturbing the peace and quiet of any person, family or neighborhood within the city. (ORD 688, Sec. 9)

2-218 **VICIOUS DOGS.** It shall be unlawful for any person within the city to keep, own or harbor any cross or vicious dog, or any dog which has been known to bite, chase or run after any person or animal within the city, unless such person shall keep such dog muzzled with a good or sufficient wire muzzle or securely fastened and tied so that it cannot reach any person to do him or her damage or shall keep the dog in an enclosure securely fenced so that the dog cannot escape therefrom and posting a sign warning the public of the vicious dog. The owner or harborer of such vicious dog who shall permit such dog to run at large without being muzzled shall be deemed guilty of a misdemeanor. It shall be the duty of any city police officer to forthwith dispose of any such vicious dog, without further notice, and it shall be lawful for any person to kill such dog, whenever in danger of being bitten thereby or whenever the owner or harborer thereof shall fail immediately to confine or muzzle the same, upon being warned or requested to do so. (Code 1983)

2-219 Deleted April 1, 2014 by Ordinance No. 1269.

2-220 **TRESPASSING DOGS.** Each and every dog which trespasses upon and does injury to public or private property of any person other than the owner, keeper or harbinger of such, is hereby declared a nuisance. Each such dog shall be subject to being impounded as provided in this article. Any person owning, harboring or keeping a trespassing dog declared to be a public nuisance hereunder shall be subject to the penalty provisions of Section 1-118 of this code. (Code 1983)

2-221 DOG BITES; QUARANTINE. Whenever any dog has bitten a person, it shall be the duty of the owner or harbinger of such dog or any police officer of the city, or any other person having knowledge of such incident to report the same to the chief of police who may order that the dog be quarantined on the owner's premises or impounded elsewhere at the owner's expense for a period of not less than 10 days and until such time as a licensed veterinarian finds that such dog shows no evidence of having rabies. If it is determined that such dog is suffering from rabies, it shall be forthwith destroyed; otherwise it shall be released from quarantine. (Code 1983)

ARTICLE 3. PIT BULL DOGS

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

- a) Any warm-blooded, carnivorous or omnivorous, wild or exotic animal (including but not limited to non-human primates, raccoons, skunks, foxes and wild and exotic cats; but excluding fowl, ferrets and small rodents of varieties used for laboratory purposes.)
- b) Any animal having poisonous bites.
- c) Any pit bull dog; "Pit bull dog" is defined to mean:
 - 1. The Staffordshire bull terrier breed of dog;
 - 2. The American pit bull terrier breed of dog;
 - 3. The American Staffordshire terrier breed of dog;
 - 4. Any dog which has the appearance and characteristics of being predominantly of the breeds of Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier; or a combination of any of these breeds. (ORD929/112889; ORD1291/02162016)

2-302 VIOLATIONS AND PENALTIES. Any person violating or permitting the violation of any provision of this ordinance shall, upon conviction in Municipal Court, be fined a sum not less than \$200.00 and not more than \$1,000.00. In addition to the fine imposed, the Court may sentence the defendant to imprisonment in the county jail for a period not to exceed 30 days. In addition, the court shall order the animal removed from the City. Should the defendant refuse to remove the subject animal from the City the municipal court judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this ordinance continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this ordinance.

2-303 SEVERABILITY: If any section, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. (ORD929/112889; ORD1291/02162016)

ARTICLE 4. KEEPING OF FOWL

2-401 PURPOSE. The purpose of this article is to establish the allowance of chickens within the city in a manner that promotes public safety and neighborliness as well as individual property rights. (ORD 1295/051716)

2-402

DEFINITIONS.

- a) Chickens. The term “chicken” shall only apply to hens within that species and shall not include roosters or any other type of domestic or livestock fowl.
- b) Coop. “Coop” shall mean any structure with four walls, a door for access, and a roof that covers and protects chickens from the natural elements and from predators.
- c) Pen. “Pen” shall mean any area with fencing that shall permit chickens to wander outside of a coop, but also that shall constrain them within a limited area and shall protect them from predators on the ground or in the air.
- d) Predators. “Predators” shall mean any animal or bird that might cause injury or death to chickens.

2-403

ALLOWANCE. The keeping of chickens as pets, or for eggs, or for meat, shall be allowed under the following regulations.

2-404

APPLICABILITY. This ordinance shall apply solely to areas zoned R-1, R-2, and R-3. Excluded from this allowance are subdivisions whose covenants prohibit the keeping of chickens. The covenants of those subdivisions hold precedence over this authorization.

2-405

NUMBER. No more than eight (8) chickens shall be allowed on a property.

2-406

SETBACKS. Coops and pens for chickens shall not be located in a front yard nor within fifteen (15) feet of the front yard or any lot line or sidewalk or alley or roadway. Coops and pens shall be also located no closer than five (5) feet from any neighboring structure within the same property, and no closer than twenty (20) feet from a neighboring structure outside the same property.

2-407

COOPS. The chickens must be provided a predator-proof coop with at least four walls and a door or a hatch, and a roof with ventilation sufficient for the number of chickens. The coop must allow for the free and easy movements of the same chickens.

2-408

PENS. Chickens must be provided an outdoor enclosure that is adequately fenced so as to keep the chickens confined within the enclosure and the coop, and so as to keep out dogs, hawks, or other predators.

2-409

CHICKENS AT LARGE. It shall be unlawful for the owner or keeper of any chicken to permit or to allow a chicken to roam at large within the city at any time. The owner or keeper of any chicken shall keep it confined within a pen or a coop.

2-410

PENALTY. Every person who is convicted violation of Section 2-409 shall be punished by a fine of not less than ten dollars (\$10) nor more than hundred dollars (\$100). Every person who is convicted of a second violation of Section 2-409 shall be punished by a fine of not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200). Every person convicted of a third or subsequent violation of Section 2-409 shall be punished by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500).

2-411

SANITATION AND NUISANCES. Chickens shall be kept in such a way as to limit odors and noise so as not to cause a nuisance to neighbors or nearby residents. The owners shall provide well-constructed and not unsightly coops and pens so as

not to be a detriment to the neighborhood and so as to protect the chickens. The owner shall be responsible for maintaining secure and clean housing and enclosure, as well as for disposing of any manure, dead chickens or chicken remains. If chickens are to be processed for meat, they must be processed within an enclosed building, not visible to passersby.

- 2-412 NOTIFICATION. A property owner, upon his intention to acquire chickens, will pick up a packet at city hall that shall contain a copy of this ordinance on chickens, as well as the Kansas Statute against "Cruelty to Animals," and other information pertaining to the proper upkeep and housing of chickens within the city. The property owner shall also provide city hall with his/her name, address, and phone number, and the number of chickens that will be acquired for that owner's property.
- 2-413 CITY POUND. The city shall keep a small wire cage at the city pound for any chicken or chickens that have been impounded.
- 2-414 IMPOUNDING; DESTRUCTION. The chief of police or the police chief's designee shall take up and impound any chicken at large in the city. Any chicken that is not claimed within 240 hours of the time of impounding shall be put up for adoption, sold, or destroyed.
- 2-415 REDEEMING CHICKENS. A person wishing to redeem an impounded chicken shall pay to the city clerk an impounding fee of twenty-five dollars (\$25) plus five (\$5) per day per chicken for food and water supplied to the chicken.
- 2-416 CRUELTY TO ANIMALS. The Kansas statutes regarding cruelty to animals (K.S.A. 21-6411 and K.S.A. 21-6412) shall apply within the City of St. Marys. (ORD 1295/051716)

CHAPTER III. BEVERAGES

Article 1. Cereal Malt Beverages

Article 2. Alcoholic Liquor

Article 3. Private Clubs

ARTICLE 1. CEREAL MALT BEVERAGES

3-101

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

- a) Cereal malt beverage means cereal malt beverage as defined herein, 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." (ORD1314/050719)
- b) "Director" means the director of alcoholic beverage control of the department of revenue.
- c) "Person" means any individual, firm, partnership, corporation or association.
- d) "Retailer" means any person who sells or offers for sale any cereal malt beverage for use or consumption and not for resale in any form.
- e) "Place of business" means any place at which cereal malt beverages are sold.
- f) "Wholesaler or distributor" means any person who sells or offers for sale any cereal malt beverage referred to in this act, to any person authorized by law to sell cereal malt beverages at retail.
- g) "Legal age for consumption of cereal malt beverage" means persons 21 years of age. (ORD948/022090)

3-102

LICENSE REQUIRED; UNLAWFUL ACTS. It shall be unlawful for any person to sell any cereal malt beverages within the corporate limits of the city without having in his or her possession a valid license issued by the city for the place of business at which such retail sales are made. It shall be unlawful for any person holding a license for the sale at retail of cereal malt beverages only in original and unopened containers and not for consumption on the premises to sell such beverages in any other manner than is provided for in the license. (K.S.A. 41-2702;ORD 798, Sec. 2 (a))

3-103

SAME; APPLICATION; INVESTIGATION. Any person desiring to secure a license under the provisions of this article shall make a verified application in duplicate to the city clerk and accompany the application with the required license fee for the place of business for which a license is required. The application shall be made upon a form which shall have been approved by the attorney general of the State of Kansas and shall contain:

- a) The name and residence of the applicant and how long he 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) 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 intoxication liquor or of the violation of any other intoxicating liquor law of any state or of the United States. One copy of such application shall be transmitted by the city clerk to the chief of police for investigation of the applicant and inspection of the place of business for which a license is desired. The chief of police shall investigate such application and determine whether the applicant is qualified to receive a license under the provisions of this article and shall report his finding and recommendation to the governing body at its meeting. (K.S.A. 41-2702; ORD 798, Sec. 2 (b))

3-104 SAME; FEES. The following fees are hereby prescribed for each license authorized by this article:

- a) General Retailer-for each place of business selling cereal malt beverages at retail, \$100 for the calendar year;
- b) Limited Retailer-for each place of business selling only at retail cereal malt beverages in original and unopened containers and not for consumption on premises, \$50 per calendar year. (K.S.A. 41-2702; ORD 798, Sec. 2 (c))

3-105 LICENSE FEES: NO REFUNDS; NONTRANSFERABLE. The full amount of the license fee shall be required regardless of the time of 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 for which the license shall be issued. There shall be no refund in any case when licensees quit business prior to the end of the calendar year or when the license is revoked for any cause provided for under this article. No license issued hereunder shall be transferable to another person. (K.S.A. 41-2702; ORD 798, Sec. 2 (d))

3-106 ISSUANCE OF LICENSE: DISQUALIFICATIONS. If the application is in proper form and accompanied by cash in the amount of the license fee, the governing body shall examine the application and after such examination the governing body of the city, shall, if the applicant is qualified as provided by law, issue a license as required by law. 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 and a resident of the County of Pottawatomie for at least six months prior to filing of said application; (ORD1290/020216)
- b) A person who is not of good character and reputation of the community in which he resides;
- c) A person who is not a citizen of the United States;
- 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 been adjudged guilty of drunkenness or driving a motor vehicle while under the influence of intoxicating liquor or violating any other intoxicating law of any state or of the United States;
- e) A co partnership, unless one of the copartners is a resident of the city or county in which the premises covered by the license is located and unless all the members of such co 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 nonresidence within the city or

county;

- g) A person whose place of business is conducted by a manager or agent unless said manager or agent possesses the same qualification required of the licensee. The journal of the governing body shall show the action taken on the application and if the license is granted, the governing body shall direct the city clerk to issue the proper license. Among other things, the license shall state that it is not transferable to other persons and the calendar year for which issued. The license shall be kept posted in a conspicuous place in the place of business licensed. If an application for a license is refused, the license fee accompanying the same shall be immediately returned to the person who has made such application. (K.S.A. 41-2703; ORD 798, Sec. 3 (b))

3-107

RULES AND REGULATIONS. The following rules and regulations concerning the selling of cereal malt beverages at retail shall be observed:

- a) In addition to and consistent with the requirements of this act, the board of county commissioners of any county or the governing body of any city may prescribe hours of closing, standards of conduct and rules and regulations concerning the moral, sanitary and health conditions of places licensed pursuant to this act and may establish zones within which no such place may be located.
- b) Except as provided by Subsection (g), no cereal malt beverages may be sold, dispensed or consumed on licensed premises between the hours of 12:00 midnight and 6:00 a.m. All people and customers with the exception of the licensee, operator, manager and employees in the establishment at closing must be out of the premises no later than 30 minutes after closing time. (ORD968/090490)
- c) Except as provided by Subsection (g), no cereal malt beverages may be sold, dispensed, or consumed on licensed premises on Sunday, except between the hours of noon and 8:00 p.m., and no cereal malt beverage may be sold, dispensed, or consumed on licensed premises on Easter Sunday at any time.
- d) No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises are also currently licensed as a club under a license issued by a director.
- e) Each place of business shall be open to the public and to law enforcement officers at all times during business hours, except that a premises licensed as a club under a license issued by the director shall be open to law enforcement officers and not to the public.
- f) No licensee shall permit a person under the legal age for consumption of cereal malt beverage to consume, or purchase any cereal malt beverage in or about a place of business, and no licensee shall permit a person under the legal age for consumption of cereal malt beverage to possess cereal malt beverage in or about a place of business, except that a licensee's employee who is not less than 18 years of age may dispense, or sell, cereal malt beverage, if:
 - 1. The licensee's place of business is licensed only to sell cereal malt beverage at retail in original and unopened containers and not for consumption on the premises; or
 - 2. The licensee's place of business is a licensed food service establishment, as defined by K.S.A. 36-501 and amendments thereto, and not less than 50% of the gross

receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.

- g) No person shall have any alcoholic liquor in such person's possession while in a place of business, unless the premises are currently licensed as a club by the director.
- h) Cereal malt beverages may be sold on premises which are both licensed pursuant to the acts contained in Article 27 of Chapter 41 of the Kansas Statutes Annotated and licensed as a club by the director at any time when alcoholic liquor is allowed by law to be served on the premises.
- i) No licensee shall permit any dancing in his place of business. (ORD 858; ORD 1035/81694; ORD 1197/060507).

3-108 SAME; PREMISES CLOSED. Every place of business licensed to sell cereal malt beverages shall close and be vacated of all customers not later than twelve midnight and shall remain so closed and vacated until six o'clock a.m. (ORD 798, Sec. 6; ORD 1197/060507)

3-109 SAME; VARIANCES. Any private club licensed to sell at retail cereal malt beverage may apply to the governing body for a variance from the provision of section 3-107 (h) and 3-108. Any such request for a variance shall be submitted in writing and filed with the city clerk. The governing body shall consider any such request at its next regular meeting. The journal of the proceedings shall show the action taken and the city clerk shall notify the applicant of such action taken. Any variance approved, as authorized by this subsection, may be reconsidered and revoked at any time by majority vote of the governing body. The journal of the proceedings shall show the action taken and the reasons for any revocation. (K.S.A. 41-2704, ORD 798, Sec. 6 ORD 897)

3-110 CONSUMPTION UPON PUBLIC PLACES. Consumption and Possession Prohibited in Certain Public Places.

- a) It shall be unlawful for any person to consume or to possess an open container of cereal malt beverage upon any street, highway, alley, sidewalk, or other public place or in or about any motor vehicle moving or standing upon such public road, street or place including private parking lots to which the public has access, within the corporate limits of the City.
- b) It shall be unlawful for any person to drink or consume or to have in their possession an open container holding cereal malt beverages in or about any place of business licensed herein between the hours of twelve midnight and five a.m.
- c) Whenever any appropriate sign shall be placed and maintained in any city park or building by lawful authority of the City giving notice that the consumption and/or possession of an open container of cereal malt beverage is prohibited, it shall be unlawful for any person to fail or refuse to comply with this prohibition. The consumption and/or possession of an open container of cereal malt beverage upon the public golf course of the City shall be authorized if the cereal malt beverage is purchased at the public golf course, and not brought upon the golf course, and is consumed and possessed only during the hours of operation of the golf course when it is opened for play or the club house when it is opened for business.
- d) ARMORY BUILDING. The consumption and/or possession of an

open container of cereal malt beverage within the armory building of the City shall be authorized if the items are purchased or received from a licensed event, and is consumed and possessed only during the hours specified in the special permit. No consumption and/or possession of cereal malt beverage will be permitted outside the perimeters of the armory building.

- e) Upon a written application by an individual or legally organized corporation, the Governing Body may grant a special permit for consumption and/or possession of cereal malt beverages upon a park, golf course or city-owned building. The applicant shall provide the following prior to receiving a permit:
 - 1. Completed application form;
 - 2. Bond or sufficient evidence of financial responsibility to protect and repair any damage to the property and public;
 - 3. Evidence of one-time event;
 - 4. Acquire any necessary permit, license, etc., as may be required by the State of Kansas, City, or other licensing agency.
 - 5. For a specific date, time of commencement, conclusion, provide for security, limited access and supervision.
 - 6. Not in violation of any other law of the State of Kansas, Pottawatomie County, or ordinance of the City of St. Marys, Kansas;
 - 7. Payment of any usage fees for said premises or facility as established by the Governing Body.
 - 8. Signed agreement that holds City harmless and indemnifies City against any and all liability arising out of the applicant's use of the premises, and evidence of public liability insurance which also provides coverage for the City.
 - 9. Approval of Governing Body.
- f) Any person violating the provision of this section shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$50.00 nor more than \$100.00 or by imprisonment for not more than three months or be both fined and imprisoned. (ORD 843; ORD950/030690; ORD1164/050305)

3-111 TEMPORARY CONSUMPTION OF CEREAL MALT BEVERAGE ON PUBLIC PROPERTY. The consumption and/or possession of an open container of cereal malt beverage upon certain streets, alleys, sidewalks, or other public places, is allowed if the event has been approved by resolution of the St. Marys City Commission, and if the cereal malt beverage is purchased or received from the approved special event, as defined by K.S.A. 41-719(j), and the cereal malt beverage is consumed and/or possessed only on the date and during the hours specified in the resolution approving the event. (ORD 1300/092016)

3-112 REPEALED BY ORD 842

3-113 SALES LIMITED TO STRUCTURE.

- a) It shall be unlawful for any retailer to sell or serve cereal malt beverages outside the main structure located on the premises of the place of business.
- b) It shall be unlawful for any person to drink, consume or to have in their possession an open container holding cereal malt beverages outside the main structure located on the licensed premises of the place of

business. (ORD798, Sec6)

3-114 LITTERING. It shall be unlawful for any person to litter any street, highway or public place or private property with discarded abandoned cereal malt beverage containers, bottles, broken or unbroken, cans, jugs, cartons, cases, kegs or similar refuse and trash. (Code 1983)

3-115 REVOCATION OF LICENSE.

- a) The board of county commissioners or the governing body of any 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 therefore;
 2. the licensee has violated any of the provisions of this act or any rules or regulations made by the board or the city as the case may be;
 3. the licensee has become ineligible to obtain a license in this act;
 4. drunkenness of the licensee or permitting any intoxicated person to remain in the licensee's place of business.
 5. The sale of cereal malt beverages to any person under the legal age for consumption of cereal malt beverage;
 6. the nonpayment of any license fees;
 7. permitting any gambling in or upon the licensee's place of business;
 8. permitting any person to mix drinks with materials purchased in the place of business or brought in for that purpose;
 9. the employment of persons under the legal age for consumption for cereal malt beverage in dispensing or selling cereal malt beverages;
 10. the employment of persons who have been adjudged guilty of a felony or of any violation of the intoxicating liquor law; or
 11. the sale or possession of, or permitting any person to use or consume on the licensed premises, any alcoholic liquor as defined by K.S.A. 41-102 and amendments thereto.
- b) The provisions of subsections (a)(8) and (11) shall not apply if the place of business or premises are also currently licensed as a club under a license issued by the state director of alcoholic beverage control.
- c) Within twenty (20) days after the order of the board revoking or suspending any license, the licensee may appeal to the district court and the district court shall proceed to hear such appeal as though such court had original jurisdiction of the matter. Any appeal taken from an order revoking or suspending the license shall not suspend the order of revocation or suspension during the pendency of any such appeal. In case of the revocation of the license of any licensee, no new license shall be issued to the former licensee, or to any person acting for or on the former licensee's behalf, for a period of six months thereafter. (ORD861)

3-116 CHANGE OF LOCATION. The place of business of any licensee may be changed from one location to another within the city upon special application to the governing body describing the new location and upon the approval of the governing body and the payment of a fee of \$15.00. (Code 1983)

3-117 SALE ON CREDIT UNLAWFUL. It shall be unlawful for any retailer to sell or furnish cereal malt beverages at retail to any person on credit or on a passbook or order on a store or in exchange for any goods, wares or merchandise or for any payment of services rendered. (K.S.A. 41-2706; Code 1983)

3-118 RETAIL SALES BY WHOLESALER PROHIBITED. It shall be unlawful for any wholesaler or distributor, his or her agent or employee to sell or deliver cereal malt beverages within the corporate limits of the city to other persons that those licensed to sell such beverages at retail within the city. (K.S.A. Supp. 41-2705; Code 1983)

3-119 PROHIBITED ACTS. No manufacturer, distributor, agent or wholesaler shall:

- a) Directly or indirectly sell, supply, furnish, give, pay for, loan or lease any furnishings, fixture or equipment on the premises of a place of business of a retailer;
- b) Directly or indirectly pay for any retailer's license or advance, furnish, lend or give money for payment of such license;
- c) Purchase or become the owner of any note, mortgage or other evidence of indebtedness of a retailer or any form of security therefore;
- d) Directly or indirectly be interested in the ownership, conduct or operation of the business of any retailer; or
- e) Be directly or indirectly interested in or owner, part owner, lessee or lessor of any premises upon which cereal malt beverages are sold at retail.
- f) No manufacturer, distributor or wholesaler shall, directly or indirectly or through a subsidiary or affiliate, or by any officer, director or firm of such manufacturer, distributor or wholesaler, furnish, give, lend or rent any interior decorations other than signs, costing in the aggregate more than \$100 in any one calendar year for use in or about or in connection with any one establishment on which products of the manufacturer, distributor or wholesaler are sold. (K.S.A. 41-2705; ORD 798, Sec. 4)

3-120 SAME; EXCEPTIONS. A distributor, agent or wholesaler may sell tapping and dispensing equipment, as defined by rules and regulations adopted by the secretary of revenue, at not less than the cost paid for such equipment by the distributor, agent or wholesaler. The terms of any such sale shall comply with the provisions of K.S.A. 41-2706. Such sales shall not be subject to any repurchase agreement. (K.S.A. 41-2705)

ARTICLE 2. ALCOHOLIC LIQUOR

3-201 OCCUPATION TAXES LEVIED.

- a) It shall be unlawful for any person to keep, offer or expose for sale or to sell any alcoholic liquor as defined by the "Kansas Liquor Control Act" without first having procured a license to do so as required by said act.
- b) There is hereby levied an annual occupation tax on each retailer of alcoholic liquor (including beer containing more than three and two tenths percent of alcohol by weight) for consumption off the premises (sales in the original package only) in the sum of \$300 in the city, who has a retailer's license issued by the state director of alcoholic beverage control, which tax shall be paid before business is begun

under an original state license and within five days after any renewal of a state license. (K.S.A. 41-310; ORD 588, Sec. 2)

- 3-202 PAYMENT OF TAX. A holder of a license for the retail sale of alcoholic liquors by the package in the city, issued by the state director of alcoholic beverage control shall present such license when applying to pay the occupation tax levied in section 3-201 of this article. The tax shall be received and receipt issued by the city clerk for the period covered by the state license. (K.S.A. 41-310; ORD 588, Sec. 2)
- 3-203 DISPLAY OF TAX RECEIPT. Every licensee shall cause the city alcoholic liquor retailer's occupation tax receipt to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises. (K.S.A. 41-325; ORD 588, Sec. 3)
- 3-204 PENALTY. Any person having a state license to retail alcoholic liquor by the package who shall fail to pay the occupation tax herein levied and within the time prescribed or who shall violate any other provision of this article shall, upon conviction thereof, be fined as provided in section 1-118 for each day's violation. Nothing herein shall be construed to prohibit the city from collecting the occupation tax by any procedure authorized by law. (ORD 588, Sec. 4)
- 3-205 SALE TO CERTAIN PERSONS; POSSESSION AND CONSUMPTION BY CERTAIN PERSONS OF ALCOHOLIC LIQUOR.
Repealed by Ordinance 1224/042109.
- 3-206 PUBLIC INTOXICATION. Public intoxication is being on a highway or street or in a public place or public building while under the influence of intoxication liquor, narcotics or other drug to the degree that one may endanger himself or other persons or property or annoy persons in his vicinity and shall be considered a misdemeanor. Any persons, upon conviction thereof, shall be punished as provided in Section 1-118. (Code 1983)
- 3-207 Deleted April 1, 2014 by Ordinance No. 1269.
- 3-208 Repealed by Ordinance No. 842
- 3-209 HOURS OF SALE. No person shall sell at retail any alcoholic liquor:
a) On Sunday, except between the hours of noon and 8:00 p.m.;
b) On Easter Sunday, Thanksgiving Day or Christmas Day at any time;
c) Before 9:00 a.m. and after 11:00 p.m. on any day when the sale thereof is permitted, except such times of sale shall be restricted as set forth in subsections a) and b). (ORD 1197/060507)
- 3-210 TEMPORARY CONSUMPTION OF ALCOHOLIC LIQUOR ON PUBLIC PROPERTY. The consumption and/or possession of an open container of alcoholic liquor upon certain streets, alleys, sidewalks, or other public places, is allowed if the event has been approved by resolution of the St. Marys City Commission, and if the alcoholic liquor is purchased or received from the approved special event, as defined by K.S.A. 41-719(j), and the alcoholic liquor is consumed and/or possessed only on the date and during the hours specified in the resolution approving the event. (ORD 1299/092016)

ARTICLE 3. PRIVATE CLUBS

- 3-301 PRIVATE CLUBS. The levy of an annual license tax of \$100 is hereby imposed upon any Class B club located within the City of St. Marys and licensed under authority of the club licensing act of the alcoholic beverage control of the State of Kansas, as provided by K.S.A. 41-2622. (Code 1983)
- 3-302 LICENSE TAX. The license tax shall be paid to the city clerk within five days after the issuance of the state license required for such Class B club, either upon original issuance or upon renewal issuance of said license. (Code 1983)
- 3-303 RULES. The provisions of K.S.A. 41-2601, et seq., and such rules and regulations as may be from time to time adopted by the state director of alcoholic beverage control, as provided in said state law are hereby adopted and made a part of this article by reference. (Code 1983)

CHAPTER IV. BUILDINGS AND CONSTRUCTION

- Article 1. Fire Limits
- Article 2. Electrical Code
- Article 3. Heating and Cooling Standards/REPEALED
- Article 4. Dangerous Structures/Ins Proceeds Claims
- Article 5. Moving Buildings
- Article 6. Numbering Buildings
- Article 7. Uniform Building Code

ARTICLE 1. FIRE LIMITS

- 4-200 FIRE LIMITS DEFINED. The boundaries of the fire district as it presently exists or as it may from time to time be amended are shown on the District Map on file in the office of the city clerk. The boundaries as shown upon such map shall have the same force and effect as though fully set forth or described in this article. (Code 1983)

ARTICLE 2. ELECTRICAL CODE

- 4-201 ELECTRIC CODE INCORPORATED. The certain standard code known as the **National Electric Code, 1993 Edition**, published by the National Fire Protection Association, is hereby incorporated herein by reference and made a part of this article, save and except such portions as may hereinafter in this article be deleted or amended. There shall be no fewer than three copies of the standard code incorporated by reference and kept on file in the office of the City Clerk and kept available for inspection by the public at all reasonable hours. The filed copies of the standard code shall be marked "Official Copy as Incorporated by the Code of the City of St. Marys." All sections or portions of the filed copies of the standard code shall be clearly marked to show deletions from the standard code. (ORD1011/020293)
- 4-202 ELECTRICAL INSPECTOR.
- a) The city electric superintendent shall serve as electrical inspector for the city and he or she shall inspect and test all electrical work for compliance with this chapter and the electrical code and to require changing of such installations that do not meet the requirements of this chapter. (Code 1983)
- 4-203 SAME; DUTIES. The electrical inspector shall have the duty and is hereby authorize, empowered and directed to:
- a) Regulate and determine the placing of electric wires or other appliances for electric lights, heat or power in the city and to cause all such wire, appliances or apparatus to be placed, constructed and guarded as not to cause fires or accidents, endangering life or property and to be constructed as to keep to a minimum the loss of waste of electric current;
 - b) Enforce all provisions of this article; and
 - c) Inspect and/or test all electrical work and equipment or apparatus for compliance with the code, and whenever electric wiring, appliances or apparatus shall be defective or hazardous through improper manufacture or improper or insufficient insulation or for any other reason, he or she shall at once cause the removal of such defect or defects, at the expense of the owner or owners of such wiring,

appliance or apparatus.

4-204 Repealed October 16, 2007, by Ordinance1202.

4-205 RIGHT OF ENTRY. The electrical inspector, in the discharge of his or her official duties and upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties as required in this chapter. (Code 1983)

4-206 STANDARDS. All electrical construction, all materials, appliances, motors, heating devices and apparatus used in connection with electrical work and the operation of all electrical apparatus within the city shall conform to the rules and requirements of the edition of the National Electrical Code adopted by the city at the time when work is performed or equipment and apparatus installed. The electrical inspector supervising the enforcement of this code will have the responsibility and authority for making interpretations of the rules, for deciding upon the approval of equipment, materials, construction and for granting the special permission contemplated in a number of the rules and the electrical inspector, where necessary, shall follow the code procedure for securing official interpretations of the code. (ORD 668, Sec. 6)

4-207 ENFORCEMENT. Upon failure to comply with this article, the electrical inspector shall have authority, after due notice, to cut out electric current to the premises concerned. (ORD 668, Sec. 11)

ARTICLE 3. HEATING AND COOLING STANDARDS

4-301 to 4-303 Repealed August 18, 1992 by Ordinance 1005.

ARTICLE 4. DANGEROUS STRUCTURES

4-401 DANGEROUS STRUCTURES. The Governing Body has determined that there may exist from time to time within the corporate limits of the City, structures, buildings or walls which are dangerous, unsafe or unfit for human habitation due to dilapidation, defects or other conditions. It is hereby deemed by the Governing Body that the provisions and procedures set forth within K.S.A. 12-1750 et seq., as amended or supplemented, shall be followed by the City in abating, removing, destroying, or rehabilitating said structures. (K.S.A. 12-1750;1756; 17-4759, Code 1983; ORD1131/031902)

4-401a COLLECT, HOLD, DISBURSE, AND UNDER SOME CIRCUMSTANCES, SEIZE, PROCEEDS OF INSURANCE POLICES RELATED TO COVERED CLAIMS OF STRUCTURES WITHIN THE CITY CAUSED BY FIRE, EXPLOSION OR WINDSTORM.

a) SCOPE AND APPLICATION. The City of St. Marys, KS, 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 ordinance.

- b) 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, special assessment 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.
- c) SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by Section 2, the insurer or insurers shall contact the County Treasurer of Pottawatomie 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 of Pottawatomie County, Kansas.
- d) 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.
- e) PROCEDURE.
 - 1. 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 Building Official 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.
 - 2. 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.
 - 3. Upon the transfer of the funds as required by subsection (a) of this ordinance, 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 Building Official shall contact the named insured or insureds by certified mail, return receipt requested, notifying them that said insurance

proceeds have been received by the City and apprise them of the procedures to be followed under this ordinance.

- f) **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 ordinance shall be placed in said fund and deposited in an interest-bearing account.
- g) **BUILDING OFFICIAL; INVESTIGATION, REMOVAL OF STRUCTURE.**
 - 1. Upon receipt of moneys as provided for by this ordinance, the city treasurer shall immediately notify the Building Official of said receipt, and transmit all documentation received from the insurance company or companies to the Building Official.
 - 2. Within 20 days of the receipt of said moneys, the Building Official shall determine, after prior investigation, whether the city shall instigate proceedings under the provisions of K.S.A. 12-1750 et seq., as amended.
 - 3. Prior to the expiration of the 20 days established by subsection (b) of this ordinance, the Building Official shall notify the City Treasurer whether he or she intends to initiate proceedings under K.S.A. 12-1750 et seq., as amended.
 - 4. If the Building Official 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.
 - 5. Upon notification to the City Treasurer by the Building Official 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.
- h) **REMOVAL OF STRUCTURE; EXCESS MONEYS.** If the Building Official 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.
- i) **SAME; DISPOSITION OF FUNDS.** If the Building Official, 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 5(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 Building Official 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 5(a), the Building Official shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred.
- j) **EFFECT UPON INSURANCE POLICIES.** This ordinance 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.

- k) **INSURERS; LIABILITY.** Insurers complying with this ordinance or attempting in good faith to comply with this ordinance 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 ordinance, or releasing or disclosing any information pursuant to this ordinance.
- l) **NOTICE.** Notice of the adoption of this ordinance shall be given to the Kansas commissioner of insurance. (ORD1130/031902)

ARTICLE 5. MOVING BUILDINGS

- 4-501 **PERMIT NECESSARY.** It shall be unlawful for any person to move, haul or transport, any house, building, derrick or other structure of the height of 16 feet or over, or of a width of 15 feet or more upon, across or over any street or alley in this city without first obtaining a permit therefore as hereinafter provided. (R.O. 1924, Sec. 240)

- 4-502 **APPLICATION FOR PERMITS.** All applications for permits to move houses, building, derricks or other structures mentioned in section 4-501 shall be made in writing to the city clerk specifying the day and hour said moving is to commence and the route thru the city's streets over which said building or structure shall be moved. If it shall be necessary to cut down and move, raise or in any manner interfere with any wires or poles, the application shall state the name of the owners said wires and poles, the time and place, when and where the removal of said poles and the cutting, raising, or otherwise interfering with said wires will be necessary. (R.O. 1924, Sec. 241)

- 4-503 **FEES FOR PERMITS.** Before a permit to move any house, building, derrick or other structure is granted under the provisions of this article, the applicant for said permit shall pay to the city clerk the sum of \$5 therefore, which shall be deposited to the credit of the general fund of the city. (R.O. 1924, Sec. 248)

- 4-504 **CITY CLERK TO NOTIFY WIRE OWNERS.** The city clerk shall upon the filing of such application, give not less than 24 hours written notice to the person, firm or corporation owning or operating such wires or poles or to their agents, of the time and place, when and where the removal of said poles, or the cutting, raising or otherwise interfering with said wires shall be necessary. (R.O. 1924, Sec. 242)

- 4-505 **DUTY OF OWNERS OF POLES OR WIRES.** It shall be the duty of the person, firm or corporation owning or operating said poles or wires after service of notice, as required in section 4-504 to furnish competent workmen or linemen to remove such poles or raise or cut such wires, as will be necessary to facilitate the moving of such house, building, derrick or other structure. The necessary expense which is incurred thereby shall be paid by the holder of the moving permit. (R.O. 1924, Sec. 243)

- 4-506 **UNLAWFUL TO MOLEST WIRES.** No person engaged in moving any house, building, derrick or other structure shall raise, cut or in any way interfere with any such poles or wires unless the persons or authorities owning or having control of the same shall refuse to do so after having been notified as required in section 4-504 and then only by competent workmen as specified in section 4-504. In such case the necessary and reasonable expense shall be paid by the owners of the poles and

wires handled and the said poles and wires shall be promptly replaced and the damages thereto promptly repaired. (R.O. 1924, Sec. 244)

4-507 DUTY OF BUILDING INSPECTOR. It shall be the duty of the building inspector, from time to time, to inspect the progress of moving of any building, house or other structure and to see that said house, building or other structure is being moved in accordance with the provisions of this article. (Code 1983)

4-508 DUTY OF MOVER. It shall be the duty of any person, firm or corporation moving any of the structures mentioned in section 4-501 to display red lanterns thereon in such a manner as to show the extreme height and width thereof from 30 minutes before sunset to 30 minutes after sunrise. (R.O. 1924, Sec. 246)

4-509 MOVER TO FURNISH BOND. It shall be the duty of any person at the time of making application for a permit as provided in section 4-501 to execute in the favor of the city a good and sufficient surety bond indemnifying the city against any loss or damage suit resulting from the failure of such person to comply with the provisions of this article or from their negligence. The amount of the surety bond shall be determined by the city manager. (R.O. 1924, Sec. 247; Code 1983)

ARTICLE 6. NUMBERING BUILDINGS

4-601 NUMBERING OF BUILDINGS. The owner and occupants of all lots in this city are hereby required to number the buildings thereon, according to the following method:

- a) On all streets running east and west, the building shall be numbered from First Street, commencing with the number 101 and each successive block with one additional hundred, to the eastern and western limits of said street;
 1. The streets running east and west, east of First shall be prefixed with the word "East", those west of First with the word "West".
 2. The even numbers shall be placed on the north side of each street and the odd numbers on the south side, to be so arranged that the numbers in each and all blocks lying between the same streets running north and south shall correspond and be the same.
 3. The counting shall not exceed one number to each 25 feet.
- b) On all streets running north and south, the buildings shall be numbered from Bertrand Street, commencing with the number 100, and each successive block with one additional hundred to the northern and southern limits of said street.
 1. The streets running north from Bertrand shall be prefixed with the word "North", those running south from Bertrand shall be prefixed shall be prefixed with the word, "South".
 2. The even numbers shall be placed on the east side of each street and the odd numbers on the west side to be so arranged that the numbers in each and all blocks lying between the same streets running east and west shall correspond and be the same.
 3. The counting shall not exceed one number to each 25 feet. (R.O. 1924, Sec. 274)

4-602 PLACING OF STREET NUMBERS. It is the responsibility of the property
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owner to place street numbers on buildings, apartments, and suites so that emergency response personnel can see the numbers from the street and identify the building, apartment, or suite to which they are responding. To meet this requirement, three-inch high numbers must be placed within 100 feet of the curb in a location that can be seen from the street and is directly associated with particular buildings, apartments, or suites. (ORD 981/052191; ORD 1193/020607)

4-603

NUMBER WITHIN 30 DAYS. All occupants and owners of the buildings in this city are hereby required to number or cause to be numbered, their building respectively owned or occupied by them, according to the provisions of this article. In the case of any new buildings that shall be erected on any of the streets of this city, the owners or occupants thereof within 30 days after the completion or occupation of said building shall number the same as hereinbefore provided for buildings already erected. (R.O. 1924, Sec. 276)

ARTICLE 7. UNIFORM BUILDING CODE

4-701

UNIFORM BUILDING CODE INCORPORATED. The certain standard code known as the **Uniform Building Code, 1991 Edition**, published by the International Conference of Building Officials, is hereby incorporated herein by reference and made a part of this article, save and except such portions as may hereinafter in this article be deleted or amended. There shall be no fewer than three copies of the standard code incorporated by reference and kept on file in the office of the City Clerk and kept available for inspection by the public at reasonable hours. The filed copies of the standard code shall be marked "Official Copy as Incorporated by the Code of the City of St. Marys." All sections or portions of the filed copies of the standard code shall be clearly marked to show deletions from the standard code. (ORD 937/011690; ORD1040/41895)

CHAPTER V. ELECTIONS

Article 1. City Elections

ARTICLE 1. CITY ELECTIONS

5-101 **CONDUCT OF ELECTIONS.** All elections in this city shall be conducted by the county election officer in accordance with the laws of the State of Kansas and shall be conducted jointly with other elections held at the same time insofar as practicable. (K.S.A. 25-2114)

Ref.: Election of city officers see Charter ORD No. 11, Appendix A.

5-102 **VOTING HOURS.** Hereafter in all general election, primary elections and all special or regular city elections conducted in or by the city, the hours of voting shall be from 7:00 a.m. to 7:00 p.m. of the election day or as otherwise provided by statute. (K.S.A. 25-2111)

5-103 **PLACES OF VOTING.** The place of holding city elections shall be designated by the county election officer. (K.S.A. 25-2111)

5-104 **NOMINATION PETITION REQUIREMENTS.** In accordance with K.S.A. 25-205, and amendments thereto, any person may become a candidate for city office elected at large by having had filed on their behalf, a nomination petition or a declaration of candidacy, accompanied by any fee required by law. The nomination petition must be signed by 2% of the qualified electors of the City of St. Marys. (ORD1283/111715)

CHAPTER VI. (RESERVED)

CHAPTER VII. FIRE PROTECTION

Article 1. Fire Department

Article 2. Fire Prevention Generally

Article 3. Fireworks

Article 4. Storage of Flammables

ARTICLE 1. FIRE DEPARTMENT

7-101 FIRE DEPARTMENT ESTABLISHED. There is hereby established a fire department in the City of St. Marys, Kansas, to consist of a chief, three assistant chiefs and not less than 10 nor more than 30 members per company, who shall be appointed by the city manager and confirmed by the city commission (ORD 686, Sec. 1; ORD1291/02162016)

7-102 VOLUNTEER MEMBERS; MEETINGS.

- a) Members of the fire department shall be volunteers. They shall meet at least once each month for practice and drill. The chief shall keep a record of attendance of such meetings. Any member who shall fail to attend six consecutive meetings shall automatically become expelled from membership.
- b) The salary of the chief shall be paid monthly at a rate of three hundred (\$300) dollars per month.
- c) The salary of the assistant chiefs and the secretary/treasurer shall be paid monthly at a rate of seventy-five (\$75) dollars per month.
- d) An active roster member is defined as a member who attends over 50% of all regularly scheduled meetings/drills during each pay period, shall received as compensation for their attendance at said meetings/drills at a rate of \$12.50 per meeting/drill, and a rate of \$12.50 per hour per fire call. Members that are not active roster members shall be compensated for their attendance a rate of \$10.00 per meeting/drill and for fires a rate of \$10.00 per hour per fire call. (ORD952/032090; ORD1019/051893; ORD 1258/030513)

7-103 FIRE CHIEF; APPARATUS AND EQUIPMENT. The chief of the fire department shall be under the supervision of the city manager and shall have superintendence and control over and be responsible for the care and condition of the fire apparatus and equipment. It shall be his or her duty to see that all such apparatus and equipment shall be at all times ready for immediate use and shall submit a written report as to its condition to the city commission at their first meeting in October. (ORD 686, Sec. 3)

7-104 SAME; CONDUCT AT FIRES.

- a) The fire chief shall have full power, control and command over all persons whomsoever present at fires and he shall direct the use of all fire apparatus and equipment and command all firemen in the discharge of their duties.
- b) The fire chief is hereby given authority to suspend or expel any member for the refusal to obey orders, or for misconduct or failure to do his duty at a fire.
- c) The chief shall also have the right to summon any and all persons present to aid in extinguishing a fire or to aid in removing personal property from any building on fire or in danger thereof and in guarding the same. (ORD 686, Sec. 4,5)

7-105 SAME; RECORD OF FIRES. The fire chief shall keep a complete record of all fires. Such information shall include the time and location, construction of building, owner, occupancy, how extinguished, value of building and contents, loss on building and contents, insurance on building and contents, members responding to the alarm and any other information deemed advisable. (ORD 686, Sec. 6)

7-106 INSPECTION; RIGHT OF ENTRY. It shall be the duty of the fire chief to adopt all prudent measures for the prevention of fires and for this purpose the chief or his or her assistant under the chief's direction, may, upon request or whenever he or she has reason to believe that the safety of life and property demands it and as often as he or she may deem necessary, enter any building, yard or premises in the city during reasonable hours for the purpose of inspection and where dangerous, unsafe or hazardous conditions are found to exist he or she shall give such directions for the alteration, change or removal or better care or management of the same as he or she may deem proper and such directions shall be obeyed and complied with by the person directed in that regard and at their expense. (ORD 686, Sec. 7)

7-107 ASSISTANT CHIEF. In the absence of the chief, the assistant chief shall perform all the duties and have all the authority and responsibility of the chief as conferred by this article. (ORD 686, Sec. 8)

7-108 RIGHT OF WAY. All fire apparatus and equipment is hereby given and granted the exclusive right-of-way over and through all streets, avenues, alleys and public thoroughfares in said city while en route to fires or in response to any alarm of fire and no person or persons shall in any manner obstruct or hinder said apparatus as aforesaid stated. (ORD 686, Sec. 9)

Ref.: See Standard Traffic Ordinance, Sec. 10

7-109 OBSTRUCTING FIRE HYDRANT. No person shall place or cause to be placed upon or about any fire hydrant any rubbish, building material, fence or other obstruction of any character whatsoever, in any manner to obstruct, hinder, or delay the fire department in the performance of its duties in case of fire. No person shall hitch or cause to be hitched to any fire hydrant, any animal or animals, nor fasten to same any guy rope or brace, nor back or stand any wagon, truck, automobile or other vehicle within 15 feet of any such hydrant. (ORD 686, Sec. 11)

7-110 Deleted April 1, 2014 by Ordinance No. 1269.

7-111 USE OF EQUIPMENT. No person or persons shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority remove, take away, keep or conceal any tool, appliance or other article used in any way by the fire department. (ORD 686, Sec. 13)

Drive Over Fire Hose: See Standard Traffic Ordinance, Sec. 111.

Following Fire Equipment: See Standard Traffic Ordinance, Sec. 110.

ARTICLE 2. FIRE PREVENTION

7-201 FIRE PREVENTION CODE INC. There is hereby incorporated by reference for the purpose of prescribing rules and regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the **Life Safety**

Code, recommended by the **National Fire Protection Association**, being particularly the **1994 Edition** thereof. There shall be not less than two copies of the standard code incorporated by reference in this article kept on file in the office of the city clerk and kept available for inspection by the public at all reasonable business hours. The filed copies of the standard code shall be marked or stamped "Official Copy as incorporated by the Code of the City of St. Marys." All sections or portions of the filed copies of the standard code shall be clearly marked to show deletions from the standard code. (ORD934/010390; ORD1040/41895)

7-202 ENFORCEMENT. The code hereby adopted shall be enforced by the chief of the fire department. (ORD 669, Sec. 2)

7-203 DEFINITION. Municipality shall mean the City of St. Marys, Kansas (ORD669, Sec. 3)

7-204 MODIFICATIONS. The chief of the fire department shall have power to modify any of the provisions of the code hereby adopted upon application in writing by the owner or lessee, or his or her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of such modification when granted or allowed and the decision of the chief of the fire department thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant. (ORD 669, Sec. 5)

7-205 APPEALS. Whenever the chief of the fire department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the fire department to the city commission within 30 days from the date to the decision appealed. (ORD 669, Sec. 6)

7-206 PENALTIES.

- a) Any person who shall violate any of the provisions of the code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder or who shall build in violation of any detailed statement or specifications or plans submitted and approved thereunder or any certificate or permit issued shall fail to comply with such an order as affirmed or modified by the city commission or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable by a fine or imprisonment, or by both such fine and imprisonment as provided in Section 1-118. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time. When not otherwise specified, each 10 days that prohibited conditions are maintained shall constitute a separate offense.
- b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. (ORD 669, Sec. 7)

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 Ks State Fire Marshal, and shall include but not be limited to: firecrackers, torpedoes, sparklers, Roman candles, sky rockets, pin wheel, cap or toy pistols (except such pistols or any like device designed to discharge paper caps containing not more than .25 of grains to 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. (ORD 868)
- 7-302 FIREWORKS PROHIBITED.
- a) Except as provided in Sections 7-303 thru 7-306; it shall be unlawful for any person, firm or corporation to keep, store, sell, 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 of 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. (ORD868)
- 7-303 SAME: EXCEPTIONS; DISCHARGES.
- a) Section 7-302 of this article shall not apply to the firing or discharge of fireworks in the City between the hours of 8:00 a.m. and 10:00 p.m. on June 27th through July 3rd and July 5th through July 6th, and between the hours of 8:00 a.m. and 12:00 a.m. (midnight) on July 4th. (ORD1322/080619)
 - 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. (ORD868; ORD1132/080602)
- 7-304 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 10:00 p.m. commencing June 27th and through July 5th of each year. (ORD1294/051716)
- 7-304a 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 or permanent structure.
 - b) Where the fire chief deems there is a fire hazard, he or she is hereby authorized to have such hazard abated.
- 7-304b 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.

7-304c

FIRE EXTINGUISHERS REQUIRED. Small stands or tents, temporarily erected to be used as a place for storing and selling fireworks only, shall have two functioning and approved fire extinguishers that are kept in close proximity to where the stock of fireworks is stored, sold or displayed for sale.

7-305

PERMIT FOR PUBLIC FIREWORKS DISPLAY REQUIRED.

- a) It shall be unlawful for any person, firm or corporation to give or provide a fireworks display for the public or for organized groups without first obtaining a permit to do so by making application at least thirty (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 certification of public liability insurance for the display in a minimum amount of \$100,000, written by an insurance carrier licensed to do business in Kansas, conditioned as being non-cancellable except by giving ten (10) days advance written notice to the city clerk. In the event of cancellation of the insurance prior to the display, the permit shall 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. (ORD868)

7-305a

PERMIT FOR SALE OF FIREWORKS REQUIRED; FEE; ISSUANCE.

- 1. It shall be unlawful for any person to sell, display for sell, offer to sell or give away any type of fireworks within the city without first paying a fee of \$50.00 per establishment or premises to the city clerk and applying for and securing a permit therefor on or before June 1st of the permit year.
- 2. No permit shall be issued for any location zoned residential, to include R-1, R-2, R-3, PUD, and MHP, within the city limits, or within the Central Business District (C-1), under the provisions of the Unified Development Code. Prior to the issuance of the permit, an inspection will be made of the applicant's establishment or premises for

compliance with this chapter and other pertinent laws by the Fire Chief, 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 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.

3. No permit shall be issued without an application for permit, which includes the following information:
 - a. Name, address and contact information of the applicant, and operator.
 - b. Proposed location of the fireworks display.
 - c. Agreement that permittee shall provide 24-hour surveillance of location.
 - d. Such other information as the governing body deems necessary.
4. Prior to the issuance of a permit, the applicant shall provide proof of liability insurance in a minimum amount of \$1,000,000.00 written by an insurance carrier licensed in Kansas, conditional on being non-cancelled except by giving 10-days advance written notice to the city clerk. When the city has an insurable interest, the policy shall name the city as an additional insured. (ORD. 1294/050316)

7-306

APPROVED FIREWORKS; BOTTLE ROCKETS PROHIBITED.

- a) All fireworks discharged within the City shall be a type that has been tested and approved for sale and use within the State by the State fire marshal.
- b) Bottle rockets and other similar self-propelled fireworks, or fireworks devices consisting of a tube and attached guiding stock or rod, shall not be discharged within the City. (ORD868)

7-307

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 unless authorized under 7-305. (ORD868)

7-308

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. (ORD868)

7-309

RESTRICTIONS AS TO GASOLINE INSTALLATIONS. It shall be unlawful to discharge any fireworks within fifty (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. (ORD868)

7-310

AUTHORITY OF FIRE CHIEF. The chief of the fire department is authorized to seize and confiscate all fireworks which are used in violation of any section of this article or in violation of any 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. (ORD868)

ARTICLE 4. STORAGE OF FLAMMABLES

- 7-401 **MOTOR VEHICLES.** This article shall apply to all motor vehicles used for the transportation of explosive or inflammable liquids, substances or gases whether the transportation of such explosive, substances or gases is accomplished in a tank or container permanently attached to or temporarily placed on or attached to said vehicle. This article shall not apply to any container used solely for the purpose of supplying fuel for the propulsion of the vehicle upon which it is mounted. (Code 1983)
- 7-402 **VEHICLES PROHIBITED IN CERTAIN ZONES.** It shall be unlawful for any person to keep, park, store or permit to stand or remain upon any private property used exclusively for residential purposes, any vehicle, with a manufacturers' rated capacity of over two tons, with or without cargo used for the transportation of explosive or inflammable liquids, substances or gases, except while such vehicle is being loaded or unloaded. This section shall not prevent the parking of vehicles in such zones that have been approved for the storage or servicing of such vehicles or those areas specifically approved for such use by the city fire chief. (Code 1983)
- 7-403 **ABOVE GROUND STORAGE TANKS.** All property owners within the legal boundaries of the City of St. Marys are prohibited from constructing, placing, or installing any storage facility above ground for flammable or combustible liquids, EXCEPT for land that is located in the General Commercial District (C-3), as defined in the Unified Development Code, and for which there has been a permit issued as may be required by the Kansas State Fire Marshall and the St. Marys Fire Chief has approved. Existing above ground tanks are exempt from this ordinance until replacement or repair of the storage facility is required. (ORD 902; ORD 1239/110210)
- 7-404 **FUEL STORAGE TANK COMPLIANCE.** All storage tanks for flammable or combustible liquids must conform to the Uniform Fire Code Standards as set forth in the latest published edition. (ORD 902)

CHAPTER VIII. HEALTH AND WELFARE

- Article 1. Health Nuisances
- Article 2. Noxious Weeds
- Article 3. Inoperable Vehicles

ARTICLE 1. HEALTH NUISANCES

8-101 NUISANCES DEFINED. The following, by way of illustration and not limited thereto, are hereby declared to be nuisances affecting public health and welfare:

- a) All dead, decaying or putrid carcasses, flesh, fish or vegetables;
- b) All deposits of manure, offal or other unwholesome substances or filth of any kind or description;
- c) All filthy or offensive water slops when thrown or discharged upon any street, alley or enclosure so as to be offensive to the sight or smell;
- d) All privies or slaughter houses that have become or hereafter may become offensive from use or other cause;
- e) All trash, rubbish, broken or discarded objects of any kind which may harbor rodents or otherwise become offensive to the sight or smell;
- f) All stock pens, feeding pens or other places that are permitted to become or to be offensive to the sight or smell or injurious to the health of the people;
- g) All deposits or substances that are liable to cause or engender disease;
- h) Any lot or place retaining water until it becomes stagnant;
- i) Abandoned iceboxes, refrigerators or freezers;
- j) The burning within the city limits of any substance which generates or creates any disagreeable, noxious or unwholesome smell or odor;
- k) All articles or things whatsoever, caused, kept, maintained or permitted by any person to the injury of the public or of any neighborhood (ORD1128/120401)
- l) All rank grass and weeds growing on any lot or parcel of ground. (R.O. 1924, Sec. 160; Code 1983)
- m) Grass and/or weeds over 12 inches high shall be declared noxious weeds. (ORD1002/061692)

8-102 LIVESTOCK; VEHICLES.

- a) No vehicle carrying or hauling any livestock nor any vehicle used for such purposes and containing any animal filth, manure, decaying animal or vegetable matter which is offensive to the human senses shall be parked for more than eight hours on the streets or alleys of the city.
- b) No vehicle described in subsection (a) of this section which constitutes a nuisance within the terms of section 8-101 shall be parked or left standing at any time within the city except for purposes of loading or unloading at facilities lawfully maintained for such purposes. (Code 1983)

8-103 REMOVAL IN CERTAIN CASES. Whenever any dead animal, other offensive matter, substance or annoying condition shall be determined by the city manager to constitute a public nuisance within the city for the removal or abatement of which no person can be held liable, it shall be the duty of the chief of police to cause the same to be removed or abated at the expense of the city. (Code 1983)

8-104 HEALTH NUISANCES; ABATEMENT. Whenever the governing body of the city shall by resolution find that any nuisance, including rank grass or other vegetation, any pond or ponds of water, describing the same and the location thereof is a menace and dangerous to the health of the inhabitants of the city, or of any neighborhood, family or resident of said city, the city clerk shall forthwith issue a notice requiring the owner, occupant or agent of the premises to remove and abate from said premises the thing or things therein described as a nuisance within a time not exceeding 10 days, to be specified in the notice, the notice shall be served by the chief of police or other police officer by delivering a copy of the notice to said owner, occupant or agent of said property. If the property be unoccupied and the owner thereof a nonresident, then he or she shall mail the notice to the owner's last known post office address. (K.S.A. 12-1617e; Code 1983)

8-105 FAILURE TO ABATE. If the owner, occupant or agent shall fail to comply with the requirements and terms of the notice within the time named in the notice, then the chief of police of the city shall proceed to have the thing or things described in the notice as a nuisance removed and abated from the lot or parcel of ground and report the cost thereof to the city clerk. The cost of removal or abatement shall be charged against the lot or parcel of ground on which such nuisance was located. The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the aforesaid cost and the county clerk shall extend the same on the tax roll of the county against said lot or parcel of ground. It shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (K.S.A. 12-1617e; Code 1983)

ARTICLE 2. NOXIOUS WEEDS

8-201 WEEDS TO BE REMOVE. It will 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 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. (ORD1081/012098)

8-202 DEFINITIONS;

- a) Calendar Year as used herein, means that period of time beginning January 1st and ending December 31st of the same year.
- b) Weeds as used herein, means any of the following:
 1. Brush and woody vines will be classified as weeds,
 2. Weeds and indigenous 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 harbor 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 indigenous grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses will be presumed to be blighting if they exceed 12 inches in height. (ORD 1081/012098)

8-203 PUBLIC OFFICER: NOTICE TO REMOVE. The Chief of Police is
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designated as the public officer to be charged with the administration and enforcement of this ordinance. The public officer or an authorized assistant will notify in writing the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this ordinance, by mail or by personal service, once per calendar year. Such notice will include the following:

- a) That the owner, occupant or agent in charge of the property is in violation of the city weed control law
- b) That the owner, occupant, or agent in charge of the property is ordered to cut the weeds within 10 days of the receipt of notice.
- c) That the owner, occupant or agent in charge of the property may request a hearing before the City Manager within five days of the receipt of notice.
- d) That 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 City Clerk will bill the owner, occupant or agent in charge of the property at a rate of \$75 per hour, with a minimum charge of \$75. 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 assessed in accordance with Section 8-204 .Abatement, Assessment of Cost.
- f) That no further notice will be given prior to removal of weeds during the current calendar year.
- g) That the public officer should be contacted if there are any questions regarding the order. If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this subsection, the city may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided notice as required by this section. (ORD1081/012098)

8-204

ABATEMENT, ASSESSMENT OF COSTS.

- a) Upon the expiration of 10 days after receipt of the notice required by Section 3, 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 1, the public officer or an authorized assistant will cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.
- b) The City Clerk or an authorized assistant will give notice to the owner, occupant or agent in charge of the premises by restricted mail of the costs of abatement of the nuisance. The notice will state that payment of the costs is due and payable within 30 days following receipt of the notice.
- c) If the costs of removal or abatement remain unpaid after 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 will apply the amount to their utility bill, if available or 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 streets 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. (ORD1081/012098)

8-205 RIGHT OF ENTRY. The public officer, and the public officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this ordinance. (ORD1081/012098)

8-206 UNLAWFUL INTERFERENCE. It will be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officers authorized representative from entering upon any such lot or piece of ground for the purpose of enforcing this ordinance. Such interference shall constitute an ordinance violation. (ORD1081/012098)

8-207 NOXIOUS WEEDS.

- a) Nothing in this ordinance shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.
- b) For the purpose of this section, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*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*). (ORD1081/012098)

ARTICLE 3. INOPERABLE VEHICLES

8-301 UNLAWFUL ACTS. It shall be unlawful, without prior authorization of the governing body, to park, store, leave or permit the parking, storing or leaving of any motor vehicle of any kind which is in a wrecked, junked, partially dismantled, inoperative or abandoned condition, whether attended or not, for a period of time in excess of 7 days upon any private property; and/or upon any public street, alley, highway, or thoroughfare within the city, for a period of time in excess of 48 hours, unless the same is completely enclosed within a building or unless it is in connection with a business enterprise properly operated in the appropriate business zone pursuant to the zoning laws of the city. (ORD1001/051992)

8-302 NUISANCES. Any motor vehicle parked, stored, left or permitted to be parked, stored or left in violation of the provisions of section 8-301 hereof shall constitute rubbish and unsightly debris and a nuisance detrimental to the health, safety and welfare of the inhabitants of the city, and it shall be the duty of the registered or other owner of such vehicle, and it shall also be the duty of the owner, lessee or occupant of the private property upon which such vehicle is located, to either remove the same from the city or to have the same housed in a building where it will not be visible from the street or other private property. Nuisance Defined: 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

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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, street or highway;
- b) The provisions of this section shall not apply to:
1. Any motor vehicle which is enclosed in a garage or other building;
 2. To the parking or storage of a vehicle for a period of 30 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. (Code 1983, ORD1074/030697)

8-303

SAME; EXCEPTION.

- a) All premises or portions of premises within the city situated within 100 feet of any area zoned for residential use which shall be used for the storage of motor vehicles or machine parts shall be screened from public view by the erection of board fencing to a height of eight feet, the bottom of which fencing shall not be more than one foot from the ground surface of the premises. Public parking along any street shall not be used for the storage of motor vehicles or machine parts and all screen fencing herein required shall be erected under the inspection and approval of the city manager.
- b) All premises or portions of premises within the city which shall be used for the storage of motor vehicles or machine parts and which shall be located within 100 feet of a public street shall be screen fenced as provided in subsection (a).
- c) The owner or owners of all premises defined in this section together with the lessee of the premises shall be jointly and severally liable for erecting the screen fencing as required by this section. The term "storage of motor vehicle or machine parts" shall contemplate under this section the accumulation of said items for the purpose of salvaging parts there from for sale. Each day that a premises or portion thereof shall be used in violation of this section shall constitute a separate violation. (Code 1983)

8-304

NOTIFICATION.

- a) It shall be the duty of the chief of police to give written notice to the registered or other owner of any motor vehicle which is in violation of this article, or in the alternative to give such notice to the owner, lessee or occupant of the private property upon which such motor vehicle is situated, to the effect that the parking, storing, leaving or permitting of the parking, storing, or leaving of such vehicle is in violation of this article and requiring that the vehicle be removed as

follows:

1. Private property - within 7 days from the date on the notice or personal service (i.e. warning ticket, hand delivered notice),
 2. Public property- within 48 hours from the date on the notice or personal service (i.e. warning ticket, hand delivered notice).
- b) Notice shall be given by personal service or by registered or certified mail.
- c) In case of a motor vehicle abandoned on the streets of the city, the notice shall be attached to the vehicle in a conspicuous manner. (ORD1001/051992)

8-305 FAILURE TO COMPLY. If notice is given as provided in section 8-304 hereof and the person upon whom the notice and demand is made shall fail to meet the requirements of the notice, then the persons shall be in violation of this article. (Code 1983)

8-306 IMPOUNDMENT AND DISPOSITION. Notwithstanding the provisions of section 8-305 hereof, and regardless of whether or not the person or persons mentioned herein have been charged with a violation of this article, the chief of police, after the giving of notice required by section 8-304 hereof, and if the requirements of such notice have not been complied with upon the expiration of said applicable period, shall cause the vehicle or vehicles to be removed to such suitable place for storage as may be designated by the city manager. (ORD1001/051992)

8-307 DISPOSITION AND SALE OF VEHICLES IMPOUNDED. Any vehicle subject to the provisions of this article which has been impounded by the police department shall be sold and disposed of in the following manner:

- a) If the vehicle has displayed thereon a registration plate issued by the State of Kansas, the city shall notify by registered mail the registered owner of the vehicle addressed to the address shown on the certificate of registration, and the lien holder, if any, giving notice to the same to claim the vehicle in 30 days from the date of mailing the notice or the vehicle will be sold at public auction sale for cash. The titleholder or registered owner of a vehicle not displaying such a registration plate shall be notified and the vehicle sold as hereinafter set forth. The city shall exercise reasonable diligence in determining the title owner or registered owner of vehicles and shall inquire by mail of the office of the register of deeds of the county in which the title shows the owner resides as to any lien holder of record
- b) After 30 days from the date of mailing notice if the abandoned motor vehicle is more than four model years of age, or after 60 days from date of mailing notice, if the abandoned motor vehicle is four model years of age or less the city shall publish a notice once a week for two consecutive weeks in the official city newspaper which notice shall as accurately as possible describe the vehicle. In the case of a motor vehicle, such description shall be by name of maker, color, serial number and owner, if known. The notice shall state that the same has been impounded by the city and that the same will be sold at public auction to the highest bidder, for cash, if the owner thereof does not claim the same within 10 days from the date of the second publication of the notice and pay the removal and storage charges and publication costs incurred by the city.
- c) If such motor vehicle does not display a registration plate issued by the motor vehicle department of the highway commission of this state

and is not registered with the department, the city may after 30 days from the date of abandonment publish a notice in the official city newspaper which notice shall describe the motor vehicle by name of maker, model, color and serial number and stating that the same has been impounded by the city and the same will be sold at public auction to the highest bidder for cash if the owner thereof does not claim the same within 10 days of the date of the second publication of the notice and pay the removal and storage and publication charges incurred by the city.

- d) All proceeds from the sale of vehicles under this section shall go first toward satisfying the towing, storing, publication and other expenses of the city, with the surplus, if any, going to the general fund of the city to be used for street purposes. (Code 1983)

8-308 RELEASE FROM IMPOUNDMENT. After any vehicle is impounded and stored, as aforesaid, the same shall not be released until all charges connected with the removal, towing and storage of such vehicle have been paid. (Code 1983)

8-309 PENALTY. Any person violating the provisions of this article shall, upon conviction thereof, be punished by a fine of not more than \$100 or by imprisonment in jail for a term of not more than 30 days, or by both such fine and imprisonment. (Code 1983)

CHAPTER IX. (RESERVED)

CHAPTER X. (RESERVED)

CHAPTER XI. MUNICIPAL COURT

- Article 1. Municipal Court
- Article 2. Appearance Bonds
- Article 3. Court Costs

ARTICLE 1. MUNICIPAL COURT

- 11-101 ESTABLISHED. A municipal court of the City of St. Marys, KS, is hereby created and established to be presided over by a municipal judge. (Code 1983)
- 11-102 CODE OF PROCEDURE. The provisions of the Kansas Code of Procedure for Municipal Courts, being Chapter 12, Articles 41 to 46, inclusive, Kansas Statutes Annotated, are by this reference incorporated into and made a part of this article, as if the same had been set out in full herein. (Code 1983)
- 11-103 PLACE; TIME. The municipal judge shall hold court in a room to be supplied by the city and said court shall be held on the first and third Thursday of each month at 1:00 p.m., except legal holidays, and at such other days as the business of the court may require. (Code 1983)

ARTICLE 2. APPEARANCE BONDS

- 11-201 PERSONS UNDER ARREST; PROCEDURES. Any person arrested by a law enforcement officer shall be taken immediately by the law enforcement officer to the police station of the city, the office in the city designated by the municipal judge, or as otherwise provided in K.S.A. 12-4213. (Code 1983)
- 11-202 MAKING BOND. A person having the right to post bond for his appearance shall, in order to do so, execute in writing a promise to appear at the municipal court at a stated time and place. Such appearance bond shall be in an amount as determined by the municipal judge and may be secured by any one of the following methods and when so secured, said person shall be released from custody. The methods of securing the appearance of an accused person are as follows:
- a) Payment of cash, except that the municipal judge may permit negotiable securities or a personal check in lieu of cash.
 - b) That execution of an appearance bond by a responsible individual residing within the State of Kansas, as surety with the approval of the municipal judge.
 - c) A guaranteed arrest bond certificate issued by either a surety company authorized to transact such business within the State of Kansas, or an automobile club authorized to transact business in this state by the commissioner of insurance, except that such "guaranteed arrest bond certificate" must be signed by the person to whom it is issued and must contain a printed statement that the surety guarantees the appearance of such person and, in the event of failure of such person to appear in court at the time of trial, will pay any fine or forfeiture imposed upon such person not to exceed an amount to be stated in such certificate. (K.S.A. 12-4301; ORD 691, Sec. 1)

11-203/204 Deleted April 1, 2014 by Ordinance No. 1269.

11-205 PERSONAL RECOGNIZANCE. Notwithstanding the provisions of section 11-202 and 203 of this article, a law enforcement officer may release an accused

person from custody without requiring security for his appearance, and shall release such accused person without requiring security for the appearance, pursuant to any rule or order of the municipal judge. (K.S.A. 12-4302; Code 1983)

11-206 **FAILURE TO APPEAR.** In the event the accused person fails to appear at the time designated in the appearance bond or at any subsequent time to which the appearance has been discontinued, the municipal judge shall declare the bond forfeited, except that, if it appears to the court that justice does not require the enforcement of the forfeiture, the court may set the same aside upon such conditions as the court may impose. Where the forfeiture of a bond has become final, the court shall direct the application of the funds or that suitable action be instituted for the collection from the sureties thereon or from the accused person. (K.S.A. Supp. 12-4303; Code 1983)

11-207 **RECORD.** The city clerk shall keep a record of all appearance bonds received and the disposition thereof. All bonds declared forfeited shall be paid to the city treasurer who shall give a receipt therefore and credit the same to the general fund of the city. The city clerk shall file all such receipts in the appearance bond record in his or her office. (Ord, 691, Sec. 2)

ARTICLE 3. COURT COSTS

11-301 **ESTABLISHED COURT COSTS.** The City of St. Marys, Kansas, a city of the third class, and pursuant to provisions authorized under Charter Ordinance No. 10 of the City of St. Marys, Kansas, does hereby establish court costs in the Municipal Court of the City of St. Marys, Kansas. (ORD 940/022090; ORD 1198/090507)

11-302 **COURT COSTS.** Whenever a defendant, in a case before the Municipal Court of the City of St. Marys, Kansas, is convicted of a violation of a municipal ordinance, or ordinances, or enters into a Diversion Agreement concerning a violation thereof, said defendant shall be assessed court costs in the following amounts, to-wit:

- a) For Class A, B, or C violations, as designated by the Code of the City of St. Marys, Kansas, or by the ordinance establishing such violation, the sum of one-hundred-twenty-five dollars and fifty cents (\$125.50) in addition to any assessments established by any agency of the State of Kansas required to be imposed on the violation.
- b) For all other violations, including traffic infractions or other misdemeanors not designated as Class A, B, or C violations, the sum of forty dollars and fifty cents (\$40.50) in addition to any assessments established by any agency for the State of Kansas required to be imposed on the violation. When a single case involves a Class A, B, or C violation, as well as other violations, the court costs for Class A, B, or C violation shall apply. Said sum shall be in addition to any fine that is imposed by the court for said violation.
ORD1086/040798;ORD1123/082801;ORD1198/090507).

CHAPTER XII. POLICE DEPARTMENT

Article 1. General Provisions

ARTICLE 1. GENERAL PROVISIONS

12-101. POLICE PERSONNEL; GENERAL DUTIES. It shall be the general duty of the chief of police and all sworn police personnel to the best of their ability to preserve good order, peace and quiet throughout the city as provided by law or ordinance. (Code 1983)

12-102. SAME; POWER OF ARREST. The chief of police and all sworn police personnel shall at all times have power to make arrest under proper process or without process in view of any offense against the laws of the State of Kansas or ordinances of the city and to keep all persons so arrested, unless released on bail, in the city or county jail or other proper place to prevent their escape until their trial can be had before the proper officer. (Code 1983)

CHAPTER XIII. PUBLIC OFFENSES

Article I. Uniform Ordinance

Article 2. Local Regulations

ARTICLE I. UNIFORM ORDINANCE

13-101

UNIFORM ORDINANCE INCORPORATED. There is hereby incorporated by reference the Uniform Public Offense Code for Kansas Cities, 33rd Edition, 2017, prepared and published by the League of Kansas Municipalities, except Article 10.6 which is deleted and such is controlled by Ordinance No. 1273. No fewer than three copies of the Uniform Public Offense Code shall be marked or stamped "Official Copy as adopted by Ordinance No. 1305" and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. The police department, municipal judge and all administrative departments of the city charged with enforcement of this article shall be supplied, at cost of the city, any number of official copies of such uniform code, similarly marked, as may be deemed necessary.

- a) Section 1, §10.6 of the Uniform Public Offense Code, as adopted by reference, is hereby amended as follows: AIR GUN, AIR RIFLE, CROSSBOWS, BOWS AND ARROWS, SLINGSHOT, BB GUN OR PAINTBALL GUN.
- b) It shall be a misdemeanor for any person to negligently or purposely discharge any Air Gun, Air Rifle, Bows and Arrows, or BB gun within the city, except:
 1. In necessary self-defense.
 2. For the purpose of practice.
 - i. The practice area must have a natural or constructed backstop that will stop the projectiles, thus keeping them on the property on which they are shot.
 - ii. Such practice shooting is supervised by an adult at all times.
 - iii. The gun, air rifle, bow and arrow, or BB gun must be of a **low-strength** recreation type and not a higher powered hunting type.
- c) In defense of property from damage by animals or birds to said property:
 1. The area must have a natural or constructed backstop that will keep the projectiles on the property on which they are shot.
 2. Such shooting is supervised by an adult at all times.
 3. The gun, air rifle, bow and arrow, or BB gun must be of a low-strength recreation type and not of a higher powered hunting type. d) It shall be a misdemeanor for any person to negligently or purposely discharge the following within the city limits:
 4. Slingshot; 2. Crossbow; 3. Paintball gun. (ORD1101/120799; ORD1127/120401; ORD1137/110502; ORD1145/091603; ORD1154/092104; ORD1170/092005; ORD1185/091906; ORD1201/090507; ORD1213/091608; ORD1231/100609; ORD1237/090810; ORD1247/090711; ORD1253/090512; ORD1270/090314; ORD1273/091614; ORD1282/091515; ORD1296/081616; ORD1305/080117)

13-102 Repealed December 5, 1995 by Ordinance 1051.

13-103 SAME; ADDITIONAL DELETIONS. The following articles of Offense Ordinance, incorporated by 13-101, are hereby deleted in their entirety:
a) Article 4; (b) Article 11. (Code 1983)

ARTICLE 2. LOCAL REGULATIONS

13-201 CURFEW.

- a) It shall be unlawful for any person under the age of eighteen (18) years to be upon any street or other public place or places normally accessible to the general public for public use, between the hours of midnight and 5:00 o'clock a.m. of any day of the week unless accompanied by a parent, legal guardian or other person exercising legal custody of such person.
- b) This prohibition shall not apply to those persons under the age of eighteen (18) who are en route by the most direct and accessible route between their home and their place of authorized employment, entertainment or place of attendance.
- c) "Authorized" as used in this section shall denote prior authorization by a parent, legal guardian or other persons exercising legal custody. (ORD863)

13-202 PARENT, GUARDIAN. It shall be unlawful for the parent, legal guardian or other person lawfully entitled to the custody of any person under the age of eighteen (18) to allow that person to be in violation of Section 13-201 of the Code of Ordinances of the City of St. Marys, Kansas. (ORD 863)

13-203 (R.O. 1924, Sec. 63 REPEALED BY ORD 911)

13-204 THROWING IN STREET. It shall be unlawful for any person to play at any game of ball or throw or bat any ball or other object in, or across any street or alley or in any public place or at or against any building. This section shall not apply to recreation areas set aside for the purpose of playing baseball or other games. (R.O. 1924, Sec. 68; Code 1983)

13-205 URINATING OR DEFECATING IN PUBLIC. It shall be unlawful for any person to urinate or defecate upon any public street, alley, sidewalk or while in any park, parking lot or other public place, or upon private property without the permission of the owner thereof, except in sanitation facilities provided. (ORD865)

13-206 CERTAIN NOISES PROHIBITED.

- a) It shall be unlawful for any person using, operating or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as disturbs the peace, quiet and comfort of the neighboring inhabitants or general public at any time with louder volume than is necessary for convenient hearing the person or persons who are in the room, vehicle or chamber in which the machine or device is operated and who are voluntary listeners.
- b) The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such manner as to be plainly audible at a distance of fifty (50) feet from the building or structure or twenty-five (25) feet from the vehicle in which it is

located shall be prima facie evidence of a violation of this section.

- c) Upon conviction of this section, the court shall impose a fine of not less than \$100.00, nor more than \$499.00. Upon a second conviction, within a three (3) year period, the Court shall impose a fine of not less than \$200.00, nor more than \$499.00.
- d) Persons shall mean any individual and/or the parents or custodian of any individual under the age of 18 who is living with the parents or custodian. (ORD1073/060397)

13-207

PICKETING OF RELIGIOUS EVENTS

Definitions.

- a) The following words and phrases, when used in this section, shall have the meanings respectively ascribed to them: “Announced religious event” means a religious event regarding which the public has been provided notice of the beginning time and of the duration or ending time of such event by the conspicuous posting of a sign on the property where the event is to be held or by announcement in a newspaper regularly printed on at least a weekly basis within the city or by other official publications including but not limited to the official website of the house of worship or the official bulletin of the same.
 - 1. “Focused picketing” means standing or sitting or walking in a repeated manner past or around a house of worship, by one or more persons while carrying a banner, placard, or sign.
 - 2. “House of worship” means any church, synagogue, mosque, or other structure that is regularly used for the exercise of religious beliefs.
 - 3. “Religious event” means any scheduled worship service, wedding, funeral rite, memorial service for the dead, or other observance of a religious sacrament, ritual, ceremony or celebration that takes place at a house of worship or on the property where a house of worship is situated.

Unlawful Acts.

- b) It is unlawful for any person to engage in focused picketing, during the time period from one-half hour prior to the beginning time of an announced religious event until one-half hour after the ending time of the event, on public property at any of the following locations:
 - 1. On the sidewalk adjoining the property on which a house of worship is situated; or
 - 2. In the street or roadway adjoining or adjacent to the property on which a house of worship is situated; or
 - 3. On the public area between the house of worship and an adjoining or adjacent street or roadway, including but not limited to the curb, drainage, or area between the street and sidewalk (if a sidewalk exists) commonly referred to as the “parking” or “easement”; or
 - 4. On any public property within 50 feet of the property line on which a house of worship is situated, if any entrance to the house of worship is located on that side of the property.
 - 5. Penalty.
- c) Any person violating this section may be punished by:
 - 1. A fine of not more than \$499.00;
 - 2. Imprisonment in jail for not more than 179 days; or
 - 3. Both such fine and imprisonment not to exceed the limits set

out in subsections (a) and (b) of this section.
(ORD1260/061813)

13-208

PROHIBITING THE HUNTING OF WILDLIFE

- a) It is unlawful and punishable as provided under this ordinance for any person to kill, shoot at, or otherwise hunt wildlife in the City of St. Marys with a handgun, shotgun, rifle, bow and arrow, or any other weapon or means whatsoever.
- b) Any person found guilty of violating Section (A) of this ordinance shall be fined not less than \$1 or more than \$500.00. Any person found guilty of violating Section (A) of this ordinance for a second offense, and every offense thereafter, shall be fined not less than \$501 or more than \$750.00, or imprisonment for not more than 30 days, or both fine and imprisonment. (ORD1262/082013)

CHAPTER XIV. PUBLIC PROPERTY

- Article 1. Public Use Regulations
- Article 2. Rental Policies/User Fees Established
- Article 3. Street and Park Trees
- Article 4. Park/Recreation Department
- Article 5. Golf Course Advisory Board

ARTICLE 1. PUBLIC USE REGULATIONS

- 14-101 DEFINITION. Public grounds shall include city buildings, city parks and playgrounds, and any other property or grounds leased by the city, whether located within or outside the city limits.
- 14-102 RULES AND REGULATIONS. The St. Marys City Commission (governing body) is authorized to adopt suitable rules and regulations governing the use of all public grounds of the city and the facilities thereon which are open and available to the general public. Such rules and regulations shall fix the conditions under which the ground and facilities may be used and the charges, where charges are authorized, as established and amended by Resolution, and paid to the city for such purposes. The governing body may, in accordance with sound public policy, grant permission for the use of public grounds or facilities for such purposes as may not be inconsistent with the use for which such grounds or facilities were acquired and made available for public use by the city.
- 14-103 TRASH. It shall be unlawful for any person to throw or deposit in or upon any public grounds any paper, rubbish, bottles or other trash. The trash and refuse resulting from the use of public grounds and facilities shall be placed in trash barrels provided for such use.
- 14-104 DAMAGE PLANTS, PROPERTY.
- a) It shall be unlawful for any person or persons to pick, cut, break, or otherwise remove or injure any flower, plant, shrub, tree, root, or bulb planted or growing upon any public property. This subsection does not apply in the case where a property owner is maintaining landscaping on city property immediately adjacent to the property owner's property.
 - b) It also shall be unlawful for any person to walk or willfully step on or otherwise injure or deface any of the beds in which such plants or flowers shall be planted or growing or willfully mark, scratch, cut, write on, break or in any way injure or deface any of the fences, seats, benches, buildings, other property, or furniture or playground equipment placed or situated upon said public property.
- 14-105 PARK HOURS. It is hereby established that all parks of the city shall be open to the public between the hours of 6:00 a.m. and 11:00 p.m., inclusive. No person shall, without proper authority or permission, except when using the Railroad Park in order to comply with the city's Snow Route Ordinance, enter or be within the respective parks of the city between the hours of 11:00 p.m. and 6:00 a.m. inclusive. The parks that are currently covered are: Riverside Park, Railroad Park, and Flats Park (6th and Alma). Any subsequently added parks shall have the same times of operation.
- 14-106 PUBLIC GROUNDS; HOURS; RESTRICTIONS. Specifically designated

public grounds shall have restricted-use hours as approved by the governing body. Restricted-use public grounds shall be identified by appropriate signs installed and maintained by the city that state the use restrictions. It shall be unlawful for any person to fail or refuse to comply with any such sign or signs restricting the use as posted.

ARTICLE 2. RENTAL POLICIES / USER FEES ESTABLISHED

14-201 SWIMMING POOL RATES. Rates for the swimming pool are as established by Resolution of the governing body. A copy of this Resolution shall be posted at the swimming pool in a location for public viewing.

14-202 GOLF COURSE RATES. Rates for the golf course are as established by Resolution of the governing body. Season passes, cart path, and cart shed rates are assessed annually, based upon date of purchase (12 consecutive months). A copy of this Resolution shall be posted in the club house in a location for public viewing.

- a) A season pass for single and family rates and cart shed participants may be paid in full or on a 3-month payment plan with 1/3 down, 1/3 due thirty (30) days after the first payment and 1/3 due sixty (60) days after the first payment.
- b) If a pass holder fails to pay within said time, they will be required to pay regular fees to continue to play, until the season pass has been paid in full.
- c) Season passes purchased after August 1st must be paid in full at the time of purchase.
- d) Season pass holders, with a cart in the cart shed, must make a season pass payment by the 1st day of March. If a pass holder (with a cart in the cart shed), fails to make the March 1st payment, the city manager may remove the pass holder's cart from the shed after notice is given to the pass holder.
- e) The Club House Manager determines prices for merchandise and concessions. The sale of merchandise, concessions, and cart rental fees are subject to sales tax.
- f) Season Passes cannot be prorated.
- g) Tournament Fees are on a per event basis and are as established by Resolution of the governing body:
 1. One half day rental is either 7:30 a.m. to 1:00 p.m., or 1:00 p.m. until closing.
 2. A full day rental is 7:30 a.m. until closing, as determined by the club house manager.
 3. Tournament rental fees, city portion of the cart rental fees, and all other fees may only be waived by the governing body.
- h) Cart Rental Rules:
 1. The driver of a cart must be at least 16 years old and possess a valid driver's license.
 2. Only two (2) individuals (of any age) per cart. A small child may not ride with two adults.
 3. Carts must be turned in one-half hour before sunset, as determined by clubhouse personnel.

14-203 CAMPER PAD RENTAL FEES. A daily fee, as established by Resolution of the governing body, shall be assessed for rental of camper pads in Riverside Park not to exceed a total of five (5) consecutive days without prior approval of the city manager. The fee is all inclusive of electricity, water, and the disposal of sewage at

the wastewater treatment plant.

14-204

BUILDING/FACILITY RENTAL. The following buildings or facilities are leased by contract agreement and/or rented per event to private individual(s) or properly organized groups: George J. Perry Memorial Armory, Golf Course Club House, and Gazebo (Riverside Park). Rental rates, security deposits, and all other fees or charges are as established by Resolution of the governing body. Rental policies for each are as follows:

- a) Armory. Rental for the Armory is subject to availability, payment of deposit, fees, licensing, and insurance verification, as identified on the rental application.
- b) Golf Course. Rental for the Golf Course club house is subject to availability, and payment of deposit and fees.
- c) Gazebo (Riverside Park). Rental applications for the Gazebo are available at city hall. Restrictions and requirements applying to the Gazebo are subject to availability, payment of deposit, fees, licensing, and insurance verification, as identified on the rental application.
- d) Library. The Pottawatomie/Wabaunsee Regional Library contracts a lease with the city renting the old Hill School gym facility located at 306 N. 5th for use as a library, and thus is not available for rental to the public.

14-205

CONTRACTED USES. The city has a concession stand for contracted services in Riverside Park. An agreement is entered into between the city and the contractor. Compensation for use of the facility is stipulated in the agreement along with the conditions of the agreement, approved by the city commission.

ARTICLE 3. STREET AND PARK TREES

14-301

DEFINITIONS. Street Trees: "Street Trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or public ways within the city. Park Trees: "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

14-302

STREET TREE SPECIES TO BE PLANTED. The following list constitutes the official Street Tree species for the City of St. Marys, Kansas. No species other than those included in this list may be planted as Street Trees without written permission of the Utility Superintendent. Whenever the city gives written permission to plant a tree other than one identified in the following list, the Zoning Administrator of the city shall maintain a copy of such written permission.

SMALL TREES	MEDIUM TREES	LARGE TREES
a. Apricot	Ash, Green	Coffeetree, Kentucky
b. Crabapple, Flowering	Hackberry	Maple, Silver
c. Golden Rain Tree	Honeylocust (thornless)	Maple, Sugar
d. Hawthorne	Linden or Basswood	Oak, Burr
e. Redbud	Oak, English	London plantree
f. Soapberry	Oak, Red	(Cottonwood Cottonless, male)
g. Lilac, Jap. Tree	Pagodatree, Japanese	
h. Peach, Flowering	Pecan	
i. Plum, Purpleleaf	Birch, River	
j. Serviceberry	Osage orange (male, thornless)	Persimmon
k. Poplar, white	Sassafras	

- 14-303 SPACING. The spacing of Street Trees will be in accordance with the three species size classes listed in Section 14-302 of this ordinance. No trees may be planted closer together than the following: Small Trees, 30 feet; Medium Trees, 40 feet; and Large Trees, 50 feet; except in special plantings designed or approved by a landscape architect.
- 14-304 DISTANCE FROM CURB AND SIDEWALK. The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in Section 14-302 of this ordinance. No trees may be planted closer to any curb or sidewalk than the following: Small Trees, 2 feet; Medium Trees, 3 feet; and Large Trees, 4 feet.
- 14-305 DISTANCE FROM STREET CORNERS AND FIREPLUGS. No Street Tree shall be planted closer than 35 ft. from any street corner, measured from the point of nearest intersecting curbs or curb lines. No Street Tree shall be planted closer than 10 feet of any fireplug.
- 14-306 UTILITIES. No Street Trees other than those species listed as Small Trees in Section 14-302 of this ordinance may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line, or other utility.
- 14-307 PUBLIC TREE CARE. The city shall have the right to plant, prune, maintain, and remove trees, plants and shrubs within the rights of way of the city, including all streets, alleys, avenues, lanes, and squares, and within any city easement, public ground or other city property, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. (This Section does not prohibit the planting of Street Trees by adjacent property owners providing that the selection and location of said trees is in accordance with Sections 14-302 through 14-311 of this ordinance.)
- 14-308 TREE TOPPING. It shall be unlawful as a normal practice for any person, firm, or city department to top any Street Tree, Park Tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Utility Department Superintendent.
- 14-309 PRUNING, CORNER CLEARANCE. 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 as per Chapter 1, Article 2.103.176 of the City of St. Marys Unified Development Code. Said 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, when it blocks the intersection sight triangle, or when interferes with visibility of any traffic control device or sign.
- 14-310 TREE REMOVAL ON PRIVATE PROPERTY. The city shall have the right to cause the removal of any dead or diseased trees on private property within the city when such trees constitute a hazard to life or property, a hazard to utility lines or

other public improvements, or harbor insects or disease which constitutes a potential threat to other trees within the city. The city manager shall notify the owners of such tree, by written notice, of the conditions which constitute a danger to life or property, a hazard to utility lines or other public improvements, and/or are a threat to other trees in the city, and shall direct that the condition be abated. The owner shall have seven working days to initiate action to correct the conditions specified in the letter or to request, in writing, a hearing with the city manager to demonstrate that the city manager's written notice did not accurately reflect the situation. The hearing shall take place within three working days of receipt by the city manager of the owner's letter requesting the hearing. If the hearing does not settle the matter to the satisfaction of the city and the tree owner, the owner has the option of taking legal action to settle the matter. If the owner contesting the city's action does not file a District Court action or initiate action to abate the situation within seven working days of the hearing, the city shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

14-311 REMOVAL OF STUMPS. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

14-312 INTERFERENCE WITH CITY UTILITY DEPARTMENT. It shall be unlawful for any person to prevent, delay, or interfere with the Utility Department, or any of its agents or employees, while such persons are engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, Park Trees, or trees on private grounds as authorized in this ordinance.

14-313 PENALTY. Any person violating any provisions of this ordinance shall be, upon conviction or a plea of guilty, subject to a fine not to exceed \$100.00.

ARTICLE 4. PARK/RECREATION DEPARTMENT

14-401 The governing body deems it advisable to combine the operation and administration of its park system and its recreation system so as to form a single department.

14-402 All property under the control or jurisdiction of either predecessor park or recreation commission shall be deemed under the control and jurisdiction of the City of St. Marys Park and Recreation Department (recreation department).

14-403 The governing body shall be authorized to establish such officers and employees necessary to perform the tasks and functions of the recreation department and such shall be designated as for all other employees of the city, to include designation of title, compensation and job description.

14-404 The city hereby establishes a Park and Recreation Advisory Board (advisory board). Such advisory board shall consist of five (5) members. The initial five members shall be those five individuals serving the recreation commission on the effective date of this ordinance and such terms shall continue as initially appointed. All subsequent appointments upon the expiration of the term of the individual shall be for a four (4) year period. Any vacancy occasioned shall be filled for the unexpired term of the individual for which the appointment is made. Appointments to the advisory board shall be made in conformance with the governing body's Appointment Res. No. 01-09.

14-405 The governing body shall refer all major proposals and propositions for the construction, reconstruction and improvements of public parks and recreation facilities including the acquisition of land for park purposes, the acquisition of major recreational equipment and facilities and the institution of new programs in the recreational systems to the advisory board. The advisory board shall make such reports and recommendations to the governing body on all such matters referred to it and any further recommendations as deemed advisable. When a matter described above is referred to the advisory board, all subsequent actions by the advisory board and the governing body shall be governed by the provisions of K.S.A. 12-1931, et. seq. as amended.

14-406 All fees, not otherwise established by ordinance, for recreation programs within the City of St. Marys, Kansas, shall henceforth be established by the advisory board and adopted as provided for in the Recreation Advisory Board manual and approved by Resolution of the governing body.

ARTICLE 5. GOLF COURSE ADVISORY BOARD

14-501. **CREATED.** That the city hereby establishes a golf course advisory board. The golf course advisory board shall consist of five (5) members, four (4) of whom must be and remain qualified electors of the City of St. Marys. The final member only has to be, and remain, a member of the St. Marys Public Golf Course. Appointments, upon the expiration of the term, shall be for a three (3) year period. Any vacancy occasioned shall be filled for the unexpired term of the individual for which the appointment is made. Appointments to the Board shall be made in conformance with the governing body's Appointment Resolution No. 01-09.
(ORD 1265/111913; ORD 1293/050316)

14-502 **POWERS AND DUTIES.** The governing body shall refer all major proposals and propositions for the construction, reconstruction, and improvements of the golf course including the acquisition of land for golf course purposes, the acquisition of major recreational equipment and facilities, and the institution of new programs for the golf course to the advisory board. The golf course advisory board shall make recommendations relating to golf course rates, maintenance, management, and facilities. The golf course advisory board shall make such reports and recommendations to the governing body on all such matters referred to it and any further recommendations as deemed advisable.

CHAPTER XV. STREETS AND SIDEWALKS

Article 1. General Regulations

Article 2. Sidewalk Standards

ARTICLE 1. GENERAL REGULATIONS

- 15-101 OBSTRUCTING SIDEWALKS.
- a) It shall be unlawful for any person to construct any step or steps or other obstruction, whether temporary or permanent or to store or leave any implements, containers, merchandise, benches, chairs or display cases on any sidewalk or other public ways in the city or to obstruct the same longer than is necessary for the loading or unloading of any such article or object.
 - b) The governing body may authorize the granting of temporary permits in connection with a building or moving permit for limited times to the owner of property abutting on any sidewalk to use or encumber such sidewalk or public way during the construction of any building or improvement thereon. No such permit shall be used for such purpose until plans for warning and safeguarding the public during such use of sidewalks shall have been approved by the city manager. (Code 1983)
- 15-102 OBSTRUCTIONS IN STREETS OR SIDEWALKS. It shall be unlawful for any person to place or throw in or on any street, alley or sidewalk any glass, tacks, bottles, wires or other dangerous objects that might injure any person or damage any vehicle while passing over the same. (R.O. 1924, Sec. 51; Code 1983)
- 15-103 BARRICADES. It shall be the duty of every person having charge of any construction or excavation in or adjacent to any street or sidewalk to cause such construction, excavation or obstruction to be securely guarded by barricades from one-half hour after sunset to one-half hour before sunrise to illuminate such excavation or obstruction with warning lights sufficient in number and so placed as to show the full extent thereof. (Code 1983)
- 15-104 TAMPERING WITH BARRICADES. 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 or sidewalk to guard and warn the traveling public of any construction work thereon or adjacent thereto. (Code 1983)
- 15-105 UNFINISHED PAVEMENT OR SIDEWALKS. 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 1983)
- 15-106 PETROLEUM PRODUCTS IN STREET. It shall be unlawful for any person 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 1983)
- 15-107 BURNING IN STREETS. It shall be unlawful for any person to accumulate or burn any leaves, trash or any other combustibles in or upon any street, alley or public way within the city which shall have been improved by any concrete or brick or other

permanent pavement of any kind. (Code 1983)

15-108 SNOW, ICE REMOVAL. All owners or occupants of all lots within the corporate limits of the city are required to remove or cause to be removed all snow and ice from the sidewalks in front of the respective properties owned or occupied by them within 12 hours after the falling of snow on the sidewalks has ceased. (R.O. 1924, Sec. 196)

15-109 SAME: REMOVAL BY CITY. In case any person shall fail to remove the snow and ice as required by section 15-108, the city manager is authorized to cause the snow and ice to be removed. The city manager shall report the expense of such removal to the city clerk who shall cause the amount to be levied upon the lot or lots abutting upon the sidewalk from which the snow and ice has been removed. The cost shall be certified to the county clerk and collected in the same manner as other taxes. (R.O. 1924, Sec. 197)

ARTICLE 2. SIDEWALK STANDARDS

15-201 SIDEWALKS GENERALLY; SPECIFICATIONS.

- a) All sidewalks in the City of St. Marys shall be constructed, repaired, and reconstructed according to the following standards:
- b) All sidewalks constructed or reconstructed in any residential zone, as defined by the zoning laws of the City of St. Marys, shall be a minimum of four feet in width by four inches in thickness, whereas all other sidewalks constructed or reconstructed in all other zones, according to the zoning laws of the city, shall be a minimum of five feet in width by four inches in thickness. Where a sidewalk crosses an existing driveway, the thickness must be at least six (6) inches. However, when a repair is made, regardless of zone, it is allowed to match the existing sidewalk width dimensions. Any variation must be approved by the city manager or an agent of same.
- c) Provisions relating to the cement specifications for sidewalks shall be as follows:
 1. Wire mesh, or other suitable reinforcement, is required in all sidewalks;
 2. Expansion/contraction joints are required every fifty (50) feet or as necessary;
 3. Sidewalks must be edged, have crack grooves every 5 feet, and have a broomed finish. Provisions relating to temporary methods that the City Commission may establish to assist property owners in repairing or reconstructing their sidewalks are as follows:
 4. Cost share program(s), as established by resolution;
 5. Use of city employees, and city equipment, as approved by motion. Note: Construction of sidewalks in all cities is governed by K.S.A. 12- 1801:1816; see general improvement and assessment law, Chapter 12, Article 6a, Kansas Statutes Annotated, as amended. (ORD1277/070715)

15-202 SIDEWALKS TO BE BUILT ON GRADE ESTABLISHED BY THE CITY. All sidewalks constructed or reconstructed in this city shall be constructed on the guide established by the city. (Code 1983)

15-203 SIDEWALKS CONSTRUCTED. All sidewalks ordered constructed,
Chapter 15. Page 2 of 3

reconstructed or repaired by the governing body of this city shall be constructed under the supervision of the city engineer or his or her authorized representative. Any existing sidewalk currently in place at the time of this ordinance shall not be permanently removed without written permission by the governing body. (ORD980/052191)

15-204

PROCEDURE. The governing body may order in a new sidewalk when in its judgment the same is necessary or it may order the same in upon receipt of a petition signed by 10 citizens of this city. It shall be the duty of the city clerk to serve written or printed notice or cause such a notice to be served on the owner or authorized agent for the owner of the property in front of which or adjacent to which the new sidewalks have been ordered constructed or sidewalks have been ordered reconstructed or repaired. If the sidewalk is not constructed within the time provided in the notice the same shall be done by the City of St. Marys and the cost thereof levied against the property and certified to the county clerk to be collected the same as other taxes are collected. Notice shall be served on a nonresident property owner by publication in the city's official newspaper when the address of the owner or agent is unknown to the city clerk. (R.O. 1924, Sec. 193; Code 1983)

15-205

SAME; CONTRACTORS TO GIVE BOND. Whenever the street superintendent is unable to build any or all sidewalks which it becomes his duty to build, the same may be contracted for by the city to the lowest responsible bidder. Any person who shall contract to build sidewalks for the city shall give a good and sufficient surety bond that he or she will construct the sidewalk according to specifications and in a manner acceptable to the governing body or its authorized agent and maintain the same in good condition under the ordinary conditions for a period of one year from the completion of the work. (R.O. 1924, Sec. 194)

15-206

MAINTENANCE OF SIDEWALKS. It is hereby made the duty of the owner or occupant of any lot abutting upon any sidewalk used by the general public to keep such sidewalk free from accumulated snow and ice, to maintain such sidewalk in a condition that it is not unsafe or hazardous for the general public use, and to keep it free of any structure or obstacle so as not to obstruct the free travel along such sidewalk. Upon the failure of the owner or occupant of the lot abutting such sidewalk to comply with this section, and after reasonable notice, the city may fix, repair, reconstruct or remove all obstacles on such sidewalk and shall assess the cost of such work against the abutting property owner or occupant as a special assessment. (ORD980/052191)

CHAPTER XVI. TRAFFIC

Article 1. Standard Traffic Ordinance

Article 2. Local Regulations

Article 3. Bicycles

ARTICLE I. STANDARD TRAFFIC ORDINANCE

16-101

INCORPORATING STANDARD TRAFFIC ORDINANCE.

- a) There is hereby adopted and incorporated by reference a publication for the purpose of regulating traffic within the corporate limits of the city of St. Marys, Kansas, that is known as the "Standard Traffic Ordinance for Kansas Cities," 45TH Edition, 2017, prepared and published by the League of Kansas Municipalities, Topeka, Kansas, except such articles, sections, parts or portions as are hereafter omitted, deleted, modified, or changed. Not less than three copies of said Standard Traffic ordinance shall be marked or stamped "Official Copy as adopted by Ordinance No. 1306" with all sections or portions thereof intended to be changed or added shall be incorporated by reference and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours. The police department, municipal judge and all administrative departments of the city charged with enforcement of this article shall be supplied, at the cost of the city, such number of official copies of such Standard Traffic ordinance, similarly marked, as may be deemed necessary.
- b) Section 51 of the above identified "Standard Traffic Ordinance for Kansas Cities" 45TH Edition, 2017, is hereby amended to read in its totality as follows:
 1. Section 51. U Turns & J Turns; Where Prohibited.
 2. U- Turns: The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district, when posted, nor upon any other street unless such movement can be made in safety without interfering with other traffic.
 3. J-Turns: It shall be unlawful for the driver of any vehicle to cross the centerline of any street in the business district and angle park on the opposite side of the street. It shall be unlawful for the driver of any vehicle to back from an angle parking in such a fashion as to proceed forward on the opposite side of the street from such angle parking.
- c) Sections of the above identified "Standard Traffic Ordinance for Kansas Cities" 44TH Edition, 2016 applicable to work-site utility vehicles, micro utility trucks, all-terrain vehicles and golf carts are hereby amended to read as follows:
 1. DEFINITIONS. As used in this ordinance, 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. "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 non-highway tires, and having a seat to be straddled by the operator. As used in this Subsection, "non-highway tire" means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 14 inches or less.
- d. "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 four persons, including the driver.

2. OPERATION OF WORK-SITE UTILITY VEHICLES.

- a. Work-site utility vehicles may be operated upon the city streets, lanes and alleys within the corporate limits of the city.
- b. No work-site utility vehicle shall be operated on any city street, lane or alley between ½-hour before sunrise and ½-hour after sunset unless such vehicle is equipped with lights as required by law for motorcycles. No work-site utility vehicle shall be operated on any interstate highway, federal highway or state highway, other than to cross.
- c. Every person operating a work-site utility vehicle on the city streets, lanes and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law, including speed limits, yield signs, stop signs, road lane, as well as alcohol restrictions.

3. OPERATION OF MICRO UTILITY TRUCKS

- a. Micro utility trucks may be operated upon the city streets, lanes and alleys within the corporate limits of the city.
- b. No micro utility truck shall be operated on any public highway, street, road or alley between ½-hour before sunrise and ½-hour after sunset, unless such truck complies with the equipment requirements as required by law for any motorized vehicle. No micro utility truck shall be operated on any interstate highway, federal

highway or state highway; provided, however, that the provisions of this subsection shall not prohibit a micro utility truck from crossing a federal or state highway.

- c. Every person operating a micro utility truck on the city streets, lanes and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law, including speed limits, yield signs, stop signs, road lane, as well as alcohol restrictions.

4. OPERATION OF ALL-TERRAIN VEHICLES..

- a. All-terrain vehicles may be operated upon the city streets, lanes and alleys within the corporate limits of the city; provided, however, that no all-terrain vehicle shall be operated on any interstate highway, federal highway or state highway, other than to cross.
- b. No all-terrain vehicle shall be operated on any city street, lane or alley between ½-hour before sunrise and ½-hour after sunset unless equipped with lights as required for motorcycles.
- c. Every person operating an all-terrain vehicle on the city streets, lanes and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law, including speed limits, yield signs, stop signs, road lane, as well as alcohol restrictions.
- d. 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 a 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.
- e. 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.
- f. 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.
- g. 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.

5. SAME; OPERATION OF ALL-TERRAIN VEHICLES; EQUIPMENT REQUIRED OPERATOR AND RIDERS.

- a. No person under the age of 18 years shall operate or ride upon an all-terrain vehicle unless wearing a helmet which complies with minimum guidelines established by the National Highway Traffic Safety Administration pursuant to the national traffic and motor vehicle safety act of 1966 for helmets designed for use by motorcyclists and other motor vehicle users.

- b. No person shall operate an all-terrain vehicle unless such person is wearing an eye-protective device which shall consist of protective glasses, goggles or transparent face shields which are shatter proof and impact resistant, except when the all-terrain vehicle is equipped with a windscreen which has a minimum height of 10 inches measured from the center of the handlebars.
6. OPERATION OF GOLF CARTS.
- a. Golf carts may be operated upon the city streets, lanes and alleys within the corporate limits of the city; provided, however, that no golf cart may be operated upon any city street, lane and alley with a posted speed limit in excess of 30 miles per hour. No golf cart shall be operated on any interstate highway, federal highway or state highway; provided, however, that the provisions of this subsection shall not prohibit a golf cart from crossing a federal or state highway or a street or highway with a posted speed limit greater than 30 miles per hour.
 - b. No golf cart shall be operated on any city street, lane or alley between ½-hour before sunrise and ½-hour after sunset.
 - c. Every person operating a golf cart on the city streets, lanes and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law, including speed limits, yield signs, stop signs, road lane, as well as alcohol restrictions.
7. SAME; VALID DRIVER'S LICENSE REQUIRED; PENALTY.
No person shall operate a work-site utility vehicle, micro utility truck, all-terrain vehicle or golf cart on any city street, lane or alley within the corporate limits of the city unless such person has a valid driver's license. Violation of this section is punishable as per Section 12 of this ordinance.
8. SAME; INSURANCE REQUIRED; PENALTY.
- a. Every owner of a work-site utility vehicle, micro utility truck, all-terrain vehicle or golf cart shall provide proof of liability coverage in accordance with Section 200 of the Standard Traffic Ordinance, and amendments thereto, and the Kansas Automobile Injury Reparations Act, K.S.A. 40- 3101, et seq., and amendments thereto that specifically provides such coverages for the vehicle.
 - b. All provisions of Section 200 of the Standard Traffic Ordinance, and amendments thereto, including penalty provisions, shall be applicable to all owners and operators of work-site utility vehicles, micro utility truck, all-terrain vehicle or golf cart.
9. SAME; REGISTRATION AND LICENSE; FEE; APPLICATION; INSPECTION; PENALTY:
Before operating any work-site utility vehicle, micro utility truck, all-terrain vehicle or golf cart on any city street, lane or alley within the corporate limits of the city, the vehicle shall be registered with the police department 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 shall be furnished at the time of application for registration. The annual registration fee for a work-site utility vehicle micro utility truck, all-terrain vehicle or golf cart, shall be \$25.00. The full amount of the license fee shall be due by April 1st of every year. New licenses (not renewals) shall be prorated by month. Late renewals shall pay the full license fee regardless of when the license is renewed. The license issued herein is not transferrable.

10. SAME; ROADWAYS LANED FOR TRAFFIC.

- a. All vehicles listed are entitled to full use of a lane, and no motor vehicle shall be driven in such a manner as to deprive any all-terrain vehicle of the full use of a lane. This subsection shall not allow all-terrain vehicles to be operated two (2) abreast in a single lane.
- b. The operator of an all-terrain vehicle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.
- c. No person shall operate an all-terrain vehicle between lanes of traffic or between adjacent lines or rows of vehicles.
- d. Subsections (b) and (c) shall not apply to police officers in the performance of their official duties.

11. SAME; CLINGING TO OTHER VEHICLES PROHIBITED.

No person riding upon any of the vehicles listed shall attach himself, herself or any of the vehicles listed to any other vehicle on a roadway.

12. SAME; PENALTIES. A violation of any provision in sections (2) through (11) shall be deemed an ordinance traffic infraction or misdemeanor. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201 of Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the city may then have in effect.

(ORD1100/120799;ORD1126/120401;ORD1136/110502;ORD1144/091603;ORD153/092104;ORD1169/092005;ORD1184/091906;ORD1200/090507;ORD1212/091608;ORD1230/100609;ORD1236/090810;ORD1246/090711;ORD1252/090512;ORD1271/090314;ORD1274A /111814; ORD1275/111814; ORD1281/091515; ORD1297/081616; ORD1306/080117)

16-102 THROUGH STREETS. Repealed by Ordinance 1211/050608

16-103 Repealed by ORD No 1120.

16-104 PARKING PROHIBITED AT ALL TIMES ON CERTAIN STREETS. When signs are erected giving notice thereof no person shall at any time park a vehicle upon any of the described streets or parts of streets: Bertrand Avenue from the east

entrance at Second Street to the east corporate limits.

16-105 TRAFFIC REGULATIONS ON PRIVATE PROPERTY. Whenever the person in possession or control of any private property used by the public for purposes of vehicular traffic by permission of the owner, shall cause to be posted at each entrance thereto a permanently lettered clearly legible sign with the following legend:

"TRAFFIC REGULATIONS OF THE CITY OF ST. MARYS ENFORCED ON THIS PROPERTY. SPEED LIMIT 12 M.P.H." (OR AS POSTED)

Then such private property shall thereafter be deemed to be under the traffic regulations of the City as provided by law.

16-106 BRIDGE - WEIGHT LIMITS FIXED. No vehicle having a gross weight over six thousand (6,000) pounds shall be operated upon the bridge at the east entrance to Seventh Street at the intersection of Seventh Street and Durink Street when signs giving notice thereof are erected upon or adjacent to said bridge.

16-107 ONE-WAY TRAFFIC IN ALLEYS. The following alleys shall be designated as one-way traffic:

EASTBOUND -The alley between Bertrand (US24) and the Railroad tracks between 5th and 6th streets will be designated one-way for eastbound traffic. All traffic must exit eastbound onto 5th street. (Except for designated vehicles i.e., Emergency Vehicles and Trash Truck.)

WESTBOUND - The alley between Bertrand (US24) and the Railroad tracks (Railroad Park) between 6th and 7th streets will be designated one-way for westbound traffic. All traffic must exit westbound onto 7th Street. (ORD 1065/110596; ORD1291/02162016)

16-108 VEHICLE WEIGHT RESTRICTIONS ON RESIDENTIAL STREETS.

a) All vehicles and trailers of gross weight in excess of 30,000 pounds or licensed for legal weight of 30,000 pounds or greater, shall be prohibited upon all public streets within the City of St. Marys, except for the following:

1. Sixth Street and Bertrand Avenue;
2. Fitzsimmons Road and Jesuit Lane;
3. Mission Street from 6th street west to 8th Street;
4. Eighth and Seventh streets from Bertrand Ave to Mission street.

b) All utility, municipal and governmental vehicles are exempted from the above prohibition as well as any individual or company contracting for services for such municipality or governmental unit.

c) Any vehicle providing service or delivery shall be exempt if a delivery or pickup is being made within the city limits of St. Marys.

d) Any tractor without a trailer will be allowed on residential streets, regardless of tagged weight. (ORD1000/051992)

16-109 SAME; VIOLATION. Any individual violating the above prohibition shall be subject to a fine not less that \$50.00 nor greater that \$500.00 and shall be liable for any damage caused by the violation thereof and court costs of the Municipal Court of the City of St. Marys, Kansas. (ORD1000/051992)

ARTICLE 2. LOCAL REGULATIONS

16-201 Repealed by Ordinance No. 1153

- 16-202 CARELESS DRIVING.
- a) No person shall operate any motor vehicle, bicycle, or motor bicycle upon any street or public property heedlessly, or without due caution and circumspection or at a speed, or in a manner so as to damage or endanger or be likely to damage or endanger any person or property.
 - b) Every driver shall remain alert and give full attention to the safe operation of his or her vehicle while it is in motion, and shall not engage in any activity which interferes with the safe control of his vehicle. (ORD 819, Sec. 1)
- 16-203 SAME; VIOLATION. Every person convicted of a violation of section 16-202 shall be punished as follows:
- a) First conviction, a fine of not more than \$100 or imprisonment for not more than 10 days.
 - b) For a second conviction within one year after a first conviction, a fine of not more than \$200 or imprisonment for not more than 20 days or by both such fine and imprisonment.
 - c) For a third conviction within one year of the first conviction, a fine of not more than \$500 or imprisonment for not more than six months, or by both such fine and imprisonment.(ORD 819, Sec. 2)
- 16-204 Repealed by Ordinance No. 842
- 16-205 Deleted April 1, 2014 by Ordinance No. 1269.
- 16-206 NOISE PREVENTION, JAKE-BRAKING. It is unlawful for the driver to use or cause to be used or operated within the city any mechanical exhaust device from the vehicle, also known as jake-braking, resulting in the excessive, loud or unusual or explosive noise. (ORD1057/060496)
- 16-207 SAME; VIOLATION. Every person convicted of a violation of Section 16-206 shall be punished as follows:
- a) First conviction, a fine of not more than \$100 or imprisonment for not more than 10 days.
 - b) For a second conviction within one year after the first conviction, a fine of not more than \$200 or imprisonment for not more than 20 days or by both such fine and imprisonment.
 - c) For the third conviction within one year of the first conviction, a fine of not more than \$500 or imprisonment for not more than six months, or by both such fine and imprisonment. (ORD1057/060496)
- 16-208 EMERGENCY SNOW ROUTES. SECTION 1. That for purposes of this ordinance the following definitions shall apply:
- a) "Emergency Snow Route" shall mean and include Bertrand Avenue (US 24) from the west city limits to the east city limits, North Sixth Street (K63) from Bertrand Avenue to the north city limits, and South Sixth Street from Bertrand to the Transfer Station.
 - b) A "Snow Emergency" shall exist anytime when two (2) or more inches of snow, or 1/4" of ice, is forecasted to fall within a 24 hour period, by the National Weather Service, or when the St. Marys City Commission or City Manager so declare, and the emergency snow routes have not been plowed or otherwise cleared. The snow emergency ends when

the St. Marys City Commission or City Manager has declared the streets open and the snow emergency terminated.

- c) "Vehicle" means every device, licensed or unlicensed, upon or by which any person or property is or may be transported, whether such device be in running condition or not.

SECTION 2. Any vehicle parked on a street designated as an emergency snow route may be towed by the City of St. Marys, its employees, agents or designees, and all expenses associated with towing and/or storing said vehicle shall be paid by the owner thereof.

- a) Once a snow / ice emergency exists, the public must remove vehicles parked on the roadway within the city limits that have been designated as snow routes. Vehicles not removed shall be towed and the vehicle shall be released to the owner upon payment of all costs associated with the towing and storage and any fines or fees that maybe associated with the removal of the vehicle.
- b) Signage declaring the roadways as emergency snow routes shall be posted by the City, on the designated routes.

SECTION 3. Removal of vehicles.

- a) The City Manager, or designee, may have a vehicle removed from a location where a parking prohibition is in effect when:
 1. The vehicle is parked in any location where a parking prohibition is in effect pursuant to this ordinance;
 2. The vehicle is stalled and the owner has not taken immediate action to have the vehicle removed to a place where there is not a parking prohibition in effect;
 3. The vehicle is parked in violation of any parking ordinance or provisions of law and is interfering with or about to interfere with snow removal or similar operations;
 4. Prior to the vehicle being removed an attempt will be made to contact the owner/operator of the vehicle. If contact is made the owner/operator will have 30 minutes to have the vehicle removed before the vehicle is towed;
 5. The City of St. Marys, or its employees, shall not be liable for damages occasioned by reason of the towing, removal or storage of such vehicle.

16-209

SAME; VIOLATION. The penalty for violating this ordinance shall be as follows: \$25.00 for the first occurrence, \$50.00 for the second occurrence and \$75.00 for the third and any subsequent occurrence within a twelve month period, plus court costs. (ORD1248/122011)

ARTICLE 3. BICYCLES

16-301

CARELESS OPERATION.

- a) No person shall operate any bicycle upon any street heedlessly, or without due caution and circumspection, or at a speed, or in a manner so as to endanger or be likely to endanger any person or property.
- b) Every rider shall remain alert and give full attention to the safe operation of his or her bicycle while it is in motion and shall not engage in any activity which interferes with the safe control of his or her bicycle. (ORD 751, Sec. 2)

16-302

BICYCLING AND SKATEBOARDING IN DOWNTOWN BUSINESS DISTRICT, OR UPON CERTAIN PUBLIC PROPERTY.

- a) It shall be unlawful to ride a bicycle or roller skates or riding in or by means of any coaster, toy vehicle, skateboard, or similar device, on the sidewalk in the business district of the City of St. Marys, Kansas, except where posted or while crossing a street on a crosswalk. However, nothing herein shall be constructed to prohibit an individual from walking or carrying any of the devices listed in this ordinance on the sidewalks adjacent to the streets in the business district or upon or within public property.
- b) For the purpose of this ordinance the business district will include the north and south sides of Bertrand Avenue from 4th Street to 8th Street except in the areas of residences in the 400 block. The east and west sides of 6th Street from Mission Street to Palmer Street, and the east and west sides of 5th Street from Mission Street to Palmer Street. Moreover, public property is defined as any property owned by the City of St. Marys, Kansas.
- c) When posted, it shall be unlawful to ride a bicycle or roller skates or riding in or by means of any coaster, toy vehicle, skateboard, or similar device, within or upon any shelter house, gazebo, basketball court, or tennis court at Riverside Park.
- d) Violation of any article of this section shall be punished as follows: the 1st offense: \$25, plus court costs; the 2nd and every subsequent offense: \$50, plus court costs. Moreover, it shall be unlawful for the parent, legal guardian, or other person lawfully entitled to the custody of any person under the age of eighteen (18) to allow that person to be in violation of Section 16-302 of the St. Marys Municipal Code, St. Marys, Kansas.
- e) If any child under the age of eighteen (18) years shall operate any of the devices listed in this ordinance in violation of the provisions, any police officer of the city may take possession of such device and take the same to the police headquarters in the city, and there keep the same until the parents or guardian of such child are notified and until arrangements are made by such parent or guardian to comply with the requirements of this chapter. (ORD911/050989; ORD1279/051915)

CHAPTER XVII. UTILITIES

- Article 1. General Provisions
- Article 2. Water Utility
- Article 3. Electric Utility
- Article 4. Sewer Utility
- Article 5. Solid Waste (Refuse)
- Article 6. Cross-Connection Control / Water Quality
- Article 7. Conservation Plan

ARTICLE 1. GENERAL PROVISIONS

17-101

REGULATIONS. The furnishing of utility service(s) to its customers, by the City of St. Marys, shall be governed by the regulations set out in this chapter, and the rates and fees as established and amended, from time-to-time, by resolution of the St. Marys City Commission, and shall constitute and be considered a part of the contract with every person, firm, company, corporation, governmental agency, political subdivision, or legal entity, hereinafter called the customer, who is supplied with utility service(s), and all who accept and use said service(s), shall be held to have consented to be bound thereby.

17-102

DEFINITIONS. The following words and terms as used in this chapter shall be construed as follows, unless the context specifically indicates otherwise:

- a) Abandoned Service. Shall mean a service no longer safe, compliant with applicable codes, or otherwise unsuitable for use under city codes.
- b) Applicant. Any person, firm, company, corporation, governmental agency, political subdivision, or legal entity that is applying for utility service(s).
- c) Credit Worthy Customer. (This subsection is reserved.)
- d) City. Shall mean the City of St. Marys, Kansas.
- e) City Manager. Shall mean city manager, or city manager's designee.
- f) Commercial Building. Shall mean any structure designed or used for business purposes. In addition to monthly consumption charges, each commercial building shall be subject to one minimum monthly base charge, per meter, regardless of the number of commercial tenants within the building, for each required utility service(s).
- g) Customer. Shall mean the utility service account holder(s) of record.
- h) Delinquent Account. An account that has non-payment of service fees or miscellaneous charges, in accordance with Section 17-105.
- i) Dwelling. A building, or portion thereof, designed or used primarily for human habitation.
- j) Indirect Connection. A utility service connection, or refuse container, that serves more than one dwelling or customer.
- k) Minimum Monthly Base Charge. The minimum amount due every month for each utility or service, as denoted in each applicable article of this chapter. The Minimum Monthly Base Charge does not include any usage amount.
- l) Miscellaneous Charges. Consists of, but shall not be limited to, any and all fees due the city by the customer for use of the golf course, swimming pool, recreation program, animal impound, grass mowing, facility rentals (such as armory or gazebo, etc.), street work, alley work, sidewalk work, curbing repair, collection costs, administrative costs, or any labor, materials, or supplies.
- m) Multi-Family Dwelling. A building containing two (2) or more dwellings. Each dwelling shall provide complete independent living facilities for one or more persons, to include: permanent provisions for living, sleeping, eating, cooking

(such as a microwave oven or hot plate), and sanitation. The connection to the municipal utility system may be direct or indirect, and as a result each dwelling may not have an individual service meter(s) or trash container. In addition to monthly consumption charges, each dwelling shall be subject to a minimum monthly base charge for each required utility service(s). However, the city's refuse contractor will determine if each dwelling in a multi-family structure will be subject to individual minimum monthly base charges.

- n) Municipal Utility System. The Municipal Utility System consists of all of the above and below ground mains, laterals, pipes, hydrants, wires, cables, poles, treatment facilities, wells, lift stations, tanks, substations, or appurtenances there to, which are used by the city to convey, distribute, carry away, or otherwise provide utility service(s), as listed in Section 17-102(v).
- o) New Connections. Are described as new, upgraded, or the replacement of an abandoned service.
- p) Personal Service. Shall mean notification of the customer and/or occupant by leaving written notice at the premises (e.g. door hanger.)
- q) Premises. Shall mean a tract of land.
- r) Residential. Shall mean all types of building configurations designed or used primarily for human habitation.
- s) Seasonal Customer. Shall mean a utility service account holder of record, whose utility service(s) are voluntarily discontinued for at least three consecutive billing periods.
- t) Single-Family Dwelling. A building designed primarily for human habitation containing one (1) dwelling and intended for occupancy by one (1) family. In addition to monthly consumption charges, each single-family dwelling shall be subject to a minimum monthly base charge for each required utility service(s).
- u) Special Benefit District. A legally defined area that benefits from certain works or improvements.
- v) Utility Service(s). Includes water, sewer, electrical power, and refuse service(s), as required in this chapter, and which are provided by the City of St. Marys or its contractor.
- w) Vacant Service. Shall mean any service suitable for use under city codes.
- x) Work Hours. For the purpose of this chapter only, regular weekday business hours are defined as Monday through Friday, from 8:00 a.m. until 5:00 p.m. Weekends are defined as Saturday and Sunday. Holidays are as listed in the employee handbook, or as approved by the St. Marys City Commission.

17-103

SERVICE CONNECTIONS REQUIRED. Every applicant desiring utility service(s) from the city shall first make application to the city manager, on a form furnished by the city, stating the full purpose for which the services are required. Upon approval, the applicant, or their authorized representative, shall be given a permit to connect to the municipal utility system and be supplied with utility service(s), in accordance with the regulations and rates set out in this chapter.

- a) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, excluding detached structures used exclusively for domestic storage, which are situated within the city and abutting on any street, alley, or right-of-way, in which there is now located utility service(s), is hereby required, at their own expense, to make connection to such utility service(s), unless such amenities are provided by an existing entity, such as a rural water or electric district. Moreover, the owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by making such connection(s).

- b) Each application for a connection permit shall be accompanied by payment of fees and/or costs, as per resolution of the St. Marys City Commission. Applications that are not accompanied by the fees and/or costs shall be considered incomplete and not processed.
- c) It is unlawful for any person to live in a structure within the city for more than ten (10) days that does not have utility service(s), if the city is capable of providing said utility services.
- d) When there is a reasonable basis to believe that someone has been living in a structure for more than ten (10) days, without utility service(s), the city manager is authorized to pursue said violation pursuant to the procedural, enforcement, abatement, and assessment provisions of the St. Marys City Code and/or the Unified Development Code. The city is also authorized to pursue any and all remedies to cease violation of this section, including injunctive relief in the district court.
- e) A request for any utility service(s) for property located within the city limits shall automatically constitute a request for refuse service, except as exempted in Section 17-516 and/or Section 17-517. Termination of the requested utility service(s) shall automatically terminate refuse service. The absence of public water and/or electric service shall not relieve any owner or occupant of any dwelling or any commercial structure, from the responsibility of complying with the provisions of this chapter.
- f) A request for water service constitutes a request for sewerage service, if sewerage service is available.
- g) When the connection to the sanitary sewage system is to a previously installed tap line, the customer may have the tap line inspected at their expense prior to making a connection. The liability for a proper connection to the city sewer shall be that of the customer. The policy established in this paragraph shall be prominently displayed on the sewer hookup application form. The customer shall be given a copy of the completed application form and the city shall keep the signed original in its permanent records.
- h) Nothing herein shall be interpreted as abrogating or limiting any other city code related to residing in a structure within the city.

17-104

APPLICATION FOR CONNECTION / SERVICE.

- a) Any applicant desiring a connection or to establish service with the municipal utility system shall apply in writing to the city manager, on a form furnished by the city for that purpose, for a permit to make the connection.
- b) The connection application shall include the following, if applicable:
 - 1. The street address of the property to be served.
 - 2. The size of tap required.
 - 3. The size and kind of water service pipe to be used.
 - 4. The size of service in amps and the voltage required.
 - 5. The point of proposed connection to the city sewer line.
 - 6. The full name of the owner of the premises to be served.
 - 7. The purpose for which the service(s) is to be used.
 - 8. Any other pertinent information required by the city manager.
 - 9. The signature of the owner, owner's authorized agent or occupant of the premises to be served.
- c) Each application for a connection permit shall be accompanied by payment of fees and/or costs, as per resolution of the St. Marys City Commission.
- d) Each customer shall submit a completed service application for utility connection/service to the city manager, including fees and or costs as set by resolution of the St. Marys City Commission, on forms furnished by the city. Incomplete service applications, or applications that do not have the proper

fees, shall not be processed. Service application forms shall be approved by resolution of the St. Marys City Commission.

17-105

UTILITY BILLS/DELINQUENT ACCOUNTS. If any customer or person, except the United States or the State of Kansas, fails to pay the fees or charges for utility service(s), their utility service(s) shall be terminated, in accordance with Section 17-109.

- a) Every meter shall be read every month, on or about the 20th of each month, except in the case of inclement weather, as determined by the city manager, and records of such readings shall be kept for a period of five years.
- b) Collections for utility service(s) shall be made monthly.
- c) Utility bills will be sent to customers on or about the 1st day of each month indicating the amount due for the most recent billing period, and any past due amount, and the customer shall be required to pay the utility bill in full by the 20th of the same month. If the 20th is not a business day for the city, payments are due on the next business day following the 20th.
- d) If the account is not paid in full by the date due, a late payment charge of five percent (5%) of the amount due shall be added to the delinquent amount and a second notice shall be mailed. Failure to pay the delinquent balance within ten (10) days, of the date of the notice, will begin the process of the termination of utility service(s). If the account remains delinquent, notice is given by personal service to the customer stating that payment by cash or money order must be received by 9:00 a.m. the next business day, or the utility service(s) will be disconnected. Payments received that are not in compliance with this subsection, shall be refused. However, if an account has been assessed a late payment charge, as described above, the account holder may submit a Fee Waiver Request Form to request the late payment charge be waived, if the following conditions are met:
 1. There has been at least one continuous year of account history.
 2. There have been no additional late payment charges or waivers within the previous twelve consecutive months on the account.
 3. The account is paid in full (less the late payment charge) at the time of application for the waiver.

If all conditions above are met, a one-time late payment waiver will be granted on that account. If an account is not eligible for a late payment waiver as described above, the account holder may be eligible for a one-time late payment waiver via the Auto Pay program, as described below:

1. Complete both the Auto Pay and Fee Waiver Request Form.
 2. There have been no waivers within the previous twelve consecutive months on the account.
 3. Commit to remaining in the Auto Pay program for at least one year.
 4. The account is paid in full (less the late payment charge) at the time of application for the waiver.
- e) Customers that cannot pay their utility bill by the date due on the second notice, as per subsection (d), and who contact the city manager prior to receiving personal service regarding account termination, may request an extension, not to exceed five (5) days from the disconnect date. Customers shall be limited to two such extensions during any calendar year.
 - f) If utility service(s) are disconnected, the customer will be required to pay, in cash, money order, or by credit card, the delinquent amount, plus the disconnection charges before utility service(s) will be restored (17-119). The customer will pay double the disconnection charge for service provided after regular weekday business hours.

- g) If at the time of application for utility service(s) the applicant has an outstanding balance for utility service(s), or miscellaneous charges, the application will not be processed until the outstanding balance, and miscellaneous fees are paid.
- h) Any incorrect utility billing discovered shall be given an adjustment up to the point in which the inaccuracy appears to have taken place, not to exceed the preceding six months of billing assessments.
- i) A customer has the right to inquire about any monthly billing charges. The customer may also request that a meter be reread, if they question the accuracy of the meter reading, or the meter as per Section 17-123. If the reading is found to be correct, the customer shall be assessed a service charge, in accordance with Section 17-118. If the reading is found to be incorrect, a new billing will be prepared and no service charge will be assessed. If the customer's account was enrolled in Auto Pay (ACH) and the payment has been processed, the adjustment will be processed for the next billing period.
- j) The city will include on the utility billing all fees and miscellaneous charges incurred by any customer for services and materials provided, which are unpaid, as per Section 17-102(l).
- k) Customers will be responsible for furnishing the city manager their correct address for billing purposes.

17-106 **COMBINED BILLING PROHIBITED.** Where service for a customer is measured through more than one meter, either at the same location or at two or more locations, the minimum monthly base charge for each utility service(s) shall be computed and billed for each service separately. There shall be no combining of minimum charges or consumption charges for billing purposes, except for refuse.

17-107 **PARTIAL SERVICE.** Bills will be rendered monthly as provided in Section 17-105. Accounts established prior to or after the most recent billing period will have prorated minimum monthly base charges, as determined by the remaining number days of service in the billing period. Consumption amounts are not prorated.

17-108 **RIGHT OF ACCESS.**

- a) It shall be unlawful for the owner or the occupant of property to allow any obstruction or debris of any kind to block any utility meter. It shall further be unlawful for any owner or occupant of property to allow animals to threaten the safety of authorized employees of the city while they are carrying out the duties set forth in this chapter.
- b) If the authorized employee of the city is unable to carry out any of the duties set forth in this chapter because of obstruction, debris or animals threatening said employee's safety, the owner and/or occupant of said property shall be notified to remove such obstruction, debris or animal. If the obstruction, debris or animal is not removed, the city may estimate the meter reading(s), as per Sections 17-221 and 17-324, and proceed to terminate service, by providing written notice to the owner and occupant of the property (17-109.b1).

17-109 **DISCONTINUANCE OF UTILITY SERVICES.**

- a) The city may discontinue or refuse a particular utility service(s) to any customer, without notice or hearing, for either of the following reasons:
 - 1) When the customer so requests.
 - 2) When it is determined by an employee of the city's utility, zoning, fire, or police departments that the continuance of a particular utility

service constitutes a dangerous condition, presenting a likely immediate threat to health or safety of persons, or to property on or near the customer's premises.

- b) The city may discontinue or refuse a particular utility service(s) to any customer, following notice to the customer, for any of the following reasons:
 - 1) When the customer refuses to grant, or conditions exist that prevent employees of the city access to equipment installed upon the premises of the customer for the purpose of inspection, meter reading, maintenance or replacement, as per Section 17-108.
 - 2) When the customer violates any code, ordinance, or resolution of the city pertaining to utility service(s), which violation adversely affects the safety of the customer or other persons, or the integrity of the municipal utility system.
 - 3) When the customer attempts, causes or permits unauthorized interference, diversion, theft, tampering, damage or use of utility service(s) or the municipal utility system situated or delivered on or about the customer's premises.
 - 4) When the applicant/customer misrepresents their identity or otherwise intentionally provides false information for the purpose of obtaining utility service(s) from the city.
 - 5) Nonpayment of utility bills and miscellaneous charges as provided in Section 17-105.

17-110

NOTICE; HEARING. A delinquency and termination notice shall be issued by the city manager within five (5) days after the delinquency occurs and mailed to the customer at their last known address, with a copy personally served to the occupant of the premises, if the occupant and the customer are not the same person. The notice shall state:

- a) The amount due, plus penalty;
- b) Notice that service will be terminated if the amount due is not paid within ten (10) days from the date of notice;
- c) Notice that the customer has the right to a hearing before the city manager, or designated hearing officer;
- d) Notice that the request for a hearing must be in writing and filed with the city manager no later than three (3) business days prior to the date of termination of service;
- e) Upon receipt of a request for hearing, the city manager shall advise the customer of the date, time, and place of the hearing which shall be held within three (3) business days following receipt of the request.

17-111

HEARING; 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 manager, unless the city manager was serving as the hearing officer. If the city manager finds that service should be terminated, an order shall be issued terminating service five (5) days after the date of the order. The customer shall be notified either in person or by mailing a letter to their last known address by certified mail, return receipt requested. However, if the order is made at the hearing in the presence of the customer, then no further notice need be given. The city manager has a right, for good cause, to grant an extension, not to exceed ten (10) days, for the termination of such service.

17-112

SAME; LIENS; COLLECTION.

- a) 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 miscellaneous charges may constitute a lien upon the property to which the utilities are furnished. The amount of the unpaid fees and/or miscellaneous charges may be certified by the St. Marys City Commission 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. The city may refuse the delivery of such utility service(s) as otherwise permitted by law until such time as such fees and miscellaneous charges are fully paid.

- b) The lien, described in subsection (a) shall not attach to property for unpaid utility fees or miscellaneous 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 such service is provided. (K.S.A. 12-808c).
- c) The city may pursue other collection methods for delinquent utility accounts, to include any miscellaneous charges, as permitted by law.

17-113 **COST OF METER AND MATERIALS.** The cost of a meter and the materials needed for installation, of any utility service(s), will be determined by the city manager and the utility supervisor on a case-by-case basis.

17-114 **INDIRECT CONNECTIONS.** Where there exists an indirect connection to the municipal utility system, the property owner, or owner's agent, shall establish water and sewer service in their name.

17-115 **INTERRUPT SERVICE.** The city reserves the right to interrupt utility service(s) for the purpose of making repairs or extensions to the system.

17-116 **PROVIDER OF SERVICE, NOT A GUARANTOR.**
a) The city does not guarantee to maintain any specific water pressure or voltage for the service and no complaint concerning water pressure or voltage shall give any right of claim against the city or its department(s).
b) The city shall be held blameless and free from liability in case of damage to property, appliances, articles, or materials being processed, manufactured or stored due to uncontrollable interruptions of service caused by lightning, voltage surges, storm damages, breaking of wires, poles, mains or appurtenances there to, or any other cause beyond the control of the city, which may cause an interruption of service.

17-117 **SERVICE CALLS.** All expenses incurred as a result of a service call shall be charged to the person making the request, except when the request relates to the repair of the municipal utility system.

17-118 **SERVICE CHARGES.** All service calls (e.g. door hanger, reread, trip charge, etc.) shall be assessed to the customer in the amount as established per resolution of the St. Marys City Commission, for any service provided by the city staff or crews. The customer will pay double the service charge for any service provided at a time other than regular weekday business hours.

17-119 **DISCONNECTION CHARGES.** All disconnection charges shall be assessed to the customer in the amount as established per resolution of the St. Marys City Commission, per meter.

17-120 **OTHER CHARGES.** For utility service(s), other than new connections as described in Section 17-205 (Water), Section 17-303 (Electric), and Section 17-403

(Sewage), a customer will be assessed a service charge based on the following applications:

- a) Whenever the city receives a request from a customer for utility service(s), to include certain administrative actions, a service charge will be assessed, in accordance with Section 17-118.
- b) A permanently disconnected service will have the meter(s) read and removed, with any usage, and disconnection fee, billed to the last known customer, as established per resolution of the St. Marys City Commission.
- c) Unless the premises are vacant, no service will be temporarily disconnected, for any period of time, except per subsection (d), refuse as per Section 17-516, or for repairs to the system by the city, or for approved customer needs.
- d) Customers fitting the seasonal classification, as per Section 17-102(s), may request that their utility service(s) be temporarily disconnected. Disconnection charges will be assessed per Section 17-119.

17-121 UTILITY DEPOSIT. As of the adoption of this code Utility Deposits will no longer be required. Current depositors shall have their deposit/interest applied to their Utility Bill.

17-122 METERS.

- a) All water and electrical power furnished to customers shall be metered. No service will be furnished at a flat rate, except that temporary flat rate service may be granted by written agreement with the city manager.
- b) All meters are and shall remain the property of the city and may be removed from the customer's premises at any time, with or without notice, for replacement, testing or repairing, or discontinuance of service.
- c) Meters shall be installed in a location easily accessible for reading. No meters shall be installed within a building, porch, or basement unless equipped with a remote reading device.
- d) The city's responsibility stops at the meter and any work necessary past the meter shall be the responsibility of the property owner.
- e) The city shall keep all meters in good repair and in proper working condition without cost to the customer, except that the customer shall be responsible for any damage done to meters, meter settings, and all appurtenances related thereto installed on their premises by malicious intent or from any other cause except ordinary wear, or storm damage. The customer shall be liable for the costs of replacing or repairing any meter, meter setting, or appurtenances related thereto so damaged.

17-123 SAME; TESTING.

- a) Meters shall be tested prior to being set and at any other time thereafter, if 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 customer will be assessed a service charge in accordance with Section 17-118, plus any additional costs the city incurred for the testing of the meter.
- b) Should the meter be found to be inaccurate, an adjustment may be given to the customer up to the point in which the inaccuracy appears to have taken place, not to exceed the preceding six months of billing assessments.

17-124 PROHIBITED ACTS. It shall be unlawful for any person to:

- a) Tamper, damage or meddle with any part of the municipal utility system as defined in Section 17-102(n), or any vehicle or apparatus, used to construct, repair, or maintain the municipal utility system.
- b) Make any connection to the municipal utility system of the city without a

written permit from the city.

- c) Reconnect service when it has been discontinued for nonpayment of a bill for service and/or miscellaneous charges.
- d) 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 or electrical power supplied by the city may be used or wasted without being metered.
- e) Turn any shutoff valve, meter, electrical breaker or switch, within the municipal utility system on or off, except by authorized city employees.
- f) No person or occupant of any building into which utility service(s) has been introduced shall be allowed to supply, give away, or otherwise redistribute utility service(s) to any other persons, firms, companies, corporations, governmental agencies, political subdivisions, or legal entities, from their service without having first obtained written permission from the city manager.

17-125

BAD CHECKS AND BANK DRAFTS.

- a) The city shall levy a charge, as established per resolution of the St. Marys City Commission, for all checks or bank drafts returned from the banks to the city for payment of municipal service(s) and/or miscellaneous charges, which are returned for any reason.
- b) If the city receives more than one (1) returned check or bank draft from a customer, in a calendar year, the customer is placed on a cash only basis for the next 12 consecutive months, during which time the city will only accept cash, credit cards, or a money order as payment from the customer. For the purposes of this chapter only, a credit worthy customer shall be defined as:
 - 1. A customer with no more than one late payment for all utility service(s) for each of the most recent twelve (12) consecutive months and no interruption of utility service for non-payment of those services, as well as the customer making payments to the city in full for the current amount due for their municipal utility service(s) in accordance with Section 17-105.
 - 2. Also, the customer shall not have more than one insufficient funds check/bank draft or any outstanding balances, for any miscellaneous charges.After the customer meets the requirements for being a credit worthy customer, the city will again accept checks or bank drafts from the customer as payment.
- c) Payments received for utility service(s) that violate subsection (b) shall not be processed.

17-126

PETTY CASH FUND. A petty cash fund in the amount of \$4,000 is established for the use of the General, Water, Electric, Sewer, Refuse, and Golf Course funds/departments for the purpose of paying postage, freight, temporary labor, and other expenses.

17-127

SAME; DEPOSITS. The petty cash shall be deposited in the regular depository bank of the city and paid out on the order of the city manager by checks which shall state clearly the purpose for which issued.

17-128

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 city manager for review and allowance of the amounts from the regular funds of the utilities. Warrants issued therefore shall be payable to the petty cash

fund and shall be deposited therein to restore the petty cash fund to its original amount.

17-129 REVENUES. All revenue derived from the utility service(s) charges shall be deposited in the treasury and credited to separate funds for each enterprise. Such revenues shall be used exclusively for the administration, betterments, depreciation, operation, maintenance, repair, replacement, extension, enlargement and obsolescence of the applicable facilities and equipment, and may be used to pay the principal of and interest on any bonds issued (or state revolving loan debt), on account of the applicable system, either general obligation or revenue bonds, or both, except bonds issued for any such project the cost of which is payable from special assessments.

17-130 PENALTY. Any person, firm, corporation, governmental agency, political subdivision, company, or legal entity violating any of the provisions of this chapter shall, upon conviction in municipal court, be punished by a fine not less than \$100 nor more than \$1,000, per violation, plus court costs. Each day that a violation is continued shall be considered as a separate and distinct violation and may be prosecuted as such. In addition to the foregoing penalties, the city shall have the right to discontinue utility service(s) as provided in Section 17-109, or to remove or close utility service(s) connections and to enter upon the premises for accomplishing this purpose. Any person violating any of the provisions of this chapter shall be liable to the city for any expense, loss or damage occasioned the city by reason of such violation.

17-131 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and its applicability to other persons and circumstances shall not be affected thereby.

ARTICLE 2. WATER UTILITY

17-201 RESIDENTIAL WATER SERVICE; AVAILABILITY. Service is available to all dwellings. Every dwelling, regardless of whether it is directly or indirectly connected to the municipal water system, is subject to a minimum monthly base charge, as well as monthly usage costs.

17-202 COMMERCIAL WATER SERVICE; AVAILABILITY. Service is available for all metered commercial enterprises and each is subject to a minimum monthly base charge, as well as monthly usage costs.

17-203 BULK WATER SALES; AVAILABILITY. Bulk water sales are only available for non-potable uses:

- a) Customers desiring to purchase water in bulk from a city fire hydrant must complete an application and pay the account set up fee prior to receiving/taking water. All bulk water sales obtained from a city fire hydrant shall be delivered through a meter and double check valve installed by city personnel and secured to the hydrant with a locking collar.
- b) The price per every 1,000 gallons of bulk water, obtained via a city fire hydrant, is as established per Resolution of the St. Marys City Commission. No base charge shall apply to bulk water purchases.
- c) Bulk water may also be obtained via the city's coin-operated bulk water station, at a price as established per Resolution of the St. Marys City Commission. No customer set up application is required.

17-204 SERVICE CONNECTIONS; WATER. All service pipes shall be installed by the applicant from the meter to the structure. Parties desiring water service shall pay a connection charge, which includes the tapping of the water main and the installation of the water meter. No plumber, applicant, customer, or other person shall extend pipes from one property or street address, to another property or street address, without written prior consent from the city manager, as well as all other parties involved.

17-205 NEW CONNECTION CHARGES; WATER. Connection charges are assessed for each installed water meter. New connections are described as new, upgraded, or replacement of an abandoned service.

- a) The applicant for a $\frac{3}{4}$ inch water connection permit shall, at the time of applying for the permit, pay a water connection fee (tap fee), per resolution of the St. Marys City Commission. The aforementioned fee includes the actual cost of the meter, installation, and the meter pit.
- b) For the installation of a service connection in excess of $\frac{3}{4}$ inches, the applicant shall pay an amount as determined by resolution of the St. Marys City Commission, at the time of application, plus the actual cost of the meter and installation that is in excess of the $\frac{3}{4}$ inch service.
- c) Water connection charges (tap fees) for applicants outside the city limits shall be double the comparable city unit charges, per resolution of the St. Marys City Commission.
- d) For property within the city limits, all taps and excavations shall be made, meters and shutoff valves installed, and pipes laid from the main to the curb, or property where installation is to be made, by the city.
- e) For installations outside of the city limits, the city shall make a tap at the nearest main capable of supplying the property and install a shutoff valve in a location deemed suitable by the city manager.
- f) A $\frac{3}{4}$ inch meter used for irrigation may be installed at a cost established per resolution of the St. Marys City Commission.

17-206 CUSTOMER CLASSIFICATIONS. The following classifications shall be used to determine applicable rate categories for customers:

- a) WITHIN CITY. Metered customer within the city limits.
- b) OUTSIDE CITY. Metered customer outside but immediately adjacent to the city limits.
- c) SPECIAL BENEFIT DISTRICT OR SUBDIVISION. Metered customer outside but not immediately adjacent to the city limits or serving an area considered to be a Special Benefit District (SBD) or Subdivision.

17-207 RESERVED

17-208 WATER RATES. Are established by resolution of the St. Marys City Commission, and shall apply to any metered customer.

17-208a Water rates will be examined periodically and altered when necessary by using the following formula: $A = ((B \times C \times D) + (F \times G)) + ((B1 \times C \times E \times I) + (F1 \times H \times I))$

Where:

A = the annual required revenue to operate the water system for a year

B = Fixed Monthly Base Charge for customers classified under 17-206a

B1 = Fixed Monthly Base Charge for customers classified under 17-206b and 17-

206c

C = The number of months per year - "12"

D = Current number of water accounts classified under 17-206a

E = Current number of water accounts classified under 17-206b and 17-206c

F = Usage Water Rate per 1000 gallons for customers classified under 17-206a

F1 = Usage Water Rate per 1000 gallons for customers classified under 17-206b and 17-206c

G = Estimated yearly water sales (in thousand gallons) for customers classified under 17-206a

H = Estimated yearly water sales in thousand gallons for customers classified under 17-206b and 17-206c

I = 1.1 (power loss multiplier) and is established by resolution of the St. Marys City Commission.

17-209

TEMPORARY OR SPECIAL SERVICE.

- a) Persons requiring water service for temporary or special uses, where no permanent water service is available, may obtain such service upon making an application to the city manager.
- b) The applicant shall describe the purpose and estimate the amount of water that will be required.
- c) The applicant is also required to prepay for the cost of making the temporary installation, as per Section 17-113, and all other applicable fees.
- d) Any temporary piping, used by the applicant, shall be equipped with both a stop and a check valve to prevent backflow into the city's water system.
- e) The city shall furnish a portable meter, which shall remain under the control of the city.

17-210

RESPONSIBILITY IN TURNING ON WATER. In turning on water, the city and its employees shall not be responsible for any damage that may occur by reason of improper fixtures, open or improper connections, or for any other cause beyond their control.

17-211

CHECK VALVES. Check valves shall be required on all connections to steam boilers or any like connection determined by the city manager to require protection against back siphoning. Safety or relief valves shall be placed on all boilers or other connected steam apparatus, subject to inspection.

17-212

ESCAPE OR DRAINING WATER FROM PRIVATE PROPERTY PROHIBITED.

- a) It is unlawful for any person to allow substantial amounts of water to escape and/or drain from private property onto public property, including, but not limited to, public sidewalks, rights-of-way, streets, alleys, and highways; provided that the term "substantial" shall mean an amount sufficient to cause a discernible flow of water reaching the street, gutter, or other drainage system.

- b) For purposes of this section, it shall be presumed that the resident of the private property from which water escapes or drains knows of such escape or draining.

17-213 WATER RATIONING. The city reserves the right to restrict or prohibit the use of water and to specify the purposes for which it may be used whenever the St. Marys City Commission determines the public exigency so requires.

17-214 SAME; PROCEDURE. Whenever the St. Marys City Commission determines that water use must be restricted or prohibited, it shall forthwith issue a proclamation of emergency through the news media and use other appropriate methods of making public the proclamation. Policy procedures, penalties and fines are set forth in Article 7 of this chapter.

17-215 SAME; PRIORITY USE. In the event a proclamation of emergency is issued, water usage will be restricted or prohibited first for uses as per Section 17-703.

17-216 WATER PROTECTION FEE. The city administers the Water Protection Fee as per K.S.A. 79-82a-954, and amendments thereto.

17-217 KANSAS RETAILERS' SALES TAX. The city administers sales tax for water as per KAR 92-21-9, and amendments thereto.

17-218 CLEAN DRINKING WATER FEE. The city administers the Clean Drinking Water Fee as per K.S.A. 79-82a-2101, and amendments thereto.

17-219 WASTING WATER. Water customers 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. Each metered customer shall have a shut off valve installed at their premises.

17-220 LEAKS. No allowances shall be made for water used or lost through leaks, carelessness, neglect, or otherwise after the same has passed through the meter. However, every customer shall have the right to appeal to the city manager from any water bill or meter reading which they may consider inaccurate. (Sections 17-105 and 17-123)

17-221 ESTIMATE OF WATER USAGE. The city manager shall be authorized to estimate water usage for a customer when weather prevents the reading of the meter, when the meter reader is unavailable, when the meter is not functioning properly, when the meter reading is zero usage, when access to property is denied (as per Section 17-108), or when other problems prevent accurate meter readings. The estimate shall be based upon each customer's most recent 12 consecutive months of consumption, if twelve months of comparable data is available. If less than 12 consecutive months of data is available, then any actual usage shall suffice. In the case where most of the meters cannot be read, the previous month's actual consumption will be used.

ARTICLE 3. ELECTRIC UTILITY

17-301 CHARACTER OF SERVICE. Service to all customers shall be single phase, alternating current at 60 cycles, at available voltages (standard secondary voltage 115-230 volts), unless three-phase service is available at the location or provided for by special arrangement. Also, when determined to be economically feasible by the city manager, alternating current, 60-cycle, 120-208 volts, single and three-phase may be supplied through one four wire meter.

17-302 ELECTRIC SERVICE REGULATIONS.

- a) The electric meter will be furnished by the city for new residential and commercial connections, after applicable connection fees, as established per resolution of the St. Marys City Commission, have been paid.
- b) Service for all new and remodeled dwellings shall be 3-wire single phase, 115- 230 volt. The customer shall supply:
- c) An approved 3-wire entrance cable of not less than No. 2 copper wire;
- d) An entrance switch of ample capacity, but in no case less than 100 amperes, subject to approval of the city manager;
- e) An approved circuit breaker, or other fusing equipment, all of an approved design and of ample capacity.
- f) The commercial customer shall supply conduit wiring for entrance service, an entrance switch and fusing equipment, all of an approved design and of sufficient capacity to meet the potential load requirements.
- g) All wiring for both new and remodeled construction shall meet the specifications of the National Electrical Code, as adopted per Chapter 4, Article 2, Section 4-201. Wiring for wall receptacles shall not be less than No. 12 wire and shall be separated from the lighting circuit.
- h) Permanent electric current will not be supplied until wiring has been inspected and approved.

17-303 NEW CONNECTION CHARGES; ELECTRICAL. Connection charges are assessed for each installed electrical meter.

- a) The applicant for an electrical connection permit shall, at the time of applying for the permit, pay to the city the sum as established by resolution of the St. Marys City Commission, for the applicable standard residential/commercial services:
- b) For an electrical service connection request for larger than standard size or for any electrical underground service, the customer shall be responsible for the entire cost of the meter and all installation costs, as determined by the city manager.
- c) Upgrading a service shall be changing from a Residential to Small Commercial, or from Small Commercial to Large Commercial.
- d) Downgrading a service shall be changing from a Small Commercial to Residential, or from Large Commercial to Small Commercial.
- e) The city will furnish and install all non-residential transformers, at the expense of the customer. The customer is required to pay for the transformer in advance, prior to being ordered.

- f) When there is not an electrical service available from the city's transmission lines to the premises, an electrical service connection shall be installed as follows:
 - 1. The city will supply the service drop, and furnish the meter and the meter base.
 - 2. The meter base will be installed at the expense of the property owner, along with the service entrance wiring.
 - 3. All wiring shall be installed in compliance with the electrical code of the city.
- g) Electrical connection charges for units outside the city limits shall be as established by resolution of the St. Marys City Commission.

17-304

SEPARATE CONNECTIONS; REQUIRED. A separate and distinct electrical service drop shall be installed from the transmission line to each customer receiving electrical services. Provided, that the city shall, in all cases, determine the application of this section and may in exceptional cases grant permission for single connections to multiple dwellings or commercial buildings, but the city reserves the right in all such cases to install separate service connections when such units are occupied by more than one family, household, or commercial building. The city reserves the right to designate the location of the service entrance and the meter.

17-305

DEPOSITS; ELECTRICAL SERVICE. As of the adoption of this code, Utility Deposits will no longer be required. Current depositors shall have their deposit/interest applied to their Utility Bill.

17-306

CUSTOMER CLASSES. There are three customer classes. They are Residential, Small Commercial, and Large Commercial. When annual consumption is used to determine a customer's class, annual usage shall be defined as the usage on the customer's January through December billings. These classes shall be determined by the following criteria:

- a) Residential customers shall be any property that is intended to be used as a living space, usually consisting of bedrooms, a kitchen, and a living room space. When a residential space is connected to a commercial space, the residential space will be considered commercial unless it is metered separately from the commercial space.
- b) Residential customers will be charged a Base Monthly Fee and an Energy Rate as established by resolution of the St. Marys City Commission.
- c) Small Commercial customers shall be any commercial or non-residential property that has an annual kWh's energy usage under 45,000 kWh's. Small Commercial customers will be charged a Base Monthly Fee and an Energy Rate as established by resolution of the St. Marys City Commission.
- d) Large Commercial customers shall be any commercial property that has an annual billed kWh's energy usage over 45,000 kWh's. Large Commercial Accounts will be charged a Base Monthly Fee, an Energy

Rate, and a Demand Rate as established by resolution of the St. Marys City Commission.

- e) The city manager shall determine if a new commercial customer should be classified as Small Commercial, or Large Commercial.

17-307

CUSTOMER CLASS CHANGES.

- a) Residential customers shall remain classified as residential customers until the use of the property changes.
- b) A Small Commercial customer shall be reclassified as a Large Commercial customer when its annual billed energy usage exceeds 45,000 kWh's during any calendar year. This change in classification shall remain in effect until the next reevaluation period.
- c) A Large Commercial Customer shall be reclassified as a Small Commercial Customer when its annual billed energy usage is below 45,000 kWh and either the city commission or the city manager believes that the customer's annual billed energy usage will continue to be under 45,000 kWh. A Large Commercial Customer may also submit a letter to the city manager requesting a class change to Small Commercial when that customer believes that its annual billed energy usage will be under 45,000 kWh. The letter must include an explanation why they believe their consumption will be below 45,000 kWh annually. If the city manager agrees, then the customer classification may be changed for the remainder of the calendar year, or until the next evaluation period.
- d) The city commission and city staff will annually evaluate the need for changes to any customer's classification each January. This reevaluation may also be made at any time throughout the year.
- e) All customer classification changes will go into effect with the next billing period.

17-308

ELECTRIC RATES: BASE MONTHLY CHARGE, ENERGY RATES, AND DEMAND RATES. All Electric Rates are set and changed by the city commission by resolution. The city commission shall evaluate the electric rates each January. Changes go into effect for the next billing period after the changes are approved.

17-309

RESIDENTIAL ELECTRIC SERVICE; AVAILABILITY. Service is available to all dwellings for domestic use, to include: lighting, cooking, electric heating, air conditioning and all household appliances. Individual motor units shall be single phase and shall not exceed two HP, except for the installation of air conditioner motors up to and including five HP, however, in such cases, the service and wiring shall be installed so as to meet specifications set out by the city manager. Residential customers with home-based businesses that are allowed in their zoning districts shall be classified as Residential electric customers.

17-310

RESIDENTIAL ENERGY RATES. Residential Service Rates and Minimum Monthly Base Charges shall be established per resolution of the St. Marys City Commission, and shall apply to each meter.

- 17-311 SMALL COMMERCIAL SERVICE; AVAILABILITY. This service is available for small businesses and all purposes not included in the availability provisions of the residential electric rate. Service to a structure containing three or more residential dwellings shall be considered Small Commercial unless each residential dwelling is separately metered. Three phase service is available to Small Commercial customers adjacent to the city's three phase lines. Under this customer class, any single-phase motor shall not exceed a 20-amp starting load.
- 17-312 SMALL COMMERCIAL ENERGY RATES; Small Commercial Service Rates and Minimum Monthly Base Charges shall be established per resolution of the St. Marys City Commission, and shall apply to any metered customer.
- 17-313 LARGE COMMERCIAL SERVICE; AVAILABILITY. This service is available for large businesses. Three phase service is available to Large Commercial customers adjacent to the city's three phase lines. Under this customer class, any single-phase motor shall not exceed a 20-amp starting load.
- 17-315 LARGE COMMERCIAL DEMAND AND ENERGY RATES. Large Power Service Demand and Energy Charges and Minimum Monthly Base Charges shall be established per resolution of the St. Marys City Commission, and shall apply to any metered customer.
- 17-316 LARGE COMMERCIAL BILLING DEMAND. The billing demand shall be the maximum demand established by the customer during any 15-minute period during the billing period.
- 17-317 SUBSTATION OWNERSHIP. Those customers who own and use a transformer substation for the sole purpose of transforming service from the city's standard primary voltage to a lower standard voltage, shall receive a monthly discount of \$0.10 per KVA of the customer's connected transformer capacity.
- 17-318 ENERGY COST ADJUSTMENT. Energy Cost Adjustment (ECA) shall be applied to the customer's billing, in cents per kWh. The ECA charge shall be calculated monthly in accordance with the following formula:
- FORMULA: $ECA = (A \times B) - C$
- a) A = the amount of the city's Kansas Power Pool Total Bill (\$) divided by the city's Kansas Power Pool's metered energy charge (kWh), for the same billing period.
 - b) B = Power Loss Multiplier. It shall be added to the cost of power in order to account for all system power lost and free power. The Power Loss multiplier shall be 1.1.
 - c) C = the base cost of power. It shall be the average cost of power from the prior calendar year (January to December), as stated on the city's Kansas Power Pool invoices.
- 17-319 UNDERGROUND WIRES. Upon request by the customer, and approval of the city manager, underground service wires may be installed in lieu of overhead

service, in accordance with Section 17-113 and 17-303.b, at the customer's expense.

17-320 SERVICE LINES OUTSIDE CITY. The city may extend its electric lines outside the city to serve any customer or customers upon the basis of special agreements entered into by the city for the purpose, if appropriate easements are available. All such agreements shall be made in writing and approved by the St. Marys City Commission.

17-321 CUTOFF SWITCHES. There shall be a cut-off, or disconnect switch on every connection to the city service wires, installed at the nearest accessible point at which the service wires enter the building.

17-322 REPAIRS AND MAINTENANCE; RIGHTS RESERVED. The city shall at its own expense maintain and repair all service drops as per 17-109(a)2. The city reserves the right to inspect the building wiring for defects or failures at all reasonable and proper times. The city may discontinue or refuse electrical service when the wiring is defective or installed improperly. In all cases the city manager is empowered to discontinue service or disconnect the same from the city line when deemed necessary, in order to protect lives or property in the event of fire or other danger. The city manager is further authorized to refuse electrical service until satisfied that all electrical wiring, fixtures, or apparatus installed on any premises has been installed in conformity with electrical regulations of the city.

17-323 TEMPORARY OR SPECIAL SERVICE.

- a) Persons requiring electrical service for temporary or special uses, where no permanent electrical service is available, may obtain such service upon making an application to the city manager.
- b) The applicant shall describe the purpose and estimate the amount of electricity that will be required; from which the city manager will calculate the applicable fees.
- c) The applicant is also required to prepay for the cost of making the temporary connection, as determined by the city manager.
- d) Any temporary wiring, used by the applicant, shall be equipped with a cutoff switch.
- e) The city shall furnish a meter, which shall remain under the control of the city.

17-324 ESTIMATE OF ELECTRICAL USAGE. The city manager shall be authorized to estimate electrical usage for a customer when weather prevents the reading of the meter, when the meter reader is unavailable, when the meter is not functioning properly, when the meter reading is zero usage and is believed to not be functioning properly, when access to property is denied, as per Section 17- 108, or when other problems prevent accurate meter readings. The estimate shall be based upon each customer's most recent 12 consecutive months of consumption, if twelve months of comparable data is available. If less than 12 consecutive months of data is available,

then any actual usage shall suffice. In the case where most of the meters cannot be read, the previous month's actual consumption will be used.

ARTICLE 4. SEWER UTILITY

17-401

DEFINITIONS. The following words and terms, as used in this article, apply only to this article and shall be construed as follows unless the context specifically indicates otherwise:

- 1) Areaways. A sunken yard, patio, court, driveway or window well leading into a basement or crawl space for entrance, light or ventilation.
- 2) Building. A structure built, erected, or framed of component structural parts designed for the housing, shelter, enclosure, or support of persons, animals, equipment or property of any kind.
- 3) Building Drain. Part of the lowest 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 three feet outside the building wall.
- 4) Building Sewer. That part of the piping of a drainage system which extends from the end of the building drain and which receives the discharge of the building drain and conveys it to a public sanitary sewer, private sanitary sewer, individual sewage disposal system, or other point of disposal.
- 5) Crawl Space Drain. A drain installed to collect drainage from the surface of any area that is entirely enclosed by foundation walls and beneath a building which area is not covered by concrete or other form or permanent surfacing.
- 6) Foundation Drains. A pipe with open joints and/or porous material installed either outside exterior foundation walls or inside and beneath a basement floor for the purpose of preventing the building-up of water pressure and water capillarity beneath the floor.
- 7) Garage Drain. A drain located in a garage or, in case of a basement garage, within 10 feet of garage area.
- 8) Industrial. Means any 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.
- 9) Inspector. A qualified city employee, consulting engineer, municipal engineer, sewer district engineer, county engineer, or his authorized representative.
- 10) Roof Drain. A drain which is installed to collect storm water from building roofs.
- 11) Saddle. A fitting attached to an existing sanitary sewer to receive a building sewer connection.
- 12) Sanitary Sewer (Sewer). A pipe which carries sewage and insofar as practical, excludes infiltration of storm, surface, and ground water.
- 13) Sewage. Any substance that contains any of the waste products or excrementitious or other discharges from the bodies of human beings or animals, or chemicals or other wastes from domestic, manufacturing or other forms of industry.
- 14) Wastewater. 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.

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

- a) A five-day biochemical oxygen demand of 300 milligrams per liter or less;
- b) A suspended solid concentration (SS) of 350 milligrams per liter or less; and
- c) Hydrogen ion concentration of (pH) 5.0 to 9.0.

17-402 SEWAGE SERVICE; AVAILABILITY. Service is available to all dwellings and all commercial and industrial enterprises.

17-403 NEW CONNECTION CHARGES; SEWAGE. No connection shall be made to the city's wastewater system until the connection charges, as established by resolution of the St. Marys City Commission, have been paid:

- a) New connection charges, other than industrial, as established by resolution of the St. Marys City Commission.
- b) Industrial connection charges shall be as determined by the city manager, subject to the approval of the St. Marys City Commission. Population equivalent of the wastewater load that will be produced will be considered in the total connection charges.
- c) Connection charges for units outside the city limits shall be as established by resolution of the St. Marys City Commission. No units outside the city limits shall be permitted to connect to the city's wastewater system without prior approval of the St. Marys City Commission.

17-404 SEPARATE CONNECTIONS; EXCEPTIONS. A separate and independent building sewer shall be provided for every building except;

- a) 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 existing sewer from the front building may be extended to the rear building, upon written approval of the city manager;
- b) Where one or more than one multi-family structures are constructed on one contiguous tract or lots and designed to be operated collectively under single ownership (person, firm, or corporation), in such case a direct separate independent building sewer would not be required for each structure.

17-405 CUSTOMER CLASSIFICATIONS. The following classifications shall be used to determine applicable rate categories for customers:

- a) WITHIN CITY. Customer within the city limits.
- b) OUTSIDE CITY. Customer outside but immediately adjacent to the city limits.
- c) SPECIAL BENEFIT DISTRICT OR SUBDIVISION. Customer outside but not immediately adjacent to the city limits or serving an area considered to be a Special Benefit District (SBD) or Subdivision.

17-407 BASIS FOR RATES.

- a) The basis for the monthly sewer use charge for a customer who has ten (10) or more months water consumption history shall consist of determining the customer's four (4) lowest billed water consumption readings (readings). The lowest of the four (4) readings shall be discarded and the remaining three shall be combined and divided by three (3). In months where actual readings are not available, the estimated water readings will be used in the above calculation. Estimated readings are determined as per section 17-221.
- b) A customer who has less than ten (10) months of water consumption history

(history) shall be billed based on the previous months city-wide residential water consumption average until a ten (10) month history is obtained as provided in subsection a). (The city-wide residential average is determined by dividing the total residential consumption amount by the total number of residential users.)

- c) When a customer moves to a new location their 10-month average will consist of their new consumption amount, and as many months of their previous consumption amount, until a new 10-month average/base is obtained at the new location, as provided in subsection (a).
- d) This subsection is reserved.
- e) Any customer whose premises are disconnected from the city's water system shall be billed the city-wide residential average, as per 17-407b.
- f) Irrigation meters are not subject to a minimum monthly sewer base charge, or the per 1,000-gallon consumption amounts used to calculate sewage charges.

17-408 SEWER RATES. Are as established by resolution of the St. Marys City Commission, and shall apply to all applicable customers.

17-409 SAME; ADDITIONAL CHARGES.

- a) Customers who produce wastewater with a five-day biochemical oxygen demand (BOD) greater than 300 milligrams per liter (mg/l) or a suspended solids (SS) concentration in excess of 350 mg/l will be subject to a surcharge as may be determined by the city manager, subject to the approval of the St. Marys City Commission, or an amount mutually agreed upon between the customer and the St. Marys City Commission.
- b) If any customer obtains water from a source other than the city's water system the charge to such customer shall be based on the total quantity of water received by such customer from the city's water supply and all other sources as established by separate approved meter installed and maintained by such customer at his or her own expense; by other records kept and maintained by such customer and open to inspection by a city representative; or on suitable wastewater metering facilities installed and maintained at the owners expense.
- c) Any customer shall be subject to an additional use charge of \$0.50 per month when water from a water-cooled air conditioner is discharged into the city's wastewater system.
- d) Any customer whose premises are located in a district or area whose wastewater is lifted into the city's main wastewater system by a lift station specifically designed and installed to serve such district or area, shall be subject to an additional monthly customer surcharge of \$0.00 plus an additional month use charge of \$0.00 per 1,000 gallons for each single unit connected to such wastewater system.

17-410 TEMPORARY OR SPECIAL SERVICE. The city manager may enter into contracts with any person for the use and maintenance of wastewater facilities upon such terms and conditions and for such term of years as deemed proper. Equitable and sufficient charges shall be established for connections to such system to compensate for capital investments made by the city for wastewater treatment facilities.

17-411 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 health nuisance as provided in Chapter 8, Section 8-104 of this code.

17-412

STANDARDS.

- a) The size, slope, alignment, materials, excavation, placing of pipe, jointing, testing and backfilling shall all conform to the requirements of the building code of the city.
- b) All building sewers shall be constructed of materials which are approved by the Kansas Department of Health and Environment for the construction of lateral sewers. Building sewers shall be left uncovered until inspected. In the case of saddle connections, after the saddle hole has been made in the receiving pipe, the pipe thoroughly cleaned and all excavation and bracing has been completed for the encasement, the city inspector shall see the saddle installed and properly anchored

17-413

INSPECTIONS. All sewerage construction projects including treatment facilities, shall have a final inspection by a qualified inspector during active phases of sewerage construction to ensure that they comply with plans and specifications approved by the Kansas Department of Health and Environment to insure elimination of extraneous surface and ground water. This shall include inspection of all sewers and manholes before they are covered but after the sewers are bedded.

17-414

MAY REQUIRE PRETREATMENT. The city may require any customer to pre-treat its wastewater and reduce it to strength of normal wastewater and also may require those customers whose wastewater flow amounts to more than approximately 2% of the total municipal flow to construct receiving tanks and discharge their wastewater in an even flow rather than in slugs. The city may require any customer discharging above normal wastewater physical and chemical standards to construct a control manhole to facilitate observation, measurement and sampling of wastewater.

17-415

MUD, GREASE TRAPS. All garages, filling stations, milk plants or other commercial or industrial plants connected to the public sewer shall construct and maintain proper and sufficient interceptors or traps to prevent the discharge of any sand, mud, sediment, grease, litter, water or any substance harmful to the effective operation and maintenance of the city sewer system, into the building sewer.

17-416

ROOF, FOUNDATION DRAINS.

- a) It shall be unlawful to connect down spouts from any roof area, drains from any building foundation, paved areas, yard or open courts, or to discharge liquid wastes from any air conditioning unit or cooling devise 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 discharges does not create a nuisance. No such liquids may be discharged into any unpaved street or alley.

17-417

SAME; EXCEPTION. Discharges from air conditioning units in excess of one ton per hour or one horsepower may be permitted into a building sewer upon approval of the city manager where there is a finding that such cooling water cannot be re-circulated and that such wastewater does not overload the capacity of the sewer or interfere with the effective operation of the sewage disposal works of the

city.

- 17-418 PROHIBITED DISCHARGES. No person shall discharge any of the following waters or wastes to any public sewer:
- a) Liquid or vapor having a temperature higher than 150 degrees Fahrenheit;
 - b) Water or waste which may contain more than 100 parts per million, by weight, of fat, oil or grease;
 - c) Gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;
 - d) Garbage that has not been properly shredded;
 - e) Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;
 - f) Waters or wastes having a pH lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;
 - g) Waters or wastes containing a toxic poisonous substance in sufficient quantity to injure 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.

ARTICLE 5. SOLID WASTE (REFUSE)

- 17-501 DEFINITIONS. The following words and terms as used in this article shall be construed as follows, unless the context specifically indicates otherwise:
- 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) Refuse. All garbage and/or rubbish or trash.
 - c) Garbage. Putrescible waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking and serving of meat, produce, fruit, and other foods and shall include unclean containers.
 - d) Rubbish or Trash. All nonputrescible materials such as paper, tin cans, bottles, glass crockery, rags, ashes, lawn and tree trimmings, tree branches, limbs, tree trunks and stumps, boxes and barrels, wood and excelsior, 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.
 - e) Punch Card. A card that allows patrons to dispose of trash on a per trip basis.
 - f) Solid Waste. All non-liquid garbage or rubbish and trash that is not defined as hazardous waste.

- 17-502 REFUSE SERVICE; AVAILABILITY. Refuse service is available to all persons who own, rent, or otherwise legally occupy property within the city limits, as well as to all those living outside of the city limits that qualify, as per 17-501(e).

- 17-503 COLLECTION OF SOLID WASTE. The city shall provide for the collection of all solid waste, as herein defined. The city may provide the collection service by contracting with a person, firm, corporation, county, another city, or a combination thereof, for the entire city or portions thereof, as deemed to be in the best interest of the city.
- 17-504 COLLECTION EQUIPMENT. All vehicles used for the collection and transportation of solid waste shall be constructed with watertight bodies and shall be fully enclosed or capable of being securely covered. All such vehicles shall be maintained in a safe, clean, sanitary condition and shall be operated in such a manner as to prevent spillage therefrom.
- 17-505 FREQUENCY OF COLLECTION. Solid waste in residential areas shall be collected not less than once per week. All commercial solid waste shall be collected at intervals as established by resolution of the St. Marys City Commission.
- 17-506 DUTY OF OWNER OR OCCUPANT. The owner or occupant of every dwelling unit or commercial enterprise shall provide at their own expense a suitable container for the storage of solid waste, as provided in this article. No owner or occupant shall 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.
- 17-507 CONTAINERS; RESIDENTIAL. Containers for residential use shall be rented from and/or approved by the city's refuse contractor.
- 17-508 CONTAINERS; COMMERCIAL. Containers for commercial use shall be rented from and/or approved by the city's refuse contractor.
- 17-509 SAME; CONTROL: MOLESTING. Refuse materials, when placed in containers by the occupants or owners of the premises upon which the same are located, shall be subject to the exclusive control of the city, its agent or contractors. No person, other than the owner(s) or occupant(s) of said premises, shall meddle with refuse containers or in any way pilfer or scatter the contents thereof.
- 17-510 IMPROPER CONTAINERS. Refuse placed in an improper container shall not be collected. Rocks, dirt, sod, brush, grass clippings, concrete or building materials (such as concrete, shingles, etc.) are not considered normal household wastes and will not be accepted.
- 17-511 LOCATION OF CONTAINERS. All containers and/or other refuse to be served or picked up shall be located next to an alley for collection purposes. If the premises are not accessible by a through alley, containers and/or other refuse shall be placed on the curb next to the public parking or other convenient location for collection purposes.
- 17-512 MISCELLANEOUS WASTE. Books, magazines and newspapers may be securely tied in bundles or placed in disposable containers in lieu of placing in an approved container. Such bundle or container and contents shall not exceed a weight of 50 pounds. Empty cardboard boxes shall be flattened. No trash other than books, papers, or magazines shall be placed in cardboard containers, unless approved by the city's refuse contractor.

17-513

PROHIBITED PRACTICES. It shall be unlawful for any person / customer to:

- a) Deposit any liquid or solid waste in any container other than those owned or leased by him or under his control without written consent of such owner and/or with the intent of avoiding payment of the refuse service charge.
- b) Permit any open burning of any solid waste within the corporate limits of the city without specific authorization from the city manager; this subsection shall not apply to any lawful function of the fire department.
- c) Dispose of liquid or solid waste in an unapproved site.
- d) Place or permit solid waste to be placed next to a curb, in a street right-of-way or adjacent to a street right-of-way more than twenty-four (24) hours prior to normal scheduled pick up time.
- e) Shall not dispose of any container or bottle which contains any restricted disposal liquid, chemical or other matter, as prescribed or prohibited or which carries any restriction as to disposal, requires any special handling, whether it be a herbicide, pesticide or other chemical, acid, or agent, or whether it be from a domestic, agriculture, or commercial endeavor, into the city's solid waste collection system.
- f) Dispose in the city's solid waste collection system any liquid or solid waste containing any toxic or poisonous substance or any liquid or solid waste which requires special handling for disposition or the special disposal process by federal, state or county regulations.
- g) Dispose of any human remains, syringes, blood or human tissue via the city's solid waste system. Such waste must be disposed of via a bio waste disposal service.

17-514

REFUSE SERVICE CHARGES.

- a) A refuse service charge per calendar month, as established by resolution of the St. Marys City Commission, for the collection and disposition of refuse shall be levied against each single-family dwelling and each dwelling in a multi-family dwelling.
- b) A refuse service charge per calendar month, as established by resolution of the St. Marys City Commission, for the collection and disposition of refuse may be levied against each non-residential structure within the city.
- c) Punch Cards are as established by resolution of the St. Marys City Commission, and defined in 17-501e.

17-515

REFUSE SERVICE; OCCUPANT HAULS OWN. Refuse generated by any customer may be transported to the transfer station by said customer, but does not result in a lesser cost for their refuse service. Non-customers are required to use a Punch Card as described in Section 17-514(c).

17-516

EXEMPTIONS. Residential dwellings and commercial enterprises that do not generate refuse shall not be subject to a refuse service charge; however, it shall be presumed that all such units generate refuse, until such time as an exemption has been approved.

- a) Property owners desiring an exemption are required to apply, on a form provided by the city. The application shall contain:
 1. The street address of the property in question;
 2. The name of the owner of the property;
 3. The name of the applicant, if different than the owner;
 4. The reason for requested exemption;
 5. The period of time to be covered under exemption;
 6. Signature of the owner or agent of the premises.
- b) The city manager shall decide on whether or not to grant the exemption.

- c) If the city manager denies the request for exemption, the applicant may request a hearing in front of the St. Marys City Commission.
- d) It is the applicant's responsibility to notify the city of changes that would invalidate the exemption.
- e) Failure to notify the city of any changes, as per subsection (d), shall result in a penalty in the amount of what the regular monthly charges would have accrued during the time of violation.
- f) Exemptions will be reviewed on a monthly basis.

17-517 SAME; SIXTY-DAYS. An owner, or their agent, of a vacant dwelling may apply for a 60-day exemption from refuse service. The exemption must coincide with the city's billing cycle, and is valid only if the dwelling remains vacant (with no trash generated) during an entire monthly billing cycle. The exemption may be renewed, as long as the dwelling remains vacant, and as long as the owner, or their agent, reapplies prior to expiration of the exemption. There shall be no credit given for a vacancy existing prior to the request for exemption. Also, during the exemption no trash generated from the dwelling or property may be disposed of at transfer station.

17-518 DISPOSAL SITE. All solid waste shall be disposed of at a site approved by the city and holding a valid permit from the Kansas Department of Health & Environment. Such disposal site shall be operated in a manner consistent with regulations adopted by the St. Marys City Commission and standards fixed by the state and federal government.

17-519 SAME; ACCESS. The access to the disposal site shall be controlled by proper fencing, gates, locks and by any other such measures deemed necessary to control access. No unauthorized person shall enter and no solid waste shall be deposited at the disposal site unless such site is open and authorized personnel are on duty.

17-520 SAME; TREES AND CUTTINGS. Lawn and tree trimmings, tree branches, limbs, tree trunks and stumps, wood and excelsior shall be separated from other rubbish or trash and shall be deposited at a designated area within the disposal site at the direction of the supervisor or other authorized personnel.

17-521 SAME; BULKY ITEMS. Refrigerators, freezers, and air conditioning units (with compressor removed), dryers, washers and other such bulky items shall be separated from other rubbish or trash and shall be deposited at a designated area within the disposal site at the direction of the supervisor or other authorized personnel.

17-522 SAME; INDUSTRIAL, MANUFACTURING AND SPECIAL WASTE. The following materials will not be accepted at the transfer station unless specific permission, in each individual case, is granted by the city manager:

- a) Certain dangerous materials, such as radioactive materials, poisons, acids, caustics, infected materials, highly volatile materials and explosives.
- b) Materials of any kind, including ashes, which contain live coals or fire.
- c) All large and bulky materials such as auto car bodies that may require special preparation and processing before disposal.

17-523 SALVAGE. All materials delivered and deposited for disposal at the disposal site are the property of the city. No person shall separate, collect, carry out or dispose of any such materials unless specific permission, in each individual case, is granted by the city manager.

17-524 **BURNING, EXCEPTIONS.** It shall be unlawful for any person, firm, company, corporation, governmental agency, political subdivision, or legal entity, to set any fire in the disposal site. However, lawn and tree trimmings, tree branches, limbs, tree trunks and stumps, wood and excelsior may be burned at a designated area within the disposal site under the supervision of the supervisor or other authorized personnel in conformity with guidelines established by KDHE and/or the St. Marys City Commission.

17-525 **BURYING OF GARBAGE.** It shall be unlawful for any person to bury any garbage as herein defined on public or private property within the city limits.

17-526 **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.

17-527 **OBLIGATION OF OCCUPANTS.** Every owner or occupant of any dwelling or any commercial establishment shall keep their premises in a clean and sanitary condition and free from any accumulation of refuse and each owner or occupant of any such premises shall dispose of all refuse in a clean and sanitary manner by placing such refuse in an approved storage container. (In accordance with Chapter 8, Articles 1 and 3, of this code.)

17-528 **FEE AVOIDANCE.** It shall be unlawful for anyone that is not a customer, to deposit or allow to be deposited, any refuse from properties or person(s) who are either ineligible for municipal refuse service, or otherwise eligible but currently not a customer, in to the city's solid waste collection system.

17-529 **USE OF TRANSFER STATION AND DISPOSAL OF CONSTRUCTION MATERIAL AND OTHER MATERIALS.**

- a) The City's compactor and transfer station allows the dumping of refuse items with certain restrictions. There are three categories: items that may be dumped free of charge, items that require a Compactor Punch Card, and items are not allowed. Items allowed free of charge: grass clippings, branches, dirt, rocks, and other natural or non-manufactured items, burnable or buriable materials. Large amounts of these materials may require permission from the City Manager or his designee, and may be denied if found to be excessive. Metal items may be put in the metal containers free of charge. Items requiring a Compactor Punch Card: construction materials, shingles, concrete, sheet rock, furniture, large toys, and other items placed in the compactor or large item dumping area. (ORD 1318/070219)
- b) Items not allowed: large amounts of construction debris from businesses or construction sites that normally should use a roll-off type dumpster. Businesses or contractors who have consistently large disposal needs must use the county land-fill, private dumpster options, or other means besides the St. Marys Refuse Station. (ORD 1318/070219)

ARTICLE 6. CROSS-CONNECTION CONTROL/WATER QUALITY

17-601 **DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of this policy;

- a) Air gap separation. Means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the

overflow level rim of the receptacle, and shall be at least double the diameter of the supply pipe measured vertically above the flood level rim of the vessel, but in no case less than one inch.

- b) Approved tester. Means a person qualified to make inspections/ to test and repair backflow prevention/cross-connection control devices; and who is approved by the city.
- c) Authorized representative. Means any person designated by the city to administer this cross-connection control ordinance.
- d) Auxiliary water supply. Means any water source or system, other than the city, that may be available in the building or premises. This does not include other KDHE permitted public water supply systems.
- e) Backflow. Means the flow other than the intended direction of flow, of any foreign liquids, gases, used water or substances into the distribution system of a public water supply system.
- f) Backflow prevention device. Means any device, method, or type of construction intended to prevent backflow into the public water supply system.
- g) Consumer. Means any individual, firm, partnership, corporation, or agency or their authorized agent receiving water from the city.
- h) Contamination. Shall mean an introduction of any sewage, process fluids, chemicals, wastes or any other substance that would be objectionable. Contamination may be a threat to life or health, or may cause an aesthetic deterioration, color, taste or odor.
- i) Cross-connection. Shall mean any physical connection or arrangement between two (2) otherwise separate piping systems; one of which contains potable water of the public water supply system and the second, water of unknown or questionable safety, or steam, gases, chemicals, or substances whereby there may be backflow from the second system to the public water supply system. No physical cross-connection shall be permitted between a public water supply system and an auxiliary water supply system.
- j) Degree of hazard. Shall mean an evaluation of the potential risk to public health and the adverse effect of the hazard upon anyone using the water.
- k) Health hazard. Shall mean any condition, device, or practice in the public water supply system which could create or may create a danger to the health and well-being of anyone using the water or allow contamination of the water.
- l) Public water system. Shall mean the water supply source, distribution system and appurtenances to the service meter operated as a public utility which supplies potable water to the consumer's water systems.
- m) Public water supply system. Shall mean the public water system and the consumer's water systems.
- n) Consumer's water system. Shall mean all service pipe, all distribution piping and all appurtenances beyond the service meter of the public water system.
- o) Service connection. Shall mean the terminal end of the service line from the public water system. If a meter is installed at the end of the service, then the service connection means the downstream end of the meter.

17-602

CROSS-CONNECTION CONTROL GENERAL POLICY. The purpose of this policy is:

- a) To protect the public water supply system from contamination.
- b) To promote the elimination, containment, isolation, or control of cross-connection between the public water supply system and non-potable water

systems, plumbing fixtures, and industrial process systems or other systems which introduce or may introduce contaminants into the public water system or the consumer's water system.

- c) To provide for the maintenance of a continuing program of cross-connection control which will prevent the contamination of the public water supply system.
- d) Application. This ordinance shall apply to all consumers' water systems. The city may also require cross-connection control devices at the service connections of other KDHE permitted public water supply systems served by the city.
- e) Intent. This policy will be reasonably interpreted by the city. It is the intent of the city to recognize the varying degrees of hazard and to apply the principle that the degree of protection shall be commensurate with the degree of hazard. If, in the judgment of the city or its authorized representative, cross-connection protection is required through either piping modification or installation of an approved backflow prevention device, due notice shall be given to the consumer. The consumers shall immediately comply by providing the required protection at his own expense. Failure or refusal or inability on the part of the consumer to provide such protection shall constitute grounds for the discontinuation of water service to the premises until such protection has been provided.

17-603

CROSS-CONNECTIONS PROHIBITED.

- a) No water service connection shall be installed or maintained to any premises where actual or potential cross-connections to the public water supply system may exist unless such actual or potential cross-connections are abated or controlled to the satisfaction of the city or its authorized representative.
- b) No connection shall be installed or maintained whereby an auxiliary water supply may enter a public water supply system.

17-604

SURVEY AND INVESTIGATIONS.

- a) The consumer's premises shall be open at all reasonable times to the city or its authorized representative, for the conduction of surveys and investigations of water use practices within the consumer's premises to determine whether there are actual or potential cross-connections in the consumer's water system.
- b) On request by the city or its authorized representative, the consumer shall furnish requested information on water use practices within his premises and in the consumer's water system.
- c) On request by the city or its authorized representative, the consumer shall conduct periodic surveys of water use practices on the premises of the consumer's water system to determine whether there are actual or potential cross-connections. The consumer shall provide the survey results to the city or its authorized representative.

17-605

WHERE PROTECTION IS REQUIRED.

- a) An approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises where, in the judgment of the city or its authorized representative or the KDHE, actual or potential cross-connections exist. The type and degree of protection required shall be commensurate with the degree of hazard and/or type of contamination that may enter the public water supply system.
- b) An approved air gap separation or reduced pressure principle backflow

prevention device shall be installed at the service connection or within any premises where, in the judgment of the city or its authorized representative or the KDHE, the nature and extent of activities on the premises, or the materials used in connection with the activities, or materials stored on the premises, would present a health hazard or contamination of the public water supply system from a cross-connection. This includes but is not limited to the following situations:

1. Premises having an auxiliary water supply, unless the quality of the auxiliary supply is acceptable to the city (or its authorized representative) and the KDHE.
 2. Premises having internal plumbing arrangements which make it impractical to ascertain whether or not cross-connections exist.
 3. Premises where entry is restricted so that inspection for cross-connections cannot be made with sufficient frequency or at sufficiently short notice to assure the cross-connections do not exist.
 4. Premises having a repeated history of cross-connections being established or re-established.
 5. Premises, which due to the nature of the enterprise therein, are subject to recurring modification or expansion.
 6. Premises on which any substance is handled under pressure so as to permit entry into the public water supply system, or where a cross-connection could reasonably be expected to occur. This shall include the handling of process waters and cooling waters.
 7. Premises where toxic or hazardous materials are handled.
- c) The following types of facilities fall into one or more of the categories or premises when an approved air gap separation or reduced pressure principle backflow prevention device shall be required by the city or its authorized representative or the KDHE to protect the public water supply and must be installed at these facilities unless all hazardous or potentially hazardous conditions have been eliminated or corrected by other methods to the satisfaction of the city or its authorized representative and the KDHE:
1. Agricultural chemical facilities
 2. Auxiliary water systems, wells
 3. Boilers
 4. Bulk water loading facilities
 5. Car washing facilities
 6. Chemical manufacturing, processing, compounding or treatment plants
 7. Chill water systems
 8. Cooling towers
 9. Feedlots
 10. Fire protection systems
 11. Hazardous waste storage and disposal sites
 12. Hospitals, mortuaries, clinics or others as discovered by sanitary surveys
 13. Irrigation and sprinkler systems
 14. Laundries and dry cleaning
 15. Meat processing facilities
 16. Metal manufacturing, cleaning, processing and fabricating plants
 17. Oil and gas production, refining, storage or transmission properties
 18. Plating plants
 19. Power plants

- 20. Research and analytical laboratories
- 21. Sewage and storm drainage facilities – pumping stations and treatment plants
- 22. Veterinary clinics

17-606 BACKFLOW PREVENTION DEVICES. Any backflow prevention device required by this ordinance shall be of a model or construction approved by the city (or its authorized representative) and the KDHE.

- a) Air gap separation to be approved shall be at least twice the diameter of the supply pipe, measured vertically above the top rim of the vessel, but in no case less than one inch.
- b) Double check valve assemblies or reduced pressure principle backflow prevention devices shall appear on the current list of approved backflow prevention devices established by the KDHE, unless the device was installed at the time this ordinance was passed and complies with required inspection and maintenance.

17-607 INSTALLATION.

- a) Backflow prevention devices required by this policy shall be installed at a location and in a manner approved by the city or its authorized agent. All devices shall be installed at the expense of the water consumer, unless the city or its authorized representative agrees otherwise.
- b) Backflow prevention devices installed at the service connection shall be located on the consumer's side of the water meter, as close to the meter as is reasonably practical, and prior to any other connection.
- c) Backflow prevention devices shall be conveniently accessible for maintenance and testing, protected from freezing, and where no part of the device will be submerged or subject to flooding by any fluid. All devices shall be installed according to manufacturer's recommendations.

17-608 INSPECTION AND MAINTENANCE.

- a) The consumer shall inspect, test, and overhaul backflow prevention devices in accordance with the following schedule or more often as determined by the city or its authorized representative.
 - 1) Air gap separations shall be inspected at the time of installation and at least monthly.
 - 2) Double check valve assemblies shall be inspected and tested for tightness at the time of installation and at least every twelve months thereafter. They shall be dismantled, inspected internally, cleaned, and repaired whenever needed and at least every thirty months.
 - 3) Reduced pressure principle backflow prevention devices shall be inspected and tested for tightness at the time of installation and at least every twelve months thereafter. They shall be dismantled, inspected internally, cleaned, and repaired whenever needed and at least every five years.
- b) Inspections, tests, and overhauls of backflow prevention devices shall be made at the expense of the consumer and shall be performed by an approved tester.
- c) Whenever backflow prevention devices required by this policy are found to be defective, they shall be repaired or replaced without delay at the expense of the consumer.
- d) The consumer must maintain a complete record of each backflow prevention device from purchase to retirement. This shall include a

comprehensive listing that includes a record of all tests, inspections, and repairs. All records of inspections, tests, repairs, and overhauls shall be provided within 30 days to the city or its authorized representative.

- e) All backflow prevention devices shall have a tag showing the date of the last inspection, test, or overhaul or other maintenance.
- f) Backflow prevention devices shall not be bypassed, made inoperative, removed, or otherwise made ineffective without specific authorization by the city or its authorized representative.

17-609

VIOLETION AND PENALTIES.

- a) The city or its authorized representative shall deny or discontinue the water service to any premises or any consumer wherein any backflow prevention device required by this policy is not installed, tested, and maintained in a manner acceptable to the city or its authorized representative, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross-connection exists.
- b) Water service to such premises shall not be restored until the consumer follows this cross-connection ordinance to the satisfaction of the city or its authorized representative.

ARTICLE 7. WATER DROUGHT/EMERGENCY

17-701

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

- a) Water. Shall mean water available to the City of St. Marys for treatment by virtue of the city's water rights, water supply, water supply contracts, 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 street, a roadway, or other surface intended for vehicle driving purposes, and / or any 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 for the purposes of this Article:

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 areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.

Class 2:

Water used for any commercial, agricultural, or industrial purposes, except water actually necessary to maintain the health and personal hygiene of bona fide employees of such businesses or interests 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 Class 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.

17-702

DECLARATIONS. In the event that the St. Marys City Commission determines that the city's water supply may be subject to a shortage in supply or determines there is need for conservation of the city's water resources for any reason, the city may begin the progressive three (3) stage water conservation program by declaring a Water Watch as described in 17-702(a) or, in times of need and / or duress, the St. Marys City Commission may choose to declare any section of the program described in Section 17-702 in effect at any time:

- a) Stage 1: Declaration of Water Watch. Whenever the St. Marys City Commission 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 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 St. Marys City Commission to have ended. The resolutions declaring the existence and end of a Water Watch shall be effective upon their publication in the official city newspaper.
- b) Stage 2: Declaration of Water Warning. Whenever the St. Marys City Commission 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 will recommend restrictions on nonessential uses during the period of warning. Such a warning shall be deemed to continue until it is declared by resolution of the St. Marys City Commission to have ended. The resolutions declaring the beginning and ending of the Water Warning shall be effective upon their publication in the official city newspaper. Pursuant to the approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, the recommended restrictions on nonessential uses may be extended to private wells within the city limits.
- c) Stage 3: Declaration of Water Emergency. Whenever the St. Marys City Commission 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 will impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by resolution of the St. Marys City Commission to have ended. The resolutions declaring the existence and end of a water supply emergency shall be effective upon their publication in the official city newspaper. Pursuant to the approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, the mandatory restrictions on water use may be extended to private wells within the city limits.

17-703

VOLUNTARY CONSERVATION MEASURES. Upon the declaration of a Water Watch or Water Warning as provided in Sections 17-702(a) or 17-702(b), the St. Marys City Commission is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate nonessential water uses including, but not limited to, limitations on the following uses:

- a) Class 1 uses of water.
- b) Waste of water.

- 17-704 MANDATORY CONSERVATION MEASURES. Upon the declaration of a water supply emergency as provided in Section 17-702(c), the St. Marys City Commission is also authorized to implement, by resolution, certain mandatory water conservation measures, including, but not limited to, the following conservation measures:
- 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 as described in Section 17-701(d), 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 measures in Sections 17-704(a-e) as the St. Marys City Commission may deem appropriate and / or necessary.
- 17-705 EMERGENCY WATER RATES. Upon the declaration of a water supply emergency as provided in Section 17-702(c), the St. Marys City Commission shall have the power to adopt emergency water rates by resolution 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 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).
- 17-706 REGULATIONS. During the effective period of any water supply emergency as provided for in Section 17-702(c), the St. Marys City Commission is empowered to promulgate such regulations as may be necessary to carry out the provisions of this Article.
- 17-707 VIOLATIONS, DISCONNECTIONS AND PENALTIES.
- a) If the city manager learns of any violation of any water use restrictions imposed pursuant to Sections 17-704 or 17-706 of this Article, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record and/ or any other person known to the city to be responsible for the violation and / or the correction of said violation shall be provided with either actual or mailed notice. Said notice shall describe the violation(s) and order that the noted violation(s) be corrected, cured, or abated immediately or within such specified time as the city determines is reasonable for such correction, cure or abatement under the circumstances. In the event the order is not cured within the time period given in the notice, the city may terminate water service to the customer as per 17-105(d) and 17-110.
 - b) A fee, as established by resolution of the St. Marys City Commission, shall be paid for the reconnection of any water service terminated pursuant to subsection 17-707(a). In the event of subsequent violations, the reconnection fee shall be as established by resolution of the St. Marys City Commission for any subsequent additional reconnections.
 - c) Violations of this Article shall be a municipal offense and may be prosecuted in Municipal Court, as per Section 17-130.

17-708

EMERGENCY TERMINATION. Nothing in this Article shall limit the ability of the St. Marys City Commission from terminating the supply of water to any or all customers upon the determination of such St. Marys City Commission that emergency termination of water service is required to protect the health and safety of the public or for any other emergency as required or authorized by this Article or as deemed necessary by the St. Marys City Commission.

CHAPTER XVIII. PLANNING COMMISSION/BOARD OF ZONING APPEALS

Article 1. City Planning Commission

Article 2. Subdivision Regulations

Article 3. Zoning Regulations

Article 4. Board of Appeals/1991 Uniform Building Code

ARTICLE 1. CITY PLANNING COMMISSION

18-101 **PLANNING COMMISSION CREATED.** There is hereby created a city planning commission as provided for and authorized by K.S.A. 12-741 et seq. as amended, to be known and hereinafter referred to as the St. Marys City Planning Commission. The regulations pertaining to such Commission shall be included in the St. Marys Unified Development Code, as amended. (ORD 653, Sec. 1; ORD 1182/081506)

18-102 **BOARD OF ZONING APPEALS CREATED.** There is hereby created a board of zoning appeals as provided for and authorized by K.S.A. 12-741 et seq., to be known and hereinafter referred to as the Board of Zoning Appeals. The regulations pertaining to such Board shall be included in the St. Marys Unified Development Code, as amended. (ORD653,Sec 4; ORD 1182/081506)

ARTICLE 2. SUBDIVISION REGULATIONS

18-201 **REGULATIONS INCORPORATED.** The subdivision regulations of the City of St. Marys in 1979 are hereby repealed. The new revised subdivision regulations set forth in the "St. Marys Unified Development Code," which is being adopted by Section 18-301 of this code shall be and are hereby incorporated by reference as if set out fully herein. The provisions therein shall be controlling within the area of jurisdiction of the City of St. Marys. (ORD 795-A, Sec. 1,2; ORD1172/032106)

18-202 **PLATTING.** All plans, plats or replats of lands laid out in building lots and the streets, alleys or other portions of the same intended to be dedicated for public use both within the city and within the three mile limit thereof shall be submitted to the city planning commission for considerations and recommendations to the city governing body for its official action.

No plat or replat or dedication or deed of street or public way shall be filed with the register of deeds until such plat or replat or dedication or deed shall have endorsed on it the fact that it first has been submitted to the city planning commission and has been approved by the city governing body. (ORD 653, Sec. 5; Code 1983)

ARTICLE 3. ZONING REGULATIONS

18-301 **ZONING REGULATIONS INCORPORATED.** There are hereby incorporated by reference as if set out fully herein, the zoning regulation amendments adopted by the governing body of the City of St. Marys, Kansas, as prepared by the City, as to Chapter 1, Articles 1 through 20.

There are hereby incorporated by reference as if set out fully herein, the zoning regulation amendments adopted by the governing body of the City of St. Marys, Kansas, as prepared by the City, as to Chapter 2, Subdivision Regulations, Articles 1 through 7.

The provisions therein shall be controlling within the area of jurisdiction of the
Chapter 18. Page 1 of 4

City of St. Marys. All other provisions of the zoning regulation are not amended and remain as published and adopted. No fewer than three copies of the zoning regulations shall be filed with the city clerk to be open for inspection and available to the public at all reasonable business hours. (ORD799 Sec 1,3; ORD1023 Sec 1,3/111693; ORD1172/032106; ORD 1245/110111; ORD 1272/091614)

18-302 DISTRICT MAP. (a) The map setting forth the boundaries of zones or districts as submitted by the Planning Commission is herewith adopted, and shall be marked "Official Copy 2012 #1 of zoning district map incorporated into zoning regulations by adoption of an ordinance by the governing body of the city on the 4th day of December, 2012," as provided by law.

Sections 18-302 (b) (1) and (b) (2) are hereby repealed. (ORD799,Sec.4;ORD1023Sec4/111693;ORD1177/041806;ORD1178/062006; ORD 1255/112012)

18-303 AMENDMENTS. The procedure for amendment or changes in zoning shall be as provided in K.S.A. 12-707 and any amendments thereto. (ORD 799, Sec. 5;ORD1023 Sec 5/111693)

18-304 FEES. The following fees are hereby established:

- a) REZONING FEES
 - All Districts \$100.00
- b) SPECIAL PURPOSE OVERLAYS
 - IO Institutional Overlay 100.00
 - NSSP Non-Specific Special 100.00
 - GEO General Events Overlay 100.00
 - SDZO Special Development Overlay 100.00
 - X "X" Overlay District 125.00
- c) SIGNS
 - All new sign permits 15.00
 - Permit to alter 15.00
 - Non-conforming permit 15.00
 - Temporary sign permit 15.00
- d) TEMPORARY CONSTRUCTION PERMITS
 - All Districts 50.00
- e) CONDITIONAL USE
 - All Districts 100.00
- f) VARIANCE AND EXCEPTIONS
 - All Districts 25.00
 - Appeals to BZA NC
- g) SUBDIVISION APPLICATION
 - All Districts 50.00
 - (Also they are to pay the recording costs and any engineering fees from evaluating the subdivision)
- h) BUILDING PERMIT FEES

RESIDENTIAL

- Residential Buildings New 100.00
(Includes garage and accessory buildings when constructed at the same time as the principal structure)
- Residential Buildings Additions 50.00
- Replacement Type 1 Manufactured Home 100.00
- Residential Accessories 10.00
- Fences NC

COMMERCIAL

Commercial Buildings	New	200.00
Commercial Buildings	Addition	100.00
Commercial Buildings Internal Remodeling		NC
Commercial Accessories		100.00
Commercial Fences		NC

INDUSTRIAL

Industrial Buildings	New	400.00
Industrial Buildings	Addition	200.00
Industrial Accessories		200.00

INSTITUTIONAL BUILDINGS

Institutional Buildings	New	100.00
Institutional Buildings	Addition	100.00
Institutional Accessories		50.00

(Institutional buildings include churches, private schools, care homes, housing authority, senior citizen center, charitable or philanthropic organizations)

TEMPORARY PERMITS 100.00

ZONING OR SUBDIVISION REPROCESSING 20.00

COMMERCIAL TOP SOIL REMOVAL PERMIT 150.00

i) MISC FEES

Duplicate Tape of Record Hearing	15.00
Copy of Unified Development Ordinance	15.00
Copy of Comprehensive Plan	15.00
City Map (Regular) *	NC
City Map (Large)	2.00

* One copy per person, more than one copy 25 cents each

j) Copies of the Unified Development Ordinance and all City Plans are supplied free of charge to official governmental agencies, local contractors, real estate office and the Chamber of Commerce by order of this ordinance.

k) The City of St. Marys City Commission may, by separate ordinance, waive the fee on any permit issued by the Zoning Administrator. The Planning Commission may, by motion, pay for any and all costs of title search. (ORD800, Sec 1; ORD1026/120793; ORD1043/70595)

18-305

PENALTY.

a) Every person convicted of a violation of any of the provisions of this ordinance for which another penalty is not provided, or who shall build in violation of any specifications or plans submitted and approved, or any certificate or permit issued thereunder, shall for each and every violation and noncompliance respectively be deemed guilty of a misdemeanor, and upon conviction therefore be fined not less than \$50 nor more than \$500 for each offense. Each and every day a violation is permitted to exist shall be deemed a separate offense.

b) In case any building or structure is or is proposed to be erected,

constructed, altered, converted, or maintained, or any building, structure, or land is or is proposed to be used in violation of this ordinance, the zoning administrator, city manager, city attorney, or other appropriate authority of the city, may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate such violation, or to prevent the occupancy of the building, structure, or land. The city shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing the provision of this ordinance and to abate nuisances maintained in violation thereof. (ORD 799, Sec. 7; ORD1023 Sec 6/111693)

ARTICLE 4. BOARD OF APPEALS

18-401

BOARD OF APPEALS. That pursuant to Section 204 of the 1991 Uniform Building Code of the City of St. Marys, Kansas, a "Board of Appeals" is hereby created, subject to the following: Section 204:

- a) **General.** In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals consisting of members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the jurisdiction of the City of St. Marys. The building official shall be an ex-officio member of and shall act as secretary to said board but shall have no vote on any matter before the board. The board of appeals shall be appointed by the Mayor with approval of the City Commission of the City of St. Marys and shall hold office at the City Commission's pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.
- b) **Limitations of Authority.** The board of appeals shall have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive the requirements of this code.
- c) **Confirmation of the Board.** The board of appeals shall consist of up to five (5) members and shall represent the construction trades of: builder, electrical, plumbing, HVAC and engineers/architect. The terms of the positions appointed by the Mayor shall be on rotating terms of three years, initially appointments shall be staggered. (ORD 1168/071905)

APPENDIX A. CHARTER ORDINANCES

CHARTER ORDINANCE NO. 1	Relating to power and duties of the City Marshal (Invalid /repealed by Kansas Legislature in 1973)
CHARTER ORDINANCE NO. 2	Relating to election of Governing Body Commissioners (Invalid /repealed by Charter Ordinance No. 8 on 06/15/99)
CHARTER ORDINANCE NO. 3	Relating to removal of residency requirements (Invalid /determined to be invalid 11/1/88)
CHARTER ORDINANCE NO. 4	Relating to streets, highways, bridges and culverts (Valid)
CHARTER ORDINANCE NO. 5	Relating to levying taxes for the purpose of paying public safety, street maintenance and improvement costs (Invalid /repealed by Kansas Legislature)
CHARTER ORDINANCE NO. 6	Relating to municipal accounting practices (Valid)
CHARTER ORDINANCE NO. 7	Relating to removal of residency requirements (Invalid /defeated on 04/04/89)
CHARTER ORDINANCE NO. 7	Relating to court costs in Municipal Court (Invalid /repealed by Charter Ordinance No.10 on 09/05/07)
CHARTER ORDINANCE NO. 8	Relating to election of Governing Body Commissioners (Invalid /repealed by Charter Ordinance No. 9 on 01/16/07)
CHARTER ORDINANCE NO. 9	Relating to election of Governing Body Commissioners (Invalid /repealed by Charter Ordinance No. 11 on 12/5/15)
CHARTER ORDINANCE NO. 10	Relating to court costs in Municipal Court (Valid)
CHARTER ORDINANCE NO. 11	Relating to election of Governing Body Commissioners (Invalid /Repealed by Charter Ordinance No. 13)
CHARTER ORDINANCE NO. 12	Relating to qualifications of officers of the City; how vacancies filled. (Repealing Charter Ordinance No. 3 on 07/19/16)
CHARTER ORDINANCE NO. 13	Relating to election of Governing Body Commissioners (Valid)

APPENDIX A. CHARTER ORDINANCES

NOTE: The Charter Ordinances included herein are for information only. Each of them contains the substance as adopted by the city governing body, but enacting clauses, publication clauses and signatures have been omitted. Complete copies of each ordinance as adopted are on file in the office of the city clerk. Copies of charter ordinances also are on file with the secretary of state. Date of passage is shown in parenthesis at the end of the text.

CHARTER ORDINANCE NO. 1

A CHARTER ORDINANCE EXEMPTING THE CITY OF ST. MARYS, KANSAS, FROM THE PROVISIONS OF SECTIONS 15-601 AND 15-602 OF THE GENERAL STATUTES OF 1949, RELATING TO POWERS AND DUTIES OF THE CITY MARSHAL PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

Be it Ordained by the Governing Body of the City of St. Marys:

Section 1. The City of St. Marys, Kansas, under the authority of Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from and to make inapplicable to it Sections 15-601 and 15-602 of general statutes of 1949, which apply to said city but the provisions of which do not apply uniformly to all cities and to provide substitute and additional provisions on the same subject.

Section 2. The city marshal shall be chief of police and shall at all times have power to make or order an arrest, with proper process, for any offense against the laws of the state, or of the city, and to arrest without process in all cases where any such offense shall be committed or attempted to be committed in his presence. The city marshal shall have power and it shall be his duty to keep all such persons arrested in the city prison or other place to prevent their escape until a trial can be had before the proper officer except as otherwise provided in Section 3 of this ordinance. The city marshal shall execute all processes issued by the police judge and delivered to him for that purpose.

Section 3. Whenever any person is arrested for any violation of a traffic ordinance for which a written notice to appear and a cash appearance bond is by ordinance authorized and provided and such person is not given an immediate hearing before the police judge, the city marshal shall prepare and make such disposition of such written notice to appear as shall be provided by ordinance. The city marshal may also require any person arrested for any such violation under such circumstances to post a cash bond in the manner and in the amount and for the offenses prescribed by such ordinance. Whenever any such person shall have given his written promise to appear upon the written notice to appear and shall have posted the required cash bond, if any, the city marshal shall forthwith release the person arrested from custody.

Section. 4. The assistant marshal of the city shall have the same power as is conferred upon the marshal in Sections 2 and 3 of this ordinance. (3-5-62)

CHARTER ORDINANCE NO. 2

A CHARTER ORDINANCE EXEMPTING THE CITY OF ST, MARYS, KANSAS, FROM K.S.A, 1968 SUPPLEMENT 12-1005c; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE ELECTION OF COMMISSIONERS AND THEIR TERMS OF OFFICE.

Be it Ordained by the Governing Body of the City of St. Marys, Kansas:

Section 1. The City of St. Marys, 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 and make inapplicable to it, K.S.A. 1968 Supplement 12-1005c and provide substitute and additional provisions as hereinafter set forth in this ordinance. Such statutory section is applicable to this city but is not applicable uniformly to all cities.

Section 2. A regular city election shall be held on the first Tuesday in April of each year, beginning with the year 1970. The governing body member elected in the year 1967 shall have a term expiring in 1970. The governing body member elected in the year 1968 shall have a term expiring in 1971. The governing body member elected in the year 1969 shall have a term expiring in 1972, and their successors and shall be elected and serve their three-year terms or until his successor be elected and qualify thereafter, as provided herein.

Section 3. The Board of Commissioners shall consist of three commissioners as provided by law for commission-manager cities of the third class of Kansas, and the Board of Commissioners shall choose its own chairman annually at its second regular meeting held in April, and the chairman shall have the title of mayor, and the Board of Commissioners may further organize and may be deemed necessary. (3-3-69)

CHARTER ORDINANCE NO. 3

A CHARTER ORDINANCE EXEMPTING THE CITY OF ST. MARYS, KANSAS FROM K.S.A. 15-209, PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT AND REMOVING LIMITATIONS ON RESIDENCY REQUIREMENTS.

Be it Ordained by the Governing Body of the City of St. Marys, Kansas:

Section 1. The City of St. Marys, Kansas, a 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 exempt itself from K.S.A. 1976 Supp. 15-209, which applies to said city, but not uniformly to all cities, and provide substitute and additional provisions as hereinafter set forth.

Section 2. The governing body of the City of St. Marys, Kansas shall be qualified electors of said city, but all appointed officers need not be qualified electors of said city. (8-1-78)

(Determine by staff on 11-1-1988 to be invalid.)

CHARTER ORDINANCE NO. 4

A CHARTER ORDINANCE EXEMPTING THE CITY OF ST. MARYS, POTTAWATOMIE COUNTY, KANSAS, FROM THE PROVISIONS OF THE FIRST AND SECOND PARAGRAPHS OF K.S.A. 15-731 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, RELATING TO STREETS, HIGHWAYS, BRIDGES AND CULVERTS.

WHEREAS, Article 12, Section 5, of the Constitution of the State of Kansas provides that any Kansas city may by charter ordinance elect to exempt itself from certain enactments, or parts thereof, of the legislature applying to the city but not uniformly applicable to all cities;

WHEREAS, Said Article 12, Section 5 of the Constitution of the State of Kansas further provides that any Kansas city electing by charter ordinance to exempt itself from such enactments may provide substitute and additional provisions on the same subject, and

WHEREAS, Kansas Statutes Annotated 15-731 which grants certain cities the authority to issue its general obligation bonds to finance the construction of certain street, highway, bridge and culvert improvements, is applicable to the City of St. Marys, Kansas, the "City" but not uniformly applicable to all Kansas cities.

NOW, THEREFORE, Be it ordained by the Governing Body of the City of St. Marys, Pottawatomie County, Kansas:

Section 1. That the city, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it the provisions of the first and second paragraphs of K.S.A. 15-731 and provide substitute and additional provisions as hereinafter set forth in this ordinance.

Section 2. That the city may issue general obligation bonds payable by the city at large to surface, resurface, pave, repave, curb, recurb, gutter, regutter or otherwise improve any street, avenue or highway, with such culverts and drainage facilities as may be necessary and to build bridges and approaches thereto, or any combination thereof, together with all things necessary and incidental thereto. (3-4-80)

CHARTER ORDINANCE NO. 5

A CHARTER ORDINANCE EXEMPTING THE CITY OF ST. MARYS, KANSAS, FROM K.S.A. 79-5011; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT AND AUTHORIZING THE LEVYING OF TAXES TO CREATE A SPECIAL FUND FOR THE PURPOSE OF PAYING PUBLIC SAFETY COSTS AND AUTHORIZING THE LEVYING OF TAXES TO CREATE A SPECIAL FUND FOR THE PURPOSE OF PAYING STREET MAINTENANCE AND IMPROVEMENT COSTS.

Be it Ordained by the Governing Body of the City of St. Marys:

Section 1. The City of St. Marys, Kansas, by the powers 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. 79-5011, and to provide substitute and additional provisions as hereinafter set forth in this charter ordinance. K.S.A. 79-5011 is a part of an enactment of the legislature establishing an aggregate tax levy limitation applicable to this city but not applicable uniformly to all cities, and the legislature has not established classes of cities for the purpose of imposing aggregate limitations under said constitutional provision.

Section 2. The provisions of K.S.A. 79-5011 to 79-5016, inclusive, shall not apply to or limit the levy of taxes by the City of St. Marys for the payment of:

- (a) Principal and interest upon bonds and temporary notes;
- (b) No fund warrants issued with the approval of the State Board of Tax Appeals;
- (c) Legal judgments rendered against the city;
- (d) Special assessments charged against the city at large;
- (e) Public safety costs whether paid from a separate property tax levy fund of the city or from any other tax supported fund;
- (f) Street maintenance and improvement costs whether paid from a separate property tax fund of the city or from any other tax supported fund.

Section 3. The provisions of Article 50 of Chapter 79 of the Kansas Statutes Annotated shall not apply to any taxes levied by the City of St. Marys levied under the provisions of K.S.A. 1979 Supp. 40-2305 and 74-4920 or to any tax levies required for the payment of employer contributions to any pension or retirement program, or to any other taxes authorized by state law to be levied in addition to or exempt from the aggregate levy limitations of the City of St. Marys.

Amounts produced from any levy specified or authorized in this charter ordinance, including any levy or purpose authorized to be levied in addition to or exempt from the aggregate levy limit of the city shall not be used in computing any aggregate limitation under Article 50 of Chapter 79 of the Kansas Statutes Annotated.

Section 4. The City of St. Marys is hereby authorized to levy a tax for the purpose of paying public safety costs and street maintenance and improvement costs. As used in this charter ordinance, "public safety costs" shall mean the city's cost for salaries, equipment, commodities and services necessary for the provision of police and fire protection services to the City of St. Marys and "street maintenance and improvement costs" shall mean the city's cost for salaries, equipment, materials,

commodities and services necessary for the cleaning, repair, maintenance and improvement of city streets. (3-18-80)

CHARTER ORDINANCE NO. 6

A CHARTER ORDINANCE EXEMPTING THE CITY OF ST. MARYS, KANSAS, FROM THE PROVISIONS OF K.S.A. 1981 SUPP. 74-1120a AS AMENDED BY S.B. 531 OF THE 1982 SESSION LAWS.

Be it ordained by the Governing Body of the City of St. Marys, Kansas:

Section 1. That the City of St. Marys, Kansas, a city of the third class, by power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby exempts itself from the provisions of K.S.A. 1981 Supp. 75-1120a as amended by S.B. 531 of the 1982 Session Laws. (7-6-82)

CHARTER ORDINANCE NO. 7

A CHARTER ORDINANCE EXEMPTING THE CITY OF ST. MARYS, KANSAS FROM K.S.A. 15-1602, PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT AND REMOVING LIMITATIONS ON RESIDENCY REQUIREMENTS. (11-1-88)

Charter Ordinance No. 7 was petitioned and put on the ballot for vote. It was defeated on 4-4-89.

CHARTER ORDINANCE NO. 7

A CHARTER ORDINANCE EXEMPTING THE CITY OF ST. MARYS, KANSAS, FROM K.S.A. 12-4112, CONCERNING COURT COSTS IN MUNICIPAL COURT, AND PROVIDING ALTERNATIVES THEREFOR.

Be it ordained by the Governing Body of the City of St. Marys, Kansas:

Section 1. The City of St. Marys, Kansas, is a city of the third class and by the power vested in it by Article XII, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself, and makes inapplicable to it, the provisions of K.S.A. 12-4112. (12-5-89)

CHARTER ORDINANCE NO. 8

A CHARTER ORDINANCE EXEMPTING THE CITY OF ST. MARYS, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-1006, K.S.A. 12-1005c, AND K.S.A. 15-1704 , AND REPEALING CHARTER ORDINANCE NO. 2, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE NUMBER OF COMMISSIONERS ON THE GOVERNING BODY OF THE CITY AND THEIR TERMS OF OFFICE.

Be It Ordained By The Governing Body Of The City Of St. Marys, Kansas:

Section 1. The City of St. Marys, Kansas is a city of the third class, and by the power vested in it by Article XII, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt, and does hereby exempt, itself from, and makes inapplicable to it, the provisions of K.S.A. 12-1006, K.S.A. 12-1005c and K.S.A. 15-1704, which all apply to this City, but not uniformly to all cities of the State of Kansas.

Section 2. Commencing with the City Commission election conducted in 2000, the governing board of the city of St. Marys, Kansas, shall consist of five (5) commissioners. No distinction shall be made in title or duties among these commissioners, except as the board shall organize itself for business.

Section 3. A regular city election shall be held on the first Tuesday in April beginning in the year 2000, and continuing each year thereafter.

Section 4. Beginning with the election conducted in 2000, all commissioners shall be elected to serve three (3) year terms except for one commissioner elected in 2000, as set forth hereinafter. The two incumbent commissioners, existing as of the election in 2000, shall serve out their terms of two (2) and one (1) year(s), respectively. At the election conducted in 2000, there shall be elected two (2) commissioners to serve three (3) year terms, and one commissioner to serve a one (1) year term. In the election conducted in 2000, the candidates receiving the largest and second largest number of votes shall be elected to three (3) year terms and the candidate receiving the third largest number of votes shall be elected to a one (1) year term. In the election conducted in 2001, there will be two (2) commissioners elected, and in the election conducted in 2002, there will be one (1) commissioner elected. Commencing with the year 2003, there will be two (2) commissioners to be elected in two (2) consecutive years, and one (1) commissioner to be elected in the third year, and then that cycle will repeat itself.

Section 5. Charter Ordinance No. 2 is hereby repealed. (06/15/99)

CHARTER ORDINANCE NO. 9

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 8; EXEMPTING THE CITY OF ST MARYS, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-1006, K.S.A. 12-1005C, K.S.A. 15-1704, AND K.S.A. 15-1405; AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE NUMBER OF COMMISIONERS ON THE GOVERNING BODY OF THE CITY, THEIR TERMS OF OFFICE, AND APPOINTMENT IN THE EVENT OF VACANCY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ST. MARYS, KANSAS:

Section 1. The City of St. Marys, Kansas, is a city of the third class, and by the power vested in it by Article XII, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt, and does hereby exempt, itself from, and makes inapplicable to it, the provisions of K.S.A. 12-1006, K.S.A. 12-1005c, K.S.A. 15-1704, and K.S.A. 15-1405, which all apply to this City, but not uniformly to all cities of the State of Kansas.

Section 2. The governing board of the City of St. Marys, Kansas, shall consist of five (5) commissioners. No distinction shall be made in title or duties among these commissioners, except as the board shall organize itself for business.

Section 3. A regular City election shall be held on the first Tuesday in April, and continuing each year thereafter.

Section 4. All commissioners shall be elected to serve three (3) year terms. There will be two (2) commissioners to be elected in two (2) consecutive years, and one (1) commissioner to be elected in the third year, and that cycle shall repeat itself.

Section 5. In case of any vacancy from any cause in the office of mayor or any commissioner, the remaining members of the governing body, within 30 days after the date of vacancy, shall by majority vote elect some suitable person to fill the vacancy for the balance of the unexpired term of such office. If the remaining members cannot agree upon some such suitable person, then they shall call in the City attorney, who shall cast the decisive vote for such appointment.

Section 6. The resignation of the mayor or any commissioner shall be made in writing to the governing body. If the mayor or any commissioner shall remove from the territorial limits of such City, such removal shall be deemed to create a vacancy in such person's office.

Section 7. Charter Ordinance No. 8 is hereby repealed.

Section 8. *Effective Date.* This is a charter ordinance and shall take effect sixty-one (61) days after its final publication, unless a sufficient petition for a referendum is filed and a referendum is held on the ordinance, as provided in Article XII, Section 5, Subdivision (c) (3), of the Constitution of the State of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon. (01/16/07)

CHARTER ORDINANCE NO. 10

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 7; AND EXEMPTING THE CITY OF ST. MARYS, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-4112, CONCERNING COURT COSTS IN MUNICIPAL COURT, AND PROVIDING ALTERNATIVES THEREFOR.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ST. MARYS, KANSAS:

Section 1. The City of St. Marys, Kansas, is a city of the third class, and by the power vested in it by Article XII, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt, and hereby does hereby exempt itself from, and makes inapplicable to it, the provisions of K.S.A. 12-4112, which applies to this City, but not uniformly to all cities of the State of Kansas.

Section 2. Whenever a defendant, in a case before the Municipal Court of the City of St. Marys, Kansas, is convicted of a violation of a municipal ordinance, or ordinances, or enters into a Diversion Agreement concerning a violation thereof, said defendant shall be assessed the court costs as follows, to-wit: For Class A, B, or C violations, as designated by the Code of the City of St. Marys, Kansas, or by the ordinance establishing such violation, the sum set by ordinary ordinance in addition to any assessments established by any agency of the State of Kansas required to be imposed on the violation. For all other violations, including traffic infractions or other misdemeanors not designated as Class A, B, or C violations, the sum set by ordinary ordinance in addition to any assessments established by any agency of the State of Kansas required to be imposed on the violation. When a single case involves a Class A, B, or C violation, as well as other violations, the court costs for Class A, B, or C violation shall apply. Said sum shall be in addition to any fine that is imposed by the court for said violation.

Section 3. The provisions of Section 2 of this ordinance shall not apply to convictions for the violation of any ordinance prohibiting or restricting the parking of motor vehicles with the city.

Section 4. Charter Ordinance No. 7 and all previous charter ordinances in conflict herewith are hereby repealed.

Section 5. This ordinance shall be published once each week for two (2) consecutive weeks in the official city newspaper.

Section 6. This is a charter ordinance and shall take effect sixty-one (61) days after its final publication, unless a sufficient petition for a referendum is filed and a referendum is held on the ordinance, as provided in Article XII, Section 5, Subdivision (c)(3), of the Constitution of the State of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon. (09/05/07)

CHARTER ORDINANCE NO. 11

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 9; AND EXEMPTING THE CITY OF ST. MARYS, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-1006, K.S.A. 12-1005c, K.S.A. 15-1704, AND K.S.A. 15-1405; AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE DATES OF ELECTIONS, THE NUMBER OF COMMISSIONERS ON THE GOVERNING BODY OF THE CITY, THEIR TERMS OF OFFICE APPOINTMENT IN THE EVENT OF VACANCY, AND EFFECTIVE DATE OF CHANGES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ST. MARYS, KANSAS:

Section 1. The City of St. Marys, Kansas, is a city of the third class, and by the power vested in it by Article XII, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt, and does hereby exempt, itself from, and makes inapplicable to it, the provisions of K.S.A. 12-1006, K.S.A. 12-1005c, K.S.A. 15-1704, and K.S.A. 15-1405, which all apply to this City, but not uniformly to all cities of the State of Kansas.

Section 2. The governing board of the city of St. Marys, Kansas, shall consist of five (5) commissioners. No distinction shall be made in title or duties among these commissioners, except as the board shall organize itself for business.

Section 3. Filing deadline for candidates shall be 12 noon on June 1, 2017 and each year thereafter unless such falls on a Saturday, Sunday or holiday, then such shall be at 12 noon of the next business day.

Section 4. That effective in 2017 the primary election, if required, shall be held on the first Tuesday of August. Succeeding primary elections shall be on the first Tuesday of August of each year.

Section 5. A regular City election shall be held on the Tuesday succeeding the first Monday in November in 2017 and like Tuesday each year thereafter. Those elected at the general election shall take office at noon on the second Monday of January of the following year and like Monday each year thereafter.

Section 6. All commissioners shall be elected to serve three (3) year terms. There will be two (2) commissioners to be elected in two (2) consecutive years, and one (1) commissioner to be elected in the third year, and that cycle shall repeat itself. The rotation shall continue as in place except that with those terms to terminate in April, 2017, such shall be extended until the elected person in the general election takes office on the second Tuesday of January, 2018.

Section 7. In case of any vacancy from any cause in the office of any commissioner, the remaining members of the governing body, within 30 days after the date of vacancy, shall by majority vote elect a suitable person to fill the vacancy for the balance of the unexpired term of such office. If the remaining members cannot agree upon some such suitable person, then they shall call in the City attorney, who shall cast the decisive vote for such appointment.

Section 8. The resignation of a commissioner shall be made in writing to the governing body. If any commissioner shall move from the territorial limits of such City, such move shall be deemed to create a vacancy in such person's office.

Section 9. This ordinance shall be published once each week for two (2) consecutive weeks in the official city newspaper.

Section 10. This is a charter ordinance and shall take effect sixty-one days after its final publication, unless a sufficient petition for a referendum is filed and a referendum is held on the ordinance, as provided in Article XII, Section 5, Subdivision (c)(3), of the Constitution of the State of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon. (12/5/15)

CHARTER ORDINANCE NO. 12

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 3; AND EXEMPTING THE CITY OF ST. MARYS, KS FROM K.S.A. 15-209 RELATED TO QUALIFICATIONS OF OFFICERS OF THE CITY AND PROVIDING SUBSTITUTE PROVISIONS ON THE SAME SUBJECT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ST. MARYS, KS:

Section 1. The City of St. Marys, Kansas, a 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 exempt itself from and make inapplicable to it K.S.A. 15-209 (and any amendments thereto), which is an enactment of the legislature applicable to the City, but which is not uniformly applicable to all cities of the State. The City further elects to provide substitute provisions as hereinafter set forth in this ordinance.

Section 2. Qualifications of officers; how vacancies filled. The officers elected or appointed by the City shall be qualified electors of the City, except the City may appoint nonresidents as city clerk, city attorney, municipal judge, police chief, and as law enforcement officers when deemed necessary, including the appointment of nonresidents who also serve as city clerk, city attorney, municipal judge, police chief, or law enforcement officers of another municipality or public agency: *Provided*, That nothing herein shall authorize the appointment of nonresidents of this State. The city attorney, city clerk, police chief, and municipal court judge shall each be a qualified elector of the county in which the City is located or of an adjoining county. The removal from the City of any officer elected or appointed under this act who is required to be a qualified elector thereof, shall occasion a vacancy in such office. All vacancies in office shall be filled as per St. Marys City Code.

Section 3. Publication. This ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

Section 4. Effective Date. This Charter Ordinance shall take effect Sixty-One (61) days after final publication unless a sufficient petition for a referendum is filed, requiring a referendum to be held on the Ordinance as provided in Article 12, Section 5 of the Constitution of the State of Kansas, in which case this Charter Ordinance shall become effective upon approval by majority of electors voting thereon. (07/9/16)

CHARTER ORDINANCE NO. 13

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 11; AND EXEMPTING THE CITY OF ST. MARYS, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-1006, K.S.A. 12-1005c, K.S.A. 15-1704, AND K.S.A. 15-1405; AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE DATES OF ELECTIONS, THE NUMBER OF COMMISSIONERS ON THE GOVERNING BODY OF THE CITY, THEIR TERMS OF OFFICE APPOINTMENT IN THE EVENT OF VACANCY, AND EFFECTIVE DATE OF CHANGES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ST. MARYS, KANSAS:

Section 1. The City of St. Marys, Kansas, is a city of the third class, and by the power vested in it by Article XII, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt, and does hereby exempt, itself from, and makes inapplicable to it, the provisions of K.S.A. 12-1006, K.S.A. 12-1005c, K.S.A. 15-1704, and K.S.A. 15-1405, which all apply to this City, but not uniformly to all cities of the State of Kansas.

Section 2. The governing board of the city of St. Marys, Kansas, shall consist of five (5) commissioners. No distinction shall be made in title or duties among these commissioners, except as the board shall organize itself for business.

Section 3. Filing deadline for candidates shall be 12 noon on June 1 of each year unless such falls on a Saturday, Sunday, or holiday, then such shall be at 12 noon of the next business day.

Section 4. Primary election, if required, shall be held on the first Tuesday of August of each year.

Section 5. A regular City election shall be held on the Tuesday succeeding the first Monday in November of each year. Those elected at the general election shall take office at noon on the first Tuesday of December, following certification of the election.

Section 6. All commissioners shall be elected to serve three (3) year terms. There will be two (2) commissioners to be elected in two (2) consecutive years, and one (1) commissioner to be elected in the third year, and that cycle shall repeat itself.

Section 7. In case of any vacancy from any cause in the office of any commissioner, the remaining members of the governing body, within 30 days after the date of vacancy, shall by majority vote elect a suitable person to fill the vacancy for the balance of the unexpired term of such office. If the remaining members cannot agree upon some such suitable person, then they shall call in the City attorney, who shall cast the decisive vote for such appointment.

Section 8. The resignation of a commissioner shall be made in writing to the governing body. If any commissioner shall move from the territorial limits of such City, such move shall be deemed to create a vacancy in such person's office.

Section 9. This ordinance shall be published once each week for two (2)

consecutive weeks in the official city newspaper.

Section 10. This is a charter ordinance and shall take effect sixty-one days after its final publication, unless a sufficient petition for a referendum is filed and a referendum is held on the ordinance, as provided in Article XII, Section 5, Subdivision (c)(3), of the Constitution of the State of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

APPENDIX B. FUND ORDINANCES

NOTE: The Fund Ordinances included herein are listed as adopted by the governing body, but enacting clauses, publication clauses and signatures have been omitted. Complete copies of each ordinance as adopted are on file in the office of the city clerk. Date of passage is shown in parenthesis at the end of the text.

ORDINANCE NO. 1286

AN ORDINANCE AMENDING THE NAMES OF THE BELOW LISTED FUNDS.

SECTION 1. Ordinance No. 856A Capital Improvement Fund, adopted on October 15, 1985, is hereby renamed as the Facilities Capital Improvement Fund.

SECTION 2. The Crime Prevention Fund, which was created by a motion at the February 18, 2003, City Commission meeting, is hereby renamed as the Police Capital Improvement Fund.

SECTION 3. Ordinance No. 1146 Electrical Substation Debt Reserve Fund, adopted on December 16, 2003, is hereby renamed as the Electric Capital Improvement Fund.

SECTION 4. Ordinance No. 857A Municipal Equipment Reserve Fund, adopted on October 15, 1985, is hereby renamed as the Refuse Capital Improvement Fund.

SECTION 5. The Special Highway Fund, is hereby renamed as the Special Highway & Street Capital Improvement Fund. (ORD1286/010516)

ORDINANCE NO. 1287

AN ORDINANCE CREATING A FIRE EQUIPMENT CAPITAL IMPROVEMENT FUND.

SECTION 1. FUND ESTABLISHED. There is hereby created and established a fund of the city to be known as the Fire Equipment Capital Improvement Fund.

SECTION 2. The city has the authority to enter into agreements with other parties to provide fire service outside the corporate limits of the city for fees that may be agreed upon between parties involved.

SECTION 3. POLICY OBJECTIVE. It is the policy objective of the Governing Body that a portion or all of the fees received from any such agreements may be placed in the Fire Equipment Capital Improvement Fund, and that said revenue shall be used solely to purchase fire equipment.

SECTION 4. REPEAL. Resolution No. 14, adopted on August 19, 1980, is hereby repealed. (ORD1287/010516)

ORDINANCE NO. 1288

AN ORDINANCE CREATING A WATER CAPITAL IMPROVEMENT FUND.

SECTION 1. FUND ESTABLISHED. There is hereby created and established, pursuant to K.S.A. 12-1,117 and 12-1,118, a fund of the city to be known as the Water Capital Improvement Fund.

SECTION 2. POLICY OBJECTIVE. It is the policy objective of the Governing Body that such fund shall be used only for the water department of the city for the purposes of financing, in whole or in part, any public improvement need for the department, including the repair, restoration, and rehabilitation of existing facilities, and for the purpose of financing the acquisition of new and replacement equipment, including machinery, vehicles and any other equipment or personal property of any nature whatsoever which the city is authorized to purchase for the operation, maintenance and improvement of the aforesaid department.

SECTION 3. SOURCE OF FUNDS. The source of monies deposited in the Water Capital Improvement Fund shall be from the proceeds derived from the sale and consumption of water, funds transferred from the city's County Wide Sales Tax Fund, or from any other lawful source of revenue available, such as bond proceeds, special assessments, or state or federal aid/loans that are available for projects or expenses that meet the policy objective of the Water Capital Improvement Fund. (ORD1288/010516)

ORDINANCE NO. 1289

AN ORDINANCE AMENDING THE NAME OF THE SEWER RESERVE FUND TO SEWER CAPITAL IMPROVEMENT FUND.

SECTION 1. The Sewer Reserve Fund is hereby renamed as the Sewer Capital Improvement Fund. (ORD1289/011916)