

CODE OF THE CITY OF LAKE QUIVIRA, KANSAS

EFFECTIVE APRIL 1, 2010

**Master Copy; last revised      June 5, 2019**

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**Section 1            Adoption**

Pursuant to the provisions of Sections 12-3014 and 12-3015 of Kansas Statutes Annotated, as amended (hereinafter referred to in this Code as K.S.A. or KSA), there is hereby adopted the "Code of the City of Lake Quivira, Kansas," together with those standard or model codes or ordinances, state regulations and statutes incorporated by reference pursuant to K.S.A. 12-3015 save and except those portions thereof as are deleted or modified by the provisions of the " Code of the City of Lake Quivira, Kansas."

(Ord. 261, 2010)

**Section 2            Updates and Supplements**

The City Clerk is authorized to prepare and distribute loose leaf supplements to the Code from time to time. The supplements may be added to this Code to reflect omitted, amended and new sections. The City Clerk is further authorized and directed to reprint or republish the Code, as supplemented, from time to time and to create and maintain electronic versions of the Code, as supplemented.

(Ord. 261, 2010)

### **Section 3                      Publication and Effect**

This Code in conjunction with the adopting ordinance codified in this Title, and with a certificate of the City Clerk that such code and ordinance are true and correct copies, when published in loose-leaf form, shall import absolute verity and be received in evidence in all courts and places without further proof. At least three copies of such Code shall be kept on file in the office of the City Clerk and available for inspection by the public at all reasonable business hours, one of which shall be designated the master and official version of the codification of ordinances of the City and its text shall control in determining the official text of the Code of the City of Lake Quivira, Kansas.

(Ord. 261, 2010)

### **Section 4                      Citation and Reference**

This Code shall be known as the "Code of the City of Lake Quivira, Kansas," and it shall be sufficient to refer to the code as the "Code," or "Lake Quivira Municipal Code" in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the Code of the City of Lake Quivira, Kansas. Further reference may be had to the titles, chapters, sections and subsections, and such reference shall apply to that numbered title, chapter, section or subsection as it appears in the Code.

(Ord. 261, 2010)

### **Section 5                      Reference Includes Amendments**

Whenever a reference is made to this Code as the "Code of the City of Lake Quivira, Kansas," or to any portion thereof, or to any ordinance of the city of Lake Quivira, Kansas, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

(Ord. 261, 2010)



## **Section 6                    Headings**

Title, chapter and section headings contained in this Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof.

(Ord. 261, 2010)

## **Section 7                    Reference to Specific Ordinances**

The provisions of the Code of the City of Lake Quivira, Kansas shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the Code, but such reference shall be construed to apply to the corresponding provisions contained within this Code.

(Ord. 261, 2010)

## **Section 8                    Effect of Code of the City of Lake Quivira, Kansas on Prior Acts or Obligations**

Neither the adoption of this Code of the City of Lake Quivira, Kansas nor the repeal or Amendment hereby of any ordinance or part or portion of any ordinances of the City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date, hereof, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee, or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect.

(Ord. 261, 2010)

## **Section 9                    Effective Date**

This Code of the City of Lake Quivira, Kansas shall become effective on April 1, 2010.

(Ord. 261, 2010)

## **Section 10                    Constitutionality**

If any section, subsection, sentence, clause or phrase of this Code of the City of Lake Quivira, Kansas is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Code of the City of Lake Quivira, Kansas. The Governing Body hereby declares that it would have passed this Code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this Code should be declared invalid or unconstitutional, then the original ordinances as they existed prior to passage of this Code of the City of Lake Quivira, Kansas shall be in full force and effect.

(Ord. 261, 2010)

## **Section 11                    City Limits**

**SECTION ONE: Corporate Boundaries.** The corporate limits and boundaries of the City of Lake Quivira, Kansas, are hereby defined and declared to be as follows:

### Overall Tract Boundary

All that part of Sections 4,5, 6, and 8, all in Township 12, Range 24, Johnson County, Kansas, and that part of Sections 32 and 33, Township 11, Range 24, Wyandotte County, Kansas, more particularly described as: Commencing at the Northwest corner of said Section 4 which is also the Southeast corner of said Section 32; thence South 89 degrees 32 minutes 19 seconds East, along the North line of the Northwest Quarter of said Section 4, a distance of 661.05 feet, to the Northeast corner of the West 1/2 of the Northwest 1/4 of the Northwest 1/4 of said Section 4; thence South along the East line of the West 1/2 of the Northwest 1/4 of the Northwest 1/4 of said Section 4 and along the West line of Lots 13 and 12, Quivira Heights, a subdivision of land in the City of Shawnee, Johnson County, Kansas, according to the recorded plat thereof, to the Southwest corner of said Lot 12, said point being on the North line of Lot 15, Saddlebrooke Estates, a subdivision of land in the City of Shawnee, Johnson County, Kansas, according to the recorded plat thereof, said point also being the Southeast corner of the West 1/2 of the Northwest 1/4 of the Northwest 1/4 of said Section 4; thence West, along the North lines of Lot 15 and Lot 14 of said Saddlebrooke Estates, to the Northwest corner of said Lot 14; thence Southwesterly along the Northwesterly lines of said Lot 14 and Lots 13, 12, 11, 10, 9, 8 and 7 all of said Saddlebrooke Estates, to the Southwest corner of said Lot 7; thence Southeasterly along the Southwesterly line of said Lots 7, 6 and 5 of said Saddlebrooke Estates, to the Southerly corner of said Lot 5; thence East, along the South line of said Lots 5 and 4 of said Saddlebrooke Estates, to the Southeast corner of said Lot 4, said point also being the Southwest

corner of Lot 3 of said Saddlebrooke Estates; thence Southeasterly along the Southwesterly lines of said Lots 3 and 2 of said Saddlebrooke Estates, to a point being on the South line of the Southwest Quarter of the Northwest Quarter of said Section 4 and the North line of the Southwest Quarter of said Section 4; thence East, along said South and North lines, to the Northeast corner of the Southwest Quarter of said Section 4; thence South along the East line of the Northeast 1/4 of the Southwest 1/4 of said Section 4, to the Southeast corner thereof; then West, along the South line of the Northeast 1/4 of the Southwest 1/4 of said Section 4, to the Southwest corner thereof; thence South, along the East line of the Southwest 1/4 of the Southwest 1/4 of said Section 4, to the Southeast corner thereof; thence West along the South line of the Southwest 1/4 of said Section 4, to the Southwest corner thereof, thence North along the West line of the Southwest 1/4 of the Southwest 1/4 of said Section 4, to the Northwest corner thereof; thence West along the North line of the Southeast Quarter of the Southeast Quarter of said Section 5, to the Northwest corner of the Southeast Quarter of the Southeast Quarter of said Section 5, said point also being the Northeast corner of the North 1/2 of the North 1/2 of the East 1/2 of the Southwest 1/4 of the Southeast 1/4 of said Section 5, thence South, along the East line of the North 1/2 of the North 1/2 of the East 1/2 of the Southwest 1/4 of the Southeast 1/4 of said Section 5, to the Southeast corner thereof; thence West, along the South line of the North 1/2 of the North 1/2 of the East 1/2 of the Southwest 1/4 of the Southeast 1/4 of said Section 5, to the Southwest corner thereof; thence South, along the East line of the West 1/2 of the Southwest 1/4 of the Southeast 1/4 of said Section 5, to the Southeast corner thereof; thence East, along the South line of the Southwest 1/4 of the Southeast 1/4 of said Section 5, 198.00 feet, thence South, 660 feet; thence West to a point on the West line of the Northeast 1/4 of said Section 8; thence North, along the West line of the Northeast 1/4 of said Section 8; thence North, along the West line of the Northeast 1/4 of said Section 8, 660 feet to the Northwest corner thereof; thence West, along the South line of Section 5, to the Southwest corner thereof; thence North, along the West line of the Southwest 1/4 of said Section 5, to the Northwest corner thereof; said point also being the centerline of Renner Road as now established; thence Northerly, along the center-line of said Renner Road, to a point on the North line of the Southeast 1/4 of the Northeast 1/4 of said Section 6 and 300 feet West of the Northeast corner thereof; thence North, along the centerline of Renner Road to its intersection with the centerline of Hillcrest Road; thence North, along the centerline of Hillcrest Road, to its intersection with the West line of the Northwest 1/4 of said Section 5; thence North, along the West line of the Northwest 1/4 of said Section 5, to the Northwest corner thereof, which point is also the Southwest corner of said Section 32; thence North along the West line of said Section 32, to the Northerly right-of-way line of the Argentine- Holliday Road as now established; thence Northeasterly, along said Northerly right-of- way line, to a point 660 feet East and 75 feet North of the center of said Section 32; thence Northeasterly along the Northerly right-of-way line of said Argentine-Holliday Road, to the Southwest corner of a certain tract of land lying in the Northeast Quarter of said Section 32, Wyandotte County Parcel ID No. 93002 and recorded in Ordinance No. 295 to the City of Lake Quivira, dated July 30, 2017; thence North, along the West line of said certain tract of land, to the Northwest corner of said certain tract of land, said point being on the Southeasterly right-of-way line of the Burlington, Northern and Santa Fe Railway, as

now established; thence Northeasterly, along the Northwesterly line of said certain tract of land and said Southeasterly right-of-way line, to the Northeast corner of said certain tract of land; thence South, departing said Southeasterly right-of-way line, along the East line of said certain tract of land and the East line of a certain tract of land lying in the Northeast Quarter and the Southeast Quarter of said Section 32, Wyandotte County Parcel ID No. 93005 and recorded in Ordinance No. 295 to the City of Lake Quivira, dated July 30, 2017, to a jog to the East in said East line of said certain tract of land; thence East along the North line of said certain tract of land, Parcel ID No. 93005, to a point on the East line of the Southeast Quarter of said Section 32; thence South, along said East line, and the East line of said certain tract of land, Parcel ID No. 93005, to a point on the Northerly right- of-way line of Quivira Cut-off, as now established, said point being 115 feet South of the Northeast corner of the Southeast 1/4 of the Southeast 1/4 of said Section 32, said point also being the Southeasterly corner of said certain tract of land, Parcel ID No. 93005; thence in a South-Southeasterly direction along the Northerly right-of-way line of Quivira Cut-off, to the Northeasterly prolongations of the Southeasterly line of said certain tract of land, Parcel ID No. 929807 and the Northwesterly line of a certain tract of land, lying in the Southwest Quarter of said Section 33, Wyandotte County, Parcel ID No. 929806; thence Southwesterly, departing said Northerly right-of-way line, along said Northeasterly prolongations and the Southeasterly line of said certain tract of land, Parcel ID No. 929807 and the Northwesterly line of said certain tract of land, Parcel ID No. 929806, to a jog to the Southeast of said certain tract of land, Parcel ID No. 929807, said point also being the most Westerly corner of said certain tract of land, Parcel ID No. 929806; thence Southeasterly, along the Northeasterly line of said certain tract of land, Parcel ID No. 929807 and the Southwesterly line of said certain tract of land, Parcel ID No. 929806, to a point on the South line of the Southwest Quarter of said Section 33 and the North line of the Northwest Quarter of said Section 4; thence West, along said North and South lines, to the Northeast corner of the West 1/2 of the Northwest 1/4 of the Northwest 1/4 of said Section 4, to the POINT OF BEGINNING, containing a total area of 45,393,722.5 Square Feet or 1,042.0965 Acres, more or less.

(Ord. 55, 1974; Ord. 296; 2017)

## **Section 12                    Location and Hours of City Hall**

The location of the City Hall of the City of Lake Quivira, Kansas shall be in what is known as the Lake Quivira Public Safety Building, 10 Crescent Boulevard, Lake Quivira, Kansas. Office hours of the City Hall shall be from 8:30 o'clock a.m. to 1:00 o'clock p.m. and from 2:00 o'clock p.m. to 5:30 o'clock p.m. Monday through Thursday.

(Ordinance 184, 1994; Ord. 261, 2010; Ord. 289, 2015)

### **Section 13            Official City Newspaper**

In accordance with Charter Ordinance 19 adopted on February 4, 2003, the Governing Body shall designate from time to time by resolution an official city newspaper for the official advertisements and official publications of the City of Lake Quivira, Kansas.

The newspaper designated as an official city newspaper shall have been published for at least one year prior to its designation and shall be a newspaper of general circulation within the City. There shall be no other qualifications for an official city newspaper, and a publication delivered to residents of the City of Lake Quivira on a monthly basis, and generally known as "The Quiviran," shall qualify as an official city newspaper, provided such publication is circulated and published to all residents at least on a monthly basis.

(Charter Ordinance 19, 2003)

### **Section 14            Employee and Official Code of Conduct**

The Governing Body finds and determines it is in the best interests of the public to set forth ethical standards for all employees and public officers of this City. The provisions and purpose of this Code are declared to be in the best interests of the City. The purpose of this Code is to establish ethical standards of conduct prohibiting those acts or actions that are incompatible with the best interests of the City.

This Code of Ethics is hereby established and to be applied to all City employees and public officers, whether paid in whole or in part by the City, or unpaid, whether part or full time, and whether appointed or elected.

City employees and officers serve for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of the State of Kansas and to carry out impartially the laws of the nation and state, as well as the City, and thus to foster respect for all government. They are bound to discharge faithfully their duties, regardless of personal considerations, recognizing that the public interest must be their primary concern.

#### **Substantial Interest Defined**

As used in this Ordinance, the term "Substantial Interest" means any of the following:

1. If an individual or individual's spouse, either individually or collectively, has owned within the preceding 12 months a legal or equitable interest

- exceeding \$5,000 or 5% of any business, whichever is less, the individual has a substantial interest in that business;
2. If an individual or individual's spouse, either individually or collectively, has received during the preceding calendar year compensation which is or will be required to be included as taxable income on federal income tax returns of the individual and spouse in an aggregate amount of \$2,000 from any business or combination of businesses, the individual has a substantial interest in that business or combination of businesses;
  3. If an individual or individual's spouse, either individually or collectively, has received in the preceding 12 months, without reasonable and valuable consideration, goods or services having an aggregate value of \$500 or more from a business or combination of businesses, the individual has a substantial interest in that business or combination of businesses;
  4. If an individual or an individual's spouse holds the position of officer, director, associate, partner or proprietor of any business, other than an organization exempt from federal taxation of corporations under section 501(c)(3), (4), (6), (7), (8), (10) or (19) of Chapter 26 of the United States Code, the individual has a substantial interest in that business, irrespective of the amount of compensation received by the individual or individual's spouse;
  5. If an individual or individual's spouse receives compensation which is a portion or percentage of each separate fee or commission paid to a business or combination of businesses, the individual has a substantial interest in any client or customer who pays fees or commissions to the business or combination of businesses from which fees or commissions the individual or individual's spouse, either individually or collectively, received an aggregate of \$2,000 or more in the preceding calendar year.

As used herein, the term "Act" or "Acts" means the exercise of power or authority or performance of any duty incident to public office or employment.

As used herein, the term "Client" or "Customer" means a business or combination of businesses, and the term "Business" means any corporation, association, partnership, proprietorship, trust, joint venture, and every other business interest, including ownership or use of land for income.

As used herein, the term "Compensation" means any money, thing of value or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by that person or another, but shall not mean nor include reimbursement of reasonable expenses if the reimbursement does not exceed the amount actually expended for the expenses and it is substantiated by an itemization of expenses.

As used herein, the term "Contract" means agreements including but not limited to sales and conveyances of real and personal property and agreements for the performance of services.

As used herein, the term "Preceding Calendar Year" has its usual meaning, except that in the case of candidates and individuals newly appointed to office or employment, it means the 12 months immediately preceding a required filing date.

A. Participation in City Contracts

No City employee or public officer shall in the official capacity of such an employee or officer, make or participate in the making of a contract with any person or business by which the employee or public officer is employed or in whose business the employee has a substantial interest;

No person or business shall enter into any contract where any City employee or public officer, acting in that official capacity, is a signatory to or a participant in the making of the contract and is employed by or has a substantial interest in the person or business.

A City employee or public officer does not make or participate in the making of a contract if the employee or officer abstains from any action in regard to the contract.

This section shall not apply to contracts let after competitive bidding has been advertised for by published notice, or contracts for property or services for which the price or rate is fixed by law.

Any City employee or public officer who has a substantial interest in a business submitting a bid for award of a City contract must inform the City in writing as part of the bid submission, that the employee or public officer has a substantial interest in the business and the nature of the substantial interest.

B. Participation in Non Contract Matters and Required Filing of Disclosure of Interest

Any City employee or public officer who has not filed a disclosure of Substantial Interest, shall, before acting upon any matter which will affect any business in which the employee or public officer has a substantial interest, file a written report of the nature of the interest with the Johnson County Election Commissioner.

A City employee or public officer does not pass or act upon any matter if the employee or public officer abstains from any action in regard to the matter.

C. Pre-Acquisition of Interest

No City employee or public officer, with respect to any contract or transaction which is or may be the subject of an official act or action of the City, shall acquire an interest in or be affected by such contract or transaction at a time when the employee or public officer believes or has reason to believe that it will directly or indirectly be affected by an official act or action of the City. An employee or public officer does not violate the

provisions of this subsection if he or she abstains from any action, participation or voting on the contract or transaction.

#### D. Disclosure of Information

No City employee or public officer shall disclose or reveal any information or discussion which would violate the provisions of the Kansas Open Meetings Act, K.S.A. 75-4319, as amended, or the Kansas Open Records Act, K.S.A. 45-221, as amended, or otherwise reveal fiduciary or confidential matters entrusted to such employee or public officer.

#### E. Incompatible Service to the Public

No City employee or public officer shall engage in or accept private employment or render service for private interest when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties unless otherwise permitted by law, and unless disclosure is made as provided in this Code of Ethics.

#### F. Appearances and Abstention

No City employee or public officer shall appear on behalf of any person or business entity, other than him or herself, his or her spouse or minor children regarding a personal matter, before any City agency, board, commission, council or Municipal Court. However, a member of the City Council may appear before City agencies on behalf of his or her constituents in the course of his or her duties as a representative of the electorate or in the performance of public or civic obligations.

Any City employee or public officer required by this Ordinance to abstain from taking any action upon a matter, any City employee or public officer prohibited from taking any action upon a matter, and any City employee or public officer not acting in compliance with this Ordinance, shall, upon realization of such substantial interest or conflict, as soon as reasonably possible, state that he or she has a conflict, leave the room until all discussion and action on the matter has concluded, and direct any recording secretary to reflect such abstention and departure from the proceedings.

#### G. Use of Public Property

No City employee or public officer shall request or permit the unauthorized use of City-owned vehicles, equipment, materials or property for personal convenience or profit.



#### H. Special Treatment

No City employee or public officer shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

#### I. Violation

A violation of this Ordinance is an administrative matter that may result in termination, suspension, or other appropriate disciplinary action, including the filing of criminal charges.

A violation of any provision of this Ordinance may constitute cause to cancel any contract, cease negotiations on any contract and rescind or modify any previous action based upon any such violation.

(Ordinance 233, 2007)

### **Section 15 Council Meetings**

The Governing Body shall have regular sessions on the first Monday of each month, commencing at six thirty p.m. (6:30 p.m.) and adjourned sessions there from at any time. Special meetings may be called by the Mayor or the President of the Council at any time.

(Ordinance 183, 1994; Ordinance 276, 2013)

### **Section 16 Regulations Governing Council Meetings**

The Mayor shall preside at all meetings of the Council. In the absence of the Mayor, the President of the Council shall preside. In the absence of both, the Council Members shall elect one of their members as temporary chairperson who shall be styled "Acting President of the Council." The President and Acting President when occupying the place of the Mayor shall have the same privileges as other members.

The Mayor shall have a casting vote when the Council is equally divided, and none other, and shall have general supervision over the affairs of the City. Provided, the Mayor shall have a casting vote when considering an Ordinance and the vote is one less than needed for approval of the Ordinance. Provided further, the Mayor shall have a casting vote upon a Charter Ordinance, in which case the Mayor's vote shall be recorded in each instance.

A Charter Ordinance shall be passed only by approval of two-thirds of the members-elect of the Governing Body.

An Ordinance shall be passed only by approval of two-thirds of the members-elect of the Council. The Mayor shall have a casting vote only if the vote is one less than needed for approval of the Ordinance.

A Resolution or other action shall be passed only by approval of a majority of the members-elect of the Council who are present. The Mayor shall have a casting vote only if the vote of the Council is equally divided.

In all points not covered by Ordinance, the meeting shall be governed by Robert's Rules of Order.

(Ordinance 183, 1994)

**Title II            General Presumptions and Definitions**

<b>Section 1</b>	<b>Presumption of Ownership -- Real Property</b>
<b>Section 2</b>	<b>Presumption of Ownership – Vehicle</b>
<b>Section 3</b>	<b>General Definitions</b>

**Section 1            Presumption of Ownership -- Real Property**

For purposes of the Code of the City of Lake Quivira, Kansas and the enforcement of the provisions thereof, there shall be a prima facie presumption that the owner of the real property shall be that Person reflected on the most recent evidence of ownership for the real property filed of record with the County wherein such real property is situated. The prima facie presumption of ownership shall be effective upon affidavit of an authorized agent or employee of the County wherein such property is located, attesting that deed or deeds attached thereto are a true and accurate copy of the official record, and are the most recent evidence of ownership for the described real property.

For purposes of this Code of the City of Lake Quivira, Kansas and the enforcement of the provisions thereof, there shall be a prima facie presumption that the Person who owns or controls property on which a violation occurs, has caused or permitted such violation.

(Ordinance 261, 2010)

**Section 2            Presumption of Ownership – Vehicle**

For purposes of the Code of the City of Lake Quivira, Kansas and the enforcement of the provisions thereof, there shall be a prima facie presumption that a person named as the registered owner of a vehicle on the date of the violation, as reflected on the official title, registration, vehicle identification number, or official records of the Kansas Department of Revenue, Division of Motor Vehicles, is the person who owned and operated the vehicle at the point where, and for the time during which, the unlawful act prohibited by the Code of the City of Lake Quivira, Kansas occurred. If the registered owner of such vehicle is a business or corporation, there shall be a prima facie presumption that the person identified as the corporate president listed on the most current annual report on file in the State of Kansas Secretary of State's Office is the person who owned and operated the vehicle at the point where, and for the time during which, the unlawful act prohibited by the Code of the City of Lake Quivira, Kansas occurred.

(Ordinance 261, 2010)

### **Section 3                    General Definitions**

As used in the Code of the City of Lake Quivira, Kansas, unless from the context a different meaning is intended, or the Code directs that a different definition is to be applied to a provision, the following terms or phrases shall have the following meanings:

"Agent" means any director, officer, servant, employee or other person who is authorized to act on behalf of a person, corporation, partnership, organization, association, business, legal or formally organized entity.

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

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

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

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

"City" means the City of Lake Quivira, Kansas, a municipal corporation and any duly authorized representative.

"Day" means calendar day unless specifically stated otherwise.

"FCC" means Federal Communications Commission or successor thereto.

"Governing Body" means the Mayor and the City Council of the City of Lake Quivira, Kansas.

"Governmental Entity" means any county, township, city, town, village, school district, library district, road district, drainage or levee district, sewer district, water district, fire district or other municipal corporation, quasi-municipal corporation or political subdivision of the State of Kansas or of any other state of the United States and any agency or instrumentality of the State of Kansas or of any other state of the United States or of the United States.

“KSA” means the Kansas Statutes Annotated, and amendments thereto.

“KCC” means the Kansas Corporation Commission or successor thereto.

“Parkway” means the area between the Right-of-Way line and the street curb, or edge of Pavement on non-curbed Streets.

“Pavement” means Portland cement concrete pavement, asphalt concrete pavement, asphalt treated road surfaces and any aggregate base material.

"Person" shall mean any individual, association, or entity, including but not limited to, a firm, partnership, sole proprietorship, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, political subdivision, public or private agency of any kind, utility, or a successor or assign of any of the foregoing, and shall also mean the manager, lessee, agent, servant, officer or employee of any of foregoing.

“Public Improvement” means the construction, reconstruction, maintenance, or repair of any public infrastructure directly related to improvements for the health, safety and welfare of the public, including any project undertaken by the City for the Construction, reconstruction, maintenance, or repair of any public infrastructure, and including without limitation, streets, alleys, bridges, bikeways, parkways, sidewalks, sewers, drainage facilities, traffic control devices, street lights, public facilities, public buildings or public lands.

“Public Lands” means any real property of the City that is not Right-of-Way.

“Right-of-Way” means the entire area on, below, or above, those present and future areas acquired, dedicated, reserved, or maintained for public street purposes.

“State” shall mean the state of Kansas.

“Sidewalk” means that portion of a Parkway between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

“Street” means the pavement, sub-grade and curb and gutter of a public roadway.

“Vehicle” shall mean every device in, or upon which any person or property is or may be transported or drawn upon a right-of-way, and shall include trailers and boats, and shall not include a motorized wheelchair or devices moved by human power or used exclusively upon stationary rails or tracks.

(Ordinance 261, 2010)

**Title III      General Penalties and Obligations**

<b>Section 1</b>	<b>General Public Offenses</b>
<b>Section 2</b>	<b>Classified Offense Penalties</b>
<b>Section 3</b>	<b>Multiple Violations</b>
<b>Section 4</b>	<b>Compliance; Remedy</b>
<b>Section 5</b>	<b>Parties to a Violation</b>
<b>Section 6</b>	<b>Corporations -- Responsibility</b>
<b>Section 7</b>	<b>Individual liability for Corporate -- Violations</b>

**Section 1              General Public Offenses**

Any person convicted of a violation of any of the provisions of the Code of the City of Lake Quivira, Kansas or failing to comply with any of the mandatory requirements of the ordinances of this city, for which another penalty is not specifically provided by the Code of the City of Lake Quivira, Kansas or provided by the schedule of fines established by the Municipal Judge, shall be guilty of a public offense and shall be punished by a fine of not more than \$2,500 or imprisonment in Jail for not more than six months, or both fine and imprisonment not to exceed the provisions of this section.

(Ordinance 261, 2010)

**Section 2              Classified Offense Penalties**

A. Any person convicted of a violation of Code of the City of Lake Quivira, Kansas designated as a Class A, B or C offense shall be punished as provided in this Section:

1. Class A, the sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the court and shall not exceed one year instead of or in addition to confinement a person may be punished by a fine not exceeding \$2,500;
2. Class B, the sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the court and shall not exceed six months instead of or in addition to confinement a person may be punished by a fine not exceeding \$1,000;
3. Class C, the sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the court and shall not exceed one month instead of or in addition to confinement a person may be punished by a fine not exceeding \$500.

B. In addition to or in lieu of any other sentence authorized by law, whenever there is evidence that the act constituting the violation was substantially related to the possession, use or ingestion of cereal malt beverage or alcoholic liquor by such person, the court may order such person to attend and satisfactorily complete an alcohol or drug education or training program certified by the administrative judge of the judicial district or licensed by the secretary of social and rehabilitation services.

C. As an alternative to any of the above fines, the fine imposed may be fixed at any greater sum not exceeding double the pecuniary gain derived from the crime by the offender.

D. Those violations of provisions of the Code of the City of Lake Quivira, Kansas that are declared to be ordinance traffic offenses stated in KSA 8-2118 are declared to be and hereby classified as ordinance traffic infractions.

(Ordinance 261, 2010)

### **Section 3 Multiple Violations**

Each twenty-four (24) consecutive hour period during or on which a violation occurs or continues of the Code of the City of Lake Quivira, Kansas shall constitute a separate violation.

(Ordinance 261, 2010)

### **Section 4 Compliance; Remedy**

The imposition of a penalty for any violation or noncompliance shall not excuse any violation, permit a violation to continue, or excuse any obligation to remedy any violation. The imposition of a penalty shall not prohibit any action to enforce compliance, prevent a violation, or remedy a violation, nor shall it prohibit the imposition of liens or assessments necessary to remedy a violation.

(Ordinance 261, 2010)

## **Section 5                    Parties to a Violation**

Every person who attempts to commit, conspires to commit, or aids and abets in the commission of, any act prohibited by the Code of the City of Lake Quivira, Kansas, whether individually or in connection with one or more other persons or as a principal, agent or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly, or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of the Code of the City of Lake Quivira, Kansas is likewise guilty of such offense.

(Ordinance 261, 2010)

## **Section 6                    Corporations -- Responsibility**

A corporation is responsible under the Code of the City of Lake Quivira, Kansas for acts committed by its agents when acting within the scope of their authority.

(Ordinance 261, 2010)

## **Section 7                    Individual liability for Corporate -- Violations**

An individual who violates any provision of the Code of the City of Lake Quivira, Kansas, or causes such violation to exist, in the name of or on behalf of a corporation is legally responsible to the same extent as if such violation was in his or her own name or on his or her own behalf. An individual who has been convicted of a violation of the Code of the City of Lake Quivira, Kansas based on conduct performed by him or her for and on behalf of a corporation is subject to punishment as an individual upon conviction of such violation.

(Ordinance 261, 2010)



## **Title IV      Planning, Zoning, and Subdivision Regulations**

<b>Section 1</b>	<b>Use and Occupancy of Right of Way</b>
<b>Section 2</b>	<b>Comprehensive Plan</b>
<b>Section 3</b>	<b>Establishment of the Board of Zoning Appeals</b>
<b>Section 4</b>	<b>Designation of Membership and Operation of the Board of Zoning Appeals</b>
<b>Section 5</b>	<b>Establishment of Planning Commission</b>
<b>Section 6</b>	<b>Designation of Membership and Operation of the Planning Commission</b>
<b>Section 7</b>	<b>Zoning and Subdivision Regulations</b>

### **Section 1              Use and Occupancy of Right of Way**

A.    Unauthorized Excavations Prohibited. It is unlawful for any unauthorized person, firm or corporation to remove, destroy, cut or encumber any sidewalk, alley, curb, gutter, or any improved surface of any street or alley, or to make any opening or excavation therein or in the area known as the “parking,” between the right-of-way of the street and the adjacent private property line, or to lay any pipes or wires therein in the city, unless and until a permit shall have been issued by the city authorizing such work. Such permit shall be issued upon application to the City showing the reason for such work and the nature of the work proposed to be done and upon the approval thereof by the City; provided, that the private property owners adjacent to the public property shall not be required to obtain a permit for the purpose of planting trees, shrubs or flowers in the public property.

B.    Permit and Bond Required. No person, firm or corporation desiring to perform any excavation work in the public property referred to in Subsection A shall be issued the permit for such work until that person, firm or corporation has first filed with the City Clerk a performance and maintenance surety bond in favor of the City in the amount of (\$5,000) or the value of the restoration, whichever is greater, for a term consistent with the term of the permit plus two (2) additional years, conditioned upon the permittee’s faithful performance of the provisions, terms and conditions of this Section. In the event the City shall exercise its right to revoke the permit granted herein, then the City shall be entitled to recover under the bond the full amount of any loss occasioned. A further condition of the bond shall be that the person, firm or corporation will hold the City harmless from all liability arising from any work performed by said person, firm or corporation, pursuant to the permit referred to in Subsection A. Any person, firm or corporation making application for the permit referred to in Subsection A shall submit to the City a certificate of insurance indicating

the applicant's current insurance coverage with a company licensed to do business in the State of Kansas in an amount of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (2,000,000) in the aggregate. The insurance will protect the City from and against all claims by any person or entity whatsoever for loss of damage from personal injury, bodily injury, death, or property damage to the extent caused by or alleged to have been caused by the negligent acts or omissions of the permittee. If the permittee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts.

C. Permit-Contents. Any permit issued for making any excavation, opening or cut in any street, curb, gutter, alley or right-of-way, including the parking and sidewalks therein, shall specify the location of such opening, the approximated depth and area of the authorized excavation or cutting, and the curb, gutter, sidewalk and other improvement to be cut or removed and rebuilt or replaced by the permittee within a period to be limited by such permit. All permits shall be considered to be active until such time that the City gives written approval of all necessary and required restoration work at the permit location. Permits will then be considered to be open for an additional two-year maintenance period commencing on the date of acceptance of the restoration work.

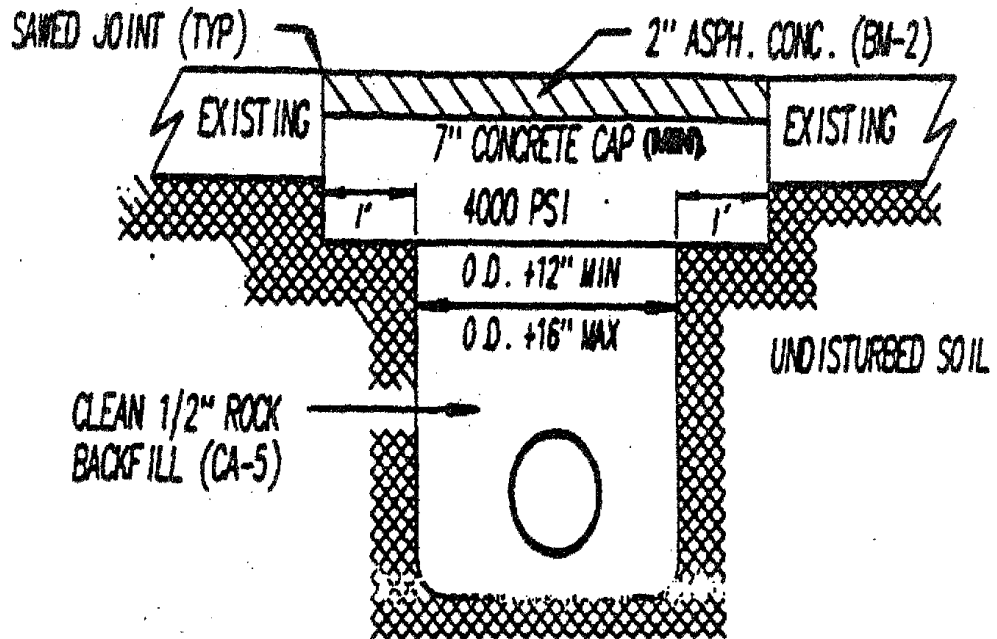
D. Permit-Fee. The applicant for a permit referred to in Subsection A granting applicant permission to work with the public right-of-way excluding the right to cut, remove or destroy or make any opening or excavation within the surface of any portion of any street or curb and gutter section within the public right-of-way of the City, shall pay the sum of fifty dollars (\$50.00) for each permit so issued. The applicant for a permit granting applicant permission to cut, remove or destroy or make an opening or excavation within the surface of a portion of a street within the public right-of-way of the City shall pay the sum of fifty dollars (\$50.00) for the first twenty-five square feet of pavement surface removed or any portion thereof. The permit fee shall increase at the rate of one dollar (\$1.00) per square foot for each additional square foot of pavement surface removed at the permitted location up to a maximum of five thousand dollars (\$5,000.00). The applicant for a permit granting applicant permission to cut, remove or destroy a portion of a curb and gutter sections within the public right-of-way of the City shall pay the sum of fifty dollars (\$50.00) for each permit so issued. The applicant for such permit to cut, remove or destroy or make an opening or excavation within the surface of any portion of any street or curb and gutter section within the public right-of-way of the City shall also submit to the City a two hundred fifty dollar (\$250.00) cash deposit at the time the permit fees are paid. This cash deposit will be used to cover costs incurred by the City to maintain a safe work zone during the period the street is encumbered with the permitted work including, but not limited to placing temporary patch material, performing permittee's obligations pursuant to Subsection H, as well as cover additional permit fees owed because the actual cut was larger than originally planned. The balance of this deposit will be returned to the applicant upon successful completion of the street cut repair and a written request from the applicant such payment. If the total amount of

the deposit is inadequate to cover the costs that may be incurred by the City, the permit holder shall be liable for any additional amount required to cover these costs.

E. Safety Precautions. It is unlawful for any person, firm or corporation to leave any excavation open or uncovered or to leave any building materials, vehicle or like obstructions in any street, alley, sidewalk, curb, gutter, public parking lot, or public way in the City during the course of any improvement, unless the same be guarded at all times by barricades and unless any such work or obstructions be guarded with lights sufficient in number and so placed as to warn and guard vehicles and pedestrians from injury or danger. The Police Department shall be notified of all such obstructions. All such barricades and traffic control devices shall be constructed, and installed in accordance with the most current edition of the Manual on Uniform Traffic Control Devices or other such generally accepted standard as designated by the City Engineer. Additional safety precautions may be required when in the opinion of the City Engineer they are necessary.

F. Replacement and Repairs. If any street, pavement, public parking lot, sidewalk, or curb and gutter shall be damaged by any person operating under a permit issued under the provisions of this Subsection, the permit holder shall repair or replace the same at his or her own expense, and he or she shall be liable on his or her bond for the satisfactory repair of same. If the total amount of the bond is inadequate to make satisfactory repairs or pay damages which may have been sustained, the permit holder shall be liable for any additional amount required to make the repairs or pay damages. The permit holder shall under no circumstance be considered as an agent of the City. All work or repairs shall be done to the satisfaction of the City Engineer. If repairs are not made or if unsatisfactorily made, the City may complete the same and charge the costs to the permit holder. The permit holder shall further be subject to punishment under the provisions of this Section.

G. Duty of Persons Making Excavations. It shall be the duty of any person making an excavation in any of the improved or unimproved streets, alleys, or other public grounds of the City to replace the disturbed area in accordance with the requirements shown in this Section and as set forth herein in the following diagram. In the event the excavation did not occur in the street surface the excavation may be backfilled with suitable materials other than AB-3; provided that the earth backfill is compacted to ninety percent standard density. The finish surface shall be restored to original condition or better according to the City Engineer's requirements. The City Engineer shall be notified prior to backfilling and after the excavation and restoration is completed. The restored surface shall be maintained for a period of two years following restoration.



Notes:

The 1' either side of actual trench width shall not be removed until the trench has been filled and compacted.

Concrete to be 652 Type 3.

When Existing pavement depths exceed 9" the depth of patch shall be equal to that of the existing pavement by increasing the thickness of the concrete cap. On Holliday Drive or other major arterial streets, a 9" Concrete Cap will be required.

Concrete cap shall be poured and allowed to cure prior to placing the asphalt concrete surface.

H. Erosion Control and Debris. The permit application shall be and in fact is a guarantee by the permittee that the streets and right-of-way area in which the permittee is working and surrounding areas shall remain free and clear of dirt, mud, gravel and other debris which may in any way impede the flow of traffic or create a danger to the public safety and that proper erosion and sediment control devices will be installed and maintained during the project and until sufficient ground cover is established to prevent erosion in the future. If upon inspection, at any time during the period the permit is deemed open, the City Engineer or his/her representative determines that: (1) the affected area is not properly free and clear of dirt, mud, gravel and other debris, or (2) effective erosion control devices are not properly installed or maintained, then the City Engineer, or his/her representative shall provide written notice of the same to the permittee. Upon receipt of such notification, the permittee shall have a period of (4) hours to remove such dirt, mud, gravel or other debris from the area and a period of forty-eight (48) hours to install or repair erosion control devices. If the permittee fails to remedy all such defects with the affected area and within the time limits set for above, the City or its authorized representative may perform such duties as are necessary to remedy the situation and assess all costs against the cash deposit posted by the permittee pursuant to Subsection D of this Section. If the total amount of the deposit is inadequate to cover the costs that may be incurred by the City, the permittee shall be liable to the City for any additional amount to cover these costs.

I. Supervision. The City Engineer shall have the right to superintend and inspect all such excavations, openings and cuts in the streets, alleys, sidewalks, curbs and gutters of the City, and all work done under the provisions of this Section.

J. Violation-Penalty. Any person, firm or corporation making any excavation, opening or cut in the street, alley, sidewalk, curb, gutter or public grounds of the City, without first complying with the provisions of this Section, or who shall violate any of the provisions of this Section, shall be deemed guilty of a Class B offense and upon conviction shall be fined in a sum not exceeding five hundred dollars. Each day that this Section is violated shall be deemed a separate offense.

(Ordinance 205, 2001)

## **Section 2                    Comprehensive Plan**

The Comprehensive Plan as set forth in the Zoning and Subdivision Regulations dated June 8, 2004, as may be amended from time to time, published by and prepared by the City of Lake Quivira and described as "City of Lake Quivira Comprehensive Plan" is incorporated by specific reference thereto and is adopted in its entirety

(Ordinance 219, 2004)

## **Section 3                    Establishment of the Board of Zoning Appeals**

A Board of Zoning Appeals was established by the City of Lake Quivira pursuant to Ordinance No. 54 adopted on December 3, 1974, and shall continue to function and serve.

The Board of Zoning Appeals shall have the authority to act as set forth in K.S.A. as set forth in K.S.A. Chapter 12, Article 7, and the City of Lake Quivira Zoning and Subdivision Regulations of the City, as either may be amended from time to time.

(Ordinance 54, 1974) (Ordinance 261, 2010)

## **Section 4                    Designation of Membership and Operation of the Board of Zoning Appeals**

In accordance with the provisions of K.S.A. 12-759(g), the Lake Quivira Planning Commission is hereby designated to serve as the Board of Zoning Appeals for the City of Lake Quivira. The officers of the Planning Commission shall serve as officers of the Board of Zoning Appeals. The terms, qualifications, and selection of the officers of the Board of Zoning Appeals shall be as provided for such officers of the Planning Commission. The required quorum, appointment of a chairperson and vice chairperson, and the conduct of meetings shall be as provided for such officers of the Planning Commission.

(Ordinance 252, 2009; Ordinance 261, 2010)

## **Section 5                    Establishment of Planning Commission**

A Planning Commission was established by the City of Lake Quivira pursuant to Ordinance No. 19 adopted on March 28, 1972, and shall continue to function and serve. The Planning Commission hereby established shall consist of nine (9) members to be appointed by the Mayor by and with the consent of the Governing Body. All members of the Planning Commission shall be qualified electors and residents of the City.

Each member shall be appointed for a term of three (3) years. In the event of vacancies, the appointments shall be for the unexpired terms. Members shall serve without compensation.

The Planning Commission shall have the authority to act as set forth in K.S.A. Chapter 12, Article 7, and the City of Lake Quivira Zoning and Subdivision Regulations of the City, as either may be amended from time to time.

(Ordinance 19, 1972; Ordinance 60, 1975; Ordinance 222A, 2006; Ordinance 252, 2009; Ordinance 261, 2010)

## **Section 6                    Designation of Membership and Operation of the Planning Commission**

The Planning Commission herein established, shall meet at least once each month at a time and place to be fixed by resolution of the Planning Commission. Special meetings of the Planning Commission may be called by the chairman or in his or her absence, the vice chairman. A quorum of the Planning Commission is by a majority of the commissioners appointed by the Mayor by and with the consent of the Governing Body. Records shall be kept of all Planning Commission proceedings.

The Planning Commission shall organize itself annually and select from its members a chairman and a vice chairman who is selected for a one (1) year term. A secretary shall be selected, but he or she may be some person who is not a member of the Planning Commission. The Planning Commission shall have such employees and consultants as may be authorized by the Governing Body of the City.

The Planning Commission shall prepare and submit to the Governing Body on or before the first Monday of July of each year and itemization of its expenses, amounts and purpose. The Governing Body may consider and make such allowance as it may deem proper. The Governing Body may enter into any necessary contracts, receive and expend funds from state and federal government or any other sources as may be authorized.

(Ordinance 252, 2009; Ordinance 261, 2010)

## **Section 7                    Zoning and Subdivision Regulations**

Whereas the City of Lake Quivira, Kansas, adopted Planning and Zoning Subdivision Regulations as provided by KSA 12-753; and,

Whereas the Planning and Zoning Subdivision Regulations were adopted by the City in accordance with the provisions of KSA 12-749 and KSA 12-756; and,

Whereas, through passage of Ordinance 253, in 2009 the Governing Body of the City of Lake Quivira, Kansas, approved the preparation, compilation, publication and promulgation of the Planning and Zoning Subdivision Regulations of the City of Lake Quivira, Kansas, as a model or standard code within the meaning of K.S.A. 12-3301(c), for the management, regulation and establishment of zoning districts and land uses within the corporate limits of the City; and,

Whereas the Zoning and Subdivision Regulations of the City of Lake Quivira, Kansas were incorporated into Title IV, Section 7 of the Code of the City of Lake Quivira, Kansas; and,

Whereas in accordance with the provisions of KSA 12-749, KSA 12-756, and KSA 12-757, the Planning Commission of the City of Lake Quivira provided notice of a public hearing to consider general text amendments to the Zoning and Subdivision Regulations of the City of Lake Quivira, and conducted the public hearing on May 14 2019; and,

Whereas, upon conduct of the public hearing the Planning Commission of the City of Lake Quivira recommended general text amendments to the Zoning and Subdivision Regulations of the City of Lake Quivira, to be considered and approved by the Governing Body of the City of Lake Quivira, Kansas; and,

Whereas, this 6<sup>th</sup> day of June 2019, the Governing Body of the City of Lake Quivira, Kansas considered and approved the general text amendments as recommended by the Planning Commission of the City of Lake Quivira, Kansas.

**SECTION ONE:** Title IV Section 7 Planning and Zoning Subdivisions, of the Code of the City of Lake Quivira, Kansas, is hereby amended to read as follows:



## Section 7

## Zoning and Subdivision Regulations

The Zoning and Subdivision Regulations dated May 14 2019 described as “Zoning and Subdivision Regulations of the City of Lake Quivira” published by and prepared by the City of Lake Quivira, is incorporated by specific reference thereto and adopted in its entirety as may be amended from time to time by Ordinance of the Governing Body.

The Zoning District Map entitled “City of Lake Quivira, Kansas Zoning Map” published by and prepared by the City of Lake Quivira, is hereby incorporated into the Zoning Regulations by reference and the City Clerk is hereby ordered to certify the same as the Official Zoning Map for the City of Lake Quivira, Kansas, and said map shall be on file in the office of the City Clerk is hereby ordered to certify the same as the Official Zoning Map for the City of Lake Quivira, Kansas and said map shall be on file in the office of the City Clerk and be open to inspection and available to the public at all reasonable business hours.

Not less than three (3) copies of the document entitled Zoning and Subdivision Regulations of the City of Lake Quivira including the Official Zoning District Map shall be marked or stamped “Official Copy” as Adopted by Ordinance 310. A copy of the adopting Ordinance shall be attached to each Code copy and shall be filed with the City Clerk to be open for inspection and available to the public at all reasonable business hours. The police department, municipal judges, concerned public officials and all administrative departments of the City charged with the enforcement of such codes shall be supplied, at the cost of the City, with such numbers of official copies similarly marked as deemed expedient.

The violation of any provision of the “Zoning and Subdivision Regulations of the City of Lake Quivira” is hereby declared to be a public offense and, pursuant to the authority of K.S.A. 12-761, any person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not to exceed \$500 or by imprisonment for not more than six months for each offense or both such fine and imprisonment. Each day’s violation shall constitute a separate offense. The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions and to abate nuisances maintained in violation thereof. In the event that any building or structure is or is proposed to be erected, constructed, altered, converted or maintained in violation, or any building, structure or land is proposed to be used in violation, the City Attorney, or other appropriate authority of the City, may, in addition to any 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 such building, structure or land.

(Ordinance 220, 2004; Ordinance 253, 2009; Ordinance 310, 2019)

**Title V            Property Maintenance, Buildings and Construction**

<b>Section 1</b>	<b>Abatement of Dangerous Buildings</b>
<b>Section 2</b>	<b>Adoption of Property Maintenance Code</b>
<b>Section 3</b>	<b>Adoption of 2018 International Fire Code with Amendments</b>
<b>Section 4</b>	<b>Adoption of 2018 International Building Code</b>
<b>Section 5</b>	<b>Adoption of 2006 International Residential Code with Amendments</b>
<b>Section 6</b>	<b>Adoption of 2018 International Plumbing Code with Amendments</b>
<b>Section 7</b>	<b>Adoption of 2018 International Mechanical Code with Amendments</b>
<b>Section 8</b>	<b>Adoption of 2018 International Fuel Gas Code with Amendments</b>
<b>Section 9</b>	<b>Adoption of 2018 International Energy Efficiency Code with Amendments</b>
<b>Section 10</b>	<b>Adoption of 2017 National Electrical Code with Amendments</b>
<b>Section 11</b>	<b>Construction Noise Regulations</b>

**Section 1            Abatement of Dangerous Buildings**

Incorporating Uniform Code for the Abatement of Dangerous Buildings. There is hereby incorporated by reference for the purpose of providing for the abatement of dangerous buildings within the corporate limits of the City of Lake Quivira, Kansas, that certain standard building code known as the "Uniform Code for the Abatement of Dangerous Buildings", Edition of 1988, prepared and published in book form by the International Conference of Buildings Officials, Whittier, CA, save and except such sections as are hereinafter modified or changed. Not less than three (3) copies of said Uniform code for the Abatement of Dangerous Buildings shall be marked "Official Copy as Adopted by Ordinance No. 159," and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Planning Commission, Board of Zoning Appeals and all other administrative departments of the city charged with enforcement of this ordinance shall be supplied, at the cost of the city, such number of official copies of such Uniform Code for the Abatement of Dangerous Buildings similarly marked, as may be deemed expedient.

Section 205(a) of Chapter 2 of said Uniform Code for the Abatement of Dangerous Buildings is hereby changed to read as follows:

Sec. 205. (a) General. In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to application and

interpretations of this code, there shall be and is hereby created a Board of Appeals consisting of those persons who are also members of the Planning Commission of the City of Lake Quivira, Kansas. The Building Official shall be an ex officio member of such Board of Appeals and shall act as secretary but shall have no vote upon any matter before the Board. The Board shall adopt rules of procedure for conducting its business and shall render decisions with a duplicate copy to the building official. Appeals to the Board shall be processed as in Section 501 of this Code. Copies of all rules or regulations adopted by the Board shall be delivered to the Building Official, who shall make them freely accessible to the public.

Section 301 of Chapter 3 of said Uniform Code for the Abatement of Dangerous Buildings is hereby changed to read as follows:

Sec. 301. For the purpose of this Code, certain terms, phrases, words and their derivatives shall be construed as specified in either this chapter or as specified in the Building Code or the Housing Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1981, shall be construed as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine the masculine.

Building Code is the Uniform Building Code promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.

Dangerous Building is any building or structure deemed to be dangerous under the provisions of Section 302 of this Code.

Housing Code is the Uniform Housing Code promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.

Building Official is any person who under a contract with the City of Lake Quivira, Kansas, serves as a building inspector for said City, or such person as designated by the Governing Body.

Any violation of this Section shall be deemed a public offense and any person convicted of such violation shall be punished by fine not exceeding five hundred dollars (\$500.00) for each such violation; each day's violation shall constitute a separate offense.

(Ordinance 159, 1991)

## **Section 2                    Adoption of Property Maintenance Code**

### **A.     Short Title.**

This Section shall be known as “The Property Maintenance Code,” and may be referred to, herein, as “this code” or “this Section.”

### **B.     Purpose and Intent.**

The purpose and intent of this code is to protect the public health, safety, morals, and welfare by establishing minimum standards governing the maintenance, appearance, condition and occupancy of residential and non-residential premises in the City of Lake Quivira, Kansas; to establish minimum standards governing utilities, facilities and other physical components governing utilities, facilities and other physical components and conditions essential to make the aforesaid premises fit for human habitation, occupancy and use; to impose certain responsibilities and duties upon owner and operators of such premises and impose distinct and separate responsibilities and duties upon the occupants of such premises; to authorize and establish procedures for the inspection of residential and non-residential premises; to impose penalties for the violations of this code; and to provide for the repair demolition or vacation of premises unfit for human habitation, occupancy or use.

### **C.     Definitions.**

The following terms wherever used herein or referred to in this Section shall have the respective means assigned to them unless a different meaning clearly appears from the context; all definitions of the Uniform Building Code, related codes and zoning regulations adopted by the City of Lake Quivira are hereby included by reference.

1.     Deterioration - The condition of a building or part thereof, characterized by holes, breaks, rot, crumbling, peeling, rusting or other evidence of physical decay of neglect, lack of maintenance or excessive use.
2.     Exposed to Public View - Any premises, or any part thereof, of any building or any part thereof, which may be lawfully viewed by the public.
3.     Exterior of the Premises - Open space on the premises outside of any building thereon.
4.     Extermination - The control and elimination of insects, rodents and vermin.

5. Garbage (see also Refuse, Rubbish) - Putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.
6. Habitable Rooms - Rooms used or designed for use by one or more persons for living or recreation or sleeping or cooking and eating, but not including bathrooms, water closet compartment, laundries, serving and storage pantries, corridors, foyers, vestibules, cellars, heater rooms, boiler rooms, utility rooms, and other rooms or spaces that are not used frequently or for an extended period of time or that have less than 50 square feet of superficial floor area shall not be considered as habitable rooms.
7. Infestation - The presence of insects, rodents, vermin or other pests on the premises which constitute a health hazard.
8. Nuisance -
  - a. Any public nuisance as defined by applicable statutes or ordinances.
  - b. Any attractive nuisance which may prove detrimental to the health or safety of children whether in a building, on the premises of a building or upon an unoccupied lot. This includes, but is not limited to: abandoned wells, shafts, basements, excavations, abandoned iceboxes, refrigerators, motor vehicles, any structurally unsound fences or structures, lumber, trash, fences, debris, or vegetation such as poison ivy, poison oak or poison sumac which may prove hazardous for inquisitive minors.
  - c. Physical conditions dangerous to human life or detrimental to health of persons on or near the premises where the conditions exist.
  - d. Overcrowding of a room with occupants in violation of this code.
  - e. Insufficient ventilation or illumination in violation of this code.
  - f. Inadequate or insanitary sewage or plumbing facilities in violation of this code.
  - g. Insanitary conditions or anything offensive to the senses or dangerous to health, in violation of this code.
  - h. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings:
  - i. Fire hazards.

9. Operator - Any person who has charge, care or control of a dwelling or premises, or part thereof, whether with or without the knowledge and consent of the owner.
10. Owner - Any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof, or shall have charge, care or control of any dwelling unit, as owner or as executor, executrix, administrator, administratrix, trustee, receiver or guardian of the estate, or as a mortgagee in possession regardless of how such possession was obtained. Any person who is a lessee subletting or reassigning any part of all of any dwelling of dwelling unit shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by said lessee.
11. Parties in Interest - Shall mean all individuals, associations and corporations who have interests of record in a building and any who are in actual possession thereof.
12. Premises - A lot, plot or parcel of land including the buildings of structures thereon.
13. Public Authority - Shall mean any officer who is in charge of any department or branch of the government of the municipality, county or state relating to health, fire, building regulations or to other activities concerning buildings in the City of Lake Quivira, Kansas.
14. Building Official - Any person who, under a contract with the City of Lake Quivira, Kansas, serves as a building inspector for said City, or such other person or employee of the City of Lake Quivira, Kansas, appointed or designated from time to time by the Mayor of said City to perform the duties as may be necessary to the enforcement of this code, including inspection and holding of hearings.
15. Refuse (see also Garbage, Rubbish) - All putrescible and non-putrescible solid waste (except body wastes), including but not limited to: garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.
16. Rubbish(see also Garbage, Refuse) - Non-putrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, and similar materials.

D. Applicability.

1. Every residential or non-residential structure and the land on which it is situated, located within the City of Lake Quivira, Kansas, used or intended to be used as a dwelling or for commercial or business occupancy shall comply with the provisions of this code, whether or not such structure shall have been constructed, altered or repaired before or after the enactment of this code, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the structure or premises for the construction or repair of the building, or for the installation or repair of equipment or facilities prior to the effective date of this code.
2. In any case where the provisions of this code impose a higher standard than set forth in any other ordinance of the City of Lake Quivira or under the laws of the State of Kansas, then the standards as set forth herein shall prevail, but if the provisions of this code impose a lower standard than any other ordinance of the City of Lake Quivira, Kansas or of the laws of the State of Kansas, then the higher standard contained in any such other ordinance or law shall prevail.
3. No license or permit or other certification of compliance with this code shall constitute a defense against any violation of any other ordinance applicable to any structure or premises, nor shall any provision herein relieve any owner, operator or occupant from complying with any such other provision, nor any building official of the City of Lake Quivira, Kansas from enforcing any such other provision.

E. Duties and Responsibilities of Owners and Operators.

1. Maintenance of Exterior of Premises -
  - a. Free of hazards and insanitary conditions. The exterior of the premises and all structures thereon shall be kept free of all nuisances, and any hazards to the safety of the occupant, pedestrians and other persons utilizing the premises, and free of insanitary conditions, and any of the foregoing shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of hazards which include but are not limited to the following:
    - (1) Refuse-Brush, weeds, broken glass, stumps, roots, obnoxious growth, filth, garbage, trash, and debris.

- (2) Natural Growth - Dead and dying trees and limbs or other natural growth which, by reason of rotting or deteriorating conditions or storm damage, constituted a hazard to persons in the vicinity thereof. Trees shall be kept pruned and trimmed to prevent such conditions.
  - (3) Overhangings - Loose and overhanging objects, and accumulations of ice and snow which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.
  - (4) Ground surface hazards or insanitary conditions-Holes, excavations, breaks, projections, obstructions, icy conditions, uncleared snow, and excretion of pets and other animals on paths, walks, driveways, parking lots and parking areas, and other parts of the premises which are accessible to the public and which constitute a hazardous or insanitary situation. Holes and excavations shall be filled and repaired, walls and steps replaced and other conditions removed where necessary to eliminate hazards or insanitary conditions with reasonable dispatch upon their discovery. This paragraph does not apply to single-family dwellings.
  - (5) Recurring accumulations of storm water - Adequate run-off drains shall be provided and maintained to eliminate any recurrent or excessive accumulation of storm water.
  - (6) Sources of Infestation.
  - (7) Foundation Walls-Foundation walls shall be kept structurally sound, free from defects and damage and capable of bearing imposed loads safely.
  - (8) Exterior porches, landings, balconies, stairs and fire escapes- Exterior porches, landings, balconies, stairs and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of failing, and the same shall be kept structurally sound, in good repair, and free from defects.
- b. Appearance of exterior premises and structures - The exterior of the premises, the exterior of structures and the condition of accessory structures shall be maintained so that the appearance of the premises and structures shall not constitute a blighting factor to adjoining property.
- (1) Chimneys and all Flue and Vent Attachments Thereto - Chimneys and all flue and vent attachments thereto shall be maintained



structurally sound, free from defects, and so maintained as to capably perform at all times the functions for which they were designed.

(2) Storage of Commercial and Industrial Material - No equipment and/or materials relating to commercial or industrial use shall be stored or used at a location visible from the sidewalk, street or other public or semi-public areas, unless such storage and/or use is permitted under the Zoning Regulations of the City of Lake Quivira, Kansas applicable to such premises.

(3) Landscaping - Premises with landscaping and lawns, hedges and bushes shall be kept trimmed and from becoming overgrown and unsightly where exposed to public view and where the same constitute a blighting factor to adjoining property.

(4) General Maintenance - The exterior of every structure of accessory structure (including fences) shall be maintained in good repair. The same shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint or other condition reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated, and adjoining properties protected from blighting influences.

(5) Structural and General Maintenance -

- a. The outside building walls shall not have any holes, loose boards, or any broken, cracked or damaged finish, which admits rain, cold air, dampness, rodents, insects or vermin.
- b. Every dwelling shall be so maintained so as to be weather and water tight.
- c. All parts of the premises shall be maintained so as to prevent infestation.
- d. All parts of the dwelling shall be kept in a clean and sanitary condition, free of nuisance, and free from health, safety and fire hazards.

#### F. Administrative Provisions.

1. Public Officer - All inspections, regulations, enforcement and hearings on violations of the provisions of this code, unless expressly stated to the contrary, shall be under the direction and supervision of the Building Official.

2. General Administrative Provisions - Whenever a complaint is filed with the Building Official by a public authority or by a resident or owner charging that any structure is unfit for human habitation or occupancy or whenever it appears to the building official on his own motion that any structure is unfit for human habitation, occupancy or use or that the continuing of any condition applicable to a structure or premises constitutes a nuisance in the meaning of this ordinance or presents a condition harmful to the health and safety of the occupants of said structure and/or to the general public of the City of Lake Quivira, Kansas, the Building Official shall, if his or her preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such structure and/or premises a complaint stating the charges and containing a notice that a hearing will be held before Building Official at a place therein fixed not less than ten days nor more than thirty days after the serving of the complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, to have an attorney, and to give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in the courts shall not be controlling in hearings before the Building Official.
  
3. Result of Hearing - If, after such notice and hearing, the Building Official determines that the structure or premises under consideration is unfit for human habitation or occupancy or use, or otherwise violates any provision of this ordinance, he shall state in writing his findings or fact in support of such determination and shall issue and cause to be served upon the owner thereof and parties in interest a written order:
  - a. Requiring the repair, alteration or improvement of the said structure and the eradication of all violations of this ordinance, cited to be made by the owner, within a reasonable time, which time shall be set forth in the order, or, as may be applicable, at the option of the owner, to vacate or have the said structure vacated and closed within the time set forth in the order, or
  - b. If the structure is in such condition as to make it dangerous to the health and safety of persons on or near the premises and the owner fails to repair, alter, or improve the same structure with the time specified in the order, then the owner shall be required to remove or demolish the said structure within a reasonable time as specified in the said order of removal.
  
4. Right to Appeal - If, after such notice and hearing, the person or persons notified disagree with the decision of the Building Official then they shall have the right to appeal to the Governing Body of the City of Lake Quivira, Kansas within twenty days after notice of order to repair or demolish. The City's

Governing Body, within forty-five days of its receipt of such appeal, shall affirm, reverse or modify the decision of the Building Official.

5. Failure to Comply - If the owner fails to comply with an order to repair, alter, maintain or remove, or, as may be applicable, at the option of the owner, to vacate and close the structure, the Building Official may cause such structure and premises to be repaired, altered or maintained or improved, or to be vacated and closed; that the building official may cause to be posted on the main entrance of any structure so closed, a placard with the following words: "This structure is unfit for human habitation or occupancy or use; the use or occupation of this structure is prohibited and unlawful." If the owner fails to comply with an order to remove or demolish the structure, the Building Official may cause such structure to be removed or demolished, or may contract for the same after calling for bids.
  
6. Costs - The owner of the property where the Building Official had a structure removed or demolished or had other repair or maintenance work completed shall be liable for all costs incurred by the building official on behalf of the city relating to such work. An itemization of the actual cost of such work shall be prepared by the Building Official and reported to the City Clerk, and the City Clerk shall, at the time of certifying other city taxes to the applicable County Clerk, certify the aforesaid cost of such work, and said County Clerk shall extend the same on the tax roll of the applicable county against the subject lot or parcel of ground, and it shall be collected by the County Treasurer and paid to the City of Lake Quivira, Kansas in the same manner as city taxes are collected and paid.
  
7. Notice - Complaints, orders and notices issued by the Building Official shall be served personally or by certified mail, return receipt requested; if the certified mail envelope is returned with an endorsement showing refusal or delivery, the Building Official shall send a copy of such complaint, order or notice by ordinary, first-class mail and such mailing shall be evidenced by a certificate of mailing, and service shall be considered obtained by ordinary, first-class mail. If in the exercise of reasonable diligence the person to be served cannot be found, and building official shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two successive weeks in the official newspaper of the City of Lake Quivira, Kansas with the first such publication not less than twenty days before the effective date of such notice or order. A copy of such complaint, notice or order shall be posted in a conspicuous place on premises affected by the complaint, notice or order. A copy of such complaint, notice or order shall be duly recorded or logged for

record with the Register of Deeds of the county in which the structure is located.

8. Additional powers of the Building Official - The Building Official shall exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Section, including the following powers in addition to others herein granted:
  - a. To investigate the condition of structures in the City of Lake Quivira, Kansas in order to determine which structures therein are unfit for human habitation or occupancy or use;
  - b. To administer oaths, affirmations, examine witnesses and receive evidence;
  - c. To enter upon premises for the purpose of making examinations; provided, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession and provided that any entrance without the permission of the occupant shall be consistent with the right of the owners and occupants. Where appropriate, a court order may be sought to permit entry;
  - d. To appoint and fix the duties of officers and employees to carry out the purposes of this code.
  
9. Standards - The Building Official may determine that a building is unfit for human occupancy if he or she finds that conditions are dangerous or injurious to health or safety; including fire hazards, danger of accidents, lack of adequate ventilation, light or sanitary facilities, disrepair, structural defects or uncleanness.
  
10. Emergencies - The Building Official may take immediate action to prevent possible injury, damage to health or death, in an emergency, without previous notice. Such action may include evacuation of a structure or emergency repair. The owners and occupants of the building shall be notified as soon as possible of such emergency action.

G. Penalty.

Any violation of this Section shall be deemed a Class B offense and any person, firm, corporation or other entity convicted of such violation shall be punished by a fine not exceeding five hundred dollars (\$500.00) for each offense. Each day's violation shall constitute a separate offense.

(Ordinance 161, 1991)

### **Section 3                      Adoption of 2018 International Fire Code with Amendments**

A.        Incorporation by Reference.

There is hereby incorporated by reference the International Fire Code, 2018 Edition, including Appendix Chapters A, B, C, D, H, and I, prepared and published in book form by the International Code Council, Inc., 5203 Leesburg Pike, Suite 600, Falls Church, Virginia 22041-3401, and hereby referenced as IFC.

B.        Amendments and Additions.

The following sections of the IFC are amended as follows:

As used in the IFC as adopted by the City of Lake Quivira, Kansas, Fire Chief shall mean the duly appointed acting Fire Chief for the City of Shawnee, Kansas. Fire Department shall mean the fire department of the City of Shawnee, Kansas.

Amend Section 101.1 Title, of the IFC by replacing “[NAME OF JURISDICTION]” with “City of Lake Quivira, Kansas.”

Amend Section 102 Applicability, of the IFC, and amend by adding a new Section 102.13 Home daycares, which reads:

102.13 Home Daycares. Home Daycares that meet the requirements of the Johnson County, Kansas Home Daycare Handbook 2019 Edition shall be viewed as meeting the equivalent of the requirements of the IFC.

Amend by omitting Sections 105.6.1 through 105.6.13, Sections 105.6.15 through 105.6.29. Section 105.6.31, Sections 105.6.33 through 105.6.50, Sections 105.6.37 through 105.6.42, and Sections 105.6.44 through 105.6.46 of the IFC.

Amend by omitting Section 105.7 of the IFC

Amend by omitting Section [A]110.4 Violation Penalties, of the IFC, and amend by adding in lieu thereof a new Section 110.4 Violation Penalties, which reads as follows:

Any person who violates a provision of this Code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate issued under the provisions of this Code, shall be guilty of a public offense, and upon conviction shall be subject to penalties as set forth herein.

Any person or entity violating any provisions of this Section shall, upon conviction, be punished by a fine of not less than fifty dollars and no more than two thousand five hundred dollars. Each day that

any violation occurs or continues shall constitute a separate offense. The imposition of a penalty for any violation or noncompliance shall not excuse any violation, permit a violation to continue, or excuse any obligation to remedy any violation. The imposition of a penalty shall not prohibit any action to enforce compliance, prevent a violation, or remedy a violation, nor shall it prohibit the imposition of liens or assessments necessary to remedy a violation.

Amend by omitting Section 307, Open Burning and Recreational Fires, of the IFC.

Amend Section 308.1.4 Open flame cooking devices, of the IFC, to read as follows:

308.1.4 Open-flame cooking devices. Charcoal burners and other open-flame cooking devices shall not be operated or located on combustible balconies or within 10 feet (3048 mm) of combustible construction.

EXCEPTIONS: 1. One- and two-family *dwelling*s. Heat detectors shall not be required in detached garages. 2. Where buildings, balconies and decks are protected by an *automatic sprinkler system*. 3. LP-gas cooking devices having LP-gas container with a water capacity not greater than 21/2 pounds [nominal 1 pound (0.454 kg) LP- gas capacity].

Amend by omitting Section 503.3 Marking, of the IFC, and amend by adding in lieu thereof a new Section 503.3 Marking, which reads:

Section 503.3 Marking. Where required by the fire code official, approved signs and painted curb, or pavement if a curb is absent, shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. The means by which fire lanes are designated shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility. The curb, or pavement if a curb is absent, shall be painted red with white 3 inch letters indicating "NO PARKING - FIRE LANE". Lettering shall occur every 25 feet of the fire lane. Signs used to indicate fire lanes shall meet the requirements of section D103.6 of the 2018 International Fire Code.

Amend by omitting Section 503.6 Security gates of the IFC, and amend by adding in lieu thereof a new Section 503.6 Security gates, which reads:

503.6 Security Gates. The installation of security gates across a fire apparatus access road shall first be approved by the fire code official in writing prior to installation. Where security gates are installed, they shall have an approved means of emergency operation with a manual secondary means of emergency operation in the event of failure of the primary emergency operation. The security gates and emergency operations shall be maintained operational at all times. Electric gate operators, where provided, shall be listed in accordance with UL 325. Gates intended for automatic operation shall be designed, constructed, and installed to comply with the requirements of ASTM F2200.

Amend by omitting Section 507.5.1.1 Hydrant for standpipe systems of the IFC, and amend by adding in lieu thereof a new Section 507.5.1.1 Hydrant for fire sprinkler and standpipe systems, which reads: Buildings equipped with a fire sprinkler or standpipe systems, that are installed in accordance with Section 903 or 905, shall have a fire hydrant within 100 feet of the fire department connections.

Amend Section 507.5.2 Inspection, testing and maintenance, of the IFC to read as follows:

507.5.2 Inspection, testing and maintenance. Fire hydrant systems shall be subject to periodic tests as required by the fire code official. Fire hydrant systems shall be maintained in an operative condition at all times and shall be repaired where defective. Additions, repairs, alterations and servicing shall comply with approved standards.

507.5.2.1 Line and hydrant tests. Private hydrants and supply piping shall be tested as specified in NFPA 24. Hydrants shall comply with the AWWA standards adopted by the Johnson County Water District and maintained to AWWA-M17.

507.5.2.2 Hydrants – color. All fire hydrants shall be painted and highly visible. Private fire hydrants shall be painted red in color.

Amend by omitting Section 912.3 Fire hose threads of the IFC, by adding a new Section 912.3 Fire department connection, which reads:

Section 912.3 Fire hose threads. The fire department connection shall be fitted with a four-inch (4") Storz quick coupling connector.

Amend by omitting Section 1023.9 Stairway identification signs of the IFC, by adding a new Section 1023.9 Stairway identification signs, which reads:

Section 1023.9 Stairway identification signs. A sign shall be provided at each floor landing in an interior exit stairway and ramp connecting more than three stories designating the floor level, the terminus of the top and bottom of the interior exit stairway and ramp and the identification of the stairway or ramp. The signage shall state the story of, and the direction to, the exit discharge and the availability of roof access from the interior exit stairway and ramp for the fire department. The sign shall be located 5 feet (1524 mm) above the floor landing in a position that is readily visible when the doors are in the open and closed positions. In addition to the stairway identification sign, a floor-level sign in visual characters, raised characters and braille complying with ICC A117.1 shall be located at each floor-level landing adjacent to the door leading from the interior exit stairway and ramp into the corridor to identify the floor level. In addition, the signs shall be color coded, or have colored borders that are identified as follows: red shall be used for the primary exit enclosure with roof access, yellow for the secondary stairwell, blue for the third stairwell, white for the fourth, and green for the fifth.

Amend by omitting Chapter 11, of the IFC, except Sections 1103.8 through 1103.9.

Amend Section 5601.2 Permit required, of the IFC, to read as follows:

5601.2 Permit required. A permit application shall be made to the Shawnee Fire Marshal's Office who shall issue the same only if the Fire Chief or his or her designated representative shall after inspection approve issuance of the permit. There shall be a fee of one-hundred dollars (\$100.00) for making such application. Permits shall expire 30 days after date of issuance. Permits shall be obtained: 1. To manufacture, possess, store, sell, display, or otherwise dispose of explosive materials. 2. To use explosive materials 3. To operate a terminal for handling explosive materials.

5601.2.1 Residential uses. No person shall keep or store, nor shall any permit be issued to keep or store, any *explosives* at any place of habitation, or within 100 feet (30 480 mm) thereof.

EXCEPTION: Storage of smokeless propellant, black powder and small arms primers for personal use and not for resale in accordance with Section 5606.

5601.2.2 Sale and retail display. No person shall construct a retail display nor offer for sale explosives, explosive materials or fireworks upon highways, sidewalks, public property or in Group A or E occupancies.

5601.2.3 Permit restrictions. The fire code official is authorized to limit the quantity of explosives, explosive materials or fireworks permitted at a given location. No person possessing a permit for storage of explosives at any place, shall keep or store an amount greater than authorized in such permit. Only the kind of explosive specified in such a permit shall be kept or stored.

5601.2.4 Financial responsibility. Before a permit is issued, as required by Section 5601.2, the applicant shall file with the jurisdiction a corporate surety bond in the principal sum of \$1,000,000 or a public liability insurance policy for the same amount, for the purpose of the payment of all damages to persons or property which arise from, or are caused by, the conduct of any act authorized by the permit upon which any judicial judgment results. The fire code official is authorized to specify a greater or lesser amount when, in his or her opinion, conditions at the location of use indicate a greater or lesser amount is required. Government entities shall be exempt from this bond requirement.

5601.2.4.1 Blasting. Before approval to do blasting is issued, the applicant for approval shall file a bond or submit a certificate of insurance in such form, amount and coverage as determined by the legal department of the jurisdiction to be adequate in each case to indemnify the jurisdiction against any and all damages arising from permitted blasting.

5601.2.4.2 Fireworks display. The permit holder shall furnish a bond or certificate of insurance in an amount deemed adequate by the fire code official for the payment of all potential damages to



a person or persons or to property by reason of the permitted display, and arising from any acts of the permit holder, the agent, employees or subcontractors.

5601.2.4.2.1 Permit-Fee-Public Displays – Fireworks. When any person makes application for a permit of supervised public displays of fireworks pursuant to Section 5601.2.4.2 of the International Fire Code 2018 Edition, the applicant shall at the time of filing the application therefore pay to the City Clerk an application fee of fifteen dollars (\$15.00). The application fee shall be refunded upon request by the applicant in the event the application for such is withdrawn or denied prior to an investigation being made as provided under section of such code; however, no refund shall be made for any reason after the Fire Chief or his or her designated representative has made the required investigation.

Amend Section 5601.4 Permit required, of the IFC, to read as follows:

5601.4 Qualifications. Persons in charge of magazines, blasting, fireworks display or pyrotechnic special effect operations shall not be under the influence of alcohol or drugs which impair sensory or motor skills, shall be at least 21 years of age and shall demonstrate knowledge of all safety precautions related to the storage, handling or use of explosives, explosive materials or fireworks, possess a valid Blasters Certificate issued by the State of Kansas Fire Marshal's Office, ATF&E Notice of Clearance, and valid photo identification.

Amend by omitting Section 5607.4 Restricted hours, of the IFC, and amend by adding in lieu thereof a new Section 5607.4 Hours of operation, which reads:

Section 5607.4 Hours of operation. Blasting operation shall be conducted Monday through Friday only between the hours of 8:30 A.M. and 4:30 P.M.

EXCEPTION: When other times are approved in writing in advance by the Fire Chief or his/her designated representative.

Amend Section 5607 Blasting of the IFC, by adding a new Section 5607.16 Pre- blast survey, which reads:

Section 5607.16 Pre-blast survey and notification. At least 15 days before initiation of blasting, the surveyor shall notify, in writing, all residents or owners of dwellings or other structures located within 500 feet (152,400 mm) of the blasting area of the location and date of the proposed blasting and the intent to conduct a pre-blast survey. The Fire Marshal may identify alternate re-blast survey distances.

The surveyor shall promptly conduct a pre-blast survey of the dwelling or structures and promptly prepare a written report of the survey. An updated survey of any additions, modifications, or renovations shall be performed by the surveyor if requested by the contractor or the Fire Marshal.

The surveyor shall determine the condition of the dwelling or structure and shall document any existing damage and other physical factors that could reasonably be affected by the blasting. The surveyor shall examine the interior as well as the exterior structure and shall document any damage by means of digital photographic or digital video methods. Structures such as pipelines, cables, transmission lines, cisterns, wells, and other water systems warrant special attention; however, the assessment of these structures may be limited to surface conditions and other readily available data.

The written report of the survey shall be signed by the person who conducted the survey. Copies of the report shall be promptly provided to the contractor and made available to the Fire Marshal. All surveys shall be completed by the surveyor before the initiation of blasting. All surveys shall be conducted by a disinterested third party, regularly engaged in performing pre-blast surveys.

The contractor shall notify the owners of all gas, water, and petroleum pipe lines in any area where blasting will be utilized. A representative of the pipeline shall be allowed to be present to observe preparations and blasting.

Amend Section 5607 Blasting of the IFC, by adding a new Section 5607.17 Ground vibration, which reads:

Section 5607.17 Ground vibration. Regardless of the distance to nearby facilities, buildings or other structures, the blasting operations shall be carried out in such a manner that they will not cause flyrock damage from airblast overpressure or ground vibration. The contractor or operator shall conduct seismic monitoring of all blasts. The seismic recording site shall be located at the nearest structure or building within 500 feet (152,400 mm) of the blast site. The maximum peak particle velocity at any such recording site shall not exceed one inch per second in any of three mutually perpendicular directions

Amend Section 5607 Blasting of the IFC, by adding a new Section 5607.18 Distance from structures, which reads:

Section 5607.18 Distance from structures. There shall be no blasting within 100 feet (30,480 mm) of any structure or building.

Amend Section 5607 Blasting of the IFC, by adding a new Section 5607.19 Blasting records, which reads:

Section 5607.19 Blasting records. The contractor shall retain a record of all blasts for at least 3 years. Upon request, copies of these records shall be made available to the Fire Marshal and to the public for inspection. Such records shall contain the following data: 1. Name of contractor conducting the blast. 2. Location, date, and time of blast. 3. Name, signature, and certificate number of blaster conducting the blast. 4. Identification, direction, and distance, in feet. From the

nearest blast hole to the nearest dwelling, public building, school, church, community or institutional building outside the permit area, except those described herein. 5. Weather conditions, including those which may cause possible adverse blasting effects. 6. Type of material blasted. 7. Sketches of the blast pattern including number of holes, burden, spacing, decks, and delay pattern. 8. Diameter and depth of holes. 9. Types of explosives used. 10. Total weight of explosives detonated in an 8-millisecond period. 11. Initiation System. 12. Type and length of stemming. 13. Mats or other protections used. Seismographic and airblast records shall include: 1. Type of instrument, sensitivity, and calibration signal, or certification of annual calibration. 2. Exact location of instrument and the date, time and distance from the blast. 3. Name of person and firm taking the reading. 4. Name of the person and firm analyzing the seismographic record. 5. The vibration and/or airblast level recorded.

Amend Section 5704 Storage of the IFC, by adding a new Section 5704.2.01 Above ground storage, which reads:

Section 5704.2.01 Above ground storage. The storage of Class I and Class II liquids in outside aboveground tanks shall be prohibited within the city limits except and then only upon approval of a site development plan by the City Governing Body.

Amend by omitting Section 5706.4.5 Storage, of the IFC, and amend by adding in lieu thereof a new Section 5706.4.5 Storage, which reads:

5706.4.5 Storage. The storage of Class I, Class II, and Class III liquids in bulk plants shall be prohibited within the city limits except and then only upon approval of a site development plan by the City Governing Body. Storage in bulk plants shall be in accordance with the International Fire Code 2018 Edition, Chapter 57.

C. Presumptions.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the owner of the real property shall be that Person reflected on the most recent evidence of ownership for the real property filed of record with the County wherein such real property is situated. The prima facie presumption of ownership shall be effective upon affidavit of an authorized agent or employee of the County wherein such property is located, attesting that deed or deeds attached thereto are a true and accurate copy of the official record, and are the most recent evidence of ownership for the described real property.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the Person who owns or controls property on which a violation occurs, has caused or permitted such violation.

D. Copies on File.

Not less than three (3) copies of the code hereinbefore incorporated by reference shall be marked or stamped "Official Copy as Adopted by Ordinance No. 308" and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Municipal Judge, and all administrative departments of the city charged with the enforcement of this Section shall be supplied, at the cost of the city, such number of official copies of such code as may be deemed expedient.

(Ordinance 247, 2008; Ordinance 308, 2019)

## **Section 4                    Adoption of 2018 International Building Code**

### **A.            Incorporation by Reference.**

There is hereby incorporated by reference the International Building Code, 2018 Edition, prepared and published in book form by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795, and hereby referenced as the IBC.

### **B.            Amendments and Additions.**

The following sections of the IBC are amended as follows:

Amend Section 101.1 Title of the IBC by replacing "[NAME OF JURISDICTION]" with "City of Lake Quivira, Kansas."

Amend by omitting Section 101.4.7 Existing Buildings, of the IBC, and amend by adding in lieu thereof a new Section 101.4.7 Existing Buildings, which reads:

101.4.7 Existing Buildings. The provisions of the International Building Code, International Plumbing Code, International Mechanical Code, International Fuel Gas Code, International Residential Code, International Energy Conservation Code, International Fire Code and NFPA 70 shall apply to matters governing the repair, alteration, change of occupancy, addition to and relocation of existing buildings. Alterations to any building or structure shall comply with the requirements of the code for new construction. Alterations shall be such that the existing building or structure is no less complying with the provisions of this code than the existing building or structure was prior to the alteration.

Buildings and structures, and parts thereof, shall be maintained in a safe and sanitary condition. Devices or safeguards which are required by this code shall be maintained in conformance with the code edition under which installed. The owner or owners designated agent shall be responsible for the maintenance of the buildings and structures. To determine compliance with this subsection, the Building Official shall have the authority to require a building or structure to be re-inspected.

The requirements of this section shall not provide the basis for removal or abrogation of the fire protection and safety systems and devices in existing structures. The provisions of this code related

to the construction, repair, alteration, restoration and movement of structures, and change of occupancy shall not be mandatory for historic buildings where such buildings are judged by the Building Official to not constitute a distinct life safety hazard.

No change shall be made in the use or occupancy of any building that would place the building in a different division of the same group of occupancies or in a different group of occupancies, unless such building is made to comply with the requirements of this code for such division or group of occupancies. Subject to the approval of the Building Official, the use or occupancy of existing buildings shall be permitted to be changed and the building is allowed to be occupied for the purpose in other groups without conforming to all the requirements of this code for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use. A certificate of occupancy shall be issued where it has been determined that the requirements for the new occupancy classification have been met.

Amend by omitting Section 103 Department of Building Safety of the IBC in its entirety.

Amend by omitting Section 104.3 Notices, Orders and Work Hours, which reads:

104.3 Notices, Orders and Work Hours. The Building Official, or his/her designated representatives, shall issue all necessary notices or orders to ensure compliance. These regulations shall be known as the Building Code of the City of Lake Quivira, hereafter referred to as "this code."

All work done under a valid building permit, which is audible at any property line, shall conform to this section. No work regulated by this section shall be done between 10:00 PM and 7:00 AM Monday through Friday, or between 9:00 PM and 8:00 AM Saturday through Sunday.

EXCEPTION: 1. Emergency work, as approved by the City Manager, may be done at any time. 2. Work may be done between 6:00 AM and 10:00 PM Monday through Friday during the months of June, July and August. 3. Work, which is more than five-hundred feet (500') from an occupied dwelling, may be done at any time. 4. Work specifically authorized by the Planning Commission may be done as allowed by the Planning Commission. 5. Work, which is within five-hundred feet (500') of an occupied dwelling in the same ownership as the permit holder doing the work, may be done at any time. All measurements for the above exceptions are to be taken from the property lines of the permitted project to the wall of affected dwellings. Constructions projects, where work is done in violation of this section, may be required to stop all remaining work, as provided for in Section 115 of this code, for a period not to exceed seven (7) consecutive days, for each separate violation.

Amend by omitting Item # 4 under Section 105.2 Work exempt from permit, Building, of the IBC and amend by adding in lieu thereof a new Item # 4, which reads:

4. Retaining walls which are not over 4 feet (1,219 mm) in height measured from the bottom of the footing to the top of the wall, unless the wall is located within a drainage easement, or unless the wall is located on a lot that is designated as an E/I lot on the subdivision records of the City Engineer, or unless the wall supports a surcharge or impounds Class I, II or III-A liquids.

Amend by omitting Item # 6 under Section 105.2 Work exempt from permit, Building, of the IBC and amend by adding in lieu thereof a new Item # 6, which reads:

6. Sidewalks, driveways, decks and platforms not more than thirty inches (30”) or (762 mm) above grade and not over any basement or story below, and which are not part of an accessible route.

Amend the IBC by adding a new Item #14 under Section 105.2 Work exempt from permit, Building, which reads:

14. Replacement of existing windows and doors that do not require any changes to the framework of the building, re-roofing and re-siding. Re-roofing will be compliant with 2018 IBC/IRC standards to include Ice Barrier – commonly referred to as ice and watershield. Re-siding will be compliant with 2018 IBC/IRC to include water resistant /resistance barrier.

Amend Section 105.3 Application for permit of the IBC by adding a new Item # 8, which reads:

Include proof that the permit applicant has a valid contractor license, in the appropriate class, with Johnson County, Kansas. The Building Official is authorized to deny a building permit to any applicant that does not provide adequate proof meeting this requirement. The Building Official is authorized to waive the requirement for a valid contractor license for permit applications that involve minor projects (such as decks, fences, simple repairs, grading, demolition, etc.). The Building Official is also authorized to deny a building permit to any person who has an outstanding failure to appear in court (Bench Warrant), with respect to any violation of Lake Quivira laws or ordinances, or has established habitual inspection failures, or habitual stop work orders issued by the Building Official. Each permit applicant seeking to obtain a permit for work (demolition and construction) on one-and two-family residential, commercial, and accessory structures shall also be required to have on file with the Building Official a current contractor registration form. The Building Official shall, by administrative regulation, prepare the required form, which shall contain such information that the Building Official deems necessary to implement this requirement.

All persons identified on the contractor registration form as being legally responsible to the City for compliance with the conditions of the permit may be cited by the City for any violations of the code pertaining to that permit. The business, and any identified responsible persons, shall assume full legal responsibility and liability to the City for any permit issued to any authorized individual, and, absent written notification being received by the Building Official prior to the issuance of a permit of any changes in the authorized individuals, such responsibility shall exist regardless of whether in fact such listed authorized individual has any affiliation with the business at the time of issuance. It is further the continuing responsibility of the business to notify the Building Official in writing of any other changes to the form, and, in the absence of any such notification being received by the Building Official prior to the issuance of a permit, all identified responsible persons shall be responsible for that permit to the City regardless of whether they maintain any affiliation with the business.

Amend by omitting Section 105.5 Expiration, of the IBC, and to amend by adding in lieu thereof a new Section 105.5 Expiration and Extension of Building Permit, which reads:

105.5 Expiration and Extension of Building Permit. Every building permit shall become invalid unless the work described in the permit application and authorized by the permit is commenced within 180 days of the date of issuance, if a building inspection is not obtained within any 180 day period after the date of

issuance, or if the work described in the permit application and authorized by the permit is substantially suspended or abandoned for a period of 180 days after the time work is commenced. Every building permit shall expire 1 year from the date of permit issuance. The Building Official may upon written application and justifiable cause shown, grant in writing one extension of time, for a period of time not exceeding 180 days. Permit fees and bond moneys shall be forfeited upon expiration of the building permit.

Amend the IBC by adding a new Section 105.8 Responsibility, which reads:

105.8 Responsibility. The permit applicant of record shall complete, and be responsible for, all work for which the building permit was issued, in full compliance with applicable laws and ordinances. The permit applicant of record shall complete, and be responsible, for all sidewalks, drive approaches, grading, installation of required landscaping, and culvert drains in the public right of way abutting the property described by the building permit. The construction of sidewalks, drive approaches, and other public improvements described above shall comply with all applicable technical specifications adopted by the City of Lake Quivira and shall be located as required by the applicable codes and policy statements of the City of Lake Quivira.

Failure by the permit applicant of record to fully comply with any of the above requirements shall be deemed a violation of this Section.

The applicant of record may cancel the building permit by written request and written approval by the Building Official. The permit applicant of record shall still be responsible for all work completed under the building permit prior to cancellation. Building permits are not transferable.

Amend the IBC by adding a new Section 105.9 Compliance Statement, which reads:

105.9 Compliance Statement. The Permit applicant of record for any construction of new one and two-family dwellings shall submit a notarized statement that the project was constructed in compliance with all applicable municipal building codes and ordinances. The required notarized statement shall be submitted to the Building Official prior to any occupancy of the structure, on a form approved by the Building Official.

The Building Official is authorized to require written verification of the name of the subcontractor who performed electrical, plumbing, fire protection, or mechanical work on any project for which a permit was issued. Written verification of the subcontractor work shall be on an approved form, provided by the subcontractor who did the work, and shall be provided to the Building Official prior to obtaining a satisfactory final inspection. The Building Official is authorized to waive this requirement for minor projects.

Amend by omitting Section 109.2 Schedule of permit fees, of the IBC.

Amend by omitting Section 109.6 Refunds of the IBC and amend by adding in lieu thereof a new Section 109.6 Refunds, which reads:

109.6 Refunds. The Building Official is authorized to refund a permit fee which was erroneously paid or collected. The Building Official may authorize refunding of not more than 80 percent of the permit fee

paid when no work has been done under the permit issued, for any portion of the permit fee in excess of twenty-five dollars (\$25.00). No refund shall be made for any permit fee paid of twenty-five dollars (\$25.00) or less. The Building Official may authorize refunding of not more than 80 percent of the plan review fee paid when no plan review work has been done. The Building Official shall not authorize refunding of any fee paid except on written application filed by the original permittee, not later than 180 days after the date of fee payment.

Amend the IBC by adding a new Section 110.7 Final Inspection Report Required, which reads:

110.7 Final Inspection Report Required. It shall be unlawful for any building permit applicant or owner or party in possession of property described in the permit application, to fail to obtain a satisfactory final inspection report prior to the expiration of the building permit, unless an extension of the building permit is first granted prior to such expiration, in writing by the Building Official.

Amend the IBC by omitting Section 113.1, in its entirety, and adding a new 113.1, which reads:

113.1 General. In order to hear and decide appeals of orders, decision 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. The Lake Quivira Planning Commission is hereby designated as the board of appeals. The board shall adopt rules of procedure for conducting its business.

Amend by omitting Section 305.2 Group E, Day Care Facilities of the IBC and amend by adding lieu thereof a new Section 305.2 Group E, Day Care Facilities, which reads:

305.2 Group E, Day Care Facilities. This group includes buildings and structures or portions thereof occupied by more than five children older than 2 ½ years of age who receive educational, supervision or personal care services for fewer than 24 hours per day.

Exception: Daycare that is an accessory use for the dwelling unit principal residents, when conducted in compliance with applicable state and local regulations, shall comply with applicable requirements of the International Residential Code.

Amend the IBC by omitting Section 305.2.3 Five or Fewer Children in a Dwelling Unit.

Amend the IBC by omitting Section 310.4.1 Care Facilities within a Dwelling.

Amend the IBC by adding a new SECTION 429 RESIDENTIAL GROUP R-2 AND R-3 OCCUPANCIES, which reads:

#### SECTION 429 RESIDENTIAL GROUP R-2 AND R-3 OCCUPANCIES

429.1 Purpose. The purpose of this Section is to establish minimum standards that incorporate physical security to make dwelling units resistant to unlawful entry.

429.1.1 Scope. The provisions of this Section shall apply to all new residential structures that contain dwelling units.



429.2 Doors. Except for vehicular access doors, all exterior swinging doors of residential buildings and attached garages, including the doors leading from the garage into the dwelling, shall comply with sections 429.2.1 through 429.4.4. For purposes of this Section, doors leading from the garage area into the dwelling shall be deemed to be exterior doors.

429.2.1 Wood Doors. Where installed, exterior wood doors shall be of solid core construction such as high density particleboard, solid wood, or wood block core with a minimum thickness of one and three-fourths inches (1 ¾") at any point. Doors with panel inserts shall be solid wood. The panels shall be a minimum of one inch (1") thick. The tapered portion of the panel that inserts into the groove of the door shall be a minimum of one-quarter inch (1/4") thick. The groove shall be a dado groove or applied molding construction. The groove shall be a minimum of one-half inch (1/2") in depth.

429.2.2 Steel Doors. Where installed, exterior steel doors shall be a minimum thickness of 24 gauge.

429.2.3 Fiberglass Doors. Fiberglass doors shall have a minimum skin thickness of one-sixteenth inch (1/16") and have reinforcement material at the location of the deadbolt.

429.2.4 Double Doors. Where installed, the inactive leaf of an exterior double door shall be provided with flush bolts having an engagement of not less than one inch (1") into the head and threshold of the doorframe.

429.2.5 Sliding Doors. Where installed, exterior sliding doors shall comply with all of the following requirements: 1. Sliding door assemblies shall be installed to prevent the removal of the panels and the glazing from the exterior with the installation of shims or screws in the upper track. 2. All sliding glass doors shall be equipped with a secondary locking device consisting of a metal pin or a surface mounted bolt assembly. Metal pins shall be installed at the intersection of the inner and outer panels of the inside door and shall not penetrate the frame's exterior surface. The surface mounted bolt assembly shall be installed at the base of the door.

429.3 Door Frames. The exterior door frames shall be installed prior to a rough-in inspection. Door frames shall comply with Sections 429.3.1 through 429.3.3 for the type of assembly installed.

429.3.1 Wood Frames. Wood door frames shall comply with all of the following requirements: 1. All exterior door frames shall be set in frame openings constructed of double studding or equivalent construction, including garage doors, but excluding overhead doors. Door frames, including those with sidelights shall be reinforced in accordance with ASTM F 476-84 Grade 40. 2. In wood framing, horizontal blocking shall be placed between studs at the door lock height for three (3) stud spaces or equivalent bracing on each side of the door opening.

429.3.2 Steel Frames. All exterior door frames shall be constructed of eighteen (18) gauge or heavier steel, and reinforced at the hinges and strikes. All steel frames shall be anchored to the wall in accordance with manufacturer specifications. Supporting wall structures shall consist of double studding or framing of equivalent strength. Frames shall be installed to eliminate tolerances inside the rough opening.

429.3.2 Door Jambs. 1. Door jambs shall be installed with solid backing in a manner so no void exists between the strike side of the jamb and the frame opening for a vertical distance of twelve inches (12") each side of the strike. Filler materials shall consist of a solid wood block. 2. Door stops on wooden jambs for in-swinging doors shall be of one-piece construction. Jambs for all doors shall be constructed or protected so as to prevent violation of the strike.

429.4 Door Hardware. Exterior door hardware shall comply with Sections 429.4.1 through 429.4.6.

429.4.1 Hinges. Hinges for exterior swinging doors shall comply with the following: 1. At least two (2) screws, three inches (3") in length, penetrating at least one inch (1") into wall structure shall be used. Solid wood fillers or shims shall be used to eliminate any space between the wall structure and door frame behind each hinge. 2. Hinges for out-swinging doors shall be equipped with mechanical interlock to preclude the removal of the door from the exterior.

429.4.2 Strike Plate. Exterior door strike plates shall be a minimum of eighteen (18) gauge metal with four offset screw holes. Strike plates shall be attached to wood with not less than three inch (3") screws, which shall have a minimum of one inch (1") penetration into the nearest stud. Note: For side lighted units, refer to Section 429.8.6.

429.4.3 Escutcheon Plates. All exterior doors shall have escutcheon plates or wrap-around door channels installed around the lock protecting the doors edge.

429.4.4 Locks. Exterior doors shall be provided with a locking device complying with one of the following: Single Cylinder Deadbolt shall have a minimum projection of one inch (1"). The deadbolt shall penetrate at least three-fourths inch (3/4") into the strike receiving the projected bolt. The cylinder shall have a twist-resistant, tapered hardened steel cylinder guard. The cylinder shall have a minimum of five (5) pin tumblers, shall be connected to the inner portion of the lock by solid metal connecting screws at least one-fourth inch (1/4") in diameter and two and one-fourth inches (2 1/4") in length. Bolt assembly (bolt housing) unit shall be of single piece construction. All deadbolts shall meet ANSI grade 2 specifications.

429.4.5 Entry Vision and Glazing. All main or front entry doors to dwelling units shall be arranged so that the occupant has a view of the area immediately outside the door without opening the door. The view may be provided by a door viewer having a field of view of not less than one-hundred eighty (180) degrees through windows or through view ports.

429.4.6 Side Lighted Entry Doors. Side light door units shall have framing of double stud construction or equivalent construction complying with Section 429.3.1 through 429.3.3. The door frame that separates the door opening from the side light, whether on the latch side or the hinge side, shall be double stud construction or equivalent construction complying with Sections 429.3.1 and 429.3.2. Double stud construction or construction of equivalent strength shall exist between the glazing unit of the side light and wall structure of the dwelling.

429.5 Street Numbers. Street numbers shall be provided for all new buildings, and shall be positioned so as to be visible and plainly legible from the street or road fronting the property. Street numbers shall be subject to approval of the Fire Marshall.

429.6 Exterior Lighting. Exterior lighting shall comply with Sections 429.6.1 through 429.6.2.

429.6.1 Front and Street Side Exterior Lighting. All front and street side door entrances should be protected with a minimum of one light outlet having a minimum of sixty (60) watts of lighting (or energy efficient equivalent) installed so that the light source is not readily accessible. 429.6.2 Rear Exterior Lighting. Homes with windows or doors near ground level below eight feet (8') on the rear side of the house shall be equipped with a minimum of one light outlet having 100 watt lighting (or energy efficient equivalent) and shall be of the flood light type. Those fixtures placed below eight feet (8') shall be fixtures manufactured such that the light source is not readily accessible.

429.7 Alternate Materials and Methods of Construction. The provisions of this Section are not intended to prevent the use of any material or method of construction not specifically prescribed by this Section, provided any such alternate has been approved by the enforcing authority, nor is it the intention of this Section to exclude any sound methods of structural design or analysis not specifically provided for in this Section. The materials, methods of construction, and structural design limitations provided for in this Section shall be used, unless the enforcing authority grants an exception. The enforcing authority is authorized to approve any such alternate provided they find the proposed design, materials and methods of work to be at least equivalent to those prescribed in this Section in quality, strength, effectiveness, burglary resistance, durability and safety.

Amend by omitting Chapter 11 of the IBC in its entirety, and to amend by adding in lieu thereof a new Chapter 11, to read:

#### CHAPTER 11 ACCESSIBILITY

Section 1101 General. Modifications to existing buildings or sites, and construction of new buildings and sites shall comply with all applicable federal and state laws governing access and usability by individuals with disabilities. The permit applicant of record shall obtain certification from a registered architect that both the project design and the finished construction comply with applicable federal and state regulations governing accessibility. The permit applicant of record shall submit the design certification to the building official prior to the issuance of a building permit. The finished construction certification shall be submitted to the building official prior to the issuance of a certificate of occupancy for the project. A single registered architect shall certify the entire scope of the project design documents and the finished construction project. The building official may waive submission of proof of certification for minor projects. The waiver of certification submission shall not relieve the requirement that the permit applicant of record obtain an architect's certification as described above. Appeals to accessibility requirements, where allowed by federal or state law, shall be heard by the board of appeals.

Amend by omitting Section 1202.1 General., of the IBC, and to amend by adding in lieu thereof a new Section 1202.1 General., which reads:

1202.1 General. Buildings shall be provided with natural ventilation in accordance with Section 1203.5, or mechanical ventilation in accordance with the International Mechanical Code.

Amend Section 1612.3 Establishment of flood hazard areas of the IBC by replacing “[INSERT NAME OF JURISDICTION]” with “City of Lake Quivira, Kansas” and by replacing “[INSERT DATE OF ISSUANCE]” with “June 17, 2002.”

Amend the IBC by adding a new Section 2902.7 Drinking fountains and service sinks, which reads:

2902.7 Drinking Fountains and Service Sinks. The Building Official is authorized to accept equivalent means for providing drinking water and cleaning facilities besides requiring drinking fountains and service sinks, such as bottled water, or cleaning equipment that can be used without a service sink.

Amend the IBC by adding a new SECTION 3009 INSPECTION OF EXISTING ELEVATORS which reads:

#### SECTION 3009 INSPECTION OF EXISTING ELEVATORS

3009.1 Scope. This section governs the maintenance, testing and inspection, of existing elevators and conveying systems and their components.

3009.2 Certificates of Inspection Required. It shall be unlawful to operate any elevator, dumbwaiter, escalator or moving walk without a current certificate of inspection issued by the Building Official. Such certificate shall be issued upon payment of prescribed fees and the presentation of a valid inspection report from a qualified individual, indicating that the conveyance is safe and that the inspections and tests have been performed in accordance with ASME A-17.1/CSA 844. Certificates shall not be issued when the conveyance is posted as unsafe.

3009.3 Application for Certificates of Inspection. Application for a certificate of inspection shall be made by the owner of an elevator, dumbwaiter, escalator or moving walk. Applications shall be accompanied by an inspection report as described in

Section 3009.2. Fees for certificates of inspection shall be as specified in this section.

3009.4 Fees. A fee for each certificate of inspection shall be paid to the City of Lake Quivira as follows:

Annual certificates of inspection:

For each elevator	\$25.00
For each escalator or moving wall	\$15.00
For each commercial dumbwaiter	\$10.00

3009.5 General. The owner shall be responsible for the safe operation and maintenance of each elevator, dumbwaiter, escalator or moving walk installation and shall cause periodic inspections, tests and maintenance to be made on such conveyances as required in this section.

3009.6 Periodic Inspections and Tests. Routine and periodic inspections and tests shall be made as required by A-17.1.

3009.7 Alterations, Repairs and Maintenance. Alterations, repairs and maintenance shall be made as required by A-17.1.

3009.8 Inspection Costs. All costs of such inspections and tests shall be paid by the owner.

Amend by omitting Section 3109 Swimming Pools, Spas and Hot Tubs of the IBC and amend by adding in lieu thereof new Section 3109 Swimming Pools, Spas, and Hot Tubs., which reads:

SECTION 3109 SWIMMING POOL ENCLOSURES AND SAFETY DEVICES 3109.1 General. Swimming pools shall comply with the requirements of Sections 3109.2 through 3109.5 and other applicable sections of this code.

3109.2 Definition. The following term is defined in Chapter 2: SWIMMING POOLS.

3109.3 Public Swimming Pools. Public swimming pools shall be completely enclosed by a fence not less than 4 feet (1290 mm) in height or a screen enclosure. Openings in the fence shall not *permit* the passage of a 4-inch- diameter (102 mm) sphere. The fence or screen enclosure shall be equipped with self-closing and self-latching gates. 3109.4 Residential Swimming Pools. Residential swimming pools shall comply with Sections 3109.4.1 through 3109.4.3. 3109.4.1 Barrier Height and Clearance. The top of the barrier shall be not less than 48 inches (1219 mm) above grade measured on the side of the barrier that faces away from the swimming pool. The vertical clearance between grade and the bottom of the barrier shall be not greater than 2 inches (51 mm) measured on the side of the barrier that faces away from the swimming pool. Where the top of the pool structure is above grade, the barrier is authorized to be at ground level or mounted on top of the pool structure, and the vertical clearances between the top of the pool structure and the bottom of the barrier shall be not greater than 4 inches (102 mm).

3109.4.1.1 Openings. Openings in the barrier shall not allow the passage of a 4- inch-diameter (102 mm) sphere.

3109.4.1.2 Solid Barrier Surfaces. Solid barriers which do not have openings shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.

3109.4.1.3 Closely Spaced Horizontal Members. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall be not greater than 1  $\frac{3}{4}$  inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall be not greater than 1  $\frac{3}{4}$  inches (44 mm) in width.

3109.4.1.4 Widely Spaced Horizontal Members. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall be not greater than 4 inches (102 mm). Where there are decorative cutouts within vertical members, spacing within cutouts shall be not greater than 1  $\frac{3}{4}$  inches (44 mm) in width.

3109.4.1.5 Chain Link Dimensions. Mesh size for chain link fences shall be not greater than 2  $\frac{1}{4}$  inch square (57 mm square) unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to not more than 1  $\frac{3}{4}$  inches (44 mm).

3109.4.1.6 Diagonal Members. Where the barrier is composed of diagonal members, the opening formed by the diagonal members shall be not greater than 1 ¼ inches (44 mm). 3109.4.1.7 Gates. Access doors or gates shall comply with the requirements of Sections 3109.4.1.1 through 3109.4.1.6 and shall be equipped to accommodate a locking device. Pedestrian access doors or gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Doors or gates other than pedestrian access doors or gates shall have a self-latching device. Release mechanisms shall be in accordance with Sections 1008.1.9 and 1109.13. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the bottom of the door or gate, the release mechanism shall be located on the pool side of the door or gate 3 inches (76 mm) or more, below the top of the door or gate, and the door or gate and barrier shall be without openings greater than ½ inches (12.7 mm) within 18 inches (457 mm) of the release mechanism.

3109.4.1.8 Dwelling Wall as a Barrier. Where a wall of a *dwelling* serves as part of the barrier, one of the following shall apply:

1. Doors with direct access to the pool through that wall shall be equipped with an alarm that produces an audible warning when the door and/or its screen, if present, are opened. The alarm shall be *listed* and labeled in accordance with UL 2017. In dwellings not required to be *Accessible units, Type A units* or *Type B units*, the deactivation switch shall be located 54 inches (1372 mm) or more above the threshold of the door. In dwellings required to be *Accessible units, Type A units* or *Type B units*, the deactivation switch shall be located not higher than 54 inches (1372 mm) and not less than 48 inches (1219 mm) above the threshold of the door.
2. The pool shall be equipped with a power safety cover that complies with ASTM F 1346.
3. Other means of protection, such as self-closing doors with self-latching devices, which are *approved*, shall be accepted so long as the degree of protection afforded is not less than the protection afforded by Section 3109.4.1.8, Item 1 or 2.

3109.4.1.9 Pool Structure as Barrier. Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then the ladder or steps either shall be capable of being secured, locked or removed to prevent access, or the ladder or steps shall be surrounded by a barrier which meets the requirements of Sections 3109.4.1.1 through 3109.4.1.8. Where the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch- diameter (102 mm) sphere. 3109.4.2 Indoor Swimming Pools. Walls surrounding indoor swimming pools shall not be required to comply with Section 3109.4.1.8.

3109.4.3 Prohibited Locations. Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.

3109.5 Entrapment Avoidance. Suction outlets shall be designed and installed in accordance with ANSI/APSP-7. Section 15.04.30 Copies on File.

C. Presumptions.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a *prima facie* presumption that the owner of the real property shall be that Person reflected on the most recent

evidence of ownership for the real property filed of record with the County wherein such real property is situated. The prima facie presumption of ownership shall be effective upon affidavit of an authorized agent or employee of the County wherein such property is located, attesting that deed or deeds attached thereto are a true and accurate copy of the official record, and are the most recent evidence of ownership for the described real property.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the Person who owns or controls property on which a violation occurs, has caused or permitted such violation.

D. Copies on File.

Not less than three (3) copies of the code hereinbefore incorporated by reference shall be marked or stamped "Official Copy as Adopted by Ordinance No. 306" and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Municipal Judge, and all administrative departments of the city charged with the enforcement of this Section shall be supplied, at the cost of the city, such number of official copies of such code as may be deemed expedient.

E. Penalty.

Any person or entity violating any provisions of this Section shall, upon conviction, be punished by a fine of not less than fifty dollars and no more than two thousand five hundred dollars. Each day that any violation occurs or continues shall constitute a separate offense. The imposition of a penalty for any violation or noncompliance shall not excuse any violation, permit a violation to continue, or excuse any obligation to remedy any violation. The imposition of a penalty shall not prohibit any action to enforce compliance, prevent a violation, or remedy a violation, nor shall it prohibit the imposition of liens or assessments necessary to remedy a violation.

(Ordinance 251, 2008; Ordinance 306, 2019)

## **Section 5                    Adoption of 2018 International Residential Code with Amendments**

Title V, Section 5, of the Code of the City of Lake Quivira, Kansas, adopting the International Residential Code with amendments, is hereby amended to read as follows:

A. Incorporation by Reference.

There is hereby incorporated by reference the International Residential Code for One and Two-Family Dwellings, 2018 Edition, including Appendices E, H, and Q, prepared and published in book form by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795, and hereby referenced as IRC.

B. Amendments and Additions.

The following sections of the IRC are amended as follows:

Amend Section 101.1 Title, of the IRC by replacing “[NAME OF JURISDICTION]” with “City of Lake Quivira, Kansas.”

Amend by omitting Sections R103, R104, R105, R106, R107, R108, R109, R110, R111, R112, R113, and R114 of the IRC, in their entirety, and amend by adding a new Section R103, which reads:

**SECTION R103 ADMINISTRATIVE PROVISIONS**

The Administrative Provisions of the 2018 International Building Code, Chapter 1, in its entirety, and as modified by the Code of the City of Lake Quivira, along with Sections R101 and R102 of the IRC, shall govern all matters within the scope of the IRC.

Amend by omitting Table R301.2 (1) of the IRC and amend by adding in lieu thereof a new Table R301.2 (1), which reads:

**TABLE R301.2 (1)**

**CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA**

GROUND SNOW LOAD	WIND SPEED (mph)	SEISMIC DESIGN CATEG.	SUBJECT TO DAMAGE FROM				WINTER DESIGN TEMP	ICE SHIELD UNDER-LAYMENT REQUIRED	FLOOD HAZARDS	AIR FREEZING INDEX	MEAN ANNUAL TEMP
			Weathering	Frost line depth	Termite	Decay					
20	115	A	SEVERE	36	MODERATE TO HEAVY	SLIGHT TO MODERATE	6 degrees	YES	As defined by the Shawnee Municipal Code	1000	54.7

For SI: 1 pound per square foot = 0.0479kN/m.0 squared, 1 mile per hour = 1.609km/h.

Amend by omitting Section R303.4 Mechanical Ventilation., of the IRC, and amend by adding in lieu thereof a new Section R303.4 Mechanical Ventilation., which reads: R303.4 Mechanical Ventilation. Where the air infiltration rate of a dwelling unit is less than three (3) air changes per hour when tested with a blower door at a pressure of 0.2 inch w.c. (50 Pa) in accordance with Section N1102.4.1.2, the dwelling unit shall be provided with whole-house ventilation in accordance with Section M1507.3. Amend the IRC by adding a new exception under Section R317.2 Townhouses, which reads:

Exception: A fire resistive rating of one hour shall be permitted in townhouses equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13 or NFPA 13R.



Amend the IRC by omitting all of Section R313 AUTOMATIC FIRE SPRINKLER SYSTEMS, of the IRC, and amend by adding in lieu thereof a new Section R313 AUTOMATIC FIRE SPRINKLER SYSTEMS, which reads: SECTION R313 AUTOMATIC FIRE SPRINKLER SYSTEMS

R313.1 General. An automatic fire sprinkler system shall be provided throughout all structures that contain four (4) or more townhouses.

R313.2 Design and Installation. Automatic sprinkler systems required by this code shall be designed and installed in accordance with Section P2904 or NFPA 13D.

Amend the IRC by omitting all of Section R314.2.2 Alterations, Repairs and Additions., of the IRC, and amend by adding in lieu thereof a new Section R314.2.2 Alterations, Repairs and Additions, which reads:

R314.2.2 Alterations, Repairs and Additions. Where alterations, repairs or additions requiring a permit occur, the individual dwelling unit shall be equipped with smoke alarms and carbon monoxide alarms located as required for new dwellings.

EXCEPTIONS: 1. Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, are exempt from the requirements of this section. 2. Installation, alteration or repairs of plumbing, mechanical or electrical systems are exempt from the requirements of this section.

Amend the IRC by adding a new Section R314.8 Heat Detectors, which reads:

R314.8 Heat Detectors. Any integral or attached garage to the main house shall be provided with a single heat detector. Heat detectors shall be hard wired and interconnected with the household smoke alarm system, such that the activation of the heat detector will activate all of the audible alarms of the required household smoke alarm system. The required heat detector is not required to incorporate audible alarm notification nor is any audible notification device required in the garage. The heat detector shall be listed for the ambient environment and installed per the manufacturer's installation instructions.

EXCEPTIONS: 1. Heat detectors shall not be required with alterations, repairs or additions. 2. Heat detectors shall not be required in detached garages.

Amend by omitting Section 326 Swimming Pools, Spas and Hot Tubs., of the IRC.

Amend the IRC by adding a new Section R328 PHYSICAL SECURITY, which reads:

#### SECTION R328 PHYSICAL SECURITY

R328.1 Purpose. The purpose of this Section is to establish minimum standards that incorporate physical security to make dwelling units resistant to unlawful entry.

R328.1.1 Scope. The provisions of this Section shall apply to all new structures.

R328.2 Doors. Except for vehicular access doors, all exterior swinging doors of residential buildings and attached garages, including the doors leading from the garage area into the dwelling, shall comply with Sections R 328.2.1 through R328.4.4. For purposes of this Section, doors leading from the garage area into the dwelling shall be deemed to be exterior doors.

R328.2.1 Wood Doors. Where installed, exterior wood doors shall be of solid core construction such as high-density particleboard, solid wood, or wood block core with a minimum thickness of one and three-fourths inches (1 ¾") at any point. Doors with panel inserts shall be solid wood. The panels shall be a minimum of one inch (1") thick. The tapered portion of the panel that inserts into the groove of the door shall be a minimum of one-quarter inch (1/4") thick. The groove shall be a dado groove or applied molding construction. The groove shall be a minimum of one-half inch (1/2") in depth.

R328.2.2 Steel Doors. Where installed, exterior steel doors shall be a minimum thickness of twenty-four (24) gauge.

R328.2.3 Fiberglass Door. Fiberglass doors shall have a minimum skin thickness of one-sixteenth inch (1/16") and have reinforcement material at the location of the deadbolt.

R328.2.4 Double Doors. Where installed, the inactive leaf of an exterior double door shall be provided with flush bolts having an engagement of not less than one inch into the head and threshold of the doorframe.

R328.2.5 Sliding Doors. Where installed, exterior sliding doors shall comply with all of the following requirements: 1. Sliding door assemblies shall be installed to prevent the removal of the panels and the glazing from the exterior with the installation of shims or screws in the upper track. 2. All sliding glass doors shall be equipped with a secondary locking device consisting of a metal pin or a surface mounted bolt assembly. Metal pins shall be installed at the intersection of the inner and outer panels of the inside door and shall not penetrate the frames exterior surface. The surface mounted bolt assembly shall be installed at the base of the door.

R328.3 Door Frames. The exterior door frames shall be installed prior to a rough-in inspection. Door frames shall comply with Sections R328.3.1 through R328.3.3 for the type of assembly installed.

R328.3.1 Wood Frames. Wood door frames shall comply with all the following requirements: 1. All exterior door frames shall be set in frame openings constructed of double studding or equivalent construction, including garage doors, but excluding overhead doors. Door frames, including those with sidelights shall be reinforced in accordance with ASTM F476-84 Grade 40. 2. In wood framing, horizontal blocking shall be placed between studs at the door lock height for three (3) stud spaces or equivalent bracing on each side of the door opening.

R328.3.2 Steel Frames. All exterior door frames shall be constructed of eighteen (18) gauge or heavier steel, and reinforced at the hinges and strikes. All steel frames shall be anchored to the wall in accordance with manufacturer specifications. Supporting wall structures shall consist of double

studding or framing of equivalent strength. Frames shall be installed to eliminate tolerances inside the rough opening.

R328.3.3 Door Jambs. Door jambs shall comply with all of the following requirements: 1. Door jambs shall be installed with solid backing in a manner so no void exists between the strike side of the jamb and the frame opening for a vertical distance of twelve inches (12") each side of the strike. Filler material shall consist of a solid wood block. 2. Door stops on wooden jambs for in-swinging doors shall be of one-piece construction. Jambs for all doors shall be constructed or protected as to prevent violation of the strike.

R328.4 Door Hardware. Exterior door hardware shall comply with Sections R328.4.1 through R328.4.6.

R328.4.1 Hinges. Hinges for exterior swing doors shall comply with the following: 1. At least two (2) screws, three inches (3") in length, penetrating at least one inch (1") into wall structure shall be used. Solid wood fillers or shims shall be used to eliminate any space between the wall structure and door frame behind each hinge. 2. Hinges for out-swinging doors shall be equipped with mechanical interlock to preclude the removal of the door from the exterior.

R328.4.2 Strike Plates. Exterior door strike plates shall be a minimum of eighteen (18) gauge metal with four (4) offset screw holes. Strike plates shall be attached to wood with not less than three inch (3") screws, which shall have a minimum of one inch (1") penetration into the nearest stud. Note: For side lighted units, refer to Section R328.4.6.

R328.4.3 Locks. Exterior doors shall be provided with a locking device complying with one of the following: Single Cylinder Deadbolt shall have a minimum projection of one inch (1"). The deadbolt shall penetrate at least three-fourths inch (3/4") into the strike receiving the projected bolt. The cylinder shall have a twist resistant, tapered hardened steel cylinder guard. The cylinder shall have a minimum of five (5) pin tumblers, shall be connected to the inner portion of the lock by solid metal connecting screws at least one-fourth inch (1/4") in diameter and two and one-fourth inches (2 1/4") in length. Bolt assembly (bolt housing) unit shall be of single piece construction. All deadbolts shall meet ANSI Grade 2 or Grade 3 specifications.

R328.4.4 Entry Vision and Glazing. All main or front entry doors to dwelling units shall be arranged so that the occupant has a view of the area immediately outside the door without opening the door. The view may be provided by a door viewer having a field of view of not less than one-hundred eighty (180) degrees through windows or through view ports.

R328.4.5 Side Lighted Entry Doors. Side light door units shall have framing of double stud construction or equivalent construction complying with Section R328.3.1, R328.3.2 and R328.3.3. The door frame that separates the door opening from the side light, whether on the latch side or the hinge side, shall be double stud construction or equivalent construction complying with Sections R328.3.1 and R328.3.2. Double stud construction or construction of equivalent strength shall exist between the glazing unit of the side light and wall structure of the dwelling.

R328.5 Street Numbers. Street numbers shall comply with Section R319.

R328.6 Exterior Lighting. Exterior lighting shall comply with Sections R328.6.1 through R328.6.2.

R328.6.1 Front and Street Side Exterior Lighting. All front and street side door entrances should be protected with a minimum of one light outlet having a minimum of sixty (60) watts of lighting (or energy efficient equivalent) installed so that the light source is not readily accessible. R328.6.2 Rear Exterior Lighting. Homes with windows or doors near ground level below eight feet (8') on the rear side of the house shall be equipped with a minimum of one light outlet having one-hundred (100) watt lighting (or energy efficient equivalent) and shall be of the flood light type. Those fixtures placed below eight feet (8') shall be fixtures manufactured such that the light source is not readily accessible.

R328.7 Alternate Materials and Methods of Construction. The provisions of this Section are not intended to prevent the use of any material or method of construction not specifically prescribed by this Section, provided any such alternate has been approved by the enforcing authority, nor is it the intention of this Section to exclude any sound method of structural design or analysis not specifically provided for in this Section. The materials, methods or construction and structural design limitations provided for in this Section shall be used, unless the enforcing authority grants exception. The enforcing authority is authorized to approve any such alternate provided they find the proposed design, materials, and methods of work to be at least equivalent to those prescribed in this Section in quality, strength, effectiveness, burglary resistance, durability, and safety.

Amend the IRC by adding a new Section R329 FENCE MATERIALS, which reads:

#### SECTION R329 FENCE MATERIALS

R329.1 Materials. All fences, regardless of whether or not a permit is required for their construction, that are constructed, repaired, expanded, or enlarged after the effective date of this ordinance, shall be constructed only of approved fence materials. Approved fence materials shall mean materials normally manufactured for, used as, and recognized as, fencing materials such as: wrought iron or other decorative metals suitable for the construction of fences, masonry, concrete, stone, chain link, metal tubing, wood planks, and vinyl or fiberglass composite manufactured specifically as fencing materials that are approved by the Building Official. Approved fence materials shall be approved for exterior use and shall be weather and decay-resistant. The Building Official is authorized to evaluate proposed fence materials, and to determine if the proposed material is satisfactory and complies with the intent of the provisions of this code, and that the material is, for the purposed intended, at least the equivalent of that prescribed in this Chapter in quality, strength, effectiveness, durability and safety.

R329.2 Temporary Fencing. The Building Official is authorized to approve temporary fencing, such as plastic silt fence and safety fencing, for active construction projects. Temporary fencing shall not remain in place longer than is necessary to perform its function.

Amend by omitting Section R402.1 Wood foundations of the IRC, and amend by adding in lieu thereof a new Section R402.1 Wood foundations, which reads:

R402.1 Wood Foundations. Wood foundation systems are not allowed. All other references in this code to wood foundation systems are null and void.

Amend the IRC by adding a new Section R403.1.1. 1 Continuous footing reinforcement, which reads:

R403.1.1.1 Continuous Footing Reinforcement. Continuous footing for basement foundation walls shall have minimum reinforcement consisting of not less than two (2) No. 4 bars, uniformly spaced, located a minimum 3 inches (76 mm) clear from the bottom of the footing.

Amend the IRC by adding a new Section R403.1.1.2 Column pads, which reads:

R403.1.1.2 Column Pads. Column pads shall be a minimum of 24 inches by 24 inches and 8 inches deep (610 mm x 610 mm x 203 mm). Reinforcement shall consist of a minimum of three (3) No 4 bars each way, uniformly spaced. Deck column pads shall be a minimum of 12 inches (305 mm) in diameter and 6 inches (152 mm) in thickness, and shall extend below the frost line specified in Table R301.2 (1), unless specifically approved otherwise by the Building Official.

Amend by omitting Section R404.1.3 Design required, of the IRC, and amend by adding in lieu thereof a new Section R404.1.3 Design required, which reads:

R404.1.3 Design Required. A design in accordance with accepted engineering practice shall be provided for concrete or masonry foundation walls, including top of wall restraint details, when any of the conditions 1 through 10 listed below exist. A design in accordance with accepted engineering practice shall be provided for concrete slabs when condition number 11 exists. Where applicable, a standard design approved by the City may be used in lieu of a design from the design professional. For new single family dwellings where standard designs approved by the City are used, the design professional sealing the plans shall specify the use of those designs on the approved plans or through a separate report.

1. Walls are subject to hydrostatic pressure from ground water.
2. Walls supporting more than 48 inches (1219 mm) of unbalanced backfill that do not have permanent lateral support at the top and bottom.
3. Sites containing CH, MH, OL, or OH soils as identified in Table R405.1.
4. Foundation walls exceeding 9 feet (2743 mm) in height, measured from the top of the wall to the bottom of the slab.
5. Lots identified on the subdivision grading plan as having more than 6 feet (1829 mm) of fill or having a finished slope steeper than 4 horizontal to 1 vertical before grading.
6. Footings and foundations with existing fill soils below the footing level.
7. Sloping lots steeper than 4 to 1 before grading.
8. Lots where some footings will bear on soil and others will bear on rock.
9. Areas where problems have historically occurred.
10. Stepped footing and foundation walls.

11. Concrete floor slabs supported on more than 24 inches (610) of clean sand or gravel fill or 8 inches (203 mm) of earth fill.

Amend by omitting Section R404.4 Retaining walls of the IRC, and amend by adding in lieu thereof a new Section R404.4 Retaining walls, which reads:

R404.4 Retaining Walls. Retaining walls that are not laterally supported at the top and that retain in excess of forty eight inches (48") (1219 mm) of unbalanced fill shall be designed to ensure stability against overturning, sliding, excessive foundation pressure and water uplift. Retaining walls shall be designed for a safety factor of 1.5 against lateral sliding and overturning.

Amend by omitting Section R405.1 Concrete or Masonry Foundations., of the IRC, and amend by adding in lieu thereof a new Section R405.1 Concrete or Masonry Foundations., which reads:

R405.1 Concrete or Masonry Foundations. Drains shall be provided around all concrete or masonry foundations that retain earth and enclose habitable or usable spaces located below grade. Drainage tiles, gravel or crushed stone drains, perforated pipe or other approved systems or material shall be installed at or below the area to be protected and shall discharge by gravity or mechanical means into an approved drainage system. Gravel or crushed stone drains shall extend at least one foot (1') beyond the outside edge of the footing and six inches (6") above the top of the footing and be covered with an approved filter membrane material. The top of open joints of drain tiles shall be protected with strips of building paper. Perforated drains shall be surrounded with an approved filter membrane or the filter membrane shall cover the washed gravel or crushed rock covering the drain. Drainage tiles or perforated pipe shall be placed on a minimum of two inches (2") of washed gravel or crushed rock at least one sieve size larger than the tile joint opening or perforation and covered not less than six inches (6") of the same material.

EXCEPTIONS: 1. A drainage system is not required when the foundation is installed on well drained ground or sand-gravel mixture soils according to the Unified Soil Classification System, Group I Soils, as detailed in Table R405.1. 2. A filter membrane is not required where perforated drains are covered with at least eighteen inches (18") of washed gravel or crushed rock. 3. For gravel or crushed stone drains a filter membrane is not required when the gravel or crushed stone extends at least eighteen inches (18") above the top of the footing.

Amend by omitting Section R502.6.2 Joist framing of the IRC, and amend by adding in lieu thereof a new Section R502.6.2 Joist framing, which reads:

R502.6.2 Joist Framing. Joist framing into the side of a wood girder shall be supported by approved framing anchors or on ledger strips not less than nominal two inches by two inches (2" by 2") or (51mm by 51mm). Where joists run parallel to foundation walls, solid blocking for a minimum of three (3) joist spaces shall be provided at a maximum of 3 feet (3') centers to transfer lateral loads on the wall to the floor diaphragm. Each piece of blocking shall be securely nailed to joists, sill plate and flooring with not less than three (3) eight penny nails at each connection. Where applicable, a

standard design approved by the City and shown on the approved plans may be used in lieu of this requirement.

Amend the IRC by adding a new Section R506.3 Floor slab placement, which reads:

506.3 Floor Slab Placement. Basement floor slabs shall be isolated from the column pads, interior columns and interior bearing walls by an approved material or barrier to act as a bondbreaker. Interior columns and bearing walls shall be supported on a separate interior footing, not on top of the floor slab. Two (2) layers of fifteen (15) pound asphalt-impregnated felt will be considered adequate to act as a bondbreaker between the basement floor slab from the columns and column footings, and interior bearing walls.

Amend by omitting Section R602.6.1 Drilling and Notching of Top Plate., of the IRC, and amend by adding in lieu thereof a new Section R602.6.1 Drilling and Notching of Top Plate., which reads:

R602.6.1 Drilling and Notching of Top Plate. When piping or ductwork is placed in or partly in an exterior wall or interior load-bearing wall, necessitating cutting, drilling or notching of the top plate by more than fifty percent (50%) of its width, a galvanized metal tie not less than 0.054 inch thick (16 ga) and one and one-half inches (1 ½") wide shall be fastened across and to the plate at each side of the opening with not less than four 10d (0.148 inch diameter) nails having a minimum length of one and one-half inches (1 ½") at each side or equivalent. The metal tie must extend a minimum of six inches (6") past the opening. See Figure R602.6.1.

EXCEPTION: When the entire side of the wall with the notch or cut is covered by wood structural panel sheathing.

Amend by omitting Section R703.2 Water-resistive barrier of the IRC, and amend by adding in lieu thereof a new Section R703.2 Water-resistive barrier, which reads:

R703.2 Water-Resistive Barrier. One (1) layer of No. 15 asphalt felt, free from holes and brakes, complying with ASTM D226 for Type 1 felt or other approved water resistive barrier shall be applied over studs or sheathing of all exterior walls. Such felt or material shall be applied horizontally, with the upper layer lapped over the lower layer not less than two inches (2"). Where joints occur, felt shall be lapper not less than 6 inches (6"). The felt or other approved material shall be continuous to the top of walls and terminated at penetrations and building appendages in a manner to meet the requirements of the exterior wall envelope as described in Section R703.1. EXCEPTION: Omission of the water-resistive barrier is permitted in the following situations: 1. In detached accessory buildings.

Amend by omitting Section N1101.5 (R103.2) Information on Construction Documents., of the IRC.

Amend by omitting Section N1101.13 (R401.2) Compliance., of the IRC, and amend by adding in lieu thereof a new Section N1101.13 (R401.2) Compliance., which reads:

N1101.13 (R401.2) Compliance. Projects shall comply with one of the following: 1. Sections N1101.14 through N1104. 2. Section N1105 and the provisions of Sections N1101.14 through N1104 indicated as mandatory. 3. The energy rating index (ERI) approach in Section N1106.

The permit applicant of record must elect which compliance will be followed at the time permit application is made.

The energy rating index option can be met by hiring a HERS rater and constructing a residence that scores 80 or less on the HERS index. A Preliminary HERS Certificate with 'Draft' watermark or a copy of a REM/Rate compliance report with 'Draft' watermark must be submitted with building permit plans. The 'Draft' HERS certificate or report shall identify the project address, and include the HERS raters name and contact information.

All HERS ratings shall be performed by a rater accredited by the Residential Energy Services Network (RESNET). The HERS rater is required to perform a blower door test, duct blaster test, pre-drywall inspection and final inspection as part of the standard HERS Index rating process. The final HERS Index score must be posted on the Certificate required by Section N1101.14 (R401.3). The final HERS Certificate which indicates that the dwelling unit achieved a compliant HERS Index score must be submitted to the City before issuance of a Certificate of Occupancy. The final HERS certificate shall identify the project address, and include the HERS raters name and contact information

Amend by omitting Table N1102.1.2 (R402.1.2) INSULATION AND FENESTRATION REQUIRMENTS BY COMPONENT, of the IRC, and amend by adding in lieu thereof a new Table N1102.1.2 (R402.1.2) INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT, which reads:

Table N1102.1.2 (R402.1.2) INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT a

Climate Zone	4
Fenestrian U-Factor b	0.32
Sylight b U-Factor	0.55
Glazed Fenestration SHGC b	0.40
Ceiling R-value	49
Wood Frame Wall R-value	13
Mass Wall R-Value e	8/13
Floor R-Value	19
Basement Wall R-value c	10/13
Slab d R-Value & Depth	NR
Crawl Space c Wall R-Value	10/13



a. R-values are minimums. U-factors and SHGC are maximums. When insulation is installed in a cavity which is less than the label or design thickness of the insulation, the installed R-value of the insulation shall not be less than the R-value specified in the table.

b. The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.

c. "10/13" means R-10 continuous insulation on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement walls.

d. NR shall mean no requirement.

e. The second R-value applies when more than half the insulation is on the interior of the mass wall.

Amend by omitting Section N1102.4.1.2 (R402.4.1.2) Testing., of the IRC, and amend by adding in lieu thereof a new Section N1102.4.1.2 (R402.1.2) Testing., which reads:

N1102.4.1.2 (R402.1.2) Testing (Mandatory).

The building or dwelling unit shall be tested and verified as having an air leakage rate of not exceeding 5 air changes per hour. Testing shall be conducted with a blower door at a pressure of 0.2 inches w.g. (50 Pascals). Where required by the Building Official, testing shall be conducted by an approved third party. A written report of the results of the test shall be signed by the party conducting the test and provided to the Building Official. Testing shall be performed at any time after creation of all penetrations of the building thermal envelope.

During Testing: 1. Exterior windows and doors, fireplaces and stove doors shall be closed, but not sealed, beyond the intended weather stripping or other infiltration control measure; 2. Dampers including exhaust, intake, makeup, air, backdraft and flue dampers shall be closed, but not sealed beyond intended infiltration control measures; 3. Interior doors, if installed at the time of the test, shall be open; 4. Exterior doors for continuous ventilation systems and heat recovery ventilators shall be closed and sealed; 5. Heating and cooling systems, if installed at the time of the test shall be turned off; and 6. Supply and return registers, if installed at the time of the test, shall be fully open.

Amend by omitting Section N1102.4.4 (R402.4.4) Rooms Containing Fuel- Burning Appliances., of the IRC.

Amend by omitting Section N1103.3.2.1 (R403.3.2.1) Sealed Air Handler., of the IRC.

Amend by omitting Section N1103.3.3 (R403.3.3) Duct Testing (Mandatory)., of the IRC, and amend by adding in lieu thereof a new Section N1103.3.3 (R403.3.3) Duct Testing (Mandatory)., which reads:

N1103.3.3 (R403.3.3) Duct Testing (Mandatory). Where required by the Building Official, duct tightness shall be verified by either of the following: 1. Post construction test: Total leakage shall be less than or equal to 4 cfm (113.3L/min) per 100 square feet (9.29 m<sup>2</sup>) of conditioned floor area

when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the entire system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test. 2. Rough-in test: Total leakage shall be less than or equal to 4 cfm (113.3L/min) per 100 square feet (9.29 m<sup>2</sup>) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the system, including the manufacturer's air handler enclosure. All registers shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 3 cfm (85L/min) per 100 square feet (9.29 m<sup>2</sup>) of conditioned floor area.

EXCEPTIONS: 1. The total leakage test is not required for ducts and air handlers located entirely within the building thermal envelope. 2. On the post construction test, it is permissible to test for "leakage to the outdoors" versus a "total leakage." Leakage to the outdoors shall be less than or equal to 8 cfm per 100 square feet of conditioned floor area.

Amend by omitting Section N1103.3.5 (R403.3.5) Building Cavities (Mandatory), of the IRC. CC. Amend by omitting Section N1104 ELECTRICAL POWER AND LIGHTING SYSTEMS (Mandatory), of the IRC.

Amend by omitting Section N1106.2 (R406.2) Mandatory Requirements., of the IRC, and amend by adding in lieu thereof a new Section N1106.2 (R406.2) Mandatory Requirements., which reads:

N1106.2 (R406.2) Mandatory Requirements. Compliance with this section requires that the provisions identified in Section 1101.13 through N1104 indicated as "mandatory" be met. The building thermal envelope shall be greater than or equal to the levels of efficiency and Solar Heat Gain Coefficients in Table N1102.1.2 (R402.1.2) and N1102.1.4 (R402.1.4).

EXCEPTIONS: 1. Supply and return ducts not completely inside the building thermal envelope shall be insulated to an R-value of not less than R-6. 2. Section N1103.5.1 (R403.5.1) shall not be "mandatory."

Amend by omitting Table N1106.4 (R406.4) Maximum Energy Rating Index., of the IRC, and amend by adding in lieu thereof a new Table N1106.4 (R406.4) Maximum Energy Rating Index., which reads:

Table N1106.4 (R406.4) Maximum Energy Rating Index

#### **Climate Zone 4**

#### **Energy Rating Index 80**

Where on-site renewable energy is included for compliance using the ERI analysis of section N1106.4, the building shall meet the mandatory requirements of section N1106.2, and the building thermal envelope shall be greater than or equal to the levels of efficiency and SHGC in table N1102.1.2 or table N1102.1.4

Amend by omitting Section P2503.2 Concealment., of the IRC, and amend by adding in lieu thereof a new Section P2503.2 Concealment., which reads:

P2503.2 Concealment. A plumbing or drainage system, or part thereof, shall not be covered, concealed or put into use until it has been inspected and approved by the Building Official, or his authorized representative. A plumbing or drainage system, or part thereof, shall not be covered, concealed or put into use until it has been tested by the permittee, or his or her authorized representative. The Building Official may require that any test of the plumbing or drainage system be witnessed by the Building Official or his authorized representative.

Amend by omitting Section P2603..5.1 Sewer Depth., of the IRC, and amend by adding in lieu thereof a new Section P2603.5.1 Sewer Depth., which reads:

P2603.5.1 Sewer Depth. Building sewers shall be installed as required by the appropriate authority having jurisdiction.

Amend by omitting Section E3902.2 Garage and Accessory Building Receptacles., of the IRC, and amend by adding in lieu thereof a new Section E3902.2 Garage, Unfinished Basements and Accessory Building Receptacles., which reads:

E3902.2 Garage, Unfinished Basements and Accessory Building Receptacles. All 125-volt, single-phase, 15- and 20-ampere receptacles installed in garages and grade-level portions of unfinished accessory buildings used for storage or work areas shall have ground-fault circuit-interrupter protection.

EXCEPTIONS: 1. A dedicated single receptacle for a garage door opener. 2. A single receptacle supplied by a dedicated branch circuit that is located and identified for specific use by cord-and plug-connected appliance such as a refrigerator or freezer. 3. A dedicated single receptacle for a sump pump. 4. A dedicated receptacle supplying a permanently installed fire alarm or security alarm system.

Amend the IRC by adding a new Chapter 45 Swimming Pools, Spas and Hot Tubs, which reads:

## Chapter 45 SWIMMING POOLS, SPAS AND HOT TUBS

### SECTION 4501

#### GENERAL

4501.1 General. The provisions of this Chapter shall control the design and construction of swimming pools, spas and hot tubs installed in or on the *lot* of a one- or two-family dwelling.

4501.2 Pools in Flood Hazard Areas. Pools that are located in flood hazard areas established by Table R301.2(1), including above-ground pools, on-ground pools and in-ground pools that involve placement of fill, shall comply with Section 4501.2.1 or 4501.2.2.

EXCEPTIONS: Pools located in riverine flood hazard areas which are outside of designated floodways. 4501.2.1 Pools Located in Designated Floodways. Where pools are located in designated floodways, documentation shall be submitted to the Building Official which demonstrates that the construction of the pool will not increase the design flood elevation at any point within the jurisdiction.

4501.2.2 Pools Located Where Floodways Have Not Been Designated. Where pools are located where design flood elevations are specified but floodways have not been designated, the applicant shall provide a floodway analysis that demonstrates that the proposed pool will not increase the design flood elevation more than 1 foot (305 mm) at any point within the jurisdiction.

## Section 4502

### DEFINITIONS

4502.1 General. For the purposes of these requirements, the terms used shall be defined as follows and as set forth in Chapter 2.

**ABOVE-GROUND/ON-GROUND POOL.** See “Swimming pool.”

**BARRIER.** A fence, wall, building wall or combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.

**HOT TUB.** See “Swimming pool.”

**IN-GROUND POOL.** See “Swimming pool.”

**RESIDENTIAL.** That which is situated on the premises of a detached one- or two-family dwelling, or a one-family town house not more than three stories in height.

**SPA, NONPORTABLE.** See “Swimming pool.”

**SPA, PORTABLE.** A nonpermanent structure intended for recreational bathing, in which all controls, water-heating and water-circulating equipment are an integral part of the product.

**SWIMMING POOL.** Any structure intended for swimming or recreational bathing that contains water more than 24 inches (610 mm) deep. This includes in-ground, above ground and on-ground swimming pools, hot tubs and spas.

**SWIMMING POOL, INDOOR.** A swimming pool which is totally contained within a structure and surrounded on all four sides by the walls of the enclosing structure.

**SWIMMING POOL, OUTDOOR.** Any swimming pool which is not an indoor pool.

### SECTION 4503 SWIMMING POOLS

4503.1 In-Ground Pools. In-ground pools shall be designed and constructed in compliance with ANSI/NSPI-5.

4503.2 Above-Ground and On-Ground Pools. Above ground and on-ground pools shall be designed and constructed in compliance with ANSI/NSPI-4.

4503.3 Pools in Flood Hazard Areas. In flood hazard areas established by Table R301.2(1), pools in coastal high-hazard areas shall be designed and constructed in compliance with ASCE 24.

### SECTION 4504 SPAS AND HOT TUBS

4504.1 Permanently Installed Spas and Hot Tubs. Permanently installed spas and hot tubs shall be designed and constructed in compliance with ANSI/NSPI-3.

4504.2 Portable Spas and Hot Tubs. Portable spas and hot tubs shall be designed and constructed in compliance with ANSI/NSPI-6.

## SECTION 4505

### BARRIER REQUIREMENTS

4505.1 Application. The provisions of this Chapter shall control the design of barriers for residential swimming pools, spas and hot tubs. These design controls are intended to provide protection against potential drownings and near-drownings by restricting access to swimming pools, spas and hot tubs.

4505.2 Outdoor Swimming Pool. An outdoor swimming pool, including an in-ground, above-ground or on-ground pool, hot tub or spa, shall be surrounded by a barrier which shall comply with the following: 1. The top of the barrier shall be at least 48 inches (1219 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm). 2. Openings in the barrier shall not allow the passage of a 4-inch diameter (102 mm) sphere. 3. Solid barriers which do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions, except for normal construction tolerances and tooled masonry joints. 4. Where the barrier is composed of horizontal and vertical members, and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1  $\frac{3}{4}$  inches (44 mm) in width. 5. Where the barrier is composed of horizontal and vertical members, and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1  $\frac{3}{4}$  inches (44 mm). 6. Maximum mesh size for chain link fence shall be 2  $\frac{1}{4}$  inches (57 mm) square, unless the fence has slats fastened at the top or bottom which reduce the openings to not more than 1  $\frac{3}{4}$  inches (44 mm). 7. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1  $\frac{3}{4}$  inches (44 mm). 8. Access gates shall comply with the requirements of Items 1 through 7, and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool, and shall be self-closing and have a self-latching device. Gates, other than pedestrian access gates, shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the bottom of the gate, the release mechanism and openings shall comply with the following: 8.1. The release mechanism shall be located on the pool side of the gate at least 3 inches (76 mm) below the top of the gate; and 8.2.

The gate and barrier shall have no openings larger than ½ inches (12.7 mm) within 18 inches (457 mm) of the release mechanism. 9. Where a wall of a dwelling serves as part of the barrier, one of the following conditions shall be met: 9.1. The pool shall be equipped with a powered safety cover in compliance with ASTM F 1346; 9.2. Doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and/or its scree, if present, are opened. The alarm shall be listed and labeled in accordance with UL 2017. The deactivation switch(es) shall be located at least 54 inches (1372 mm) above the threshold of the door; or 9.3. Other means of protection, such as self-closing doors with self-latching devices, which are approved by the governing body, shall be acceptable as long as the degree of protection afforded is not less than the protection afforded by Item 9.1 or 9.2 described herein. 10. Where above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps: 10.1 The ladder or steps shall be capable of being secured, locked or removed to prevent access; or 10.2 The ladder or steps shall be surrounded by a barrier which meets the requirements of Item 1 through 9. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch diameter (102 mm) sphere.

4505.3 Indoor Swimming Pool. Walls surrounding an indoor swimming pool shall comply with Item 9 of Section 4505.2.

4505.4 Prohibited Locations. Barriers shall be located to prohibit permanent structures, equipment or similar objects from being used to climb them.

4505.5 Barrier Exceptions. Spas or hot tubs with a safety cover which comply with ASTM F 1346 shall be exempt from the provisions of this chapter.

#### SECTION 4506 ENTRAPMENT PROTECTION FOR SWIMMING POOL AND SPA SUCTION OUTLETS

4506.1 General. Suction outlets shall be designed and installed in accordance with ANSI/APSP-7.

##### C. Presumptions.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the owner of the real property shall be that Person reflected on the most recent evidence of ownership for the real property filed of record with the County wherein such real property is situated. The prima facie presumption of ownership shall be effective upon affidavit of an authorized agent or employee of the County wherein such property is located, attesting that deed or deeds attached thereto are a true and accurate copy of the official record, and are the most recent evidence of ownership for the described real property.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the Person who owns or controls property on which a violation occurs, has caused or permitted such violation.

D. Copies on File.

Not less than three (3) copies of the code hereinbefore incorporated by reference shall be marked or stamped "Official Copy as Adopted by Ordinance No. 307" and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Municipal Judge, and all administrative departments of the city charged with the enforcement of this Section shall be supplied, at the cost of the city, such number of official copies of such code as may be deemed expedient.

E. Penalty.

Any person or entity violating any provisions of this Section shall, upon conviction, be punished by a fine of not less than fifty dollars and no more than two thousand five hundred dollars. Each day that any violation occurs or continues shall constitute a separate offense. The imposition of a penalty for any violation or noncompliance shall not excuse any violation, permit a violation to continue, or excuse any obligation to remedy any violation. The imposition of a penalty shall not prohibit any action to enforce compliance, prevent a violation, or remedy a violation, nor shall it prohibit the imposition of liens or assessments necessary to remedy a violation.

(Ordinance 244, 2008; Ordinance 307, 2019)

## **Section 6                      Adoption of 2018 International Plumbing Code with Amendments**

A. Incorporation by Reference.

There is hereby incorporated by reference the International Plumbing Code, 2018 Edition, prepared and published in book form by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795, and hereby referenced as the IPC.

B. Amendments and Additions.

The following sections of the IPC are amended as follows:

Amend Section 101.1 Title, of the IPC by replacing "[NAME OF JURISDICTION]" with "City of Lake Quivira, Kansas."

Amend by omitting Sections 103, 104, 105, 106, 108, and 109, of the IPC, in their entirety, and amend by adding a new Section 103, which reads:

**SECTION 103 ADMINISTRATIVE PROVISIONS**

The Administrative Provisions of the 2018 International Building Code, Chapter 1, in its entirety, and as modified by the Code of the City of Lake Quivira Ordinance, along with Sections 101, 102 and 107 of the IPC, shall govern all matters within the scope of the IPC.

Amend by omitting Section 305.4.1 Sewer depth, of the IPC, and amend by adding a new Section 305.4.1 Sewer depth, which reads:

Section 305.6.1 Sewer Depth. Building sewers that connect to private sewage disposal systems shall comply with the Johnson County Sanitary Code, adopted by Johnson County, Kansas. Sewer pipe connecting to the public sewer shall comply with the regulations of the Johnson County Wastewater District.

Amend by omitting Section 312.3 Drainage and Vent Air Test., of the IPC, and amend by adding a new Section 312.3 Drainage and Vent Air Test., which reads:

312.3 Drainage and Vent Air Test. An air test shall be made by forcing air into the system until there is a uniform gauge pressure of 5 psi (34.5 kPa) or sufficient to balance a 10-inch column of mercury. This pressure shall be held for a period of not less than 15 minutes. Any adjustments to the test pressure required because of changes in ambient temperatures or the seating of gaskets shall be made prior to the beginning of the test period.

Amend the IPC by adding a new Section 410.4 Substitution., which reads:

410.4 Substitution. The Building Official is allowed to accept equivalent means for providing drinking water besides requiring drinking fountains, such as free bottled water, or cleaning equipment that can be used without a service sink.

Amend by omitting Section 703.5 Cleanouts on Building Sewers., of the IPC, and amend by adding a new Section 703.5 Cleanouts on Building Sewers., which reads:

703.5 Cleanouts on Building Sewers. Cleanouts on building sewers shall be located as required by the appropriate authority having jurisdiction.

Amend by omitting Section 708.1.2 Building Sewers., of the IPC, and amend by adding a new Section 708.1.2 Building Sewers., which reads:

708.1.2 Building Sewers. Cleanouts on building sewers shall be provided and located as required by the appropriate authority having jurisdiction.

Amend Section 904.1 Roof extension, of the IPC by replacing “[NUMBER]” with 6.

Amend by omitting Section 1003 INTERCEPTORS AND SEPARATORS, of the IPC, in its entirety, and amend by adding a new Section 1003 INTERCEPTORS AND SEPARATORS, which reads:



## Section 1003

### INTERCEPTORS AND SEPERATORS

1003.1 Where Required. Interceptors and separators shall be provided, installed, inspected, and maintained as required by the appropriate authority having jurisdiction.

#### C. Presumptions.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the owner of the real property shall be that Person reflected on the most recent evidence of ownership for the real property filed of record with the County wherein such real property is situated. The prima facie presumption of ownership shall be effective upon affidavit of an authorized agent or employee of the County wherein such property is located, attesting that deed or deeds attached thereto are a true and accurate copy of the official record, and are the most recent evidence of ownership for the described real property.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the Person who owns or controls property on which a violation occurs, has caused or permitted such violation.

#### D. Copies on File.

Not less than three (3) copies of the code hereinbefore incorporated by reference shall be marked or stamped "Official Copy as Adopted by Ordinance No. 301" and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Municipal Judge, and all administrative departments of the city charged with the enforcement of this Section shall be supplied, at the cost of the city, such number of official copies of such code as may be deemed expedient.

#### E. Penalty.

Any person or entity violating any provisions of this Section shall, upon conviction, be punished by a fine of not less than fifty dollars and no more than two thousand five hundred dollars. Each day that any violation occurs or continues shall constitute a separate offense. The imposition of a penalty for any violation or noncompliance shall not excuse any violation, permit a violation to continue, or excuse any obligation to remedy any violation. The imposition of a penalty shall not prohibit any action to enforce compliance, prevent a violation, or remedy a violation, nor shall it prohibit the imposition of liens or assessments necessary to remedy a violation.

(Ordinance 249, 2008; Ordinance 301, 2019)

## **Section 7                    Adoption of 2018 International Mechanical Code with Amendments**

### **A.            Incorporation by Reference.**

There is hereby incorporated by reference the International Mechanical Code, 2018 Edition, prepared and published in book form by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795, and hereby referenced as the IMC.

### **B.            Amendments and Additions.**

The following sections of the IMC are amended as follows:

Amend Section 101.1 Title, of the IMC by replacing “[NAME OF JURISDICTION]” with “City of Lake Quivira, Kansas.”

Amend by omitting Sections 103, 104, 105, 106, 108, and 109, of the IMC, in their entirety, and amend by adding a new Section 103, which reads:

#### **SECTION 103 ADMINISTRATIVE PROVISIONS**

The Administrative Provisions of the 2018 International Building Code, Chapter 1, in its entirety, and as modified by the Code of the City of Lake Quivira, along with Sections 101, 102 and 107 of the IMC, shall govern all matters within the scope of the IMC.

Amend the IMC by adding a new Section 102.12 State Boiler Inspector., which reads:

102.12 State Boiler Inspector. Where permits are issued and portions of the work require inspection and approval of boilers and pressure vessels by the state of Kansas, those portions of the work will comply with the state requirements in lieu of compliance with the technical provisions of this Code. Contact the State Boiler Inspector at the State Department of Human Resources for complete information regarding state requirements. State approval is generally required for all boilers that require permits.

#### **EXCEPTIONS:**

1. Boilers serving individual dwelling units and their accessory structures.
2. Boilers serving apartment houses with less than five (5) families.
3. Pressure vessels that do not exceed fifteen (15) cubic feet and two hundred and fifty(250) psi.

Amend by omitting Section 401.2 Ventilation Required., of the IMC, and adding a new Section 401.2 Ventilation Required., which reads:

401.2 Ventilation Required. Every occupied space shall be ventilated by natural means in accordance with Section 402 or by mechanical means in accordance with Section 403. Where the air infiltration rate in a dwelling unit is less than 3 air changes per hour when tested with a blower door at a pressure of 0.2-inch water column (50 Pascals) in accordance with Section 402.4.1.2 of the International Energy Conservation Code, the dwelling unit shall be ventilated by mechanical means in accordance with Section 403.

C. Presumptions.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the owner of the real property shall be that Person reflected on the most recent evidence of ownership for the real property filed of record with the County wherein such real property is situated. The prima facie presumption of ownership shall be effective upon affidavit of an authorized agent or employee of the County wherein such property is located, attesting that deed or deeds attached thereto are a true and accurate copy of the official record, and are the most recent evidence of ownership for the described real property.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the Person who owns or controls property on which a violation occurs, has caused or permitted such violation.

D. Copies on File.

Not less than three (3) copies of the code hereinbefore incorporated by reference shall be marked or stamped "Official Copy as Adopted by Ordinance No. 302" and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Municipal Judge, and all administrative departments of the city charged with the enforcement of this Section shall be supplied, at the cost of the city, such number of official copies of such code as may be deemed expedient.

E. Penalty.

Any person or entity violating any provisions of this Section shall, upon conviction, be punished by a fine of not less than fifty dollars and no more than two thousand five hundred dollars. Each day that any violation occurs or continues shall constitute a separate offense. The imposition of a penalty for any violation or noncompliance shall not excuse any violation, permit a violation to continue, or excuse any obligation to remedy any violation. The imposition of a penalty shall not prohibit any action to enforce compliance, prevent a violation, or remedy a violation, nor shall it prohibit the imposition of liens or assessments necessary to remedy a violation.

(Ordinance 246, 2008; Ordinance 302, 2019)

**Section 8                    Adoption of 2018 International Fuel Gas Code with Amendments**

A.        Incorporation by Reference.

There is hereby incorporated by reference the International Fuel Gas Code, 2018 Edition, prepared and published in book form by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795, and hereby referenced as the IFGC.

B.        Amendments and Additions.

The following sections of the IFGC are amended as follows:

Amend Section 101.1 Title, of the IFGC by replacing “[NAME OF JURISDICTION]” with “City of Lake Quivira, Kansas.”

Amend by omitting Sections 103, 104, 105, 106, 108, and 109, of the IFGC, in their entirety, and amend by adding a new Section 103, which reads:

**SECTION 103 ADMINISTRATIVE PROVISIONS**

The Administrative Provisions of the 2018 International Building Code, Chapter 1, in its entirety, and as modified by Code of the City of Lake Quivira, along with Sections 101, 102 and 107 of the IFGC, shall govern all matters within the scope of the IFGC.

C.        Presumptions.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the owner of the real property shall be that Person reflected on the most recent evidence of ownership for the real property filed of record with the County wherein such real property is situated. The prima facie presumption of ownership shall be effective upon affidavit of an authorized agent or employee of the County wherein such property is located, attesting that deed or deeds attached thereto are a true and accurate copy of the official record, and are the most recent evidence of ownership for the described real property.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the Person who owns or controls property on which a violation occurs, has caused or permitted such violation.

D.        Copies on File.

Not less than three (3) copies of the code hereinbefore incorporated by reference shall be marked or stamped "Official Copy as Adopted by Ordinance No. 303" and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Municipal Judge, and all

administrative departments of the city charged with the enforcement of this Section shall be supplied, at the cost of the city, such number of official copies of such code as may be deemed expedient.

E. Penalty.

Any person or entity violating any provisions of this Section shall, upon conviction, be punished by a fine of not less than fifty dollars and no more than two thousand five hundred dollars. Each day that any violation occurs or continues shall constitute a separate offense. The imposition of a penalty for any violation or noncompliance shall not excuse any violation, permit a violation to continue, or excuse any obligation to remedy any violation. The imposition of a penalty shall not prohibit any action to enforce compliance, prevent a violation, or remedy a violation, nor shall it prohibit the imposition of liens or assessments necessary to remedy a violation.

(Ordinance 245, 2008; Ordinance 303, 2019)

## **Section 9                    Adoption of 2018 International Energy Efficiency Code with Amendments**

A. Incorporation by Reference.

There is hereby incorporated by reference the International Fuel Gas Code, 2018 Edition, prepared and published in book form by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795, and hereby referenced as the IFGC.

B. Amendments and Additions.

The following sections of the IFGC are amended as follows:

Amend Section 101.1 Title, of the IFGC by replacing “[NAME OF JURISDICTION]” with “City of Lake Quivira, Kansas.”

Amend by omitting Sections 103, 104, 105, 106, 108, and 109, of the IFGC, in their entirety, and amend by adding a new Section 103, which reads:

### **SECTION 103 ADMINISTRATIVE PROVISIONS**

The Administrative Provisions of the 2018 International Building Code, Chapter 1, in its entirety, and as modified by Code of the City of Lake Quivira, along with Sections 101, 102 and 107 of the IFGC, shall govern all matters within the scope of the IFGC.

C. Presumptions.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the owner of the real property shall be that Person reflected on the most recent evidence of ownership for the real property filed of record with the County wherein such real property is situated. The prima facie presumption of ownership shall be effective upon affidavit of an authorized agent or employee of the County wherein such property is located, attesting that deed or deeds attached thereto are a true and accurate copy of the official record, and are the most recent evidence of ownership for the described real property.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the Person who owns or controls property on which a violation occurs, has caused or permitted such violation.

D. Copies on File.

Not less than three (3) copies of the code hereinbefore incorporated by reference shall be marked or stamped "Official Copy as Adopted by Ordinance No. 309" and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Municipal Judge, and all administrative departments of the city charged with the enforcement of this Section shall be supplied, at the cost of the city, such number of official copies of such code as may be deemed expedient.

E. Penalty.

Any person or entity violating any provisions of this Section shall, upon conviction, be punished by a fine of not less than fifty dollars and no more than two thousand five hundred dollars. Each day that any violation occurs or continues shall constitute a separate offense. The imposition of a penalty for any violation or noncompliance shall not excuse any violation, permit a violation to continue, or excuse any obligation to remedy any violation. The imposition of a penalty shall not prohibit any action to enforce compliance, prevent a violation, or remedy a violation, nor shall it prohibit the imposition of liens or assessments necessary to remedy a violation.

(Ordinance 250, 2008; Ordinance 309, 2019)

## **Section 10                      Adoption of 2017 National Electrical Code with Amendments**

A. Incorporation by Reference.

There is hereby incorporated by reference the International Fuel Gas Code, 2018 Edition, prepared and published in book form by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795, and hereby referenced as the IFGC.

B. Amendments and Additions.

The following sections of the IFGC are amended as follows:

Amend Section 101.1 Title, of the IFGC by replacing “[NAME OF JURISDICTION]” with “City of Lake Quivira, Kansas.”

Amend by omitting Sections 103, 104, 105, 106, 108, and 109, of the IFGC, in their entirety, and amend by adding a new Section 103, which reads:

SECTION 103 ADMINISTRATIVE PROVISIONS

The Administrative Provisions of the 2018 International Building Code, Chapter 1, in its entirety, and as modified by Code of the City of Lake Quivira, along with Sections 101, 102 and 107 of the IFGC, shall govern all matters within the scope of the IFGC.

C. Presumptions.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the owner of the real property shall be that Person reflected on the most recent evidence of ownership for the real property filed of record with the County wherein such real property is situated. The prima facie presumption of ownership shall be effective upon affidavit of an authorized agent or employee of the County wherein such property is located, attesting that deed or deeds attached thereto are a true and accurate copy of the official record, and are the most recent evidence of ownership for the described real property.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the Person who owns or controls property on which a violation occurs, has caused or permitted such violation.

D. Copies on File.

Not less than three (3) copies of the code hereinbefore incorporated by reference shall be marked or stamped "Official Copy as Adopted by Ordinance No. 304" and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Municipal Judge, and all administrative departments of the city charged with the enforcement of this Section shall be supplied, at the cost of the city, such number of official copies of such code as may be deemed expedient.

E. Penalty.

Any person or entity violating any provisions of this Section shall, upon conviction, be punished by a fine of not less than fifty dollars and no more than two thousand five hundred dollars. Each day that any

violation occurs or continues shall constitute a separate offense. The imposition of a penalty for any violation or noncompliance shall not excuse any violation, permit a violation to continue, or excuse any obligation to remedy any violation. The imposition of a penalty shall not prohibit any action to enforce compliance, prevent a violation, or remedy a violation, nor shall it prohibit the imposition of liens or assessments necessary to remedy a violation.

(Ordinance 248, 2008; Ordinance 304, 2019)

## **Section 11                    Construction Noise Regulations**

The Governing Body finds and determines it is in the best interests of the public, and necessary to protect and preserve the unique residential quality and character of the community, to provide for regulations limiting adverse impacts of construction activity and related noise, and noise related nuisances within the City of Lake Quivira, through regulations providing for the reduction, control and prevention of unnecessary noise.

As used herein, the term "*Construction*" means constructing, remodeling, repair, clearing, grading, demolition or excavation, of a structure, roof or related appurtenances. Construction includes the related site improvements to real property, clearing, grading, digging, utility installation, wall construction, and work related to the driveway or other improved surfaces of real property.

As used herein, the term "*Construction Equipment*" means any device or mechanical apparatus operated by fuel, electric, or pneumatic power, used or intended for Construction related purposes.

As used herein, the term "*Emergency Activity*" means utility repairs or Construction activities required to restore utility services, to restore property as reasonably necessary to protect public health and safety, or to protect persons or property from harmful exposure to weather.

As used herein, the term "*Permit Holder*" means the Person who applies for a building permit issued by the City of Lake Quivira.

As used herein, the term "*Person*" means any individual, association, or entity, including but not limited to, a firm, partnership, sole proprietorship, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, political subdivision, public or private agency of any kind, utility, or a successor or assign of any of the foregoing, and shall also mean the manager, lessee, agent, servant, officer or employee of any of foregoing.



As used herein, the term "*Plainly Audible*" means capable of being heard. To constitute Plainly Audible, it is not necessary to distinguish words or melodies, and it may consist of bass alone.

As used herein, the term "*Power Equipment*" shall mean any device rated at more than five (5) horsepower and used for Construction or related activities or exterior property maintenance, excluding snow removal equipment.

As used herein, the term "*Property Line*" means that real or imaginary line and its vertical extension which separates real property owned or controlled by any Person from contiguous real property owned or controlled by another Person. The vertical and horizontal boundaries of a dwelling unit in a multi-dwelling-unit building, condominium, or townhouse complex shall not be considered property lines separating one premises from another.

As used herein, the term "*Roadway*" means any improved surface except a private driveway to an individual residence, intended to serve as a surface for vehicular travel, whether privately or publicly maintained.

As used herein "*Routine Property Maintenance*" means routine repairs or periodic maintenance to existing structures or property, as necessary to maintain such structure or property in a presentable, neat and functional working condition.

As used herein, the term "*Vehicle*" means every device in, or upon which any Person or property is or may be transported on drawn upon a Roadway.

A. Exterior Construction Regulations.

It is unlawful for any Person or Permit Holder to perform, or permit any person to perform, any outside Construction or repair work on buildings, structures or related projects, or to operate or permit any Person to operate outside a residence or structure, Construction Equipment, at any time other than between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday inclusive, or Saturday between the hours of 8:00 a.m. and 6:00 p.m.

B. Interior Construction Regulations.

It is unlawful for any Person or Permit Holder to perform, or permit any person to perform, any inside Construction or repair work on buildings, structures or related projects, or to operate or permit any Person to operate inside a residence or structure, Construction Equipment, at any time other than between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday inclusive, or Saturday between the hours of 8:00 a.m. and 6:00 p.m., when the activity or operation is Plainly Audible at the nearest Property Line.

C. Prohibition of Construction Nuisances in Roadways.

It is unlawful for any Person or Permit Holder to place, maintain, or permit the storage or placement of Construction materials or equipment in or upon a Roadway, in such a manner that presents a hazard to the safety of Persons or Vehicles using the Roadway, or which obstructs free passage of pedestrian or vehicular traffic, or obscures or obstructs a Person's site view necessary for safe pedestrian or vehicular travel.

D. Regulation of Power Equipment.

It is unlawful for any Person to operate or permit any Person to operate outside a residence or structure, Power Equipment, at any time other than between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday inclusive, or Saturday between the hours of 8:00 a.m. and 6:00 p.m.

It is unlawful for any Person to operate or permit any Person to operate inside a residence or structure, Construction Equipment, at any time other than between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday inclusive, or Saturday between the hours of 8:00 a.m. and 6:00 p.m., when the activity or operation is Plainly Audible at the nearest Property Line.

E. Exclusion.

This Section shall not apply to Emergency Activities, nor shall it apply to Routine Property Maintenance performed at an occupied residence.

F. Presumptions.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the owner of the real property shall be that Person reflected on the most recent evidence of ownership for the real property filed of record with the County wherein such real property is situated. The prima facie presumption of ownership shall be effective upon affidavit of an authorized agent or employee of the County wherein such property is located, attesting that deed or deeds attached thereto are a true and accurate copy of the official record, and are the most recent evidence of ownership for the described real property.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the Person who owns or controls property on which a violation occurs, has caused or permitted such violation.

G. Penalty.

Any person or entity violating any provisions of this Section shall, upon conviction, be punished by a fine of not less than fifty dollars and no more than five hundred dollars. Each day that any violation occurs or continues shall constitute a separate offense.

(Ordinance 232, 2006; Ordinance 239, 2007)

**Title VI      Public Offenses**

<b>Section 1</b>	<b>Failure to Appear</b>
<b>Section 2</b>	<b>Municipal Court</b>
<b>Section 3</b>	<b>Adoption of Uniform Public Offense Code with Amendments</b>
<b>Section 4</b>	<b>Prohibition of Controlled Substances</b>
<b>Section 5</b>	<b>Repealed and Relocated - Prohibition of Drug Paraphernalia</b>
<b>Section 6</b>	<b>Prohibition of Public Nudity</b>
<b>Section 7</b>	<b>Prohibition of Window Peeping</b>
<b>Section 8</b>	<b>Prohibition and Regulation of Hunting</b>
<b>Section 9</b>	<b>Prohibition and Regulation of Open Burning</b>
<b>Section 10</b>	<b>Prohibition and Regulation of Fireworks</b>
<b>Section 11</b>	<b>Repealed - Regulation of Alcohol</b>
<b>Section 12</b>	<b>Regulation of Trash and Garbage</b>
<b>Section 13</b>	<b>Prohibition and Regulation of Littering</b>
<b>Section 14</b>	<b>Repealed and Relocated - Battery Against a Law Enforcement Officer</b>
<b>Section 15</b>	<b>Illegal Transport of Aquatic Plants and Invasive Animals</b>

**Section 1                      Failure to Appear**

A. Failure to appear is willfully incurring a forfeiture of an appearance bond and failing to surrender oneself within thirty days following the date of such forfeiture by one who is charged with an offense and has been released on bond for appearance before any court of this city, for trial or other proceeding prior to conviction, or willfully incurring a forfeiture or an appearance bond and failing to surrender oneself within thirty days after conviction of an offense has become final by one who has been released on an appearance bond by any court of this City.

B. Any person who is released upon their own recognizance, without surety, or who fails to appear in response to a summons or traffic citation, or a notice to appear, shall be deemed a person released on bond for appearance within the meaning of subsection A of this Section.

C. A violation of this Section shall be a Class A Offense.

(Ordinance 180, 1994; Ordinance 223, 2005; Ordinance 261, 2010)

## **Section 2                    Municipal Court**

- A.    A Municipal Court of the City is created and established to be presided over by a Municipal Judge.
  
- B.    The Governing Body hereby determines the Municipal Court Judge shall provide by Administrative Order for the amount and manner of assessment of court costs and court fees deemed appropriate by the Municipal Court Judge.
  
- C.    The Municipal Judge by Administrative Order may establish a schedule of fines which shall be imposed for the violation of certain ordinances upon a voluntary entry of appearance and upon a plea of guilty or no contest to a complaint alleging such violation. Violations for which the Municipal Judge has not established a fine by Administrative Order require a mandatory court appearance. The Municipal Judge may authorize the Clerk of the Municipal Court or some other person to accept such voluntary appearance and plea of guilty or no contest and to accept the payment of the fine imposed by the schedule.
  
- D.    The Municipal Judge shall have the authority to establish the sessions, dockets and locations of the Municipal Court.

(Charter Ordinance 20, 2009; Ordinance 261, 2010)

## **Section 3                    Adoption of Uniform Public Offense Code with Amendments**

- A. Incorporating Uniform Public Offense Code.

There is incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Lake Quivira, Kansas, the "Uniform Public Offense Code for Kansas Cities," Edition of 2016, prepared and published in book form by the League of Kansas Municipalities, except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped as an official copy as adopted by Ordinance No. 292 with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open for inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge, Municipal Prosecutors, and all administrative departments of the city charged with enforcement of this Ordinance shall be supplied at the cost of the City, such number of official copies of the Uniform Public Offense Code similarly marked, as may be expedient.

B. Amendments to Uniform Public Offense Code

Section 10.5 of the Uniform Public Offense Code for Kansas Cities, is hereby amended to read as follows:

Section 10.5 Confiscation, Disposition of Weapons

(A) When a weapon seized is no longer required as evidence, it shall be disposed of as follows:

(1) (a) except as provided in subsections (A)(1)(b) and (B), any weapon or ammunition, in the discretion of the court having jurisdiction of the property, shall be:

(i) Forfeited to the law enforcement agency seizing the weapon for use within such agency, for sale to a properly licensed federal firearms dealer, for trading to a properly licensed federal firearms dealer for other new or used firearms or accessories for use within such agency or for trading to another law enforcement agency for that agency's use;

(ii) forfeited to the Kansas bureau of investigation for law enforcement, testing or comparison by the Kansas bureau of investigation forensic laboratory;

(iii) forfeited to a county regional forensic science center, or other county forensic laboratory for testing, comparison or other forensic science purposes; or

(iv) forfeited to the Kansas department of wildlife, parks and tourism for use pursuant to the conditions set forth in K.S.A. 32-1047, and amendments thereto.

(b) Except as provided in subsection (B), any weapon which cannot be forfeited pursuant to subsection (A)(1)(a) due to the condition of the weapon shall be destroyed.

(B) If a weapon is seized from an individual and the individual is not convicted of or adjudicated as a juvenile offender for the violation for which the weapon was seized, then within 30 days after the declination or conclusion of prosecution of the case against the individual, including any period of appeal, the law enforcement agency that seized the weapon shall verify that the weapon is not stolen, and upon such verification shall notify the person from whom it was seized that the weapon may be

retrieved. Such notification shall include the location where such weapon may be retrieved.

(C) If weapons are sold as authorized by subsection (A)(1)(a), the proceeds of the sale shall be credited to the asset seizure and forfeiture fund of the seizing agency.

(D) For purposes of this Section, the term "weapon" means a weapon described in K.S.A. 21-6301, and amendments thereto.

### C. Omissions to Incorporating Uniform Public Offense Code

Sections 3.1.1 (Domestic Battery); 3.8 (Violation of Protection from Abuse); 3.8.1 (Violation of a Protective Order); 3.13 (Stalking); 6.21 (Hunting on Posted Land); and 6.22 (Criminal Hunting) of the Uniform Public Offense Code for Kansas Cities, edition of 2016, are deleted and hereby declared to be omitted from this incorporating Ordinance and expressly omitted from incorporation by reference.

(Ordinance 236, 2006; Ordinance 240, 2007; Ordinance 261, 2010; Ordinance 265, 2011; Ordinance 272, 2012; Ordinance 287, 2014; Ordinance 292, Passed October 3, 2016, Effective January 1, 2017)

## **Section 4 Prohibition of Controlled Substances**

(a) Except as authorized by the Uniform Controlled Substances Act, K.S.A. 65-4101, et seq., or any amendments thereto, it is unlawful for any person to use or possess any of the following controlled substances, controlled substance analogs, or simulated controlled substance thereof:

(b) "Controlled substance" means any drug, substance or immediate precursor of the following:

1. Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109, or subsection (b) of K.S.A. 65-4111, and amendments thereto;

2. Any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4), (d)(5) (f)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

3. Any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105, subsection (g) of K.S.A. 65-4107, or subsection (g) of K.S.A. 65-4109 and amendments thereto;

4. Any substance designated in subsections (g) of K.S.A. 65-4105 and subsections (c), (d), (e), (f) or (g) of K.S.A. 65-4111, and amendments thereto;

5. Any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109, and amendments thereto;

6. Any substance designated in K.S.A. 65-4113, and amendments thereto; or

7. Any substance designated in subsection (h) of K.S.A. 65-4105, and amendments thereto.

(c) Except as provided by subsection (c)(2)

1. Violation of subsection (b) is a class A nonperson misdemeanor;

2. If the substance involved is marijuana, as described in K.S.A. 65-4105(d), and amendments thereto, violation of subsection (b) is a:

(A) class B nonperson misdemeanor, except as provided in (c)(2)(B);

(B) class A nonperson misdemeanor if that person has a prior conviction under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense.

(d) It shall not be a defense to charges arising under this Section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance or controlled substance analog.

(Ordinance 224, 2005; Ordinance 271, 2012; Ordinance 287, 2014 Ordinance 292, Passed October 3, 2016, Effective January 1, 2017)

**Section 5                      Prohibition of the Possession or Distribution of Drug Paraphernalia and Drug Precursors**



~~A. — Except as authorized by the Uniform Controlled Substances Act, K.S.A. 65-4101, et seq., or any amendments thereto, it is unlawful for any person to use or possess with intent to use any drug paraphernalia to:~~

~~(1) — Manufacture, cultivate, plant, propagate, harvest, test, analyze or distribute fewer than five marijuana plants;~~

~~(2) — store, contain, conceal, inject, ingest, inhale or otherwise introduce a controlled substance into the human body;~~

~~(3) — distribute, possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used as such, in violation of Section 5 of this Title of the Lake Quivira Municipal Code.~~

~~B. — It shall be unlawful for any person to purchase, receive or otherwise acquire at retail any compound, mixture or preparation containing more than 3.6 grams of pseudoephedrine base or ephedrine base in any single transaction or any compound, mixture or preparation containing more than nine grams of pseudoephedrine base or ephedrine base within any 30-day period.~~

~~C. — "Drug paraphernalia" means all equipment and materials of any kind which are used, or primarily intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of Section 4 of this Title of the Lake Quivira Municipal Code, or amendments thereto. "Drug paraphernalia" shall include, but is not limited to:~~

~~1. Kits used or intended for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived;~~

~~2. Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;~~

~~3. Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance;~~

~~4. Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;~~

~~5. Scales and balances used or intended for use in weighing or measuring controlled substances;~~

~~6. Diluents and adulterants, including, but not limited to, quinine hydrochloride, mannitol, mannite, dextrose and lactose, which are used or intended for use in cutting controlled substances;~~

~~7. Separation gins and sifters used or intended for use in removing twigs and seeds from or otherwise cleaning or refining marijuana;~~

~~8. Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding, controlled substances;~~

~~9. Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled substances;~~

~~10. Containers and other objects used or intended for use in storing or concealing controlled substances;~~

~~11. Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body;~~

~~12. Objects used or primarily intended or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, hashish oil, phencyclidine (PCP), methamphetamine or amphetamine into the human body, such as:~~

~~a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;~~

~~b. Water pipes, bongs or smoking pipes designed to draw smoke through water or another cooling device;~~

~~c. Carburetion pipes, glass or other heat resistant tubes or any other device, used or intended to be used, designed to be used to cause vaporization of a controlled substance for inhalation;~~

~~d. Smoking and carburetion masks;~~

~~e. Roach clips, objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;~~

~~f. Miniature cocaine spoons and cocaine vials;~~

~~g. Chamber smoking pipes;~~

~~h. Carburetor smoking pipes;~~

- ~~i. Electric smoking pipes;~~
- ~~j. Air-driven smoking pipes;~~
- ~~k. Chillums;~~
- ~~l. Bonges;~~
- ~~m. Ice pipes or chillers;~~
- ~~n. any smoking pipe manufactured to disguise its intended purpose;~~
- ~~o. wired cigarette papers; or~~
- ~~\_\_\_\_\_ p. cocaine freebase kits.~~

~~D. To determine whether an object is drug paraphernalia, a Court or other authority shall consider, in addition to all other logically relevant factors, the following:~~

- ~~1. Statements by an owner or person in control of the object concerning its use;~~
- ~~2. Prior convictions, if any, of an owner or person in control of the object, under any state or federal law relating to any controlled substance;~~
- ~~3. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substances Act, or Section 4 of this Title of the Lake Quivira Municipal Code, or amendments thereto;~~
- ~~4. The proximity of the object to controlled substances;~~
- ~~5. The existence of any residue of controlled substances on the object;~~
- ~~6. Direct or circumstantial evidence of the intent of an owner or person in control of the object, to deliver it to a person the owner or person in control of the object knows, or should reasonably know, intends to use the object to facilitate a violation of the Uniform Controlled Substances Act, or Section 4 of this Title of the Code of the City of Lake Quivira, or amendments thereto. The innocence of an owner or person in control of the object as to a direct violation of the Uniform Controlled Substances Act, or Section 4 of this Title of the Code of the City of Lake Quivira, or amendments thereto, shall not prevent a finding that the object is intended for use as a drug paraphernalia;~~
- ~~7. Oral or written instructions provided with the object concerning its use;~~
- ~~8. Descriptive materials accompanying the object which explain or depict its use;~~

~~9. National and local advertising concerning the object's use;~~

~~10. The manner in which the object is displayed for sale;~~

~~11. Whether the owner or person in control of the object is a legitimate supplier of similar or related items to the community, such as a distributor or dealer of tobacco products;~~

~~12. Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;~~

~~13. The existence and scope of legitimate uses for the object in the community;~~

~~14. Expert testimony concerning the object's use;~~

~~15. Any evidence that alleged paraphernalia can or has been used to store a controlled substance or to introduce a controlled substance into the human body as opposed to any legitimate use for the alleged paraphernalia; or~~

~~16. Advertising of the item in magazines and other means which specifically glorify, encourage or espouse the illegal use, manufacture, distribution or cultivation of controlled substances.~~

~~E. — The fact that an item has not yet been used or did not contain a controlled substance at the time of the seizure is not a defense to a charge that the item was possessed with the intention for use as drug paraphernalia.~~

~~F. — As used in this Section, “or under circumstances where one reasonably should know” that an item will be used in violation of this section, shall include, but not be limited to, the following:~~

~~(1) Actual knowledge from prior experience or statements made by customers;~~

~~(2) inappropriate or impractical design for alleged legitimate use;~~

~~(3) receipt of packaging material, advertising information or other manufacturer supplied information regarding the item's use as drug paraphernalia; or~~

~~(4) receipt of a written warning from a law enforcement or prosecutorial agency having jurisdiction that the item has been previously determined to have been designed specifically for use as drug paraphernalia.~~

~~G. — Violation of this Section is a Class A Offense.~~

(Ordinance 225, 2005; Ordinance 271, 2012; Ordinance 287, 2014; Repealed and Relocated by Ordinance 292, Passed October 3, 2016, Effective January 1, 2017)

## **Section 6                    Prohibition of Public Nudity**

A.     The Governing Body finds the appearance of persons in a state of nudity in public places which are not provided or set apart for nudity, generally increases incidents of prostitution, sexual assaults and batteries, attracts other criminal activity to our community, and facilitates other activities which break down family structure and values. Without regulation, appearing in a state of nudity in a public place which is not a public place provided or set apart for nudity constitutes harmful conduct. The regulation of public nudity will protect the public health, safety, morals and welfare of the people of our community.

B.     Public Nudity Prohibited. It shall be a Public Offense for any person to knowingly or intentionally appear in a state of nudity in a public place.

C.     Definitions. As used in this Section:

"Public Place" means a place to which the general public is admitted or area generally visible to public view, whether for free or upon payment of an admission charge; "Nudity" means to show or expose with less than a fully opaque covering, the human male or female genitals, pubic region or pubic hair, or buttock, or female breast or breasts below a point immediately above the top of the areola or nipple.

D.     Exemptions. The prohibitions in this Section shall not apply:

1. To any child under ten (10) years of age;
2. To the breast feeding of a child;
3. When the conduct of being nude cannot constitutionally be prohibited by this Section because it constitutes conduct which is protected by the United States or Kansas Constitution.

E.     Violation/Penalty. Any person or entity violating the provisions of this Section shall be guilty of a Public Offense and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment of not more than six months or by both such fine and imprisonment.

(Ordinance 227, 2005)

**Section 7                    Prohibition of Window Peeping**

A.     The act of window peeping is prohibited in the City of Lake Quivira as follows:

Window Peeping Prohibited. It shall be unlawful in the City of Lake Quivira, Kansas for any person to engage in the act of window peeping, which is the going upon or remaining on property owned or occupied by another to look into any window, door, skylight or other opening of a house, room, apartment or other building belonging to or occupied by another without such person's consent for the purpose of conducting voyeuristic activity, regardless of whether the person is actually able to see inside the house, room, apartment or other building.

B.     Violation/Penalty. Any person or entity violating the provisions of this Section shall be guilty of a public offense and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment of not more than six months or by both such fine and imprisonment.

(Ordinance 228, 2005)

**Section 8                    Prohibition and Regulation of Hunting**

A.     It is unlawful for any person to hunt, pursue, seek or chase any animal within the city limits of the City, whether the animal is wild or domestic, by use of any weapon, to include, but not be limited to, all gauges of rifles, shotguns, pistols or bow or crossbow and arrow.

B.     This Section shall be in full force and effect upon all property, whether public or private, of any zoning classification or category, within the existing corporate city limits of the City, as the same now exists or may legally exist at the time of any perceived violation of this Section.

C.     Any person violating the provisions of this Section shall be guilty of a Class A Offense.

D.     This Section shall not apply to hunting authorized by and in accordance with a valid and current Urban Deer Management Permit issued and approved by the Governing Body.

(Ordinance 87, 1977; Ordinance 261, 2010)

## **Section 9                    Prohibition and Regulation of Open Burning**

A.    The Governing Body finds and determines it is in the best interests of the public health safety and welfare, to provide for regulations limiting the burning of commercial materials, leaves, and other materials within the City of Lake Quivira.

B.    Burning of Construction Materials Prohibited.

The burning of construction waste is prohibited at all times. As used and prohibited herein the term construction waste shall mean waste building materials and rubble resulting from construction, remodeling or repair operations on houses, commercial buildings, other structures and pavements.

C.    Regulation of Burning of Leaves.

The burning of leaves is prohibited from April 1 through October 31 of any calendar year. The burning of leaves is further prohibited from sunset to sunrise throughout any calendar year.

D.    Safety Regulations for Burning of any Materials.

The following safety regulations shall apply to the burning of all materials or substances in the city limits of the City of Lake Quivira.

The burning of any material or substance shall be prohibited when banned by Order of the Lake Quivira Fire Chief due to extreme drought or other fire hazard. Said Order shall be clearly posted to the public on the Fire Station during effective times and dates.

The burning of any material or substance shall be prohibited within thirty feet of a residential structure or vehicle.

The burning of any material or substance shall be prohibited upon any public street, facilities, or rights-of-way, or upon any street or roadway open to vehicular travel, whether privately or publicly maintained.

The burning of any material or substance shall be prohibited within or upon any paved storm water drainage system, whether publicly or privately maintained, within this City, that adjoins a street or roadway open to vehicular travel, including any road drainage systems, streets, catch basins, detention basins, curbs, gutters, ditches, man-made channels, or storm drains. The burning of any material or substance shall be further prohibited within or upon all other publicly or privately maintained storm water drainage systems within this City, if the resulting ash or residue is not removed within 48 hours of the completion of the burning.

The burning of any material or substance shall be prohibited when the wind speed is more than fifteen miles per hour.

The burning of any material or substance shall be prohibited when a capable water or extinguishing source is not readily available at all times.

The burning of any material or substance shall be prohibited when a responsible resident of the property 18 years of age or older, is not present and in attendance of the fire at all times until the fire is completely extinguished.

Without the prior written approval of the City Fire Chief, the burning of any material or substance shall be prohibited when the size of the fire exceeds six feet in diameter at the base.

E. General Provisions.

The prohibitions set forth in this Section shall not include fires set for the purpose of instruction in training of City firefighters in the method of fighting fires, fires used for the preparation of food, provided that the fire is not more than four feet in diameter at the base, or other use of chimineas, pre-manufactured grills, smokers, or indoor or outdoor fireplaces.

It shall be prima facie evidence that the person or entity that owns or controls property on which a violation or burning occurs has caused or permitted such burning or violation.

Any person or entity violating any provisions of this Section shall, upon conviction, be punished by a fine of not less than fifty dollars and no more than three hundred dollars. Each day that any violation occurs or continues shall constitute a separate offense.

(Ordinance 231, 2006)

**Section 10 Prohibition and Regulation of Fireworks**

“Fireworks” shall mean and include any combustible or deflagrating composition, article, or device suitable for the use of the public for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. The term “fireworks” shall not be construed as applying to toy smoke devices defined as smoke balls, or tubes containing a pyrotechnic mixture which upon ignition produces a visible cloud of colored smoke (white and black smokes are considered colored) or to



toy paper caps containing not more than twenty-five hundredths (.25) of a grain of explosive composition per cap.

Except as hereinafter provided, it shall be unlawful for any person to sell, possess, store, use or explode fireworks within the City of Lake Quivira, Kansas Fire Department shall have the power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by an individual, corporate or municipal entity. Every such use or display shall be handled by a competent operator approved by the Chief of the City of Lake Quivira Fire Department, and shall be of such character and so located, discharged or fired as, in the opinion of the Chief of the City of Lake Quivira Fire Department after proper investigation, is not hazardous to property or likely to display of fireworks shall be made in writing, at least ten (10) days in advance of the date of such proposed display. After such privilege shall be granted, the possession, storage and use of fireworks for such display shall be lawful for that purpose, only. No permit granted hereunder shall be transferable.

Fireworks which are sold, possessed, stored or used in violation of this ordinance shall be subject to seizure by the Chief of the City of Lake Quivira Fire Department or any other law enforcement officer of said City; further, any violation of this Section shall be a Class C Offense.

(Ordinance 160, 1991)

## **Section 11            Regulation of Alcohol**

~~Offenses pertaining to alcohol is unlawful in the City of Lake Quivira, Kansas as follows:~~

~~As used in this Section, the words and phrases in this Section shall have the following meanings, unless the context otherwise requires:~~

~~“Alcohol” means the product of distillation in any fermented liquid, whether rectified or diluted, whatever may be the original thereof and includes synthetic ethyl alcohol, but does not include denatured alcohol or wood alcohol;~~

~~“Alcohol liquor” means and includes alcohol, spirits, wine, beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.~~

~~“Person” means and includes individuals, firms, partnerships, corporations and associations.~~

~~“Cereal malt beverage” means and includes any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute or any flavored malt beverage, as defined by K.S.A. 41-2729, and amendments thereto, but does not include any such liquor which contains more than 3.2 percent alcohol by weight.~~

~~Except with regard to serving of alcoholic liquor or cereal malt beverages as permitted by KSA 41-308a, 41-380b, 41-727a, 41-2610, 41-2652, 41-2704 and 41-2727, and amendments thereto, and subject to any rules and regulations adopted pursuant to such statutes, no person under 21 years of age shall possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage except as authorized by law.~~

~~Any person less than 18 years of age who violates this Section is a juvenile offender under the Kansas Juvenile Justice Code.~~

~~In addition to any other penalty provided for a violation of this Section, the Court may order the offender to do either or both of the following:~~

- ~~1. Perform 40 hours of public service; or~~
- ~~2. Attend and satisfactorily complete a suitable educational or training program dealing with the effects of alcohol or other chemical substances when ingested by humans.~~

~~Upon a first conviction of a violation of this Section, the Court shall order the division of vehicles to suspend the driving privilege of such offender for 30 days.~~

~~Upon a second conviction of a violation of this Section, the Court shall order the division of vehicles to suspend the driving privilege of such offender for 90 days.~~

~~Upon a third or subsequent conviction of a violation of this Section, the Court shall order the division of vehicles to suspend the driving privilege of such offender for one year.~~

~~This Section shall not apply to the possession and consumption of cereal malt beverage by a person under the legal age for consumption of cereal malt beverage when such possession and consumption is permitted and supervised, and such beverage is furnished, by the person's parent or legal guardian.~~

~~Violation of this Section by a person 18 or more years of age but less than 21 years of age is a Class C Offense for which the minimum fine is \$200. In addition, the maximum jail penalty that could be imposed is 30 days.~~

~~(Ordinance 226, 2005; Ordinance 287, 2014; Repealed and Relocated by Ordinance 292, Passed October 3, 2016, Effective January 1, 2017)~~

## **Section 12            Regulation of Trash and Garbage**

The word “garbage” as used herein shall be construed to mean any rejected or condemned vegetable or animal matter and scraps thereof, such as attends the handling, preparation and use of food.

The word “trash” as used herein shall include and be construed to mean any and all litter, including but not limited to paper, cartons, boxes, barrels, wood and excelsior, tree branches, yard trimmings, furniture, bedding, metals, tin cans, dirt, small quantities of rock and pieces of rock and pieces of concrete, glass, crockery, ashes, sweepings, leaves, catch-basin residue, contents of litter receptacles, dead animals, discarded clothing and goods, and other similar materials, including earth and wastes from building operations.

The owner or tenant of any premises in the City of Lake Quivira, Kansas, on which garbage and trash collects shall provide or cause to be kept or provided suitable receptacles for the storage of garbage and trash.

Garbage and trash receptacles shall be of watertight construction and of such size as to receive and hold all garbage and trash that may accumulate on said premises between the times of collection without leakage or overflow. Garbage and trash receptacles shall at all times be kept clean by the owners thereof and garbage and trash shall be deposited therein in such manner as to avoid the slopping and scattering of same on or about the outside thereof.

No person shall place or store any trash or garbage receptacles at any place which is visible from any private or public street or road within the City of Lake Quivira, Kansas, EXCEPT on the day of collection. On the day of collection, only, grass clippings and yard wastes may be placed at or near the street curb for collection, providing said wastes are stored within suitable containers or disposable bags so constructed and maintained as to prevent the dispersal of the wastes stored therein. On the day of collection, only, tree trimmings and limbs may be placed at or near the street curb line for collection, providing said trimmings are securely tied in bundles acceptable to the solid waste collector. No person shall collect or cause to be collected any trash or garbage placed or stored in violation of the above standards.

No person shall throw or discard any trash or garbage into any public or private road, street or right-of-way or upon any property, public or private, within the City of Lake Quivira, Kansas.

A violation of this Section shall be a Class A Offense.

(Ordinance 115, 1981)

### **Section 13            Prohibition and Regulation of Littering**

Littering is dumping, throwing, placing, depositing or leaving, or causing to be dumped, thrown, placed, deposited or left, any refuse, paper, trash, glass, nails, tacks, wire, bottles, cans, yard trash, concrete, earthen fill, garbage, containers, other debris of any kind or any object or substance which tends to pollute, mar or deface, into, upon or about:

- a) Any public street, highway, alley, road, right of way, park or other public place, except by direction of some public officer or employee authorized by law to direct or permit such acts;
- b) Any private or public lake, river, stream, ditch, watercourse, retention or detention basin or other body of water that regularly or periodically carries surface water; or
- c) Any private property without the consent of the owner or occupant of such property.

It shall be unlawful for any person to commit the act of littering within the City of Lake Quivira, Kansas.

Any violation of this Section shall be deemed a public offense and any person convicted of such violation shall be punished by a fine of not less than \$100.00 nor more than \$500.00.

(Ordinance 208, 2001)

### **Section 14            Battery Against a Law Enforcement Officer**

~~A. Battery Against a Law Enforcement Officer is prohibited. Battery Against a Law Enforcement Officer is knowingly causing physical contact with one or more of the following described persons when done in a rude, insulting or angry manner:~~

~~1. a uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or~~

~~2. a uniformed or properly identified state, county or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee, a juvenile correctional facility officer~~

~~\_\_\_\_\_ or employee or a juvenile detention facility officer or \_\_\_\_\_ employee, while such  
\_\_\_\_\_ officer is engaged in the performance of such officer's duty.~~

~~B. \_\_\_\_\_ Battery Against a Law Enforcement Officer is a Class A offense.~~

(Ordinance 273, 2012; Ordinance 287; 2014; Repealed and Relocated by Ordinance 292, Passed October 3, 2016, Effective January 1, 2017)

## **Section 15            Illegal Transport of Aquatic Plants and Invasive Animals**

A.    Purpose and Authority.

The purpose of this Section is to prevent the spread of aquatic invasive species in the City of Lake Quivira and surrounding water bodies in order to protect property values and the property tax base and ensure quality recreational opportunities.

B.    Definitions of Aquatic Plants and Invasive Animals.

As used herein, the term "Aquatic Plant" means a non-woody submergent, emergent, free-floating, or floating-leaf plant that normally grows in or near water and includes any part thereof. "Aquatic plant" does not mean wild rice when being harvested with a permit.

As used herein, the term "Invasive Animals" means all vertebrate and invertebrate species as identified by the Kansas Department of Wildlife, including but not limited to Zebra Mussels, Asian Carp, New Zealand mudsnail, White Perch, Round Goby, Ruffe, Rudd, Rusty Crayfish, Purple Loosestrife, Curly-Leaf Pondweed, Eurasian Watermilfoil, Hydrilla, Saltcedar, Quagga Mussel, spiny water flea, or any other aquatic invasive animal prohibited by the state of Kansas.

As used herein, the term "Baitfish" shall have that meaning and definition as set forth in K.A.R. 115-1-1(a)(4).

C.    Prohibited Transport of Aquatic Plants and Invasive Animals.

No person may operate a vehicle or transport any boat, boat trailer, personal watercraft and its associated trailer, canoe, kayak, or boating equipment, fishing equipment, hunting and/or trapping equipment including but not limited to personal

flotation devices, nets, anchors, fishing lines, decoys, and waders, from navigable waters onto any roadway if aquatic plants or invasive animals are attached.

The livewells and bilges shall be drained and the drain plugs removed from all vessels being removed from the waters of the City before transport on any highway of the City, and prior to the mandatory two week quarantine required of all vessels prior to entering any navigable waters within this City. K.A.R. 115-30-13.

All Aquatic Plants or Invasive Animals shall be removed before entering any roadway, or before launching a boat or equipment or trailer in navigable water.

No person shall import or transport into this City live Baitfish that does not meet the requirements of K.A.R. 115-17-2 and K.A.R. 115-17-2a, and K.A.R. 115-17-3.

No person shall import or transport into this City live Baitfish other than acquired from Minnesota Bait & Fly or Cabelas, transported only in the container/plastic bag furnished by the vendor from who the Baitfish were purchased, and only when accompanied with the purchase receipt which verifies the selling vendor and Baitfish being transported. No person shall import or transport into this City live Baitfish within a bait bucket container. K.A.R. 115-7-10.

No person may possess any live fish originating from any designated aquatic nuisance body of water. Designated aquatic nuisance waters shall be those specified in the Kansas Department of Wildlife's "Kansas designated aquatic nuisance waters tables," dated October 2, 2012, which is hereby adopted by reference. K.A.R. 115-7-10.

The importation, possession, or release in the City of the following live wildlife species shall be prohibited, except as authorized by terms of a wildlife importation permit issued by the Secretary of the Kansas Department of Wildlife:

- (1) Walking catfish (*Clarias batrachus*);
- (2) silver carp (*Hypophthalmichthys molitrix*);
- (3) bighead carp (*Hypophthalmichthys nobilis*);
- (4) black carp (*Mylopharyngodon piceus*);
- (5) snakehead fish (all members of the family Channidae);
- (6) round goby (*Neogobius melanostomus*);
- (7) white perch (*Morone americana*);
- (8) zebra mussel (*Dreissena polymorpha*);

- (9) quagga mussel (*Dreissena bugensis*);
- (10) New Zealand mudsnail (*Potamopyrgus antipodarum*);
- (11) diploid grass carp (*Ctenopharyngodon idella*);
- (12) monk parakeet (*Myiopsitta monachus*); and
- (13) Asian raccoon dog (*Nyctereutes procyonoides*).

(K.A.R. 115-18-10)

D. Citation and Enforcement.

Any person who violates a provision of this Section shall be subject to a penalty of not less than \$1,000 for the first offense and each subsequent offense. Each violation shall be considered a separate Class A Offense.

E. Studies and Inspections.

The quarantine provisions of this Section shall not apply to professional biologists acting during the course of performing studies and reports with prior written approval by the Lake Quivira Country Club General Manager. Application for written approval shall include certification of compliance with applicable industry professional best standards for safeguarding and preventing the spread of invasive species.

(Ordinance 284, 2014)

## **Title VII Traffic and Vehicle Regulations**

<b>Section 1</b>	<b>Adoption of Standard Traffic Ordinance with Amendments</b>
<b>Section 1.5</b>	<b>Standard Traffic Ordinance Provisions Omitted</b>
<b>Section 2</b>	<b>Repealed Careless Driving Relocated</b>
<b>Section 3</b>	<b>Operation and Use of Work Site Utility Vehicles</b>
<b>Section 4</b>	<b>Operation and Use of Golf Carts</b>
<b>Section 5</b>	<b>Fire Trucks Right of Way</b>
<b>Section 6</b>	<b>Heavy Truck Routes</b>
<b>Section 7</b>	<b>Regulating Noise from Vehicles</b>
<b>Section 8</b>	<b>Parking Regulations on Argentine and Holliday Drive</b>
<b>Section 9</b>	<b>Disabled Vehicles</b>
<b>Section 10</b>	<b>Driving Under the Influence</b>
<b>Section 11</b>	<b>Repealed</b>
	<b>Refusing to Submit to a Test to Determine the Presence of Alcohol and/or Drugs</b>
<b>Section 12</b>	<b>Use of Wireless Communication Devices</b>

### **Section 1 Adoption of Standard Traffic Ordinance with Amendments**

#### **A. Incorporating Standard Traffic Ordinance.**

There is incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Lake Quivira, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2016, prepared and published in book form by the League of Kansas Municipalities, except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said Standard Traffic Ordinance shall be marked or stamped as an official copy as adopted by Ordinance No. 293, with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge, Municipal Prosecutors, and all Administrative Departments of the City charged with enforcement of this Ordinance shall be supplied, at the cost of the City, such number of official copies of the Standard Traffic Ordinance similarly marked, as may be expedient.

Traffic Regulations on Private Property. Whenever the person or organization 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, approved in form by the City of Lake Quivira Chief of Police, with the following legend:



“TRAFFIC REGULATIONS OF THE CITY OF LAKE QUIVIRA, KANSAS ENFORCED ON THIS PROPERTY. SPEED LIMIT 20 M.P.H. (OR AS POSTED).”

Such private property shall thereafter be deemed to be under the speed regulations of the city and such traffic regulations as contained in Sections 32, 59, 81, and 82 of the Standard Traffic Ordinance for Kansas Cities, Edition of 2016.

B. Amendments to Standard Traffic Ordinance.

Section 29 of said Standard Traffic Ordinance is hereby amended to read as follows:

Section 29. Reckless Driving; Penalties.

Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

Upon a first conviction of a violation of this section a person shall be sentenced to not less than five days nor more than 90 days' imprisonment or by a fine of not less than \$25 nor more than \$500, or by both such fine and imprisonment. On a second or subsequent conviction of a violation of this section, a person shall be sentenced to not less than 10 days nor more than six months' imprisonment, or fined not less than \$50 nor more than \$500 or both such fine and imprisonment.

Section 29A. Careless Driving.

No person shall operate or halt any vehicle in such a manner as to indicate a careless or heedless disregard for the rights or safety of others, or in such a manner as to endanger any person or property.

Upon a first conviction for a violation of this section, a person shall be fined not less than \$25 nor more than \$500. On a second or subsequent conviction of a violation of this section, a person shall be fined not less than \$50 nor more than \$1000.

Section 30.2 Preliminary Breath Test is hereby amended to read as follows:

Section 30.2 Preliminary Breath Test.

(a) Any person who operates or attempts to operate a vehicle within this state is deemed to have given consent to submit to a preliminary screening test of the person's breath or saliva, or both, subject to the provisions set out in subsection (b).

(b) A law enforcement officer may request a person who is operating or attempting to operate a vehicle within this state to submit to a preliminary screening test of the person's breath or saliva, or both, if the officer has reasonable suspicion to believe the person has been operating or attempting to operate a vehicle while under the influence of alcohol or drugs or both alcohol and drugs.

(c) At the time the test is requested, the person shall be given oral notice that: (1) There is no right to consult with an attorney regarding whether to submit to testing; (2) refusal to submit to testing is a traffic infraction; and (3) further testing may be required after the preliminary screening test. Failure to provide the notice shall not be an issue or defense in any action. The law enforcement officer then shall request the person to submit to the test.

(d). Refusal to take and complete the test as requested is a traffic infraction. If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made and whether to request the tests authorized, by K.S.A. 8-1001 and amendments thereto. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results shall not be admissible in any civil or criminal action concerning the operation of or attempted operation of a vehicle except to aid the court or hearing officer in determining a challenge to the validity of the arrest or the validity of the request to submit to a test pursuant to K.S.A. 8-1001, and amendments thereto. Following the preliminary screening test, additional tests may be requested pursuant to K.S.A. 8-1001, and amendments thereto.

(e) Any preliminary screening of a person's breath shall be conducted with a device approved pursuant to K.S.A. 65-1,107, and amendments thereto.

Section 33 of said Standard Traffic Ordinance is hereby amended to read as follows:

Section 33. Maximum Speed Limits.

(a) Except when a special hazard exists that requires a lower speed for compliance with Section 32 of the Standard Traffic Ordinance, the limits of speed specified in this section or established as hereinafter authorized shall be maximum lawful speeds and no person shall drive a vehicle at a speed in excess of such maximum limits:

(1) Twenty (20) miles per hour in all locations within the private gated community of Quivira Incorporated within the City of Lake Quivira.

(2) Twenty-five (25) miles per hour in all other locations, unless otherwise posted.

(3) Thirty (30) miles per hour in the following locations:

Holliday Drive, beginning at the East city limit of Lake Quivira, and continuing West as posted;

Renner Rd., as posted.

(4) Thirty-five (35) miles per hour in the following locations:

Holliday Drive, as posted;

Quivira Lane.

(b) The maximum speed limits established by or pursuant to this section may be altered as authorized in K.S.A 8-1337 and 8-1338 and amendments thereto.

(c) Whenever the Chief of Police or City Public Works Department determines that any speed limit set forth in this section should be greater or less than the posted speed limit to insure safety under the conditions found to exist upon any part of a street, said Chief of Police or City Public Works Department shall determine and declare a reasonable and safe speed limit thereon which shall be effective at all times or during the daytime or nighttime or at such other times as may be determined when appropriate signs giving notice thereof are erected on such street, pursuant to K.S.A. 8-1560 and 8-2002. Accordingly, the Chief of Police or City Public Works Department may post appropriate signs giving notice thereof, pursuant to K.S.A. 8-1560 and 8-2002 of an increased fine which doubles the scheduled fine amount for exceeding the speed limit within construction zones.

Section 46 of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 46. Driving on Roadways Laned for Traffic. Whenever any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

(a) A vehicle shall be driven entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(b) Official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving

in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device.

(c) Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the direction of every such device.

(Ordinance 235, 2006; Ordinance 241, 2007; Ordinance 261, 2010; Ordinance 264, 2011; Ordinance 270, 2012; Ordinance 286, 2014; Ordinance 293 Passed October 3, 2016, Effective January 1, 2017)

## **Section 1.5            Standard Traffic Ordinance Provisions Omitted**

Sections 30(DUI), 114.4 (Golf carts), and 114.5 (Work-site utility vehicles) and 126.2 (Use of Wireless Communication Devices) of the Standard Traffic Ordinance for Kansas Cities, Edition of 2016, are deleted and hereby declared to be omitted from this incorporating Ordinance and the Code of the City of Lake Quivira, Kansas, and expressly omitted from incorporation by reference.

(Ordinance 262, 2011; Ordinance 264, 2011; Ordinance 270, 2012; Ordinance 286, 2014; Ordinance 293 Passed October 3, 2016, Effective January 1, 2017)

## **Section 2            Careless Driving**

~~Any person who operates a vehicle in the City in a careless manner that is likely to endanger the lives of persons or that is likely to damage property shall, upon conviction thereof, be deemed guilty of careless driving. Upon a plea of guilty or a finding of guilty by the Court, a person who has violated this Section shall be punished by a fine in an amount not less than \$10.00 nor more than \$100.00, or shall be punished by imprisonment by both such fine and imprisonment.~~

(Ordinance 93, 1979; repealed Ordinance 286, 2014; Ordinance 293 Passed October 3, 2016, Effective January 1, 2017)

### **Section 3                    Operation and Use of Work Site Utility Vehicles**

#### **A.     Definitions.**

As used herein, the term "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.

#### **B.     Operation of Work-Site Utility Vehicles within the Corporate City Limits of Lake Quivira, Kansas.**

On or after July 1, 2007, the operation of a Work-Site Utility Vehicle within the corporate city limits of Lake Quivira, Kansas is hereby prohibited unless specifically authorized herein.

#### **C.     The operation of a Work-Site Utility Vehicle is authorized on private property and on public roadways within the city limits of Lake Quivira, except the following roadways:**

1. Holliday Drive
2. Quivira Lane
3. Renner Road
4. 85th Street

#### **D.     The operation of a Work-Site Utility Vehicle upon Holliday Drive, Quivira Lane, Renner Road, or 85th Street is prohibited, unless such vehicle is operated during the course of public maintenance or repair of the roadway.**

#### **E.     Penalty**

Any Person violating any provisions of this Section shall, upon conviction, be punished by a fine of not less than One Hundred Dollars and no more than Five Hundred Dollars. Each day that any violation occurs or continues shall constitute a separate offense.

(Ordinance 237, 2007)

## **Section 4            Operation and Use of Golf Carts**

### **A.     Definitions.**

As used herein, the term "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.

### **B.     Operation of a Golf Cart within the Corporate City Limits of Lake Quivira, Kansas.**

The operation of a Golf Cart is authorized on private property and on public roadways within the city limits of Lake Quivira, except the operation of a Golf Cart within the corporate city limits of Lake Quivira, Kansas is hereby prohibited on the following roadways:

1. Holliday Drive
2. Quivira Lane
3. Renner Road
4. 85<sup>th</sup> Street

### **C.     Every person operating a Golf Cart on the public highways, streets, roads and alleys of the City shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.**

### **D.     Penalty.**

Any Person violating any provisions of this Section shall, upon conviction, be punished by a fine of not more than Five Hundred Dollars. Each day that any violation occurs or continues shall constitute a separate offense. A violation of this Section shall be deemed an ordinance traffic infraction.

(Ordinance 258, 2010; Ordinance 261, 2010)

## **Section 5            Fire Trucks Right of Way**

All fire apparatus and equipment is hereby given and granted exclusive right-of-way over and through all platted and existing streets, alleys and thoroughfares in the City

while enroute to fires or in response to any alarm of fire, and no person or persons shall in any manner obstruct or hinder said apparatus and equipment as aforesaid. It shall be unlawful for any person or persons to drive any automobile, truck or any other vehicle over and fire hose laid in any street, avenue, bridge or vacant lot. Provided, that this section does not apply to any apparatus or vehicle belonging to the fire department. No person or persons shall place or cause to be placed upon or about any fire hydrant any rubbish, building materials, fence or other obstruction of any character which may in any manner obstruct, hinder or delay a fire department in the performance of its duties in case of fire. Nor shall any person or persons hitch or cause to be hitched to any fire hydrant, any animal or animals, nor fastened to same any guy rope or brace, nor stand any truck, automobile, or other vehicle within 15 feet of any such hydrant. It shall be unlawful for any person or persons to make or sound or cause to be made or sounded by any means, any false alarm of fire without reasonable cause. 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. Any person or persons violating any of the provisions of this ordinance or refusing or neglecting to comply with any of the requirements thereof, shall upon conviction, be deemed guilty of a Class C offense.

(Ordinance 21, 1972)

## **Section 6                    Heavy Truck Routes**

A.     The Governing Body finds and determines it is in the best interests of the public to minimize the harmful impact on publicly maintained roads, caused by the operation of heavy vehicles or trucks, and that it is necessary to protect and preserve the public funds and roadways through the designation of roads upon which heavy vehicles or trucks are permitted, and the designation of roads upon which heavy vehicles or trucks are not permitted within the City of Lake Quivira.

B.     Definitions.

As used herein, the term "Heavy Truck" means a vehicle with a registered gross weight of more than 16,000 pounds, and shall not include a Vehicle defined and designated as a School Bus in accordance with KSA 72-8301(g) or amendments thereto.

As used herein, the term "Emergency Activity" means utility repairs or Construction activities required to restore utility services, to restore property as reasonably necessary to protect public health and safety, or to protect persons or property from harmful exposure to weather, and shall further mean those activities related to the operation of Vehicles by Law Enforcement or Fire personnel when related to the providing of such services.

As used herein, the term "Person" means any individual, association, or entity, including but not limited to, a firm, partnership, sole proprietorship, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, political subdivision, public or private agency of any kind, utility, or a successor or assign of any of the foregoing, and shall also mean the manager, lessee, agent, servant, officer or employee of any of foregoing.

As used herein, the term "Roadway" means any improved surface, intended to serve as a surface for vehicular travel, and that is publicly maintained.

As used herein, the term "Vehicle" means every device in, or upon which any Person or property is or may be transported or drawn upon a Roadway.

C. Prohibition of Heavy Trucks on Roadways.

No Heavy Truck shall enter or travel upon a Roadway in the City of Lake Quivira except upon a Roadway designated herein as a Heavy Truck Route.

D. Heavy Truck Route.

Holliday Drive from the east City limit to the west City limit is hereby designated as a Heavy Truck Route upon which Heavy Trucks may enter or travel upon within the City of Lake Quivira.

E. Exclusion.

This Section shall not apply to Emergency Activities.

This Section shall not apply to Vehicles carrying goods, merchandise, or other articles to or from any location within the City of Lake Quivira abutting upon any Roadway not herein designated as a Heavy Truck Route, provided the Vehicle takes the most direct route to and from the location within the City of Lake Quivira for delivering or receiving such goods, merchandise, or other articles and the closest Heavy Truck Route, or those Roadways in neighboring cities similarly designated by Ordinance as Truck Routes. This exclusion shall not include or permit the operation of a Heavy Truck when operated for the purpose of providing transportation of an occupant to a residence occupied by the occupant, rather than for the delivery of goods or merchandise.

F. Presumptions.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the Person named as the registered owner of such Vehicle on the date of the violation stated in the charge, as reflected on the official title, registration, vehicle identification number, or official records of the Kansas Department of Revenue, Division of Motor Vehicles, is the Person who was



operating the vehicle at the point where, and for the time during which, the unlawful act prohibited by this Section occurred. If the registered owner of such Vehicle is a business or corporation, it shall be a prima facie presumption that the Person identified as the corporate president listed on the most current annual report on file in the State of Kansas Secretary of State's Office is the Person who operated the Vehicle at the point where, and for the time during which, the unlawful act prohibited by this Section occurred.

G. Offenses by Persons Owning or Controlling Vehicles.

It is unlawful for the owner, or any other Person, employing or otherwise directing the driver of any Vehicle, to require or knowingly to permit the operation of such Vehicle upon a Roadway in any manner contrary to this Section.

H. Penalty.

Any Person violating any provisions of this Section shall, upon conviction, be punished by a fine of not less than One Hundred Dollars and no more than Five Hundred Dollars. Each day that any violation occurs or continues shall constitute a separate offense.

An individual who violates any provision of this Section, or causes such violations to exist, in the name of or on behalf of a corporation is legally responsible to the same extent as if such violations were in his or her own name or on his or her own behalf. An individual who has been convicted of a violation of this Section based on conduct performed by him or her for and on behalf of a corporation is subject to punishment as an individual upon conviction of such violation.

(Ordinance 234, 2007; Ordinance 261, 2010)

## **Section 7                    Regulating Noise from Vehicles**

The use of loud sound amplification systems in motor vehicles presents a safety hazard to the citizens and motoring public of the City of Lake Quivira, Kansas. The use of loud sound amplification systems can prevent an operator of a motor vehicle from hearing approaching or overtaking emergency vehicles, and can distract a driver's attention from the safe operation of motor vehicles within the City.

Loud Sound Amplification Systems Prohibited.

A. No person operating or occupying a motor vehicle within the City of Lake Quivira, Kansas shall operate or permit the operation of any sound amplification system from within such vehicle so that the sound emitted therefrom is plainly audible at a distance of 50 or more feet from such vehicle.

B. Sound amplification system means any radio, tape player, compact disc player, loud speaker or other electronic device use for the amplification of sound.

C. Plainly audible means any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of 50 feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and bass reverberations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley roadside, park or common area, parking lot or driveway.

D. It is an affirmative defense to a charge under this Section that any of the following apply:

1) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;

2) The vehicle was an emergency or public safety vehicle;

3) The vehicle was owned and operated by a public utility company or a communications company;

4) The system was used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons which events or activities have the pre-approval of the Chief of Police or the Mayor of the City of Lake Quivira, Kansas;

5) The vehicle was used in authorized public activities, such as parades, fireworks, sports events musical productions and other activities which have the pre-approval of the Chief of Police or the Mayor of the City of Lake Quivira, Kansas.

E. A violation of this Section shall be a Class C offense. Each day any violation hereof is found to exist or continue to exist shall be a separate offense and punishable as such hereunder.

(Ordinance 168, 1992)

## **Section 8                    Parking Regulations on Renner Road, Quivira Lane and Holliday Drive**

Pursuant to and by authority of K.S.A. 8-2002 the parking of motorized vehicles within or adjacent to the right-of-ways of Renner Road, (a/k/a Hillcrest Road and 85<sup>th</sup> Street), Quivira Lane, and Holliday Drive at any time is prohibited. Signs prohibiting such parking shall be erected in accordance with the Manual of Uniform Traffic Control Devices prepared by the U. S. Department of Transportation.

Any person in violation of this Section shall be fined not less than \$10.00 not more than \$100.00.

(Ordinance 110, 1980; Ordinance 261, 2010)

## **Section 9                    Disabled Vehicles**

It shall be unlawful to park junked, wrecked, dismantled, inoperative, discarded or abandoned vehicles in and upon real property within the City of Lake Quivira as it is a matter affecting the health, safety and welfare of the citizens of Lake Quivira, Kansas.

Inoperable means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purpose for which it was originally constructed. Vehicle means any automobile, truck, tractor, or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.

Except as provided herein, it shall be unlawful for any person, either as owner, lessee, tenant or occupant of any lot or land within the City to park, store or deposit, or permit to be parked, stored, or deposited thereon, an inoperable vehicle unless it is enclosed in a garage or other building.

The provisions of this Section shall not apply to any person, partnership or corporation or their agent with one vehicle inoperable for a period of thirty (30) consecutive days or less.

Any one of the following conditions shall raise the presumption that a vehicle is inoperable:

- a) Absence of an effective registration plate upon such vehicle;
- b) Placement of the vehicle or part thereof upon jacks, blocks, chains or other supports;
- c) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon the streets and highways.

Whenever an informal complaint is made to the City Clerk of the City of Lake Quivira, Kansas, or notice is given to such officer of the existence of an apparent violation of this Section, he or she shall within seven (7) days thereafter cause to be served upon the person in possession or the owner of the real property upon which such inoperable vehicle is located a written notice. Such notice shall inform such persons of the violation and direct that he or she take action within seven (7) days after receipt of such notice to comply with the provisions of this Section or prosecution will be commenced for violation thereof.

In the event such person fails to comply with the provisions of this Section within such time the City Clerk shall notify the City Prosecutor who shall commence prosecution under this Section.

Any person, partnership, or corporation violating the provisions of this Section shall, upon conviction thereof, be fined in an amount not to exceed one hundred dollars (\$100.00). Each day during or on which a violation occurs or continues shall constitute a separate offense.

(Ordinance 38, 1973)

## **Section 10            Driving Under the Influence**

A.     Driving under the influence is unlawful. Driving under the influence is operating or attempting to operate any vehicle within this City while:

(1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and amendments thereto, is .08 or more;

(2) the alcohol concentration in the person's blood or breath, as measured within three hours of the time of operating or attempting to operate a vehicle, is .08 or more;

(3) under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;

(4) under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle; or

(5) under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle.

B.     (1) Driving under the influence is:

(a) On a first conviction a class B, nonperson misdemeanor. The person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion 100 hours of public service, and fined not less than \$750 nor more than \$1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609 and amendments thereto, to serve the remainder of the sentence only after such person has served 48 consecutive hours' imprisonment;

(b) On a second conviction of a class A, nonperson misdemeanor, the person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours;

(2) In addition, prior to sentencing for any conviction, the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

C. Any person convicted of violating this section or an ordinance which prohibits the acts that this section prohibits who had one or more children under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section or an ordinance which prohibits the acts that this section prohibits. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

D. If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

E. The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs

shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

F. In lieu of payment of a fine imposed pursuant to this Section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

G. The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

H. For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section:

(1) Convictions for a violation of this Section, K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;

(2) any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account: (a) K.S.A. 8-2,144, and amendments thereto or a violation of an ordinance of any city or resolution of any county which prohibits the acts that are prohibited by K.S.A. 8-2, 144; (b) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto or a violation of an ordinance of any city or resolution of any county which prohibits the acts that are prohibited by K.S.A. 32-1131; (c) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. Supp. 21-5405(a)(3), and amendments thereto; and (d) aggravated battery as described in K.S.A. Supp. 21-5413(b)(3), and amendments thereto; and (e) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) "conviction" includes: (a) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in subsection (H)(2); (b) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another state which would constitute a crime described in subsection (H)(1) or (H)(2); and (c) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in subsection (H)(1) or (H)(2) if committed off a military reservation in this state;

(4) it is irrelevant whether an offense occurred before or after conviction for a previous offense;

(5) multiple convictions of any crime described in subsection (H)(1) or (H)(2) arising from the same arrest shall only be counted as one conviction; and

(6) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, or an ordinance which prohibits the acts of this section, and amendments thereto, only once during the person's lifetime.

I. Upon conviction of a person of a violation of this section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

J. Upon conviction of a violation of this section, the court may order the convicted person to pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

K. (1) Upon the filing of a complaint, citation, or notice to appear alleging a person has violated the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:

(a) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(b) Kansas bureau of investigations central repository all criminal history record information concerning such person.

(2) If the elements of such ordinance violation are the same as the elements of a violation of this Section that would constitute, and be punished as, a felony, the city attorney shall refer the violation to the appropriate county or district attorney for prosecution.

L. No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this Section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section or by the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not constitute plea bargaining.

M. The alternatives set out in subsection (A) may be pleaded in the alternative, and the City may, but shall not be required to, elect one or two of the five prior to submission of the case to the fact finder.

N. As used in this Section:

(1) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

(2) "imprisonment" shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city; and

(3) "drug" includes toxic vapors as such term is defined in K.S.A. 21-5712, and amendments thereto.

(Ordinance 262, 2011; Ordinance 269; 2012; Ordinance 286, 2014; Ordinance 293 Passed October 3, 2016, Effective January 1, 2017)

## **Section 11 Refusing to Submit to a Test to Determine the Presence of Alcohol and/or Drugs**

~~A. It shall be unlawful to refuse to submit or to complete a test to determine the presence of alcohol or drugs deemed consented to under subsection (a) of K.S.A. 8-1001, and amendments thereto, if such person has:~~

~~(1) Any prior test refusal as defined in K.S.A. 8-1013, and amendments thereto, which occurred: (a) On or after July 1, 2001; and (b) when such person was 18 years of age or older; or~~

~~(2) any prior conviction for a violation of K.S.A. 8-1567 or 8-2,144, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such section prohibits, or entering into a diversion agreement~~



~~in lieu of further criminal proceedings on a complaint alleging any such violations, which occurred: (a) On or after July 1, 2001; and (b) when such person was 18 years of age or older.~~

~~B. (1) Refusing to submit to a test to determine the presence of alcohol or drugs is:~~

~~(a) On a first conviction a class A, nonperson misdemeanor. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours.~~

~~(b) on a second conviction a class A, nonperson misdemeanor, except where a second conviction is designated as a felony offense as provided in subsection (b)(1)(C) of K.S.A. 8-1025. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the 90 days'~~

~~imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours.~~

~~(2) In addition, prior to sentencing for any conviction pursuant to this section, the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court. The person shall be required to complete a minimum of a Level I education program.~~

~~C.— Any person convicted of violating this section or an ordinance which prohibits the acts that this section prohibits who had one or more children under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section or an ordinance which prohibits the acts that this section prohibits. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.~~

~~D.— The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessments and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.~~

~~E.— In lieu of payment of a fine imposed pursuant to this Section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.~~

~~F.— The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this Section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall~~

~~receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.~~

~~G. For the purpose of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under this section:~~

~~(1) Convictions for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring: (a) On or after July 1, 2001; and (b) when such person was 18 years of age or older. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;~~

~~(2) any convictions for a violation of the following sections which occurred during a person's lifetime shall be taken into account, but only convictions occurring when such person was 18 years of age or older: (a) This Section or K.S.A. 8-1025, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such section prohibits; (b) driving a commercial motor vehicle under the influence, K.S.A. 8-2-144, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such section prohibits; (d) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such section prohibits; (e) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or subsection (a)(3) of K.S.A. 21-5405, and amendments thereto; and (f) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;~~

~~(3) "conviction" includes: (a) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in subsection (G)(2); (b) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another state which would constitute a crime described in Subsection (G)(1) or (G)(2); and (c) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in Subsection (G)(1) or (G)(2) if committed off a military reservation in this state;~~

~~(4) it is irrelevant whether an offense occurred before or after conviction for a previous offense;~~

~~(5) multiple convictions of any crime described in Subsection (G)(1) or (G)(2) arising from the same arrest shall only be counted as one conviction;~~

~~(6) the prior conviction that is an element of the crime of refusing to submit to a test to determine the presence of alcohol or drugs shall not be used for the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section and shall not be considered in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offense; and~~

~~(7) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section only once during the person's lifetime.~~

~~H. Upon conviction of a person of a violation of this Section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.~~

~~I. Upon conviction of a person of a violation of this Section, the court may order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.~~

~~J. (1) Upon the filing of a complaint, citation or notice to appear alleging a person has violated a city ordinance prohibiting the acts prohibited by this Section, and prior to conviction thereof, a city attorney shall request and shall receive from the:~~

~~(a) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and~~

~~(b) Kansas bureau of investigation central repository all criminal history record information concerning such person.~~

~~(2) If the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony, the city attorney shall refer the violation to the appropriate county or district attorney for prosecution.~~

~~K. No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section to avoid the mandatory penalties established by this section or by the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 *et seq.* or 22-2906 *et seq.*, and amendments thereto, shall not constitute plea bargaining.~~

~~L. As used in this Section, "imprisonment" shall include any restrained environment in which the court and law enforcement agency intend to retain custody~~

~~and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city.~~

(Ordinance 268, 2012; Ordinance 286, 2014; Repealed by Ordinance 293 Passed October 3, 2016, Effective January 1, 2017)

## **Section 12            Use of Wireless Communication Devices**

A.    Except as provided in subsections B and C, no person shall operate a motor vehicle on a Roadway while using a wireless communications device to write, send or read a written communication. As used herein, the term “*Roadway*” means any improved surface, intended to serve as a surface for vehicular travel, whether publicly or privately maintained.

B.    The provisions of subsection A shall not apply to:

1.    A law enforcement officer or emergency service personnel acting within the course and scope of the law enforcement officer’s or emergency service personnel’s employment;
2.    a motor vehicle stopped off the regular traveled portion of the Roadway;
3.    a person who reads, selects or enters a telephone number or name in a wireless communications device for the purpose of making or receiving a phone call;
4.    a person who receives an emergency, traffic or weather alert message; or
5.    a person receiving a message related to the operation or navigation of the motor vehicle.

C.    The provisions of subsection A shall not prohibit a person from using a wireless communications device while operating a moving motor vehicle to:

1.    Report current or ongoing illegal activity to law enforcement;
2.    prevent imminent injury to a person or property; or
3.    relay information between transit or for-hire operator and the operator’s dispatcher, in which the device is permanently affixed to the motor vehicle.

(Ordinance 267, 2012; K.S.A. Supp. 8-15,111)



**Title VIII     Animal Control**

<b>Section 1</b>	<b>Regulation and Prohibition of Certain Breeds of Dogs</b>
<b>Section 2</b>	<b>Regulation of Dogs within City Limits</b>
<b>Section 3</b>	<b>Urban Deer Management</b>
<b>Section 4</b>	<b>Vaccination of Dogs and Cats</b>

**Section 1                    Regulation and Prohibition of Certain Breeds of Dogs**

WHEREAS, the most recent special report published by the United States Department of Health and Human Services concludes fatal attacks on humans appear to be a breed specific problem, and Pit-Bull type dogs and Rottweiler type dogs were involved in more than half of the reported deaths from 1979 to 1998;

WHEREAS, from 1979 to 1998 Pit-Bull type dogs were the most commonly reported breed of dog involved in fatal attacks on humans, and Rottweiler type dogs were the second most common breed involved in fatal attacks on humans;

WHEREAS, the special report concludes that during 1997 and 1998 statistical information indicates Pit-Bull type dogs and Rottweiler type dogs accounted for 67% of dog bite related human fatalities;

WHEREAS, from 1997 to 1998 Rottweiler type dogs were the most commonly reported breed of dog involved in fatal attacks on humans, and Pit-Bull type dogs were the second most common breed involved in fatal attacks on humans;

WHEREAS, the Governing Body finds and determines that the unique public health hazard created by the presence of Pit-Bull and Rottweiler type dogs within the community justifies the City's regulation of this breed of dog; and,

WHEREAS, the Governing Body finds and determines that it is in the best interests of public health, safety and welfare to ensure citizens are protected from dangerous dogs, and that the interest in public protection outweighs the individual interest in harboring or keeping such dogs in the community.

**A.        Definitions.**

As used in this Section, the following words or phrases shall be defined and used as stated herein:

"Owner, keeper, or harborer" means any adult person who feeds, shelters, offers refuge or asylum, or as a resident permits same, for more than three consecutive

days, or who professes keeping or ownership of such animal. In addition, any adult person who signs a receipt as owner for the return of an animal from any city designated animal shelter or animal holding facility shall be presumed to be the owner, keeper, or harbinger of the animal. A parent or legal guardian shall be deemed to be an owner of animals owned or maintained upon their premises by minor children less than eighteen years of age.

"Pit-Bull dog" means any of the following: Staffordshire Bull Terrier; American Staffordshire Terrier; American Pit Bull Terrier;

American Bulldog; any dog which has been registered at any time as a Pit Bull Terrier; any dog which has the appearance of being predominantly of the breed of dogs known as Staffordshire Bull Terrier, American Staffordshire Terrier, American Pit Bull Terrier, American Bulldog, or any combination thereof. A dog shall be deemed to have the "appearance of being predominantly of the breed of dogs" if the dog exhibits the physical characteristics which substantially conform to the standards established by the American Kennel Club or the United Kennel Club for any of these breeds.

"Rottweiler dog" means any dog which has been registered at any time as a Rottweiler; or any dog which has the appearance of being predominantly of the breed of dogs known as Rottweiler. A dog shall be deemed to have the "appearance of being predominantly of the breed of dogs" if the dog exhibits the physical characteristics which substantially conform to the standards established by the American Kennel Club or the United Kennel Club for the Rottweiler breed.

B. Certain Animals Prohibited at All Times.

It is unlawful to keep, harbor, own or in any way possess within the corporate limits of the City of Lake Quivira, Kansas, any Pit-Bull dog or Rottweiler dog.

C. Violation--Penalty.

Any person violating any of the provisions of this Section shall for each and every such violation, be punished for the first conviction by a fine of not less than one hundred dollars nor more than \$500 dollars. The City of Lake Quivira Chief of Police, or his designee, shall immediately notify said owner and/or harbinger of prohibited animal and/or harbor shall confine the prohibited animal pending a court determination. Upon conviction or other agreement, said prohibited animal shall immediately be removed from the City of Lake Quivira. Failure to do so shall result in a fine of \$1,000 and the removal of the prohibited animal by the Lake Quivira Police Department.

The imposition of a penalty for any violation or noncompliance shall not excuse any violation, permit a violation to continue, or excuse any obligation to remedy any violation.



Each day that a violation continues shall constitute a separate offense.

The imposition of a penalty or issuance of a citation shall not prohibit any action by the Police Department to enforce compliance, remedy a violation, or take any action necessary to safeguard the public.

(Ordinance 216, 2003; Ordinance 274, 2012; Ordinance 282, 2013)

## **Section 2                    Regulation of Domestic Animals within City Limits**

A.        Definitions. The terms used in this Section shall be defined as follows:

“Aggressive Behavior” means any animal that charges at, snaps at, claws, growls or jumps on any person, and causes said person reasonable fear of injury, regardless of whether actual injury occurs.

“Dog Pound” – the Governing Body designated Dog Pounds are included but not limited to: Great Plains SPCA, 9600 West 67th St., Merriam, Kansas and/or Broadmore Kennels 20614 West 47th Street, Shawnee, Kansas.

“Domestic Animals or Pets” – means any animal, including a dog, who at the pleasure and/or option of a person is allowed to live in or about the residence of such person.

“Household” – consists of one or more related or unrelated persons living in the same residential structure within the City.

“Law Enforcement” – the Governing Body designates and authorizes the duly appointed law enforcement officers of the City to perform or enforce the provisions of this Section.

“Licensed Veterinarian” – a veterinarian duly licensed to practice such profession by the state in which such veterinarian’s principal office is located.

“Vicious Behavior” means to cause a contusion or laceration and/or puncture of the skin.

B.        License Fee to be paid by Owners and Harborers of Dogs. The owner or harborer of dogs within the City of Lake Quivira, Kansas shall pay to said City an annual license fee as follows:

There shall be and there hereby is established an annual license fee to be paid for each dog over the age of six (6) months or which dog reaches such age during the license year, within the corporate limits of the City, as follows:

\$15.00 for the first dog in each household

\$25.00 for the second dog in each household

\$50.00 for the third & each additional dog in each household

The license fee herein required shall cover the period from March 1 to February 28 or 29 of each year, and shall be due and payable on or before May 1 of each year; provided that the license fee for a dog subject to this Section which reaches the age of six (6) months or which is brought in the City on or after the 1st day of May shall be due and payable within thirty (30) days after the date such dog reaches the age of six (6) months or is brought in the City.

The license fee of this Ordinance shall not apply to any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

C. Fractional Year License. No fractional year license shall be issued.

D. Penalty on Overdue License Fee.

Any person who fails to timely pay the required license fee when due as set forth in Section B, shall as a condition of registration pay the following additional penalty fee at the time of registration:

\$15 for each dog that is registered within 10 days following the date required for registration;

\$25 for each dog that is registered within 30 days following the date required for registration;

\$50 for each dog that is registered within 60 days following the date required for registration;

\$100 for each dog that is not registered within 60 days of the date required for registration.

E. Dog Registration; Display of Tags. It shall be unlawful for any owner, keeper or harbinger to maintain or possess any dog over the age of six (6) months in the City without registering the dog and paying the license fee. The owner or harbinger of any dog shall cause the same to be listed or registered at the office of the City Clerk in a proper book or record provided for that purpose. The City Clerk shall, upon payment of the license fee for such dog, issue and deliver to the owner a suitable metal check or tag, bearing a number and stating the year for which issued. Such tag shall be securely affixed to the collar or harness of each dog so registered in such manner that the same shall at all times be easily visible to the law enforcement officers of the City. If such tag be lost, the City Clerk, upon request and satisfactory proof that the same has been lost, shall issue a duplicate tag upon the payment of the sum of \$5.00. The failure to display the required registration tag shall be a violation of this Ordinance.

F. Vaccination. No dog registration tag shall be issued until the owner or harbinger shall furnish to the City Clerk a certificate signed by a licensed veterinarian showing thereon that said dog has been immunized for rabies for a period of not less than the calendar year of the animal's registration.

G. City Clerk Keeps Records; Enumeration. The City Clerk shall keep a book or record in which he or she shall enter the names and addresses of the owners paying license fees for dogs, the name, color and description of the dog, and such other information as may be deemed necessary; provided, that the Governing Body may

require an annual enumeration during the month of May of each year, of all dogs owned or harbored within the City, which enumeration shall be taken by some person appointed by the Governing Body or Mayor for that purpose. The enumeration shall account for the number, ownership and sex of all dogs owned or harbored.

H. Three Days for Ownership. Any person keeping, feeding, harboring and or allowing a dog, other domestic animal or pet to remain on their residential property within the limits of the City for (3) consecutive days shall be deemed the owner or harborer thereof.

I. Annual Notice. Each year, on or before the 15th of March, it shall be the duty of the City Clerk to cause a notice of the registration requirements to be given in a publication or other written form which is distributed to each home within the City of Lake Quivira, Kansas. Such notice shall notify owners and harborers of dogs in the City that the annual dog license fee will be due and payable on or before May 1<sup>st</sup> following. Such other information as is pertinent may be included in said notice.

J. Devices or Methods of catching Animals. It shall be lawful for any officer or person designated to enforce the provisions of this Ordinance to use any device, rope, net or enticement now devised or hereafter devised or any other method to enforce such Ordinance so long as such method is humane; provided, that such methods are optional with the City and nothing herein shall be construed to be a condition precedent to the methods provided for in Subsections (K) and (L).

K. Killing Dangerous Animals. The law enforcement officers of the City may humanely euthanize, without notice, any dog, other domestic animal or pet that is vicious or which appears to be infected with rabies or hydrophobia, or severely injured whether it bears the tag herein provided or not.

L. Examination & Quarantine. It shall be the duty of an *owner, keeper, or* harbored of any dog, other domestic animal or pet upon receiving notification, whether written or verbal, from a law enforcement officer that such animal has bitten a person, caused injury or harm to another domestic animal, or has so injured a person as to cause a laceration and/or puncture of the skin, to immediately place such dog, other domestic animal or pet in a licensed veterinary hospital where such dog, domestic animal or pet shall be confined for a period of not less than ten (10) days and such owner or person harboring such dog, other domestic animal or pet shall notify the City Clerk and Police Department of the name and location of said veterinary hospital and the date such dog, other domestic animal or pet was so confined. The owner must request and pay for an examination of contagious diseases if the person who was bitten so requests, or if personnel from the police department have reason to believe the dog may have a contagious disease. The owner, keeper or harbored of said dog, other domestic animal or pet shall pay any and all unpaid license fees, penalties and board costs of said dog, other domestic animal or pet. Further, it shall be unlawful for the owner, keeper or harbored of any dog, other domestic animal or pet, upon receiving notice of the character aforesaid, to sell or give away such dog, other domestic animal or pet or to

permit or allow such dog, other domestic animal or pet to be taken beyond the limits of the City for a period of fifteen (15) days after the date that such dog, other domestic animal or pet has so bitten or injured any person, except under the care of a licensed veterinarian as provided herein.

M. Actual or Threatened Personal Injury.

(1) Any person who is determined by the Municipal Court of the City of Lake Quivira, Kansas to be the owner or harbinger of a dog or other domestic animal or pet, which dog or domestic animal or pet that, at any location within the City of Lake Quivira, Kansas outside the property lines of such owner or harbinger, is determined by said Court, to have behaved aggressively, or outside the enclosed residence of such owner or harbinger, is determined by said Court, to have behaved viciously, shall be fined at least \$250 but no more than \$500.00. From the date of the allegation, and from and after such Court determination, such owner or harbinger shall, further, keep such dog or other domestic animal or pet tied to a leash or confined to a securely fenced area while such dog or other domestic animal or pet is outside the enclosed residence of such owner or harbinger, or shall keep such dog or other domestic animal or pet confined to a securely fenced area when on the property of the owner or harbinger. Failure to comply with said confinement, upon conviction, shall result in a fine of \$1,000.00 for the first such violation, \$2,000.00 for the second such violation and such dog or other domestic animal or pet, unless immediately and permanently removed from the City by such owner or harbinger, shall be humanely euthanized by a law enforcement officer or other duly authorized city representative.

(2) Any person who is determined by the Municipal Court of the City of Lake Quivira, Kansas to be the owner or harbinger of a dog or domestic animal or pet, which dog or domestic animal or pet that, at any location within the City of Lake Quivira, Kansas outside the enclosed residence of such owner or harbinger, is determined by said Court, for a second time, to have behaved aggressively or viciously shall, upon such second determination, be fined \$1,500.00 and said dog or other domestic animal or pet, unless immediately and permanently removed from the City by such owner or harbinger, shall be humanely euthanized by a law enforcement officer or other duly authorized city representative.

N. Injury to a Domestic Animal.

(1) Any person who is determined by the Municipal Court of the City of Lake Quivira, Kansas to be the owner or harbinger of a dog or other domestic animal or pet, which dog or other domestic animal or pet, at any location within the City of Lake Quivira, Kansas outside the residential property of such owner or harbinger, is further determined by said Court to have injured any dog or other domestic animal or pet as to cause a contusion or laceration and/or puncture of the skin, shall be fined the sum of \$500 for the first violation and \$1,000 for the second violation. Upon a second conviction for a violation of this section, said animal shall be immediately and permanently removed from the city or shall be humanely euthanized by a law enforcement officer or other duly authorized city representative. From the date of the allegation, and from and after such Court determination, such owner or harbinger shall, further, keep such dog or other domestic animal or pet tied to a leash or confined to a

securely fenced area while such dog or other domestic animal or pet is outside the enclosed residence of such owner or harborer. Failure to so confine shall result, upon conviction, in a fine of \$500 for the first conviction. For the second conviction, the fine shall be \$1,000 and the animal shall be either immediately and permanently removed from the City or shall be humanely euthanized by a law enforcement officer or other duly authorized city representative.

O. Noises, Disturbance of Peace Prohibited. No person shall keep or harbor a dog, other domestic animal or pet which by loud, excessive barking, howling, yelping, screeching or fighting, shall annoy or disturb the peace of a member of the public. A first offense shall result in written documentation of a warning. A second offense shall upon conviction result in a penalty up to the sum of \$250.00. A third and subsequent offense shall upon conviction result in a minimum penalty of the sum of \$250.00 to a sum established by the Court.

P. Removal of Excrement. It is unlawful for any person to fail to immediately remove an excrement deposited by a dog owned or harbored by him or her or any dog then under his or her control, or otherwise on any public or private property other than the residential property of the owner or harborer of the dog. A first offense shall result in written documentation of a warning. A second offense shall upon conviction result in a penalty up to the sum of \$250.00. A third and subsequent offense shall upon conviction result in a minimum penalty of the sum of \$250.00 to a sum established by the Court.

Q. Destruction of Property. It is unlawful for any owner, keeper or harborer of a dog, or any person having such dog in their possession, to permit such dog to go upon a sidewalk, crossway, or private land or premises, without the permission of the owner of such premises, and visibly damage any lawn, flower bed, plant, shrub, tree, garden or other improvement to such premises. A first offense shall result in written documentation of a warning. A second offense shall upon conviction result in a penalty up to the sum of \$250.00. A third and subsequent offense shall upon conviction result in a minimum penalty of the sum of \$250.00 to a sum established by the Court.

R. Scattering of Garbage-Trash. It shall be unlawful for any owner, keeper or harborer of a dog, or any person having such dog in their possession, to permit such dog to scatter garbage or other trash that has been placed for the purpose of collection on private property or on a street or at any other location within the City. A first offense shall result in written documentation of a warning. A second offense shall upon conviction result in a penalty up to the sum of \$250.00. A third and subsequent offense shall upon conviction result in a minimum penalty of the sum of \$250.00 to a sum established by the Court.

S. Prohibited Areas. It shall be unlawful for any owner, keeper, or harborer of a dog, or any person having such dog in their possession, to permit such dog to enter or remain on:

(1) The areas of the Quivira Incorporated Golf Course, Beach, Tennis Courts, Basketball Courts, and those areas within and adjoining the Country Club at 100 Crescent Blvd, including the outdoor reception areas; and,

(2) The residential or private property of another person, when the owner or

occupant thereof has advised the owner, keeper, or harbinger that such dog is not authorized to enter or remain upon such property.

The presence of a dog within the Prohibited Areas shall constitute prima facie evidence that the owner, keeper, or harbinger of such dog is in violation of this Subsection S.

This Subsection S shall not apply to Assistance Dogs as defined by KSA 39-1113, or dogs recognized as service animals under Titles II and III of the Americans with Disabilities Act. Provided, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices.

A first offense shall result in written documentation of a warning. A second offense shall upon conviction result in a penalty up to the sum of \$250.00. A third and subsequent offense shall upon conviction result in a minimum penalty of the sum of \$250.00 to a sum established by the Court.

T. Nuisance Activity. It is unlawful for any owner, keeper or harbinger of a dog, or any person having such dog in their care and possession, to permit such dog to chase or molest a pedestrian, bicyclist, or vehicle occupants, in a manner as to cause apprehension in a person of reasonable sensibilities. A first offense shall result in written documentation of a warning. A second offense shall upon conviction result in a penalty up to the sum of \$250.00. A third and subsequent offense shall upon conviction result in a minimum penalty of the sum of \$250.00 to a sum established by the Court.

U. Establishment of Dog Pound. There shall be and is hereby established a Dog Pound to be located at such place or places as may be designated by the Governing Body of said City, for the purpose of impounding and keeping dogs, other domestic animals and pets collected by the City, its agents and employees.

V. Unlicensed or Unregistered Dog Taken by Law Enforcement Officer. Whenever any dog shall be found within the city limits of Lake Quivira, Kansas without having a license or registration tag attached to a collar or some other device, such dog shall be taken up by a law enforcement officer, or by any other agency designated by the City to do so, and such dog shall be held ten (10) days at the City's dog pound, and, if within said ten (10) days the owner of any dog so held shall present to the person in charge of such dog pound a receipt for the payment of a current license fee for such dog, such dog shall be delivered to the owner thereof. If not so claimed within ten (10) days, said dog shall become the property of the dog pound to be disposed of in some humane manner or placed in a good home under the dog pound's regulations. The owner or keeper claiming any dog as provided in this section shall pay any reasonable fee in accordance with the rate schedule adopted by such dog pound.

W. Breaking Confinement Area. It shall be unlawful for any person other than a duly authorized officer to break open or attempt to break open the City's holding area or to take or attempt to take from a law enforcement officer of this City, any dog taken up by

said officer under the provisions of this Section, or in any manner interfere with or hinder a law enforcement officer of this City in catching or taking up any dog.

X. License fees to General Fund. All license fees, charges and penalties payable under this Title may be paid to or collected by the City Clerk, and such funds shall be credited to the general operating fund.

Y. Enforcement. It is made the duty of the law enforcement officers of the City to enforce the provisions of this Title.

Z. Penalty. It shall be unlawful for any person to fail to comply with the mandatory provisions of this Section.

Any person violating any provision of this Section for which a penalty is not specifically stated herein, shall upon a first conviction be assessed a penalty in a sum up to \$250.00. A second offense shall upon conviction result in a minimum penalty of \$250.00 up to the sum of \$500.00. A third and subsequent offense shall upon conviction result in a minimum penalty of the sum of \$500.00 to a sum established by the Court.

Furthermore, any person convicted of violating any provision of this Section may and shall be held liable upon court order for any reasonable veterinarian fees and other reasonable costs associated with the care and custody or destruction in a humane manner, of any Animal, as well as the costs of reasonable restitution to any person who suffered damage to property based upon prohibited behavior of their canine. Each violation shall constitute a separate offense. Each day that a violation continues shall be deemed a separate offense.

(Ordinance 243, 2008; Ordinance 282, 2013; Ordinance 311, 2019)

### **Section 3                      Urban Deer Management**

Whereas, the Governing Body finds current over populations of deer within the City of Lake Quivira present valid public health, safety and welfare concerns, including but not limited to the safety of the public, the spreading of disease, damage to private property, and the health and welfare of the deer population; and,

Whereas, the Governing Body finds and determines it is in the public interest to adopt regulations reasonably necessary to provide for the public health, safety and welfare to limit the overpopulation of deer within the City of Lake Quivira.

A.      Urban Deer Management

The City of Lake Quivira Police Department is authorized to accept, investigate, and review applications for permits authorizing the hunting of deer by bow and arrow within the City of Lake Quivira.

A Permit authorizing a person to hunt deer within the City of Lake Quivira shall be considered by the Governing Body of the City of Lake Quivira, and approved if the Governing Body finds and determines it is in the best interest of the health, safety and welfare of the public that such permit be issued.

All permit applications shall include the following and shall be subject to the following conditions:

1. A Kansas Deer Hunting License and a Kansas Deer Tag issued by the State of Kansas (the "State Permit").
2. Only the owner of the designated property or persons with the owner's written permission shall be eligible to receive a City Permit to bow hunt.
3. The application for a City Permit shall be accompanied by a copy of the State License and Deer Tag.
4. Hunting shall only be by the person listed on the City Permit.
5. No person shall make any payment to any person for the right to hunt or be listed on the State License and City Permit.
6. Persons shall at all times when hunting, pursuant to the City Permit, carry valid photo identification and a copy of the City Permit and the State License.
7. No arrow or other object used to hunt deer pursuant to the City Permit may be discharged or projected at such an angle or distance as to land on public or private property not described in the Permit. No hunting shall be allowed closer than 500 feet to the property boundary of school property which contains a school building. School for purpose of this Section means a public school or an accredited non-public school during periods when students are in attendance or participating in school activities.
8. Issuance of the City Permit may be limited to a time and area more restrictive than the State License allows.
9. Any activity performed in conjunction with the issuance of the Permit, including but not limited to field dressing or other handling of carcass, must occur on the property specified in the City Permit. Entrails shall not be left on the property where the deer is killed.



10. The transportation of a carcass is prohibited, unless it is covered or hidden from public view.
11. All hunting shall be conducted from an elevated tree stand that is at least 10 feet in height and faces the interior of the property. The tree stands and shooting lanes will be located in such a way as to direct arrows to the interior of the property and to prevent any arrow from landing closer than fifty (50) yards to any property line. No hunting is authorized on parcels under two acres.
12. No bow hunting will be allowed if any person that has been granted a State License and City Permit has consumed cereal malt beverages, alcoholic liquor or any controlled substances two hours prior to hunting or during hunting activities.
13. Bow hunting will be allowed one half hour before sunrise to one half hour after sunset.
14. No City Permit will be issued to any person under the age of eighteen (18).
15. It shall be the responsibility of a bow hunter to inform the Police Department by telephone that a wounded deer has left the property and to inform the Police Department of the deer's probable location. The hunter shall make an attempt to contact the property owner of any adjacent properties prior entering that property to search for a wounded deer. It shall ultimately be the responsibility of the hunter to find and remove any deer that departs from the property.
16. City permits are not transferable.
17. Failing to comply with the requirements of this Section may result in the denial of future permits.
18. Each hunter who successfully harvests a deer will report the hunter's name, the sex of the animal and the location where harvested to the City Police Department. This information can either be reported via telephone by calling 913-631-5300 during normal duty hours Monday through Friday, or by personally reporting to the Police Department during normal duty hours.

**B. Coordination with Existing Laws**

The hunting of deer in compliance with the terms and conditions of a deer hunting permit approved by the Governing Body shall not constitute a violation of any other Ordinance or regulation adopted by the Governing Body related to the act of hunting within the City of Lake Quivira.

### C. Penalty

Any person or entity violating the provisions of this Section shall be guilty of a public offense and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment of not more than six months or by both such fine and imprisonment. The Lake Quivira Police Department is hereby authorized to immediately suspend any permit if there is good cause to believe the permit holder is in violation of the terms and conditions of the permit. In the event of a permit revocation the permit may only be reinstated by the Governing Body.

(Ordinance 254 and Ordinance 256, 2009)

## **Section 4                    Vaccination of Dogs and Cats**

A. As provided by Section 2, F, of this Title, no dog registration tag shall be issued until the owner or harbinger shall furnish to the City Clerk a certificate signed by a licensed veterinarian showing thereon that said dog has been immunized for rabies for a period of not less than the calendar year of the animal's registration. It shall further be unlawful for any owner or harbinger to maintain or possess any cat or dog over the age of six (6) months unless such cat or dog has been vaccinated by a licensed veterinarian with an anti-rabies vaccination, and that vaccination is current for a period of not less than the calendar year of the animal's registration. A vaccination is current if the vaccination duration period has not expired, or an owner can provide proof of sufficient rabies titer within the past twenty-four months.

B. Waiver of Vaccination. If a licensed veterinarian indicates that the rabies vaccination may endanger a cat or dog's health due to age, infirmity, debility, or other physiological consideration, the vaccination requirement shall be waived provided such cat or dog shall be confined to the premises of the owner or harbor at all times to prevent escape. The deferment shall be valid only during the period that is indicated by the certificate of a licensed veterinarian.

(Ordinance 285, 2014)

**Title IX          Revenue and Finance**

<b>Section 1</b>	<b>Elimination of Intangible Property Tax</b>
<b>Section 2</b>	<b>Adoption of Excise Tax on Platting of Property</b>
<b>Section 3</b>	<b>Investment of Idle Funds</b>
<b>Section 4</b>	<b>Fire Damage Insurance Proceed Lien</b>
<b>Section 5</b>	<b>Hazardous Materials Cleanup; Cost Recovery</b>
<b>Section 6</b>	<b>Equipment Reserve Fund Established</b>
<b>Section 7</b>	<b>Capital Improvement Reserve Fund Established</b>

**Section 1                  Elimination of Intangible Property Tax**

The City, pursuant to authority of House Bill No. 3112, passed by the 1976 Legislature of Kansas, effective on April 1, 1976, hereby elects that no tax shall be levied for the benefit of the City upon money, notes and other evidence of debt having a tax situs in the City effective January 1, 1978. This ordinance shall be published once each week for two consecutive weeks in the official city paper. If, within sixty days following the last publication of such ordinance a petition of referendum is signed by electors of the city, equal in number of such city, is filed in the office of the County Election Officer, no such ordinance shall become effective without first having been submitted to and been approved by a majority of the electors of the city voting thereon at an election called and held thereon. This ordinance shall be in full force and take effect from and after its passage, approval, publication in the Johnson County Herald and January 1, 1978.

(Ordinance 71, 1976)

**Section 2                  Adoption of Excise Tax on Platting of Property**

A.      Purpose and Authority.

The Excise Tax levied by this Ordinance on the act of platting real property in the City has for its purpose the raising of general revenues to be used for general City projects or General Fund operations as approved by the Governing Body during the adoption of the City's annual budget. The City's authority to levy this Excise Tax is derived from the Article 12, Section 5 of the Kansas Constitution, and K.S.A. 12-137 and 12-138.

B.      Definitions.

"Applicant" means the person, firm, partnership, joint venture or corporation, including predecessors in interest or ownership, that seeks to exercise the privilege of engaging

in the business of platting real property in the City by applying for approval of a Plat.

"Area" means the gross area of the real property included in a Plat for which approval is sought, measured in square feet less the area described below in Section 4.

"City" means the City of Lake Quivira, Kansas.

"Director" means the agent or planning consultant designated by the City.

"Plat" means a recordable final plat giving the location and dimensions of land as one or more lots, blocks, tracts or parcels, and meeting the requirements of the Ordinances and Resolutions of the City of Lake Quivira and the Kansas statutes.

"Tax" means the excise tax levied by this Section as passed by Ordinance of the City of Lake Quivira.

"Tax Rate" means the rate of taxation applied to the area expressed in dollars per square foot.

C. Levy and Payment of Tax.

A Tax is hereby levied on the act of platting real property in the City. Commencing on the effective date of the Ordinance adopting this Section, the Tax Rate shall be Twenty-One and One-Half Cents (21.5¢) per square foot of Area. The Area shall be determined by the Director in the manner set forth herein.

Every Applicant shall pay a Tax equal to the Area times the Tax Rate to the City Clerk before the Mayor signs the copies of the approved Plat to be recorded with the Register of Deeds of Johnson County, Kansas.

No Plat shall be recorded until the Applicant has paid the applicable Tax.

The Tax shall be paid in cash or by certified check.

The City Clerk shall deliver Tax payments received to the City Treasurer for deposit in the City's general fund.

D. Deductions and Exceptions from Area.

For the purposes of calculating the Tax, the Area shall not include:

1. Land dedicated on the Plat as a public park and accepted by the City.
2. Land included in a replat of a recorded subdivision, where the replat does not increase the number of lots nor the area in the recorded subdivision to be replatted. However, this shall not include lot splits.

E. Procedures for Calculating Tax.

The decision of the Director on the Area calculation may be appealed to the Governing Body by the Applicant prior to the Governing Body's consideration of the Plat. The notice of appeal shall be in writing filed with the City Clerk and shall state with particularity the decision being appealed and the manner in which and the reason why the Applicant believes the Area was incorrectly calculated and what the Applicant believes are the correct calculations. The Governing Body's consideration of an appeal shall be limited to determining the accuracy of the calculated Area. The decision of the Governing Body shall be made based strictly on the provisions of this Code.

(Ordinance 218, 2004)

**Section 3 Investment of Idle Funds**

Temporary Idle Moneys

Temporarily idle moneys of the City, not currently needed may, in accordance with the procedure hereafter prescribed, be invested in:

- (a) Direct obligations of the United States government which mature within one year from date of purchase and which are guaranteed as to principal and interest by the United States government; or
- (b) Temporary notes of the City, issued pursuant to Section 10-123 of K.S.A. 1975; or
- (c) Certificates of deposit, time deposits and passbook accounts which are protected by the Federal Deposit Insurance Corporation and for which securities are pledged in the amount prescribed in Section 9-1402 of K.S.A. 1975.

The provisions of this Section shall not apply to any fund of the City of Lake Quivira the investment of which is expressly authorized or limited or prohibited by the statutes of the State of Kansas.

The City Treasurer shall periodically review the financial reports of the City and determine the amount of moneys available for investment and shall, under the provisions of this Section, from time to time invest such funds as are available for such periods of time as are feasible under the existing requirements of city finances and shall maintain an investment program from time to time which will effectively utilize the idle funds of the City for investment, maintaining at all time sufficient

moneys available on demand deposit to assure prompt payment of all City obligations.

Securities purchased pursuant to this ordinance shall be under the joint care of the City Clerk, City Treasurer and Mayor 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 state or national 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 state or national 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.

If, in order to maintain sufficient moneys in demand deposit in any fund, as provided in this Section, it becomes necessary to transfer or sell any securities of such funds, any two or more of the officers specified in this Section may transfer said securities to any other fund or funds in which there are temporarily idle moneys, or shall sell such securities, and for such purpose they shall have authority to make any necessary written directions, endorsements or assignments for and on behalf of the City. Any such transfers or sales shall be reported in writing to the governing body at its next regular meeting.

The interest or other earnings from investments made pursuant to this ordinance 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 Treasurer shall maintain a complete and detailed record at all times of all investment and earnings made pursuant to this Section.

(Ordinance 69, 1976)

#### **Section 4            Fire Damage Insurance Proceed Lien**

##### **Structures Damages by Fire or Explosion**

The City is hereby authorized to utilize the procedure 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 with the City, arising out of any fire or explosion, where the amount recoverable for the loss or damage to the building or other structure under all policies in excess of 75 percent of the face value of the policy covering such building or other insured structures, unless there is compliance with the procedures set out in this Section.

The governing body of the City hereby creates a lien in favor of the City on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the City, caused by or arising out of any fire or explosion, where the amount recoverable for all the loss or damage to the building or other structures under all policies is in excess of 75 percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the City which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.

Prior to final settlement on any claim covered by section 2, the insurer or insurers shall contact, as applicable, the County Treasurer, Wyandotte County, Kansas, or the County Treasurer, Johnson 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, as applicable, to the County Treasurer, Wyandotte County, Kansas, or the County Treasurer, Johnson County, Kansas.

Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structures.

(a) When the final settlement in 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 \$5,000 or 10 percent of the covered claim payment, whichever is less, 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. For the purpose of this Section, the term "Building Official" is defined as any person or employee of the City of Lake Quivira, Kansas appointed or designated from time to time by the Mayor of said City to perform the duties as may be necessary to the enforcement of this Section.

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

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

The city treasurer is hereby authorized and shall create a fund to be known as the "Fire Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this ordinance shall be placed in said fund and deposited in an interest-bearing account.

- (a) Upon receipt of moneys as provided for by this Section, 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 officials.
- (b) 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.
- (c) Prior to the expiration of the 20 days established by subsection (b) of this Section, the building official shall notify the city treasurer whether he or she intends to initiate proceedings under K.S.A. 12-750 et seq., as amended.
- (d) If the Building Official has determined that proceedings under K.S.A. 12-1270 et seq., as amended, shall be initiated, he or she will do so immediately but no later than 30 days after receipt of the moneys by the city treasurer.
- (e) Upon notification to the city treasurer by the 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.

If the Building Official proceeds 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.

If the Building Official, with regard to a building or other structure damaged by fire or explosion, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of section 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 subsection (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.

This Section 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.

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 Section, or releasing or disclosing any information pursuant to this Section.

(Ordinance 164, 1992; Ordinance 177, 1994)

## **Section 5                    Hazardous Materials Cleanup; Cost Recovery**

The Fire Chief is authorized to clean up or abate the effects of any hazardous substance or waste released, discharged or deposited upon or into any property or facilities within the City. The following described persons shall be jointly and severally liable to the City for the payment of all costs incurred by the City as a result of such clean up or abatement activity:

1. The person or persons whose negligent or willful act or omission proximately caused such release, discharge or deposit;
2. The person or persons who owned or had custody or control of the hazardous substance or waste at the time of such release, discharge or deposit, without regard to fault or proximate cause; and
3. The person or persons who owned or had custody or control of the container which held such hazardous waste or substance at the time or immediately prior to such release, discharge or deposit, without regard to fault or proximate cause.

In the event that any person undertakes, either voluntarily or upon order of the Fire Chief or other city official, to clean up or abate the effects of any hazardous substance or waste unlawfully released, discharged or deposited substance or waste unlawfully released, discharged or deposited upon or into any property or facilities within the City, the Fire Chief may take such action as is necessary to supervise or verify the adequacy of the clean up or abatement. The persons described in this Section shall be liable to the City for all costs incurred as a result of such supervision or verification.

For purposes of this Section, "hazardous material" means any material that, because of its quantity, concentration or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment.

For purposes of this Section, costs incurred by the City shall include, but shall not necessarily be limited to, the following: actual labor costs of City personnel, including benefits and administrative overhead; cost of equipment operation; cost of any contract labor and materials.

The remedies provided by this Section shall be in addition to any other remedies provided by law.

The authority to recover costs under this Section shall not include actual fire suppression services which are normally or usually provided by the fire department.

(Ordinance 148, 1989)

## **Section 6                    Equipment Reserve Fund Established**

- A. Pursuant to its authority set out in K.S.A. 12-1,117, there is hereby created a fund in the City entitled EQUIPMENT RESERVE FUND to finance the acquisition of equipment. For purposes of this Article, equipment shall include machinery, vehicles and other equipment or personal property including, but not limited to computer hardware and software, which the City is authorized to purchase for municipal purposes. Said Equipment Reserve Fund shall account for moneys which may be budgeted and transferred to such fund from any source which may be lawfully utilized for such purpose.
  
- B. No moneys shall be credited to the Equipment Reserve Fund except as may be budgeted annually, or transferred by the annual budget from other funds. The Equipment Reserve Fund shall not thereafter be subject to the provisions of K.S.A. 79-2925 to 79-2937, inclusive and amendments thereto.

### **DISPOSITION OF INTEREST EARNED.**

Moneys in the Equipment Reserve Fund may be invested in accordance with the provisions of K.S.A. 10-131, and amendments thereto, with interest thereon credited to such fund.

### **TRANSFERS OF MONEY BACK TO GENERAL FUND.**

If the City determines that money which has been transferred to the Equipment Reserve Fund, or any part thereof, is not needed for the purposes of which it was so

transferred, the City, by adoption of a resolution, may transfer the amount not needed to the general fund or other fund from which it was derived and such transfer and expenditure thereof shall be subject to the budget requirements of state law.

(Ordinance 278, 2013)

## **Section 7                    Capital Improvement Reserve Fund Established**

- A. Pursuant to its authority set out in K.S.A. 12-1,118, there is hereby created a fund in the City entitled Capital Improvement Reserve Fund to finance the repair, restoration and rehabilitation of existing public facilities. Moneys in this fund may be used to finance, in whole or in part, any public improvement need as set forth in the Capital Improvement Plan as adopted by the Governing Body of the City, including the repair, restoration and rehabilitation of existing public facilities.
- B. The Governing Body of the City shall approve and maintain a multi-year capital improvement plan setting forth the public improvement and infrastructure needs of the City on a prioritized basis.
- C. Disbursements from such fund may be made for engineering and other advance public improvement plans and studies and reimbursements may be made to the fund from bond proceeds, special assessments or state or federal aid available for the completed project.
- D. Said Capital Improvement Reserve Fund shall account for moneys which may be budgeted and transferred to such fund from any source which may be lawfully utilized for such purpose.
- E. The amounts credited to, and the amount on hand in, such Capital Improvement Reserve Fund and the amount expended therefrom shall be reported and reflected during the budget process for the information of the residents.
- F. Moneys in such Capital Improvement Reserve Fund may be invested in accordance with the provisions of K.S.A. 10-131, and amendments thereto, with interest thereon credited to such fund.
- G. If the Governing Body determines that money which has been transferred to such Capital Improvement Reserve Fund or any part thereof is not needed for the purposes for which so transferred, the Governing Body, by adoption of a Resolution, may transfer such amount not needed to the general or other fund from which it was derived and such transfer and expenditure thereof shall be

subject to the budget requirement provisions of K.S.A. 79-2925 to 79-2937, inclusive, and amendments thereto.

- H. Except for such reimbursed expenses, no moneys shall be credited to such Capital Improvement Reserve Fund except as may be budgeted annually, or transferred by the annual budget from other funds. Such fund shall not thereafter be subject to the provisions of K.S.A. 79-2925 to 79-2937, inclusive, and amendments thereto.

#### DISPOSITION OF INTEREST EARNED.

Moneys in the Capital Improvement Reserve Fund may be invested in accordance with the provisions of K.S.A. 10-131, and amendments thereto, with interest thereon credited to such fund.

#### TRANSFERS OF MONEY BACK TO GENERAL FUND.

If the Governing Body determines that money which has been transferred to such Capital Improvement Reserve Fund or any part thereof is not needed for the purposes for which so transferred, the Governing Body, by adoption of a Resolution, may transfer such amount not needed to the general or other fund from which it was derived and such transfer and expenditure thereof shall be subject to the budget requirement provisions of K.S.A. 79-2925 to 79-2937, inclusive, and amendments thereto.

(Ordinance 279, 2013)

**Title X          General Provisions Stormwater Maintenance**

- Chapter 1      Purpose and Intent of Stormwater Management Program**
- Chapter 2      Definitions and Abbreviations**
- Chapter 3      Illicit Discharge Prohibited**
- Chapter 4      Required Compliance With NPDES Permit**
- Chapter 5      Authority of Building Official**
- Chapter 6      Inspection and Detection Program**
- Chapter 7      Release and Reporting; Cleanup**
- Chapter 8      Abatement of Nuisances and Hazards**
- Chapter 9      Persons Responsible for Compliance**
- Chapter 10     Penalties**

**Chapter 1          Purpose and Intent of Stormwater Management Program**

The Governing Body finds it is necessary to provide for regulations in order to comply with the City's responsibilities under the Clean Water Act and the NPDES program. The purpose of this Title is to set forth procedures for the regulation of spills, improper dumping, and other acts resulting in harmful discharges into the City Municipal Separate Storm Sewer System (MS4).

A Stormwater Management Program will provide both general and specific benefits to all property within the City and will include the provision of adequate systems of collection, conveyance, detention, retention, treatment and release of Stormwater; the reduction of hazards to property and life resulting from Stormwater runoff; improvement in general health and welfare through reduction of undesirable Stormwater conditions; improvement of water quality in the Stormwater Management System and its receiving waters; the provision of a planned and orderly system for managing and mitigating the effects of new development on Stormwater and appropriate balancing between development and preservation of the natural environment.

The Stormwater Management Program will also initiate innovative and proactive approaches to Stormwater management within the City to address problems in areas of the City that may be prone to flooding, and assist in meeting the mandates of the National Pollutant Discharge Elimination System as created under the Federal Clean Water Act and associated state and federal laws and their supporting regulations.

**Chapter 2          Definitions and Abbreviations**

The terms or phrases used in this Title shall have those meanings and definitions as set forth herein, unless from the context a different meaning is intended, or the Code directs that a different definition is to be applied to a provision.

As used in this Title, the following abbreviations shall have the following meanings:

- BMP            Best Management Practice
- CFR            Code of Federal Regulations

EPA	Environmental Protection Agency
HHW	Household Hazardous Waste
KDHE	Kansas Department of Health and Environment
MS4	Municipal Separate Storm Sewer System
NPDES	National Pollutant Discharge Elimination System
PST	Petroleum Storage Tank

As used in this Title, the following words shall have the following meanings:

*"Applicant"* means any Person who makes application for an approved plan and a permit as required by this Title.

*"Best Management Practice"* (BMP) means the means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the Discharge of Pollutants directly or indirectly to Stormwater, receiving waters, or Stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

*"Building Official"* means the City Building Official or his or her designee.

*"Car"* means any vehicle meeting the definition for passenger car, passenger van, pickup truck, motorcycle, recreational vehicle, or motor home.

*"City"* means the City of Lake Quivira, Kansas.

*"Clean Water Act"* means the federal Water Pollution Control Act (33 U.S.C. Section 1251 *et seq.*), and any subsequent amendments thereto.

*"Code"* means the Code of the City of Lake Quivira, Kansas.

*"City Administrator"* means the City Administrator or the City Administrator's authorized representative.

*"Discharge"* means the addition or introduction, directly or indirectly, of any Pollutant, Stormwater, or any other substance into the MS4 or Surface Waters.

*"Domestic Sewage"* means human excrement, gray water (from home clothes washing, bathing, showers, dishwashing, and food preparation), other Wastewater from household drains, and waterborne Waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, retail and commercial establishments, factories, and institutions, that is free from Industrial Waste.

*"Erosion"* means the process by which the ground surface is worn away by the action of the wind, water, ice, gravity, or artificial means, and/or Land Disturbance activities.

*"Extremely Hazardous Substance"* means any substance listed in the appendices to 40 CFR Part 355, Emergency Planning and Notification.

*"Fertilizer"* means a substance or compound that contains a plant nutrient element in a form available to plants and is used primarily for its plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more Fertilizers.

*"Hazardous Household Waste (HHW)"* means any material generated in a household (including single and multiple residences) by a consumer which, except for the exclusion provided in 40 CFR Section 261.4(b)(1), would be classified as a Hazardous Waste under 40 CFR Part 261 or K.A.R 28-29-23b.

*"Hazardous Substance"* means any substance listed in Table 302.4 of 40 CFR Part 302.

*"Hazardous Waste"* means any substance identified or listed as a Hazardous Waste by the EPA pursuant to 40 CFR Part 261.

*"Illicit Discharge"* means any direct or indirect non-stormwater discharge to the Municipal Separate Storm Sewer System, except as exempted by this Title.

*"Industrial Waste"* means any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade, or business.

*"Municipal Separate Storm Sewer System" or "Public Storm Sewers"* means the publicly maintained Stormwater Drainage System within this City, including all appurtenances and ancillary structures thereto, any conveyance or system of conveyances for Stormwater, including road drainage systems, streets, catch basins, Detention Basins, curbs, gutters, ditches, man-made, Channels, or storm drains, as well as any system that meets the definition of a Municipal Separate Storm Sewer System or "MS4" as defined by the Environmental Protection Agency in 40 C.F.R. 122.26, or amendments thereto.

*"NPDES Stormwater Discharge Permit"* means a National Pollutant Discharge Elimination System permit issued under authority delegated pursuant to 33 U.S.C. 1342(b) that authorizes the discharge of Pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

*"Oil"* means any kind of oil in any form, including but not limited to: petroleum, fuel oil, crude oil, synthetic oil, motor oil, bio-fuel, cooking oil, grease, sludge, oil refuse, and oil mixed with Waste.

*"Permit Holder"* means the Person who applies for a NPDES Stormwater Discharge Permit or other Permit authorized by this Title, and includes any Person responsible for compliance with the terms of the Permit or this Title.

*"Person"* means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities.

*"Pesticide"* means a substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest, or substances intended for use as a plant regulator, defoliant, or desiccant.

*"Petroleum Product"* means a product that is obtained from distilling and processing crude Oil and that is capable of being used as a fuel or lubricant in a motor vehicle, boat or aircraft including motor Oil, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel Oil and #1 and #2 diesel fuel.

*"Pollutant"* means any substance or material that contaminates or adversely alters the physical, chemical or biological properties of the waters, including changes in temperature, taste, odor, turbidity, or color of the water. This substance or material may include, but is not limited to, dredged spoil, spoil Waste, incinerator residue, Sewage, pet and livestock Waste, garbage, Sewage sludge, munitions, chemical Waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, yard Waste, Hazardous Household Wastes, Oil and Petroleum Products, used motor Oil, anti-freeze, litter, Pesticides, and industrial, municipal, and agricultural Waste discharged into water.

*"Property Owner"* means the named owner as indicated by the records of the Johnson County, Kansas Records and Tax Administration, as that legal or beneficial owner of land, and includes those holding the right to purchase or lease the land, or any other person holding proprietary rights on the land.

*"Release"* means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the MS4 and/or Surface Waters.

*"Sanitary Sewer"* means the system of pipes, conduits, and other conveyances that carry Industrial Waste and Domestic Sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to a Sewage treatment plant and to which Stormwater, surface water, and groundwater are not intentionally admitted.

*"Sediment"* means any solid material, organic, or inorganic, that has been deposited in water, is in suspension in water, is being transported or has been removed from its site of origin by wind, water, ice or gravity as result of soil Erosion. Sedimentation is the process by which eroded material is transported and deposited by the action of wind, water, ice or gravity.



"*Septic Tank Waste*" means any Domestic Sewage from holding tanks, such as vessels, chemical toilets, campers, trailers, and septic tanks.

"*Sewage*" means the Domestic Sewage and/or Industrial Waste that is discharged into the Sanitary Sewer system and passes through the Sanitary Sewer system to a Sewage treatment plant for treatment.

"*State*" means the state of Kansas.

"*Stormwater*" or "*Stormwater Runoff*" means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

"*Surface Waters*" means any body of water classified as "surface waters" by the state of Kansas, including streams, rivers, creeks, brooks, sloughs, draws, arroyos, canals, springs, seeps, cavern streams, alluvial aquifers associated with these Surface Waters, lakes, man-made reservoirs, oxbow lakes, ponds, and wetlands, as well as any other body of water classified by the federal government as a "water of the United States".

"*Waste*" means any garbage, refuse, sludge or other discarded material that is abandoned or committed to treatment, storage or disposal, including solid, liquid, semi-solid or contained gaseous materials resulting from industrial, commercial mining, community and agricultural activities. Waste does not include solid or dissolved materials in Domestic Sewage or irrigation return flows or solid or dissolved materials or industrial Discharges that are point sources subject to permits under the state of Kansas. The Federal definition of solid Waste is found at 40 CFR 257.2.

"*Watercourse*" is any natural or improved stream, river, creek, ditch, channel, canal, conduit, gutter, culvert, drain, gully, swale, lake, or wash in which waters flow either continuously or intermittently.

"*Water Quality Standard*" means the law or regulation that consists of the beneficial designated use or uses of a water body, the numeric and narrative water quality criteria that are necessary to protect the use or uses of that particular water body and an anti-degradation statement.

### **Chapter 3            Illicit Discharge Prohibited**

A. Illicit Discharge. No Person shall permit, maintain, authorize, direct, place, drain, throw, or otherwise discharge any Pollutant into Surface Waters or the Municipal Separate Storm Sewer System, unless in compliance with a valid NPDES Permit, including, but not limited to:

1. The discharge of Pollutants related to the cleaning of gas stations, auto repair garages, or other type of automotive service facilities;

2. Discharge of Pollutants related to commercial auto washing, commercial floor, rug, or carpet cleaning, and other such mobile commercial and industrial operations;
3. Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains soap, detergent, degreaser, solvent or any surfactant based cleaner;
4. Any wastewater that contains soap, detergent, degreaser, solvent, or surfactant based cleaner from a commercial motor vehicle wash facility; from any vehicle washing, cleaning, or maintenance at any new or used motor vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus or heavy equipment;
5. Any wastewater from commercial floor, rug or carpet cleaning;
6. To the maximum extent practicable, discharges from areas where repair of machinery and equipment, including motor vehicles, which are visibly leaking oil, fluid or antifreeze, is undertaken;
7. Any contaminated runoff from a vehicle wrecking or storage yard;
8. Discharge of motor oil, antifreeze or any other petroleum product or Waste;
9. Any new or used Petroleum Product or Oil;
10. Discharge of untreated runoff from storage areas of materials containing grease, oil, or other hazardous substances, and uncovered receptacles containing hazardous materials;
11. Discharge of chlorinated/brominated swimming pool water and filter backwash, or any swimming pool, fountain or water containing a harmful level of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in fountain or pool cleaning;
12. Any swimming pool, fountain or spa water containing a harmful level of chlorine (> 0 parts per million), muriatic acid or other chemical used in the treatment or disinfection of the water or during cleaning of the facility;
13. Any filter backwash from a swimming pool or fountain;
14. Discharge of untreated runoff from the washing of Pollutant materials from paved or unpaved areas; provided, however, that non-industrial and non-commercial activities which incidentally generate urban runoff, such as the hosing of

sidewalks, and the non-commercial hand-washing of Cars, shall be excluded from this prohibition;

15. Any wastewater from the washdown or other cleaning of pavement that contains any soap, detergent solvent, degreaser, emulsifier, dispersant or other cleaning substance; or any wastewater from the washdown or other cleaning of any pavement, where any spill, leak, or other Release of Oil, motor fuel, or other petroleum or Hazardous Substance has occurred, unless all those materials have been previously removed;
16. To the maximum extent practicable, discharges from washing impervious surfaces in industrial/commercial areas which results in a discharge of untreated runoff, unless specifically required by State or City health and safety codes, or permitted under a separate NPDES permit;
17. Discharges from the washing out of concrete trucks, or discharges of any ready-mixed concrete, mortar, ceramic, asphalt based material or hydromulch material, or discharge resulting from the cleaning of vehicles or equipment containing or used in transporting or applying such materials;
18. The disposal of hazardous waste, including household hazardous waste, and including trash containers used for trash disposal where such disposal causes or threatens to cause a direct or indirect discharge;
19. Discharge of a significant quantity of food or food processing wastes;
20. Discharge of any fuel and chemical wastes, animal wastes, garbage, batteries, and other materials that have potential adverse impacts on water quality.;
21. Any garbage, rubbish or other Waste;
22. Any new or used paints, including latex-based paints, Oil-based paints, stains, varnish, and primers, as well as cleaning solvents and other associated products;
23. Any runoff, washdown water or Waste from any animal pen, kennel, fowl or livestock containment area or any pet Wastes generally;
24. Any Domestic Sewage or Septic Tank Waste, grease trap or grease interceptor Waste, holding tank Waste, or grit trap Waste;
25. Any Discharge from water line disinfection by super chlorination, if it contains a harmful level of chlorine (>0 parts per million) at the point of entry into the MS4 or Surface Waters;
26. Any yard waste which has been moved or gathered by a person;

27. Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by leaking PST; or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge has received an NPDES permit from the state and is acknowledged by the Building Official;
28. Any substance or material that will damage, block, or clog the MS4;
29. Any other discharge that causes or contributes to causing the City to violate a state water quality standard, the City's NPDES stormwater permit, the City's Kansas Water Pollution Control General Permit, or any state-issued discharge permit for discharges from its MS4;
30. Any Industrial Waste;
31. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emission filter or the blowdown from a boiler.

B. Unless identified by the City or KDHE as a significant source of Pollutants to Surface Water, the following non-stormwater Discharges are deemed acceptable and not a violation of this Chapter:

1. Water line flushing;
2. Diverted stream flow;
3. Rising groundwater;
4. Uncontaminated groundwater infiltration as defined under 40 CFR 35.2005(20) to Municipal Separate Storm Sewer Systems;
5. Uncontaminated pumped groundwater;
6. Contaminated groundwater if authorized by KDHE and approved by the City;
7. Discharges from potable water sources;
8. Foundation drains;
9. Air conditioning condensate;
10. Irrigation waters;
11. Springs;
12. Water from crawl space pumps;

13. Footing drains;
14. Individual residential Car washing;
15. Flows from riparian habitats and wetlands;
16. Dechlorinated swimming pool discharges, excluding filter backwash;
17. Street wash waters (excluding street sweepings which have been removed from the street);
18. Discharges or flows from emergency firefighting activities;
19. Heat pump discharge waters (residential only);
20. Debris associated with a City sponsored fireworks display;
21. Street or pavement treatments placed or utilized by the City or by Lake Quivira, Incorporated;
22. Pressure washing of boats, awnings, or other items utilizing only water from surface waters or potable water sources;
23. Treated Wastewater or other discharges meeting requirements of a NPDES permit; and
24. Other discharges determined not to be a significant source of Pollutants to waters of the state, a public health hazard or a nuisance.

C. Any discharge identified as an Exempted Discharge by this Chapter, shall be prohibited by this Chapter if the discharge in question has been determined by KDHE or the Building Official to be a source of a Pollutant to the Municipal Separate Storm Sewer System or to a Water Body, provided written notice of such determination has been provided by the Building Official to the property owner or Person responsible for such discharge, and the discharge has occurred more than ten calendar days beyond such notice.

D. No Person shall introduce or cause to be introduced into the Municipal Separate Storm Sewer System or to a Surface Water any harmful quantity of sediment, silt, earth, soil, or other material associated with construction or land disturbance activities in excess of what could be retained on site or captured by employing Sediment and Erosion control measures.

E. No Person shall permit, authorize, maintain, allow or connect a line conveying sanitary sewage, domestic or industrial, to the Municipal Separate Storm Sewer System or to a Surface Water.

F. No person shall use Pesticides, herbicides and Fertilizers except in accordance with manufacturer recommendations. Pesticides, herbicides and Fertilizers shall be stored transported and disposed of in a manner to prevent release to the MS4.

G. No person shall tamper with, destroy, vandalize, or render inoperable any BMPs which have been installed for the purpose of eliminating or minimizing pollutant discharges, nor shall any person fail to install or fail to properly maintain any BMPs which have been required by the City or by other local, state, or federal jurisdictions.

#### **Chapter 4 Required Compliance With NPDES Permit**

Any Person subject to a NPDES stormwater discharge permit in addition to the City of Lake Quivira's Kansas Water Pollution Control General Permit shall comply with all provisions of such permits. Proof of compliance with said permit may be required in a form acceptable to the Building Official prior to allowing discharges to the Municipal Separate Storm Sewer System, and prior to the issuance of any grading, building or occupancy permits, Land Disturbance Permit, Right of Way Permit, Public Improvement Permit, or any other type of permit or license issued by the City. Any discharge that would result in or contribute to a violation of a NPDES Permit, either separately or in combination with other discharges, is prohibited.

#### **Chapter 5 Authority of Building Official**

The Building Official is hereby designated to exercise the powers prescribed by this Title. In addition to the authority which may be specifically provided in this Title, the Building Official may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Title. The Building Official may appoint and fix the duties of such officers, agents and employees as the Building Official deems necessary to carry out the purposes of this Title, and may delegate any of the aforementioned functions or powers to such officer agents and employees.

#### **Chapter 6 Inspection and Detection Program**

The Building Official is authorized to develop and implement a plan to actively detect and eliminate prohibited discharges and connections to the MS4 or surface waters within the City. Such plan may include, but is not limited to, periodic and random inspections of facilities and businesses, particularly those most associated with potentially prohibited discharges; visual surveys of exterior practices; inspection, sampling and analyses of discharges from outfalls of the MS4, particularly during dry weather periods; manhole and pipe inspections to trace discharges through the system to point of origin; education on pollution prevention; and receipt of complaints and information from the public regarding known or suspected discharges.

#### **Chapter 7 Release and Reporting; Cleanup**

A. Any person responsible for the release of any prohibited material that may flow, leach, enter, or otherwise be introduced into the MS4 or surface waters shall take all necessary steps to ensure the containment and cleanup of such release.

B. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services and shall notify the Building Official in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Building Official within three business days of the phone notice.

C. In the event of a release of non-hazardous materials, said person shall notify the Building Official in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Building Official within three business days of the phone notice.

## **Chapter 8 Abatement of Nuisances and Hazards**

### **Section 1 Authority**

In addition to the penalties provided for by this Title, when the Building Official determines there exists a condition or act prohibited by this Title, the Building Official may, in his or her sole discretion, take whatever action he or she deems necessary to immediately abate the nuisance or hazard to protect the safety of Persons or property, and the City may be reimbursed from any surety, escrow account or letter of credit, required by this Title, and/or may assess, to the property where a violation has been identified by the Building Official, all costs of the abatement, including administrative costs, materials, and personnel, to the Person who commits, permits, maintains, directs, or authorizes the nuisance or hazard in violation of this Title.

The Governing Body hereby delegates to the Building Official the duty of determining when a violation of this Title exists. This determination shall be made in written form by the Building Official, acting on behalf of the Governing Body, and the Building Official may proceed to abate and assess the nuisance.

### **Section 2 Required Compliance with Order**

No Person shall intentionally impede or obstruct the Building Official or his or her lawful designee from the lawful performance of duties or activities related to enforcement of this Title or abatement of violations, through the use of restraint, coercion, intimidation or by force and violence or threat thereof. No Person shall intentionally disregard an Order of the Building Official or his or her lawful designee, to immediately cease and discontinue a condition or act prohibited by this Title, or to fail to take action necessary to immediately abate and/or remedy the conditions prohibited by this Title and as required by the Building Official.

## **Chapter 9 Persons Responsible for Compliance**

In addition to the Person who commits, permits, maintains, directs, or authorizes, a violation of this Title, additional Persons responsible for compliance with this Title shall include, jointly and severally:

A. The owner or occupant of the property upon which a violation or an illicit connection or discharge occurs;

B. The Person who submits or to whom a Building Permit or NPDES Permit is issued that relates to the property upon which a violation or an illicit connection or discharge occurs;

C. Any Person who participates in a violation or an illicit discharge or illicit connection as prohibited by this Title.

## **Chapter 10 Penalties**

Any Person violating any of the provisions of this Title shall upon a first offense be guilty of a Class C Offense. Any Person violating any of the provisions of this Title shall upon a second offense be guilty of a Class B Offense. Any Person violating any of the provisions of this Title shall upon a third and any subsequent offense be guilty of a Class A Offense. The imposition of a penalty shall not prohibit any action by the Building Official to enforce compliance, prevent a violation, or remedy a violation, nor shall it prohibit the Building Official from imposing liens or assessments necessary to remedy a violation of this Title. In addition to the imposition of a penalty, the Court may assess restitution and reimbursement of all costs of any abatement, including administrative, materials, and personnel, to the Person who commits, permits, maintains, directs, or authorizes, a violation of this Title.

The City shall keep a record of the total cost of such abatement or removal incurred by the City, and shall bill such costs to the owner of the property where a violation of this Title takes place by certified mail, return receipt requested. If the assessment for such costs is unpaid after thirty calendar (30) days from the date of billing, the City Clerk, at the time of certifying City taxes, shall certify such costs to the County Clerk, with instructions to extend the same on the tax roll of the County against the applicable lot or parcel of ground, and ask that it be collected by the County Treasurer and paid to the City as City taxes are collected and paid. Nothing in this Section shall limit the City's right to pursue collection both by levying a special assessment and in any other manner provided for by law, but only until the full cost and any applicable interest has been paid in full.

The imposition of a penalty for any violation or noncompliance shall not excuse any violation, permit a violation to continue, or excuse any obligation to remedy any violation. The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this Title. In addition to any other remedies, the City Attorney may institute injunction, mandamus or other appropriate action or proceeding to prevent violation of this Title. Each day that a violation occurs or is permitted to continue shall constitute a separate offense.

(Ordinance 291 October 3, 2016)



**Title XI      General Provisions Regulating Post-Construction Water Quality**

- Chapter 1      Purpose and Intent**
- Chapter 2      Abbreviations and Definitions**
- Chapter 3      Interpretations**
- Chapter 4      Applicability**
- Chapter 5      Manual of Best Management Practices for Stormwater Quality - Adopted**
- Chapter 6      Authority of Building Official**
- Chapter 7      Inspection Program**
- Chapter 8      Notice of Acceptance**
- Chapter 9      Facility Maintenance**
- Chapter 10     Disturbance of Construction Facilities**
- Chapter 11     Failure to Comply with Order**
- Chapter 12     Penalties**

**Chapter 1              Purpose and Intent**

The Governing Body finds it is necessary to provide for regulations in order to comply with the City's responsibilities under the Clean Water Act and the NPDES program. The purpose of this Title is to set forth procedures for the regulation of post-construction stormwater management best management practices (BMPs) in new development and redevelopment sites disturbing one acre or more.

(Ordinance \_\_ December 4, 2017)

**Chapter 2              Abbreviations and Definitions**

The terms or phrases used in this Title shall have those meanings and definitions as set forth herein, unless from the context a different meaning is intended, or the Code directs that a different definition is to be applied to a provision.

As used in this Title, the following abbreviations shall have the following meanings:

- BMP              Best Management Practice**
- CFR              Code of Federal Regulations**
- EPA              Environmental Protection Agency**
- KDHE            Kansas Department of Health and Environment**

MARC	Mid-America Regional Council
MS4	Municipal Separate Storm Sewer System
NPDES	National Pollutant Discharge Elimination System
STF	Stormwater Treatment Facility

As used in this Title, the following words shall have the following meanings:

*"Best Management Practices (BMPs)"* means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the Discharge of Pollutants directly or indirectly to Stormwater, receiving waters, or Stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

*"Building Official"* means the City Building Official or his or her designee.

*"Channel"* means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

*"City"* means the City of Lake Quivira, Kansas.

*"Clean Water Act"* means the federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), and any subsequent amendments thereto.

*"Construction"* means constructing, clearing, grading, or excavations that result in soil disturbance. Construction includes structure demolition. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, emergency Construction activities required to immediately protect public health and safety, interior remodeling with no outside exposure of Construction material or Construction waste to the Stormwater Drainage System or other public waters, mechanical permit work, or sign work.

*"Detention"* means the temporary storage of Stormwater runoff in a Stormwater management practice with the goals of controlling peak discharge rates and/or providing gravity settling of Pollutants.

*"Development"* means any activity, change in land use, or improvement on any parcel of land, including any subdivision, that alters the surface of the land that increases the imperviousness of or creates additional impervious surfaces, including but not limited to pavement, buildings, structures, and recreational playing fields. The term does not include (a) additions to, improvements, and repairs, under 1000 S.F. or existing single-family and duplex dwellings; (b) Construction of any buildings,

structures, and/or appurtenant service roads, drives, and walks on a site having previously provided Stormwater control as part of a larger Development; (c) improvements on any site having a gross land area less than one acre in size, regardless of land use; (d) remodeling, repair, replacement, and improvements to any structure or facility and appurtenances that do not cause an increased area of impervious surfaces on the site in excess of ten percent (10%) of that previously existing; (e) Construction of any one new single-family or duplex dwelling unit, irrespective of the site area, on which the same may be situated; (f) agricultural uses.

*"Discharge"* means the addition or introduction, directly or indirectly, of any Pollutant, Stormwater, or any other substance into the MS4 or Surface Waters.

*"Erosion"* means the process by which the ground surface is worn away by the action of the wind, water, ice, gravity, or artificial means, and/or Land Disturbance activities.

*"Landowner"* means that legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other Person holding proprietary rights on the land.

*"Municipal Separate Storm Sewer System (MS4)"* means the system of conveyances, (including roads with drainage systems, municipal streets, private streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying Stormwater, and which is not used for collecting or conveying Sewage.

*"NPDES"* means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 402, 318 and 405 of the federal Clean Water Act.

*"NPDES Permit"* means for the purpose of this Title, a permit issued by United States Environmental Protection Agency (EPA) or the State of Kansas, which authorizes the Discharge of Pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

*"Person"* means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities.

*"Pollutant"* means any substance or material that contaminates or adversely alters the physical, chemical or biological properties of the waters, including changes in temperature, taste, odor, turbidity, or color of the water. This substance or material may include, but is not limited to, dredged spoil, spoil Waste, incinerator residue, Sewage, pet and livestock Waste, garbage, Sewage sludge, munitions, chemical Waste, biological materials, radioactive materials, heat, wrecked or discarded

equipment, rock, sand, soil, yard Waste, Hazardous Household Wastes, Oil and Petroleum Products, used motor Oil, anti-freeze, litter, Pesticides, and industrial, municipal, and agricultural Waste discharged into water.

*"Sediment"* means any solid material, organic, or inorganic, that has been deposited in water, is in suspension in water, is being transported or has been removed from its site of origin by wind, water, ice or gravity as result of soil Erosion. Sedimentation is the process by which eroded material is transported and deposited by the action of wind, water, ice or gravity.

*"State"* means the state of Kansas.

*"Stormwater"* means stormwater runoff, snow melt runoff, and surface runoff and drainage.

*"Stormwater Drainage System"* means surface water and storm sewers and all appurtenances necessary in the maintenance, operation, regulation, and improvement of the same, including, but not limited to: pipes; culverts; bridges; open improved Channels; street gutters; inlets pumping stations; enclosed storm sewers; outfall sewers; surface drains; street; curb and alley improvements associated with storm or surface water improvements; natural and manmade wetlands; Channels; ditches; rivers; streams; floodplains; water bodies; Detention and retention facilities; and other flood control facilities and works for the collection; conveyance; pumping; infiltration; treating; controlling; managing and disposing of Stormwater.

*"Stormwater Treatment Facility (STF)"* means all structures, plantings, natural features, or other physical elements that are designed, constructed, and maintained in accordance with the Manual of Best Management Practices for Stormwater Quality and which are provided to prevent or reduce stormwater pollution or to control stormwater runoff rates or volumes.

*"Surface Waters"* means any body of water classified as "surface waters" by the state of Kansas, including streams, rivers, creeks, brooks, sloughs, draws, arroyos, canals, springs, seeps, cavern streams, alluvial aquifers associated with these Surface Waters, lakes, man-made reservoirs, oxbow lakes, ponds, and wetlands, as well as any other body of water classified by the federal government as a "water of the United States".

*"Water Bodies"* means all surface watercourses and Water Bodies, including all natural and man-made waterways and definite Channels and depressions in the earth that may carry Stormwater or hold water, even though such waterways may only carry water during rains and storms and may not carry Stormwater at and during all times and seasons and including all areas defined at 40 C.F.R. §122.2, and amendments thereto.

### **Chapter 3 Interpretations**

In their interpretation and application, the provisions of this Title are hereby adopted as the minimum requirements for the promotion of the public health, safety, and general welfare. Whenever the requirements of this Title are at variance with the requirements of any lawfully-adopted statute, resolution, regulation, rule, or other provision of law, the most restrictive, or that imposing the higher standard, shall govern.

### **Chapter 4 Applicability**

This Title applies to any Development that is equal to or exceeds 1 acre.

### **Chapter 5 Manual of Best Management Practices for Stormwater Quality – Adopted**

All Development within the City to which this Title applies shall be designed and constructed in accordance with the Mid-America Regional Council (MARC) and the Kansas City Chapter of the American Public Works Association's *Manual of Best Management Practices for Stormwater Quality* and all appendices dated October 2012.

Any Development that has a gross area of less than five (5) acres shall have reduced treatment requirements and require a Level of Service of 4.1.

If hydrologic or topographic conditions warrant greater control than provided by the minimum control requirements set forth in the *Manual of Best Management Practices for Stormwater Quality*, the Building Official may impose additional requirements deemed necessary to control the Pollutants in Stormwater runoff. It shall be unlawful for any Person to fail to comply with any additional requirements imposed by the Building Official as necessary to control the Pollutants.

### **Chapter 6 Authority of Building Official**

The Building Official is hereby designated to exercise the powers prescribed by this Title. In addition to the authority which may be specifically provided in this Title, the Building Official may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Title. The Building Official may appoint and fix the duties of such officers, agents and employees as the Building Official deems necessary to carry out the purposes of this Title, and may delegate any of the aforementioned functions or powers to such officer agents and employees.

Regulated inspections of the STF shall be the responsibility of the qualified professional who has been approved by the Building Official in writing. Inspection

results shall be provided to the City. For certain types and locations of STF, additional or parallel inspections by City staff may be required at the discretion of the Building Official.

## **Chapter 7 Inspection Program**

The Building Official is authorized to develop and implement a plan to actively inspect STFs within the City. Such plan may include, but is not limited to, periodic and random inspections of STFs; education on maintenance; and receipt of complaints and information from the public regarding known or suspected non-functioning STFs.

## **Chapter 8 Notice of Acceptance**

The Landowner shall notify the Building Official before beginning Construction of any STF. The Landowner shall keep the Building Official advised as to the progress of the work and any changes in the schedule. Following completion of Construction activities for the STF, the Building Official will issue a Notice of Acceptance only upon submission of as-built plans and written certification by a Professional Engineer that the STF has been installed in accordance with the accepted plans and design of the STF.

The Landowner shall notify the Building Official before beginning Construction of any STF. The Landowner shall keep the Building Official advised as to the progress of the work and any changes in the schedule. Following completion of Construction activities for the STF, the Building Official will issue a Notice of Acceptance only upon submission of as-built plans and written certification by a Professional Engineer that the STF has been installed in accordance with the accepted plans and design of the STF.

## **Chapter 9 Facility Maintenance**

The Landowner on whose land a STF has been constructed pursuant to this Title and any other Person or agent in control of such land, shall maintain the STF in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, Erosion and Sediment control measures, and other protective devices. Such repairs or restoration and maintenance shall be in accordance with the Manual of Best Management Practices for Stormwater Quality and accepted by the Building Official and any amendments thereto.

A maintenance schedule shall be developed for all STFs and shall state the maintenance to be completed by the Landowner and the time period for completion. This maintenance schedule shall be accepted by the Building Official in writing, and shall be followed by the Landowner.

## **Chapter 10 Disturbance of Construction Facilities**

It shall be unlawful for any Person to obstruct, damage, or materially interfere with the use or operation of a STF required by this Title, unless such STF is fully restored and repaired, and such restoration or repairs have been certified in writing to the Building Official by a Professional Engineer, within forty-eight (48) hours of the obstruction, damage, or interference.

### **Chapter 11 Failure to Comply with Order**

No Person shall intentionally impede or obstruct the Building Official or his or her lawful designee from the lawful performance of duties or activities related to enforcement of this Title or abatement of violations, through the use of restraint, coercion, intimidation or by force and violence or threat thereof. No Person shall intentionally disregard an Order of the Building Official or his or her lawful designee, to immediately cease and discontinue a condition or act prohibited by this Title, or to fail to take action necessary to immediately abate and/or remedy the conditions prohibited by this Title and as required by the Building Official.

### **Chapter 12 Penalties**

Any Person violating any of the provisions of this Title shall upon a first offense be guilty of a Class C Offense. Any Person violating any of the provisions of this Title shall upon a second offense be guilty of a Class B Offense. Any Person violating any of the provisions of this Title shall upon a third and any subsequent offense be guilty of a Class A Offense. The imposition of a penalty shall not prohibit any action by the Building Official to enforce compliance, prevent a violation, or remedy a violation, nor shall it prohibit the Building Official from imposing liens or assessments necessary to remedy a violation of this Title. In addition to the imposition of a penalty, the Court may assess restitution and reimbursement of all costs of any abatement, including administrative, materials, and personnel, to the Person who commits, permits, maintains, directs, or authorizes, a violation of this Title.

The City shall keep a record of the total cost of such abatement or removal incurred by the City, and shall bill such costs to the owner of the property where a violation of this Title takes place by certified mail, return receipt requested. If the assessment for such costs is unpaid after thirty calendar (30) days from the date of billing, the City Clerk, at the time of certifying City taxes, shall certify such costs to the County Clerk, with instructions to extend the same on the tax roll of the County against the applicable lot or parcel of ground, and ask that it be collected by the County Treasurer and paid to the City as City taxes are collected and paid. Nothing in this Section shall limit the City's right to pursue collection both by levying a special assessment and in any other manner provided for by law, but only until the full cost and any applicable interest has been paid in full.

The imposition of a penalty for any violation or noncompliance shall not excuse any violation, permit a violation to continue, or excuse any obligation to remedy any violation. The City shall have the authority to maintain civil suits or actions in any

court of competent jurisdiction for the purpose of enforcing the provisions of this Title. In addition to any other remedies, the City Attorney may institute injunction, mandamus or other appropriate action or proceeding to prevent violation of this Title. Each day that a violation occurs or is permitted to continue shall constitute a separate offense.

(Ordinance 296, 2017)



**Title XII    Reserved**

## Appendix A

### Charter Ordinances

#### Charter Ordinance No. 1

A CHARTER ORDINANCE PROVIDING FOR THE ELECTION OF MAYOR AND COUNCIL

#### Charter Ordinance No. 2

A CHARTER ORDINANCE AUTHORIZING AND LIMITING TAX LEVIES

#### Charter Ordinance No. 3

A CHARTER ORDINANCE RELATING TO THE POWERS AND DUTIES OF CITY MARSHAL AND ASSISTANT MARSHAL

#### Charter Ordinance No. 4

A CHARTER ORDINANCE RELATING TO THE RESIDENCE OF ELECTED AND APPOINTED OFFICERS OF THE CITY

#### Charter Ordinance No. 5

A CHARTER ORDINANCE RELATING TO THE KANSAS PROPERTY TAX LID LAW

#### Charter Ordinance No. 6

A CHARTER ORDINANCE RELATING TO MUNICIPAL COURT COSTS

Charter Ordinance No. 7

A CHARTER ORDINANCE RELATING TO OFFICIAL CITY NEWSPAPERS

Charter Ordinance No. 19

A CHARTER ORDINANCE EXEMPTING THE CITY OF LAKE QUIVIRA FROM K.S.A. 12-1651 ENTITLED "OFFICIAL NEWSPAPER IN CITIES OF SECOND AND THIRD CLASSES," PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT; AND PRESCRIBING THE QUALIFICATIONS AND METHOD OF DESIGNATING THE OFFICIAL CITY NEWSPAPER.

Charter Ordinance No. 20

A CHARTER ORDINANCE EXEMPTING THE CITY OF LAKE QUIVIRA, KANSAS FROM THE PROVISIONS OF K.S.A. 12-4112 OF THE KANSAS STATUTES ANNOTATED, PERTAINING TO ASSESSMENT OF COSTS IN COURT CASES FILED IN THE LAKE QUIVIRA MUNICIPAL COURT

Charter Ordinance No. 21

A CHARTER ORDINANCE AFFIRMING THE FORM OF GOVERNMENT AND TERMS OF OFFICE APPROVED BY CHARTER ORDINANCE NO. 1, THE FILLING OF A VACANCY IN OFFICE, PROVIDING FOR A GOVERNING BODY CONSISTING OF A MAYOR AND FIVE COUNCIL MEMBERS, AND PROVIDING FOR COMPLIANCE WITH THE 2015 LEGISLATIVE MANDATE TO TRANSITION THE TERMS OF SUCH OFFICERS TO A NOVEMBER ELECTION CYCLE IN ACCORDANCE WITH L. 2015, CHAPTER 88, 2015 HOUSE BILL 2104

## Appendix B

### Franchise Agreements

Western Resources dba KPL Franchise Agreement

(Ordinance 172, 1993)

Western Tech Inc. Franchise Agreement

(Ordinance 127, 1984)

Westar Energy, Inc. Franchise Agreement

(Ordinance 277, 2013)

Kansas Gas Service

(Ordinance 280, 2013)

Kansas City Power and Light

(Ordinance 281, 2013)

## Appendix C

### Rezoning of Property

Rezoning of Property at Everhart Varnum Property AG to R2

(Ordinance 147, 1989)