

CHAPTER XI. PUBLIC OFFENSES

- Article 1. General Provisions
- Article 2. Anticipatory Offenses
- Article 3. Offenses Against Persons
- Article 4. Sex Offenses
- Article 5. Offenses Affecting Children
- Article 6. Offenses Against Property
- Article 7. Offenses Affecting Governmental Functions
- Article 8. Denial of Civil Rights
- Article 9. Offenses Against Public Peace
- Article 10. Offenses Against Public Safety
- Article 11. Offenses Against Public Morals
- Article 12. Violations, Penalties
- Article 13. Miscellaneous
- Article 14. Weeds

ARTICLE 1. GENERAL PROVISIONS

11-101. DEFINITIONS. The following definitions shall apply when the words and phrases defined are used in this chapter except when a particular context clearly requires a different meaning.

- (a) Act: Includes a failure or omission to take action.
- (b) Air Gun or Air Rifle: Any device whether or not in the shape and form commonly associated with the terms pistol, sidearm, small arm, rifle, shotgun or any other type of gun designed to forcibly expel from an opening therein any pellet or BB shot, and whether operating from and upon compressed air or mechanical or elastic springwork or otherwise.
- (c) Alcohol Concentration: The number of grams of alcohol per one-hundred (100) milliliters of blood per 210 liters of breath.
- (d) Alcoholic Beverage or Alcoholic Liquor: 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.
- (e) Another: A person or persons as defined in this chapter other than the person whose act is claimed to be criminal.
- (f) Body Piercing: Puncturing the skin of a person by aid of needles or other instruments designed or used to puncture the skin for the purpose of inserting jewelry or other objects in or through the human body, except puncturing the external part of the human ear shall not be included.
- (g) Cereal Malt Beverage: Any fermented but undistilled liquor brewed or made from a malt or a mixture of malt or malt substitute, but shall not include any such

liquor which contains more than three and two-tenths (3.2%) percent alcohol by weight.

(h) City or this City: All land and water either within or outside the boundary of the city over which the city has either exclusive or concurrent jurisdiction, and the air space above such land and water.

(b) Conduct: An act or series of acts, and the accompanying finding of guilt.

(c) Conviction: A judgment of guilt entered upon a plea or finding of guilt.

(i) Correctional Officer or Employee: Any officer or employee of the Kansas department of corrections or any independent contractor, or any employee of such contractor, working at a correctional facility.

(j) Deception: Knowingly and willfully making a false statement or representation, express or implied, pertaining to a present or past existing fact.

(k) To Deprive Permanently:

(1) Take from the owner the possession or use or benefit of the owner's property, without intent to restore the same; or

(2) Retain property without intent to restore the same or with intent to restore to the owner only if the owner purchases or leases it back, or pays a reward or compensation for its return; or

(3) Sell, give, pledge or otherwise dispose of any interest in property or subject it to the claim of a person other than the owner.

(l) Dwelling: A building or portion thereof, a tent, a vehicle or other enclosed place which is used or intended for use as a human habitation, home or residence.

(m) Dwelling Unit: A single-family residence, multiple-family residence and each living unit in a mixed-use building.

(n) Gamecock: A domesticated fowl that is bred, reared, or trained for the purpose of fighting with other fowl.

(o) Identification Document: Any card, certificate or document which identifies or purports to identify the bearer of such document, whether or not intended for use as identification, and includes, but is not limited to, documents purporting to be drivers' licenses, nondrivers' identification cards, birth certificates, social security cards and employee identification cards.

(p) Intent to Defraud: An intention to deceive another person, and to induce such other person, in reliance upon such deception, to assume, create, transfer, alter or terminate a right, obligation or power with reference to property.

(q) Law Enforcement Officer: Any person who by virtue of his or her office of public employment is vested by law with a duty to maintain public order or to make arrest for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(r) Motorboat: Any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion.

(s) Obtain: To bring about a transfer of interest in or possession of property, whether to the offender or to another.

(t) Obtains or Exerts Control Over Property: Includes but is not limited to the taking, carrying away, or the sale or conveyance or transfer of title to, interest in, or possession of property.

(u) Ordinance Cigarette or Tobacco Infraction: A violation of an ordinance that proscribes the same behavior as proscribed by subsection (m) or (n) of K.S.A. 79-3321 and amendments thereto.

(v) Owner: A person who has any interest in public property.

(w) Paint Ball Gun: Any device whether or not in the shape and form commonly associated with the terms pistol, sidearm, small arm, rifle, shotgun or any other type of gun designed to forcibly expel from an opening therein any paint ball, and whether operating from and upon compressed air or mechanical or elastic springwork.

(x) Person: An individual, public or private corporation, government, partnership or unincorporated association or other entity.

(y) Personal Property: Goods, chattels, effects, evidences of rights in action and all written instruments by which any pecuniary obligation, or any right or title to property, real or personal, shall be created, acknowledged, assigned, transferred, increased, defeated, discharged or dismissed.

(z) Property: Anything of value, tangible or intangible, real or personal.

(aa) Prosecution: All legal proceedings by which a person's liability for a crime is determined.

(ab) Public Employee: A person employed by or acting for the city and who is not a public officer.

(ac) Public Offense or Offense: An act or omission defined in this code which, upon conviction, is punishable by fine, confinement or both fine and confinement.

(ad) Public Officer: Includes the following whether elected or appointed.

(1) An executive or administrative officer of the city;

(2) A member of the governing body;

(3) A judicial officer, which shall include a judge, municipal judge, magistrate, juror, master or any other person appointed by a judge or court to hear or determine a cause of controversy;

(4) A hearing officer shall include any person authorized by law or private agreement, to hear or determine a cause or controversy and who is not a judicial officer;

(5) A law enforcement officer or public safety officer;

(6) Any other person exercising the functions of a public officer under color of right.

(ae) Railroad Property: Includes, but is not limited to, any train, locomotive, railroad car, caboose, rail-mounted work equipment, rolling stock, work equipment, safety device, switch, electronic signal, microwave communication equipment, connection, railroad track, rail, bridge, trestle, right-of-way or other property that is owned, leased, operated or possessed by a railroad company.

(af) Real Property or Real Estate: Every estate, interest and right in lands, tenements and hereditaments.

(ag) Sail Board: A surfboard using for propulsion a free sail system comprising one or more swivel-mounted rigs (mast, sail and booms) supported in an upright position by the crew and the wind.

(ah) Sailboat: Any vessel, other than a sail board, that is designed to be propelled by wind action upon a sail for navigation on the water.

(ai) Smoke Detector: A device or combination of devices which operate from a power supply in the dwelling unit or at the point of installation for the purpose of detecting visible or invisible particles of combustion. Such term shall include smoke detectors approved or listed for the purpose for which they are intended by an approved independent testing laboratory.

(aj) Solicit or Solicitation: To command, authorize, urge, incite, request or advise another to commit a crime.

(ak) State: The state of Kansas.

(al) Stolen Property: Property over which control has been obtained by theft.

(am) Tattooing: The process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin so as to form indelible marks for cosmetic or figurative purposes.

(an) Telefacsimile Communication: The use of electronic equipment to send or transmit a copy of a document via telephone line.

(ao) Threat: A communicated intent to inflict physical or other harm on any person or on property.

(ap) Throwing Star: Any instrument, without handles, consisting of a metal plate having three (3) or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing.

(aq) Toxic Vapors: The following substances or products containing such substances:

- (1) Alcohols, including methyl, isopropyl, propyl or butyl;
- (2) Aliphatic acetates, including ethyl, methyl, propyl or methyl cellosolve acetate;
- (3) Acetone;
- (4) Benzene;
- (5) Carbon Tetrachloride;
- (6) Cyclohexane;
- (7) Freons, including Freon 11 and Freon 12;
- (8) Hexane;
- (9) Methyl ethyl ketone;
- (10) Methyl isobutyl ketone;
- (11) Naptha;
- (12) Perchlorethylene;
- (13) Toluene;
- (14) Trichloroethane; or
- (15) Xylene.

(d) Written Instrument: Means any paper, document or other instrument containing written or printed matter or the equivalent thereof, used for the purpose of reciting, embodying, conveying or recording information, and any money, tokens, stamps, seal, badge, trademark or identification, which is capable of being used to the advantage or disadvantage of some person.

(K.S.A. 12-4113; 21-3110; K.S.A. 21-3413; K.S.A. Supp. 21-3761; K.S.A. 21-3830; K.S.A. 32-1102; K.S.A. 41-102; K.S.A. 41-2701; K.S.A. 82a-802, as amended;

K.S.A. Supp. 21-3110; Code 2003, Code 2005)

11-102. INCORPORATING UNIFORM PUBLIC OFFENSE CODE. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Haysville, Kansas, that certain code known as the "Uniform Public Offense Code," Edition of 2009 prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, with additions. No fewer than one (1) copy of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Adopted by Ordinance No.953, Chapter 11-102" and to which shall be attached a copy of the approved ordinance and all of which shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours. For purposes of notice of violation upon citations, the Uniform Public Offense Code shall be cited to the Ordinance Adopting the Haysville Municipal Code and the specific sections included within the Uniform Public Offense Code.

(Ord. 719, Ord. 822; Code 2003, Code 2005, Code 2006; Code 2007; Code 2008, Code 2009, Code 2010)

11-103. AMENDMENTS. The Uniform Public Offense Code incorporated by reference in section 11-102 of this article is hereby amended to include the following sections.

(a) APPLICABILITY. This article relates to and embraces all lost, stolen, strayed, abandoned, unclaimed or confiscated property which of itself is not contraband or the possession of which is not unlawful, which is now or which may hereafter come into the possession of the law enforcement officers of the city.

(b) CUSTODY; RECLAMATION BY OWNER WITHIN THIRTY DAYS. All personal property of the character described in section 11-103(a) shall be delivered to the custody of the chief of police who shall retain the possession of such property for a period of thirty (30) days, except as elsewhere herein provided, unless the owner or person entitled to the possession of such property shall sooner claim such property and establish his or her ownership and right to possession thereof.

(c) NOTICE OF INTENT TO DISPOSE: REQUIREMENTS. If the owner or person entitled to the possession of property, as described in this article, shall fail to claim such property within thirty (30) days, that at such time or at any time thereafter, the chief of police may cause a notice to be published in the official city newspaper, setting forth a detailed description of such property and stating that unless the same be claimed within ten (10) days, such property will be disposed of pursuant to the terms of this chapter.

(d) FAILURE OF OWNER TO CLAIM BEFORE DISPOSITION. If the owner or person entitled to the possession of property advertised under 11-103(b) shall fail to claim the same within the prescribed time limit set forth in such section, then the same can be converted to city use or can be donated by the city to a non-profit

organization located within the city limits; provided, however, that the following procedures shall be followed by the city in connection with the disposition of such unclaimed property pursuant to this section, such disposition to take place as follows, to wit:

(1) The chief of police, shall, after consultation with the two (2) city councilpersons designated to oversee the operation of the Haysville Police Department, determine whether such property shall be converted to use by one or more departments of the city or shall be disposed of by gifting the same to one or more of the non-profit organizations located within the city.

(e) ALTERNATIVE DISPOSITION. As an alternative to the disposition procedure set forth in 11-103(b) and 11-103(d) hereof, the police department is hereby authorized, after following the mandates set forth in 11-103(c) hereof, to sell such property at public auction to the highest bidder therefore for cash. Notice of such auction sale shall be given by the department's placing notice of such auction sale, giving the time, date and place thereof, in a newspaper(s) of circulation in Sedgwick County, such publication(s) to take place no later than ten (10) days prior to such auction date. All proceeds raised at such auction sale shall be paid directly to the general fund of the city.

ARTICLE 2. ANTICIPATORY CRIMES

11-201. INCORPORATING ARTICLE 2. There is hereby incorporated Article 2 of the Uniform Public Offense Code, Edition 2008, for the purpose of regulating anticipatory crimes. Article 2 is hereby incorporated by reference as if set out fully in this section.

(Code 2003, Code 2006; Code 2007; Code 2008; Code 2009)

ARTICLE 3. OFFENSES AGAINST PERSONS

11-301. INCORPORATING ARTICLE 3. There is hereby incorporated Article 3 of the Uniform Public Offense Code, Edition 2008, for the purpose of regulating offenses against persons. Article 3 is hereby incorporated by reference as if set out fully in this section.

(Code 2003, Code 2006; Code 2007; Code 2008, Code 2009)

ARTICLE 4.

SEX OFFENSES

11-401. AMENDMENTS. The Uniform Public Offense Code, Edition 2008, Article 4, Sex Offenses, is hereby amended to include the following sections:

- (a) WINDOW PEEPING. Any person, other than the occupants of the room, dwelling, apartment, rooming house or apartment house involved, who goes upon private property, without the permission of the owner or lessee thereof, and looks into such room, dwelling, apartment, rooming house or apartment house is guilty of "window peeping," a misdemeanor, and any person convicted thereof shall be punished by a fine of not more than \$500 and/or six (6) months imprisonment.
(CODE 2007; CODE 2008, CODE 2009)

ARTICLE 5. OFFENSES AFFECTING CHILDREN

11-501. AMENDMENTS. The Uniform Public Offense Code, Edition 2008, Article 5, Offenses Against Property is hereby amended to include the following sections:

(a) CURFEW FOR CERTAIN MINOR CHILDREN. It shall be unlawful for any minor under the age of eighteen (18) years to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and buildings, places of amusement or entertainment, eating places, vacant lots or other place unsupervised by an adult having the lawful authority to be at such place during the following periods of time:

(1) For minors age fifteen and under, between the hours of 11:00 p.m. and 6:00 a.m. of the following day, except Fridays and Saturdays when the hours shall be 12:00 midnight to 6:00 a.m. of the following day.

(2) For minors age sixteen (16) and seventeen (17), between the hours of 12:00 midnight on any day and 6:00 a.m. of the following day, except on Fridays and Saturdays when the hours shall be 1:00 a.m. and 6:00 a.m. the following day.

(3) The provisions of this section shall not apply in the following instances:

(aa) When a minor is accompanied by his or her parent, guardian or other adult person having the lawful care and custody of the minor;

(bb) When the minor is upon an emergency errand directed by his or her parent or guardian or other adult person having the lawful care and custody of such minor;

(cc) When the minor is returning home by the most direct route

from a school activity, entertainment, recreational activity or dance; or,

(dd) When the minor is returning home by the most direct route from lawful employment;

(ee) When the minor is attending or traveling directly to or from an activity involving the exercise of first amendment rights of free speech, freedom of assembly or free exercise right of religion; and

(ff) When the minor is in interstate travel through the city.

(b) RESPONSIBILITY OF PARENT. Except in circumstances set out in section 11-501(a)(3) it shall be unlawful for the parent, guardian or other adult person having care and custody of a minor under the age of eighteen (18) years to permit such minor to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places or public buildings, places of amusement or entertainment, eating places, vacant lots or other place unsupervised by an adult having the lawful authority to be at such place during the following periods of time:

(1) For minors age fifteen (15) years of age and under, between the hours of 11:00 p.m. on any day and 6:00 a.m. of the following day, except on Fridays and Saturdays, when the hours shall be 12:00 a.m. to 6:00 a.m. of the following day;

(2) For minors age sixteen (16) and seventeen (17), between the hours of 12:00 a.m. on any day and 6:00 a.m. of the following day, except on Fridays and Saturdays when the hours shall be 1:00 a.m. to 6:00 a.m. of the following day.

(c) PENALTY FOR MINOR. Any minor violating the provisions of this chapter shall be dealt with in accordance with Kansas juvenile court law and procedure. Any police officer finding a minor under the age of eighteen (18) years violating the provisions of this chapter shall warn the child to desist from such violations and immediately return home and may cause written notice to be served upon the parent, guardian or person in charge of said child, setting forth the manner in which the provisions of this section have been violated. For the purposes of this section, notice shall be deemed properly served upon such parent, guardian or person in charge of a child if a copy thereof is served upon him or her personally or if a copy thereof is sent by certified mail, return receipt requested, to his or her last known address.

(d) PENALTY FOR PARENT, GUARDIAN OR PERSON HAVING THE CARE AND CUSTODY OF A CHILD. Any parent, guardian or person having the care and custody of a child who shall permit such child to violate the provisions of this section after receiving written notice that such child has previously violated such provisions may be subject to a minimum fine of \$50.00 and a maximum fine of \$500.00, plus costs, for a second or subsequent such offense, with a request to the appropriate court that consideration be given to community service for the offending juvenile as an alternative to any set fine. Violation of this section is a Class C misdemeanor.

(Code 2007; Code 2008; Code 2009)

ARTICLE 6.
OFFENSES AGAINST PROPERTY

11-601. AMENDMENTS. The Uniform Public Offense Code, Edition 2008, Article 6, Offenses Against Property is hereby amended to include the following sections:

(a) For the purpose of this section, the following terms shall have the meaning ascribed to them in this section:

(1) Graffiti means any inscription, word, figure or design which is marked, etched, scratched, drawn or painted on any structural component of any building, structure or other facility, without the authorization of the owner of such building, structure or other facility, regardless of the nature of the material used in the application or upon which it is applied.

(2) Graffiti Removal Levy means the charge made by the city and computed by the director of public works for removing graffiti from property, together with any and all penalties for nonpayment of the charges which have accrued.

(3) Owner as used in this section means any person so designated in the current files of the real estate division of the county clerk's office, and also any person having or claiming to have any legal or equitable interest in the premises upon which graffiti is located.

(4) Property or Premises means any lot, parcel, tract or piece of land, improved or unimproved, in the city, and includes any building or other structure located thereon.

(b) ENFORCEMENT – PERSONNEL AUTHORIZED. All law enforcement officers of the city and the public works director or his/her designees are hereby authorized to enforce the provisions of this section.

(c) DEFACEMENT OR DAMAGE OF PROPERTY BY GRAFFITI. Any person who writes, sprays, scratches or otherwise affixes graffiti upon any property, public or private, in which another has an interest and without consent of such other person shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$250.00 or more than \$1,000.00 or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. In addition to such penalty the courts may order the defendant to perform the necessary labor to clean up, repair or replace the property damaged by that person, or to pay any costs incurred by the owner related to the cleanup, repair or replacement of property damaged by that person.

(d) GRAFFITI DECLARED PUBLIC NUISANCE – Owner/Occupant's Duty to Remove. The existence of graffiti upon any building, residence or other structure or

property within the city is expressly declared to be a public nuisance and it shall be the duty of the owner and/or occupant of any building, residence or other structure or property that has been defaced by graffiti to cleanup or otherwise cover such graffiti, or such graffiti shall be subject to abatement by the city as hereinafter provided. However, no person shall clean up or otherwise cover graffiti without first notifying the Haysville Police Department of the existence of, and affording it the opportunity to photograph said graffiti.

(e) IMMEDIATE REMOVAL OF GRAFFITI WITHOUT NOTICE AUTHORIZED. Whenever any city employee authorized to enforce this article finds graffiti on any property within the city which can be seen by any person using any public right-of-way, such authorized employee may forthwith, without notice to the owner, temporarily obliterate such graffiti, or cause the same to be temporarily obliterated, by the least destructive or damaging means then available. Such authorized employee shall then send notice to the owner to permanently remove the graffiti, following the procedures set out in section 11-601.

(f) NOTICE-FORM. Whenever any city employee authorized to enforce this article finds graffiti on any property within the city which can be seen by any person using any public right-of-way, such authorized employee shall cause a notice to remove graffiti to be served upon the owner, as shown in the current files of the real estate division of the county clerk's office. The notice shall be in substantially the following form:

NOTICE TO REMOVE GRAFFITI

TO _____, as owner:

Pursuant to the provisions of section 11-601(f) of the Code of the City of Haysville, Kansas, you are hereby notified to remove from

(Description of Property)

AKA _____

(Address)

all graffiti as defined in the Code of the City of Haysville within seven (7) days from the date of this notice.

* _____ (check if applicable) Action has already been taken by the City to temporarily obliterate this graffiti but the same must be permanently removed within seven (7) days from the date of this notice.

If all graffiti is not permanently removed from the above described property within seven (7) days from the date of this notice, the City will cause it to be removed and the charges for removal shall become a

personal obligation and a lien upon your property.

If you intend to remove such graffiti yourself, you are required to obtain from the City a certificate stating that the graffiti has been satisfactorily removed; otherwise if the City is dissatisfied with the manner in which the work has been done, the graffiti will be further removed at your expense.

If you object to the removal of the graffiti from your premises, you may appeal to the Haysville City Council by filing a written notice of appeal in the Office of the City Clerk, 200 West Grand, Haysville, Kansas. Such written notice must be filed within five (5) days from the date of this notice. Failure to appeal shall constitute your acceptance of the determination by the City's authorized employee any and all remedies provided by the Code of the City of Haysville, and a waiver of any and all appeal rights.

Dated: _____

Authorized Employee
City of Haysville

(g) NOTICE – SERVICE. The notice to remove graffiti shall be served upon the person whose name appears as the owner of the premises involved in the files of the real estate records division of the county clerk's office. Such service may be made either by personal delivery or by depositing the notice in the United States mail, postage paid, as certified, first class mail, return receipt requested, addressed to the owner at the most recent address appearing in the files of the real estate records division of the county clerk's office. If no address for the owner appears in the file of the real estate records division of the county clerk's office or if no address appears upon the actual premises, then service of the notice to remove graffiti may be made by posting the notice in a conspicuous place upon the property. Proof of service of the notice shall be made by affidavit of the person effecting the service, and the affidavit shall be sufficient for all purposes.

(h) APPEAL HEARING – SERVICE OF NOTICE. If there is an appeal filed with the city clerk, the city clerk shall forward the appeal to the City Council, which shall at its next regular meeting establish a time certain, to be as soon as practicable, and place for a hearing. The clerk shall then cause a notice of hearing to be served by certified mail upon the owner who has appealed at least ten (10) days before the hearing. Service shall be deemed completed at the time of deposit of the notice in a receptacle maintained by the United States Postal Service, with postage fully prepaid. The failure of any person to receive such notice of hearing shall not affect the validity of any proceeding under this article.

(i) APPEAL – HEARING – PROCEDURE. (1) On the date fixed for hearing any adjournment or continuation thereof, the governing body shall hear all evidence submitted by the owner, the owner’s agent, lien holders of record, occupants or other parties in interest in the property upon which the graffiti is situated, and all evidence submitted by the city. Upon hearing such evidence, the governing body shall make findings by resolution. The hearing provided for in this section need not be conducted according to formal rules of evidence and may be continued without notice.

(2) Upon conclusion of the hearing, the governing body shall determine whether the premises, as maintained, constitute a public nuisance as set forth in this section and shall make its findings by resolution. If the governing body finds that such public nuisance does exist, the governing body shall determine how the nuisance is to be abated and shall establish a time, not to exceed seven (7) days, within which removal and/or abatement shall take place; and in the event the owner fails to correct the nuisance within the time described, the city shall cause the nuisance to be abated and the costs incurred by the city shall become the personal obligation of the owner and/or tenant and a lien upon the property.

(3) A copy of the governing body’s determination by resolution shall be served by mail upon the owner of the affected premises. Service shall be completed at the time of its deposit in a receptacle maintained by the United States Postal Service, with postage fully prepaid.

(4) No legal proceeding or action shall lie against the city or any officer, designee or employee of the city to enjoin the enforcement of its determination or orders made pursuant to this section, unless such legal action is commenced within thirty (30) days after the decision of the governing body.

(j) OWNER REMOVAL NOTICE. Every owner served with a notice or order to remove graffiti who upon his or her own account removes the graffiti from his or her own property shall upon completion of the work immediately give written notice thereof to the office of the city clerk. Such notice shall be either delivered or mailed to the office of the city clerk. Upon receipt of such notice any employee of the city authorized to enforce this section shall inspect the property and if no graffiti exists thereon, the owner shall be issued a certificate so stating. If graffiti still exists on the property, the authorized employee of the city shall cause it to be removed and the costs will be assessed against the owner and tenant and become a lien on the property as if no such notice of removal was received from the owner.

(k) CITY REMOVAL – AUTHORIZED. If any owner served with a notice fails to remove the graffiti from such owner’s property within the time stated in the notice, or order of the governing body after appeal, the owner shall be deemed to have consented to such removal by the city whose designated employee will thereupon be authorized to enter upon the property involved and remove the graffiti.

(l) CITY REMOVAL – GRAFFITI ABATEMENT. The public works director or his/her designee shall, after the removal of graffiti from any property by the city,

compute all expenses so incurred by the city, including any applicable administrative fees as determined by the office of the city clerk. All expenses shall be charged to and become an indebtedness of the owner of such premises; provided, however, that no such charge or levy shall be made against any property or the owner of property where the office of the city clerk has received a written authorization signed by such owner, or his/her authorized representative, permitting the city, or any other volunteer group or organization engaging in graffiti clean up with the city's consent, to enter upon such owner's property for the purpose of removing any and all graffiti that from time to time might be located on such property. Such written authorization shall be effective until withdrawn in writing by such owner and shall prevent any charge or levy for graffiti cleanup expenses incurred after the date of such written authorization and for as long as it remains effective.

(m) CITY REMOVAL – GRAFFITI ABATEMENT LEVY PAYMENT NOTICE. Upon computing the expenses, the city clerk shall serve the graffiti abatement levy upon the owner of the property where graffiti was removed, as the owner is determined from current files of the real estate division of the county clerk's office. The notice to pay graffiti abatement levy shall be in substantially the following form:

NOTICE TO PAY GRAFFITI ABATEMENT LEVY

In accordance with the provisions of section 11-601 of the Code of the City of Haysville, Kansas, the City of Haysville has caused the graffiti upon

_____ (legal)

AKA _____

(address)

to be removed at the City expense.

You are hereby notified that the total cost of _____ is now due and payable to the City of Haysville, Kansas.

Section 11-601(n) of the Code of the City of Haysville, Kansas provides in part, that the property owner, tenant or any other interested person may demand a hearing within fifteen (15) days of this notice before the Haysville City Council on the reasonableness of the charges. Such demand shall be in writing filed with the office of the city clerk and shall describe the property involved, the reasons for objecting, and the name, address and interest of the appellant.

If no hearing is so demanded, this payment shall become delinquent within thirty (30) days from this notice and if the amount due is not otherwise

collected, a lien for this amount, plus a fee for preparation of the lien and any civil penalty shall be attached on the affected property and thereafter bear interest at the rate of 12% per annum until paid.

(n) HEARING ON CHARGES. Within fifteen (15) days from the date of the notice to pay, the property owner, tenant or any other interested person, may demand a hearing as to the reasonableness of such charges. Such demand shall be in writing and filed with the office of the city clerk. It shall describe the property involved, state the reasons for objecting, and include the address of the applicant for service of notices in connection with the hearing. The city clerk shall thereupon set a date for a hearing of such protest by the governing body. Such hearing shall be scheduled within a reasonable time. The city clerk shall send written notice of such hearing, the governing body shall hear all evidence pertinent to the reasonableness of the charges and shall be final and the city clerk shall certify the cost of such removal upon completion of the appeal hearing, which amount shall then become a tax on the real property upon which the removal occurred. In the event the cost of graffiti removal is not assessed against the real property, the city may thereafter maintain an action in the appropriate court against the owner and/or occupant upon whom notice was served as required by this section to recover the cost of removing such graffiti.

(o) LITTERING. Littering is intentionally or recklessly depositing or causing to be deposited any object or substance into, upon or about:

(a) Any public street, highway, alley, road, right-of-way, park or other public place, or any lake, stream, watercourse, or other body of water except by direction of some public officer or employee authorized by law to direct or permit such acts; or

(b) Any private property without the consent of the owner or occupant of such property.

(Code 2005, Code 2006; Code 2007; Code 2008; Code 2009)

ARTICLE 7.

OFFENSES AFFECTING GOVERNMENTAL FUNCTIONS

11-701. **AMENDMENTS.** The Uniform Public Offense Code, Edition 2008, Article 7, Offenses Affecting Governmental Functions, is hereby amended to include the following sections:

(a) RESISTING ARREST. (1) It shall be unlawful for any person, by use of force or violence or threat thereof, to intentionally prevent or attempt to prevent any law enforcement officer from arresting any person.

(2) It is no defense to a prosecution under this section that a law enforcement officer was attempting to make an arrest which was in fact unlawful

if he or she was acting under color of his or her official authority and in making the arrest he or she did not resort to such excessive force as to give rise to a right of self-defense under state law.

Violation of this section is a Class A violation.

(b) DUTY TO OBEY POLICE, DUTY TO AID POLICE. (1) No person shall refuse to assist any law enforcement officer in making an arrest or performing any other official duty, when requested to do so by such officer.

(2) It shall be unlawful for any person to willfully disobey a lawful order of law enforcement officer.

Violation of this section is a Class B violation.

(c) INTERFERENCE WITH POLICE. It shall be unlawful for any person to intentionally hinder, obstruct or otherwise interfere with any law enforcement officer acting under color of his or her official authority in the discharge or apparent discharge of his or her official duties.

Violation of this section is a Class A violation.

(d) COMPENSATION FOR PAST OFFICIAL ACTS. (1) Compensation for past official acts is giving or offering to give any public officer or employee any benefit, reward or consideration for having given, in his or her official capacity as such public officer or employee, a decision, opinion, recommendation or vote favorable to the person giving or offering such benefit, reward or consideration, or for having performed an act of official misconduct.

(2) This section shall not apply to the following:

(aa) Gifts or other benefits conferred on account of kinship;

(bb) Other personal, professional or trivial benefits incidental to person, professional or business contacts and involving no substantial risk of undermining official impartiality.

(e) FAILURE TO RETURN LIBRARY MATERIALS. It is unlawful for any person to fail to return any book, newspaper, magazine, pamphlet, manuscript, article, art, painting, phonograph record, film or any other property provided by the Haysville Public Library after notice in writing to return the same within thirty (30) days has been given to such person. Such notice shall be given after the expiration of the time which, by the rules of the library board, the book or other library material may be kept.

(f) PENALTY. Each day this violation is committed shall constitute a separate violation. Violation of this section is a Class C Misdemeanor.

(Code 2007; Code 2008; Code 2009)

**ARTICLE 8.
DENIAL OF CIVIL RIGHTS**

- 11-801. INCORPORATING ARTICLE 8. There is hereby incorporated Article 8 of the Uniform Public Offense Code, Edition 2008, for the purpose of regulating any denial of civil rights. Article 8 is hereby incorporated by reference as if set out fully in this section.
(Code 2003, Code 2006; Code 2007; Code 2008; Code 2009)

**ARTICLE 9.
OFFENSES AGAINST PUBLIC PEACE**

- 11-901. AMENDMENTS. The Uniform Public Offense Code, Edition 2008 Article 9, is hereby amended to include the following sections:

(a) PLACING OF SIGNS PROHIBITED. It shall be unlawful for a person, firm, corporation or other entity to place or cause to be placed on city property within the city limits, any political sign, billboard or advertising, whether it is political or otherwise upon property owned by or controlled by the city.

(b) PUBLIC URINATION. No person shall, within the corporate limits of the city, urinate upon any highway, street, alley or upon the premises of any public place or building or upon private property, in open view of any person, when the same has not been designated or designed as a restroom.

Violation of this section is a Class A violation.

(c) DISTURBANCE OF RELIGIOUS ASSEMBLIES. Disturbance of religious assemblies is the disturbing of any congregation or assembly met for religious worship by making a noise or by rude and indecent behavior within their place of worship or so near the same as to disturb the order and solemnity of the meeting.

Violation of this section is a Class C violation.

(d) LOITERING; STREETS, PUBLIC PLACES. Loitering in streets and other public places is the loitering on the public streets, bridges or walkways, school buildings or school grounds or any other public place or place accessible to the public without

being engaged in some business demanding the person's presence upon such street, bridge, pedestrian walkway, school building, school grounds or at such public place or place accessible to the public or habitually lurking in a public place or a place accessible to the public without being engaged in some legal business. Violation of this section is a Class C violation.

(e) LOITERING IN OR ABOUT SCHOOLS OR PUBLIC BUILDINGS OR PLACES PROHIBITED. It shall be unlawful for any person to loiter about or on any public, private or parochial school property or public building or place, either on foot or in or on any vehicle, without having some lawful business therein or thereabout.

(f) ANNOYING OR PREVENTING ORDERLY CONDUCT OR ACTIVITY IN OR ABOUT SCHOOLS OR PUBLIC BUILDINGS OR PLACES. It shall be unlawful for any person to annoy, disturb or otherwise prevent the orderly conduct of activity or classes on or about any public, private or parochial school or public building or place.

(g) ANNOYING, DISTURBING, ASSAULTING OR MOLESTING STUDENTS OR SCHOOL EMPLOYEES PROHIBITED. It shall be unlawful for any person to annoy, disturb, assault or molest any student or employee of any public, private or parochial school while such student or employee is in a school building, on school grounds or in any public building or place when engaged in or participating in any school-related activity.

(h) LEWD, WANTON OR LASCIVIOUS BEHAVIOR IN OR ABOUT SCHOOLS OR PUBLIC BUILDING OR PLACES PROHIBITED. It shall be unlawful for any person to conduct himself or herself in a lewd, wanton or lascivious manner, either in speech or conduct or behavior, in or about any public, private or parochial school building or school grounds, or public building or place.

(i) PARKING OR MOVING VEHICLES ON SCHOOL GROUNDS OR IN PUBLIC BUILDINGS OR PLACES FOR PURPOSES OF ANNOYING OR MOLESTING STUDENTS OR SCHOOL EMPLOYEES PROHIBITED. It shall be unlawful for any person to park or move a vehicle in, on or about the grounds of any public, private or parochial school building or grounds, or in or about any public building, public place or street for the purpose of annoying or molesting students or employees of such schools or for the purpose by unauthorized persons to induce, entice or invite students into such vehicles.

(j) UNAUTHORIZED PRESENCE IN SCHOOL BUILDINGS OR ON SCHOOL PREMISES. It shall be unlawful for any person to enter into or upon, or to remain in, on, or within any building, grounds or facilities within the jurisdiction of the Haysville unified school district which are located within the corporate limits of the city after 11:00 p.m. or before 6:00 a.m. without the specific authorization of the Haysville unified school district, or at any time when said district has determined that said period

shall be from 12:00 a.m. to 6:00 a.m. and has given prior notice of such determination to the police department of the city of Haysville.

(k) ERECTION OF TENTS AND BUILDINGS ON CERTAIN SCHOOL DISTRICT PROPERTY PROHIBITED. It shall be unlawful for any person to build or place any tent, building, booth, stand or other structure in or upon any building, grounds or facilities located within the corporate limits of the city and under the jurisdiction of the Haysville unified school district, without having obtained a permit to do so from said district. Such permit shall be in writing, shall include the signature of an official designated by the school district as authorized to issue such permit, and shall be produced by any person receiving such permit on demand of any police officer of the city.

(l) ALCOHOLIC LIQUOR OR CEREAL MALT BEVERAGE PROHIBITED ON CERTAIN SCHOOL DISTRICT PROPERTY. It shall be unlawful for any person to possess or consume any alcoholic beverage on or in any property, on or in any building or other premises, located within the corporate limits of the city and under the jurisdiction of the Haysville unified school district. For the purposes of this section, “alcoholic liquor” shall have the meaning provided to such term by K.S.A. 1-102 and amendments thereto, and “cereal malt beverage” shall have the meaning provided thereto by K.S.A. 41-2701 and amendments thereto.

(m) ERECTION OF TENTS AND BUILDINGS ON CERTAIN CITY PROPERTIES PROHIBITED. It shall be unlawful to build or place any tent, building, booth, stand or structure in or upon any of the parks or recreation facilities under the jurisdiction of the city for a period exceeding four (4) days without first having obtained approval for such building or placement from the governing body of the city.

(n) ALCOHOLIC LIQUOR OR CEREAL MALT BEVERAGE ON CERTAIN PUBLIC PROPERTIES PROHIBITED. It shall be unlawful for any person to consume or possess alcoholic liquor or cereal malt beverage on any property or premises under the control of the park board of the city, without prior authorization of the governing body of the city. For the purpose of this section, “alcoholic liquor” shall have the meaning provided by such term by K.S.A. 1-102 and amendments thereto, and “cereal malt beverage” shall have the meaning provided by K.S.A. 41-2701 and amendments thereto.

(o) CLASSIFICATION OF OFFENSES. 11-901(e) through and including 11-901(n) of the above stated unlawful actions shall be a Class C violation and punishable by the same sentence as set forth for Class C violations in Article 13 of this chapter.

(p) LOUD AND UNNECESSARY NOISE PROHIBITED. 11-901(p)(1). It shall be unlawful for any person to permit, make, continue, maintain or cause to be made or continue any excessive, unreasonable or unusually loud noise which disturbs, injures, endangers the repose, health, peace or safety of other people of ordinary sensitivity within the vicinity of the noise.

11-901(p)(2). It shall be unlawful for any person to use, operate or permit the use or operation of any electronic device, radio, receiving set, television, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet or repose of the neighboring inhabitants of ordinary sensitivity.

11-901(p)(3). No person shall permit or participate in or be in any party or gathering of people from which sound emanates at a sufficient volume so as to disturb the peace, quiet or repose of the neighboring inhabitants of ordinary sensitivity. A police officer may order all such persons present at any such party or gathering to immediately disperse from the vicinity of any such party or gathering in lieu of being charged under this ordinance; provided; however, owners or tenants are not required to leave their own dwelling unit. Owners or tenants of the location where the party or gathering occurs shall, upon request of a police officer, cooperate fully in immediately abating the disturbance. Failing to immediately cooperate with law enforcement efforts to remedy and resolve the noise disturbance shall be in violation of this ordinance.

11-901(p)(4). No property owner shall permit their property to be used in violation of this section. Property owners shall make a reasonable effort to notify all tenants, lessees, and invitees of the City's noise restrictions, and shall make every effort to assist law enforcement with immediately abating the disturbance occurring upon their property when requested by law enforcement. Multiple complaints occurring against a single property may be evidence that a property owner is permitting their property to be used in violation of this section.

11-901(p)(5). DEFINITIONS. For purposes of this section, these terms shall be defined as follows:

(A) "Neighboring inhabitants" includes those persons residing in single family dwellings, multiple family dwellings, boarding house rooms, hotel rooms or motel rooms, or businesses within the vicinity of the noise.

(B) "Excessive, unreasonable or unusually loud noise" shall be a determination of legal fact based upon those indicators that a reasonable person would objectively find to 1) disturb the peace, quiet or repose of the area, 2) cause physical injury or property damage, or 3) endanger the safety of the area, when any individual actually experiences such harm.

11-901(p)(6). The following situations are exempt from noise ordinance regulations:

1. Emergency work necessary to restore property to a safe condition or to protect a person and property from eminent danger;
2. Emergency vehicles;
3. Alarm systems;
4. Trash and waste pickup operations between 7:00 a.m. and 7:00 p.m.;
5. Aircraft or railroads;

6. Noise resulting from the activities of a temporary duration planned by school/university, governmental or community groups;
7. Air conditioners
8. Lawn care equipment operated between 7:00 a.m. and 9:00 p.m.;
9. Construction operations; and
10. Church bells and campanile chimes.

11-901(p)(7). Penalty, Any person who violates any of the provisions of this ordinance within the corporate limits of the city is guilty of a misdemeanor and upon conviction thereof shall be fined in the amount not exceeding \$500.00 or be imprisoned in jail for a period not to exceed one (1) month, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

(Ord. 935, Code 2009)

(q) EXCEPTIONS. The following activities, as long as they are conducted in daytime hours as a normal function of a permitted use and the equipment is maintained in proper working condition, are expected from the provisions of this chapter:

- (1) Lawn maintenance;
- (2) Repair of personal use vehicles;
- (3) Home repair of place of residence

(r) PENALTY. Any person who violates any of the provisions of this section within the corporate limits of the city is guilty of a misdemeanor and upon conviction thereof shall be fined in the amount not exceeding \$500.00 or be imprisoned in jail for a period not to exceed six (6) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

(Code 2007; Code 2009)

ARTICLE 10. OFFENSES AGAINST PUBLIC SAFETY

11-1001. AMENDMENTS. The Uniform Public Offense Code, 2008 Edition, Article 10, Offenses Against Public Safety, is hereby amended to include the following sections:

(a) MOLOTOV COCKTAILS. Unlawful possession, use and transportation of a “molotov cocktail” is the transporting, use or possession or control of a container of incendiary or explosive material liquid, solvent or mixture, equipped with a fuse, wick or other detonating device of a kind commonly known as a “molotov cocktail.”

Unlawful possession, use or transportation of “molotov cocktail” is a Class A violation.

(b) NEGLIGENCE STORAGE OF FIREARMS PROHIBITED; MINORS GAINING ACCESS A MISDEMEANOR.

(1) Any person who stores or leaves, on a premises or any location a loaded firearm, or an unloaded firearm in close proximity to ammunition for it, where it is reasonably foreseeable that a minor may gain access to the firearm, shall keep the firearm in a securely locked box, locked safe, locked hard case, locked safe case, locked drawer, locked cabinet or other locked container, or shall secure the firearm by installing a trigger lock or other similar device which prevents the normal function and discharge of the firearm. Such locking device shall be in addition to any built-in safety feature of the firearm. This section shall not apply when a firearm is lawfully being carried on a person’s body or within close proximity as to be under the person’s immediate control.

(2) Any person violating the provisions of this section shall be guilty of a misdemeanor if, as a result thereof, a minor gains access to a firearm and possesses such firearm in violation of K.S.A. 21-4201, and amendments thereto; K.S.A. 1992 Supplements 21-4203, 21-4203(a) or 21-4204, and any amendments thereto. This section shall not apply if the minor obtains the firearm as a result of an unlawful entry by any person.

(3) The following warning shall be conspicuously posted in every place of business where firearms are sold: “It is unlawful to leave a loaded firearm, or an unloaded firearm with ammunition for it nearby, if it is foreseeable that a minor may gain access to the firearm.”

(4) As used in this section, the term “minor” means any person under the age of eighteen (18).

(5) As used in this section, the term “firearm” means any pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosion, expanding gases or other combustion. Air rifles, air pistols and BB guns are included in this definition if capable of expelling projectiles by the sudden release of compressed gas. This term shall not include a firearm which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841, et seq., and any amendments thereto.

(c) PENALTY. Any person who violates the provisions of this section shall, upon conviction be punished by a fine of up to \$2,000.00 or by imprisonment for up to 1 year, or by both such fine and imprisonment.

(Code 2007; Code 2008; Code 2009)

**ARTICLE 11.
OFFENSES AGAINST PUBLIC MORALS**

11-1101. AMENDMENTS. The Uniform Public Offense Code, 2008 Edition, Article 11, Offenses Against Public Morals, is hereby amended to include the following sections:

(a) CONFISCATION, DESTRUCTION OF GAMBLING DEVICES. Upon conviction of any person under the provisions of this section, the municipal judge shall, as a part of his or her judgment, order the destruction of all punch boards, slot machines or other gambling devices or material used by or in possession of the defendant, and the chief of police shall execute such judgment by publicly destroying or causing to be destroyed punch boards, slot machines or any other gambling device or equipment by burning or otherwise, which destruction shall take place after the devices are no longer needed as evidence.

(b) OBSENIETY; BUILDING OR STRUCTURE. It shall be unlawful for any person to write or inscribe any obscene or vulgar picture, design or words at or on any place open to public view.

Violation of this section is a Class C violation.

(c) DRUG PARAPHERNALIA; DEFINITIONS. As used in this article:

(1) Controlled Substance means any drug or substance included in schedules I through V of the Uniform Controlled Substance Act in chapter 65, article 41, of the Kansas Statutes Annotated.

(2) Drug means:

(i) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States of official national formulary or any supplement to any of them;

(ii) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans and animals;

(iii) Substances (other than food) intended to affect the structure or any function of the human body or animal body; and,

(iv) Substances intended for use as a component of any article specified in clause (i), (ii) or (iii) of this subsection. It does not include devices or their components, parts or accessories.

(3) Marijuana means all parts of all varieties of the plant cannabis, whether

growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil or cake or the sterilized seed of the plant which is incapable of germination;

(4) Person means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust partnership or association or any other legal entity;

(5) Instrument means a device designed for use, or intended for use in ingesting, smoking, administering or preparing marijuana, cocaine, phencyclidine, opium or any derivative thereof, or any other controlled substance.

For purposes of this subsection, the phrase “intended for use” shall refer to the intent of the person selling, offering to sell, dispensing, giving away or displaying the instrument herein defined.

(d) POSSESSION OR USE OF CERTAIN SUBSTANCES OR PARAPHERNALIA. Any person in the city who has in their possession, cannabis sativa 1, otherwise known as marijuana, or any derivative thereof, without a prescription of a licensed physician, or has in their possession any paraphernalia for use in the consumption of the above mentioned substance, is guilty of a misdemeanor.

(e) SALE, INHALATION OF TOXIC VAPORS, GLUE, RELATED PRODUCTS.

(1) As used in this section, the phrase “glue containing a solvent having the property of releasing toxic vapors or fumes” shall mean and include any glue, cement or other adhesive, the contents of which may include, but are not limited to, one or more of the following chemical compounds; acetone, acetate, benzene, butyl alcohol, ethyl alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl ethyl ketone, pentachlorophenol, petroleum ether or toluene (toluol).

(2) No person shall, for the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction or other dulling of his or her brain or nervous system, intentionally smell or inhale the fumes from any glue containing a solvent having the property of releasing toxic vapors or fumes. Nothing in this section shall be interpreted as applying to the inhalation of any anesthesia for medical or dental purposes.

(3) No person shall, for the purpose of violating paragraph (2) of this section use or possess for the purpose of so using any glue containing a solvent having the property of releasing toxic vapors or fumes.

(4) No person shall sell, give or offer to sell or give to any person any tube or other container of glue containing a solvent having the property of releasing toxic vapors or fumes, if he or she has knowledge that the product sold, given or offered to be sold or given will be used for the purpose set forth in paragraph (3) of this section.

A violation of this section is a Class B violation.
(Code 2007; Code 2009)

ARTICLE 12. VIOLATIONS, PENALTIES

- 11-1201. **INCORPORATING ARTICLE 12.** There is hereby incorporated Article 3 of the Uniform Public Offense Code, Edition 2008, for the purpose of regulating offenses against persons. Article 3 is hereby incorporated by reference as if set out fully in this section.
(Code 2003, Code 2006; Code 2007; Code 2008; Code 2009)

ARTICLE 13. MISCELLANEOUS

- 11-1301. **INCORPORATING ARTICLE 13.** There is hereby incorporated Article 3 of the Uniform Public Offense Code, Edition 2008 for the purpose of regulating offenses against persons. Article 3 is hereby incorporated by reference as if set out fully in this section.
(Code 2004, Code 2005; Code 2007; Code 2008; Code 2009)

ARTICLE 14. WEEDS

- 11-1401. **WEEDS TO BE REMOVED.** It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any property or premises to permit weeds as hereinafter defined to exist or remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley including, but not limited to, sidewalks, streets, alleys, easements, rights-of-way and all other public or private areas. All weeds are hereby declared a nuisance and are subject to abatement as provided in this article. Any person violating this section shall be guilty of a violation of this article and shall be subject to such fines and penalties as provided for in this article.

(Ord. 670; Ord. 710; Ord. 724; Ord. 743; Ord. 812; Ord. 855)

11-1402. WEEDS DEFINED. For the purposes of and to effect this article, Weeds means any of the following:

(a) Brush and woody vines shall be classified as weeds;

(b) Weeds and grasses which may attain such growth as to become a fire menace to adjacent property;

(c) Weeds which bear or may bear seeds of a downy or wingy nature;

(d) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which may or does constitute a menace to health, public safety or welfare;

(e) Weeds and indigenous grasses on or about residential property which, because of their height, have a blighting influence on neighboring property or properties. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed twelve inches in height.

(Ord. 670; Ord. 710; Ord. 724; Ord. 743; Ord. 812; Ord. 855)

11-1403. ENFORCING OFFICER DEFINED. For the purposes of and to effect this article, Enforcing Officer means the chief of police of the city or the chief of police's designee or designees.

(Ord. 812; Ord. 855)

11-1404. SERVICE AGENT DEFINED. For the purposes of and to effect this article, Service Agent means any person and/or entity that the enforcing officer contracts for and obtains such services and equipment to remove and abate the weeds.

(Ord. 855)

11-1405. ENFORCING OFFICER; DUTIES; NOTICE TO REMOVE. The enforcing officer shall provide, once per calendar year, written notice to the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this article. Such notice shall be served upon such owner, occupant or agent in charge by certified mail, return receipt requested, or by personal service, and shall include the following information:

(a) Specific notice that the owner, occupant or agent in charge of the property is in violation of this article.

(b) An order directing the owner, occupant, or agent in charge of the property to cut the weeds within ten days of the receipt of this notice;

(c) Notice that the owner, occupant, or agent in charge of the property may appeal the notice by requesting, within five (5) days of receipt of the notice and in a written notice of appeal directed to the governing body and city clerk, a hearing before the governing body or its designated representative;

(d) Notice that if the owner, occupant, or agent in charge of the property fails to cut the weeds, the city may proceed to cut such weeds and assess the cost of the cutting, including any reasonable administrative fee, against the owner, occupant or agent in charge of the property;

(e) Notice that the owner, occupant, or agent in charge of the property shall be provided an opportunity to pay the assessment and, if the assessment is not paid, the city shall cause an amount equal to such assessment to be assessed against the property as a special assessment as provided by this article.

(f) Notice that no further notice shall be given prior to removal of weeds during the current calendar year; and,

(g) Notice that the enforcing officer should be contacted if there are any questions regarding the order.

Notwithstanding any other provision of this article or of law, any and all notices required by this article shall also be served upon the owner.

Should there occur a change in the record owner of title to property subsequent to the giving of notice pursuant to this section, the city may not recover any costs or levy an assessment for costs of cutting or destroying weeds on such property unless the new record owner of title to such property is provided notice as required by this article.

(Ord. 409, Sec. 2; Code 1984; Ord. 670; Ord. 710; Ord. 724; Ord. 743; Ord. 812; Ord. 855)

11-1406. ABATEMENT; ASSESSMENT OF COSTS. (a) If within five (5) days after receipt of the notice required by section 11-1405 the owner, occupant or agent in charge of the premises neglects or fails to comply with the directives contained in the notice provided for in section 11-1405, and such owner, occupant, or agent in charge fails to timely file a notice of appeal as provided in section 11-1405(c), the enforcing officer shall cause to be cut, destroyed and/or removed all such weeds and shall abate the nuisance created thereby at any time during the current calendar year.

(b) The costs incurred by the city for any action undertaken by the enforcing officer pursuant to or incidental to sections 11-1405 and 11-1406 of this article shall be reported in detail and in writing by said officer to the city clerk. The city clerk shall keep an account of such costs, as well as any and all costs of notices, service and/or mailing of notices and publication of notices, required by this article. The city clerk shall immediately cause the reportings and accountings required by this section to be entered in the appropriate city record and shall report the same to the governing body.

(c) The city clerk shall, within ten (10) days of receipt of the enforcing officer's report of costs, give notice by restricted mail to the owner, occupant or agent in charge of the property of the costs required to be reported by subsection (b) of this section and such notice shall include a statement requiring payment of the costs to the city within thirty (30) days following receipt of such notice. Should the owner, occupant or agent in charge of the property refuse to take delivery of the notice and return is made to the city indicating such refusal, the city clerk shall send to the owner, occupant or agent in charge of the property, by first class mail, the notice previously sent and receipt by the owner, occupant or agent in charge of the property shall be deemed to have occurred upon such mailing. The city clerk shall make and maintain records detailing the method and time of sending and receipt of such notice.

(d) Should the costs remain unpaid after thirty (30) days of receipt of the notice provided for in this article, the city clerk shall, at the time required by law for certification of other city taxes, certify the unpaid portion of said costs to the Sedgwick County Clerk for extension of the same on the county tax rolls against the property upon which the weeds were located.

(e) In addition to levying a special assessment against the property upon which the weeds were located as provided for in this section, the city may also elect to collect the unpaid portion of the costs provided for in herein in the manner provided by K.S.A. 12-1,115 and amendments thereto, and may pursue such remedy without limiting its ability to levy special assessment, but only until such time as the full costs and any applicable interest has been paid in full.

(Ord. 409, Sec. 2; Code 1984; Ord. 670; Ord. 670-A; Ord. 670-B; Ord. 710; Ord. 724; Ord. 743; Ord. 812; Ord. 855)

11-1407. **DISPOSITION OF MONEYS RECEIVED.** When and if paid, all moneys received from special assessments levied upon under the provisions of this article, or from an action under K.S.A. 12-1,115 and amendments thereto, shall be placed in the general fund of the city.

(Ord. 812; Ord. 855)

11-1408. **AUTHORIZATION TO CONTRACT FOR SERVICES.** In the event the owner, occupant or owner's agent fails to comply as set forth in section 11-1406 of this article and it becomes necessary for the enforcing officer to remove and abate the weeds, such officer is hereby authorized to contract with a service agent for and obtain such services and equipment, public or private, as the enforcing officer deems necessary and appropriate to complete the tasks enumerated herein, and the enforcing officer shall adhere to and comply with all applicable laws, regulations, ordinances and city policies concerning the procurement of services.

(Ord. 812; Ord. 855)

11-1409. **RIGHT OF ENTRY.** The enforcing officer and/or service agent contracted by the city are hereby authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this article, and for the purpose of effecting any other lawful purposes of this article.

(Ord. 670; Ord. 710; Ord. 724; Ord. 743; Ord. 812; Ord. 855)

11-1410. **UNLAWFUL INTERFERENCE.** It shall be unlawful for any person to interfere or attempt to interfere with, or to prevent or attempt to prevent, the enforcing officer and/or the service agent from entering upon any property or from proceeding with cutting and destruction of weeds, or from accomplishing any other lawful purpose of this article. Any person violating this section shall be guilty of a violation of this article and shall be subject to such fines and penalties as provided for in section 11-1411(b).

(Ord. 670; Ord. 710; Ord. 724; Ord. 743; Ord. 812; Ord. 855)

11-1411. UNIFORM COMPLAINT AND NOTICE TO APPEAR; NON-IMPAIRMENT; FINES AND COSTS. (a) In addition to the notice provided for in section 11-1405, the enforcing officer shall issue to the owner, occupant or agent in charge of the property a uniform complaint and notice to appear charging a violation of section 11-1401 of this article. Should such owner, occupant or agent in charge of such property contest the charge, the city shall not be precluded from cutting the weeds or otherwise abating the nuisance created thereby during the pendency of the case.

(b) Any person found guilty, or entering a plea of guilty or nolo contendere to violating section 11-1401 or section 11-1410 shall be fined as follows:

(1) Upon conviction for a first offense, by a fine of \$25.00, but the fine shall be waived if the violation was corrected within ten (10) days, and proof of such correction is verified by the enforcing officer.

(2) Upon conviction of a second offense, by a fine of \$50.00;

(3) Upon conviction of a third offense, by a fine of \$100.00;

(4) Upon conviction of a fourth offense, by a fine of \$200.00.

(c) Any person convicted and fined pursuant to this article shall also be assessed court costs as provided by city ordinance chapter 17, fee schedule, of the Haysville city code.

(Ord. 812; Ord. 855)

11-1412. NOXIOUS WEEDS; NON-IMPAIRMENT. Nothing in this article shall affect or impair the rights of the city under the provisions of chapter 2, article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds, which include, but is not limited to, kudzu (*pueraria lobata*), field bindweed (*convolvulus arvensis*), russian knapweed (*centaurea picris*), hoary cress (*lepidium draba*), canada thistle (*cirsium arvense*), quackgrass (*agropyron repens*), leafy spurge (*euphorbia esula*), burragweed (*franseria tomentosa* and *discolor*), pignut (*hoffmannseggia densiflora*), musk (nodding), thistle (*carduus nutans* L.), and johnson grass (*sorghum halepense*).

(Ord. 670; Ord. 710; Ord. 724; Ord. 743; Ord. 812; Ord. 855)

11-1413. SEVERABILITY. In the event any section or part of this article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of the remaining sections or provisions and such sections or provisions shall remain valid and enforceable.

(Ord. 670; Ord. 710; Ord. 724; Ord. 743; Ord. 812; Ord. 855)