

Speed Message

To: File _____

From _____

CODE OF 1984

Subject Sec. 16-201, adopting Zoning Ord. of 4-17-78
Sec. 16-401, adopting Subdivision Regulations of 1-16-78

Date 1/15/ 19 85

Phrase similar to "and as from time to time amended" omitted, so it seemed that these sections did not address amending ordinances between 1978 and 12/21/84, the effective date of the Code of 1984, and that we had "lost" them. Also, amending ordinance reference numbers are missing at the bottom of each section.

T/c Kaup week of 1/7 - he was very confident that sections are OK as written - that nothing is "lost" - that this is the manner in which these types of sections are written. This seems inconsistent to us as we mark ordinances repealed by the Code of 1984.

But if this bothers us, we can amend the sections now adding wording "§ as amended by subsequently passed (zoning or subdivision regulation) amending ordinances" OR wait for updates of Zoning Ordinance and Subdivision Regulations to be done.

JO decided to treat the amending ordinances as "special" rather than "general" so they would not be repealed.

Signed _____

Code
of the
City of Leawood
Kansas

Published Under the Authority and by the Direction of
The Governing Body of the City of Leawood,
Kansas, this 17th day of December, 1984

A Codification of the General Ordinances
Of the City of Leawood, Kansas

PREFACE

This volume contains the Code of the City of Leawood, Kansas, 1984. As expressed in the adopting ordinance, the code supercedes all ordinances passed prior to December 16, 1984 which are not included herein or recognized as continuing in force by reference thereto. The code was prepared by the staff of the League of Kansas Municipalities and Leawood city officials under the authority of Sections 12-3014:3015 of the Kansas Statutes Annotated.

This code is arranged in chapters, articles, and sections in a manner similar to the Kansas Statutes Annotated arrangement. Headnotes and footnotes are included; however, these do not constitute a part of the code and no implication or presumption of intent or construction is to be drawn therefrom.

Any section of this code may be amended or repealed by ordinary ordinance by reference to the code section number as follows:

"Section 1-105 of the Code of the City of Leawood is hereby amended to read as follows: (the new provisions shall then be set out in full)"

A new section not heretofore existing in the code may be added as follows:

"The Code of the City of Leawood is hereby amended by adding a section (or article or chapter) which reads as follows: (the new provision shall be set out in full)"

All sections or articles or chapters to be repealed shall be repealed by specific reference as follows:

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

The user's attention is directed to the League of Kansas Municipalities publication, "HANDBOOK for the City Governing body," with the supplement for cities of the second class, both as a source of general information and as an index to the pertinent sections of the Kansas Statutes Annotated.

An index is included in this volume, and the user's attention is also directed to indexes which may appear in standard codes incorporated by reference in this Code.

THE LEAGUE OF KANSAS MUNICIPALITIES

ROSTER OF CITY OFFICIALS

CITY OF LEAWOOD

GOVERNING BODY

Mayor

Kent E. Crippin

Councilmembers

Douglas Moore
Donald C. Brain, Jr.
Ed Akerly
Jean Wise

David LeMoine
Randy Jacob
Phillip Hodes
Karen Hess

Administrative Officials

Richard Garofano
City Administrator

Jinny J. Oberlander
City Clerk

Richard Wetzler
City Attorney

Dale S. Helmers
City Treasurer

Joseph N. Vader
Municipal Judge

J. Stephen Cox
Chief of Police

Jerry L. Strack
Fire Chief

Robert Sanders, Jr.
Director of Planning &
Development

Tom Bieszczat
Director of Public Works

ORDINANCE NO. 710

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

Be it Ordained by the Governing Body of the City of Leawood:

Section 1. That a codification of the general ordinances of the City of Leawood, Kansas, including supplements thereto, as authorized by K.S.A. 12-3014 and 12-3015, is hereby ordered, authorized and provided for, the preparation of which shall be done by the League of Kansas Municipalities as provided by contract. When completed, the codification shall be adopted by ordinance and published together with the adopting ordinance in a loose-leaf book form. Not less than 10 copies shall be published. Such codification shall be entitled, "Code of the City of Leawood, Kansas" of the year in which the work is completed and ready for publication. The code shall be duly certified by the City Clerk. One copy of the code shall be filed in the office of the City Clerk and shall be designated as and shall constitute the official ordinance book.

Section 2. That this ordinance shall take effect and be in force from and after its publication once in the official city newspaper.

Passed and Approved by the Governing Body this 3rd day of August, 1981.

/s/ Kent E. Crippin, Mayor

ATTEST: /s/ Jinny Oberlander, City Clerk

(SEAL)

ORDINANCE NO. 839

AN ORDINANCE ADOPTING THE CODIFICATION OF ORDINANCES OF THE CITY OF LEAWOOD, KANSAS, AUTHORIZED BY ORDINANCE NO. 710 PROVIDING FOR THE REPEAL OF CERTAIN OTHER ORDINANCES NOT INCLUDED THEREIN, EXCEPTING CERTAIN ORDINANCES FROM REPEAL AND SAVING CERTAIN ACCRUED RIGHTS AND LIABILITIES.

Be it Ordained by the Governing Body of the City of Leawood, Kansas:

Section 1. The codification of ordinances of the City of Leawood, Kansas, authorized by Ordinance No. 710 and K.S.A. 12-3014 and 12-3015, as set out in the following chapters, Chapters I to XVI and Appendices A and B, all inclusive, and entitled the "Code of the City of Leawood, Kansas, 1984," is hereby adopted and ordained as the "Code of the City of Leawood, Kansas, 1984," and said codification shall become effective upon publication of no fewer than 10 copies of said code in book form.

Section 2. All ordinances and parts of ordinances of a general nature passed prior to December 16, 1984, in force and effect at the date of the publication of no fewer than 10 copies of the "Code of the City of Leawood, Kansas, 1984," and this ordinance, are hereby repealed as of the date of publication of said code except as hereinafter provided.

Section 3. In construing this ordinance, the following ordinances shall not be considered or held to be ordinances of a general nature:

- (a) Ordinances pertaining to the acquisition of property or interests in property by
- (b) Ordinances pertaining to the sale or lease of public land;
- (c) Ordinances pertaining to the purchase, sale or lease of equipment; gift, purchase, devise, bequest, appropriation or condemnation;
- (d) Ordinances dedicating or vacating easements or rights-of-way;
- (e) Ordinances establishing and changing grades of streets, avenues, alleys and boulevards;
- (f) Ordinances naming or changing the names of streets, avenues and boulevards;
- (g) Ordinances authorizing or directing public improvements to be made;
- (h) Ordinances creating districts for public improvements of whatsoever kind or nature;
- (i) Ordinances levying general taxes;
- (j) Ordinances levying special assessments or taxes;
- (k) Ordinances granting any rights, privileges, easements or franchises therein mentioned to any person, firm or corporation;
- (l) Ordinances authorizing the issuance of bonds and other instruments of indebtedness;
- (m) Ordinances authorizing contracts;
- (n) Ordinances establishing the limits of the city or pertaining to annexation or exclusion of territory;
- (o) Ordinances relating to compensation of officials, officers and employees of the city;
- (p) Ordinances of a temporary nature;
- (q) Ordinances relating to the zoning of specific tracts of land.

Provided, That the above enumeration of exceptions shall not be held or deemed to be exclusive, it being the purpose and intention to exempt from repeal any and all ordinances not of a general nature and general ordinances specifically excepted by this section.

Section 4. The arrangement and classification of the several chapters, articles, and sections of the code adopted by Section 1 of this ordinance and the headnotes and footnotes at the ends of the sections, are made for the purpose of convenience and orderly arrangement, and do not constitute a part of the ordinances, and therefore, no implication or presumption of legislative intent or construction is to be drawn therefrom.

Section 5. The repeal of ordinances as provided in Section 2 hereof, shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred thereunder, or actions involving any of the provisions of said ordinances or parts thereof. Said ordinances above repealed are hereby continued in force and effect after the passage, approval and publication of this ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefor.

Section 6. If for any reason any chapter, article, section, subsection, sentence, portion or part of the "Code of the City of Leawood, Kansas, 1984," or the application thereof to any person or circumstances is declared to be unconstitutional or invalid, such decision will not affect the validity of the remaining portions of this code.

Section 7. This ordinance shall take effect and be in force from and after the publication of the "Code of the City of Leawood, Kansas, 1984," as provided in K.S.A. 12-3015.

Passed by the Governing Body of the City of Leawood, Kansas, this 17th day of December, 1984.

/s/ Kent E. Crippin, Mayor

ATTEST: /s/ Jinny Oberlander, City Clerk

(SEAL)

CERTIFICATE OF THE CITY CLERK

Office of the City Clerk
City of Leawood, Kansas

State of Kansas)
)
Johnson County)

I, Jinny Oberlander, City Clerk of the City of Leawood, Johnson County, Kansas do hereby certify that said city is a city of the second class of the mayor-council-administrator form of government under the statutes of Kansas; that this codification of the general ordinances of said city and the publication thereof in book form were ordered and authorized by the governing body by Ordinance No. 710 and in accordance therewith is entitled the "Code of the City of Leawood, Kansas, 1984," that said codification was adopted as the "Code of the City of Leawood, Kansas, 1984," by the governing body by Ordinance No. 839 passed on the 17th day of December, 1984, as authorized by Section 12-3015 of the Kansas Statutes Annotated; that said Ordinance No. 839 and said codification of general ordinances as contained in this volume will take effect upon publication of 10 or more copies; that the publication of 10 copies of this code and adoptive Ordinance No. 839 constitute due passage of this code and all general ordinances contained therein; that the codification and adoptive Ordinance No. 839 as contained herein are true and correct copies; and that said publication imports absolute verity and is to be received in evidence in all courts and places without further proof as provided by 12-3015 of the Kansas Statutes Annotated.

I further certify that the "Code of the City of Leawood, Kansas, 1984," and the matter therein contained will take effect upon publication and be in force from and after December 21, 1984.

Witness my hand and the seal of the City of Leawood, Kansas, at my office in Leawood, Kansas, this 17th day of December, 1984.

/s/ Jinny Oberlander, City Clerk
City of Leawood, Kansas

(S E A L)

COMPARATIVE TABLE OF ORDINANCES

This table shows the location within this code of all ordinances of a general nature passed since the 1973 Code and prior to December 16, 1984. Ordinances not included in this code have been omitted as repealed, superseded or not of a general and permanent nature.

| <u>Ordinance</u> | <u>Section</u> |
|------------------|---|
| 397 G | 1-503 |
| 434 | 12-102:103 |
| 434 G | 12-301:304 |
| 446 | 3-107 |
| 453 | 14-206 |
| 464 | 14-206 |
| 492 | 11-106 |
| 500 | 3-107 |
| 501 | 15-110 |
| 506 | 2-301:302 |
| 537 | 15-401:409 |
| 548 | 1-212 |
| 556 | 9-110:111 |
| 571 | 16-401 |
| 573 | 14-301:302;304;308 |
| 575 | 14-309 |
| 581 | 16-201 |
| 591 | 14-308 |
| 616 | 14-308 |
| 617 | 9-105:108 |
| 619 | 6-101 |
| 638 | 5-101:108;110:118 |
| 642 | 1-301;303:307 |
| 648 | 13-408:410 |
| 680 | 16-402 |
| 692 | 4-701:709;8-303 |
| 694 | 1-203:207 |
| 695 | 1-111 |
| 696 | 1-401:402;404:410 |
| 697 | 1-202;209:212 |
| 698 | 1-116 |
| 699 | 1-406 |
| 702 | 14-206 |
| 705 | 1-501:502 |
| 706 | 5-201:220;301:303 |
| 707 | 5-109 |
| 709 | 4-703 |
| 712 | 5-401:405 |
| 720 | 1-601:604 |
| 727 | 4-101:108;110:115;117:119 |
| 728 | 4-201:207;209:216;218:224; 231;233:234;236:240 |
| 729 | 4-301:308;310:312 |
| 730 | 4-401:413 |
| 731 | 4-501:514 |

Ordinance

Section

| | |
|-----|----------------------------|
| 732 | 4-601:613 |
| 736 | 12-201:206;208:214;216:217 |
| 737 | 14-206 |
| 753 | 15-102:109 |
| 755 | 8-101:102 |
| 763 | 14-102:104 |
| 768 | 16-202 |
| 777 | 11-306 |
| 781 | 4-801:808 |
| 782 | 16-202 |
| 788 | 15-202 |
| 794 | 14-206 |
| 797 | 1-504 |
| 798 | 1-505 |
| 819 | 14-205 |
| 829 | 2-101:103;201:221 |
| 835 | 11-501:522 |
| 837 | 6-201:205 |

LEAWOOD
Comparative Table - 1984 Code - 1973 Code

This table gives the location within this code of those sections of the 1973 Code which have been included in the 1984 Leawood City Code. Sections not included have been omitted as repealed, superceded, obsolete or not of a general and permanent nature. For the location within this code of ordinances passed subsequent to the 1973 Code, see the Comparative Table of Ordinances.

| <u>Code</u> <u>1984</u> | <u>Code</u> <u>1973</u> | <u>Code</u> <u>1984</u> | <u>Code</u> <u>1973</u> |
|----------------------------|----------------------------|----------------------------|----------------------------|
| 1-112 | 1-202 | 13-205 | 13-302 |
| 1-113 | 1-203 | 13-208 | 13-304 |
| 1-117 | 1-603 | 13-211 | 13-307 |
| 1-118 | 1-116 | 13-212 | 13-308 |
| 1-213 | 1-505 | 13-213 | 13-309 |
| 1-214 | 1-506 | 13-214 | 13-310 |
| 1-215 | 1-430 | 13-215 | 13-311 |
| 3-104 | 3-204 | 14-202 | 14-208 |
| 3-108 | 3-206 | 14-203 | 14-205 |
| 3-110 | 3-207 | 14-204 | 14-206 |
| 3-202 | 3-303 | 14-303 | 14-301 |
| 3-210 | 3-302 | 14-305 | 14-306 |
| 7-101 | 7-101 | 14-306 | 14-307 |
| 7-102 | 7-102 | 14-307 | 14-308 |
| 7-103 | 7-103 | 15-101 | 12-112 |
| 7-104 | 7-104 | 15-111 | 12-105 |
| 7-105 | 7-105 | 15-112 | 12-107 |
| 9-101 | 9-101 | 15-113 | 12-108 |
| 9-103 | 9-101 | 15-114 | 12-108.5 |
| 9-104 | 9-102 | 15-115 | 12-109 |
| 9-112 | 9-105 | 15-116 | 12-110 |
| 9-113 | 9-106 | 15-117 | 12-111 |
| 10-105 | 9-107 | 15-118 | 12-201 |
| 11-202 | 10-202 | 15-119 | 12-201 |
| 11-203 | 10-601 | 15-120 | 12-301 |
| 11-301 | 10-901 | 15-121 | 12-302 |
| 11-302 | 10-902 | 15-122 | 12-303 |
| 11-303 | 10-903 | 15-123 | 12-304 |
| 11-304 | 10-904 | 15-124 | 12-305 |
| 11-305 | 10-905 | 15-125 | 12-306 |
| 11-306 | 10-906 | 15-301 | 12-401 |
| 11-307 | 10-907 | 15-302 | 12-402 |
| 11-308 | 10-908 | | |
| 11-309 | 10-909 | | |
| 11-401 | 10-501 | | |
| 11-402 | 10-502 | | |
| 11-403 | 10-503 | | |
| 11-404 | 10-504 | | |
| 11-405 | 10-505 | | |
| 12-101 | 11-101 | | |
| 13-1A09 | 13-1A07 | | |
| 13-201 | 13-101 | | |
| 13-204 | 13-301 | | |

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CHAPTER I. ADMINISTRATION

- Article 1. General Provisions
- Article 2. Governing Body
- Article 3. City Administrator
- Article 4. Officers and Employees
- Article 5. Personnel Regulations
- Article 6. Leawood Arts Council
- Article 7. Fees

ARTICLE 1. GENERAL PROVISIONS

1-101. **CODE DESIGNATED.** The chapters, articles and sections herein shall constitute and be designated as "The Code of the City of Leawood, Kansas," and may be so cited. The code may also be cited as the "Leawood City Code." (Code 1984)

1-102. **DEFINITIONS.** In the construction of this code and of all ordinances of the city, the following definitions and rules shall be observed unless such construction would be inconsistent with the manifest intent of the governing body or the context clearly requires otherwise:

Repealed by:
ORDINANCE NO. 1056
Adopted: 6/20/88
Effective: _____

- (a) City shall mean the City of Leawood, Kansas.
- (b) Code shall mean the Code of the City of Leawood, Kansas.
- (c) Computation of time within which an act is to be done shall exclude the first day and include the last day. If the last day be a Saturday, Sunday or legal holiday, that day shall be excluded.
- (d) County means the County of Johnson in the State of Kansas.
- (e) Delegation of Authority. Whenever a provision appears requiring or authorizing the head of a department or officer of the city to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.
- (f) Employee shall mean an employee of the city and includes those persons who do not serve definite terms of office, do not exercise any of the sovereign functions of government, and are engaged primarily in the performance of ministerial service to the city.
- (g) Gender. Words importing the masculine gender include the feminine and neuter.
- (h) Governing Body means those elected members of the city council and the mayor or those members appointed to fill a vacancy on the council as provided in K.S.A. 14-201.
- (i) In the city shall mean and include all territory over which the city now has or shall hereafter acquire jurisdiction for the exercise of its police or other regulatory powers.

(j) Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

(k) Month shall mean a calendar month.

(l) Number. Words used in the singular include the plural and words used in the plural include the singular.

(m) Oath includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the word swear is equivalent to the word affirm.

(n) Officer shall mean those appointive officers of the city, including but not limited to the city administrator, city clerk, city treasurer, city attorney, assistant city attorney, fire chief, chief of police, director of public works, director of planning and development and municipal judge, and any other officer who exercises some portion of the sovereign functions of government.

(o) Owner applied to a building or land shall include not only the owner of the whole but any part owner, joint owner, tenant in common or joint tenant of the whole or a part of such building or land.

(p) Person includes a firm, partnership, association of persons, corporations, organization or any other group acting as a unit, as well as an individual.

(q) Property includes real, personal and mixed property.

(r) Shall, may. Shall is mandatory and may is permissive.

(s) Sidewalk means any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

(t) Street means and includes public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the city.

(u) Tenant or occupant applied to a building or land shall include any person holding a written or oral lease of, or who occupies the whole or a part of such building or land, whether alone or with others.

(v) Tense. Words used in the past or present tense include the future as well as the past and present.

(w) Writing or written shall include printing, engraving, lithography and any other mode of representing words and letters, except those cases where the written signature or the mark of any person is required by law.

(x) Year means a calendar year, except where otherwise provided.
(Code 1984)

1-103. **EXISTING ORDINANCES.** The provisions appearing in this code, so far as they are in substance the same as those ordinances existing at the time of the effective date of this code, shall be considered as continuations thereof and not as new enactments. (Code 1984)

1-104. **EFFECT OF REPEAL.** The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which has accrued, any duty imposed, any penalty incurred, or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein. (Code 1984)

1-105. CATCHLINES OF SECTIONS. The catchlines of the sections of this code printed in capital letters are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titled, titles of such sections, nor as any part of any section, nor unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted. (Code 1984)

1-106. PARENTHETICAL AND REFERENCE MATTER. The matter in parentheses at the end of sections is for information only and is not a part of the code. Citations indicate only the source and the text may or may not be changed by this code. All citations referencing "Code 1973" are to the Revised Ordinances of that date, as authorized by Ordinance No. 436, section 1-311. This code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015. Reference matter not in parentheses is for information only and is not a part of this code. (Code 1984)

1-107. AMENDMENTS; REPEAL. Any portion of this code may be amended by specific reference to the section number as follows: "That section _____ of the Code of the City of Leawood is hereby amended to read as follows: (the new provisions shall then be set out in full.)"

A new section not existing in the code may be added as follows: "That the code of the City of Leawood is hereby amended by adding a section (or article or chapter) which reads as follows: (The new provisions shall then be set out in full.)"

All sections, or articles or chapters to be repealed shall be repealed by specific reference as follows: "Section (or article or chapter) _____ of the Code of the City of Leawood is hereby repealed." (K.S.A. 12-3004; Code 1984)

NOTE: Whenever an existing section of this code is amended the original section must be repealed!

1-108. POWERS GENERALLY. All powers exercised by cities of the second class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law. (Code 1984)

Repealed by: 1-109.
ORDINANCE NO. 1056C
Adopted: 6/20/88
Effective: _____
ORDINANCES. The governing body shall have the care, management and control of the city and its finances, and shall pass all ordinances needed for the welfare of the city. All ordinances shall be valid when a majority of all the members elect of the city council shall vote in favor thereof. (K.S.A. 12-3002; Code 1984)

1-110. SAME; SUBJECT AND TITLE; AMENDMENT. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3004; Code 1984)

1-111.

SAME; SIGNING OR VETO. (a) The mayor shall have the power to sign or veto every ordinance passed by the council, with the exception of ordinances on which the mayor casts the deciding vote, and appropriation ordinances.

(b) If the mayor refuses or neglects to sign, or is not present at the meeting, the ordinance shall take effect without the mayor's signature.

(c) Any ordinance vetoed by the mayor may be passed over the veto by a vote of 3/4 of the whole number of councilmembers-elect notwithstanding the veto.

(d) If the mayor does not sign the ordinance, or return it with a veto stating his or her objections in writing, on or before the next regular meeting of the council, the ordinance will take effect without the mayor's signature.

(e) The presiding officer of the council shall have no power to sign or veto any ordinance.
(Ord. 695)

1-112.

SAME; PUBLICATION. No ordinance, except those appropriating money, shall be in force until published in the official city newspaper by the city clerk. One publication of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication. (K.S.A. 12-3007; Code 1973, 1-202)

1-113.

SAME; ORDINANCE BOOK. (a) Following final passage and approval of each ordinance, the city clerk shall enter the same in the ordinance book of the city as provided by law. Each ordinance shall have appended thereto the manner in which the ordinance was passed, the date of passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which published and the date of publication.

(b) The city clerk shall prepare and maintain a compilation of, and index to, those city ordinances which are not made a part of the Code of the City of Leawood, 1984, so as to enable convenient access by the public to such ordinances. Neither the index nor the compilation shall become a part of this Code, nor shall any implication or presumption of legislation intent be drawn therefrom.

(Code 1973, 1-203; Code 1984; K.S.A. 12-3008)

Repealed by: 114.
ORDINANCE NO. 1056C
Adopted: 6/20/88
Effective: _____

RESOLUTIONS, MOTIONS. Except where a state statute or city ordinance specifically requires otherwise, all resolutions and motions shall be passed if voted upon favorably by a majority of a quorum of the city council.
(Code 1984)

Repealed by: 115.
ORDINANCE NO. 1056C
Adopted: 6/20/88
Effective: 116.

QUORUM. A majority of the members elect of the governing body shall constitute a quorum. (Code 1984)

Repealed by: 1041C
ORDINANCE NO. 1041C
Adopted: 3/7/88
Effective: _____

COMMITTEES. The governing body may provide such standing or special committees as may be needed, and unless it shall otherwise determine, such committees shall be appointed by the mayor with the consent of the council. Those committees designated as standing committees shall be; Public Safety

Committee, Public Works Committee, and Budget and Finance Committee. All other committees shall be ad hoc committees to be formed as needed and shall disband upon conclusion of their assigned task, unless otherwise directed by the city council. Standing committees shall be constituted at the first regular meeting of the governing body following the regular city election. When a new member is appointed or elected to fill a vacancy on the governing body, he or she may be assigned to a standing committee. In such event the governing body may authorize the reappointment and reorganization of any or all committees. (Ord. 698)

- 1-117. **SAME; PROCEDURES.** Each committee shall operate in accordance with the following general procedures:
- (a) All committee meetings shall be open to the public. A meeting may be closed to the public only in accordance with the provisions of the Kansas Open Meetings Act governing the conduct of executive sessions.
 - (b) The city administrator shall maintain a calendar of all committee meetings and coordinate meeting places so as to avoid conflicts.
 - (c) Insofar as possible, a staff member will be assigned to assist a committee. The staff person assigned to the committee shall be responsible for assisting the chairperson in preparation of the agenda, arrangements, reports, minutes, and shall perform other staff research or support as required by the committee.
 - (d) The chairperson, with the assistance of the staff person assigned to the committee, shall be responsible for preparing the meeting agenda. Only those items referred to the committee by the city council should appear on the agenda.
 - (e) Minutes of a committee meeting shall be kept and shall be retained by the city clerk and made available for public inspection upon request.
 - (f) The chairperson of a committee shall report to the governing body all recommendations of the committee. Such a report should be submitted to the city administrator's office prior to the scheduled council meeting.
- (Code 1973, 1-603)

- 1-118. **EMERGENCY GOVERNMENT.** In the event of a catastrophe in which all or a majority of the members of the governing body are fatally injured, the interim governing body shall be composed of the surviving members, the city attorney, the city clerk and a sufficient number of the appointed officials selected in the order of the greatest seniority in office to make up a governing body of the prescribed number. (Code 1973, 1-116)

- 1-119. **CITY RECORDS.** The city clerk or any other officer or employee having custody of city records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 to 12-121, inclusive, which statutes are incorporated herein by reference as if set out in full. (Code 1984)

- 1-120. **ALTERING CODE.** It shall be unlawful for any person to change or amend by additions or deletions any part or portion of this code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the City of Leawood to

be misrepresented thereby. This restriction shall not apply to amendments or revisions of this code authorized by ordinance passed by the governing body. (Code 1984)

1-121. SCOPE OF APPLICATION. Any person convicted of doing any of the acts or things prohibited, made unlawful or misdemeanor, or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed guilty of a violation of this code and punished in accordance with section 1-122. Each day any violation of this code continues shall constitute a separate offense. (Code 1984)

1-122. GENERAL PENALTY. Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with this section.

(a) A fine of not less than one dollar or more than \$500; or,

(b) Imprisonment in the city jail for not more than 180 days; or,

(c) Both such fine and imprisonment not to exceed (a) and (b) above.

(Code 1984)

1-123. SEVERABILITY. If for any reason any chapter, article, section, subsection, sentence, clause or phrase of this code or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this code. (Code 1984)

ARTICLE 2. GOVERNING BODY

1-201. GOVERNING BODY. The governing body shall consist of a mayor and eight councilmembers to be elected as provided by section 6-101. (Code 1984)

1-202. MAYOR. The mayor shall preside at all meetings of the governing body.

He or she shall have the tie-breaking vote on all questions when the members present are equally divided. The mayor shall:

(a) Have the superintending control of all the appointed officers and department heads in the operations of the city, which superintending control may be delegated to the city administrator as chief administrative assistant to the mayor in accordance with article 3 of this chapter;

(b) Take care that the laws of the city are complied with;

(c) Sign the commissions and appointments of all officers elected or appointed;

(d) Endorse the approval of the governing body on all official bonds;

(e) From time to time communicate to the governing body such information and recommend such measures as he or she may deem advisable;

(f) Have the power to approve or veto any ordinance as the laws of the state shall prescribe;

(g) Sign all orders and drafts drawn upon the city treasurer for money;

(h) Cause all subordinate officers to be dealt with promptly for any neglect or violation of duty;

Repealed by:

ORDINANCE NO. 1056

Adopted: 6/20/88

Effective: _____

(i) Be vested with jurisdiction over those areas beyond the territorial limits thereof, but within five miles of the limits of the City of Leawood, for the enforcement of any sewer ordinance. (Ord. 697)

1-203. MEETINGS; SPECIAL MEETINGS. The mayor and councilmembers shall have regular sessions on the first Monday of each and every month, at 7:30 p.m. and adjourned sessions at any other time they may deem proper. In case the first Monday of any month falls on a holiday, the regular session shall be held on the next day thereafter which is not a holdiday. Special sessions shall be called by the mayor upon the written request of not less than three members of the council, specifying the object and purpose of such meeting, which request shall be read at the meeting and entered at length on the journal. All sessions shall be held at the city hall unless circumstances make that place impracticable for a particular session, in which case it may be held at any convenient place within the city. In all cases, it shall require a majority of the councilmembers-elect to constitute a quorum to do business, but a smaller number may adjourn from day to day. (Ord. 694)

Repealed:
ORDINANCE NO. 1034C
Adopted: 2/16/88
Effective: _____

1-204. SAME; COMPELLING ATTENDANCE OF ABSENTEES. In order to secure a quorum in the absence of any other reasonable means, the minority of councilmembers may compel the attendance of absentees by attachment issued in the name of the city and directed to the chief of police, commanding him or her to bring any such absentees forthwith before the council. (Ord. 694)

1-205. SAME; ORDER OF BUSINESS. At the hours appointed for the meeting, the members shall be called to order by the mayor, and the order of business proceed as specified by the mayor; except that by majority vote of the governing body, such order may be changed. (Ord. 694)

1-206. SAME; ORGANIZATIONAL MEETING. On the first Monday of May of each year, the governing body, as constituted before the election of the first Tuesday in April, shall meet and proceed to any unfinished business, and thereafter seat the new governing body, and the new governing body shall proceed to the order of business as hereinabove prescribed. (Ord. 694)

Repealed by:
ORDINANCE NO. 1035C
Adopted: 2/16/88
Effective: _____

1-207. SAME; ROBERT'S RULES REVISED. Robert's Rules of Order, Revised, are adopted for the conduct of the meetings of the governing body. (Ord. 694)

1-208. COMPENSATION. The governing body members shall receive as compensation such amounts as may be fixed by ordinance. (Code 1984)

1-209. PRESIDING OFFICER; ROTATING TERMS. The mayor shall at the organizational meeting on the first Monday in May appoint from the council membership a presiding officer for each three month period for the next year (first meeting in May to the last meeting in April of the next year). The presiding officer shall preside at any council meeting during such three month term at which the mayor is absent. The position shall rotate among

Repealed by:
ORDINANCE NO. 1042C
Adopted: 3/7/88
Effective: _____

councilmembers and no councilmember shall be presiding officer for more than one three month period during any year. (Ord. 697)

1-210.

VACANCY IN OFFICE OF COUNCILMEMBER. Each ward of the city shall have two councilmembers, who shall be chosen by the qualified electors of their respective wards; and no persons shall be eligible to the office of the councilmember who is not at the time of his or her election an actual resident of the ward for which he or she was elected, and if any councilmember shall remove himself or herself from the ward for which he or she was elected, his or her office as councilmember shall thereby become vacated. If a vacancy should occur in the office of councilmember by reason of death, resignation, removal from office, disqualification, or otherwise, the existence of the same shall be published to the council and press within one week after receiving notification of the vacancy. A nominating committee, to be composed of the mayor, the presiding officer and the councilmember remaining in the ward affected will seek out candidates to fill the vacancy, and will recommend one or more to the council. The candidate(s) to fill such vacancy for the balance of the unexpired term shall be voted on at the council meeting at which the committee's recommendation be made. (Ord. 697)

1-211.

VACANCY IN OFFICE OF MAYOR; PRESIDENT OF COUNCIL. In the event that a vacancy shall occur in the office of the mayor by death, resignation, removal from the city, removal from office, refusal to qualify, or otherwise, the council shall at its next regular meeting or at a special meeting called for this purpose, elect from its membership a president of the council who shall be acting mayor until such vacancy shall be filled at the next city election or such disability be removed. During such vacancy, the person elected as president of council under this section shall become mayor and shall exercise the office of mayor with all the rights, privileges, jurisdiction and compensation of the mayor. (Ord. 697)

1-212.

REIMBURSEMENT OF EXPENSES OF CITY OFFICIALS AND EMPLOYEES. (a) Whenever a city official, councilmember, committee member or employee shall be directed or ordered in connection with city affairs to attend any hearings or to represent the city in any matter or appear before any board, commission, or court, such person shall be reimbursed reasonable, necessary and proper travel expenses so advanced by said person; and shall be reimbursed for such other expenses actually advanced as are reasonable, necessary, and proper.

(b) Employees of the city, required to use their personal automobile in the conduct of official city affairs, shall be reimbursed for their actual mileage at a rate equal to the rate annually fixed by the secretary of administration for public officials as the same is proscribed by K.S.A. 75-3203a and as said section may be from time to time amended. Said funds shall be paid upon direction of the appropriate department head from either a special mileage reimbursement fund or petty cash as the department head so directs.

(Ord. 697, Ord. 548)

- 1-213. **OFFICIAL INTEREST IN CONTRACTS.** No officer of the city, whether appointed or elected, nor any member of a standing committee or commission of the city overseeing and directing any of the public improvements of the city, and all officers, elected and appointed, holding and exercising any office of trust or profit under or by virtue of any ordinance of the city or any law of the state, shall:
- (a) Take any contract with the city;
 - (b) Perform or do for their own profit any work for the city over which they have in whole or in part the supervision, direction, or control;
 - (c) Furnish any materials for their own profit for work over which they have in whole or in part the supervision, direction, or control;
 - (d) Have performed or done for them any work by city employees or equipment except in furtherance of their duties to or for the city:
- Provided, That such prohibition may be removed from any such contract or transaction by the vote of the majority of the councilmembers-elect when requested by the officer, committee member or commission member upon revealing the extent and nature of the interest therein. (Code 1973, 1-505)
- 1-214. **SAME; PENALTY.** Any person who shall violate the provisions of section 1-213 shall upon conviction therefore be fined in a sum not less than \$10, nor more than \$100. (Code 1973, 1-506)
- 1-215. **INTERFERENCE BY MEMBERS OF THE CITY COUNCIL.** No member of the city council shall directly interfere with the conduct of any department or duties of employees subordinate to the city administrator except at the express direction of the city council, or with the approval of the city administrator. (Code 1973, 1-430)

ARTICLE 3. CITY ADMINISTRATOR

- 1-301. **CITY ADMINISTRATOR; COMPENSATION.** (a) There is hereby created and established the office of city administrator for the City of Leawood, Kansas.
- (b) The city administrator shall receive such compensation as may be determined from time to time by the city council and such compensation shall be payable bi-weekly.
(Ord. 642)
- 1-302. **APPOINTMENT.** The mayor, with the approval of a majority of the city council, shall appoint the city administrator to serve at the pleasure of the governing body. (Code 1984)
- 1-303. **QUALIFICATIONS.** The person appointed to the office of city administrator shall be a resident of Johnson County at the time of the effective date of such appointment, and shall be a graduate of an accredited university or college, majoring in public or municipal administration or shall have equivalent qualifications and experience in financial and/or administrative fields. (Ord. 642)

1-304.

BOND. The city administrator, before entering upon the duties of his or her office, shall file with the city a bond in an amount no less than \$50,000. Such bond shall be approved by the city council and such bond shall insure the City of Leawood for the faithful and honest performance of the duties of the city administrator and for rendering a full and proper account to the city for funds and property which shall come into the possession or control of the city administrator. The cost of such bond shall be paid by the city; however, should the city administrator be covered by a blanket bond to the same extent, such individual bond shall not be required. (Ord. 642)

1-305.

REMOVAL. The mayor, with the consent of a majority of the members-elect of the city council, may remove the city administrator from office at any time. If requested by the city administrator, the mayor and city council shall grant the city administrator a public hearing within 30 days following notice of such removal. During the interim, the mayor, with the approval of a majority of the city council, may suspend the city administrator from duty, but shall continue his or her salary for two calendar months following the final removal date, provided, however, that if the city administrator shall be removed for acts of dishonesty or acts of moral turpitude, such salary shall not be continued. (Ord. 642)

1-306.

Repealed by:

ORDINANCE NO. 1092

Adopted: 3/6/89

Effective:

DUTIES. The city administrator shall: (a) Be the chief administrative assistant to the mayor and as such shall be the administrative officer of the city government. Except as otherwise specified by ordinance or by law of the State of Kansas, the city administrator shall coordinate and generally supervise the operation of all departments of the city;

(b) Be the purchasing agent for the city and all purchases amounting to less than \$5,000 shall be made under his or her general direction and supervision, and all such purchases shall be made in accordance with the purchasing rules and procedures approved by the city council;

(c) Be the budget officer of the city and with the assistance of all department heads shall assemble estimates of the financial needs and resources of the city for each ensuing year and shall prepare a program of activities within the financial power of the city, embodying in it a budget document with proper supporting schedules and an analysis to be proposed to the mayor and city council for their final approval;

(d) Make monthly reports to the mayor and city council relative to the financial condition of the city. Such reports shall show the financial condition of the city in relation to the budget;

(e) Prepare and present to the mayor and city council an annual report of the city's affairs, including in such a report a summary of reports of department heads and such other reports as the mayor and city council may require;

(f) Act as the personnel officer of the city and shall recommend an appropriate position and classification system and pay plan to the mayor and city council. The city administrator, after consultation with department heads, shall approve advancements and appropriate pay increases within the approved pay plans and position classification system in order to coordinate compliance with same. The city administrator, after consultation with and acting through the appropriate department heads, shall have the power to

appoint and remove all subordinate employees of the city, subject to the personnel system regulations approved by the city council. The city administrator shall make recommendations to the mayor and city council concerning appointment and removal of department heads;

(g) Recommend to the mayor and city council adoption of such measures as he or she may deem necessary or expedient for the health, safety, or welfare of the city or for the improvement of administrative services for the city;

(h) Submit to the mayor and city council a proposed agenda for each council meeting at least 72 hours before the time of the regular council meeting;

(i) Work with all city commissions and committees to help coordinate the work of each;

(j) Attend all meetings of the city council unless excused by the mayor;

(k) Supervise the preparation of all bid specifications for services and equipment, and receive sealed bids for presentation to the city council;

(l) Coordinate federal and state programs which may have application to the city;

(m) Attend state and regional conferences and programs applicable to the office, and the business of the city, whenever such attendance is directed and approved by the city council and mayor;

(n) Keep full and accurate records of all actions taken by him or her in the course of his or her duties, and he or she shall safely and properly keep all records and papers belonging to the city and entrusted to his or her care in accordance with federal and Kansas state statutes. All such records shall be and remain the property of the city and be open to inspection by the mayor and city council at all times;

(o) Perform any and all other duties or functions prescribed by the mayor and city council.

(Ord. 642)

1-307.

POWERS. The city administrator shall:

(a) Have responsibility for all real and personal property of the city. He or she shall have responsibility for all inventories of such property and for the upkeep of all such property. He or she shall be responsible to see the city has adequate procedures to insure against major insurable risks;

(b) Have the power to prescribe such rules and regulations as he or she shall deem necessary or expedient for the conduct of administrative agencies subject to the authority, and he or she shall have the power to revoke, suspend, or amend any rule or regulation of the administrative service except those prescribed by the city council;

(c) Have the power to sign his or her name to any check issued by the city as a substitute for the signature of the city clerk when the city clerk is not available to provide his or her own signature.

(d) Have the power to coordinate the work of all the departments of the city, and, at times of an emergency, with the approval of the mayor and acting through the appropriate department heads, shall have authority to assign the employees of the city to any department where they are needed for the most effective discharge of the functions of city government;

(e) Report on any condition or fact concerning the city government requested by the mayor or city council;

(f) Have the power to overrule any administrative action taken by a department head, and may thereby supersede him or her in the functions of the office but only with the prior approval of the mayor and in accordance with Kansas statutes;

(g) Have the power to appear before and address the city council at any meeting;

(h) At no time have the power to supersede any action by the mayor and city council.

(Ord. 642; Code 1984)

ARTICLE 4. OFFICERS AND EMPLOYEES

1-401.

Repealed by

ORDINANCE 111100

Adopted: 11/2/87

Effective:

OFFICERS APPOINTED; DATE. (a) The mayor shall, at the first regular meeting of the city council in May of each year, by and with the consent of the governing body, appoint the following officers: fire chief, chief of police, city treasurer, city attorney, assistant city attorney, director of public works, director of planning and development, city clerk and municipal judge.

The city clerk shall enter every appointment to office and the date thereof on the journal of proceedings.

(b) The mayor may appoint, as required, by and with the consent of the council in addition to the above officers, assistants to such officers, a deputy city clerk, and a municipal judge pro tem.

(c) Officers so appointed, confirmed and qualified, shall hold their office for a term of one year, and until their successors are appointed and qualified. (Ord. 696; Code 1984)

1-402.

OATH OF OFFICE. Officers appointed as herein provided shall qualify for office by taking and subscribing the following oath: "I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Kansas, and faithfully perform the duties of _____, so help me God," and securing any bond, certificate or security as may be required by the governing body, if required, to secure the faithful performance of his or her duties. (Ord. 696)

1-403.

SURETY BONDS; APPOINTIVE OFFICERS. (a) The governing body shall provide for coverage by blanket surety bond in an amount of at least \$50,000, such bond to cover each of the following appointive officers: city clerk, city treasurer, municipal judge, and clerk of the municipal court.

(b) All premiums for such blanket bond shall be paid by the city.

(c) The blanket bond shall be approved as to form by the city attorney and the amount of such bond shall be set by resolution of the governing body. The bond shall be filed with the city clerk.
(Code 1984)

1-404.

REMOVAL FROM OFFICE. No officer as appointed herein shall, unless otherwise provided by state statute, be removed from office except in the following manner:

Repealed by

ORDINANCE NO. 1010C

Adopted: 11/2/87

Effective: _____

(a) Upon complaint made to the mayor, the mayor shall lay the same before the governing body at their first meeting thereafter. The governing body shall carefully and honestly inquire as to the truth of such complaint and should good cause be found therefor, notify the officer complained against and accord him or her a hearing before the governing body.

(b) A hearing called by the governing body following a probable cause determination made pursuant to subsection (a) shall be held within 30 days, but no sooner than 14 days, following the governing body's probable cause finding. At the hearing the officer shall be afforded a full and accurate statement of the grounds for the complaint, and shall be provided with the opportunity to confront and cross-examine all witnesses appearing and testifying against the officer. Any officer brought before a hearing shall have the right to be represented by legal counsel.

(c) If a majority of all the members of the governing body find from the hearing that removal is appropriate, they shall forthwith, by order to be entered upon their journal, remove him or her from office and he or she shall not be again appointed to such office unless 2/3 of the councilmembers-elect consent thereto.

(Ord. 696)

Repealed by: 405.

ORDINANCE NO. 1010C

Adopted: 11/2/87

Effective: _____

VACANCY. Whenever any vacancy shall happen in any appointed office of the city by death, resignation, removal from the city, removal from office, refusal to qualify or other reason, the mayor, by and with the consent of the council, shall appoint a successor. (Ord. 696)

1-406.

CITY CLERK. The city clerk shall:

(a) Be custodian of all city records, books, files, papers, documents and other personal effects belonging to the city and not properly pertaining to any other office;

(b) Carry on all official correspondence of the city;

(c) Attend and keep a record of the proceedings of all regular and special meetings of the governing body;

(d) Enter every appointment of office and the date thereof in the journal;

(e) Enter or place each ordinance of the city in the ordinance books after its passage;

(f) Publish all ordinances, except those appropriating money, and such resolutions, notices and proclamations as may be required by law or ordinance;

(g) Have charge of the corporate seal of the city;

(h) Administer oaths for all purposes pertaining to the business and affairs of the city;

- (i) Sign all warrant checks along with the mayor and treasurer;
 - (j) Perform such other duties as may be delegated by the governing body or the Kansas statutes.
- (Ord. 696, Ord. 699)

1-407. CITY TREASURER. The city treasurer shall:

- (a) Keep a full and accurate financial record of and for the city;
- (b) Publish a quarterly financial statement;
- (c) Be responsible for the receipt of all moneys belonging to the city;
- (d) Deposit all public moneys and sign all checks of the city;
- (e) Pay out the funds of the city upon warrant and checks properly signed by the mayor and city clerk;
- (f) Perform such other duties as may be delegated by the governing body or the Kansas statutes.

(K.S.A. 10-803; K.S.A. 12-1608; Ord. 696)

1-408. CITY ATTORNEY. The city attorney shall:

- (a) Attend, so far as reasonably possible, all meetings of the governing body;
- (b) Advise the governing body and all officers of the city upon such legal questions affecting the city and its offices as may be submitted to him or her;
- (c) When requested by the governing body, give opinions in writing upon any legal questions;
- (d) Draft such ordinances, contracts, leases, easements, conveyances and other instruments in writing as may be submitted to him or her in the regular transaction of affairs of the city;
- (e) Perform such other duties as may be delegated by the governing body or the Kansas statutes.

(Ord. 696)

1-409. ASSISTANT CITY ATTORNEY. It shall be the duty of the assistant city attorney to assist in the handling of municipal court prosecutions and appeals and such other duties that may from time to time be assigned by the governing body, and when expedient, to assist in the duties of the city attorney and to act as counselor to the police department. (Ord. 696)

1-410. DIRECTOR OF PUBLIC WORKS. The director of public works shall have the general supervisory control of the operations of the public works department including the street department, sanitary sewer department, and the park department, and thereby, the construction, alteration, maintenance and repair of all streets, storm drainage structures, bridges, tunnels, sidewalks, curbs, gutters, public thoroughfares of the city and public property, including parks and municipal buildings. The director shall review and approve all construction or installation and all plans and specifications relating thereto within public right-of-way, public property and easements dedicated to the city. (Ord. 696; Code 1984)

1-411. DIRECTOR OF PLANNING AND DEVELOPMENT. The director of planning and development shall serve as the chief building official;

enforcement officer for the city's building code and property maintenance code; administrative officer for enforcement of the city's zoning and subdivision regulations; and advisor to the city planning commission and the board of zoning appeals. The director shall also examine plans and specifications submitted for permits and certify that such plans comply with the zoning ordinances of the city. (Code 1984)

ARTICLE 5. PERSONNEL REGULATIONS

1-501. EMPLOYEE BENEFITS CONTRIBUTION FUND. The city in accordance with the provisions of K.S.A. 12-16,102 does hereby establish an Employee Benefits Contribution Fund for the purpose of paying the city's share of employee benefits prescribed by section 1-502. (Ord. 705)

1-502. SAME; SHARE OF CITY. The city's share of the cost of employee benefits authorized for payment from the fund created by section 1-501 shall include the following:

- (a) Social Security (FICA);
- (b) Kansas Public Employees Retirement System (KPERs);
- (c) Worker's Compensation benefits;
- (d) Employment Security, Unemployment Compensation Benefits;
- (e) Kansas Police and Firemen's Retirement System;
- (f) Any other private retirement program.

(Ord. 705)

1-503. PAYROLL DEDUCTIONS. Deductions, other than those required by statute, shall be made from the compensation of city officers and employees only in response to a written authorization therefor signed by the employee and filed with the city clerk. (Ord. 397g)

1-504. PERSONNEL RULES AND REGULATIONS. There is hereby incorporated for the purpose of establishing employee personnel rules and regulations the document entitled "Personnel Rules and Regulations," dated January 3, 1984, adopted by the governing body on January 3, 1984 and as from time to time amended. No fewer than three copies of said documents shall be marked or stamped "Official Copy" and to which will be attached a copy of this section. The official copies shall be filed with the city clerk and shall be open to inspection and available to the public at all reasonable hours. The city administrator is authorized to review the "Personnel Rules and Regulations" periodically and to submit recommended changes to the governing body, which shall be ratified by resolution. (Ord. 797)

Repealed by:
ORDINANCE NO. 1230C
Adopted: 7/15/91
Effective: _____

1-505. DEFERRED COMPENSATION. (a) To enable the city to attract to and retain in its employment persons of competence and to provide a means for supplementing the retirement benefits of city employees, the city adopts the deferred compensation plan, known as Appendix A and thereby incorporated by reference, and appoints the ICMA Retirement Corporation to serve as administrator thereunder.

(b) The city hereby executes the ICMA Retirement Trust, known as Appendix B, and thereby incorporated by reference.

(c) The city hereby adopts the trust agreement known as Appendix C and thereby incorporated by reference, and appoints the ICMA Retirement Corporation as Trustee, to invest all funds held under the deferred compensation plan through the ICMA Retirement Trust as soon as is practicable.

(d) The city administrator shall be the coordinator for this program and shall receive necessary reports, notices, etc., from the ICMA Retirement Corporation as administrator, and shall cast, on behalf of the employer, any required votes under the program. Administrative duties to carry out the plan may be assigned to the appropriate departments.
(Ord. 798)

ARTICLE 6. LEAWOOD ARTS COUNCIL

1-601. ESTABLISHMENT AND MEMBERSHIP. There is hereby established a Leawood Arts Council consisting of 11 members appointed by the mayor with the consent of the city council, as set out in section 1-602. Membership shall be comprised of one member of the city council, the chairperson of the planning commission, and nine members appointed from the city at large. For purposes of this article the Leawood Arts Council shall be referred to as the Council. (Ord. 720)

Repealed by:
ORDINANCE NO. 1047C
Adopted: 4/4/88
Effective: _____

1-602. MEMBERSHIP TERMS AND QUALIFICATIONS. All members of the Council shall be residents of the city and shall serve without compensation. The member of the city council and the chairperson of the planning commission shall be appointed annually and the at-large members shall be appointed for a term of three years. Appointments will be from May to May, three members appointed yearly. Two of the three appointments shall be made by the mayor and one by the Council. Whenever a vacancy appears, for whatever reason, appointment to fill the vacancy shall be by the Council, with the appointee serving the remainder of the unexpired term.

Repealed by:
ORDINANCE NO. 1047C
Adopted: 4/4/88
Effective: _____

The initial membership shall make the determination as to their individual terms of service in order to establish staggered terms.

The Council shall elect its own chairperson who shall serve for a term of one year, and shall elect a vice-chairperson who shall serve as chairperson in the absence of the chairperson. (Ord. 720)

1-603. MEETINGS. Meetings of the Council shall be held at the call of the chairperson of the Council and at such other times as the Council may determine. Records of all official actions of the Council shall be filed in the office of the city clerk. One-half of the membership constitutes a quorum for the transaction of business. (Ord. 720)

Repealed by:
ORDINANCE NO. 1047C
Adopted: 4/4/88
Effective: _____

1-604. STATEMENT OF PURPOSE. (a) The purpose of the Council shall be: (1) To serve the Leawood community as its aesthetic conscience and to address issues to improve the cultural life of the city;

Repealed by:
ORDINANCE NO. 1047C
Adopted: 4/4/88
Effective: _____

(2) To provide advice and counsel to the mayor, the governing body, committees, and department heads on matters relating to the arts and the aesthetics of all public improvements;

(3) To initiate and implement programs and proposals for the encouragement, promotion, and development of cultural activities.

(b) The term "cultural activities" as used herein, shall include the visual and performing arts, and shall include, but not be limited to, creative production of music, drama, dance, creative writing, arts and crafts, film, photocopying or photography; and works of art to include paintings, mural decorations, stained glass, bas-reliefs, tablets, sculptures, monuments, fountains, arches, or other structures of a permanent or temporary character intended for ornament or commemoration; and the creative presentation of such cultural activities.

(Ord. 720)

ARTICLE 7. FEES

1-701.

FEE SCHEDULE ESTABLISHED. (a) A Fee Schedule setting the amounts for all fees imposed by the city and which are not specifically provided for in this code shall be established and maintained by the city administrator.

(b) The city administrator is hereby authorized to make such fee adjustments, including both increases and decreases, as are necessary from time to time. The city administrator shall report annually to the governing body the amounts at which such fees are established, and the governing body shall, by resolution, ratify or modify such fees.

(Code 1984)

1-801 thru 807 added by Ord. 862C, 8/5/85
1-808 thru 815 " " " 863C, 8/5/85

CHAPTER II. ANIMALS AND FOWL

- Article 1. Animals, Fowl Generally
- Article 2. Dogs and Other Animals
- Article 3. Wilds Animals, Fowl, Insects
or Reptiles

ARTICLE 1. ANIMALS, FOWL GENERALLY

2-101. KEEPING OF LIVESTOCK PROHIBITED; ANIMALS, FOWL RUNNING AT LARGE PROHIBITED. It shall be unlawful for any person, firm or corporation to keep, harbor or maintain any cattle, hogs, horses, mules, sheep, goats or other animals, chickens, ducks, geese, pigeons or any other domestic fowl on any premises within the corporate limits of the city without first securing permission from the governing body, or to permit the same to run at large upon any public or private grounds in the city other than property in the possession or under the control of the owner or person having the care, custody or control of such animals or domestic fowl or to abandon any such animals. (Ord. 829, Sec. 2)

Repealed by:

ORDINANCE NO. 327C

Adopted: 12/21/92

Effective: _____

2-102. ANIMALS, FOWL: KEEPING IN OFFENSIVE MANNER PROHIBITED. It shall be unlawful for any person owning, occupying, maintaining or controlling any yard, pen, room, building or any other place where animals, fowl, birds or game are dressed or kept alive or dead in the city to allow such place to become filthy, offensive, unwholesome or annoying or to allow any decayed putrid or offensive matter to accumulate thereon. (Ord. 829, Sec. 3)

Repealed by:

ORDINANCE NO. 327C

Adopted: 12/21/92

Effective: _____

2-103. PENALTY. Any person, firm or corporation violating any of the provisions of this article shall, upon conviction thereof, be fined in any sum not exceeding \$100. (Ord. 829, Sec. 4)

Repealed by:

ORDINANCE NO. 327C

Adopted: 12/21/92

Effective: _____

ARTICLE 2. DOGS AND OTHER ANIMALS

2-201. DOG LICENSE. It shall be unlawful for any person to own, keep or harbor any dog over six months of age within the corporate limits of the city without registering such dog and paying a yearly license tax of \$5. This section shall not be applicable to seeing eye dogs. (Ord. 829, Sec. 5)

Repealed by:

ORDINANCE NO. 1003C

Adopted: 10/16/87

Effective: _____

2-202. LICENSE TAX: DUE AND PAYABLE. The license year shall be from January 1st through December 31st of each year. The fee shall be payable before March 1st of each year without penalty. A dog over six months of age brought into the city on or after March 1st of any license year shall be licensed within 30 days after being brought into the city or attaining six months of age. (Ord. 829, Sec. 6)

Repealed by:

ORDINANCE NO. 327C

Adopted: 12/21/92

Effective: _____

2-203.

ANTIRABIES VACCINATION REQUIRED.

Any person making application for a license for a dog shall be required to present to the city clerk or designated agent at the time of making such application, a certificate issued by a licensed veterinarian showing that such dog has been vaccinated or inoculated with a recognized antirabies vaccine and showing that the inoculation so administered to such dog will be effective for the entire period of time for which such license is issued. (Ord. 829, Sec. 7)

Repealed by
ORDINANCE NO. 1327C
Adopted: 12/21/92
Effective:

2-204.

REGISTRATION: DOG TAG.

It shall be the duty of the city clerk or designated agent, upon receipt of the license tax hereinbefore required, to keep a record of the date of registration and the amount paid therefor, and shall deliver to the owner or keeper of such dog a certificate in writing, stating that such person has registered such dog and the number by which he/she is registered, and shall also deliver to the owner or keeper of such dog a color coded tag with the letters LEAWOOD and the registration number marked thereon, which shall be by the owner or keeper attached to the collar to be used on the dog so registered. Application for registration of dogs may be made by mail or in person. If made by mail, the applicant must send a rabies certificate (as described in section 2-203), a check made payable to the city for the correct amount due, and a stamped, self-addressed envelope. The city clerk will return the dog tag, rabies certificate and receipt to the applicant. When it shall be made to appear to the city clerk that any tag has become lost, the city clerk shall, upon presentation of the certificate, issue a duplicate of such tag upon the payment of \$1 fee. It shall be unlawful for any person to take off or remove the city license tag from any dog belonging to another, or remove the strap or collar on which the same is fastened. (Ord. 829, Sec. 8)

Repealed by
ORDINANCE NO. 1327C
Adopted: 12/21/92
Effective:

2-205.

NUMBER OF DOGS AND CATS LIMITED.

(a) The owning, harboring or keeping of more than a total of two dogs and/or cats, combined over six months of age upon any property in the city shall be deemed a nuisance per se: provided, that the owner or keeper may secure a permit to keep or harbor animals in excess of two of any kind upon adequately showing that the premises are so situated, and that special circumstances exist which would not constitute a nuisance to the neighborhood. Written objections by the owners of two tracts of land, portions of which lie within 200 feet of the premises shall be held sufficient evidence of nuisance and the permit shall be refused or revoked. The animal control officer shall issue and approve such permit after investigation if the number of animals to be kept is three. The governing body shall issue and approve all permits to keep in excess of three animals combined. The governing body may limit the permit as to duration and may also limit the maximum number of animals that may be maintained at any one time. There is no fee for the permit.

(b) Any person who shall allow any animal to habitually remain or to lodge or to be fed within his or her home, store, yard, enclosure or place for seven consecutive days, shall be deemed and considered as keeping and harboring the animal within the meaning of this article. (Ord. 829, Sec. 9)

Repealed by
ORDINANCE NO. 1327C
Adopted: 12/21/92
Effective:

2-206.

DOGS RUNNING AT LARGE. (a) Dogs Running At Large Defined. Any dog shall be deemed running at large when it is off the property of the owner or keeper. All dogs must remain on the property of the owner except when taken off the property on a leash, in a cage, or in a car or other conveyance. It shall be unlawful for the owner or keeper of any dog to allow such dog to run at large.

Repealed by:
ORDINANCE NO. 1327C
Adopted: 2/21/92
Effective: _____

(b) Presumption of Ownership. Any person owning, keeping or harboring a dog for seven consecutive days shall be conclusively presumed to be the owner of such dog for purposes of this article.

(c) Running at Large: Pick Up. Whenever any canine shall be found running at large, or any feline or other animal shall be believed to be a stray is found within the city limits, such animal may be taken up by the animal control officer or by any other agency designated by the city, and the animal shall be held seven days at a shelter house provided by the agency or veterinarian, and if within seven days the owner of any animal so held shall respond to that shelter house and pay board incurred from the shelter house, the animal shall be delivered to the owner. The owner or claimant will at this time complete the impoundment receipt form and copies shall be given to the owner or claimant and to the shelter house and the animal control officer.

If impounded, the police department shall make a good faith effort to notify the owner of the animal. If not claimed within seven days, the disposal of the animal becomes the prerogative of the designated agent and/or shelter house, except as provided in section 2-208.

(d) Purchase of City License After Impoundment. Should any dog be unlicensed at the time of impoundment, the owner, keeper or harbinger of such animal shall be allotted five working days from the date of the release of such animal to obtain a city license for such dog. Failure to obtain a city license within the allotted time shall be considered a separate violation and may be cause for the issuance of a notice to appear or further city action. (Ord. 829, Sec. 10)

2-207.

DOGS RUNNING AT LARGE WITHOUT TAG. Whenever any dog shall be found running at large within the city limits without having a license or registration tag attached to a collar, such dog shall be taken up by the animal control officer or by any other duly authorized city employee designated by the city, and such animal shall be held seven days at a shelter house provided by the agency or veterinarian. If within seven days the owner of the dog shall present to the person in charge of the shelter house payment for that agency's board fee, the animal shall be delivered to the owner. The owner or claimant will at this time complete the impoundment receipt form, and copies shall be given to the owner or claimant and to the shelter house and the animal control officer.

Repealed by:
ORDINANCE NO. 1327C
Adopted: 2/21/92
Effective: _____

If impounded, the police department shall make a good faith effort to notify the owner of such animal. If not claimed within seven days, the disposal of the animal becomes the prerogative of the designated agent and/or shelter house. (Ord. 829, Sec. 11)

2-208.

DOGS RUNNING AT LARGE WITH TAG. Whenever a complaint is received under section 2-219 that any dog is running at large within the city

Repealed by:
ORDINANCE NO. 1327C
Adopted: 2/21/92
Effective: _____

limits with a license or registration tag attached to a collar, such dog may be seized and impounded. If impounded, the owner shall be notified by the police department by a means designed to insure notification. Such animal shall be held seven days after notification but not more than 14 days after date of impoundment at a shelter house provided for such purposes or veterinarian. However, if within the time period the owner of any animal so held shall present to the person in charge of the shelter house and/or veterinarian the board fee for the animal and fill out the impoundment receipt form, the animal shall be delivered to the owner. If not so claimed within 14 days, the disposal of the animal becomes the prerogative of the designated agent. Copies of the impoundment receipt form will be given to the owner or claimant, the shelter house and/or veterinarian and the animal control officer. (Ord. 829, Sec. 12)

2-209.

FEMALE DOGS. It shall be unlawful to keep or harbor any female dog within the city during such times as she is in heat in such a manner that other dogs frequent or congregate on or near the premises where such female dog is harbored. If other dogs frequent or congregate on or near the premises where such female dog is harbored, the owner or keeper shall upon notification of complaint being received by the city, then remove the dog from the premises, and should the owner or keeper fail to do so, then the city may take the female dog and impound it and dispose of it in the manner as provided in section 2-207 if without a tag and as provided in section 2-208 if with a tag. (Ord. 829, Sec. 13)

Repealed by:
ORDINANCE NO. 1327C
Adopted: 12/21/92
Effective: _____

2-210.

NOISY AND DESTRUCTIVE ANIMALS. (a) Noisy Animals. The keeping or harboring of any animal which by loud, frequent and habitual barking, howling, yelping, mewling, roaring or screeching, shall disturb the peace of any neighborhood, is hereby prohibited and declared to be a public nuisance and unlawful under this article. (b) Destructive Animals. It shall be unlawful for the owner or harborer of any dog, cat or other animal to carelessly, willfully, or maliciously permit such dog, cat or other animal to destroy or damage property of any person other than that of such keeper or harborer. (Ord. 829, Sec. 14)

Repealed by:
ORDINANCE NO. 941C
Adopted: 11/3/86
Effective: _____

2-211.

VICIOUS ANIMAL. (a) Vicious Animal Defined: If a law enforcement officer or animal control officer has reasonable cause to believe that an animal exhibits vicious or dangerous tendencies and because of the condition is likely to do immediate physical injury to persons or animals with which it comes in contact if allowed to remain at liberty, that animal shall be deemed to be a vicious animal for the purposes of this article.

Repealed by:
ORDINANCE NO. 941C
Adopted: 11/3/86
Effective: _____

(b) Vicious Animal. It shall be unlawful for any person within the city to keep, own or harbor any cross or vicious animal, unless such person shall keep such animal securely fastened, tied and muzzled so that the animal cannot reach any person to injure such person or shall keep the animal in an enclosure securely fenced so that the animal cannot escape therefrom: provided, that if any such animal is not so fastened, tied and muzzled or fenced, the city may take the animal and impound it at a shelterhouse provided for such purposes or by a veterinarian, until such time as a hearing

for determination as herein provided can be had or until release to the owner upon condition that the animal shall be temporarily kept and considered to be a vicious animal pending the hearing can be effected. Violation of the temporary condition shall be considered a first offense to this section. Upon complaint duly made to any law enforcement officer or animal control officer, and if the officer finds there is probable cause to believe such complaint is true or if upon the officer's own observation of an animal, the officer has a reasonable belief that the animal is a vicious animal, the officer shall make an attempt to notify and request the owner, keeper or harbinger of such animal to confine by such means as herein described for confinement, the animal. In the event such owner, keeper or harbinger cannot be notified, refuses or is unable to act upon such notification or the immediate nature of the situation warrants action without notice, any law enforcement or animal control officer may capture and impound any such animal. In all cases where such complaint is made or where a law enforcement or animal control officer acts upon the officer's own observations, regardless of whether such animal is taken into custody, a hearing for the determination of whether such animal is dangerous or vicious shall be had. Upon a determination that an animal is not dangerous or vicious, it shall be released to its owner, keeper or harbinger upon payment of accrued boarding fees. Upon a finding that an animal is dangerous or vicious, the animal shall be released to the custody of its owner, keeper or harbinger upon the condition that the provisions of this section pertaining to keeping and restraining the animal are met and accrued boarding fees are paid. Any law enforcement or animal control officer is authorized to destroy any animal, whether previously determined to be vicious or not, when, in his or her best judgment, no other course of action is possible to preserve the safety of the community.
(Ord. 829, Sec. 15)

2-212.

ANIMAL BITES: PROCEDURE. (a) Except as provided in subsection (e) herein, a dog, cat, other domestic animal and any other warm-blooded animal which bites or otherwise so injures a person as to cause an abrasion of the skin shall immediately be quarantined at the owner's expense with a licensed veterinarian of the owner's choice within Johnson County, Kansas, or Jackson County, Missouri, or with the city's impounding agent for a period of not less than 10 days nor more than 12 days.

(b) If the owner, keeper or harbinger of the animal cannot be immediately notified, city personnel shall immediately impound such dog, cat, other domestic animal or warm-blooded animal with a city-authorized impounding agent, at the owner's expense, for a period of not less than 10 days nor more than 12 days. If the address of the owner of the animal can be determined, the police department shall make reasonable effort to notify the owner that the animal is impounded under the provisions of this section and the owner has the right to redeem the animal at the expiration of confinement upon payment of board bill, any veterinarian fees and any license and penalty fees then due and owing the city.

(c) In the event the original place of impoundment is not the choice of the owner, the owner may cause the animal's place of impoundment to be changed to a licensed veterinarian of the owner's choice within Johnson County, Kansas, or Jackson County, Missouri, provided all other provisions of

Repealed by
ORDINANCE NO. 1327C
Adopted: 12/21/92
Effective: _____

this article are complied with. The total period of confinement of the animal at the one or more locations is to be for a period of not less than 10 days nor more than 12 days. Credit for any period the animal remains at large after the bite shall not be given.

(d) The veterinarian or city-authorized impounding agent with whom the dog, cat, other domestic animal or warm-blooded animal is impounded shall give immediate written notice to the police department that such animal has been confined and will be confined for not less than 10 days nor more than 12 days. At the expiration of the aforesaid confinement period, the veterinarian or city-impounding agency shall give immediate written notice to the police department as to the health of such animal pertaining to the diagnosis of rabies.

(e) In the event the investigating officer determines (1) that the animal which injured the person did so while confined within a fence or building enclosing property under the control of the owner; (2) that the person injured was upon the property without the consent of the owner; and (3) that the animal had an effective rabies inoculation and was duly licensed under this article at the time of the injury, then, the animal need not be impounded in accordance with section 2-212(a), but the following alternative procedure shall be followed:

(A) If the injured person, his or her parent, or guardian desires that the animal be impounded and agrees in writing to pay for its board during the period of impoundment, it shall be so impounded for the period specified in section 2-212(a) notwithstanding any other provision of this article.

(B) If the injured party, his or her parent, or guardian is unwilling to agree in writing to pay for animal's board during the period of impoundment, the animal shall be permitted to remain confined in the residence or enclosed yard of its owner or keeper, provided no animal shall be allowed to remain on the property of its owner or keeper under this section unless such person signs a written agreement to keep the animal on the property in confinement for the period specified in section 2-212(a) and further agrees to allow the animal to be examined periodically to determine its physical condition during the confinement period. If the owner or keeper is unwilling to sign such an agreement, the animal shall be immediately impounded in accordance with section 2-212(a).

(Ord. 829, Sec. 16)

2-213.

CRUELTY TO ANIMALS. (a) It shall be unlawful for any owner, keeper or harbinger to fail to provide his or her animal with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment. No person shall beat, cruelly ill treat, torment, overload, overwork, or otherwise abuse any animal. No owner, keeper or harbinger shall abandon any such animal.

(b) It shall be unlawful to kill any domestic animal of another without the consent of the owner, except as provided in subsection (d) of this section.

(c) No person shall offer to give or give a live animal as a prize or as a business inducement.

(d) Destruction of Certain Animals. Law enforcement officers or animal control officers of the city or anyone having the authority of an

Repealed by:
ORDINANCE NO. 1327C
Adopted: 12/21/92
Effective: _____

animal control officer, as designated by the chief of police, shall make reasonable effort to notify the owner, keeper or harbinger of the animal's condition before disposing of any dog, cat, domestic animal or warm-blooded animal, if such dog, cat, domestic animal or warm-blooded animal is deemed by the officer to be a vicious animal, or injured severely with no apparent chance of survival, or in such pain as to warrant humane destruction. If notification cannot be made with the owner, keeper or harbinger of the animal before disposal, the authority involved shall make good faith effort to notify the owner, keeper or harbinger after the disposal. The remains of any animal so destroyed shall be preserved by the officers, if necessary, to permit a test to be conducted for rabies.
(Ord. 829, Sec. 17)

2-214. DOGS TEMPORARILY IN CITY. The licensing and vaccination provisions of this article shall not apply to dogs belonging to and kept by nonresident persons temporarily in the city; provided, that if the dog or dogs remain in the city longer than 30 days they shall be subject to the provisions of this article. Such dogs shall not be allowed to run at large at any time.
(Ord. 829, Sec. 18)

Repealed by: 2-214.
ORDINANCE NO. 1327C
Adopted: 12/21/92
Effective: _____

2-215. CONFINING DOGS TO EXERCISE AREA: LEAWOOD CITY PARK. It shall be unlawful for any owner or keeper of any dog to allow his or her dog, except a seeing eye dog, to be outside the confines of the designated dog exercise area in the Leawood City Park, all such dogs to be leashed, leash to be in hand of owner or keeper.

Repealed by: 2-215.
ORDINANCE NO. 1327C
Adopted: 12/21/92
Effective: _____

This provision shall not be construed as prohibiting dogs from other areas of the park when within the confines of vehicles. (Ord. 829, Sec. 19)

2-216. CONFINING DOGS TO LEAWOOD TOMAHAWK GREENWAY. It shall be unlawful for any owner or keeper of any dog to allow his or her dog to run at large on the Leawood Tomahawk Greenway. All dogs must be leashed, leash to be in hand of owner or keeper, and must be in control of the owner or keeper when on the Leawood Tomahawk Greenway. If the dog is found running at large, the animal may be impounded in accordance with sections 2-206, 2-207, and 2-208. (Ord. 829, Sec. 20)

Repealed by: 2-216.
ORDINANCE NO. 1050C
Adopted: 5/16/88
Effective: _____

2-217. CONFINING HORSES TO BRIDLE PATH: LEAWOOD CITY PARK. It shall be unlawful for any owner of any horse to allow his or her animal to be outside the confines of the designated bridle path of the Leawood City Park.
(Ord. 829, Sec. 21)

Repealed by: 2-217.
ORDINANCE NO. 1327C
Adopted: 12/21/92
Effective: _____

2-218. PENALTY. A violation of sections 2-201 thru 2-211 and 2-213 thru 2-217 shall be deemed a public offense and upon conviction shall be punishable under the penalty provisions of section 2-221. (Ord. 829, Sec. 22)

Repealed by: 2-218.
ORDINANCE NO. 1327C
Adopted: 12/21/92
Effective: _____

2-219. ENFORCEMENT. It is made the duty of the animal control officer or anyone having the authority of animal control officer, including but not limited to law enforcement officers, to enforce the terms and provisions of this article. The police chief may appoint some suitable person to be known as an animal control officer, whose duties it shall be to assist in the

Repealed by: 2-219.
ORDINANCE NO. 1327C
Adopted: 12/21/92
Effective: _____

enforcement of this article and to work under the immediate supervision and direction of the police department. Any private person may, upon signed complaint, bring charges against any owner, keeper or harbinger of a dog, or other animal, for the violation of any of the provisions of this article. (Ord. 829, Sec. 23)

Repealed by
ORDINANCE NO. 1327C
Adopted: 2-220.12/21/92
Effective: _____

LICENSING INFORMATION. A copy of this article shall be furnished to each person licensing a domestic dog. (Ord. 829, Sec. 24)

2-221.

PENALTIES. (a) For Overdue License Fee. If the license fee required by section 2-202 is not paid within the times provided in said section, a \$5 penalty will be added to the normal license fee.

Repealed by:
ORDINANCE NO. 941C
Adopted: 11/3/86
Effective: _____

After May 31st of each calendar year, if the tax imposed and required to be paid by section 2-202 remains unpaid, the city clerk may issue a complaint against the owner, keeper or harbinger for violation of section 2-202.

In the case of any dog brought into the city on or after March 1st or dog attaining the age of six months on or after March 1st of any license year, if the license fee required by section 2-202 is not paid within the times provided in the section, the following penalty will apply in addition to the normal license fee:

- (1) \$2 during the first 30 days of delinquency;
- (2) \$5 after the first 30 days of delinquency.

(b) For Running At Large Without Tag. For the first offense the owner shall pay a fine of \$25 plus the board bill; for the second offense a fine of \$50 plus the board bill; for a third and subsequent offenses a fine of \$100, plus the board bill.

(c) For Running At Large With Tag. For the first offense of an animal running at large within the meaning of this section, the owner or keeper claiming any animal, shall, in addition to presenting a license receipt, pay the cost of the board bill. For a second offense, the owner shall pay a fee of \$25 plus the board bill. For a third and all subsequent offenses, the owner or keeper shall pay a fee of \$50 plus the cost of the board bill.

(d) For a Vicious Animal. The penalty for failure to keep an animal found to be dangerous or vicious securely fastened and tied and muzzled or within a fenced enclosure pursuant to the provisions of this section shall be \$100 for a first offense, \$200 for a second offense and \$300 for third and subsequent offenses.

(e) For Cruelty to Animals. Any person who shall violate this section shall on conviction thereof be subject to a minimum fine of not less than \$100 and not more than \$500 or imprisonment in the Johnson County jail not exceeding three months, or both such fine and imprisonment.

(f) For Dogs At Large Temporarily in City. The owner of any dog running at large who resides outside the city limits may claim his or her dog within seven days of the impounding upon the payment of a fine of \$10 to the designated agency, plus the cost of the board bill. After the first offense, the provisions are the same as those in section 2-208 and 2-221(c).

(g) For Other Violations. Any person who shall violate, neglect or refuse to comply with any provision, regulation or requirement of this article for which a penalty is not specifically set forth for the violation, and upon conviction thereof, shall be punished by a fine of not more than \$100.

(Ord. 829, Sec. 25)

**ARTICLE 3. WILD ANIMALS, FOWL, BIRDS,
INSECTS OR REPTILES**

2-301.

Repealed by:

ORDINANCE NO. 1327C

Adopted: 12/21/92

Effective: _____

WILD ANIMALS, FOWL, BIRDS, INSECTS, OR REPTILES: HARBORING OF. It shall be unlawful for any citizen to keep any animal, fowl, bird, insect, or reptile within the corporate city limits without formal written permission of the city council. This section shall not apply to animals normally considered domesticated animals or pets, including but not limited to dogs, cats, horses, donkeys, cows, goats, sheep, rabbits, chickens, and other beasts and birds normally considered household pets or farm animals, as set forth in section 2-101. It shall include but is not limited to, all lions, tigers, bobcats, or other wild members of the feline family, bears, wolves, coyotes, monkeys, apes, gorillas, and other members of the ape family, poisonous or dangerous snakes or insects, eagles, hawks, owls, and other wild or dangerous members of the bird family and all other animals, birds, reptiles, and insects. (Ord. 506)

2-302.

Repealed by:

ORDINANCE NO. 1327C

Adopted: 12/21/92

Effective: _____

PENALTY. (a) Any person who shall violate, neglect, or refuse to comply with any provision, regulation, or requirement of this article upon conviction thereof, shall be assessed a fine of \$50 and shall be required at his or her option, within 30 days of the date of conviction, to have completed one of the following requirements:

- (1) Permanent removal of the creature from the city, or;
- (2) To have obtained written permission from the city council to harbor the creature within the city.

(b) Upon the expiration of the 30 day period set out in section 2-302(a), following conviction for violation of section 2-301, if neither of the above requirements have been met, upon complaint filed by any person, the municipal court shall unless good cause for failure of compliance is shown, assess a fine for the failure of compliance in the sum of \$150 and may order the creature to be impounded at the owner's expense. Removal from the city shall be at the owner's expense.

(Ord. 506)

CHAPTER III. BEVERAGES

Article 1. Cereal Malt Beverages

Article 2. Alcoholic Liquor

ARTICLE 1. CEREAL MALT BEVERAGES

- 3-101. **DEFINITIONS.** For the purpose of this article the following definitions shall apply unless the context clearly requires otherwise:
- (a) 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 percent of alcohol by weight.
 - (b) General retailer. A person who has a license to sell cereal malt beverages at retail.
 - (c) Limited retailer. A person who has a license to sell cereal malt beverages at retail only in original and unopened containers and not for consumption on the premises.
 - (d) Person. Individuals, firms, co-partnerships, corporation, and associations.
 - (e) Place of business. Any place at which cereal malt beverages are sold.
 - (f) Sale at retail and retail sales. Sales for use or consumption and not for resale in any form.
 - (g) Wholesaler or distributor. Any individuals, firms, copartnerships, corporations and associations which sell or offer for sale any beverage referred to in this article, to persons, copartnerships, corporations and associations authorized by this article to sell cereal malt beverages at retail. (Code 1984)
- 3-102. **LICENSE REQUIRED OF RETAILERS.** (a) It shall be unlawful for any person to sell any cereal malt beverage at retail without a license for each place of business where cereal malt beverages are to be sold at retail.
- (b) It shall be unlawful for any person, having a license to sell cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any cereal malt beverage in any other manner.
(K.S.A. 41-2702; Code 1984)
- 3-103. **LICENSE APPLICATION.** An application for a license to sell cereal malt beverages at retail shall be made to the governing body in accordance with the provisions of K.S.A. 41-2702. (Code 1984)
- 3-104. **SAME; DISQUALIFICATION.** No license shall be issued to:

(a) A person who has not been a resident in good faith of the state of Kansas for at least one year and a resident of Johnson county for at least six months prior to filing of such application.

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

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

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

(e) A partnership, unless one of the partners is a resident of the city or county in which the premises covered by the license is located and unless all th members of such partnership shall otherwise be qualified to obtain a license.

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

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

(K.S.A. 41-2703; Code 1973, 3-204; Code 1984)

3-105. LICENSE GRANTED; DENIED. (a) The journal of the governing body shall show the action taken on the application.

(b) If the license is granted, the city clerk shall issue the license which shall show the name of the licensee and the year for which issued.

(c) No license shall be transferred to another licensee.

(d) If the license shall be denied, the license fee shall be immediately returned to the person who has made application.

(Code 1984)

3-106. SAME; TO BE POSTED. Each license shall be posted in a conspicuous place in the place of business for which the license is issued. (Code 1984)

3-107. LICENSE FEE. The rules and regulations regarding the license fees shall be as follows:

(a) General Retailer -- for each place of business selling cereal malt beverages at retail, \$200 per year.

(b) Limited Retailer -- for each place of business selling only at retail cereal malt beverages in original and unopened containers and not for consumption on the premises, \$50 per year.

No license issued under this article shall be transferable. Licenses shall be issued on an annual basis, with the license effective for one year from the date of issuance. (Ord. 446; Ord. 500; K.S.A. 41-2702; Code 1984)

3-108. SAME; REVOCATION. The governing body of the city, upon five days notice to any person licensed under this article, shall revoke such license for

Repealed by: Ordinance No. 446
ORDINANCE NO. 446 the following reasons:

Adopted: 8/17/87
Effective:

- (a) If a licensee has fraudulently obtained the license by giving false information in the application therefor;
- (b) If the licensee has violated any of the provisions of this article or has become ineligible to obtain a license under this article;
- (c) The drunkenness of the licensee or permitting any intoxicated person to remain in any business licensed under this article;
- (d) The sale of cereal malt beverages to any person under the age of 18 years;
- (e) For permitting any gambling in or upon any premises licensed under this article;
- (f) For permitting any person to mix drinks with materials purchased in any premises licensed under this article or brought into the premises for this purpose;
- (g) For the employment of any person under the age of 18 years in dispensing cereal malt beverages;
- (h) For the employment of persons adjudged guilty of a felony or of a violation of any law relating to intoxicating liquor;
- (i) For the sale or possession of, or for permitting the use or consumption of alcoholic liquor within or upon any premise licensed under this article;
- (j) The provisions of subsections (f) and (i) shall not apply if such place of business is also currently licensed as a private club.
(K.S.A. 41-2708; Code 1973, 3-206; Code 1984)

3-109. SAME; APPEAL. The licensee, within 20 days after the order of the governing body revoking any license, may appeal to the district court of Johnson County. Any appeal taken under this section shall not suspend the order of revocation of the license of any licensee, nor shall any new license be issued to such person or any person acting for or on his or her behalf, for a period of six months thereafter. (K.S.A. 41-2708; Code 1984)

3-110. REGULATIONS. (a) No cereal malt beverages may be sold between the hours of midnight and 9 a.m. of any day, or any Sunday, or Thanksgiving Day or Christmas Day, or on the day of any national, state, county or city election, including primary elections, during the hours the polls are open within the political area in which such election is being held;

Repealed by:
ORDINANCE NO. 899C
Adopted: 2/3/86
Effective: _____

- (b) No private rooms or closed booths shall be permitted in any premises licensed under this article; unless the business also is licensed as a private club;
- (c) A place of business licensed under this article shall be open to the public and to police officers of the city at all times during business hours except a private club shall be open to police, but not the general public;
- (d) No person shall sell, give away, dispose of, exchange or deliver or permit the sale, gift or procuring of any cereal malt beverage to any person under 18 years of age. No person under 18 years of age shall purchase or receive cereal malt beverages from any person;
- (e) No person shall have any alcoholic liquor in his or her possession while in any place of business licensed to sell cereal malt beverages under this article unless the business also is licensed as a private club;

(f) The licensee of each premises licensed under this article shall at all times comply with the sanitary and health regulations and ordinances of the city.
(Code 1973, 3-207; K.S.A. 41-2704; Code 1984)

- 3-111. OPEN CONTAINER. (a) No person shall transport in any vehicle upon a highway or street any cereal malt beverage unless such cereal malt beverage is:
- (1) In the original, unopened package or container, the seal of which has not been broken and from which the original cap or cork or other means of closure has not been removed;
 - (2) In the locked, rear trunk or rear compartment or any locked outside compartment which is not accessible to any person in the vehicle while it is in motion or;
 - (3) In the exclusive possession of a passenger in a vehicle which is a recreational vehicle as defined by K.S.A. 75-1212 or a bus as defined by K.S.A. 8-1406, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.
- (b) As used in this section "highway" and "street" have meanings provided by K.S.A. 8-1424 and K.S.A. 8-1473 and amendments thereto.
- (c) Violation of this section is punishable by a fine of not more than \$200 or by imprisonment for not more than six months, or both fine and imprisonment.
(K.S.A. 41-2719; Code 1984)

See: Standard Traffic Ordinance Sec. 106 as incorporated by section 14-101 of this code.

- 3-112. CONSUMPTION WHILE DRIVING. No person shall consume any cereal malt beverage while operating any vehicle upon any street or highway. Violation of this section is punishable by a fine of not less than \$50 or more than \$200 or by imprisonment for not more than six months, or both. (K.S.A. 41-2720; Code 1984)

See: Standard Traffic Ordinance Sec. 105 as incorporated by section 14-101 of this code.

- 3-113. CONSUMPTION, POSSESSION ON PUBLIC PROPERTY. It shall be unlawful for any person to possess an open container or to consume any cereal malt beverage upon any sidewalk, public street, alley or any other public place within the city. No opened or unopened container of any cereal malt beverage shall be thrown upon or otherwise deposited upon any public sidewalk, street, alley or parking of the city. (Code 1984)

- 3-114. WHOLESALERS AND/OR DISTRIBUTORS. It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver cereal malt beverages within the city, to persons authorized under this this article to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the director of revenue,

state commission of revenue and taxation of the State of Kansas authorizing such sales. (K.S.A. 79-3847; Code 1984)

- 3-115. SANITARY CONDITIONS. It shall be unlawful for any licensee to violate any of the statutes of Kansas, or ordinances of the city or rules or orders of the state board of health relating to sanitary or health conditions of the places licensed to sell such cereal malt beverages. (Code 1984)
- 3-116. PREMISES, ILLUMINATION. It shall be unlawful for any owner, operator, or licensee to operate any place of business licensed for the sale and consumption of cereal malt beverages on the premises without sufficient illumination to measure not less than five foot candles of light in all portions of said place of business measured at a height of 36" above the floor. (K.S.A. 41-2704; Code 1984)
- 3-117. PENALTY. It shall be unlawful for any person to do any of the things or acts forbidden in this article. It shall be unlawful for any person to fail or refuse to do any of the things or acts commanded to be done by this article. Any person violating any of the provisions of this article for which another penalty is not specifically provided shall, upon conviction thereof, be fined in any amount not to exceed \$500, or be imprisoned not to exceed three months, or be both so fined and imprisoned. (Code 1984)

ARTICLE 2. ALCOHOLIC LIQUOR.

- 3-201. DEFINITION. Alcoholic beverage or alcoholic liquor as used in this article includes the varieties of liquor as defined in K.S.A. 41-102, namely alcohol, alcoholic liquor, spirits, wine and beer and every liquid or solid, patented or not, containing alcohol, alcoholic liquor, spirits, wine or beer, and capable of being consumed as a beverage by a human being, but does not include any beer or cereal malt beverage containing not more than three and two-tenths percent of alcohol by weight. (K.S.A. 41-102; Code 1984)

Repealed by:
ORDINANCE NO. 996C
Adopted: 8/17/87
Effective: _____

Ref.: K.S.A. 41-208

- 3-202. PRESENT STATE LICENSE. (a) It shall be unlawful for any person to keep for sale, offer for sale, or expose for sale or sell any alcoholic liquor as defined by the "Kansas liquor control act" without first having procured a license so to do as required by said act to sell the same. Any person violating the provisions of this section shall upon conviction be punished by a fine of not to exceed \$500 or by imprisonment not to exceed three months, or by both such fine and imprisonment.
- (b) The holder of a license for the retail sale in the city of alcoholic liquors by the package issued by the state director of alcoholic beverage control shall present such license to the city clerk when applying to pay the occupation tax levied in section 3-210 and the tax shall be received and a receipt shall be issued for the period covered by the state license. (Code 1973, 3-303; Code 1984)

3-203. POSTING OF RECEIPT. Every licensee under this article shall cause the city alcoholic retailer's occupation tax receipt to be prominently displayed next to or below the state license in a conspicuous place on the licensed premises. Any person violating this section, upon conviction, shall be fined not more than \$500. (Code 1984)

3-204. HOURS OF SALE. (a) No person authorized to sell any alcoholic liquor at retail within the city shall sell any alcoholic liquor before the hour of 9 a.m. or after the hour of 11 p.m. on any day when the sale of alcoholic liquors are permitted.

(b) No sales of alcoholic liquor shall be permitted on:

(1) the day of any national, state, county or city election, including primary elections, during the hours the polls are open within the political area in which such election is being held;

(2) any Sunday; or

(3) Decoration or Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

(c) Any person who shall violate the provisions of this section shall upon conviction of any such violation be subject to a fine not to exceed \$500 or by imprisonment not to exceed six months or by both fine and imprisonment. (K.S.A. 41-712; Code 1984)

3-205. PENALTY. Any person, copartnership or association having a state license to retail alcoholic liquor by the package who shall violate any provisions of sections 3-202, 3-203, or 3-204 shall, upon conviction, be fined as stated in the section. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues: Provided, That nothing herein shall be construed to prohibit the city from collecting the occupation tax by any procedure authorized by law. (Code 1984)

3-206. MINORS, INCAPACITATED PERSONS. (a) It shall be unlawful for any person under the age of 21 to represent that he or she is of age for the purpose of purchasing or attempting to purchase any alcoholic liquor. No person under the age of 21 shall have any alcoholic liquor in his or her possession.

Repealed by:
ORDINANCE NO. 899C
Adopted: 2/3/86
Effective: _____

(b) No person shall knowingly sell, give away, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person who is an incapacitated person, or any person who is physically or mentally incapacitated by the consumption of such liquor.

(c) Any person convicted of violating this section shall be punished by a fine of not more than \$100 or by imprisonment for not to exceed 30 days, or both.

(K.S.A. 41-715; Code 1984)

3-207. DRINKING ON STREETS OR IN PUBLIC PLACES. (a) Except as provided in subsection (b) it shall be unlawful for any person to drink or consume alcoholic liquor upon any public street or highway or thoroughfare; in beer parlors, taverns, pool halls, or places to which the general public has access, whether or not an admission or other fee is charged or collected; upon property owned by the state or any governmental subdivision thereof; or inside vehicles while upon a street, highway or other public thoroughfare.

(b) The provisions of subsection (a) shall not apply to the consumption of alcoholic liquor:

(1) upon real property leased by a city to others under K.S.A. 12-1740, et seq. if the property is being used for hotel or motel purposes or purposes incidental thereto.

(2) upon property owned or operated by an airport authority created pursuant to chapter 27 of the Kansas Statutes Annotated.
(K.S.A. 41-719; Code 1984)

3-208.

OPEN CONTAINER. (a) No person shall transport in any vehicle upon a highway or street any alcoholic liquor unless such liquor is:

(1) In the original, unopened package or container, the seal of which has not been broken and from which the original cap or cork or other means of closure has not been removed;

(2) In the locked, rear trunk or rear compartment or any locked outside compartment which is not accessible to any person in the vehicle while it is in motion or;

(3) In the exclusive possession of a passenger in a vehicle which is a recreational vehicle as defined by K.S.A. 75-1212 or a bus as defined by K.S.A. 8-1406, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.

(b) As used in this section "highway" and "street" have meanings provided by K.S.A. 8-1424 and K.S.A. 8-1473 and amendments thereto.

(c) Violation of this section is punishable by a fine of not more than \$200 or by imprisonment for not more than six months, or both fine and imprisonment.

(K.S.A. 41-804; Code 1984)

See Standard Traffic Ordinance Sec. 106 as incorporated by section 14-101 of this code.

3-209.

CONSUMPTION WHILE DRIVING. No person shall consume any alcoholic liquor while operating any vehicle upon any street or highway. Violation of this subsection is punishable by a fine of not less than \$50 or more than \$200 or by imprisonment for not more than six months, or both.
(Code 1984)

See Standard Traffic Ordinance Sec. 105 as incorporated by section 14-101 of this code.

3-210.

OCCUPATION TAX UPON RETAILERS. Any person holding a valid Kansas retailer's license for alcoholic liquors for consumption off the premises shall furnish to the city clerk, on a form provided, the following information:

(a) Name of applicant;

(b) Address of applicant;

(c) Address of premises where liquor sold;

(d) If applicant is a corporation, name and address of registered agent;

(e) If applicant is a partnership, name and address of each partner;

- (f) Length of applicant's resident in Kansas;
- (g) Does applicant presently hold any other liquor license?
- (h) Has applicant's license ever been revoked or suspended?
- (i) Does applicant have a Kansas State Retail Liquor license?
- (j) When does it expire?
- (k) Owner of premises licensed?
- (l) If applicant is not the owner, give date and term of lease or other rental agreement.

The application for retail liquor occupation license shall be accompanied by a fee of \$300 and shall be verified. Upon receipt of the fee and application in correct form, the city clerk shall issue a receipt-occupation tax to the applicant for the year commencing on the date the Kansas Liquor Retailer's license is issued by the State Director of Alcoholic Beverage Control and shall end one year thereafter. The receipt shall be displayed in a conspicuous place on the licensed premises. (K.S.A. 41-208, 41-310, 41-325, 41-2622; Code 1973, 3-302; Code 1984)

3-211 added by Ord. 899C 2/3/86 - Additional Regulations
3-212 thru 216 added by Ord. 996C 8/17/87

CHAPTER IV. BUILDINGS AND CONSTRUCTION

- Article 1. Detached One and Two Family Dwellings
- Article 2. Construction Other than One and Two Family Dwellings
- Article 3. Electrical Code
- Article 4. Plumbing Code
- Article 5. Mechanical Code
- Article 6. Removal of Structures
- Article 7. Property Maintenance
- Article 8. Oil and Gas Drilling and Production

ARTICLE 1. DETACHED ONE AND TWO FAMILY DWELLINGS

4-101. ONE AND TWO FAMILY DWELLING CODE INCORPORATED. There is hereby incorporated by reference as an optional standard for the construction, fabrication, alteration, repair, use, occupancy and maintenance of detached one and two family dwellings not more than three stories in height, and their accessory structures, the "One and Two Family Dwelling Code," 1983 edition, as published by the Building Officials and Code Administrators International, Inc. No fewer than three copies of this document shall be on file in the office of the city clerk, with all sections or portions thereof intended to be omitted, changed or amended, clearly marked to show the deletion or change. (Ord. 727; Code 1984)

Repealed by: ~~Ord. 102.~~ AMENDMENT: CHAPTER 1, ADMINISTRATIVE. Chapter 1, Administrative, of the One and Two Family Dwelling Code, is hereby deleted. (Ord. 727)

Repealed by: ~~4-103.~~ SAME; ARTICLE 7, ADMINISTRATION AND ENFORCEMENT. Article 7, Administration and Enforcement provisions of the Basic BOCA Building Code, 1984 and amendments shall become the administrative section of the One and Two Family Dwelling Code, 1983 edition. (Ord. 727; Code 1984)

4-104. SAME; R-202 DESIGN CRITERIA. Design criteria shall be incorporated as follows:

- Repealed by: ~~Ord. 102.~~ Roof Live Load lbs. per square foot - 20
- ORDINANCE NO. 1019C Roof Snow Load lbs. per square foot - 20
- Adopted: 11/16/87 Wind Velocity lbs. per square foot - 15
- Effective: 11/16/87 Seismic Condition by Zone - 1
- Subject to damage from weathering - slight
- Subject to damage from frost line depth for footings - 36"
- Subject to damage from frost line depth for exterior water lines - 42"
- Subject to damage from termites - moderate
- Subject to damage from decay - moderate

4-105.

SAME; R-210 GARAGE. R-210 Garage is changed to read as follows: Openings from a private garage directly into a room used for sleeping shall not be permitted. Openings between garage and residence shall be equipped with 1 3/4" wood door or on equivalent rated door. 5/8" fire rated gypsum board shall be placed on the ceiling of the garage if there is habitable space above. The ceiling shall be taped and finished so that no air may pass to the floor above. Garage door openings shall require adequate structural support, either approved laminated wood headers and beams or flitch plates. Flitch plates shall be 2-2x12 headers, 1/4" steel plate, bolted through with 3/8" bolts staggered on 12" centers. (Ord. 727; Code 1984)

Repealed by:

ORDINANCE NO. 1019C

Adopted: 11/16/87

Effective: _____

4-106.

SAME; R-214 STAIRS. R-214 Stairs is changed to read as follows: Stairways shall not be less than three feet, zero inches in clear width and the headroom rise and run shall conform to Figure A-2. Handrails may project from each side of a stairway a distance of three and one-half inches into the required width.

Repealed by:

ORDINANCE NO. 1019C

Adopted: 11/16/87

Effective: _____

Spiral stairways are permitted provided the width of the tread at a point not more than 12 inches from the side where the treads are narrower is not less than nine inches and the minimum width is not less than six inches.

Winders are permitted provided there is not more than one riser within the landing area. (Ord. 727)

4-107.

SAME; R-216 SMOKE DETECTORS. R-216 Smoke Detectors is changed to read as follows: Approved and listed smoke detectors shall be placed on each floor level where sleeping areas are located. The detector shall be installed in a manner and location consistent with its listing, and sense visible or invisible particles of combustion. When activated, the detector shall provide an alarm suitable to warn occupants within the sleeping area. (Ord. 727)

Repealed by:

ORDINANCE NO. 1019C

Adopted: 11/16/87

Effective: _____

4-108.

SAME; R-221 FIRE PROTECTION CERTIFICATION. Fire Protection Certification R-221, is added to read as follows: A permit for one and two family dwellings shall not be issued until written evidence is presented to the building official certifying the availability of satisfactory hydrant locations and fire flow. Applicants for areas within the corporate limits of the city that are also within areas under the jurisdiction of a duly constituted water district shall submit a statement from said district certifying that the proposed fire protection system conforms to the regulations of that district, provided that those regulations set forth requirements for a system that will meet or exceed fire flow requirements set forth by the City of Leawood, as follows:

Repealed by:

ORDINANCE NO. 1019C

Adopted: 11/16/87

Effective: _____

(1) Sufficient hydrants must be provided so as to furnish the required fire flow based on Table 221.

Table 221

| <u>Exposure Distances</u> | <u>Fire Flow</u> |
|---------------------------|------------------|
| <u>Feet</u> | <u>G.P.M.</u> |
| Over 100 | 500 |
| 51 to 100 | 1,000 |
| 16 to 50 | 2,000 |
| 15 or less | 2,500 |

For purposes of meeting the required fire flow, each hydrant within 1000 feet of the building will be considered.

Exception: A fire suppression system meeting HFIPA 130 standard for sprinkler systems in one and two family dwelling will be allowed as a substitute for fire hydrants when the exposure distance is greater than 100 feet.

(3) All hydrants must meet American Water Works Association (AWWA) Standard C-502 and be equipped with one 4 inch pumper connection and two 2½ inch connections utilizing National Standard Threads. Each hydrant shall be equipped with a shut-off valve.

(4) All hydrants must be painted and highly visible, properly maintained at all times. Set back from the curb line shall be not more than five feet, free of all obstructions to the locating and operation of the hydrant.

(5) When, in the opinion of the fire official, the fire loading of the structure would require additional fire flow, additional hydrants will be required.
(Code 1984)

Repealed by: 4-109.

ORDINANCE NO. 1019C SAME; R-222 ADDRESS. R-222 Address, added: Each resident shall have posted on the front side of the house in plain view of the street, the street number address assigned by the city. (Code 1984)

Adopted: 11/16/87
Effective: 4-110

SAME; R-303 FOOTINGS. R-303 Footings is changed to read as follows: All exterior walls, bearing walls, columns and piers shall be supported on solid masonry or concrete footings, or other approved structural systems which shall be sufficient design to support safely the loads imposed as determined from the character of the soil and shall in all cases extend below the frost line. Minimum sizes for concrete footings shall be as set forth in Figures No. A-3. Masonry foundation walls are not permitted unless designed by a registered architect or engineer specifically for soils encountered.

Footings shall be level or shall be stepped so that both top and bottom of such footings are level.

A minimum of two horizontal #4 steel reinforcing rods shall be required in the lower one-third of all footings.

Concrete piers or other special footing conditions and concrete grade beams may be used only if designed by a registered architect or engineer for the loads and conditions described. (Ord. 727; Code 1984)

4-111.

SAME; R-305 WATER PROOFING. R-305 Waterproofing is changed to read as follows: Drains shall be provided around foundations enclosing habitable or usable spaces located below grade and which are subjected to ground water conditions. Drains shall be installed at or below the area to be protected and shall discharge by gravity or by mechanical means into an approved drainage system. The drain line shall be placed on two inches of crushed rock and covered with not less than six inches of the same material.

A four foot plastic or cast iron "T" (TEE) connection shall be located under the footing connecting the underground drains to a sump pit if a sump pump is required. Sump pumps shall be required for all footings except where footings may be drained by gravity. The pump shall be of the automatic type,

Repealed by:

ORDINANCE NO. 1019C

Adopted: 11/16/87

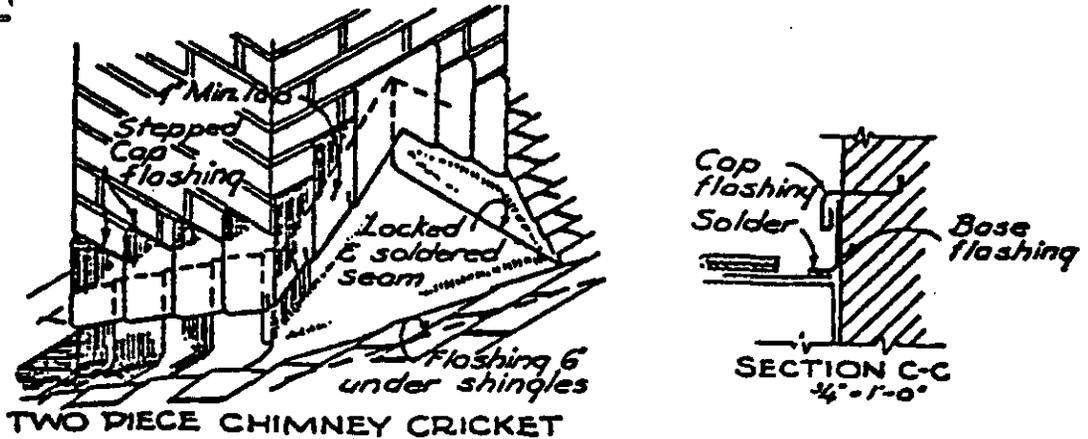
Effective: 4-111

capable of being connected electrically to a duplex outlet located adjacent to the sump pit. The waste line shall be approved plastic pipe of adequate size 1-rated in such a manner that the water ejected by the pump drains to a finished grade away from the foundation. (Ord. 727; Code 1984)

Repealed by: 4-112.
 ORDINANCE NO. 1019C
 Adopted: 11/16/87
 Effective: 727)
 SAME; R-803 COMPOSITION ASPHALT ORGANIC FELT. R-803 Composition Asphalt Organic Felt is changed to read as follows: Composition asphalt organic felt shingles shall not be used as a roofing material. (Ord. 727)

4-113.
 Repealed by: 4-114.
 ORDINANCE NO. 1019C
 Adopted: 11/16/87
 Effective: 727)
 SAME; R-902 SUPPORT. R-902 Support is changed to read as follows: Masonry chimneys shall be constructed in accordance with Figure No. A-9. Concrete footings, supporting masonry fireplaces, shall have #4 reinforcing steel running in both directions on 8" centers. (Ord. 727)

Repealed by: 4-114.
 ORDINANCE NO. 1019C
 Adopted: 11/16/87
 Effective: 727)
 SAME; R-926 FLASHING. R-926 Flashing, added: The intersection of the chimney masonry and roofing materials shall be flashed with metal or other suitable material and then counterflashed in accordance with Figures



FLASHING DETAIL A-9(a)

(Ord. 727)

4-115.
 Repealed by: 4-115.
 ORDINANCE NO. 1074C
 Adopted: 11/16/87
 Effective: _____
 SAME; ENERGY CONSERVATION. Energy conservation standards for one and two family dwellings are hereby adopted and shall read as follows:

ENERGY CONSERVATION
 One/Two Family Dwellings

| Building Section | Insulation Requirements |
|-----------------------|-------------------------|
| Ceiling (flat) | R-30 |
| Attic Duct Insulation | R-14 |
| Rigid Deck Insulation | R-10 |

| <u>Building Section</u> | <u>Insulation Requirements</u> |
|--|-----------------------------------|
| Frame Wall | R-14 |
| Masonry Wall | R-11 |
| Windows/Patio Doors | Storm Windows or Insulating Glass |
| Floors Over Open Spaces | R-19 |
| Floors Over Vented Crawl Spaces | R-11 |
| Ducts in Crawl Space | R-12 |
| Slab Edge (Continuous) | R-5 |
| Walls of Unvented Crawl Spaces | R-11 |
| Sill Plate Sealer | Required |
| Caulk Exterior Joints, Windows, and Door Frames; Weatherstripping at Door Jambs and Door Thresholds (Ord. 727) | Required |

4-116. SAME; P2501.2 MANDATORY CONNECTION TO A SEWAGE SYSTEM. P2501.2 Mandatory Connection to a Sewage System shall read as follows: Plumbing fixtures and drainage piping shall be connected to a public sewer or an approved private or individual sewage disposal system. Only one sanitary sewer connection shall be permitted for each residential unit. Building sewers and private sewage disposal systems shall conform to the requirements of this chapter and other related requirements of this code. (Code 1984)

Repealed by:
ORDINANCE NO. 1019C
Adopted: 11/16/87
Effective: _____

4-117. SAME; P-2503 DISPOSAL SYSTEMS. P-2503 Disposal Systems shall be deleted to total and the following enacted in lieu thereof; Private or individual sewage disposal systems installed within the City of Leawood, Kansas, shall be installed in accordance with the latest adopted Johnson County Sanitary Code and Resolution 099-81, Private Sewage Disposal Systems, Appendix 1 of the 1976 Uniform Plumbing Code, as adopted by the Johnson County Commissioners on October 26, 1981. (Ord. 727, Code 1984)

Repealed by:
ORDINANCE NO. 1019C
Adopted: 11/16/87
Effective: _____

4-118. CIVIL ACTIONS. Notwithstanding the provisions of any other sections of the building code, decisions of the building official, or such assistant or assistants as he or she may appoint, or decisions by the board of appeals reviewing decisions of the building official or his or her assistants shall be enforceable in the District Court of Johnson County, Kansas or any other court of competent territorial jurisdiction upon action brought by the city attorney, assistant city attorney, special attorney, or other legal counsel authorized to maintain such action for the enforcement of the provisions of the buildings codes. (Ord. 727; Code 1984)

Repealed by:
ORDINANCE NO. 1019C
Adopted: 11/16/87
Effective: _____

4-119. LIABILITY. Requirements stated in all existing codes and ordinances in force shall not be construed as imposing on the city, its officers, agents, or employees, any liability or responsibility for damages to any property or injury to any person due to defective installations. The city or any official, employee or agent thereof shall not assume any liability or responsibility whatsoever by reason of inspection or approval of any installation. (Ord. 727)

Repealed by:
ORDINANCE NO. 1019C
Adopted: 11/16/87
Effective: _____

ARTICLE 2. CONSTRUCTION OTHER THAN ONE AND TWO FAMILY DWELLINGS

4-201. BUILDING CODE INCORPORATED. The BOCA Basic Building Code, 1984 edition, including the 1985 supplements, as published by the Building Officials and Code Administrators International, Inc. is hereby adopted and incorporated in this chapter as fully as if set forth herein excepting only such parts or portions thereof as are specifically added or changed in sections 4-202 through 4-240 of this article. No fewer than three copies of this document shall be on file in the office of the city clerk. (Ord. 728; Code 1984)

Repealed by:
ORDINANCE NO. 977C
Adopted: 4/20/87
Effective: _____

4-202. AMENDMENT: 109.1 BUILDING OFFICIAL. 109.1 Building Official shall read as follows: The Department of Planning and Development shall be the department responsible for administering the code, and the executive official in charge thereof shall be known as the building official. (Ord. 728)

Repealed by:
ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____

4-203. SAME; 111.5 PLANS AND SPECIFICATIONS. 111.5 Plans and Specifications shall read as follows: The application for a permit shall be accompanied by no fewer than two copies of specifications and of plans drawn to scale, with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. When quality of materials is essential for conformity to this code, specific information shall be given to establish such quality, and this code shall not be cited, or the term "legal" or its equivalent be used as a substitute for specific information. The building official may waive the requirement for filing plans when the work involved is of a minor nature.

Repealed by:
ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____

Plans and specifications for all buildings and structures except for accessory buildings, residential remodeling and alterations shall be prepared by an architect or engineer duly licensed by the State of Kansas and shall bear his or her seal. Said architect or engineer shall sign and notarize a certificate that the plans and specifications have been prepared in accordance with the adopted codes for all office and commercial building construction. (Ord. 728)

4-204. SAME; 111.6 SITE PLAN. 111.6 Site Plan shall read as follows: There shall be a site plan showing to scale the size and location of all the new construction and all existing structures on the site, distances from lot lines, the established street grades, and the proposed finished grades, and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the plot plan shall show all construction to be demolished and the location and size of all existing structures and construction that are to remain on the site of the plot.

Repealed by:
ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____

The property owner or his or her agent shall certify to the building official that the top of foundation for a building will be in conformance with the approved site plan, including building elevations, site grading, and building setbacks. (Ord. 728)

Add 4-204.1 by Ord. 977C, 4/20/87

4-205. SAME; 113.6 ISSUANCE OF PERMITS TO LICENSED OR REGISTERED CRAFTSMEN. 113.6 Issuance of Permits to Licensed or Registered Craftsmen, added to read as follows: Permits for mechanical work, plumbing

Repealed by:
ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____

Repealed by:
ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____

and electrical work shall be issued only to individuals or persons responsible to a company or organization who are the legal possessors of a valid license or registration. These permits shall be issued together with the building permit. The license/registration of the tradesman and the city occupation license shall remain current through the period of construction. The city clerk shall be responsible for maintaining the status of trades people and notifying the Planning and Development Department of such. (Ord. 728)

4-206.

SAME; 113.7:113.9. (a) 113.7 Potable Water Certification, added: A permit shall not be issued until written evidence is presented to the building official certifying the availability of satisfactory potable water supply. Applicants from areas within the corporate limits of the city that are also within areas under the jurisdiction of a duly constituted water district shall submit a connection permit or notice of intent to supply water service from said water district. Applicants from areas within the corporate limits of the city that are not within an area under the jurisdiction of a duly constituted water district or where public water supply is not available, the owner shall submit a certificate from the Johnson County Health Director and the City of Leawood that the proposed water supply meets the required standards for health and safety.

The developer shall be responsible for installing standard water district piping, hydrants, fittings, etc. as a minimum in order to be acceptable to the City of Leawood.

(b) 113.8 Fire Protection Certification, added: A permit for other than one or two family dwellings shall not be issued until written evidence is presented to the building official certifying the availability of satisfactory hydrant locations and their appropriate fire flows. Applicants for areas within the corporate limits of the city that are also within areas under the jurisdiction of a duly constituted water district shall submit a statement from said district certifying that the proposed fire protection system conforms to the regulations of that district, and to be acceptable to the fire official of the city, provided that those regulations set forth requirements for a system that will meet or exceed fire flow requirements set forth by the City of Leawood, as follows:

(1) Sufficient hydrants must be provided so as to furnish the required fire flow based on the formula $F=1.8C \sqrt{A}$ where C=construction coefficient, A=total floor area, and F=fire flow in GPM. The coefficient C is:

- 1.8 Type 4 (wood frame)
- 1.0 Type 3 (exterior masonry)
- 0.8 Type 2 (non-combustible)
- 0.6 Type 1 (fire-proof construction)

(2) For purposes of meeting the required fire flow, each hydrant within 500' of the building will be considered as a 1000 GPM source unless indicated by actual flow test to be less than that figure.

(3) All hydrants must meet American Water Works Association (AWWA) Standard C-502. Connections shall utilize National Standard Threads. Each hydrant shall be equipped with a shut-off valve.

(4) All hydrants must be painted and highly visible, properly maintained at all times. Set back from the curb line shall be not more than five feet, free of all obstructions to the locating and operation of the hydrant.

Repealed by:

ORDINANCE NO. 1016C

Adopted: 11/16/87

Effective:

(5) Hydrants must be placed on looped mains of not less than a six inch diameter unless otherwise specified by the Johnson County Water District No. 1.

(6) When, in the opinion of the fire official, the fire loading of the structure would require additional fire flow, additional hydrants will be required.

(c) 113.9 Outside Sanitary Sewer Construction and Connection Permit Required, added: No building permit for any structure or building to be located within a legally created sewer district in the city in which sanitary sewage will, or may, originate, shall be issued until and unless the applicant, or his or her agent, has previously applied for and received from the sewer district an outside sanitary sewer construction and connection permit as required by the rules and regulations of the Johnson County Wastewater District. The building official has the right to waive this requirement in special situations. In these cases the building official shall notify the Johnson County Wastewater District of the special conditions and at what date sanitary service is to be expected.
(Ord. 728; Code 1984)

4-207. SAME; 114.3 NEW CONSTRUCTION, ALTERATIONS AND REMODELING. 114.3 New Construction, Alterations and Remodeling shall read as follows: The fees for plan examination, building permit and inspections shall be as prescribed in section 4-208-114.3.1, and the building official is authorized to establish by approved rules a schedule of unit rates for buildings and structures of all use groups and types of construction as classified and defined in articles 1, 3 and 5 of the BOCA Basic Building Code/1984 as adopted by Ordinance No. 728. (Ord. 728)

Repealed by:

ORDINANCE NO. 1016C

Adopted: 11/16/87

Effective: _____

4-208. SAME; 114.3.1 FEE SCHEDULE. 114.3.1 Fee Schedule shall be established by the building official and revised from time to time as required. Fee schedules shall be submitted to the governing body annually for review. The fee schedule shall be located in section 1-701 of the code. (Code 1984)

Repealed by:

ORDINANCE NO. 1016C

Adopted: 11/16/87

Effective: _____

4-209. SAME; 114.5 FEE PENALTY. 114.5 Fee Penalty shall read as follows: Where work for which a permit is required by this code has started or proceeded prior to obtaining said permit, the fees specified shall be doubled, but the payment of such fees shall not relieve any persons from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed. There shall be no refunds issued by the Planning and Development Department. (Ord. 728)

Repealed by:

ORDINANCE NO. 1016C

Adopted: 11/16/87

Effective: _____

4-210. SAME; 115.2 REQUIRED INSPECTIONS. 115.2 Required Inspections shall read as follows: After issuing a building permit, the building official shall conduct such inspections from time to time during and upon completion of the work for which a permit has been issued. A record of all such examinations and inspections and of all violations of this code shall be maintained by the building official.

Repealed by:

ORDINANCE NO. 1016C

Adopted: 11/16/87

Effective: _____

The building inspector, upon notification from the permit holder or his or her agent, shall make residential inspections and shall either approve that portion of the construction as completed or shall notify the permit holder or his or her wherein the same fails to comply with this code.

(1) Foundation Inspection: To be made after trenches are excavated (prefooting) and forms erected and when all materials for the foundation are delivered on the job. Where concrete from a central mixing plant is to be used, materials need not be on the job.

(2) Sanitary Sewer Inspection: To be made at completion of setting of house sewer, plugs, and markings.

(3) Frame Inspection: To be made after the roof, all framing, concrete basement floor, bracing, electrical wiring, mechanical duct runs and all pipes are complete.

(4) Insulation Inspection: To be made upon completion of all wall, floor, attic, and any special insulation, including caulking.

(5) Gas Inspection: To be made upon completion of gas line installation and all fittings and setting of HVAC units.

(6) Final Inspection: To be made after building is completed and ready for occupancy.
(Ord. 728)

4-211. ~~Repealed by:~~ ORDINANCE NO. 1016 C ~~Adopted:~~ 11/16/87 ~~Effective:~~ ~~SAME;~~ 115.2.4 OTHER INSPECTIONS. 115.2.4 Other Inspections added: In addition to the called inspections specified above, the building official may require any other inspections of any construction work to ascertain compliance with the provisions of the code. (Ord. 728)

4-212. ~~Repealed by:~~ ORDINANCE NO. 1016 C ~~Adopted:~~ 11/16/87 ~~Effective:~~ ~~SAME;~~ 115.2.5 REINSPECTIONS. 115.2.5 Reinspections, added: Reinspection fees shall be assessed for each inspection or reinspection when such portion of work for which inspection is called for is not complete or when corrections called for are not made. Reinspection fees may be assessed when the permit card is not properly posted at the work site, the approved plans are not readily available to the inspector, or for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the building official, or where the builder or his or her agents do not arrive for established appointments with city representatives. In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid. (Ord. 728)

4-213. ~~Repealed by:~~ ORDINANCE NO. 1016 C ~~Adopted:~~ 11/16/87 ~~Effective:~~ ~~SAME;~~ 115.3.1 SPECIAL INSPECTIONS. 115.3.1 Special Inspections, added: In addition to the inspections to be made as specified, the building official may require special inspections to be made by the building inspector or may require the owner to employ a special inspector during construction for the following types of work: concrete, reinforcing and pre-stressing steel, on-site welding of structural elements, structural masonry, sprayed-on fireproofing, engineered foundations, special grading, excavation and filling. (Ord. 728)

4-214. ~~Repealed by:~~ ORDINANCE NO. 1016 C ~~Adopted:~~ 11/16/87 ~~Effective:~~ ~~SAME;~~ 115.6 INSPECTION OF UTILITY CONNECTIONS. 115.6 Inspection of Utility Connections, added: No public or private utility service connection, either temporary or permanent, shall be connected, energized or otherwise placed into service until inspected and approved by the building official or his or her authorized representative. (Ord. 728)

4-215.

SAME; 117.4 VIOLATIONS - PENALTIES. 117.4 Violations - Penalties is changed to read 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 an approved plan or directive of the building official, or of a permit or certificate issued under the provisions of this code, or other references incorporated, is guilty of a public offense, punishable by a fine of not more than \$500 or by imprisonment not exceeding 30 days or both such find and imprisonment. Each day that a violation continues shall be deemed a separate offense. (Ord. 728)

Repealed by:

ORDINANCE NO. 1016C

Adopted: 11/16/87

Effective: _____

4-216.

SAME; 118.2 UNLAWFUL CONTINUANCE. 118.2 Unlawful Continuance is changed to read as follows: Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition shall be liable to a fine of not less than \$100 or more than \$500. (Ord. 728)

Repealed by:

ORDINANCE NO. 1016C

Adopted: 11/16/87

Effective: _____

4-217.

SAME; 119.3 EXISTING BUILDINGS. 119.3 Existing Buildings added: An inspection and certificate of occupancy is required for any space in commercial or office buildings wherein the previous occupant has abandoned or left the space vacant. The inspection will determine safety and code compliance of the space prior to a new occupancy certificate being issued and the space being utilized by the new occupant. (Code 1984)

Repealed by:

ORDINANCE NO. 1016C

Adopted: 11/16/87

Effective: _____

4-218.

SAME; 119.7 CONNECTION WITH A SEWER SYSTEM. 119.7 Connection with a Sewer System added: No certificate of occupancy shall hereafter be issued for any and all buildings of any and all zoning classifications until the building is connected with a public sanitary sewer system or meets the provisions of the sanitary code and the private sewage disposal systems installation policy adopted by the Johnson County Commissioners. (Ord. 728)

Repealed by:

ORDINANCE NO. 1016C

Adopted: 11/16/87

Effective: _____

4-219.

SAME; 119.8 OCCUPANCY CERTIFICATE ISSUANCE. 119.8 Occupancy Certificate Issuance, added: An inspection shall be made and all inspection items and code violations shall be corrected before a certificate of occupancy is issued and occupancy of the building and/or building space is allowed. (Ord. 728)

Repealed by:

ORDINANCE NO. 1016C

Adopted: 11/16/87

Effective: _____

4-220.

SAME; 123.3 COMPENSATION OF THE BOARD OF SURVEY. 123.3 Compensation of the Board of Survey shall read as follows: The third member of the board shall receive for services a fee of \$50 to be paid by the appellant. (Ord. 728)

Repealed by:

ORDINANCE NO. 1016C

Adopted: 11/16/87

Effective: _____

4-221.

SAME; 124.3 COMPENSATION OF BOARD OF APPEALS. 124.3 Compensation of Board of Appeals shall read as follows; All members shall serve without compensation. (Ord. 728)

Repealed by:

ORDINANCE NO. 1016C

Adopted: 11/16/87

Effective: _____

4-222.

SAME; 501.2 FIRE LIMITS. 501.2 Fire Limits is changed to read as follows: Fire limits shall comprise all industrial and commercially zoned property and the buildings and structures thereupon, now existing or in the future, within the city. (Ord. 728)

Repealed by:

ORDINANCE NO. 1016C

Adopted: 11/16/87

Effective: _____

4-223.

SAME; 502.2 TYPE 2C AND 3C CONSTRUCTION PERMITTED. 502.2 Type 2C and 3C Construction Permitted is changed to read as follows: Buildings and structures, additions to existing buildings and structures hereafter erected within the fire limits may be unprotected noncombustible (Type 2C) or ordinary unprotected (Type 3C) construction as defined in Article 4 and regulated in Tables 401 and 505 when constructed and located in accordance with the requirements of Table 502. (Ord. 728)

Repealed by:
ORDINANCE NO. 947C
Adopted: 11/17/86
Effective: _____

See pg. 14600
4-224.

SAME; 515.1 WHERE REQUIRED. 515.1 Where Required is changed to read as follows: The provisions of this section shall apply to and in all buildings and portions thereof Use Groups A, B, F, I, M and R.

Repealed by:
ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____

Exceptions:
(1) Mechanical, storage and similar types of incidental spaces.
(2) Mezzanines and balconies in Use Group A, provided accessible seating accommodations are available and the services are identical.
(3) Use Group R-3.
(4) R-2, three stories or less, R-4, and the second story of two-story office buildings of less than 12,000 square feet gross area.
(Ord. 728)

4-225.

SAME; 614.3 CONSTRUCTION. 614.3 Construction is changed to read as follows: All towers shall be constructed of approved corrosion resistive noncombustible material. Tower height shall comply with the city zoning regulations. (Code 1984)

Repealed by:
ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____

4-226.

SAME; 615.1 PERMITS NOT REQUIRED. 615.1 Permits Not Required is hereby deleted. (Code 1984)

Repealed by:
ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____

4-227.

SAME; 615.2 PERMITS REQUIRED. 615.2 Permits Required is changed to read as follows: The approval of the building official shall be secured for all antennae which are permitted by the city zoning regulations. The application shall be accompanied by detailed drawings of the structure and methods of anchorage. All connections to the roof structure must be properly flashed to maintain watertightness. The design and materials of construction shall comply with the requirements of section 614.3 for character, quality and minimum dimension. (Code 1984)

Repealed by:
ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____

4-228.

SAME; 616.3 PLANS AND PERMITS. 616.3 Plans and Permits is changed to read as follows: A swimming pool, bathing pool or hot tub shall not be constructed, installed, enlarged or altered until plans have been submitted and a permit has been obtained from the building official. The approval of all city, county and state authorities having jurisdiction over swimming pools shall be obtained before applying to the building official for a permit. Plans shall be prepared and certified by an architect or engineer responsible for the structural components of the pool design. (Code 1984)

Repealed by:
ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____

4-229.

SAME; 616.4 LOCATIONS. 616.4 Locations is changed to read as follows: Private swimming pools shall not encroach in any front yard. The waters edge of a pool shall not be located closer than 10 feet from any rear or side property line for a private pool located on a lot in a single family

Repealed by:
ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____

residential zoned district. All other pools shall be located in accordance with approved development plans. (Code 1984)

4-230. SAME; 616.9.2 SURFACE DRAINAGE. 616.9.2 Surface Drainage is

Repealed by: ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____
Added: Swimming pools shall not be installed in such a way that the existing or natural surface drainage pattern is changed so as to be a nuisance or cause problems for adjacent properties. If surface drainage problems develop as a result of the pool installation the owner shall correct the drainage condition as quickly as possible. (Code 1984)

4-231. SAME; 627.6 WATER SUPPLY. 627.6 Water Supply is supplemented as

Repealed by: ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____
follows: All swimming pools shall be provided with a potable water supply free of cross connections with the pool or its equipment. Filters meeting applicable National Sanitation Foundation Standards shall be deemed to meet the filtration standards of this code. (Ord. 728)

4-232. 1016C SAME; 905.5 POSTED LIVE LOAD. 905.5 Posted Live Load is hereby

Repealed by: ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____
deleted from the BOCA building code. (Code 1984)
Add 4-232.1 thru 4-232.14 by Ord. 947C effective 11/17/86

4-233. SAME; 1807.2.1 DEEP EXCAVATIONS. 1807.2.1 Deep Excavations is

Repealed by: ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____
changed to read as follows: Whenever an excavation is made to a depth of more than three feet below the established curb, the person who causes such excavation to be made, if afforded the necessary license to enter the adjoining premises, shall preserve and protect from injury at all times and at his or her own expense such adjoining structure or premises which may be affected by the excavation. If the necessary license is not afforded, it shall then be the duty of the owner of the adjoining premises to make his or her building or structure safe by installing proper underpinning or foundation or otherwise, and such owner, if it be necessary for the prosecution of his or her work, shall be granted the necessary license to enter the premises where the excavation or demolition is contemplated. (Ord. 728)

4-234. SAME; 1807.2.2 SHALLOW EXCAVATIONS. 1807.2.2 Shallow

Repealed by: ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____
Excavations is changed to read as follows: Where the safety of an owner of a neighboring building may be affected by the proposed excavation, protection of this property shall be considered. If underpinning of foundations is required for safety purposes, the owner shall be afforded a license to enter the adjacent property where excavation is contemplated. (Ord. 728)

4-235. SAME; 1900.3 ADDRESS SIGNS. 1900.3 Address Signs of the BOCA

Repealed by: ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____
Basic Building Code is added to include the following:
Each commercial establishment shall post a small sign which indicates official address as assigned by the city. The size of the numbers shall be a maximum of 4 inches in height and mounted on a contrasting background so as to be readable from a distance. If the establishment has a second or rear entrance, the address shall also be posted permanently next to the second entrance. (Code 1984)

4-236. SAME; 1902.0 EXEMPTIONS. 1902.0 Exemptions of the BOCA Basic

Building Code is hereby deleted. (Ord. 728)

Repealed by: ORDINANCE NO. 1016C
Adopted: 11/16/87
Effective: _____

Repealed by:
ORDINANCE NO. 1066C
Adopted: 11/16/87
Effective: _____

- 4-237. SAME; 1906.0 BONDS AND LIABILITY. 1906.0 Bonds and Liability of the BOCA Basic Building Code is hereby deleted. (Ord. 728)
- 4-238. SAME; 1907.5 ANIMATED DEVICES. 1907.5 Animated Devices of the BOCA Basic Building Code is hereby deleted. (Ord. 728)
- 4-239. SAME; 1908.3 MAXIMUM SIZE. 1908.3 Maximum Size of the BOCA Basic Building Code is hereby deleted. (Ord. 728)
- 4-240. SAME; 1909.0 ROOF SIGNS. 1909.0 Roof Signs of the BOCA Basic Building Code is hereby deleted. Roof signs are not permitted. (Ord. 728)

ARTICLE 3. ELECTRICAL CODE

- 4-301. NATIONAL ELECTRICAL CODE INCORPORATED. The National Electrical Code, 1981 edition, as published by the National Fire Protection Association (NFPA No. 70-1981) is hereby adopted and incorporated in this chapter as fully as if set forth herein excepting only such parts or portions thereof as are specifically added to changed in section 4-302 through 4-312 of this article. Three copies of this document shall be on file in the office of the city clerk. (Ord. 729; Code 1984)

Repealed by:
ORDINANCE NO. 1144C
Adopted: 12/18/89
Effective: _____

- 4-302. AMENDMENT; ARTICLE 110-2. Article 110.2 is changed to read as follows: No wiring system or equipment shall be installed within or on any building or structure or premises, nor shall any alteration or addition be made in any such existing installations without first securing approval and a permit from the building official, except as provided in section 20904.0 of the BOCA Basic Building Code/1981. It shall be unlawful to use or permit the use of, or to supply, current for electric wiring for heat, light or power in a building or structure, unless the required certificate of inspection and permit has been issued by the building official. No permit shall be issued until the fees prescribed in this chapter have been paid, nor shall an amendment to a permit necessitating an additional fee because of additional work involved be approved until the additional fees have been paid. The conductors and equipment required or permitted by this code shall be acceptable only if approved. (Ord. 729)

Repealed by:
ORDINANCE NO. 1022C
Adopted: 11/16/87
Effective: _____

- 4-303. SAME; ARTICLE 110-5. Article 110-5 is changed to read as follows: Conductors. Conductors normally used to carry current shall be of copper unless otherwise provided in this code. Conductors for residential application shall be copper only from the meter to the disconnect or panel board and branch circuit wiring from the panel board. Conductors for branch circuits #6 AWG and below shall be copper iron commercial and industrial applications. (Ord. 729)

Repealed by:
ORDINANCE NO. 1144C
Adopted: 12/18/89
Effective: _____

- 4-304. SAME; ARTICLE 110-8. Article 110-8 is changed read as follows: Wiring Method. All construction other than one and two family dwellings shall be wired with insulated conductors in conduit as defined by this code except that multi-family dwellings and not more than four living units per

Repealed by:
ORDINANCE NO. 1144C
Adopted: 12/18/89
Effective: _____

floor and not more than eight living units between fire walls may be wired with nonmetallic sheathed cable. Only wiring methods recognized as suitable are included in this code. The recognized methods of wiring shall be permitted for installation. Exception: Temporary construction of commercial and industrial buildings may be wired with nonmetallic sheathed cable subject to approval of the building official. (Ord. 729)

4-305. SAME; ARTICLE 230-5. Article 230-5 is changed to read as follows: Service Entrance Conductors and Equipment. Services shall be sized in accordance with the following provisions:

Repealed by:
ORDINANCE NO. 1144C
Adopted: 12/18/89
Effective:

(1) Service conductors shall have adequate ampacity to conduct safely the current for the loads supplied without a temperature rise detrimental to the insulation or covering of the conductors, and shall have adequate mechanical strength.

Minimum sizes are given in the following references:

For Service Drops--See Section 230-23, NEC 1981

For Underground Service Conductors--See Section 230-31, NEC 1981

For Service-Entrance Conductors--See Section 230-41, NEC 1981

(2) Service conductors and equipment shall be sized in accordance with the provisions of the 1981 National Electrical Code.

(3) Service conductors, bus bars and equipment ratings shall not be less than 80 percent of the combined ampacity of the service switches or circuit breakers.

(Ord. 729)

4-306. SAME; ARTICLE 324. Article 324 of the National Electrical Code is hereby deleted. (Ord. 729)

4-307. SAME; ARTICLE 334. Article 334 of the National Electrical Code is hereby deleted. (Ord. 729)

4-308. SAME; SUBSECTION 370.17(a). Subsection 370.17(a) Outlet Boxes shall read as follows: Boxes used at lighting fixture outlets shall be designed for the purpose intended. At every outlet used exclusively for lighting, the box shall be so designed or installed that lighting fixture may be attached. Where the fixture is required to be grounded to comply with Article 410-E, the fixture outlet box shall be metallic. (Ord. 729)

4-309. SAME; CHAPTER 210-71, RECEPTACLE OUTLETS. Chapter 210-71, Receptacle Outlets added to read as follows: Receptacle outlets installed in commercial and office buildings shall be adequate to serve the needs of the occupant using the space. Adequacy shall be determined by the building official at the time that plans are submitted for permits. Additional receptacle outlets shall be noted on the plans and installed by the owner or occupant. (Code 1984)

4-310. VIOLATION; PENALTIES. 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 an electrical system in violation of an approved plan or directive of the building official, or of a permit or certificate issued

under the provisions of this chapter, or other references incorporated, is guilty of a public offense, punishable as provided in section 4-215 of this chapter. (Ord. 729)

4-311. CIVIL ACTIONS. Notwithstanding any other provisions of this chapter, decisions of the building official, or such assistant or assistants as he or she may appoint, or decisions by the board of appeals reviewing decisions of the building official or his or her assistants shall be enforceable in the District Court of Johnson County, Kansas or any other court of competent territorial jurisdiction upon action brought by the city attorney, assistant city attorney, special attorney, or other legal counsel authorized to maintain such action for the enforcement of the provisions of this chapter. (Ord. 729)

Repealed by:

ORDINANCE NO. 1144C

Adopted: 12/18/89

Effective: _____

4-312. LIABILITY. Requirements stated in this chapter and all existing codes and ordinances in force shall not be construed as imposing on the city, its officials, agents, or employees, any liability or responsibility for damages to any property or injury to any person due to defective installations. The city or any official, employee or agent thereof, shall not assume any liability or responsibility whatsoever by reason of inspection or approval of any installation. (Ord. 729)

Repealed by:

ORDINANCE NO. 1144C

Adopted: 12/18/89

Effective: _____

ARTICLE 4. PLUMBING CODE

4-401. PLUMBING CODE INCORPORATED. The BOCA Basic Plumbing Code, 1984 edition, as published by the Building Officials and Code Administrators, International Inc., is hereby adopted and incorporated in this chapter as fully set forth therein, excepting only such parts or portions thereof as are specifically added or changed in section 4-402 through 4-413 of this article. Three copies of this document shall be on file in the office of the city clerk. (Ord. 730; Code 1984)

Repealed by:

ORDINANCE NO. 1017C

Adopted: 11/16/87

Effective: _____

4-402. AMENDMENT; P-100.1 TITLE. P-100.1 Title is changed to read as follows: These regulations shall be known as the Plumbing Code of the City of Leawood, Kansas, hereinafter referred as to the plumbing code of this code. (Ord. 730)

Repealed by:

ORDINANCE NO. 1017C

Adopted: 11/16/87

Effective: _____

4-403. AMENDMENT; P-100.2 SCOPE. P-100.2 Scope is changed to read as follows: The design and installation of plumbing systems, including sanitary drainage, sanitary facilities, water supplies, storm water, and sewage disposal in buildings shall comply with the requirements of this code, except Use Group R-4 structures. Such plumbing systems may be designed and installed in accordance with the One and Two Family Dwelling Code/1984 as enacted in this chapter. Not included in the scope of this code are installations of gas piping, chilled water supply in connection with refrigeration, process and comfort cooling, hot water piping in connection with building heating, and piping for sprinklers and standpipes. Water and drainage connections to such installations shall be made in accordance with the requirements of this code. (Ord. 730; Code 1984)

Repealed by:

ORDINANCE NO. 1017C

Adopted: 11/16/87

Effective: _____

4-404.

AMENDMENT; P-104.1 CONTINUATION. P-104.1 Continuation is changed to read as follows: The legal use and occupancy of any structure existing on the publication date of this ordinance or for which it had been heretofore approved, may be continued without change, except as may be specifically covered in this code or as may be deemed necessary by the plumbing official for the general safety and welfare of the occupants and the public. (Ord. 730)

Repealed by:
ORDINANCE NO. 1017C
Adopted: 11/16/87
Effective: _____

4-405.

AMENDMENT; P-114.2 FEE SCHEDULE. P-114.2 Fee Schedule is changed to read as follows: The permit fees for all plumbing work shall be as prescribed in Chapter IV of the code of the City of Leawood, Kansas. (Ord. 730)

Repealed by:
ORDINANCE NO. 1017C
Adopted: 11/16/87
Effective: _____

4-406.

AMENDMENT; P-117.4 PENALTIES. P-117.4 Penalties is changed to read 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 plumbing system in violation of an approved plan or directive of the building official or of a permit or certificate issued under the provisions of the code of the city, or other references incorporated, is guilty of a public offense, punishable as provided in section 4-215 of the code. (Ord. 730)

Repealed by:
ORDINANCE NO. 1017C
Adopted: 11/16/87
Effective: _____

AMENDMENT; P-303.2 PUBLIC SYSTEMS AVAILABLE. P-303.2 Public Systems Available is hereby deleted. (Ord. 730)

Repealed by:
ORDINANCE NO. 1017C
Adopted: 11/16/87
Effective: _____

4-408.

AMENDMENT; P-308.3 FREEZING. P-308.3 Freezing is changed to read as follows: Water service piping and sewers shall be installed below recorded frost penetration but not less than three feet six inches below grade for water piping and in accordance with Johnson County Wastewater District regulations for sewers. Plumbing piping in exterior building walls shall be adequately protected against freezing by insulation or heat or both. (Ord. 730)

Repealed by:
ORDINANCE NO. 1017C
Adopted: 11/16/87
Effective: _____

4-409.

AMENDMENT; P-800.1 SCOPE. P-800.1 Scope is changed to read as follows: The provisions of this article shall control the methods concerning the maximum projected roof area for drains of various slopes, size of roof gutters and vertical leaders, building subdrains, methods of installation, roof drains and general use. Nothing in this article shall be construed to take precedence over the requirements set forth for storm drains as established by Leawood Subdivision Regulations or the regulations set forth by the Johnson County Wastewater District. (Ord. 730)

Repealed by:
ORDINANCE NO. 1017C
Adopted: 11/16/87
Effective: _____

4-410.

AMENDMENT; P-804.2 SUMP PUMP SYSTEMS. P-804.2 Sump Pump Systems is changed to read as follows: Sump pump systems shall include the sump pump, pit, discharge, piping, and an individual branch electrical circuit. The sump pump may be omitted where local conditions indicate that footing drains will flow by gravity to a correct exterior drainage area. The pump when required shall have a capacity and head appropriate for the anticipated use requirements. (Ord. 730)

Repealed by:
ORDINANCE NO. 1017C
Adopted: 11/16/87
Effective: _____

4-411. AMENDMENT; P-1604.1.2 VALVES FOR SILL COCKS. P-1604.1.2
Repealed by: ORDINANCE NO. 1017C valves for Sill Cocks, added: All sill cocks and wall hydrants shall be
Adopted: 11/16/87 separately controlled by a valve inside the building except frost proof sill
Effective: _____ cocks. (Ord. 730)

4-412. CIVIL ACTION. Notwithstanding any other provisions of this chapter,
Repealed by: _____ decisions of the building official, or such assistant or assistants as he or she
ORDINANCE NO. 1017C may appoint, or decisions by the board of appeals reviewing decisions of the
Adopted: 11/16/87 building official, or his or her assistants, shall be enforceable in the District
Effective: _____ Court of Johnson County, Kansas, or any other court of competent territorial
jurisdiction upon action brought by the city attorney, assistant city attorney,
special attorney, or other legal counsel authorized to maintain such action
for the enforcement of the provisions of this article. (Ord. 730)

4-413. LIABILITY. Requirements stated in Sections 1 through 15 of the
Repealed by: _____ Plumbing Code and all existing codes and ordinances in force shall not be
ORDINANCE NO. 1017C construed as imposing on the city, its officers, agents or employees, any
Adopted: 11/16/87 liability or responsibility for damages to any property or injury to any person
Effective: _____ due to defective installations. The city or any official, employee or agent
thereof shall not assume any liability whatsoever by reason of inspection or
approval of any installation. (Ord. 730)

ARTICLE 5. MECHANICAL CODE

4-501. MECHANICAL CODE INCORPORATED. The 1984 BOCA Basic
Repealed by: _____ Mechanical Code as published by the Building Officials and Code
ORDINANCE NO. 1018C Administrators International, Inc., is hereby adopted and incorporated in this
Adopted: 11/16/87 chapter as fully as if set forth herein excepting only such parts or portions
Effective: _____ thereof as specifically deleted, added or changed in sections 4-502 through
4-514 of this article. Three copies of this document shall be on file in the
office of the city clerk. (Ord. 731; Code 1984)

4-502. AMENDMENT; M-100.1 TITLE. M-100.1 Title is changed to read as
Repealed by: _____ follows: This code shall be known as the Mechanical Code of the City of
ORDINANCE NO. 1018C Leawood, Kansas, hereinafter referred to as the mechanical code or this
Adopted: 11/16/87 code. (Ord. 731)
Effective: _____

4-503. AMENDMENT; M-100.2 SCOPE. M-100.2 Scope is changed to read as
Repealed by: _____ follows: The design and installation of mechanical systems including heating
ORDINANCE NO. 1018C systems, ventilating systems, cooling systems, steam and hot water heating
Adopted: 11/16/87 systems, process piping, boilers and pressure vessels, appliances utilizing gas,
Effective: _____ liquid or solid fuel, chimneys and vents, mechanical refrigeration systems,
shall comply with the requirements of this code except use group R-4
structures. These mechanical systems may be designed and installed in
accordance with the One and Two Family Dwelling Code as enacted in
Chapter 4 of the code of the City of Leawood, Kansas. (Ord. 731)

4-504. AMENDMENTS. (a) M-114.1 General is changed read as follows: A
permit to begin work for new construction or alteration shall not be issued

Repealed by: _____
ORDINANCE NO. 1018C
Adopted: 11/16/87
Effective: _____

until the fees prescribed in the code of the City of Leawood, Kansas, Chapter 4, have been paid nor shall an amendment to a permit necessitating an additional fee because of additional work involved be approved until the additional fees shall have been paid.

(b) M-114.2 Periodic Inspections is hereby deleted.

(c) M-114.3 Fee Schedule is hereby deleted.

(Ord. 731)

4-505.

AMENDMENT; M-117.4 VIOLATION-PENALTY. M-117.4 Violation-Penalty is changed to read 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 mechanical system in violation of an approved plan or directive of the building official, or of a permit or certificate issued under the provisions of this code or other references incorporated is guilty of a public offense, punishable as provided in the code of the City of Leawood, Kansas. (Ord. 731)

Repealed by:

ORDINANCE NO. 1018C

Adopted: 11/16/87

Effective: _____

4-506.

AMENDMENT; M-118.2 UNLAWFUL CONTINUANCE. M-118.2 Unlawful Continuance is changed to read as follows: Any person who shall continue such work in or about the building after having been served with a stop order, except such work as he or she is directed to perform to remove a violation or unsafe condition, shall, upon conviction, be punished as provided in the code of the City of Leawood, Kansas. (Ord. 731)

Repealed by:

ORDINANCE NO. 1018C

Adopted: 11/16/87

Effective: _____

4-507.

AMENDMENT; M-201.0 DEFINITIONS. M-201.0 Definitions is changed to read as follows: Department - The Department of Planning and Development of the City of Leawood, Kansas, or the building official thereof, responsible for the enforcement of this code, or his or her representative. (Ord. 731)

Repealed by:

ORDINANCE NO. 1018C

Adopted: 11/16/87

Effective: _____

Repealed by: 4-508.

ORDINANCE NO. 1018C

Adopted: 11/16/87

Effective: _____

AMENDMENT; M-601.2.8. M-601.2.8 of the BOCA Basic Mechanical Code/1984 is hereby deleted. (Ord. 731)

4-509.

AMENDMENT; M-602.5 PIPE ENTRY INTO BUILDING. M-602.5 Pipe Entry Into Building shall read as follows: All piping shall enter into the building above grade. Figure M-602.7 shall be modified accordingly. (Ord. 731)

Repealed by:

ORDINANCE NO. 1018C

Adopted: 11/16/87

Effective: _____

4-510.

AMENDMENT; M-602.7.1 UNDERGROUND PLASTIC PIPE. M-602.7.1 Underground Plastic Pipe is changed to read as follows: When underground plastic tube or pipe, steel tube or copper tube is supplied from interior gas piping, the interior piping shall be extended through the outside wall, above grade, with steel or wrought iron pipe. Underground connections made to the copper tube, steel tube, or plastic tube or pipe, shall be made at a point at least 15 inches below the surface of the ground. Above ground connections shall be provided with a protective steel or wrought iron pipe sleeve. The sleeve shall extend from a point nine inches below the ground surface to a rigid connection with the extended interior house gas piping. The exterior gas-carrying pipe or its protective sleeve shall be not more than six inches from the outside face of the building wall. The underground portion of the

Repealed by:

ORDINANCE NO. 1018C

Adopted: 11/16/87

Effective: _____

gas-carrying steel or wrought iron pipe must be wrapped or coated. The opening in the foundation or wall through which the extended pipe passes shall be sealed with waterproof material. (Ord. 731)

Repealed by:
ORDINANCE NO. 1018 C
11/16/87
Adopted: 4-511.
Effective:

AMENDMENT; M-900.3. M-900.3 of the BOCA Basic Mechanical Code/1984 is hereby deleted. (Ord. 731)

Repealed by:
ORDINANCE NO. 4-512.018 C
11/16/87
Adopted:
Effective: 4-513.

AMENDMENT; M-1117. M-1117 of the BOCA Basic Mechanical Code/1984 is hereby deleted. (Ord. 731)

Repealed by:
ORDINANCE NO. 1018 C
11/16/87
Adopted:
Effective:

CIVIL ACTIONS. Notwithstanding any other provisions of this chapter, decisions of the building official or such assistant or assistants as he or she may appoint, or decisions by the board of appeals reviewing decisions of the building official, or his or her assistant, shall be enforceable in the District Court of Johnson County, Kansas, or any other court of competent territorial jurisdiction upon action brought by the city attorney, assistant city attorney, special attorney, or other legal counsel authorized to maintain such action for the enforcement of the provisions of the code of the City of Leawood, Kansas. (Ord. 731)

4-514.

LIABILITY. Requirements stated in the code of the City of Leawood, Kansas and all existing codes and ordinances in force shall not be construed as imposing on the city, its officers, agents or employees, any liability or responsibility for damages to any property or injury to any person due to defective installations. The city or any official, employee or agent thereof shall not assume any liability or responsibility whatsoever by reason of inspection or approval of any installation. (Ord. 731)

Repealed by:
ORDINANCE NO. 1018 C
11/16/87
Adopted:
Effective:

ARTICLE 6. REMOVAL OF STRUCTURES

4-601.

DEFINITIONS. For the purpose of this article, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the plural sense include the singular number, and words in the singular number include the plural number. "Shall" is always mandatory and not merely directory.

(a) Applicant means any person making application for a permit.

(b) Building or Structure means an assembly of materials forming a construction for occupancy or use including among other, houses, buildings, stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, piers, wharfs, open sheds, coal bins, shelters, fences and display signs, excluding mobile homes for transfer.

(c) Building Official means the officer, or other designated authority, charged with the administration and enforcement of this ordinance, or his or her duly authorized representative.

(d) City is defined as meaning the City of Leawood, Kansas.

(e) Permittee means any person obtaining a permit as provided for in this chapter.

(f) Person is defined as an individual human being.
(Ord. 732)

4-602. **MOVING PERMIT REQUIRED.** No person shall move any building or structure having a floor area of 200 or more square feet, upon, across, or over any highway, street, alley, or sidewalk in the city without first obtaining a permit to do so, issued by the building official. (Ord. 732)

4-603. **APPLICATION FOR PERMIT; FEES.** All applications for permits to move buildings or other structures described in Sections 112.0 and 113.0 of the building code shall be made to the building official and such applications shall state and be in compliance with the following procedures:

(a) The dimensions of the building or structure as to length, height at its highest point when loaded for moving, width;

(b) The definite description of the building or structure proposed to be moved giving street number, construction materials, dimensions in square feet, number of rooms and condition of exterior and interior;

(c) The plot plan to scale with legal description of the lot from which the building is to be moved, giving the lot number, block number and subdivision, if located within the city;

(d) The plot plan to scale with the legal description of the lot to which it is proposed such building be removed, giving lot number, block number and subdivision, if located within the city;

(e) The date and hour when the moving is to commence and length of time of the move. In no event will a moving be allowed on a Saturday or Sunday or a holiday unless specifically allowed by the building official;

(f) The highways, streets, alleys or sidewalks over, along or across which the building or structure is proposed to be moved;

(g) The application shall be made not less than seven calendar days prior to the commencement of the moving and shall be accompanied by a fee as set forth in the Fee Schedule established and maintained by the city administrator, as prescribed in section I-701;

(h) The application must include copies of written notice that has been given by the applicant to the owners of adjacent lots and to the owners of wired or other facilities, whenever same will affect the public utilities located within the city limits, should a permit be granted for the removal of building or structure;

(i) The applicant of the building or structure to be moved, shall file with the application sufficient evidence that the building or structure and lot from which it is to be moved are free of any entanglements and that all taxes and any city charges against the owner are paid in full. Applicant should furnish a certificate of liability insurance for personal and property damage exempting and saving harmless the city in a minimum amount of \$100,000 injury each person, \$300,000 each occurrence, and \$50,000 property damage;

(j) The applicant, if other than the owner, shall file with the application a written statement or bill of sale signed by the owner, or other sufficient evidence that he or she is entitled to move the building or structure.

(Ord. 732; Code 1984)

4-604. **BOND REQUIRED.** It shall be the duty of any person at the time of making application for a permit as provided in section 4-603 to execute in favor of this city a good and sufficient bond to the city in the sum of \$10,000, with good and sufficient security, conditioned, among other things, that the

principal shall pay any and all damages which may be caused to any property, public or private, within the city when such injury or damage shall be inflicted by the principal or his or her agent, servant, employee, workman, contractor, or subcontractor, and such bond shall be conditioned also that the principal will serve, indemnify and protect the city from any and all liability, and that he or she will, in all respects, comply with all ordinances of the city and comply with the terms of the permit and be conditional upon faithful performance of the move. The form of such bond must be approved by the city attorney. (Ord. 732)

4-605.

DUTIES OF BUILDING OFFICIAL. (a) The building official shall inspect the building of structure and the applicant's equipment to determine whether the standard for issuance of a permit is met and issue or deny such permit.

(b) The building official shall refuse to issue a permit if he or she finds:

(1) That any application requirement of any fee, deposit, or bond requirement has not been complied with;

(2) That the building or structure is too large to move without injuring persons or property in the city;

(3) That the building or structure is in such a state of deterioration, disrepair or is otherwise so structurally unsafe that it cannot be moved without endangering persons or property within the city;

(4) That the building or structure is structurally unsafe or unfit for the purpose for which moved, if the removal location is in the city;

(5) That the applicant's equipment is unsafe and that persons and property would be endangered by its use;

(6) That zoning, subdivision or any other ordinances would be violated by the building or structure in its new location;

(7) That for any reason persons or property in the city would be endangered by the moving of the building or structure;

(8) That the building or structure to be moved is not compatible to the neighborhood where building or structure is proposed to be located;

(9) That any weight, length, width or other restriction imposed upon the use of the public or private roadways within the city limits by either city traffic ordinances or state statutes would be violated.

(c) Fees and deposits.

(1) The building official shall deposit all fees and deposits and all cash with the planning and development department of the city;

(2) Upon the refusal to issue a permit, all funds deposited shall be returned to the applicant. If a permit is granted and the move is not made by the applicant, then one-half of all funds deposited will be refunded.

(3) After the building or structure has been removed, the building official shall furnish the city manager, city engineer, and city attorney a written statement of all expenses and damages incurred in removing and replacing all property belonging to the city, and all material used in making of the removal and replacement together with a statement of all damages caused to or inflicted upon the property, both private and public, for claim against the surety bond.

(d) The building official shall procure from the department of public works a list of designated streets over which the building or structure may be moved. The building official shall have the list approved by the chief of

police and shall reproduce the list upon the permit in writing. In making their determinations, the department of public works and the chief of police shall act to assure maximum safety to persons and property in the city and to minimize congestion and traffic hazards on public streets.
(Ord. 732)

4-606.

DUTIES OF PERMITTEE. Every permittee under this article shall:

(a) Move a building or structure only over streets designated for such use in the written permit;

(b) Notify the building official within 48 hours of move in writing of a desired change in moving date and hour and route of move as proposed in the application and such change must be approved by the building official.

(c) Notify the building official in writing of any and all damages done to property belonging to the public and private property within 24 hours after the damage or injury has occurred;

(d) It shall be the duty of any person moving any building or structure mentioned in section 4-602 upon or across any street, alley or sidewalk or other public place in the city to display red lanterns or other warning devices used in compliance with city traffic ordinances or state statutes thereon in such a manner as to show the extreme height and width thereof from 30 minutes after sunset to 30 minutes before sunrise, shall at all times erect and maintain barricades across the street in such manner as to protect the public from damage or injury by reason of removal of the building or structure, and shall have sufficient escort as provided by city ordinance, state statutes, or as determined as necessary for the public safety by the chief of police;

(e) No building or structure or any part of any building or structure being moved shall be left in the parkway, street, or on the dedicated right-of-way between the curb and the front property line of any lot;

(f) Comply with the building code, fire zone, zoning ordinances and all other applicable traffic ordinances and laws upon relocating the building or structure in the city or move the same through the city;

(g) Remove all rubbish and materials and fill in excavations to existing grade at the original building or structure site so that the premises are left in a safe and sanitary condition within 30 days from the date of the move;

(h) Notify all utilities having service connections within the building or structure and otherwise located within the city limits whose facilities and services to the general public may be affected by the movement of the building or structure. Copies of notification shall be furnished to the building official;

(i) Comply with the regulations and specifications contained in such permit granted by the building official to such permittee.

(Ord. 732)

4-607.

ENFORCING OFFICERS. The building official, police department, department of public works, city administrator, city engineer and city attorney shall enforce and carry out the requirements of this article as set forth herein. (Ord. 732)

4-608.

PERMITTEE LIABLE FOR EXPENSE ABOVE DEPOSIT. The permittee shall be liable for any expenses, damages, costs in excess of deposited

amounts of securities, and the city attorney shall prosecute an action against the permittee in a court of competent jurisdiction for the recovery of such excessive amounts. (Ord. 732)

4-609. ORIGINAL PREMISES LEFT UNSAFE. This city shall proceed to do the work necessary to leave the original premises in a safe and sanitary condition, where permittee does not comply within 10 days with the requirements of this article, and the cost thereof shall be charged against the general deposit. (Ord. 732)

4-610. PERMIT TIME LIMITATION. Permits issued under and pursuant to this article shall be valid for a maximum time of two months. (Ord. 732)

4-611. PROPER FOUNDATION. No building shall be moved to any lot unless and until a proper and suitable foundation or basement has been theretofore constructed on such lot of which such building will be permanently placed unless waived by the building official. (Ord. 732)

4-612. VIOLATION; PENALTY. Any person convicted of a violation of any provision of this article shall be fined a sum not to exceed \$500 or shall be imprisoned in the county jail for a period not to exceed six months, or shall be both so fined and imprisoned. Each day any violation of this article shall continue shall constitute a separate offense. (Ord. 732)

4-613. CIVIL ACTIONS. Notwithstanding any other provisions of this chapter, decisions of the building official, or such assistant or assistants as he or she may appoint, or decisions by the board of appeals reviewing decisions of the building official or his or her assistants shall be enforceable in the District Court of Johnson County, Kansas or any other court of competent territorial jurisdiction upon action brought by the city attorney, assistant city attorney, special attorney, or other legal counsel authorized to maintain such action for the enforcement of the provisions of the code of the City of Leawood, Kansas. (Ord. 732)

ARTICLE 7. PROPERTY MAINTENANCE

4-701. PROPERTY MAINTENANCE CODE INCORPORATED. The City of Leawood, Kansas, does hereby incorporate by reference the BOCA Basic Property Maintenance Code, 1981 edition, as published by the Building Officials and Code Administrators International Inc., for the maintenance of property and the protection of public health, safety and welfare, as herein provided, and each and all of the regulations, provisions, penalties, conditions, and terms of the Basic Property Maintenance Code, 1981 edition, are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, and changes prescribed by this article. Three copies of this document shall be on file in the office of the city clerk. (Ord. 692)

Repealed by:
ORDINANCE NO. 1306C
Adopted: 9/8/92
Effective: _____

4-702.

LEGISLATIVE FINDINGS. The governing body finds that there exists within the city conditions of structures and lands which are dangerous or injurious to the health, safety or general welfare of the occupants of such structures and lands or other residents of the city, or which have a blighting influence on the properties in the area. Such conditions include the following, without limitation: Defects therein increasing the hazards of fire, accident or other calamities; lack of adequate ventilation; air pollution; light or sanitary facilities; dilapidation; disrepair; structure defects; uncleanliness; overcrowding; inadequate ingress and egress; dead and dying trees, limbs or other unsightly natural growth; unsightly appearances that constitute a blight to adjoining property, the neighborhood or the city; walls, sidings, or exteriors of a quality and appearance not commensurate with the character of the properties in the neighborhood; unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof; vermin infestation; inadequate drainage; or any violation of health, fire, building or zoning regulations or any other laws or regulations relating to the use of land and the use and occupancy of the buildings and improvements. (Ord. 692)

Repealed by:
ORDINANCE NO. 1306C
Adopted: 9/8/92
Effective: _____

4-703.

ADDITIONS, DELETIONS, AND CHANGES. The following sections of the Basic Property Maintenance Code are hereby revised, as follows:

Repealed by:
ORDINANCE NO. 852C
Adopted: 5/20/85
Effective: _____

(a) Section PM-100.1 Title: Add Leawood, Kansas.
(b) Section PM-100.2 Scope: Change entire section to read as follows: This code shall apply to residential and nonresidential structures, to residential and nonresidential lands and to vacant lots.

(A) Residential structures shall mean any building or structure or part thereof used or occupied for human habitation or intended to be so used, if unoccupied, and includes any appurtenances belonging thereto or usually enjoyed therewith.

(B) Residential land shall mean real property upon which residential structures are situated.

(C) Nonresidential structures shall mean any structure which is used for other than residential purposes, or a part of such structure, or a structure a part of which is used for other than nonresidential purposes.

(D) Nonresidential land shall mean real property upon which nonresidential structures are situated.

(E) A vacant lot shall mean any real property upon which there is situated no residential or nonresidential structures.

(c) Section PM-103.1 Officer: Change section to read as follows: The mayor of this city shall with the approval of the city council appoint a public officer to exercise the powers prescribed by this code. The public officer may appoint and fix the duties of code officials as he or she deems necessary to carry out the purpose of this code, and may delegate any of his or her functions or powers to such officials. The chief building official shall be delegated the duty and responsibility of the code official and shall enforce the provisions of this code as herein provided.

(d) Section PM-104.3.1 Right of Entry: Add: The city shall provide to the owner a notice of the right to entry 10 days prior to entry within a structure.

(e) Section PM-104.7 Annual Report: Change section to read: Upon request the code official shall submit an annual report.

(f) Section PM-106. Delete entire section. Add new title Enforcement Procedures.

(g) Section PM-106.1 Add: Immediate hazard, action to protect public: When in the opinion of the code official, any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, such official may erect barricades or cause the property to be vacated, taken down, repaired, shored, or otherwise made safe without delay, and such action may, under these circumstances, be taken without prior notice to or hearing of the owners or agents, lienholders or occupants. The cost of such action shall be assessed against the property and paid in a manner provided by K.S.A. 12-1755.

(h) Section PM-106.2 Add: Code Violations: Enforcement procedures may be initiated in the following ways:

(1) When a petition is filed with the code official by any resident of the city charging that any premises or structure is in violation of the property maintenance code.

(2) The code official on his or her own motion may initiate a preliminary investigation, and

(3) The code official may be directed by a majority of the quorum present for a city council meeting at which the charge is brought that the premises and/or structure is in violation of the property maintenance code.

(i) Section PM-106.3 Add: Notice and Hearing for Owner/Occupant or Persons Responsible: If the preliminary investigation discloses a basis for further action, the code official shall notify the owner, mortgagee of record, and all parties in interest by certified mail of the items of correction and shall list these items in writing. A minimum of 60 days shall be given for corrections, or additional time as may be determined by the code official. The code official shall make an inspection at the end of the prescribed time period. If the corrections are satisfactory, the case shall be closed. If the work is not completed, the code official shall serve a written complaint setting a hearing before the appeals board within 30 days.

The board shall conduct a hearing to make a determination and establish a time limit for completion of the work. The code official shall inspect the work at the prescribed time. If the owner fails to comply with the board's determination, the code official may cause such structure or premise to be repaired, altered, improved or vacated and closed. If the owner fails to comply with an order to remove or demolish the structure, the code official may cause such a structure to be removed or demolished.

The amount of the cost of such repairs, alterations, or improvements, or vacating or closing or removing or demolition by the code official shall be a lien against the real property upon which such cost was incurred and such lien, including as a part thereof an allowance of cost and necessary attorney fees, may be foreclosed in judicial proceedings in a manner provided or authorized by law for loans secured by liens on real property, or shall be assessed as a special assessment against the lot or parcel of land on which the structure was located. The city clerk shall, at the time of certifying other city taxes, certify the unpaid portion of the aforesaid cost and the county clerk shall extend the same on the tax rolls of the county against the lot or

parcel of land. If the structure is demolished by the code official, the materials of such structure shall be credited to the proceeds of such sale against the cost of the removal or demolition. If there is any balance remaining, it shall be paid to the party or parties entitled thereto as determined by proper judicial proceedings.

(j) Section PM-106.4 Add: Unsafe or Dangerous Buildings: If the code official finds that a structure is unsafe and dangerous and should be removed and/or demolished, the code official shall submit a report to the governing body with his or her findings of fact. The city council shall by resolution fix a time and place at which the owner, agent, lienholders of record and any occupant of such structures may appear and show cause why such structure should not be condemned and ordered to be repaired or demolished. The resolution shall be published once each week for two consecutive weeks on the same day of each week in the city newspaper. A minimum of 30 days shall elapse between the last publication and the date set for the hearing. A copy of the resolution shall be mailed by certified mail within three days after the first publication to each such owner, agent, lienholder and occupant at his or her last known place of residence and shall be marked 'deliver to addressee' only.

At the hearing, the governing body shall hear all evidence submitted by the owner, agent or lienholder of record, and occupants having an interest in the structure, as well as evidence submitted by the code official filing the statement, and shall make findings by resolution.

If the governing body shall find that such a structure is unsafe or dangerous, such resolution shall direct the structure be repaired, or removed, and the premises made safe and secure. The resolution shall be published once in the official city newspaper and a copy mailed to the owners, agents, and/or lienholders of record, and occupants in the same manner provided for in the notice of the hearing. The resolution shall fix a reasonable time within which the repair or removal of such structure shall be commenced and a statement that if the owner of such structure fails to commence the repair or removal of such structure within the time stated or fails to diligently prosecute the same until the work is completed, the governing body shall cause the structure to be razed and removed. If the city proceeds to raze and remove such structure and make the premises safe and secure, the city shall account for materials, cost of the work, and sale of salvage in accordance with K.S.A. 12-1755. All moneys received from special assessments levied under the provisions of this section shall, when and if paid, be placed in the general fund of the city.

(k) Section PM-108 Emergency Orders: Delete entire section.

(l) Section PM-109.2 Penalty: Add: \$50 and \$100 and 30 days.

(m) Section PM-110.1 Petition: Delete as written. Add: Any person affected by any notice which was issued in connection with the enforcement of any provisions of this code, exclusive of nuisance items listed in Sections PM-301.6, PM-301.10, PM-301.12 and PM-301.13I will be granted a hearing on the matter before the board of appeals. The code official shall file the written complaint scheduling such a hearing as established by enforcement procedures.

(n) PM-110.2.1 Membership: Change entire section to read as follows: Said board shall consist of five residents and electors of the jurisdiction

appointed by the chief executive including one person skilled in real estate and property management for at least two years; one general contractor for at least three years; one registered architect or other professional person for at least three years; two citizens who are homeowners for at least two years. The chief executive shall also appoint one member to act as chairperson, who will serve one year.

Each member shall have been a resident of the jurisdiction for at least one year prior to appointment. The homeowner members will be asked to resign if their status as homeowners is changed. The chief executive may appoint for a term of one year an alternate member of such board in addition to the five members above provided for, who shall act with full power only when a member of the board refuses to vote because of interest or when a member is absent. Thereafter, all appointments shall be for a period of two years. Each member shall serve until a successor has been appointed. The code official shall appoint one member of the department who shall act as secretary to the board.

(o) PM-111.1 General: Change to read: The code official may order the owner/agent of any premises to have any structure razed or removed per action of the governing body when unsafe or dangerous buildings are involved. When there are dangerous and immediate hazards involved, the code official may act without any notices and without delay.

(p) PM-111.3 Order: Change to read: Following a preliminary investigation, if the code official finds that any structure is in a condition as to constitute an immediate hazard requiring immediate action to protect the public, such official may erect barricades, or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay, and such action may be taken in accordance with enforcement procedures. If the structure is determined as unsafe requiring removal by the code official, a report shall be submitted to the city council for its action, as prescribed by the enforcement procedures, Section PM-106.4.

(q) PM-111.4 Restraining Actions: Add Thirty. Delete - Court of Record. Add: District Court of the County. Add: Cost shall be in the discretion of the Court. Remedies herein provided shall be exclusive remedies, and no person affected by an order of the code official shall be entitled to recover any damages for action taken pursuant to any order of the code official, or because of compliance of such person with any order of the code official.

(Ord. 692; Ord. 709)

4-704.

SAME; DEFINITIONS. PM-201.0 Applied Meaning of Words and Terms:

Repealed by:

ORDINANCE NO. 11306C

Adopted: 9/8/92

Effective: _____

Add Land: Except where specifically limited, or where the context would require limitation, the use of the term land or real property shall refer to residential land, non-residential land, and vacant lots. Add: Vacant Lot: Any real property on which there is situated no residential or non-residential structure. (Ord. 692)

4-705.

SAME; ENVIRONMENTAL REQUIREMENTS. (a) PM-301.5 Delete as written. Add: Property Maintenance: Property owners and/or person in control of property shall maintain the sidewalks adjacent to public right-of-way as required for safety and welfare of the general public. Other hard

Repealed by:

ORDINANCE NO. 8772

Adopted: 8/19/85

Effective: _____

surfaces, walkways and driveways on private property shall not be allowed to deteriorate to the extent that they constitute a safety hazard, drainage problem or detract from the property appearance.

(b) PM-301.5.1 Public Areas is hereby added and shall read as follows: Grass, landscaping and trees located within traffic control islands should be the maintenance responsibility of the homes associations. Monuments, landscaping, trees, fountains, and lighting located on private property at the entrance to residential subdivisions and/or commercial property shall be the responsibility of the homes associations and/or the individual property owner.

(c) PM-301.6 Noxious Weeds: Add: No weeds or grass shall be permitted to exceed 12" in height in any platted area or within 100 feet of any platted area or any developed area. A property owner is responsible for property maintenance for his or her property and the public right-of-way to the street.

(d) PM-301.10 Motor Vehicles. Delete as written. Add: Inoperative vehicles which are junked, wrecked, dismantled, inoperative, discarded, unregistered, unlicensed, or abandoned in and upon property within the city shall be prohibited.

(e) PM-301.10.1 Add: Temporarily Disabled Vehicles: If a vehicle is inoperative for a period of seven days or less, the provisions of PM-301.10 do not apply.

(f) PM-301.12 Bush and Lawn Trimmings. This section is hereby added and shall read as follows: Each and every owner, tenant, or occupant of any dwelling or other building in the city shall place lawn trimmings, bush trimmings, and other yard debris in suitable containers or tied in bundles. The containers and bundles shall not be placed at or within 30 feet of the street curb for more than 24 hours prior to the anticipated time of collection.

(g) PM-301.13 Add: Dumping, Storage of Refuse, Equipment, Etc.,: shall be added and shall read: No person shall dump, deposit or store on any property whether owned, dedicated to public use or upon the property of any person, nor to allow to fall or be washed upon any street or upon any property of any other person dirt, earth, building materials, debris, refuse, cans, garbage or grass clippings. Also, no person shall dump, deposit or store on any property whether dedicated to public use, property of any person or their own property junked or otherwise inoperative equipment, vehicles, machinery or appliance or other materials. Operable farm equipment or implements which are used in the agricultural areas are excluded.

(h) PM-301.2 Add: Surface Drainage: Surface water shall not be discharged in a manner that creates a nuisance to owners or occupants of adjacent property or that create a public nuisance.

(i) PM-302.5 Add: Wall Surfaces: Exterior wall surfaces shall be kept in good condition to prevent deterioration. Painted surfaces will require repainting or satisfactory covering of approved siding when scaling of existing paint covers in excess of 25% of one or more wall surfaces or when it is obvious that the wood and other material is becoming porous and needs sealing.

(j) PM-304 Add: Enforcement Procedures for Premises Violations: Persons violating the provisions of Sections PM-301.6, Noxious Weeds, PM-301.10, Motor Vehicles, PM-301.12, Bush and Lawn Trimmings, and PM-301.13, Dumping, Storage of Refuse, Equipment, etc., shall be given

notice of a violation by the code enforcement official and that notice shall be sent by certified mail to the owner and/or occupant. Conditions as cited in Section PM-301.6, PM-301.10 and PM-301.13 are to be corrected within 10 days after the mailing date. And, conditions as cited in Section PM-301.12 are to be corrected within three days after the mailing date. If the corrections are not made within the prescribed time period, the city shall initiate action to correct the nuisance and the violator shall pay the city for the actual cost of the abatement. If such cost is not paid within 10 days following the city abatement of nuisance, the cost will be assessed and charged against the lot or parcel of ground on which the nuisance was located, and the city shall, at the time of certifying other special assessments to the county clerk, certify the aforesaid cost to be allowed by the county treasurer and paid to the city. Liability for such cost shall be separate from and in addition to any criminal penalties. Also per Section PM-301.10-The notice of an inoperative vehicle shall be sent to the person in possession or owner of real property on which such inoperative vehicle is located. If the violation is not corrected within 10 days, the vehicle shall be removed by the city at the owner's cost.
(Ord. 692; Code 1984)

Repealed by:
ORDINANCE NO. 306C
Adopted: 4/8/92
Effective:

- 4-706.
- 4-707.
- 4-708.
- 4-709.

- 4-706. SAME. PM-400.0 Light, Ventilation & Space Requirements. Delete entire section. (Ord. 692)
- 4-707. SAME. PM-500.0 Plumbing Facilities and Fixture Requirements. Delete entire section. (Ord. 692)
- 4-708. SAME. PM-600.0 Mechanical and Electrical Requirements. Delete entire section. (Ord. 692)
- 4-709. SAME. PM-700.0 Fire Safety Requirements. Delete entire section. (Ord. 692)

ARTICLE 8. OIL AND GAS DRILLING AND PRODUCTION

- 4-801. FINDINGS AND PURPOSE. (a) The city hereby finds and declares as a matter of public policy that uncontrolled drilling and production of oil and gas resources would be detrimental to the public health, safety, comfort, convenience, prosperity and general welfare.
(b) The purpose of this article is to establish uniform and reasonable limitations, safeguards, and controls of oil and gas operations based upon the following criteria;
 - (1) Aiding those owners of land in the economic utilization of the mineral rights until growth and development progresses into the area.
 - (2) Protecting existing residential and commercial areas from incompatible land use activities.
 - (3) Providing for the orderly growth and development of land consistent with the master development plan.
 - (4) Minimizing any risks to the public health, safety, comfort, convenience, prosperity, and general welfare.

- (5) Avoiding undue liability for the city, its residents and businesses.
 - (6) Maintaining the city's character and economic vitality.
- (Ord. 781)

4-802.

DEFINITIONS. The following terms as used in this article shall, unless the context clearly indicates otherwise, have the respective meanings herein set forth. These definitions shall also apply to those provisions of the Leawood Zoning Regulations, pertaining to special uses for oil and gas exploration and production. To the extent that these definitions may conflict with those contained in such provisions of the Leawood zoning regulations, these definitions shall control. Additional definitions as established by "General Rules and Regulations for the Conservation of Crude Oil and Natural Gas" of the State Corporation Commission of the State of Kansas shall apply to this article.

(a) Abandonment. Shall mean the plugging of a well, removal of equipment and the restoration on the site in compliance with this article.

(b) Applicant. Shall mean the person who represents the owner(s) or operator(s) and seeks, on their behalf, a permit pursuant to the provisions of this article.

(c) Berm. See Dike.

(d) Blowout. Shall mean the uncontrolled discharge of gas, solid, or liquids, or combination thereof from a well.

(e) Blowout Preventor. Shall mean a mechanical, hydraulic or pneumatic, or other device, or combination of devices secured to the top of a well casing including valves, fittings, and control mechanism connected therewith which can be closed around the drill pipe, or which completely closes the top of the casing and is designed for and capable of preventing blowouts.

(f) Circulating Mud Pit. The working pit from which the drilling muds are continuously recirculated during the drilling process into and from and drilling hole for the purpose of flushing out the drill bit cuttings.

(g) Code. See city ordinances and regulations.

(h) Code Administrator. Shall mean the executive official of the planning and development department who is charged with the responsibility of administering and/or enforcing the building, electrical, fire, plumbing, and health and zoning ordinances of the city, and is synonymous with the term fire official or enforcement officer.

(i) Code Board of Appeals. Shall mean the board of appeals as set forth in the Property Maintenance Code as amended and adopted by article 7 of this chapter.

(j) Corporation Commission. Kansas Corporation Commission (K.C.C.).

(k) Dike. An embankment of earth designed to contain oil within a defined area.

(l) Drilling. Boring a hole into the earth for the purpose of extracting hydrocarbons from the earth.

(m) Drilling Area. Shall mean the operating location for oil and gas drilling and production equipment, tanks and vehicles.

(n) Exploratory Drilling. The initial sequence of examining certain locations for oil and/or gas.

(o) Lease. Shall mean the physical area to which mineral rights are held.

(p) Lessee. Shall mean the possessor of the right to exploit the premises for minerals.

(q) Lessor. Shall mean the mineral rights owner.

(r) Maintenance. Shall mean the repair and replacement of the parts of a structure to retain the designed safety and effectiveness of the structure including those activities which are both routine and non-routine, that when performed will minimize the risk of any health, safety, or environmental hazards or nuisances being created.

(s) Mud. The drilling fluid used and recirculated through the drilling hole as a lubricant.

(t) NFPA. National Fire Protection Association, which publishes the National Fire Code,.

(u) Owner. Shall mean the person who owns a legal or equitable title in land.

(v) Permittee. Shall mean the person who represents the owner or operator and receives on their behalf a permit pursuant to the provisions of this article.

(w) Plugging. Shall mean putting cement into the well in compliance with this article and K.S.A. 55-128 et seq.

(x) Production Drilling. Shall mean any activity or drilling which is related to commencing production and shall also include any drilling that is done to facilitate extraction from another well by injection of fluids or gases, and shall also include drilling of disposal wells.

(y) Production Equipment. Shall mean all structures necessary and incidental to the production of oil or gas or disposal of brines and mineral water, including but not limited to pipes, tank batteries, and pumps.

(z) Redrilling. Shall mean the deepening of an existing well and shall also mean the re-opening of a well that has been abandoned.

(aa) Reserve Pit. Any excavation, pit, or receptacle designed or actually used to receive, store, or hold rocks, drill bit cuttings, shale, sand, fresh water, or drilling mud which contains no salt water oil, oil derivatives, caustics, acids, or other deleterious substances harmful to soil, vegetation, or injurious to animal or human life.

(bb) Spill. Shall mean the unauthorized leaking, pumping, pouring or emptying of oil.

(cc) Structure. That which is built, constructed, or erected.

(dd) Sump or Slush Pit. An excavation, pit, or watertight container, designed or actually used to receive, store or hold waste oil, oil derivatives, sand, salt water, or other waste products or deleterious substances produced or used in the drilling, swabbing, cleaning, or reworking of any oil, gas, or disposal wells.

(ee) Tract. Shall mean the physically described area for which oil and gas operations are permitted by the city.

(ff) Tract Line. Shall mean the surface boundaries or legal description of the special use permit.

(gg) Well or Wellhead. See Drilling.
(Ord. 781)

4-803.

GENERAL PROVISIONS. (a) Procedure. Upon approval of a special use permit by the governing body, an application shall be submitted to drill for and/or produce oil or gas in the city. If the application is in compliance with this article and all state rules and regulations, the code administrator shall issue a permit.

(b) Valid Permit. It is unlawful for any person or persons to commence the operation of any oil or gas drilling or production without possessing a valid permit issued by the code administrator. Permits are not transferable. The permit card shall be posted on the premises.

(1) Blanket Permits. In any cases where more than one oil or gas well are to be drilled on any tract of land, the permit granted shall apply to all wells on that tract of land.

(2) Violation and Penalties. The violation of any provision of this article is a public offense, and any person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not to exceed \$500, and the city shall further have authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provisions of this article.

(3) Fees. The fees for any permit or inspection are set forth in the Fee Schedule established and maintained by the city administrator, as prescribed in section 1-701.

(4) The code administrator shall be responsible for the administration and enforcement of this article.
(Ord. 781; Code 1984)

4-804.

APPLICATION. (a) Any person or person desiring to drill, own, operate or maintain an oil or gas well shall make written application on forms provided by the city.

(b) An application for a permit shall be accompanied with the following information:

(1) A statement on forms provided by the city that applicant shall comply with all federal and state regulations.

(2) Copy of approved Kansas Corporation Commission "intent to drill" application.

(3) Statement that the property owner or lessee will hold and save the city harmless from any and all claims, damages, expenses, and losses arising from the drilling and production of oil and gas.

(4) Statement of insurance.

(5) Permit fee.

(6) Fire prevention and spill prevention plans.

(7) List of additional requirement imposed by special use permit.

(Ord. 781)

4-805.

REQUIREMENTS. (a) Inspections. The code administrator shall be responsible for performing inspections as necessary to determine conformance with approved plans, conditions, and requirements of this article and the special use permit. Inspections may be performed during exploratory drilling operations, after a well is in production, after a well is abandoned, or in response to complaints.

(b) Authorization to Enter. The code administrator is authorized and directed to enter lands on which a permit for oil and gas exploration and/or production has been granted for the purpose of carrying out inspections and to perform any work required by this article or the special use permit.

(c) Fire Prevention and Protection Plan Guidelines.

(1) The guidelines in this section establish the process and the minimum standards in the preparation, review, and implementation of a Fire Prevention and Protection Plan, and are in addition to any existing local law, policies and procedures. Such plan guidelines pertain to health, safety and environmental protection in addition to fire protection and prevention, and shall minimize the potential hazards associated with the drilling for oil and gas and the storage of oil, and to control and eliminate any fire or risk of fire as promptly as possible.

(2) Plan Required. Any and all owners or operators who have received a special use permit to drill for oil and gas shall prepare a Fire Prevention and Protection Plan or amendment in accordance with this section as part of the application for the permit.

(3) Plan Amendment. Amendments to the plan shall be made as necessary to retain a comparable level of safety for any change, addition or intensification of drilling or production activities, whether in design location, construction, installation, operation or maintenance.

(4) Plan Evaluation and Revision. An applicant shall review and evaluate the plan at least once every five years and make such revisions as are necessary to include more effective prevention and control technology if such technology will significantly reduce the likelihood of a fire or fire hazard, and has been field proven at the time of review.

(5) The Fire Prevention and Protection Plan shall include the following:

(i) Waste Control and Combustible Materials

(A) No person shall allow or cause to be allowed the discharge of any liquid containing crude petroleum or its products into or upon any street, public highway, drainage channel or ditch, storm drain or flood control channel.

(B) No person shall allow or cause to be allowed any oil, waste oil, refuse, or waste material to be on the surface of the ground whether under, around, or near any well, pump, boiler, oil storage tank or building.

(C) All land within 25 feet of any oil well, flammable liquid tank or other appurtenance to any such well, shall at all times remain free and clear of dry grass, rubbish or other combustible debris.

(ii) Sources of Ignition.

(A) In locations where flammable vapors may be present, precautions shall be taken to prevent ignition by eliminating or controlling sources of ignition. Sources of ignition may include open flame, internal combustion engines, smoking, cutting and welding, hot surfaces, frictional heat, spark (static, electrical and mechanical) spontaneous ignition, chemical and physical-chemical reaction and radiant heat. Such precautions shall include but are not limited to the following:

(aa) Smoking: None shall be permitted within 50 feet of any well, tank, or area contaminated by oil or waste gas.

(bb) Soundproofing Material: Soundproofing material shall be noncombustible.

(cc) **Drilling Equipment:** All engines used during drilling operations shall use accepted methods to prevent the escape of flames, sparks, ignited carbon and soot.

(dd) **Production Pumps:** All pumps used for the production of oil shall be electrically powered, which power shall not be generated on the lease.

(ee) **Test Production Pumps:** All pumps used for test production shall either be electrically powered (not be generated on the lease) gasoline or L.P. gas internal combustion powered engines using the accepted methods to prevent the escape of flames, sparks, ignited carbon and soot.

(iii) Contingency Plan.

(A) All drilling permit applicants shall submit an emergency procedure plan. Such plan shall be designed to minimize the risk to persons, property and the community welfare from a fire or fire hazard by having available, or having procedures and access to, persons and equipment capable of controlling and eliminating the fire or fire hazard. Such procedure shall be posted at the drilling or production site.

(B) During emergencies when public services manpower, which includes fire, police or public works, and their equipment are required to be at a location for a period of more than four hours, the owner and/or the leasee shall be responsible for reimbursing the city for extended costs at a predetermined hourly rate.

(6) Plan Standards. The standards for design, location, construction, installation, maintenance and operation of all plumbing, electrical equipment, storage tanks or other equipment shall be in accordance with the adopted Plumbing Code, National Electrical Code, NFPA 30 and sound engineering practices.

(d) Spill Prevention Control. In order to prevent discharged oil from dispersing to the surrounding area, earth dikes or berms shall be provided around all storage tank batteries adequate to hold 75% of the tank's capacity.

(1) Guidelines. This section establishes the process for preparation, review, and implementation of a spill prevention control program.

(2) Plan Required. Any and all owners or operators who have received a special use permit to drill for oil and/or gas shall prepare and submit a plan. The plan shall be updated to reflect changes in operations from drill to production and filed as an amendment to the initial plan. The plan shall be filed before commencing operations.

(3) Contingency Plan. To provide for contingencies, the owner or operator shall provide names, addresses, and telephone numbers of individuals capable of controlling, eliminating and cleaning up oil discharge. The individual's name and telephone number shall be posted at the site.

(e) Safety and Security.

(1) Fencing or other safety precautions adequate to protect livestock and people shall be provided. Fencing can be either around the property as a whole or around each separate well. The adequacy of fencing shall be determined by the code administrator.

(2) All storage tank openings shall be secured to prevent children from entering.

(f) Insurance.

(1) Prior to receiving a permit for any oil or gas operation, the owner or operator shall file with the city a copy of a certificate of insurance stating the following minimum amounts:

(A) Worker's Compensation payable within statutory limits.

(B) General liability and property damage with limits not less than \$1,000,000 for each occurrence and \$1,000,000 aggregate.

(2) The certificate shall also state that the policy shall not be cancelled nor amended or changed without giving the city 30 days written notice. The insurance shall be continued until such operation has ceased and all activities insured by such policy and all wells properly plugged in accordance with state regulations.

(Ord. 781)

4-806.

ABANDONMENT; COMPLETION. (a) All drilling equipment not necessary to production shall be removed from the site within 30 days after termination of drilling activity. All production related equipment shall be removed from a site within 60 days after production of a well has ceased.

(b) All land disturbed during drilling or production shall be restored wherever practical to original grade and stabilized if necessary.

(c) A copy of the approved State Completion Report and/or the Notice of Abandonment shall be filed for each well.

(d) Within 90 days of well completion or abandonment, the owner or leasee shall submit an approved copy of the State Affidavit of Completion and plugging reports.

(Ord. 781)

4-807.

EXISTING WELLS. Any lawful non-conforming well within the city as of the date of passage of ordinance 781 (5-16-83) may continue as a nonconforming use. Such use shall comply with the intent of this article wherever practical. (Ord. 781)

4-808.

REVOCATION. In addition to order remedies provided, the code administrator is authorized to revoke any permit or other approval, in whole or in part, issued under the provisions of this article where there is a case of false misrepresentation or statement of fact in the application or amendments on which the permit was based or where there are violations of the provisions or conditions of the special use permit. (Ord. 781)

CHAPTER V. BUSINESS LICENSES AND REGULATIONS

- Article 1. General Regulations and Licenses
- Article 2. Charitable and Religious Solicitations
- Article 3. Peddlers, Transient Merchants
- Article 4. Commercial Use of Streets

ARTICLE 1. GENERAL REGULATIONS AND LICENSES

5-101. DEFINITIONS. For the purposes of this chapter, the following words shall mean:

(a) Business means and includes businesses, trades, occupations, professions, and also the rendering or furnishing of a service; provided, that the name of a business, trade, occupation or profession may be used, and when so used shall refer to the particular business, trade, occupation or profession.

(b) Employee means and includes any and all persons engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, agent, manager, solicitor, and any and all other persons employed or working in said business.

(c) License means the document issued by the city and duly executed and signed by the proper city officials, which acknowledges payment of the required occupation tax and license fee and states the name of the licensee, the nature, type and location of the business, and the period for which the license is valid.

(d) Person means and includes any individual, partnership, corporation, firm, organization, association, joint stock company, or syndicate who or which is engaged in any business, trade, occupation or profession, or rendering or furnishing any service for profit or livelihood and subject to the provisions of this chapter; provided, that any individual in the direct employ of any person licensed under the provisions of this chapter shall be exempt unless such individual operates as a subcontractor or practices his or her skill or performs services for compensation for any person other than his or her licensed employer, in which cases such individual is subject to the full provisions of this chapter.

(e) Tax means the occupation tax or license fee assessed by the city for the purpose of providing revenue without regulations upon and for the privilege of engaging in business within the city.
(Ord. 638)

5-102. LICENSE REQUIRED. No person, either as principal officer, agent, servant or employee, except as may be exempted by state statute or provisions of this article, shall conduct, pursue, carry on, or operate within the city, any business, as hereinafter defined and specified, without first making application to the city clerk for a license therefor and paying to the office of the city clerk the required occupation tax and license fee, as

hereinafter prescribed, and obtaining an occupation license from the city.
(Ord. 638)

5-103. SAME; APPLICATION. Each person shall, before engaging in any business to which this article applies or before continuing any such business after a license has expired, make application for a license and pay the occupation tax or license fee. Application shall be made to the city clerk on a form approved by the city clerk for such purposes and shall state the name and title, if any, of the applicant, the name and address of the business, the type and nature of the business, and such other information as may be necessary to determine the amount of tax to be paid. The city clerk may, in his or her discretion, cause an investigation to be made to verify the accuracy of the information. (Ord. 638)

5-104. SAME; ISSUANCE, TERM. (a) Upon proper application for license and upon payment of the occupation tax or license fee as provided in this article, the city clerk shall issue a valid license to the applicant. The license shall be signed by the mayor, the city clerk, and the city treasurer. The city clerk shall affix the official seal of the city to each license.

(b) The signatures of the mayor and the city treasurer and the official seal of the city may be affixed by a printed, stamped, engraved or otherwise produced facsimile in accordance with the provisions of K.S.A. 75-4001 et seq.

(c) No license shall be issued for any business conducted in violation of or contrary to any state or federal law or any ordinance of the city.

(d) Each license issued pursuant to this article shall be for a term commencing on the first day of July and expiring on the 30th day of June in each year.
(Ord. 638)

5-105. SAME; FEES, REFUNDS. (a) Every person making application for or receiving a license, as provided in this article, shall pay to the city clerk, at the time of such application, the full amount of the occupation tax or license fee as determined by this article. No license shall be issued to any person without payment in full of the occupation tax or license fee.

(b) Every person or firm commencing business shall first secure an occupational license covering the period from the date from which the business is to be started until the next succeeding July 1st. The fee which would be payable on an annual basis shall be determined as provided by this article and the fee for this initial period shall be determined by dividing the annual fee by 12 and multiplying by the number of months or fraction thereof remaining to the next July 1st.

(c) No refunds will be made for any business ceasing during the year or for any tax or fee collected under the provisions of this article.
(Ord. 638)

5-106. SAME; DISPLAY. All persons doing business in a permanent location within the city are hereby required to have their license conspicuously displayed in their place of business, and all persons to whom licenses are issued who do not have a permanent place of business within the city are

hereby required to carry their license, or a copy thereof, with them and to present the license or copy for inspection when requested to do so by any citizen or officer of the city. (Ord. 638)

5-107. SAME; EXPIRATION AND RENEWAL; PENALTY. Each license issued under this article shall expire on the 30th day of June next following the date of issuance of such license.

Any license which expires under the provisions of this section may be renewed for the next license term by making application for renewal to the city clerk and by making payment in full of the annual occupation tax or license fee for the next current license term. The application for renewal shall comply with the requirements of section 5-103 and in addition shall state the serial number of the license to be renewed and the date such license was issued shall be recorded.

A penalty of five percent per month shall be added in case of failure to pay the required fees when due for each month or fraction thereof that the fees have remained unpaid. (Ord. 638)

5-108. SAME; TRANSFER. No license shall be transferred from one person to another except that a license shall continue until expiration for any business which is purchased in bulk, including stock and inventory, and which is operated by the new owner under the same name and in the same location. (Ord. 638)

5-109. SAME; REVOCATION OR DENIAL OF LICENSE. (a) Permits and licenses issued under the provisions of this article may be revoked or denied by the governing body of the city after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application for license;
- (2) Fraud, misrepresentation or false statement made in the course of carrying on the business;
- (3) Any violation of this article;
- (4) Conviction of any crime or misdemeanor involving moral turpitude;
- (5) Conducting the business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(b) Any person aggrieved by the denial of an application or revocation of a license as provided in this article, shall have, and be notified of, the right of appeal to the governing body. Such appeal shall be taken by filing with the city clerk within 14 days after notice of revocation or denial of the license has been mailed to such applicant's last known address setting forth the grounds for appeal. The governing body shall set a time and place for a hearing on such appeal and written notice of such hearing shall be given to the applicant. The decision and order of the governing body on such appeal shall be final and conclusive.

(Ord. 707; Code 1984)

5-110. CHANGE IN BUSINESS LOCATION; SUBSTITUTE LICENSE. The holder of a license shall immediately notify the city clerk of any change in location

of any business for which a license has been issued under this article and shall return the license to the city clerk and secure a substitute license, showing the new business location. The holder of the license shall pay a fee of \$10 for the substitute license and shall pay any additional prorated tax or fee required by this article for the new location or business operation. (Ord. 638)

- 5-111. **CHANGE IN BUSINESS TYPE OR OPERATION; SUBSTITUTE LICENSE.** The holder of a license shall immediately notify the city clerk of any change in the nature or type of business conducted by such person or any change in operation of such business which would affect the amount of tax or fee provided for in this article. Thereafter, the city clerk shall immediately notify the holder of the license of any prorated additional tax or fee required by this article for any such change, and the holder of the license shall pay such additional amount of tax or fee within 10 days of such notification. Upon receipt of payment of the additional amount of tax or fee, the city clerk shall issue to the license holder a substitute license, showing the necessary changes. (Ord. 638)
- 5-112. **DUTIES OF THE CITY CLERK; RECORD OF LICENSES.** (a) The city clerk, upon payment of the amounts specified in this article for any trade, profession, occupation, or business, shall give a receipt therefor stating the amount paid and the person to whom such license is issued.
(b) The city clerk shall keep records of all licenses issued by the city showing the names of each and every person or firm licensed, his or her address, the nature of the business or occupation, the location of the business, the date such license was issued, the amount of tax or license fee paid, and the expiration date of such license. The city clerk shall make an annual report on licenses issued and taxes or fees collected to the governing body at the first meeting in August of each year. (Ord. 638)
- 5-113. **RIGHT OF ENTRY; INSPECTIONS.** Any employee of the city shall have a right to enter upon the premises upon giving reasonable notice to determine the type of business conducted, the square footage, etc., within the terms of this article. (Ord. 638)
- 5-114. **PERSONS LIABLE.** When any firm or corporation engages in any business herein required to be licensed without first having obtained a license as required, the manager, or local agent, or party in charge, may be arrested and fined as provided by section 5-119, and any member of a partnership, or the party in charge of the business, shall be subject to the penalty provided in section 5-119. (Ord. 638)
- 5-115. **ACTIONS TO COLLECT TAX.** The payment of fine or the serving of a jail sentence for failure to pay the tax and secure a license shall not constitute payment of the tax nor excuse the person from making payment, and the city may proceed by civil action to collect the tax. (Ord. 638)
- 5-116. **EXEMPTIONS.** (a) Nothing in this article shall be construed as applying to or levying an occupation tax of license fee against:

(1) The interstate portion of any business; for the purpose of this subparagraph, the interstate portion of any business shall be construed to mean that portion, and only that portion, which is wholly within interstate commerce and which does not have a local situs or event within the City of Leawood, Kansas;

(2) Any instrumentality of the government of the United States, unless authorized by law of the United States;

(3) Any organization, or employees thereof, which is created and operated for charitable, religious, benevolent, fraternal, civic, educational, or similar purposes, and from which profit is not derived, either directly or indirectly, by any individual or any other business, person or organization and which is exempt from taxation by state or federal law.

(b) The city clerk may require any business, instrumentality, organization, or person claiming to be exempt under this section to file with the city clerk a verified statement stating the facts upon which the exemption is claimed.

(Ord. 638)

5-117.

OCCUPATION FEE LEVIED; BUSINESS ACTIVITY DEFINED. The

Repealed by:
ORDINANCE NO. 975C occupation fee hereby levied shall be in the following amounts on the
Adopted: 4/20/87 following businesses, trades, professions, and occupations conducted, pursued,
Effective: carried on, or operated within the limits of the city for a 12 month period,
unless a different license period is indicated.

(a)(1) All retail businesses domiciled in the city and engaged in the sale of groceries, clothing, hardware, notions, furniture, home furnishings, services, paint, drugs, and any other retail product not herein enumerated, shall pay an occupation tax computed on the basis of the following schedule of interior square footage occupied by said business without regard to use; except that stores which have a second floor or basement in addition to the main floor (the one with the largest interior square footage) and which is open in whole or in part to the general public shall, upon the additional floor or floors add one-half of the interior square footage, of such additional floor or floors, without regard to use, to the square footage of the main floor, and the total square footage as thus computed shall determine the tax in accordance with the following schedule:

0 - 499 sq. ft. - \$62.50

500 - 999 sq. ft. - \$80

1,000 - 1,499 sq. ft. - \$100

1,500 - 1,999 sq. ft. - \$120

2,000 - 2,499 sq. ft. - \$137.50

2,500 - 2,999 sq. ft. - \$155

3,000 - 49,999 sq. ft. - \$155 plus

\$75 for each 1,000 sq. ft. in excess of 2,999 sq. ft.

or any part thereof;

50,000 - 69,999 sq. ft. - \$3,750 plus

\$37.50 for each 1,000 sq. ft. or any part

thereof in excess of 49,999 sq. ft.

70,000 - 99,999 sq. ft. - \$4,500 plus

\$25 for each 1,000 sq. ft. or any part

thereof in excess of 69,999 sq. ft.

Repealed by:

ORDINANCE NO. 975C

Adopted: 4/20/87

Effective: 100,000 sq. ft. and over - \$5,250 plus
\$12.50 for each 1,000 sq. ft. or any part
thereof in excess of 99,999 sq. ft.

Retail businesses which hold themselves out to the public as a single business entity, but which, in fact, are partly or wholly operated on the basis of leased departments therein, shall pay an occupational tax based on the above schedule; Provided, That leased departments which have a private, individual exterior entrance and which have no entrance into such retail stores even though under a common roof with such retail stores, shall pay an occupation tax as a separate business according to the schedule contained in this article.

Further, any other domiciled profession, calling, trade, or business, transacting business under the terms of this article, and which business is not specifically enumerated under this section, shall likewise be liable for the tax herein levied on the basis of the number of square feet occupied, all as set out in this section.

(2) Any person domiciled in the city engaged primarily in manufacturing, printing, wholesaling, or office buildings occupied by a single business, shall pay an occupational tax based on square footage occupied by said business without regard to use as follows:

- 0 - 999 sq. ft. - \$62.50
- 1,000 - 4,999 sq. ft. - \$62.50 plus
\$30 per 1,000 sq. ft. or any part
thereof in excess of 1,000 sq. ft.
- 5,000 - 9,999 sq. ft. - \$220 plus
\$25 per 1,000 sq. ft. or any part
thereof in excess of 5,000 sq. ft.
- 10,000 - 24,999 sq. ft. - \$345 plus
\$17.50 per 1,000 sq. ft. or any part
thereof in excess of 10,000 sq. ft.
- 25,000 sq. ft. and over - \$625 plus
\$12.50 per 1,000 sq. ft. or any part
thereof in excess of 25,000 sq. ft.

(3) All banks shall pay an occupational tax of \$250 per year, plus \$100 for each detached bank auxiliary teller facility.

(4) All savings and loan associations shall pay an occupational tax of \$250 per location per year.

(5) Domiciled small loan, finance and investment companies and credit unions shall pay an occupation tax of \$150 per location per year.

(6) Recreational facilities:

- Bowling alleys - \$375
- Drive-in-theaters - \$170
- Skating rinks - \$170
- Riding stables - \$60
- Miniature golf - \$100
- Golf driving ranges - \$100
- Recreation parks - \$170
- Pool rooms - \$10 per table
- Shooting ranges - \$250 per location

Repealed by:
ORDINANCE NO. 975 C
Adopted: 4/20/87
Effective: _____

- Tennis facilities-outdoor - \$25 per court
- Tennis facilities-indoor - \$50 per court
- Racquet ball, handball and/or squash facilities-outdoor - \$12.50 per court
- Racquet ball, handball and/or squash facilities-indoor - \$25 per court
- Indoor theaters - \$170
- Other facilities not specifically listed - \$100
- (7) Privately owned auditoriums for public use - \$170
- (8) Funeral homes - \$375
- (9) Solid waste disposal companies of all kinds whether or not domiciled - \$62.50
- (10) Taxicab companies or bus companies domiciled in city - \$95
- (11) Circuses, carnivals, tent shows, amusement devices which transact business in the city - \$60 per day
- (12) All service stations selling oils, supplies, accessories for service at retail of motor vehicles - \$125
- (13) Car washes if not taxed as part of gasoline service station operation - \$75
- (14) Motor vehicle dealers selling new or used:
 - (a) 2 wheel motor vehicles - \$375
 - (b) 4 wheel motor vehicles - \$750
- (15) Motor vehicle rental or leasing agencies - \$625
- (16) Private airports - \$450
- (17) Restaurants, taverns, drive-in and other eating establishments:
 - (a) With 15 or more employees - \$312.50
 - (b) With less than 15 employees - \$125
- (18) Lumber yards and building supply business - \$625
- (19) Contractors, domiciled or non-domiciled, including building, remodeling, curbing, grading, street paving, sewer, electrical, plumbing, landscaping, and all contractors of every kind not specifically mentioned - \$60
- (20) Domiciled greenhouses and nurseries, having retail sales outlets on premises - \$60

Those not conducting a related retail operation on property will be considered tree and shrub farms and will not be taxable under the occupation license article.

- (21) Real estate companies, based on the number of sales or listings sold in the City of Leawood during the previous calendar year:
 - (a) 1-10 - \$80
 - (b) Over 10 - \$155

This applies to previous year's sales for any real estate sales operations being carried on the city. Real estate operations for purposes of this section shall include all facets of the real estate sales business, including listing, advertising, showing, and contracting to sell or buy, of any home located in the city, which results in an actual sale of a residence.

- (22) Any permitted accessory use under section 15-2003 - \$30
- (23) Private clubs - \$250
- (24) Hotels/motels shall pay an occupational tax of \$5 per rental room per year; Provided, shops and restaurants which are a part of the operation will be considered as individual businesses, and in addition hereto, all banquet and ballroom facilities will be taxed individually on a square footage basis per year.

- (25) Mobile veterinarians - \$100
- (26) Coin operated machine vendors shall pay an occupation tax of \$3 per coin operating machine of whatsoever type.
- (27) Watchman, guard, or security services; detective agents; merchant patrolmen - \$50 plus \$10 additional for each agent
- (28) Aircraft sales - \$100
- (29) Service & flying school - \$175
- (30) Private ambulance service - \$150
- (31) Food services/catering - \$100
- (32) Service professions, including but not limited to attorneys, engineers, architects, dentists, chiropractors, accountants, osteopaths, photographers, veterinarians, medical doctors and all other members of the heating arts - \$75 plus \$10 for each professional over one
- (33) Other non-domiciled businesses providing service, selling or distributing goods; seasonal businesses.

The provisions of this subsection shall apply to any person as herein defined who conducts, carries on, or pursues any business, trade, profession, or occupation in the city, whether or not such person leases or owns property within the city, if such person carries on the principal elements of any such business, trade, profession, or occupation as defined in section 5-101.

Any person meeting the above definition as a non-domiciled business or service shall pay an occupation fee as set out herein.

(a) A person may choose to pay a fee of \$6 for each occasion when he or she transacts business within the city; Provided that any person who has previously purchased five one-day occupation permits shall, on the next occasion when he or she transacts business within the city, purchase an annual permit.

(b) Businesses and services of any kind or nature which are seasonal in nature and occur on a once-a-year basis only shall secure a permit, and such permit may be secured for a time not to exceed 30 days by payment of \$25

- (34) Developers - \$60
- (35) Builders - \$60
- (36) Lawn, garden, tree services - \$60
- (37) Exterminators - \$60

(38) All persons engaged in the business of selling or peddling goods or services not having a permanently located place of business in the city but having a permanently established house-to-house or wholesale business, per agent - \$17.50

(b) Any business or occupation or profession named above that is required to secure a license under the terms of this section may also be required to present to the city a certified copy of any federal, state, municipal, labor or trade union or association certification or license which is issued as a condition precedent to the conduct of such business, occupation or profession.

(Ord. 638)

5-118.

CLASSIFICATION APPLICABLE. Whenever several classifications shall be applicable to a business, then the business, firm or calling shall pay the highest classification herein. (Ord. 638)

Repealed by:
ORDINANCE NO. 975C
Adopted: 4/20/87
Effective: _____

5-119. PENALTY. Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by (a) a fine of not less than \$1, nor more than \$500 and costs, and/or (b) confinement in jail for a period not to exceed one month. (Code 1984)

ARTICLE 2. CHARITABLE AND RELIGIOUS SOLICITATIONS

5-201. STATEMENT OF PURPOSE. It is the purpose of this article to protect the general public against:

Repealed by:
ORDINANCE NO. 1002C
Adopted: 10/6/87
Effective: _____

(a) Fraud and misrepresentation by requiring full disclosure of facts relating to persons and organizations who solicit funds from the public for charitable purposes;

(b) Solicitations in which an unreasonable portion of the fund collected goes to the solicitation cost rather than to the charitable purpose; and

(c) Physical contact with one who has not consented to such contact.

(Ord. 706)

5-202. DEFINITIONS. (a) Canvasser. Any individual whether a resident of the city or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance from house to house, taking or attempting to take orders for sale of goods, wares or merchandise, subscriptions, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future whether or not such individual has, carries or exposes for sale, a sample of such sale or whether he or she is collecting advance payments of such sales or not.

Repealed by:
ORDINANCE NO. 1002C
Adopted: 10/6/87
Effective: _____

(b) Charitable Organizations. Any organization which is or holds itself out to be organized and operated for any charitable purposes, or any person who solicits or obtains contributions solicited from the public. This definition shall not be deemed to include any church or convention or association of churches, primarily operated for nonsecular purposes and no part of the net income of which inures to the direct benefit of any individual, if such church, convention or association has an office or place of business within the city. Nor shall it include any political party as defined by Kansas law or any political campaign committee required by local, state or federal law to file a report or statement of contributions or expenditures.

(c) Charitable Purpose. Any charitable, benevolent, humane, philanthropic, patriotic, or eleemosynary purpose and the purposes of influencing legislation or influencing the actions of any public official or instigating, prosecuting or intervening in litigation.

(d) Contribution. Any gift, bequest, device or other grant of any money, credit, financial assistance or property of any kind or value, including the promise to contribute.

(e) Administrator. The city administrator of the City of Leawood, Kansas.

(f) Fund Raising Expenses. The expenses of all activities that constitute or are an integral and inseparable part of a solicitation.

(g) Sale, Sell and Sold. The transfer of any property or the rendition of any service to any person in exchange for consideration, including purported

contributions without such property would not have been transferred or such services would not have been rendered.

(h) Solicit and Solicitation. The request or appeal, directly or indirectly, for any contribution on the plea or representation if such contribution will be used for a charitable purpose, including without limitation, the following methods of requesting such contributions:

(1) Any oral or written requests;

(2) Any announcement to the press, over radio or television, or by telephone or telegraph concerning an appeal or campaign to which the public is requested to make a contribution for any charitable purpose connected therewith;

(3) The distribution, circulation, posting or publishing of any handbill, written advertisement, or other publication which directly or by implication seeks to obtain public support;

(4) The sale of, offer, or attempt to sell any advertisement, advertising space, subscription, ticket or any service or tangible item in connection with which any appeal is made for any charitable purpose or where the name of any charitable organization is used or referred to in any such appeal as an inducement or reason for making any such sale, or when or where in connection with any such sale, any statement is made that the whole or any part of the proceeds from any such sale will be donated to any charitable purpose. Solicitation as herein defined shall be deemed to have occurred when the request was made, at the place the request is received, whether or not the person making the same actually receives any contribution.

(Ord. 706)

5-203.

POSTED PREMISES. No person shall engage in solicitation upon any premises without a prior invitation by the occupant thereof if the premises is posted against solicitation by means of a notice prominently displayed upon which is printed the legend "No Solicitors," or words of a similar import. For the purposes of this paragraph, a dwelling house, or apartment or other place of residence shall be deemed to be posted against solicitation if there is exhibited on or near the entrance to the premises, or on or near the main door of any residence located thereon, a sign not to exceed five inches by six inches in size which bears the above legend in letters at least one-third inch in length. (Ord. 706)

Repealed by:

ORDINANCE NO. 10020

Adopted: 10/6/87

Effective: _____

5-204.

SOLICITATION PERMITS REQUIRED. Every charitable organization, person, firm, corporation, association, agency, or entity of whatsoever form or nature must obtain a permit from the city before soliciting charitable contributions within the city. The applicant must furnish the information required under this article to the city administrator of the city. (Ord. 706)

Repealed by:

ORDINANCE NO. 10020

Adopted: 10/6/87

Effective: _____

5-205.

INFORMATION REQUIRED ON APPLICATION FOR CITY PERMIT. An applicant for a solicitation permit shall furnish to the city administrator an application containing the following information:

(1) The name and address of the principal office of the person applying for the permit (including both local and nonlocal principal offices where such exist);

Repealed by:

ORDINANCE NO. 10020

Adopted: 10/6/87

Effective: _____

(2) If the applicant is not an individual, the names and addresses of the applicant's principal officers and executives and a copy of the resolution, if any, authorizing such solicitation, certified to as a true and correct copy of the original by the officer having charge of the applicant's records;

(3) The purpose for which such solicitation is to be made, the total amount of funds supposed raised thereby, and the use and disposition to be made of any receipts therefrom;

(4) The name and address of the person or persons by whom the receipts of such solicitation will be dispersed;

(5) The name and address of the person or persons who will be in direct charge of collecting the solicitations;

(6) An outline of the method or methods to be used in conducting the solicitation;

(7) The time when such solicitation will be made, giving the preferred dates for the commencement and termination of such solicitation, subject to the limitations on time for solicitations set out in this article;

(8) The estimated cost of the solicitation;

(9) The amount of any wages, fees, commissions, expenses or emoluments to be expended or paid to any person, other than regular staff, in connection with such solicitation, and the names and addresses of all such persons;

(10) A financial statement for the last preceding fiscal year of any funds collected for the charitable purposes by the applicant, said statement giving the amount of money so raised, together with the cost of raising it, and final distribution thereof;

(11) A full statement of the character and extent of the charitable work being done or to be done by the applicant;

(12) A statement to the effect that if a permit is granted:

(a) It will not be used or represented in any way as an endorsement by Leawood or by any department or officer thereof; and

(b) That during the period specified in the permit, if there is any change in fact, policy or method that would alter the information given in the application, the applicant will notify the city administrator in writing thereof within 48 hours after such change; and

(c) That at no time during the period of solicitation will the applicant or his or her agents solicit any residents within the city where there is clearly posted within view of the front door of said residence any sign requesting "No Solicitation," or "No Trespassing."

(13) A sample of the identification badge or card that each person participating in the solicitation as above provided shall wear or carry, indicating that person's name and the name of the organization. Such badge or card shall be furnished by the organization and be approved by the city administrator.

(Ord. 706)

5-206.

STANDARDS FOR ISSUANCE. The city administrator shall issue the

Repealed by:

ORDINANCE NO. 1002

Adopted: 10/6/87

Effective:

permit provided for in this article whenever he or she finds that the application required by the above section is complete, and also finds that the estimated cost of solicitation will not be excessive in relation to the gross amount to be collected. Any such estimated cost of solicitation in excess of

30% of the total amount collected shall be presumed to be unreasonable, but this presumption may be rebutted by the applicant upon good cause shown. If the city administrator denies the permit because the estimated cost of solicitation exceeds 30% of the proceeds, the applicant may appeal to the governing body meeting as a committee of the whole to convince the governing body that the estimated cost will be reasonable in relation to the amount to be realized from the solicitation notwithstanding that it will exceed 30%. If, after hearing the justification from the applicant, the governing body determines that the estimated cost of solicitation is not excessive, the governing body shall direct the city administrator to issue the permit. (Ord. 706)

5-207.

DENIAL; APPEAL PROCEDURES. (a) The city administrator is to issue the requested permit within seven working days after receiving the application together with the attachments thereto. The only bases on which the city administrator may refuse to grant the requested permit are:

Repealed by:

ORDINANCE NO. 1002C

Adopted: 10/6/87

Effective: _____

(1) A failure of the applicant to file with the city administrator a completed application, together with the required attachments thereto as set out in section 5-205 hereof; or

(2) A finding by the city administrator that the estimated cost of raising the funds will be in excess of 30% of the net amount to be realized from the solicitation.

(b) Right of Appeal. If the city administrator denies the permit for any one of the reasons indicated above and the applicant disagrees with the actions of the city administrator, the applicant shall notify the city administrator of its desire to appeal to the council meeting as a committee of the whole. Upon receipt of such notice the city administrator is to notify the governing body of such appeal and the governing body shall schedule a hearing on said matter on the agenda of its next regular or special meeting. The burden of proving that the applicant is not entitled to a solicitation permit, shall be upon the city.

(Ord. 706)

5-208.

APPLICATION AND PERMIT AVAILABLE FOR PUBLIC INSPECTION.

All applications and supporting documentation filed with the city administrator shall be a matter of public record and available for examination and inspection by any member of the public during regular business hours. Copies thereof may be furnished to representatives of news media upon request. (Ord. 706)

Repealed by:

ORDINANCE NO. 1002C

Adopted: 10/6/87

Effective: _____

5-209.

FEES. There shall be no fees or charges paid to the city for a permit pursuant to this article. (Ord. 706)

Repealed by:

ORDINANCE NO. 1002C

Adopted: 10/6/87

Effective: _____

5-210.

CONTENTS OF PERMIT. Permits issued under the provisions of this article should bear the name and address of the person to whom the permit is issued, the number of the permit, the dates within which the permit holder may solicit, the statement that the permit does not constitute an endorsement by the city or by any of its departments, officers or employees, of the purpose or of the person conducting the solicitation, and the signature of the city administrator or his or her designee. (Ord. 706)

Repealed by:

ORDINANCE NO. 1002C

Adopted: 10/6/87

Effective: _____

5-211

TERM OF PERMIT. Permits issued pursuant to this article shall authorize the holder thereof to solicit for the number of days requested in the application, not to exceed 20 days in any 12 month period. Applications for renewal of permits may be made and shall be granted if the requirements of this article are still being met and no violations of the permit have been found to exist. (Ord. 706)

Repealed by:
ORDINANCE NO. 1002C
Adopted: 10/6/87
Effective: _____

5-212.

PERMITS NONTRANSFERABLE. No permit issued under the provisions of this article shall be transferable or assignable. (Ord. 706)

Repealed by:
ORDINANCE NO. 1002C
Adopted: 10/6/87
Effective: 5-213.

5-213.

SUSPENSION OR REVOCATION OF PERMITS. Any determination by the city administrator that the holder of a city permit has violated any provisions of this article or of the permit issued pursuant thereto, or that the holder of the permit has made representations which are contrary to the facts stated in the application for the permit, shall cause the city administrator to give notice to the permit holder that the permit is immediately suspended. The notice of immediate suspension is to be mailed to the permit holder by registered or certified mail, and shall notify the holder that a hearing will be had before the governing body at its next regular or special meeting for the purposes of determining whether or not the permit should be revoked. The notice shall contain a statement of the facts upon which the city administrator acted in suspending the permit and at the hearing the permit holder may offer evidence to support any contention its permit should not be revoked. No solicitation is to be made during the period of suspension or revocation of a permit. (Ord. 706)

Repealed by:
ORDINANCE NO. 1002C
Adopted: 10/6/87
Effective: _____

5-214.

MISREPRESENTATION. (a) No person shall directly or indirectly solicit contributions for any purpose by misrepresentation of this name, occupation, financial condition, social condition, residence or principal place of business, and no person shall make or cause to be made any misstatement, deception or fraud in connection with any solicitation of any contribution for any purpose in the city, or in any application or report filed under this article.

Repealed by:
ORDINANCE NO. 1002C
Adopted: 10/6/87
Effective: _____

(b) No charitable organization or professional fund raiser soliciting contributions shall use a name, symbol or statement so closely related or similar to that used by another charitable organization or governmental agency that the use thereof would tend to confuse or mislead the public.

(c) No charitable organization or professional fund raiser shall solicit funds by the use of statements or materials that would indicate that such funds were being raised for an agency or organization, unless such agency or organization shall have given its explicit permission for the raising of such funds for it, and the use of its name in connection with the solicitation of funds.

(d) No person shall violate the terms or provisions of any permit issued under the provisions of this article. (Ord. 706)

5-215.

REPORT REQUIRED FROM PERMIT HOLDER. It shall be the duty of all persons issued permits under this article to furnish the city administrator within 60 days after solicitation has been completed, a report and financial statement showing the amount raised by the solicitation, the amount expended in collecting such funds, including a report of the wages, fees,

Repealed by:
ORDINANCE NO. 1002C
Adopted: 10/6/87
Effective: _____

commissions and expenses paid to any person in connection with such solicitation; and the disposition of the balance of the funds collected by the solicitation. Such reports shall be available for public inspection at the office of the city administrator. The permit holder shall, upon request, make available to the city administrator, or any person designated in writing by the city administrator as his or her representative for such purposes, all books, records and papers whereby the accuracy of such report may be checked. No new solicitation permits may be granted to an applicant who has an outstanding report or request from a prior solicitation until such report is filed or request is complied with. (Ord. 706)

5-216. **UNIFORMITY OF ADMINISTRATION OF ARTICLE.** The city administrator is directed to administer this article uniformly, and is to require all applicants to submit the application and supporting data required by this article before issuing a permit. All applicants are to be treated alike. (Ord. 706)

Repealed by:
ORDINANCE NO. 1002C
Adopted: 10/6/87
Effective: _____

5-217. **NO PHYSICAL CONTACT.** No holder of a solicitation permit pursuant to this article is to make physical contact with a prospective donor unless the prospective donor has either consented or agreed to make a contribution prior to such physical contact. (Ord. 706)

Repealed by:
ORDINANCE NO. 1002C
Adopted: 10/6/87
Effective: _____

5-218. **EXEMPTION.** No charitable organization or church, convention, or association, or association of churches primarily operated for nonsecular purposes, no part of the net income of which inures to the direct benefit of any individual and which has no office or place of business within the city shall be exempt under this section unless it shall submit, before any solicitation in any calendar year, to the city administrator on the forms prescribed by him or her, the name, address and purpose of the organization and a statement setting forth the reason for the claim for exemption. In the case of a church, convention, or association of churches which has no principal or office or a place of business within the city, the principal address and a designated agent for service of process within the State of Kansas shall also be submitted. If no such agent is designated, the organization shall be deemed to have designated the Secretary of the State of Kansas. If exempted, the city administrator shall issue, annually, a letter of exemption which may be exhibited to the public. No registration fee shall be required of any exempt organization. (Ord. 706)

Repealed by:
ORDINANCE NO. 1002C
Adopted: 10/6/87
Effective: _____

5-219. **PROHIBITED PRACTICES.** (a) There shall be no solicitation upon any premises other than upon prior invitation of the occupant of such premises, prior to 10:00 a.m. or after 5:00 p.m. local time of any day when solicitations are permitted. Solicitations shall be permitted only on the first and third Saturdays of each month.

(b) Not more than two individuals shall engage in the solicitation upon any premises at the same time for the same goods or services for religious or charitable purposes. Each individual member of a group engaged in solicitation in violation of this provision shall be deemed to have violated such provision.

Repealed by:
ORDINANCE NO. 1002C
Adopted: 10/6/87
Effective: _____

(c) No person shall make more than one solicitation call at the same premises for identical goods or services or for the same religious or charitable purpose within any consecutive six month period, without receiving a prior invitation therefor from the occupant of any such premises. This provision shall be construed to include solicitation upon the same premises by employees, agents or representatives of any person more than once during the same aforesaid period without a prior invitation as herein provided.

(d) No person engaged in solicitation shall, at the time of initial contact with a prospective customer or donor, fail to verbally identify himself or herself and the purpose of the solicitation.
(Ord. 706)

5-220. PENALTIES. Any person who willfully and knowingly violates or causes to be violated any provision of this article, or who shall willfully and knowingly give false and incorrect information to the city administrator in filing statements or reports required by this article, whether such report or statement is verified or not, shall be guilty of a municipal offense and upon conviction thereof, shall be subject for the first offense to a fine of not less than \$100 or more than \$500 and for the second or any subsequent offense to a fine of not less than \$500 or more than \$1,000. (Ord. 706)

Repealed by:
ORDINANCE NO. 1002C
Adopted: 10/6/87
Effective:

ARTICLE 3. PEDDLERS, TRANSIENT MERCHANTS

5-301. STATEMENT OF PURPOSE. It is the purpose of this article to protect residents of the city from crime and undue annoyances. (Ord. 706)

Repealed by:
ORDINANCE NO. 1002C
Adopted: 10/6/87
Effective:

5-302. PROHIBITED PRACTICES. No canvasser, not having first been requested or invited to do so by the owner, owners, occupant or occupants of a private residence, shall enter upon the premises for the purpose of soliciting orders for the sale of any item. (Ord. 706)

Repealed by:
ORDINANCE NO. 1002C
Adopted: 10/6/87
Effective:

5-303. PENALTIES. Any person who willfully and knowingly violates or causes to be violated any provisions of this article shall be guilty of a municipal offense and upon conviction thereof shall be subject for the first offense to a fine of not less than \$100 or more than \$500, and for the second or any subsequent offense to pay a fine of not less than \$500 or more than \$1,000.
(Ord. 706)

Repealed by:
ORDINANCE NO. 1002C
Adopted: 10/6/87
Effective:

ARTICLE 4. COMMERCIAL USE OF STREETS

5-401. LOUDSPEAKERS, SOUND TRUCKS; LICENSE REQUIRED. There is hereby levied a license fee upon every person who shall, within the city, conduct, pursue, carry on or operate the calling, trade, or occupation of advertising or announcing by means of any loudspeaker, radio or phonograph device, either in or attached to any automobile or other vehicle operated on the streets of the city by which the sound of such advertisement or announcements, either in the form of music, voice or otherwise by any of the means aforesaid, is projected into any public street, for the purpose of calling

attention to persons in such public streets or elsewhere the advertisement or announcement projected from or by means of any such device. (Ord. 712)

5-402. LOUDSPEAKERS, SOUND TRUCKS; LICENSE FEE. The license fee levied and provided for under the provisions of the preceding section shall be in the sum of \$3 per day for each loudspeaker, radio or phonograph device from which advertisement or announcement is projected, and it shall be unlawful for any person to use any such device within the city and upon the public streets thereof or adjacent to any such public street until such person shall have applied to the city clerk for such license, and shall pay the license fee provided for herein and shall have received a license from the city clerk to conduct, pursue, carry on or operate within the city, for the time for which such license fee is paid, such calling, trade or occupation. (Ord. 712)

5-403. LOUDSPEAKERS, SOUND TRUCKS; PROHIBITED HOURS. It shall be unlawful for any person to use or operate any such device as mentioned in section 5-401, within the city at any time after the hour of 9:00 p.m. and earlier than the hour of 8:00 a.m. in any day, and no license issued under the provisions of this article shall be deemed to permit the use thereof during any of the time when such use is prohibited by the provisions of this section. (Ord. 712)

5-404. PROHIBITIONS. No person shall use the public streets or highways of the city for the sale of services or merchandise except as herein provided. No person shall have any exclusive right to any location in the public streets, nor shall he or she be permitted a stationary location, nor shall he or she be permitted to operate in any congested area where his or her operations might impede or inconvenience the public. For the purpose of this article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced. (Ord. 712)

5-405. REVOCATION OR DENIAL OF LICENSES. (a) Licenses issued under the provisions of this article may be revoked by the governing body of the city after notice and hearing, for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for license;

(2) Fraud, misrepresentation or false statement made in the course of carrying on the business;

(3) Any violation of this article;

(4) Conviction of any crime or misdemeanor involving moral turpitude;

(5) Conducting the business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(b) Any person aggrieved by the denial of an application or revocation of a license as provided in this article, shall have, and be notified of, the right of appeal to the governing body. Such appeal shall be taken by filing with the city clerk within 14 days after notice of revocation or denial of the license has been mailed to such applicant's last known address setting forth the grounds for appeal. The governing body shall set a time and place for a

CHAPTER VI. ELECTIONS

Article 1. City Officers; Election
Article 2. Wards

ARTICLE 1. CITY OFFICERS; ELECTION

6-101. OFFICERS ELECTED; TERM; QUALIFICATIONS. There shall be elected on the first Tuesday in April of each year one councilmember from each of the wards in the city as hereinafter provided. There shall be elected a mayor on the first Tuesday in April of every odd numbered year.

The mayor and councilmembers shall hold their offices for a term of two years and shall be qualified electors of the city under the constitution of the State of Kansas. (Ord. 619)

ARTICLE 2. WARDS

Repealed by: 6-201.
ORDINANCE NO. 1072C
Adopted: 10/3/88
Effective: _____
DIVISION OF CITY INTO WARDS. The city shall be divided into four wards for election purposes, pursuant to the provisions of Charter Ordinance No. 6, having their boundaries as set out in sections 6-202:205. (Ord. 837, Sec. 1)

6-202. BOUNDARIES OF WARD 1. That territory of the City of Leawood beginning at the northeast corner of the present limits of the city; thence south along the eastern limits of the city to the centerline of 95th Street; thence westerly along the centerline of 95th Street to the centerline of Belinder; thence northerly along the centerline of Belinder to the centerline of 92nd Street; thence westerly along the centerline of 92nd Street to the junction with the centerline of 91st Street; thence westerly along the centerline of 91st Street to the southwest corner of Lot 585 of Leawood subdivision; thence northerly along the western boundaries of Lots 585, 584, 583, 582, 519, 520, 521, and 529, all in the subdivision of Leawood, to the centerline of 89th Street; thence westerly along the centerline of 89th Street to the western limits of the city; thence northerly and easterly along the western city limits to the centerline of Somerset Drive; thence easterly along the northern limits to the point of beginning. (Ord. 837, Sec. 2)

Repealed by:
ORDINANCE NO. 1072C
Adopted: 10/3/88
Effective: _____

6-203. BOUNDARIES OF WARD 2. That territory of the City of Leawood beginning at the centerline of 95th Street at the eastern limits of the city; thence southerly along the eastern limits of the city to the centerline of 103rd Street; thence westerly along the centerline of 103rd Street to the western limits of the city; thence northerly along the western limits of the city to the northwest corner of Lot 969, Leawood Estates; thence easterly to the northeast corner of Lot 662, Leawood Estates; thence northerly along the western limits of the city, to the centerline of 95th Street; thence westerly along the centerline of 95th Street to the western limits of the city; thence

Repealed by:
ORDINANCE NO. 1072C
Adopted: 10/3/88
Effective: _____

northerly along the western limits of the city to the centerline of 89th Street; thence easterly along the centerline of 89th Street to the northeast corner of Lot 1096, Leawood; thence southerly along the eastern boundaries of Lots 1096, 1092, 1091, 1090, 1083, 1082, 1081, 1074, 1073, 1072, 1065, Leawood, to the centerline of 91st Street; thence easterly along the centerline of 91st Street to the junction with the centerline of 92nd Street; thence easterly along the centerline of 92nd Street to the centerline of Belinder; thence southerly along the centerline of Belinder to the centerline of 95th Street; thence easterly along the centerline of 95th Street to the eastern limits of the city and the point of beginning. (Ord. 837, Sec. 3)

6-204.

BOUNDARIES OF WARD 3. That territory of the City of Leawood beginning at the centerline of 103rd Street at the eastern limits of the city; thence southerly along the eastern limits of the city to the southeast corner of Lot 18, Verona Gardens; thence westerly along the rear lot line of Lot 18, Verona Gardens to the southwest corner of Lot 75, Oxford Hills; thence northerly along the western boundaries of Lots 75, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, Oxford Hills, to the centerline of 119th Street; thence westerly along the centerline of 119th Street to the western limits of the city; thence northerly and easterly along the western limits of the city to the centerline of 103rd Street; thence east along the centerline of 103rd Street to the eastern limits of the city and the point of beginning. (Ord. 837, Sec. 4)

Repealed by:
ORDINANCE NO. 10720
Adopted: 10/3/88
Effective:

6-205.

BOUNDARIES OF WARD 4. That territory of the City of Leawood beginning at the southeast corner of Lot 18, Verona Gardens; thence southerly along the eastern boundary of the city to the junction with the southern boundary; thence westerly and southerly along the southern boundary of the city to the junction with the western boundary of the city; thence northerly along the western boundary of the city to the centerline of 119th Street; thence easterly along the centerline of 119th Street to the northeast corner of Lot 88, Oxford Hills; thence southerly along the eastern boundaries of Lots 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, and 76, to the southeast corner of Lot 76, all in Oxford Hills; thence easterly in a straight line to the eastern limits of the city and the point of beginning. (Ord. 837, Sec. 5)

Repealed by:
ORDINANCE NO. 10720
Adopted: 10/3/88
Effective:

CHAPTER VII. FIRE PROTECTION

Article 1. Fire Department

Article 2. Fire Prevention

Article 3. Fire Control Measures and Regulations

ARTICLE 1. FIRE DEPARTMENT

- 7-101. FIRE DEPARTMENT ESTABLISHED. (a) There is hereby established a fire department to extinguish and prevent fires in the city and in such other places as the city council shall by resolution direct, and which shall perform duties in connection therewith as the governing body shall, from time to time, by ordinance direct.
- (b) The fire department shall maintain and operate rescue equipment to be used within the city and in such other places as the governing body shall by resolution direct.
- (c) The fire department shall maintain and operate the fire department building, grounds, and other equipment under the direction of the fire chief.
- (d) The fire department shall be operated under the supervision and administration of the fire chief in accordance with such rules and regulations as the fire chief shall from time to time formulate, copies of which shall be furnished to the city administrator upon request.
(Code 1973, 7-101)
- 7-102. MEMBERSHIP. Membership in the fire department shall consist of two categories which are set forth below:
- (a) Full-time paid personnel who shall be selected in accordance with the "Personnel Rules and Regulations" incorporated by section 1-504.
- (b) Volunteer firefighters who shall be selected by the fire chief and who shall serve with compensation of \$1 per year paid by the city.
(Code 1973, 7-102; Code 1984)
- 7-103. FIREMEN'S RELIEF ASSOCIATION. The Firemen's Relief Association of the City of Leawood, Kansas, is hereby authorized:
- (a) The Firemen's Relief Association of the City of Leawood, Kansas, shall operate under the regulations set forth by the statutes of the State of Kansas under the supervision of the state commissioner of insurance. Each year on or before April 1, the fire chief shall present a copy of the annual report submitted to the commissioner of insurance, which sets forth receipts and disbursements for the year ending the preceding December 31, to the governing body.
- (b) The treasurer of the Firemen's Relief Association, incorporated, shall be bonded by sureties as required by the laws of the state of Kansas.
- (c) The distribution of funds shall be under such provisions as shall be made by the governing body. In all cases involving expenditures or payments in the amount of \$500 or more, prior certification shall be obtained from the

city attorney that such expenditures or payment complies with the requirements of this article.

(d) Investments as provided for by K.S.A. 40-1706 must be approved by the governing body. It shall be the duty of the city attorney to examine all bonds as to their validity and report thereon in writing to the governing body and the Firemen's Relief Association until they have been approved and found valid by the city attorney.

(Code 1973, 7-103)

7-104.

MUTUAL ASSISTANCE BETWEEN CITIES IN EMERGENCIES. (a) The fire chief is hereby authorized and directed to enter into mutual assistance pacts with the chiefs of the fire departments of such other cities as the chief deems advisable and upon such conditions as he or she deems necessary for the purpose of planning in advance what personnel and equipment of each department will be made mutually available.

(b) Whenever the necessity arises during any emergency resulting from the existence of a state of war, or from fire, or any other cause, the firefighters and officers of the fire department of the city may, together with all necessary equipment, lawfully go or be sent beyond the territorial limits of the city to any point within the state, to assist in meeting such emergency. The fire chief shall have the right in every case to determine whether or not the city can spare all or any portion of its fire equipment and firefighters at any particular time.

(c) The fire chief is hereby authorized and directed to enter into mutual assistance pacts with the chiefs of the fire departments of such other cities as the chief deems advisable in order to determine in advance what personnel and equipment of each department will be made mutually available, and upon what conditions.

(d) In such event the acts performed for such purposes by such firefighters or officers, and the expenditures made for such purpose by the city shall be deemed conclusively to be for a public and government purpose and all of the immunities from liability enjoyed by the city when acting through its firefighters or officers of the fire department for public or governmental purposes within its territorial limits shall be enjoyed by it to the same extent when such city is so acting under this section or under other lawful authority beyond its territorial limits. The firefighters and officers of the fire department of the city, when acting hereunder, or under other lawful authority, beyond the territorial limits of this city, shall have all of the immunities from liability and exemptions from laws, ordinances and regulations and shall have all of the pension, relief, disability and other benefits, enjoyed by them while performing their respective duties within the territorial limits of the city.

(Code 1973, 7-104)

7-105.

COOPERATION WITH DEFENSE AGENCIES. The fire chief is hereby authorized and directed to cooperate with any state, district or local civil defense agency for the purpose of coordinating the chief's mutual assistance pacts with the overall planning of civilian defense. (Code 1973, 7-105)

ARTICLE 2. FIRE PREVENTION

7-201. ESTABLISHMENT, DUTIES OF THE BUREAU OF FIRE PREVENTION.

(a) There is hereby established a Bureau of Fire Prevention which shall be staffed by members of the fire department appointed by the fire chief.

(b) It shall be the duty of the Bureau of Fire Prevention to make inspections, issue permits, and to perform all other duties required by this article or any other ordinance of the city. (Code 1984)

Repealed by:
ORDINANCE NO. 1021C
Adopted: 11/16/87
Effective: _____

7-202. ADOPTION OF THE FIRE PREVENTION CODE. The City of Leawood, Kansas, does hereby incorporate by reference under K.S.A. 12-3009 through 12-3012 the BOCA Basic/National Fire Prevention Code. Three copies of this document shall be on file in the office of the city clerk of Leawood, Kansas, being marked and designated as the "BOCA Basic/National Fire Prevention Code, 1984 Edition," as published by the Building Officials and Code Administrators International, Inc. Each and all of the regulations, provisions, penalties, conditions and terms of the code are hereby referred to, adopted and made a part thereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in sections 7-203 through 7-216 of this article. (Code 1984)

Repealed by:
ORDINANCE NO. 1021C
Adopted: 11/16/87
Effective: _____

7-203. SAME; AMENDMENT. Subsection F-100.1 Title is changed to read as follows:

The regulations as set forth herein shall be known as the Fire Prevention Code of the City of Leawood, Kansas and are herein referred to as such or "this code." (Code 1984)

Repealed by:
ORDINANCE NO. 1021C
Adopted: 11/16/87
Effective: _____

7-204. SAME. Subsection F-102.1 Enforcement Officer is changed to read as follows:

It shall be the duty and responsibility of the chief of the fire department to enforce the provisions of the fire prevention code as herein set forth, and is herein referred to as the fire official. The chief shall be empowered to authorize a representative or representatives, as needed, to achieve the enforcement of this code. (Code 1984)

Repealed by:
ORDINANCE NO. 1021C
Adopted: 11/16/87
Effective: _____

7-205. SAME. Subsection F-103.2 Permits Required is changed to read as follows:

Permits are required for the various uses and activities as provided in this code. Permits shall at all times be kept on the premises designated therein and shall at all times be subject to inspection by the fire official. The permits required in the sections listed below shall be granted through the issuance of the occupancy certificate required by the Building Code of the City of Leawood, Kansas after fire department review of the submitted plans and, if necessary, an inspection of the property. These said sections are as follows:

Repealed by:
ORDINANCE NO. 1021C
Adopted: 11/16/87
Effective: _____

- F-600.2 - Airport, heliport and helistop operation.
- F-700.2 - Application of flammable finishes.
- F-900.2 - Dry cleaning operations.
- F-1000.2 - Dust explosion hazard operations.

- F-1100.2 - Fruit ripening processes.
 - F-1300.2 - Lumber yards and woodworking plants.
 - F-1400.2 - Industrial processing ovens and furnaces.
 - F-1500.2 - Places of assembly.
 - F-1600.2 - Service stations and garages.
 - F-1700.1 - Tents and air-supported structures.
 - F-1800.2 - Vehicle tire rebuilding plants.
 - F-1900.2 - Vehicle wrecking yards, junkyards and waste material handling plants.
- (Code 1984)

7-206. SAME. Subsection F-103.7 Payment of Fees is changed to read as follows:

Repealed by: _____
 ORDINANCE NO. 1021C
 Adopted: 11/16/87
 Effective: _____
 Fees for permits provided for under sections 7-208 (F-301.2) and 7-215 (F-2700.2) must be paid before the permits are issued. Fee amount for each permit will be \$50. (Code 1984)

7-207. SAME. (a) Subsection F-105.4 Notice of Violation is changed to read as follows:

Repealed by: _____
 ORDINANCE NO. 870C
 Adopted: 8/5/85
 Effective: _____
 Whenever the fire official or his or her authorized inspector observes an apparent or actual violation of a provision of this code or other code or ordinance under the fire official's jurisdiction, the inspector shall prepare a written report of violation describing the condition deemed unsafe and specifying time limits for the required repairs or improvements to be made to render the building, structure, or premises safe and secure. The written notice of violation of this code shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the conditions under the violation. Such notice of violation shall be served either by delivering a copy of same to such person or persons by ordinary mail to the last known post office address, delivered in person or by delivering it to and leaving it in the possession of any person in charge of the premises, by affixing a copy thereof, in a conspicuous place at the entrance door or avenue of access; and such procedure shall be deemed the equivalent to personal notice.

(b) Subsection F-105.5 Failure to Correct Violations is changed to read as follows:

If the notice of violation is not complied with within the time specified by the inspector, the inspector shall notify the fire official of the condition. The fire official shall send a certified letter to the owner or operator of said building, structure, or premises requiring compliance or actions demonstrating intent to comply within 10 days of receipt of letter. Failure to comply with said letter will cause fire official to sign a complaint against the person, firm or corporation violating the provisions of this code. The city attorney shall institute appropriate legal proceedings to restrain, correct, or abate such violation or to require removal or termination of the unlawful use of the building or structure. The fire official or authorized representative that observes any offense against this code which affects the immediate safety of the public or jeopardizes the ability of the fire department to safely and expeditiously function in case of an emergency, shall request the police

department of the city to take whatever action is necessary to cause a cessation of the offense.

Repealed by:
ORDINANCE NO. 8706
Adopted: 8/5/85
Effective: _____

(c) Subsection F-105.5.1 Penalties for Violations is changed to read as follows:

Any person, firm, or corporation violating any of the provisions of the code or failing to comply with any order issued pursuant to any section thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$1, nor more than \$500 and costs, and/or confinement in jail for a period not to exceed one month. Each day that a violation continues, after a service of notice as provided for in this code, shall be deemed a separate offense. (Code 1984)

7-208.

SAME. (a) Subsection F-301.1 General is changed to read as follows:

Repealed by:
ORDINANCE NO. 1021C
Adopted: 11/16/87
Effective: _____

A person shall not kindle or maintain any open fire or authorize any such fire to be kindled or maintained on any premises without the permit required, except that a fire may be ignited in a container or device expressly for the purpose of cooking food, the fuel to be used shall be limited to charcoal briquets or fireplace logs no longer than 24 inches in length or a natural gas or liquefied petroleum gas burning device that has received the American Gas Association approval. Open fires may be permitted only under the following conditions and subject to any air pollution laws adopted by the jurisdiction.

(b) Subsection F-301.2 Permit Required is changed to read as follows:

A person shall not kindle or maintain any open fire without having obtained a permit from the fire official, or authorized representative. Upon determination that such burning is necessary and can be accomplished without undue danger to property or welfare of the city and its citizens, the fire official, or authorized representative, may grant a permit. Request for a permit must be made by the owner of the property, or representative thereof, on which the burning is to be accomplished. Said permit shall be in the form required by the fire chief.

(c) Subsection F-301.3 Permit Conditions is changed to read as follows:

All outside fires for which a permit has been issued by the fire official, shall be attended by and supervised by a responsible person or persons (the permittee or representative thereof) at all times. Such person or persons shall extinguish the fire one hour before leaving the burning location. Such burning operations shall not be initiated until at least one hour after sunrise, and addition of material to be burned shall not be added to the fire less than two hours prior to sunset. The burning shall be carried out at least 1,000 feet from any dwelling or public roadway and at least one mile from any airport. The fire will not be allowed to exist, for any reason, beyond the limit of the permit, and if at any time the fire official or authorized representative should determine, either by reason of change in conditions of weather and/or surrounding circumstances or by violation of any kind set forth herein or attached to the permit, that such burning should cease, the permit may be immediately revoked by giving notice to the permittee or to the person supervising the fire.

(d) Subsection F-301.4 Open Fire Material is changed to read as follows:

Fuel for permitted fires must consist only of brush, shrubs, and trees accumulated during land clearing operations, crop or game management practices, or construction projects carried out on the premises and shall not contain rubbish, garbage, trash, building materials, any material made of or coated with rubber, plastic, leather or petroleum based materials and shall not contain any flammable or combustible liquids. The allowable quantity of brush, shrubs and trees to be burned shall be determined by the hours of burning allowed by Permit Conditions, and upon the fire safety requirements of the situation. (Code 1984)

Repealed by:
ORDINANCE NO. 7-209 1021C
Adopted: 11/16/87
Effective: 7-210.

SAME. Subsections F-301.5, F-301.6, and F-303.2 are hereby deleted. (Code 1984)

SAME. Article 3 is hereby supplemented as follows:

Repealed by:
ORDINANCE NO. 1021C
Adopted: 11/16/87
Effective: 7-211.

F-311.3 Required Open Space. Any accessible unoccupied open space required for the area allowance of the building by Section 502.2 of the 1984 BOCA Basic Building Code shall be maintained open, unoccupied, and accessible and the obstruction of such space in any manner is prohibited. (Code 1984)

7-211. SAME. Subsection F-700.1 Scope is changed to read as follows:

The locations or areas where the following activities are intended to be conducted or are done shall comply with the provisions of this article, except that spray finishes applied during the construction process of a building is exempt from the provisions of this article. (Code 1984)

Repealed by:
ORDINANCE NO. 1021C
Adopted: 11/16/87
Effective: 7-212.

SAME. Subsections F-2000.2, F-2000.2.1, F-2000.3 and F-2001.3 are hereby deleted. (Code 1984)

Repealed by:
ORDINANCE NO. 1021C
Adopted: 11/16/87
Effective: 7-213.

SAME. Subsection F-2001.2 Qualifications of Operators is changed to read as follows:

Individuals in charge of performing welding or cutting operations must be capable of doing such work in a safe manner. Demonstration of a working knowledge of the provisions of this article shall constitute acceptable evidence of compliance with this requirement. (Code 1984)

Repealed by:
ORDINANCE NO. 7-214 1021C
Adopted: 11/16/87
Effective: 7-215.

SAME. Article 26 is hereby deleted. (Code 1984)

Repealed by:
ORDINANCE NO. 1021C
Adopted: 11/16/87
Effective: 7-215.

SAME. (a) Subsection F-2700.2 Permit Required is changed to read as follows:

A permit shall be obtained for the supervised public display of fireworks.

(b) Subsection F-2700.3 Permit Applications is changed to read as follows:

Applications for permits shall be made in writing to the governing body and filed with the city clerk at least 30 days in advance of the date of the display. No permit granted hereunder shall be transferable.

(c) Subsection F-2701.1 General is changed to read as follows:

It shall be unlawful for any person to store, to offer for sale, expose for sale, sell at retail or wholesale, or use or explode any fireworks, except as provided in this code for the granting of permits for supervised public displays of the fireworks by the jurisdiction, fair associations, amusement parks, and other organizations. Every such display shall be handled by a competent operator approved by the chiefs of police and fire departments of the jurisdiction and shall be of such character and so located, discharged, or fired as in the opinion of the fire official, after proper inspection, shall not be hazardous to property or endanger any person.

(d) Subsection F-2701.2 Certificate of Insurance for Display is changed to read as follows:

The permittee shall furnish a certificate of insurance naming the City of Leawood, Kansas as an additional insured. The amount shall be deemed adequate by the governing body for the payment of all damage which may be caused either to a person or persons or to property by reason of the permitted display, and arising from any acts of the permittee, the permittee's agents, employees or subcontractors. The minimum value of the insurance shall be \$100,000, \$300,000, and \$500,000.

(e) Subsection F-2701.3 Exceptions is changed to read as follows:

Nothing in this article shall be construed to prohibit the use of fireworks by railroads, or other transportation agencies for signal purposes or illumination, or sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports or for use by military organizations. (Code 1984)

7-216.

SAME. (a) Subsection F-3000.2 Permit Required is changed to read as follows:

Repealed by:
ORDINANCE No. 1021C
Adopted: 11/16/87
Effective: _____
A permit shall be obtained from the fire official for each installation of liquified petroleum gas utilizing individual storage containers or aggregate thereof of over 250 gallons water capacity. Prior to making such an installation, an installer shall submit plans to the fire official and if compliance with the requirements of the code is shown by said plans, a permit shall be issued.

(b) Subsection F-3002.1 Location is changed to read as follows:

No use of liquified petroleum gas, requiring storage exceeding a water capacity of 100 pounds will be allowed in residential areas consisting of building sites less than one acre. Siting provisions for permitted installations shown in Table F-3001 may be modified by the fire safety analysis described in Section 3912 of NFPA 58 listed in Appendix A or by the fire official if the proposed siting is deemed to be potentially hazardous to the public safety. (Code 1984)

ARTICLE 3. FIRE CONTROL MEASURES AND REGULATIONS

7-301.

ADOPTION OF APPENDIX B OF THE 1984 BOCA BASIC/NATIONAL FIRE PREVENTION CODE, FIRE CONTROL MEASURES AND REGULATIONS. The City of Leawood, Kansas does hereby incorporate by reference Appendix B of the 1984 BOCA Basic/National Fire Prevention Code, for the purposes of controlling conditions which could impede or interfere with fire suppression forces. Each and all of the regulations, provisions, penalties, conditions and terms of the Appendix are hereby referred to, adopted and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, prescribed in section 7-302 through 7-304 of this article. Three copies of this document shall be on file in the office of the city clerk of Leawood, Kansas. (Code 1984)

Repealed by:
ORDINANCE NO. 1021C
Adopted: 11/16/87
Effective: _____

7-302.

SAME; AMENDMENT. Appendix B, section 6, Definition of Authorized Emergency Vehicle is changed to read as follows:

Authorized emergency vehicles shall be restricted to those which are defined and authorized under the laws of the State of Kansas. (Code 1984)

Repealed by:
ORDINANCE NO. 1021C
Adopted: 11/16/87
Effective: _____

7-303.

SAME. Appendix B, section 8, Vehicles Following Fire Apparatus, is changed to read as follows:

It shall be unlawful for the operator of any vehicle, other than one on official business, to follow closer than 500 feet from any fire apparatus traveling in response to an emergency call, or to drive any vehicle within the block or immediate area where fire apparatus has stopped in answer to an emergency call. (Code 1984)

Repealed by:
ORDINANCE NO. _____
Adopted: _____
Effective: _____

7-304.

SAME. Appendix B, section 11, subsection (e), is changed to read as follows:

The exemptions hereby granted to an emergency vehicle shall apply only when the driver of any such vehicle, while in motion, sounds a siren, bell, or whistle, audible from a distance of not less than 500 feet under normal conditions. The visual and audible signals shall meet specifications found in K.S.A. 8-1720 and K.S.A. 8-1738 respectively. (Code 1984)

Repealed by:
ORDINANCE NO. 1021C
Adopted: 11/16/87
Effective: _____

CHAPTER VIII. HEALTH AND WELFARE

- Article 1. Sanitary Regulations
- Article 2. Health Nuisances
- Article 3. Inoperable Vehicles

ARTICLE 1. SANITARY REGULATIONS

8-101. INCORPORATION OF JOHNSON COUNTY SANITARY CODE. There is hereby incorporated by reference, for the purpose of prescribing rules and regulations for controlling practices to minimize health and safety hazards, that certain sanitary code known as the "Johnson County Sanitary Code of September, 1979" prepared and published by the Johnson County Health Department, and as amended from time to time.

No fewer than three copies of such "Johnson County Sanitary Code," marked or stamped "Official Copy as adopted by Ordinance No. 755," shall be filed with the city clerk to be open for inspection and available to the public during regular office hours.

The Johnson County Board of Health is hereby requested to appoint the Johnson County Health Officer as city health officer for the City of Leawood, Kansas, to represent the city in health matters. (Ord. 755)

8-102. SAME; DELETION. Chapter III, Water Quality Management Planning for Residential, Commercial & Industrial Developments, of the "Johnson County Sanitary Code of September, 1979" is hereby deleted in its entirety. (Ord. 755)

ARTICLE 2. HEALTH NUISANCES

8-201. NUISANCES DEFINED. Nuisances, as used in this article, include without limitation:

(a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, ally, sidewalk, park, public or private enclosure or lot whether vacant or occupied;

(b) All dead animals not removed with 24 hours after death;

(c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;

(d) All stagnant ponds or pools of water;

(e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;

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

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

(h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city.
(Code 1984)

8-202. WEEDS; DUTY OF OWNER. No property owner shall permit weeds or grasses to exceed 12 inches in height upon any platted area or within 100 feet of any platted area or any developed area. A property owner is responsible for property maintenance for his or her property and for the public right-of-way to the street. (Ord. 692) (See also section 4-705(c).)

8-203. ABATEMENT OF NUISANCES. Whenever the director of planning and development, as the enforcement officer for the property maintenance code incorporated by article 7 of chapter 4 of this code, is notified that a nuisance exists within the city, the director shall give notice as provided by the property maintenance code, as supplemented by section 4-703(i). The person maintaining the nuisance shall be subject to the duty to abate as provided for by the property maintenance code, as supplemented by section 4-703(i). Failure to abate a nuisance as directed shall result in abatement of the nuisance by the city and assessment of costs against the property, as provided for by the property maintenance code, as supplemented by section 4-703(i).
(Code 1984)

ARTICLE 3. INOPERABLE VEHICLES

8-301. FINDING OF GOVERNING BODY. The governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens of the city because they:

(a) Serve as a breeding ground for flies, mosquitoes, rats and other insects and rodents;

(b) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;

(c) Are a ready source of fire and explosion;

(d) Encourage pilfering and theft;

(e) Constitute a blighting influence upon the area in which they are located; and

(f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures.

(Code 1984)

8-302. DEFINITIONS. As used in this article, the following terms shall mean:

(a) Inoperative - a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed;

(b) Vehicle - means any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.

(Code 1984)

8-303.

INOPERATIVE VEHICLES PROHIBITED. Inoperative vehicles which are junked, wrecked, dismantled, inoperative, discarded, unregistered, unlicensed, or abandoned in and upon property within the city shall be prohibited. The removal of such vehicles shall be governed by the provisions of the property maintenance code incorporated by section 4-701 and as supplemented by section 4-704(i). (Ord. 692)

CHAPTER IX. MUNICIPAL COURT

Article 1. General Provisions

ARTICLE 1. GENERAL PROVISIONS

- 9-101. MUNICIPAL COURT ESTABLISHED. There is hereby established a municipal court for the City of Leawood, Kansas. The municipal court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city. (Code 1973, 9-101)
- 9-102. SAME; PRACTICE AND PROCEDURE. The Kansas code of procedure for municipal courts, as set forth in K.S.A. 12-4101 et seq. and all acts amendatory or supplemental thereto shall govern the practice and procedure in all cases in the municipal court. (Code 1984)
- 9-103. OFFICERS. The officers of the municipal court of this city shall be the municipal judge, city attorney, assistant city attorney/prosecutor, clerk of the municipal court, the chief of police, and the police officers of the city. (Code 1973, 9-101)
- 9-104. MUNICIPAL JUDGE. The municipal judge shall:
- (a) Have such powers and duties as set forth in the Kansas code of procedure for municipal courts (K.S.A. 12-4101 et seq.) and all acts amendatory or supplemental thereto;
 - (b) Be a conservator of the peace and have exclusive jurisdiction to hear and determine all offenses violating the laws of the city;
 - (c) Keep a docket in which to enter every case commenced before him or her as municipal judge;
 - (d) Have power to administer the oath and enforce due obedience to all orders, rules and judgments made by the judge, and may fine or imprison for contempt in the same manner and to the same extent as the district court;
 - (e) Appoint the clerk of the municipal court.
- (Code 1973, 9-102)
- 9-105. SAME; QUALIFICATIONS. The municipal judge shall be a resident of Johnson County, Kansas; a practicing attorney in and licensed by the State of Kansas and shall have so practiced for a period of three years. (Ord. 617)
- 9-106. SAME; SELECTION. (a) Prior to the first regular meeting of the city council in May of each year in which an election for mayor occurs, the mayor, with the consent of the council, shall appoint a judicial selection committee to screen candidates for the position of municipal judge. The committee shall consist of one resident from each ward in the city; the person selected to serve on the committee shall be chosen by the two councilmembers representing that ward. In addition, the mayor shall appoint,

Repealed by:

ORDINANCE NO. 1098C

Adopted: 4/17/89

Effective:

with the consent of the council, three attorneys to serve as advisory members of the committee. The committee, consisting of seven persons, shall then interview and screen applicants for the position of municipal judge. The committee shall then present to the mayor a list of three qualified individuals, from which list the mayor shall, at the first regular meeting of the city council in May of each year in which an election for mayor occurs, by and with the consent of the governing body, appoint an individual to serve as municipal judge.

(b) No attorney serving as an advisor to the committee shall be considered for, or be appointed to, the position of municipal judge. (Ord. 617)

9-107. SAME; ABSENCE. If the municipal judge be absent, sick or disqualified from acting, some suitable and proper person appointed by the mayor shall act as municipal judge until the absence, disqualification or objection ceases. (Code 1973, 9-102)

9-108. SAME; VACANCY IN OFFICE. In case of a vacancy in the office of municipal judge, the mayor shall appoint some suitable and proper person to fill the vacancy as set forth in section 9-106 above, and the person so appointed shall hold the office for the unexpired portion of the term. (Ord. 617)

Repealed by:
ORDINANCE NO. 1098
Adopted: 4/17/89
Effective: _____

9-109. SAME; SALARY. The municipal judge shall receive a salary as established by the governing body from time to time. (Code 1984)

9-110. CLERK OF THE MUNICIPAL COURT. The clerk of the municipal court, when so authorized by the municipal judge, shall:

- (a) Prepare and issue all processes of the court;
- (b) Administer oaths required in proceedings before the court;
- (c) File and carefully preserve all papers in cases pending in the court;
- (d) Docket cases and set them for trial;
- (e) Attend sessions of the court;
- (f) Receive and account for fines and bonds paid into the court;
- (g) Perform such other duties as the judge may require, or as are set forth in the rules of the court, or as may be necessary and proper for the convenience of the court or judge.

(Ord. 556)

9-111. BAILIFF-CLERK OF THE MUNICIPAL COURT. The bailiff-clerk of the municipal court, when so directed or authorized by the municipal judge, shall:

- (a) Administer oaths;
- (b) Prepare papers and documents of cases pending before the court;
- (c) File and catalogue cases;
- (d) Type orders, reports or documents as directed by the judge;
- (e) Serve as acting clerk of the municipal court in the absence of the clerk of the municipal court;
- (f) Assist the clerk of the court with the duties of that office, including the preparation of the docket, and the receiving and accounting for fines and bonds paid into the court;

(g) Perform such other duties as may be assigned from time to time, consistent with the function of the municipal court.
(Ord. 566)

9-112. SUPPLIES FOR JUDGE, INSPECTION OF RECORDS DOCKET. The governing body shall provide suitable records, blanks, etc., for the use of the judge in carrying out the provisions of this act. Such records shall be kept open at all times for the inspection of all persons interested therein. The governing body shall furnish the municipal judge with a suitable docket and the judge shall deliver the docket and all books and papers pertaining to the office of municipal judge to his or her successor in office. (Code 1973, 9-105)

9-113. MUNICIPAL COURT. The governing body may provide at the expense of the city a suitable room or office for the municipal judge and municipal court shall be held in such room and shall be open every day except Saturdays, Sundays and legal city holidays. Municipal court shall be held at the city hall unless circumstances make that place impracticable for a particular session, in which case it may be held at any convenient place in the city. (Code 1973, 9-106; Code 1984)

9-114 thru 9-117 added by Ord. 853C, 6/3/85

CHAPTER X. POLICE DEPARTMENT

Article 1. Department Regulations

Article 2. Property in Police Custody

ARTICLE 1. DEPARTMENT REGULATIONS

- 10-101. **POLICE FORCE.** The regular police force of the city shall consist of the chief of police and such law enforcement personnel as the governing body may provide. The chief of police under direction of the mayor, shall have supervision and be in charge of the police department and any law enforcement personnel who shall be selected in accordance with the personnel regulations of the department. (Code 1984)
- 10-102. **DUTIES OF POLICE.** It shall be the duty of the chief of police and other police officers to see that the laws of the State of Kansas and all ordinances of the city and all resolutions of the governing body are properly enforced and obeyed within the police jurisdiction of the city. Whenever arrest is made they shall attend all trials in municipal court unless excused by the municipal judge. They shall promptly serve all process papers, notices or orders required by law or as directed by the mayor. They shall also perform such other duties as may be required by the mayor, or by laws of the city. (Code 1984)
- 10-103. **CHIEF OF POLICE: POWERS.** The chief of police shall at all times have power to make or order an arrest, with proper process, for any offense against the laws of the state or of the city, and bring the offender for trial before the proper officer of the city, and to arrest without process in all cases where any such offense shall be committed, or attempted to be committed, in his or her presence. The chief of police shall have power to make such rules and regulations as may be necessary for the proper and efficient conduct of the department. (Code 1984)
- 10-104. **ARRESTS BY LAW ENFORCEMENT PERSONNEL.** The law enforcement personnel of the city shall have power to arrest all offenders against the laws of the state, or of the city, by day or night, in the same manner as the chief of police, and keep them in the city prison, or other place to prevent their escape, until a trial can be had before the proper officer. (Code 1984)
- 10-105. **ATTENDANCE OF COURT.** The chief of police, in person or by deputy, shall attend all sessions of the municipal court. Law enforcement personnel shall attend the sessions when the business of the court shall require their attendance. (Code 1973, 9-107)

- 10-106. VACANCY IN OFFICE OF CHIEF OF POLICE. If a vacancy shall occur in the office of chief of police, the senior law enforcement officer in rank shall automatically become supervising officer of the police department and shall perform all duties and be vested with all authority herein given to the chief of police. Such supervising officer's authority shall immediately cease when the office of chief of police is filled in the manner provided by law. (Code 1984)

ARTICLE 2. PROPERTY IN POLICE CUSTODY

- 10-201. REGULATIONS. The police department is required to establish regulations detailing the collection, storage, and inventory of property which may come under its control by any manner. (Code 1984)
- 10-202. DISPOSITION. Any property which has been acquired or turned over to the police department and has been classified in accordance with procedures existing in the police department as unclaimed or for which the proper owner cannot be ascertained shall be kept for a minimum of 90 days. After a period of 90 days, such property, except as provided in section 10-203, shall be sold at public auction to the highest bidder and the proceeds after expenses shall be paid to the city general fund. (Code 1984)
- 10-203. SAME; EXEMPT PROPERTY. The following classes of property shall be considered exceptions to section 10-202 and shall be dealt with in the following manner:
- (a) Cash money shall be turned over to the city general fund unless it shall be determined to have collector's value, in which case it shall be auctioned according to the provisions in section 10-202.
 - (b) Firearms which are available for disposition may be dealt with in the following manner:
 - (1) If compatible with law enforcement usage, they may be turned over to the police department inventory.
 - (2) They may be sold to a firearms dealer who maintains the appropriate federal firearms license.
 - (3) They may be destroyed.
 - (4) In no case shall firearms be sold at public auction.
 - (c) Other weapons such as knives, etc., which are deemed to have a legitimate value may be sold at auction, however, homemade weapons or weapons of a contraband nature shall be destroyed.
 - (d) Any items determined to be contraband such as explosives, narcotics, etc., shall be destroyed.
 - (e) Items of a pharmaceutical nature, which, while not contraband when properly dispensed, or which are of an over-the-counter-variety, shall be destroyed.
 - (f) Foodstuffs, if sealed and undamaged may be turned over to any appropriate social service agency or destroyed, but shall not be auctioned.
 - (g) Alcohol products such as beer, wine, whiskey, etc., shall be destroyed.

(h) Items with a value in excess of \$500 may be sold after advertising said item in a general circulation newspaper on at least two occasions. Such sales shall be by closed bid.

(i) Items of only nominal value, as determined by the chief of police, may be returned to the finder upon a finding by the chief of police that the lawful owner of the item cannot or will not be located and that return of the item to the finder is in the public interest.
(Code 1984)

10-204. CLAIMING PROPERTY. The police department shall be required to make reasonable attempts to locate the owner of any property in storage. However, the responsibility for claiming and identifying any such property shall rest solely with the owner. (Code 1984)

10-205. PROOF OF OWNERSHIP. Claimants to any property in police storage shall be required to present reasonable proof of ownership and no property shall be released unless such reasonable proof is presented. (Code 1984)

10-206. AUCTION. At such time as it has been determined that an auction is necessary to dispose of unclaimed property, an inventory listing all property to be disposed of shall be prepared and kept on file in the police department. Notice of an auction shall be published at least twice in a general circulation newspaper prior to the date of the auction. The notice shall specify the date, time and place of the auction and shall also notify prospective buyers or potential claimants that a list of items to be auctioned is available at the police department and any claims on property must be made prior to the start of the auction. (Code 1984)

10-207. REWARD. The chief of police is hereby authorized and empowered to adopt and enforce rules and regulations regarding the payment of reward moneys to persons who turn over to the custody of the police department lost or stolen property. The payment of reward money in any particular instance shall be made at the discretion of the chief of police in accordance with the adopted rules and regulations and subject to the moneys appropriated for such purpose in the adopted city budget. (Code 1984)

CHAPTER XI. PUBLIC OFFENSES

- Article 1. Uniform Offense Code
- Article 2. Local Provisions
- Article 3. Nuisance Alarm Systems
- Article 4. Proclamation of Emergency
- Article 5. Signs

ARTICLE 1. UNIFORM OFFENSE CODE

11-101. UNIFORM CODE INCORPORATED. There is hereby incorporated by reference the Uniform Public Offense Code for Kansas Cities, 1984 Edition, revised, prepared and published by the League of Kansas Municipalities. No fewer than three copies of said uniform ordinance shall be marked or stamped "Official Copy as adopted by the Code of the City of Leawood, Kansas," and shall be filed with the city clerk to be open for inspection and available to the public at all reasonable hours. (Code 1984)

Repealed by:
 ORDINANCE NO. 1046C
 Adopted. 3/28/88
 Effective: _____

11-102. SAME; AMENDMENT. Section 6.14 of the uniform code incorporated in section 11-101 above is hereby amended to read as follows:

6.14 Unlawful Deposits in Sewers. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public storm or sanitary sewer:

Repealed by:
 ORDINANCE NO. 1046C
 Adopted. 3/28/88
 Effective: _____

- (a) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit;
- (b) Any water or waste which may contain more than 100 parts per million, by weight, of fat, oil or grease;
- (c) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;
- (d) Any garbage that has not been properly shredded;
- (e) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction of the flow in sewers or other interference with the proper operation of the sewage works;
- (f) Any waters or wastes having a pH lower than 5.5 or higher than nine or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;
- (g) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant;
- (h) Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;

(i) Any noxious or malodorous gas or substance capable of creating a public nuisance.

Unlawful deposits in sewers is a Class C violation.
(Code 1984)

11-103. SAME. Section 10.13 of the uniform code incorporated in section 11-101

above is hereby amended to read as follows:

10.13 Barbed Wire. It shall be unlawful for any person to construct, set up or maintain any barbed wired or barbed wire fence or enclosure within the City, except in areas zoned or predominately used for agricultural purposes.

Violations of this section is a Class C violation.
(Code 1984)

Repealed by:

ORDINANCE NO. 1046C

Adopted: 3/28/88

Effective: _____

11-104. SAME. Section 10.1 of the uniform code incorporated in section 11-101

above is hereby amended to read as follows:

10.1 Unlawful Use of Weapons.

(a) Unlawful use of weapons is knowingly:

(1) Selling, manufacturing, purchasing, possession or carrying any bludgeon, sandclub, shotgun with a barrel less than 18 inches in length, metal knuckles or any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward, or centrifugal thrust or movement;

(2) Carrying concealed on one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slingshot, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly weapon or instrument of like character: provided, that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife, or a dangerous or deadly weapon or instrument.

(3) Carrying on one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance;

(4) Carrying any pistol, revolver, or other firearm:

(i) concealed on the person except when on his or her land or in his or her abode or fixed place of business;

(ii) openly or visibly on the person at any place open to public view;

(iii) within any vehicle in transport unless the weapon is unloaded and in a case.

(5) Setting a spring gun;

(6) Possession of any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm;

(7) Selling, manufacturing, purchasing, possessing or carrying any firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger.

(b) Unlawful use of weapons is a Class B violation.
(Code 1984)

Repealed by:

ORDINANCE NO. 844C

Adopted: 4/18/85

Effective: _____

11-105.

SAME. Section 10.5 of the uniform code incorporated in section 11-101 above is hereby amended to read as follows:

10.5 Unlawful Discharge of Firearms.

(a) It shall be unlawful for any person, within the limits of the City of Leawood, to shoot or discharge any gun, revolver, air rifle or air gun, pistol or spring gun, longbow or crossbow, or any other firearm of any description, whether the same be loaded with powder and ball or shot, with loaded or "blank" cartridges or any kind of explosives, or expansive propellants whatsoever: provided, that nothing contained in this section shall apply to persons discharging appropriate firearms or other weapons:

(1) In the defense of person or property;

(2) By legally qualified sheriffs or police officers and other persons whose bona fide duty is to execute process, civil or criminal, make arrests, or aid in conserving the public peace;

(3) At an established trap or skeet range upon the premises of any private club, which club was in existence upon the same property prior to the date of the incorporation of the city, from 10 a.m. to 5 p.m., solely for recreational purposes, provided that club rules and changes therein related to the types of weapons and loads will be first submitted to the chief of police for approval; provided further, however, that the distance from the muzzle direction of the appropriate firearm so used shall not be less than 1,000 feet from the boundary line of any adjacent property owned by another.

(b) Unlawful discharge of firearms is a Class B violation.

(Ord. 492; Code 1984)

Repealed by:
ORDINANCE NO. 1046C
Adopted:
Effective: 3/28/88

ARTICLE 2. LOCAL PROVISIONS

11-201. **PENALTIES.** Unless otherwise specified, the penalties for violation of any of the following sections will be classed in the manner set out in Article 12 of the Uniform Public Offense Ordinance for Kansas Cities, 1980 Edition, as incorporated by reference by section 11-101 of this chapter. (Code 1984)

Repealed by: _____
ORDINANCE NO. 1127C
Adopted: 9/18/89
Effective: _____

11-202. **GIVING A WORTHLESS CHECK.** (a) Giving a worthless check is the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering of any check, order or draft on any bank, credit union, savings and loan association or depository for the payment of money or its equivalent with intent to defraud and knowing, at the time of the making, drawing, issuing, or delivering of such check, order or draft, that the maker or drawer has no deposit in or credits with the drawee or has not sufficient funds in, or credits with, the drawee for the payment of such check, order or draft in full upon its presentation.

Repealed by: _____
ORDINANCE NO. 1362C
Adopted: 7/19/93
Effective: _____

(b) In any prosecution against the maker or drawer of a check, order or draft payment, of which has been refused by the drawee on account of insufficient funds, the making, drawing, issuing or delivering of such check shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or on deposit with, the drawee unless the maker or drawer pays the holder there of the amount due thereon and a service charge not exceeding \$3 for each check, within seven days after notice has been given to the maker or drawer that such check, draft or order has not been paid by the drawee. As used in this section, "notice" includes oral or written notice to the person entitled thereto. Written notice shall be presumed to have been given when deposited as restricted matter in the United States mail, addressed to the person to be given notice at such person's address as it appears on such check, draft or order.

(c) It shall be a defense to a prosecution under this section that the check, draft or order upon which such prosecution is based:

- (1) Was postdated, or
- (2) Was given to a payee who had knowledge or had been informed, when the payee accepted such check, draft or order, that the maker did not have sufficient funds in the hands of the drawee to pay such check, draft or order upon presentation.

(d) Giving a worthless check is a Class A misdemeanor if the check, draft or order is drawn for less than \$50.

(K.S.A. 21-3707; Code 1973, 10-202)

11-203. **SMOKING ON COMMON CARRIER.** No person shall smoke or carry in his or her hand a lighted cigar, cigarette or pipe, while in or upon any buses operated in common carrier passenger service upon the streets or public ways of the city.

A conviction upon violation of this section is punishable by a fine not to exceed \$100. (Code 1973, 10-601)

ARTICLE 3. NUISANCE ALARM SYSTEMS.

- 11-301. NUISANCE ALARM SYSTEMS PROHIBITED. It shall be unlawful for any person or business to own, lease, or otherwise utilize for the purpose of providing security to person or property, any burglary, robbery, fire, medical, or panic alarm system deemed to be a nuisance. Provided, this prohibition shall not apply to any person operating an alarm system business. Nuisance alarm systems shall be defined as follows:
- (a) False alarms. Any alarm which elicits a response from the police and/or fire departments more than six times in any 12 month period when no emergency exists. Exempt from this definition are newly installed system, which shall receive a grace period of 30 days or four false alarms, whichever occurs first; alarm signals caused by violent conditions of nature or other extraordinary circumstances beyond control of the owner or operator; alarm systems owned or operated by any governmental political unit.
- (b) Direct telephone alarms. Any alarm which is programmed to automatically dial any telephone number, listed or unlisted, directly into any city building for the purpose of transmitting a voice recording of an emergency message.
- (c) Disturbing alarms. Any alarm which emits an audible signal which is not automatically discontinued with 15 minutes of activation.
(Code 1973, 10-901)
- 11-302. DIRECT ALARM SYSTEMS TO BE DISCONNECTED. It shall be unlawful for any alarm user to fail to disconnect any direct telephone alarm as defined in 11-301 within 72 hours of receipt of written notice from the police department that such a programmed connection exists. (Code 1973, 10-902)
- 11-303. DISTURBING ALARMS TO BE DISCONNECTED OR MODIFIED. It shall be unlawful for any alarm user to fail to disconnect or modify any disturbing alarm as defined in 11-301 within 72 hours of receipt of written notice from the police department that such a condition exists. (Code 1973, 10-903)
- 11-304. NOTIFICATION OF NUISANCE ALARMS. At the time of the sixth false alarm in any 12 month period, the city shall notify the responsible party by first class mail of such occurrence and that additional false alarms shall require the payment of fees as per section 11-306 of this article. Such written notification shall be assumed to have been delivered three days after mailing. (Code 1973, 10-904)
- 11-305. RESPONSIBLE PARTY. The responsible party shall be the resident for a residential alarm system and the business owner or manager for a business alarm system, regardless of whether such system is owned, leased, rented, or otherwise controlled. (Code 1973, 10-905)
- 11-306. FALSE ALARMS; FEES REQUIRED. Any alarm system which has recorded more than six false alarms within any 12 month period shall be subject to the fees set forth in the Fee Schedule established and maintained by the city administrator, as prescribed in section 1-701. The payment of the

fee provided for shall be submitted to the city within 10 days of receiving notice that such fee is due. (Code 1973, 10-906; Ord. 777; Code 1984)

11-307. APPEALS. An alarm user who desires to appeal a fee imposed by section 11-306 shall submit a written request for a hearing to the chief of police, who shall notify the governing body. The governing body shall then direct the public safety committee to meet and consider the appeal. (Code 1973, 10-907)

Repealed by:
ORDINANCE NO. 1303C
Adopted: 8/17/92
Effective: _____

11-308. DESIGNATION OF ALARM COORDINATOR; DUTIES. There is hereby established the position of alarm coordinator. The alarm coordinator shall:

- (a) Maintain records necessary to carry out the terms of this article; such records shall be confidential.
- (b) Make notifications as outlined in section 11-304.
- (c) Establish, distribute, and enforce such rules and regulations as may be necessary for implementation of this article, and make same available upon request.
- (d) Determine which alarms constitute false alarms as defined in section 11-301.

(Code 1973, 10-908)

11-309. PENALTY. Any person convicted of a violation of any of the provisions of or failing to comply with any of the mandatory requirements of this article shall be guilty of a public offense and punished by a fine of not more than \$500 or by imprisonment not to exceed six months or by both such fine and imprisonment. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this article is committed, continued or permitted by any such person. (Code 1973, 10-909)

ARTICLE 4. PROCLAMATION OF EMERGENCY

11-401. PROCLAMATION OF EMERGENCY. Whenever in the judgment of the mayor, or in the event of his or her inability to act the president of the governing body, it is determined that an emergency exists as a result of mob action or other civil disobedience within the Kansas City Standard Metropolitan Statistical Area causing danger or injury to or damage to persons or property, he or she shall have power to impose by proclamation any or all of the following regulations necessary to preserve the peace and order of the city:

Repealed by:
ORDINANCE NO. 1268C
Adopted: 7/20/92
Effective: _____

- (a) To impose a curfew upon all or any portion of the city thereby requiring all persons in such designated curfew areas to forthwith remove themselves, and/or their motor vehicles, from the public streets, alleys, public parking lots, parks or other public places: Provided, that physicians, nurses and ambulance operators performing medical services, utility personnel maintaining essential public services, firefighters and city authorized or requested law enforcement officers and personnel may be exempted from such curfew.

Repealed by:
ORDINANCE NO. 1768C
Adopted: 1/20/92
Effective:

(b) To order the closing of any business establishment anywhere within the city for the period of the emergency, such businesses to include, but not limited to, those selling intoxicating liquors, cereal malt beverages, gasoline or firearms.

(c) To designate any public street, thoroughfare or vehicle parking area closed to motor vehicles and pedestrian traffic.

(d) To call upon regular and auxiliary law enforcement agencies and organizations within or without the city, including the sheriff's department under provisions of mutual emergency police protection compact, to assist in preserving and keeping the peace within the city.

(e) That any and all of the regular and auxiliary law enforcement agencies, organizations and their individual officers shall have the full power and authority to make arrests and to act on behalf of the city in order to enforce the provisions provided for herein and any and all other city ordinances that might be violated as a result of any mob action or other civil disobedience.

(f) The mayor is hereby authorized to enter into a mutual emergency police protection compact with any and all governing bodies of Johnson County, Kansas, and any other duly authorized governing body within the Kansas City Standard Metropolitan Area. (Code 1973, 10-501)

11-402. EFFECTIVE PERIOD. The proclamation of emergency provided herein shall become effective upon its issuance and dissemination to the public by appropriate news media. (Code 1973, 10-502)

11-403. EXPIRATION OR EXTENSION OF EMERGENCY. Any emergency proclaimed in accordance with the provisions of this article shall terminate after 48 hours from the issuance thereof, or upon the issuance of a proclamation determining an emergency no longer exists, whichever occurs first. Such an emergency may be extended for such additional periods of time as determined necessary by resolution of the governing body. (Code 1973, 10-503)

11-404. PENALTY. Any person who shall willfully fail or refuse to comply with the orders of duly authorized law enforcement officers or personnel charged with the responsibility of enforcing the proclamation of emergency authorized herein shall be deemed guilty of a public offense and upon conviction therefor, shall be punished by a fine of not more than \$500, and/or by imprisonment in the city or county jail for a period not to exceed three months. (Code 1973, 10-504)

11-405. NO RELEASE OF CIVIL DAMAGES. Nothing contained in this article shall be in lieu of any civil damages. (Code 1973, 10-505)

ARTICLE 5. SIGNS

11-501. SHORT TITLE. This article shall hereafter be known and cited as the

Repealed by Leawood Residential Sign Ordinance. (Ord. 835, Sec. 2)
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective:

11-502.

FINDINGS AND PURPOSE. The governing body finds that unregulated proliferation of commercial and noncommercial signs results in visual clutter which is harmful to neighborhood aesthetics and property values. Accordingly, it is the purpose of this article to regulate the display of all signs in residential areas within the city to the maximum extent permissible by law. It is the further specific purpose of this article to provide and establish criteria and standards for the regulation and control of signs which are known to exist within residential areas of the city on frequent basis such as street markers and other governmental signs, real estate signs, garage sale signs and political campaign signs. In enacting this article, it is also for the purpose of the article to establish criteria and standards for the regulation and control of signs which are not specifically considered and defined within this article. It is the intent and purpose of this article to prohibit the placement of any sign of any type within residential districts of the city which are not in conformity with the criteria and standards established herein regardless of whether the signs are specifically addressed within this article. (Ord. 835, Sec. 3)

Repealed by:

ORDINANCE NO. 1189C

Adopted: 11/19/90

Effective:

11-503.

DEFINITIONS. As used in this article, unless the content otherwise indicates:

Repealed by:

ORDINANCE NO. 1189C

Adopted: 11/19/90

Effective:

(1) Signs shall be defined as any announcement, attracting device, declaration, demonstration, display, illustration or insignia used to advertise or promote any business, product, activity, service or interest of any person when the same is placed out of doors in view of the general public.

(2) Facing or Surface shall mean the surface of the sign upon, against, or through which the message is displayed or illustrated on the sign.

(3) Person shall mean and include any person, firm, partnership, association, corporation, company or organization of any kind.

(4) Erect shall mean to build, construct, attach, hang, place, suspend, or affix, and shall also include painting of wall signs.

(5) Real estate "for sale" signs shall mean a sign placed in or upon a residential lot within the City of Leawood, the content of which attempts to convey truthful, commercial information that would lead a reasonable person to believe that an individual residence or lot is for sale.

(6) Garage sale sign shall mean a sign placed upon a residential lot within the city which attempts to convey information regarding the occurrence of a sale upon residential property of household items, which sale is conducted by a resident of the dwelling where the sale is held.

(7) Developer signs shall mean any temporary sign which does not exceed eight feet by eight feet in exterior dimensions, and which is placed upon property located within a project or subdivision which is under construction and which attempts to convey truthful commercial information regarding the project or subdivision which is under construction.

(8) Builder sign shall mean any temporary sign located upon a lot where a residence is under construction and which contains information identifying the builder of the residence. An individual residence shall be deemed to be under construction for the purposes of this definition from the date that ground is broken for purposes of commencing actual construction until the date that a certificate of occupancy has been issued by the city.

(9) Public right-of-way shall mean a strip of land used for or intended to be used for street, utility, pedestrians or other public purposes, the fee of which is vested in a governmental body.

(10) Code official as used herein shall be that person or persons as provided for in Section PM-103.1 of the Property Maintenance Code of the City of Leawood.
(Ord. 835, Sec. 4)

11-504.

PERMIT REQUIRED. Except as provided in this article, or as may be provided by other ordinance or resolution of the city, it shall be unlawful for any person to erect, repair, alter, relocate or maintain any sign within the city without first obtaining a permit and making payment of the fee required by section 11-511. (Ord. 835, Sec. 5)

Repealed by:

ORDINANCE NO. 1189C

Adopted: 11/19/90

Effective: _____

11-505.

EXCEPTIONS. The permit as provided for in section 11-504, shall not be required to erect, repair, alter, relocate or maintain the following signs upon property which is zoned for residential dwellings:

Repealed by:

ORDINANCE NO. 1189C

Adopted: 11/19/90

Effective: _____

(1) Street markers, traffic signs and other appropriate signs displayed by the city or other governmental subdivision;

(2) A sign not to exceed 100 square inches in area, upon which there shall be exhibited the street number or name, or both, of a resident;

(3) Sign specifically permitted under the Model Zoning Code and Subdivision Regulations of the city as amended;

(4) Real estate "for sale" signs;

(5) Political campaign signs.

(Ord. 835, Sec. 6)

11-506.

ADDITIONAL REQUIREMENTS. All signs, including signs which are excepted under the provisions of section 11-505 from the permit requirements of this article and signs for which a permit is required shall comply with the following requirements and no person shall construct, erect or maintain any signs contrary to the requirements:

Repealed by:

ORDINANCE NO. 1188C

Adopted: 10/15/90

Effective: _____

(1) Not more than one sign, excluding signs described in section 11-505(1) and 11-505(2), shall be displayed upon any residence or lot at any one time;

(2) No sign other than a "developer sign" shall be greater in area than five square feet;

(3) No sign or any part thereof or attachment thereto other than a "developer sign" shall exceed three feet in overall height;

(4) No sign shall be placed closer than 15 feet from the edge of the pavement or the curb of the street;

(5) No sign will be placed on a public right-of-way;

(6) No real estate "for sale" sign shall be displayed longer than 24 hours subsequent to the sale of the residence; for purposes of this article sale shall be deemed to have occurred upon execution of a contract for sale by buyer and seller;

(7) No garage sale sign shall be displayed unless a valid permit for the sign has been issued and no permit shall be issued which permits display of any garage sale sign for more than four consecutive days;

(8) Not more than two permits authorizing the display of a garage sale sign upon any one residence shall be issued during any calendar year;

(9) No political campaign sign shall be placed upon any residential lot more than 15 days prior to the election which is the subject of the campaign sign and all campaign signs shall be removed not later than 48 hours following the election which is the subject of the campaign sign;

(10) No permit shall be issued which authorizes the erection upon any residence or lot any sign advertising the business of any person who has contracted or agreed with the owner of the residence or lot to perform maintenance, home improvements or repairs to or on the property;

(11) No twirlers, flags, balloons or other paraphernalia shall be attached to any sign or displayed in conjunction with any sign unless the code official determines that the display or attachment will not be contrary to the intent and purposes of this article and a permit specifically authorizing the display or attachment has been issued by code official;

(12) No sign shall be displayed which shall clearly adversely affect neighborhood aesthetics or result in visual clutter of a residential neighborhood;

(13) No sign permit shall be issued which allows a sign to be displayed for a period of time which is longer than reasonably necessary to accomplish the purpose or communicate the information which is the subject matter of the sign;

(14) No sign permit shall be issued for a period of time in excess of six months; however, a sign permit can be renewed for additional periods of time upon submission of a new application for issuance of a permit and compliance with all other provisions of this article;

(15) A builder's sign may be displayed in lieu of or as a part of a real estate for sale sign.
(Ord. 835, Sec. 7)

Repealed by:
ORDINANCE NO. 1188C
Adopted: 10/15/90
Effective:

11-507.

PERMIT ISSUED. Any person desiring to erect a sign for which a permit is required shall submit to the code official, an application upon a form to be provided by the code official, which shall contain the following information:

(1) Name, address and telephone number of the applicant;
(2) Location of building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected;

(3) Position of the sign or other advertising structure in relation to nearby buildings or structures;

(4) Length of time that sign will be displayed;

(5) Written consent of the owner of the building, structure or land to which or on which the sign is to be erected;

(6) If the applicant is requesting that a permit be issued to allow display of a "developer sign" the applicant shall provide a color scale drawing of the proposed sign;

(7) Such other information as the code official shall require to show full compliance with this article and all other laws and ordinances of the city.
(Ord. 835, Sec. 8)

Repealed by:
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective:

11-508.

PERMIT ISSUED IF APPLICATION IN ORDER. It shall be the duty of the code official, upon filing of an application for a sign permit, to review

Repealed by:
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective:

the application and to conduct such other investigation as is necessary to determine the accuracy of the application. If it shall appear that the applicant has provided the information requested in the application and that the information is accurate and that the proposed sign when placed will comply with the ordinances of the city, and specifically that the proposed sign will comply with the provisions of section 11-506, he or she shall issue a sign permit. (Ord. 835, Sec. 9)

11-509.

DENIAL OF APPLICATION FOR SIGN PERMIT. If the code official

Repealed by: _____
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective: _____
determines that the proposed sign is not in compliance with all the requirements of this article and all other laws and ordinances of the city, he or she shall not issue the requested permit and shall advise the applicant of the right to appeal as provided by section 11-521. (Ord. 835, Sec. 10)

Repealed by: _____
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective: _____

11-510. PERMIT TO BE ATTACHED TO SIGN. No sign, for which a permit is

required, shall be displayed unless the permit is attached at all times of display. (Ord. 835, Sec. 11)

11-511.

PERMIT FEES. Fees for permits issued under this article shall be as set

Repealed by: _____
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective: _____
out by the city administrator in the fee schedule established pursuant to section 1-701 of this code. (Code 1984)

11-512.

PROSECUTION FOR VIOLATION OF ARTICLE. If the code official or

his or her representative shall have reason to believe that any sign regulated herein is constructed, erected, or being maintained in violation of this article, he or she may cause a complaint to be filed with the clerk of the municipal court and request the issuance of a notice to appear and commencement of prosecution in the manner provided by K.S.A. 12-4201, against any person who is reasonably believed to have violated any provision of this article. The code official may, in his or her discretion, give oral or written notice to the owner or occupant of the residence where a sign has been constructed, erected, or is being maintained in violation of this article, advising and notifying the owner or occupant that unless the sign is removed within 48 hours of the notice a complaint will be filed alleging violation of this article. For purposes of this article, any owner of property shall be responsible for compliance with the provisions of this article and may be prosecuted for violation of this article if he or she permits or maintains a sign upon his or her property in violation of this article. (Ord. 835, Sec. 13)

11-513.

RESTRICTION OF PLACEMENT. No person shall paint, mark or write

Repealed by: _____
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective: _____
on, or post or otherwise affix any sign to or upon any sidewalk, crosswalk, curb, curbstone, street lamp post, hydrant, tree, shrub, tree stake or guard, railroad trestle, electric light or power or telephone or telegraph pole, or wire appurtenance thereof or upon any fixture of the fire alarm or police alarm system or upon any lighting system, public bridge, street signs or traffic signs. (Ord. 835, Sec. 14)

11-514.

REMOVAL. Any sign which has been located in the public right-of-way

contrary to the provisions of this article, shall be removed immediately by any officer of the city or any person discovering the sign. The code official

Repealed by: _____
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective: _____

may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice. (Ord. 835, Sec. 15)

11-515.

SIGNS NOT TO CONSTITUTE TRAFFIC HAZARD. No sign regulated by this article shall be directed at the intersection of any street in such a manner as to obstruct free and clear vision; or any location where, by reason of the position, shape or color, the sign may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device; or which makes use of the words "stop," "look," "drive-in," "danger," or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic. (Ord. 835, Sec. 16)

Repealed by:

ORDINANCE NO. 1189C

Adopted: 11/19/90

Effective:

Repealed by: 11-516.

ORDINANCE NO. 1189C

Adopted: 11/19/90

Effective:

FACE OF SIGN SHALL BE SMOOTH. All signs or other advertising structures shall have a smooth surface and no nails, tacks or wires shall be permitted to protrude therefrom. (Ord. 835, Sec. 17)

Repealed by: 11-517.

ORDINANCE NO. 1189C

Adopted: 11/19/90

Effective:

OBSCENE MATTER PROHIBITED. It shall be unlawful for any person to display upon any sign any obscene, indecent or immoral matter. (Ord. 835, Sec. 18)

Repealed by: 11-518.

ORDINANCE NO. 1189C

Adopted: 11/19/90

Effective:

DEED RESTRICTION. No provision of this article shall be deemed to prevent any person, homes association or other entity from maintaining an action to enforce private deed restrictions which are more restrictive than the criteria and standards established by this article. (Ord. 835, Sec. 19)

11-519.

REVOCATION OF PERMIT. The code official is hereby authorized and empowered to revoke any permit issued by him or her upon failure of the holder thereof to comply with any provision of this article. (Ord. 835, Sec. 20)

Repealed by:

ORDINANCE NO. 1189C

Adopted: 11/19/90

Effective:

11-520.

PENALTIES. Any person who violates any of the provisions of this article shall, upon conviction, be fined an amount not to exceed \$50. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be unishable as such hereunder. (Ord. 835, Sec. 21)

Repealed by:

ORDINANCE NO. 1189C

Adopted: 11/19/90

Effective:

11-521.

APPEAL. Any person aggrieved by the action of the code official in the enforcement of this article may appeal to the city council by giving written notice to the city clerk not later than 20 days after notice of refusal by the code official to issue the requested sign permit. In any such appeal, the city council shall review the action of the code official and if it determines that the action of code official was incorrect, shall order issuance of the permit under such terms and conditons as are appropriate. (Ord. 835, Sec. 22)

Repealed by:

ORDINANCE NO. 1189C

Adopted: 11/19/90

Effective:

11-522.

SEPARABILITY. If any section, subsection, sentence, clause, phrase or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof. (Ord. 835, Sec. 23)

Repealed by:

ORDINANCE NO. 1189C

Adopted: 11/19/90

Effective:

*entire page repealed
by Ord. 1213C, 4/1/91.*

CHAPTER XII. PUBLIC PROPERTY

- Article 1. Board of Park Commissioners
- Article 2. Park Regulations
- Article 3. Recreation Commission

ARTICLE 1. BOARD OF PARK COMMISSIONERS

- 12-101. BOARD CREATED. There is hereby created a Parks Commission consisting of four electors of the city and the park commissioner, a member of the governing body. (Code 1973, 11-101)
- 12-102. TERMS, QUALIFICATIONS. No member of the parks commission shall be related by blood or marriage to the mayor, to any city councilmember, or to any officer of the city government. The members shall be appointed by the mayor with the consent of the council for two year terms of office, unless sooner removed by the mayor, excepting one member who shall also serve as a member of the recreation commission established by article 3 of this chapter. The appointed member who shall serve on both the parks and recreation commissions shall have terms of office on each commission which are concurrent. (Ord. 434)
- 12-103. POWERS. The parks commission is authorized to administer all aspects of maintenance and repair of public parks, public playgrounds and all other municipally owned or leased places of amusement and recreation in the city. It shall be the responsibility of the board to ensure that the regulations set out in article 2 of this chapter are enforced. (Ord. 434, Code 1984)

ARTICLE 2. PARK REGULATIONS

- 12-201. PARK HOURS. (a) All parks with the exception of all trails shall be closed between the hours of 11:00 p.m. and 6:00 a.m. during the period from April 1st to October 1st during which central daylight savings time shall be in force in the city; and between the hours of 9:00 p.m. and 7:00 a.m. during the balance of the year.
- (b) All trails within all city parks shall be closed one-half hour after sunset until one-half hour before sunrise during the calendar year.
- (c) Any or all parks may be closed temporarily, or opening hours extended temporarily, in case of emergency, adverse weather, or unusual circumstances, as determined by the recreation commission, or its designee.
- (d) It shall be unlawful for any person to be in any city park during the hours in which it is closed.
(Ord. 736)

*entire page repealed by
Ord. 1213C, 4/1/91*

12-202.

PROHIBITION OF USE BY OTHERS. The recreation commission is empowered to allow reservation of park facilities. It shall be unlawful for any person or persons to occupy, use or attempt to control the occupation or use of any park facilities or portion thereof after being notified that a written reservation for exclusive use of the same has been issued by the recreation commission's designee during the period of time set forth in said reservation, and no person or persons shall continue to use or attempt to use any such park facility after said written reservation has been issued for said purpose and time. Any person failing to vacate such park facility promptly after being informed of such reservation shall be subject to arrest for violation thereof. The foregoing is not intended to prohibit the free and unrestricted use of the park facilities by persons without written reservation as long as no such reservation has been issued by the recreation commission's designee. (Ord. 736)

12-203.

PROHIBITED VEHICLES. (a) Go-carts, racing-type motorbikes or motorcycles and other similar vehicles not licensed for public roadway driving shall be prohibited within the city parks. Non-motorized bicycles shall be permitted upon the roads in the city parks, providing that the bicycles are operated only in those areas designated for motor vehicle traffic except when being walked to or from an authorized bicycle parking area or upon a designated bike trail.

(b) Trucks over 1 1/2 tons are hereby prohibited, except for maintenance and delivery vehicles, unless permission therefor has been granted in writing by the governing body's designee.

(c) Driving of any motorized or non-motorized vehicles off any hard surface improved roadway is prohibited except in the case of authorized maintenance and emergency vehicles.

(d) Driving a motorized vehicle on jogging and bicycle trails is prohibited except for maintenance and emergency vehicles.
(Ord. 736; Code 1984)

12-204.

CAMPING PROHIBITED. Overnight camping is hereby prohibited in city parks. (Ord. 736)

12-205.

BRIDLE PATH. It shall be unlawful for any owner of any horse to allow his or her animal to be outside the confines of the designated bridle path of any Leawood city park. (Ord. 736)

Repealed by:
ORDINANCE NO. 114-8C 1213C
Adopted: 2/5/90 2-206.4/1/91
Effective:

HUNTING. No person shall pursue, catch, trap, maim, kill, shoot or take any wildlife, either bird or animal, in any manner at any time. (Ord. 736)

12-207.

CARRYING OF WEAPONS PROHIBITED. It shall be unlawful for any person other than a law enforcement officer to carry a firearm in any city park. (Code 1984)

12-208.

FIRES. Fires may be built only in the ovens, stoves, or grills provided for that purpose by the city, and must be extinguished by the person, persons or parties starting such fires, immediately after use thereof. (Ord. 736)

*entire page repealed
by Ord. 1213C, 4/1/91*

- 12-209. SANITATION. All waste material, paper, trash, rubbish, tin cans, bottles, containers, garbage and refuse of any kind whatsoever shall be deposited in disposal containers provided for such purposes. No such waste or contaminating material shall be discarded otherwise. No sticks, stones, trash or other objects shall be thrown or discarded in or on any park lands, fountains, pools, drinking fountains, sanitary facilities, or other improvements. (Ord. 736)
- 12-210. PROHIBITION AGAINST ALCOHOLIC BEVERAGES AND BEER. It shall be unlawful for any person or persons to use, consume or have on the premises of any park or other city property within the city, any alcoholic liquor, or cereal malt beverage. (Ord. 736)
- 12-211. PARKING. (a) Parking is permitted in designated, marked parking areas only unless specifically directed by a law enforcement officer.
(b) Parking is prohibited on or along roadways unless specifically directed by a law enforcement officer.
(c) The chief of police is authorized by the governing body to post "no parking" signs within the city parks.
(d) Parking in other than designated areas shall be deemed to be a violation of this article.
(e) Overnight parking is prohibited except for vehicles which are disabled.
(Ord. 736)
- 12-212. PRESERVATION OF NATURAL STATE. No person shall take, injure, or disturb any live or dead tree, plant, shrub, or flower, or otherwise interfere with the natural state of city parks. (Ord. 736)
- 12-213. SWIMMING. Swimming is prohibited in city parks except in pools constructed for that purpose. (Ord. 736)
- 12-214. PLAYING FIELDS. The director of public works or his or her designee shall have the authority to close any playing field for maintenance or for damage prevention. Closed fields shall be conspicuously posted, and any use of a closed field is prohibited. (Ord. 736)
- 12-215. DOGS IN THE CITY PARKS. It shall be unlawful for any owner or keeper of any dog to allow his or her animal, except a seeing eye dog, to be outside the confines of:
(a) The designated dog exercise area; all dogs shall be leashed, leash to be in hand of owner or keeper.
(b) Tomahawk Creek Greenway: All dogs shall be leashed, leash to be in hand of owner or keeper;
(c) Brook Beatty Park: All dogs shall be leashed, leash to be in hand of owner or keeper.
(d) This section shall not be construed as prohibiting dogs from other areas of the parks when within the confines of vehicles.
(Code 1984)

*entire page repealed
by Ord. 1213C, 4/1/91*

12-216. GENERAL REGULATIONS. The governing body may authorize the recreation commission to post such rules and regulations approved by the governing body pertaining to the use of the city parks in a conspicuous place in each city park. Violations of these posted rules shall also constitute a violation under the penalty provisions of this article. (Ord. 736)

12-217. PENALTY. Any person violating any of the provisions of this article shall be deemed guilty of a violation of this code and upon conviction thereof shall be punished by a fine of not more than \$500 for each such offense. Each and every day that such violation continues shall constitute a separate offense. (Ord. 736)

ARTICLE 3. RECREATION COMMISSION

12-301. MEMBERSHIP AND QUALIFICATIONS. There is hereby created a recreation commission consisting of five members. Four members shall be appointed by the governing body and one member shall be appointed by the four appointed members of the commission. All shall be qualified electors of the city. (Ord. 434 G)

12-302. TERM. The four members appointed by the governing body shall serve the following terms of office in the following prescribed manner. The first appointee shall serve for four years, the second for three years, the third for two years and the fourth for one year. The fifth member shall be appointed by the four appointed members of the commission to serve for four years. Thereafter, the members of the commission shall be selected in the same manner as the member he or she is succeeding and the term of office of each shall be four years. Whenever a vacancy shall occur in the membership of the commission, an elector shall be selected to fill the vacancy in the same manner as and for the unexpired term of the member he or she is succeeding. (Ord. 434 G)

12-303. POWERS AND DUTIES. The recreation commission shall elect a presiding officer and secretary. The commissioners are empowered to administer in all respects the business and affairs of the recreation system except as provided in section 12-103. The amount received from the tax authorized to be levied by the commission shall be set over to the commission and shall be held by the city treasurer, who shall be the ex officio treasurer of the commission. All financial records of the commission shall be audited as provided by law, and a copy of such annual audit report shall be filed with the governing body. The chairperson of the commission shall cause to be submitted, no later than the May meeting of the budget and finance committee, a budget for the forthcoming fiscal year. (Ord. 434 G)

12-304. EMPLOYEES, AUTHORIZATION TO CONTRACT FOR SERVICES. The recreation commission is authorized to hire or contract the services of consulting firms and/or individuals as the commission deems necessary to carry out its obligations. The commission is specifically authorized to contract for or hire the services of city employees, agencies or commissions and compensate them in a manner which the commission deems appropriate. (Ord. 434 G)

CHAPTER XIII. STREETS AND SIDEWALKS

- Article 1. General Provisions
- Article 1A. Sidewalks
- Article 2. Streets
- Article 3. Reserved
- Article 4. Trees and Shrubs

ARTICLE 1. GENERAL PROVISIONS

- 13-101. GENERAL SUPERVISION. The supervision and control of the construction, alteration, maintenance and repair of all streets, bridges, tunnels, sidewalks, curbs and gutters, driveway entrances, storm sewers and street lights, and other public thoroughfares of the city shall be under the direction of the director of public works, who shall, in addition to the provisions of this chapter, enact such regulations by resolutions of the governing body as are required. (Code 1984)
- 13-102. SPECIFICATION FILE. There shall be maintained in the office of the director of public works, a file for specifications for streets, sidewalks, curbs and gutter, driveway entrances, storm sewers and street lights, known as the "Public Improvement Construction Standards," which have been previously adopted by the governing body. (Code 1984)
- 13-103. INCORPORATION OF SPECIFICATIONS AND STANDARDS. There is hereby incorporated by reference, for the purposes of regulating the design, construction, alteration and repairs, that certain specifications and standards known as a "Public Improvement Construction Standards," for the City of Leawood. No fewer than three copies of which shall be filed with the city clerk to be open for inspection by the public. The Public Improvement Construction Standards shall apply to all construction alteration, maintenance and repair within public right-of-way. Further, the standards set out herein shall apply to any existing street, sidewalk, curb and gutter, driveway entrances, storm sewers or street lights, which is reconstructed within the existing public right-of-way. (Code 1984)
- 13-104. PERMIT. A permit to excavate and/or construct within public right-of-way is required and application for the permit shall be made at the director of public works' office. A separate permit shall be required for each separate phase of work. All information required by the permit must be completed prior to the approval and issuance of the permit. (Code 1984)
- 13-105. PERMIT FEES. All permit fees required under this chapter which are not established within this chapter shall be so established by the city administrator in the manner set out in section 13-1A03. (Code 1984)

ARTICLE 1A. SIDEWALKS

- 13-1A01. PUBLIC IMPROVEMENT CONSTRUCTION STANDARDS INCORPORATED. There is hereby incorporated by reference, for the purposes of regulating the design, construction, alteration and repairs of sidewalks, that certain construction standards known as the "Public Improvement Construction Standards" adopted May 2, 1983 by the governing body of the City of Leawood, Kansas. No fewer than three copies of the construction standards shall be marked or stamped "Official Copy as adopted by the Code of the City of Leawood, Kansas," and be filed with the city clerk to be open for inspection and available to the public at all reasonable hours. (Code 1984)
- 13-1A02. PERMIT REQUIRED. It shall be unlawful to construct, reconstruct or repair any sidewalk within the city until the plans first have been approved by the director of public works and a permit issued for such work by the director of public works. (Code 1984)
- 13-1A03. PERMIT FEES AND DEPOSITS. (a) The fees and/or deposits for any permit issued under the provisions of this article are as set forth in the Fee Schedule established and maintained by the city administrator, as prescribed in section 1-701.
(b) In addition to the permit fees required by this section, the city administrator, at his or her discretion, may require the person seeking a permit to post a bond in an amount set by the city administrator. (Code 1984)
- 13-1A04. SAME; PETITION. When a petition signed by not less than 10 citizens owning real estate in the city requesting construction of a sidewalk is filed with the director of public works the governing body may in its discretion, by a resolution, order such sidewalk constructed as herein provided. (K.S.A. 12-1803)
- 13-1A05. SAME; CONDEMNATION, RECONSTRUCTION. When any sidewalk, in the opinion of the governing body, becomes inadequate or unsafe for travel thereon, the governing body may adopt a resolution condemning such walk and providing for the construction of a new walk in the place of the walk condemned. (K.S.A. 12-1804)
- 13-1A06. NOTICE; PUBLICATION. The resolution providing for the construction or reconstruction of a sidewalk, as the case may be, shall give the owner of the abutting property not less than 30 days nor more than 60 days after its publication one time in the official city paper in which to construct or cause to be constructed or reconstructed the sidewalk at his or her own expense. If

the sidewalk is not constructed by the property owner within the time specified, the governing body shall cause the work to be done by contract. (K.S.A. 12-1805)

13-1A07. **RIGHT OF ABUTTING OWNER.** Nothing in this article shall be construed to prohibit the owner of property abutting on a street, who desires to construct or reconstruct a sidewalk at his or her own expense and in accordance with official plans and specifications for the purpose and which meet such other requirements as would have to be met if the sidewalk were constructed or reconstructed by the city, to construct or reconstruct a sidewalk without any petition or a condemning resolution by the governing body. If such property owner desires the sidewalk to be constructed and reconstructed by the city and an assessment levied as provided by law in other cases, he or she shall file a request with the governing body. The governing body, in its discretion, may provide for the construction or reconstruction of the sidewalk requested in the same manner as in other cases where citizens or taxpayers petition the governing body. (K.S.A. 12-1806)

13-1A08. **REPAIRS BY OWNER OR CITY.** It shall be the duty of the owner of the abutting property to keep the sidewalk in repair, but the city may, after giving five days' notice to the owner or the owner's agent, if known, of the necessity for making repairs or without notice if the lot or piece of land is unoccupied, make all necessary repairs at any time. The same shall be done and the cost thereof assessed against the lot or piece of land abutting on the sidewalk so repaired as may be provided by law. (K.S.A. 12-1808)

13-1A09. **CONTRACTS.** The director of public works shall cause to be prepared a form or forms of contracts for work to be performed by independent contractors. The form or forms of such contracts shall be approved by the city attorney and adopted by resolution of the governing body. (Code 1973, 13-1A07)

13-1A10. **PERFORMANCE, STATUTORY BOND.** In any case where the reconstruction or construction of a sidewalk is required to be done by contract as provided in section 13-1A09 hereof, the governing body may require the contractor to give a bond for the faithful performance of the contract and for the construction of the sidewalk in accordance with the plans and specifications, ordinances of the city or laws of Kansas, and for all contracts exceeding \$10,000 entered into by the city for any such purpose a statutory lien bond required by K.S.A. 60-1111 shall be furnished. (Code 1984)

13-1A11. **WORK ACCORDING TO SPECIFICATIONS.** Any person who shall construct or assist in constructing any sidewalk or crosswalk, or rebuild or assist in rebuilding any sidewalk or crosswalk, or make or assist in making any improvement whatever upon the streets avenues or alleys of the city shall do so in accordance with the maps, plans, specifications and profiles of the director of public works above mentioned, and the rules and directions herein contained. (Code 1984)

13-1A12. OBSTRUCTING SIDEWALKS. It shall be unlawful for any person to build or construct any step or other obstruction, whether temporary or permanent, or to store, leave or allow to be left any implements, tools, merchandise, goods, containers, benches, display or show cases, on any sidewalks or other public ways in the city or to obstruct the same longer than is necessary for loading or unloading any such article or object. (Code 1984)

13-1A13. SAME; EXCEPTION. The director of public works may authorize the granting of temporary permits in connection with a building or moving permit for limited times only to the owner of property abutting on any sidewalk to use or encumber such sidewalk or public way of the city during the construction of any building or improvement thereon. No permit shall be issued for such purpose until plans for warning and safeguarding the public during such use of sidewalks shall have been submitted by the owner or his or her contractor and approved by the city council. (Code 1984)

13-1A14. SIDEWALKS COVERED WITH EARTH. No lot or piece of land abutting on any sidewalk shall be allowed to become or remain in such condition that earth or other substance therefrom shall accumulate on the sidewalk and it shall be the duty of the owner of such lot or piece of land to place the same in such condition as to prevent the accumulation of such earth or other substance on such sidewalk. (Code 1984)

13-1A15. VIOLATION. For the violation of sections 13-1A08 and 13-1A11:1A14 of this article each day that the work is left in a condition unsatisfactory to the city inspector shall be considered a separate violation under this article with the exception that each such day shall not be considered a separate violation where repair work in accordance with city specifications and requirements has been commenced. (Code 1984)

13-1A16. SNOW AND ICE TO BE REMOVED. It is hereby made the duty of the owner and of the occupant of any lots abutting upon any sidewalks to cause all snow and ice to be removed from such sidewalks within five hours from the time that snow has fallen or ice has accumulated. If the snow falls or ice accumulated upon said sidewalks in the nighttime, removal of the snow or ice shall be made within five hours after sunrise on the following day. (Code 1984)

13-1A17. SAME; REMOVAL BY CITY. If any owner or occupant of any lot or lots shall refuse or neglect to clean or remove all snow and ice from the sidewalk abutting said lot or lots, within the time specified, the city may remove the snow and ice from sidewalks and the costs of the removal shall be assessed against such abutting lot or lots and such cost shall be collected in the same manner as other taxes. (Code 1984)

ARTICLE 2. STREETS

13-201. GENERAL SUPERVISION. The supervision and control of the construction, alteration, maintenance and repair of all streets, bridges,

Repealed by:
ORDINANCE NO. 847 C
Adopted: 4/15/85
Effective: _____

tunnels, sidewalks, curbs and gutters and other public thoroughfares and other public rights-of-way of the city shall be under the direction of the director of public works who shall, in addition to the provisions of this chapter, enact such regulations by resolutions of the governing body as are required. (Code 1973, 13-101)

13-202. PUBLIC IMPROVEMENT CONSTRUCTION STANDARDS INCORPORATION. There is hereby incorporated by reference, for the purposes of regulating the design, construction, alteration and repairs of streets, that certain construction standards known as the "Public Improvement Construction Standards" adopted May 2, 1984, by the governing body of the City of Leawood, Kansas. No fewer than three copies of the construction standards shall be marked or stamped "Official Copy as adopted by the Code of the City of Leawood, Kansas," and be filed with the city clerk to be open for inspection and available to the public at all reasonable hours. (Code 1984)

13-203. SAME; SPECIFICATIONS, FILE. There shall be maintained in the office of the director of public works a file of specifications for streets, curbs and gutters which shall have been adopted by the governing body as set out in the "Public Improvement Construction Standards" incorporated herein by reference in section 13-202. (Code 1984)

13-204. CUTTING OR TUNNELING OF PUBLIC STREETS. No person shall make or cause to be made any cut, excavation or tunnel in, through or under any street, sidewalk, alley or other public place or public rights-of way in the city for any purpose whatsoever without a permit therefor first being obtained from the director of public works. (Code 1973, 13-301; Code 1984)

13-205. SAME; PERMIT. Rules and regulations for obtaining permits to cut, excavate or tunnel streets shall be as follows:

(a) No permit shall be issued unless an application be made in writing by the person desiring to make the cut, excavation or tunnel, accompanied by a map or diagram showing the location of the proposed cut, excavation or tunnel in such a manner that the house number or lot number in front of which said excavation, cut or tunnel is to be made shall be plainly indicated. The map or diagram shall also show the dimensions and character of the proposed cut, excavation or tunnel. The application shall set forth the purposes for which the cut, excavation or tunnel is made and any other information indicating the need therefor.

(b) No permit for cuts in, or excavations through any paved portion of any street in the city shall be issued unless necessity therefor is shown and such necessity is certified by the director of public works before such permit is issued by the director of public works.

(c) The application for permit shall be accompanied by certificates of insurance insuring the applicant with limits as follows:

(1) Public liability - \$100,000 to any one person, and \$300,000 for any one accident;

(2) Property damage - \$100,000.

(Code 1973, 13-302; Code 1984)

- 13-206. PERMIT REQUIRED. It shall be unlawful to construct, reconstruct or repair any street within the city until the plans first have been approved by the director of public works and a permit issued for such work by the director of public works. (Code 1984)
- 13-207. PERMIT FEES AND DEPOSITS. (a) The fees and/or deposits for any permit issued under the provisions of this article are as set forth in the Fee Schedule established and maintained by the city administrator, as prescribed in section 1-701.
(b) In addition to the permit fees required by this section, the city administrator, at his or her discretion, may require the person seeking a permit to post a bond in an amount set by the city administrator.
(Code 1984)
- 13-208. MANNER OF EXCAVATING AND TUNNELING. The person making the cut, excavation or tunneling in any street, sidewalk, alley or public place shall cause the same to be done with the least possible injury to the street, sidewalk, alleys or public places and shall place the excavated material therefrom in such manner as to cause the least inconvenience to the public and to permit uninterrupted passage of water along the gutters. Broken pavement shall be completely removed from the site of the work. The excavation or trench shall have straight vertical sides and shoring, siding and bracing shall be used to prevent cave-ins. No tunnel, bore, or any other subsurface excavation shall be made, constructed or placed so that any portion or point of it lies closer than two feet to the overlying surface of the pavement. In the event tunneling excavations exceed six inches in diameter, backfilling shall be done by forcing sand, rock dust or other inert materials by means of air pressure to fill all voids left by the tunneling operation. Police, fire and street department officials shall be notified when a road, street, alley or boulevard is blocked or opened to traffic. (Code 1973, 13-304)
- 13-209. (Reserved)
- 13-210. CLEAN UP. Within five working days after completion of pavement repairs or any portion thereof all equipment, debris and surplus excavated material shall be completely removed from the site. (Code 1973, 13-306)
- 13-211. MARKING EXCAVATION. (a) Every person, firm or corporation who shall for any purpose make or cause to be made any excavation in, upon, under, or adjoining any street, sidewalk, alley, or other public place, and shall leave any part or portion thereof open, or shall leave any part or portion thereof obstructed with rubbish, building or other material during the nighttime, shall cause the same to be enclosed with good, substantial and sufficient barriers not less than three feet high and shall cause one red light or pot torch to be securely and conspicuously posted in or near the excavation, building material, or obstruction. If the obstruction extends over 10 feet and less than 50 feet in length, two red lights or pot torches shall be

placed one at each end. One additional red light or pot torch shall be placed for each additional 50 feet of obstruction or part thereof. All such lights or torches shall be lit from sunset to sunrise.

(b) Whenever a person shall excavate the full width of any street, alley, sidewalk or public place, he or she shall maintain a substantial walkway or driveway across said excavation until it is refilled. (Code 1973, 13-307)

13-212. **REPLACEMENT OF STREET.** The replacement of all pavement and resurfacing including the fill and base course shall be performed by the person making the cut, excavation or tunneling within five days, exclusive of Saturdays, Sundays and holidays, after the refilling of the excavation. The resurfacing material shall match the general surfacing in quality and appearance and shall be approved upon completion by the director of public works.

(a) In the event the fill and pavement replacement is disapproved by the public works director, or in the event of subsequent deterioration of the surface due to the cut, excavation or tunnel, within a period of 24 months after acceptance of the work by the city, the public works director shall request the person making such cut, excavation or tunnel to repair the defect, and if within a reasonable time, repairs are not commenced and diligently prosecuted to completion, the public works department shall repair the defect and levy the cost of said repairs against the deposit set forth in section 13-206.

(b) The city shall be reimbursed for the actual costs incurred by the city for repairs performed by the street department of the city. Any person receiving a permit under the provisions of this article shall file a bond with the public works director in an amount sufficient to cover the estimated cost of work.

(Code 1973, 13-308; Code 1984)

13-213. **PROVISIONS APPLICABLE TO STREET AREAS.** The provisions of this article shall apply to all paved surfaces, including curbs and sidewalks, the areas beneath them and to all unpaved shoulders or parkways lying within the public right-of-way. (Code 1973, 13-309; Code 1984)

13-214. **EMERGENCY CUTS.** Cuts and excavations may be made by or on behalf of any public utility without prior permit or deposits when necessary, in the opinion of such utility, to prevent loss or damage to property or life; Provided, That the utility:

(a) Immediately notify the police department and fire department that the cut is being made; and

(b) Obtain a permit and make the deposits required not later than the next business day following any such cut or excavation.

(Code 1973, 13-310; Code 1984)

13-215. **DEPOSITING OF MATERIAL IN CURBS AND GUTTERS AND EXCEPTIONS.** No person, firm or corporation shall cause or permit the curbs and gutters in the city to be filled with any material which tends to restrict or divert the flow of water therein except that the public works director or his or her duly authorized representative may upon request grant written permission for an exception thereto. (Code 1973, 13-311; Code 1984)

- 13-216. ALTERING DRAINAGE. No person shall change or alter any gutter, storm sewer, drain or drainage structure which has been constructed, or is being lawfully maintained or controlled by the city unless such change or alteration has been authorized or directed by the public works director. (Code 1984)
- 13-217. BUILDING MATERIALS IN STREET. Any person, firm or corporation desiring to use the sidewalk or any part of the street for the temporary deposit of building material during the construction or repair of any building, or during the temporary use of any sidewalk while excavating any cellar, shall apply to the director of public works for permission for such use. Upon such an application, the director of public works may grant permission to use the street and/or sidewalk temporarily for the purpose to be named. Not more than 1/3 of the width of the street shall be used, and in case the sidewalk is obstructed, a temporary walkway shall be provided around such obstruction, and the gutter shall be kept open for flow of water. No person shall use or temporarily appropriate any sidewalk or street or any material part thereof without the consent of the director of public works. Upon the completion of any building, the material in the street shall be removed within 10 days. Any such obstruction shall be adequately lighted from ½ hour after sunset to ½ hour before sunrise to give warning to the drivers of vehicles. (K.S.A. 12-1630; Code 1984)
- 13-218. COMMERCIAL USE OF STREET. No person may use any portion of any sidewalk or street right-of-way for the purpose of displaying or offering for sale wares, goods, merchandise or other items. Nothing in this article, however, shall be construed as prohibiting the governing body from waiving the prohibition of this section in connection with community promotions or community-wide celebrations when such waiver is considered to be in the best interest of the city. (Code 1984)
- 13-219. DANGEROUS OBJECTS IN. It shall be unlawful for any person to place, throw or cause to be placed or thrown in or on any street, alley, sidewalk or other public grounds of the city, any glass, tacks, nails, bottles, wire or other dangerous objects that might wound any person or animal, or cut or puncture any pneumatic tire while passing over the same. (Code 1984)
- 13-220. HARMFUL PRODUCTS IN STREETS. It shall be unlawful for any person, firm or corporation to deposit or throw any waste oil, fuel oil, kerosene, gasoline or other products of petroleum or any acids into or upon any street or public grounds of the city, or willfully to permit the same to be spilled, dripped or otherwise to come into contact with the surface of any street, alley, or sidewalk within the city. (Code 1984)
- 13-221. BURNING IN STREETS. It shall be unlawful for any person to make or cause to be made any fire upon any of the paved streets, alleys, or street intersections within the city. (Code 1984)
- 13-222. HAULING LOOSE MATERIAL. It shall be unlawful to haul over the streets or alleys of this city any loose material of any kind except in a

vehicle having a tight box so constructed as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alleys. (Code 1984)

13-223. **OBSTRUCTING RAIL CROSSING.** It shall be unlawful for any railroad company or any person operating a railroad in the city, to allow its trains, engines or cars to stand upon any crossing or street in excess of 10 minutes at any one time without leaving an opening in the traveled portion of the street or crossing of at least 30 feet wide. (Code 1984)

13-224. **TRAIN CREW; WARNING.** It shall be unlawful for the conductor or engineer of any train, engine or moving cars not preceded by an engine to cross any street, alley or public place without causing a person to be stationed upon the end of the first car or at the crossing to warn of the approaching cars. (Code 1984)

ARTICLE 3. RESERVED

ARTICLE 4. TREES AND SHRUBS

13-401. **DEFINITIONS.** For purposes of this article, the following terms shall have the following meanings:

(a) Street Trees shall mean trees, shrubs, bushes, and all other woody vegetation within the street right-of-way. (Code 1984)

13-402. **STREET TREES; PERMITTED SPECIES.** The following list constitutes the official street trees species. No species other than those included in this list may be planted as street trees without the written permission of the city.

| | |
|--------------------------|----------------------|
| Hawthorn (sp.) | Pagodatree, Japanese |
| Goldenraintree | Sweet Gum |
| Pear, Bradford | Maple, Sugar |
| Redbud | Oak, Pin |
| Ash, Green | |
| Linden or Basswood (sp.) | |
| Oak, English | |
| Oak, Red | |

(Code 1984)

13-403. **SAME; SPACING.** The minimum spacing of street trees shall be 40 feet. (Code 1984)

13-404. **PLACEMENT OF TREES.** No street tree shall be planted:

- (a) Closer than five feet from any street pavement or curblines;
- (b) Within 35 feet of any street corner, measured from the point of nearest intersecting curbs or curblines;
- (c) Within 10 feet of any fire hydrant;
- (d) Under or within 10 lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.

(Code 1984)

- 13-405. CARE OF STREET TREES. It shall be the responsibility of the adjacent landowner and/or homes association to plant, prune, maintain and remove street trees. The city shall have the right to prune, maintain and remove trees, plants and shrubs or any part thereof within the right-of-way of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety. The city may remove, or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to city sewers (sanitary or storm), or other public improvements. (Code 1984)
- 13-406. TREE-TOPPING UNLAWFUL; EXEMPTION. It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, part tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the director of public works. (Code 1984)
- 13-407. DUTY TO PRUNE OVERHANGING TREES. Every owner and/or homes association of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp, obstruct the view of any street intersection or obstruct any public sidewalk and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign and any public sidewalk. (Code 1984)
- 13-408. DISEASED, DEAD TREES; DUTY TO REMOVE. The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The city will notify in writing the owners of such trees. Removal shall be done by the owners at their own expense within 60 days after the date of service of notice. (Ord. 648, Sec. 11)
- 13-409. SAME; FAILURE TO COMPLY. Upon the failure of a person who is under the duty to remove a dead or diseased tree pursuant to section 13-408 to so remove, the city shall have the authority to remove such trees and to charge the cost of removal against the owner. The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs of removal and the county clerk shall extend the same on the tax roll of the county against the lot or parcel involved. (Ord. 648, Sec. 11)

13-410. REMOVAL OF STUMPS. All stumps of street trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (Ord. 648, Sec. 12)

13-411. INTERFERENCE WITH CITY UNLAWFUL. It shall be unlawful for any person to prevent, delay, or interfere with the governing body, or any of its agents, while engaging in and about the pruning, or removing of any street trees. (Code 1984)

CHAPTER XIV. TRAFFIC

- Article 1. Standard Traffic Ordinance
- Article 2. Local Traffic Regulations
- Article 3. Parking
- Article 4. (Reserved)
- Article 5. Impoundment of Motor Vehicles (Reserved)
- Article 6. Parade Regulations

ARTICLE 1. STANDARD TRAFFIC ORDINANCE

14-101. INCORPORATING STANDARD TRAFFIC ORDINANCE. There is hereby

Repealed by:

ORDINANCE NO. 943C

Adopted: 11/3/86

Effective: _____

incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Leawood, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 1985, prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. 12-3009 through 12-3012, inclusive, as amended. No fewer than three copies of said standard ordinance shall be marked or stamped "Official Copy," 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. (Code 1984)

14-101.1

14-102.

added by Ord. 857C, 7/1/85 repealed by 943C 11/3/86
AMENDMENTS; SPEED LIMITS. Section 33 of the Standard Traffic Ordinance incorporated in section 14-101 of this article shall be amended to read as follows:

Repealed by:

ORDINANCE NO. 943C

Adopted: 11/3/86

Effective: _____

Sec. 33. Maximum Speed Limits. (a) Except when a special hazard exists that requires lower speed for compliance with Section 32, the limits 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) All vehicles 20 miles per hour in any business district.
- (2) All vehicles 20 miles per hour in any park under the jurisdiction of this city.
- (3) All vehicles 20 miles per hour during those hours when students are going to and from school of any day school is in session, upon streets and/or parts of streets abutting school property and adjacent to school crosswalks designated as school zones; provided that appropriate signs are erected giving notice of such speed limits and the times said limits are in force, said times to be determined by the chief of police with the consent of the city council.
- (4) All vehicles 25 miles per hour in any residential district and on other streets within the city except where modified by engineering and traffic investigation as provided hereafter in subsection (b) of this section.

The maximum speed limit established by or pursuant to this paragraph shall be of force and effect regardless of whether signs are posted giving notice thereof and notwithstanding any signs giving notice of maximum speed limits in excess thereof, and any sign giving notice of a maximum speed limit in excess of the limits established by or pursuant to this paragraph shall not be of any force or effect, subject to the following exception.

(b) The chief of police is hereby authorized and empowered to designate maximum speed zones when he or she shall find and determine that such regulation is necessary for safety purposes or to expedite traffic, to the extent any such regulation is not in conflict with any law of the city. The chief of police shall, following ratification of his or her designations under this subsection by the governing body, place and maintain the necessary traffic-control signs and devices.

(c) Whenever the chief of police shall determine upon the basis of an engineering and traffic investigation that any speed limit herein set forth is greater or less than is reasonable or safe under the conditions found to exist, the governing body shall declare by resolution a reasonable and safe speed limit consistent with applicable state and local statutes which shall be effective at all times or during daytime or nighttime or at such other times as may be determined when appropriate signs giving notice thereof are erected pursuant to council action and K.S.A. 8-1560 and 8-2002. It shall be unlawful for any person to drive a vehicle at a speed in excess of such declared maximum limits.

(d) No person shall drive a school bus to or from school or interschool or intraschool functions or activities at a speed greater than 45 miles per hour on any roadway having dirt, sand or gravel surface, and in no event shall a school bus be driven to and from school or activities in excess of 55 miles per hour, notwithstanding any maximum speed limit in excess thereof. The provisions of this subsection shall also apply to buses used for the transportation of students enrolled in community junior colleges or area vocation schools when such buses are transporting students to or from school functions or activities.

(Ord. 763; Code 1984)

Repealed by: 14-103.
ORDINANCE NO. 943C
Adopted: 11/3/86
Effective: 14-104.

SAME; RACING ON HIGHWAYS. The title of said Article 7, Section 37 is hereby changed to read as follows: Racing on Highways; Drag Race, Racing, Exhibition of Speed or Acceleration. (Ord. 763)

SAME; CERTAIN TIRES PROHIBITED. Article 17, Section 178(c)(3) is hereby deleted and the following enacted in lieu thereof;

Repealed by: 943C
ORDINANCE NO. 943C
Adopted: 11/3/86
Effective: 11/3/86
(3) Pneumatic tires having metallic or non-metallic studs designed to improve traction without materially injuring the surface of the highway. Any such tires must be approved by the State Secretary of Transportation pursuant to duly adopted rules and regulations, and their use limited from November 1 to April 15, on only such vehicles as approved by the State Highway Commission. (Ord. 763)

14-105 & 106 added by Ord. 857C, 7/1/85 repealed by 943C 11/3/86

ARTICLE 2. LOCAL TRAFFIC REGULATIONS

Repealed by 14-201. PENALTIES. Unless otherwise specified, the penalties for violation of
ORDINANCE NO. 131C any provision of this article will be the same as set out in section 14-105 of
Adopted: 9/8/92 this chapter. (Code 1984)
Effective: _____

14-202. RESTRICTIONS ON USE OF CONTROLLED-ACCESS FACILITY OR ROADWAY SIGNS. (a) The governing body by ordinance may regulate or prohibit the use of any controlled access facility or roadway under its jurisdiction, by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

(b) Whenever adopting any such prohibitory regulation the governing body shall erect and maintain official traffic-controlled devices on the controlled-access facility or roadway on which such regulations are applicable, and when so erected no person shall disobey the restrictions stated on such devices.
(Code 1973, 14-208)

14-203. PUSHING VEHICLES. No vehicle shall be pushed for a distance exceeding 300 feet nor for any distance at a speed exceeding 20 mph. (Code 1973, 14-205)

14-204. BRIDGE WEIGHT RESTRICTIONS. Upon recommendation of the city engineer with respect to bridges under the jurisdiction of the city, the governing body may by resolution impose restrictions as to the maximum gross weight of vehicles operated thereon. (Code 1973, 14-206)

14-205. REGULATION OF TRUCK TRAFFIC. Regulations of truck traffic in the city shall be as follows:

Repealed by: _____
ORDINANCE NO. 1005C
Adopted: 10/6/87
Effective: _____
(a) Regulation of Truck Traffic. No vehicle or truck, including trailers or attachments, carrying a manufacturer's rating of one ton or more, other than those carrying passengers or constructed to carry passengers, shall be allowed to enter the city, except for vehicles carrying goods, merchandise, building material or other articles to be delivered in the city: provided, that there are signs setting forth the regulation posted upon the streets of entry into the city.

(b) Exceptions. The following streets shall be exempt from the above regulations: State Line Road, Somerset Drive, 103rd Street, I-435, K-150, Mission Road from 103rd Street north, Nall, Roe, and 119th Street from Mission Road to Roe Avenue.
(Ord. 819, Sec. 2)

14-206. MAIN TRAFFICWAYS. The following list of streets are hereby designated as main trafficways with primary functions of said trafficways for the moving of thru traffic between areas of concentrated activities and

Repealed by: _____
ORDINANCE NO. 1075
Adopted: 10/17/88
Effective: _____

between such areas within the city and traffic facilities outside the city all pursuant to K.S.A. 12-685:

- Repealed by: _____
ORDINANCE NO. 1073C
Adopted: 10/17/88
Effective: _____
- (a) Lee Boulevard;
 - (b) 103rd Street;
 - (c) Mission Road;
 - (d) 123rd Street;
 - (e) 95th Street;
 - (f) College Boulevard (111th Street);
 - (g) Roe Avenue;
 - (h) That part of 119th Street between Mission Road and Roe Avenue within the city.
 - (i) 143rd Street.
- (Ord. 453, Ord. 464, Ord. 702, Ord. 737, Ord. 794)

14-207. UNFINISHED PAVEMENT. No person shall walk upon, drive or ride over or across any pavement, sidewalk or incomplete grading which has not been opened for traffic. (Code 1984)

ARTICLE 3. PARKING

14-301. DEFINITIONS. For the purpose of this article, the following words shall mean:

(a) Truck: Any self-propelled motor vehicle designed for or used for the transportation or delivery of freight and merchandise with a gross weight in excess of three-quarter ton.

(b) Bus: A self-propelled motor vehicle designed for or used for the transportation of passengers exceeding any of the following: 25 feet in overall length, or eight feet in height, or gross weight of 3,000 pounds per axle.

(c) Trailer: A vehicle without motive power designed for or used for the carrying of property or containing living quarters exceeding any of the following: 25 feet in length, eight feet in height, or gross weight of 3,000 pounds per axle.
(Ord. 573)

14-302. PARKING OF TRUCKS, BUSES, AND TRAILERS. No person shall park any of the named vehicles in section 14-301 on any street of the city, or upon any lot, improved or unimproved, in a residential area of the city except for the purpose of making a delivery or pickup provided such vehicles are not left continuously parked between the hours of 11:00 p.m. and 6:00 a.m. and except for parking of recreational vehicles as provided in Article 4 of this chapter.
(Ord. 573)

14-303. ANGLE PARKING. Angle parking, except where driveways exist, shall be permitted as follows:

(a) On the east side of Lee Boulevard in front of the city hall and in front of the adjoining parking lot to the south;

(b) On the west side of Lee Boulevard adjacent to the north 45 feet of Lot 67 Leawood, and from the north line of Lot 67 Leawood, an additional

213 feet northwards, adjacent to portions of Lots 68, 69 and 70 Leawood, measured at the edge of the right-of-way. Nothing in this section shall be construed to permit the parking of other than private passenger vehicles;

(c) On the south side of Somerset Drive adjacent to Lots 69 and 70 Leawood.

(Code 1973, 14-301)

14-304. **PARKING YARDS OR PARKWAYS.** In areas which are primarily residential in nature or specifically zoned R-1, no parking shall be permitted in the front, rear, or side yard except that parking of motor vehicle passenger cars, truck 3/4 ton or less, and motorcycles shall be permitted on the hard surfaced driveways of single family residences. (Ord. 573)

14-305. **RAMP PARKING.** Parking of vehicles on Lee Boulevard is hereby prohibited from the south lot line of Lots 1322 and 1328 Leawood Estates south to Indian Creek, the same being the ramps and elevated access to Leawood Park. (Code 1973, 14-306)

14-306. **BUS STOPS.** The governing body shall designate and establish by resolution zones or areas on the public streets for the stopping of buses for the safe and convenient loading and unloading of passengers. (Code 1973, 14-307)

14-307. **PARKING AND STANDING OF BUSES.** The driver of a bus shall not stand or park the same upon any street in any business district at any place other than at a bus stop, except that this provision shall not prevent the driver of any school bus from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in loading or unloading passengers. (Code 1973, 14-308)

14-308. **PARKING PROHIBITED.** It shall be unlawful to park, where signs are erected and maintained giving notice of prohibited parking, in the following streets:

Repealed by:
ORDINANCE NO. 10040
Adopted: 10/6/87
Effective: _____

- (a) State Line Road;
 - (b) That part of Mission Road north of 95th Street within the city;
 - (c) That part of 89th Street between State Line and Dykes Branch of Indian Creek within the city;
 - (d) The north side of that part of 96th Street between Lee Boulevard and State Line Road within the city; and
 - (e) That part of 97th Street between Lee Boulevard and High Drive within the city.
- (Code 1973, Ord. 573, Ord. 591, Ord. 616)

14-309. **TEMPORARY NO PARKING SIGNS.** Requests can be made to the police department for installation of temporary "No Parking" signs for special occasions, or to handle parking for unusually large crowds, but only if 72 hours advance notice is given in order to provide ample time for the departments involved to handle the details. In the event ample notice is not given and employee overtime is involved, such overtime will be charged to the citizen requesting such signs, unless waived by chief of police to expedite public safety provisions. (Ord. 575)

ARTICLE 4. RESERVED

ARTICLE 5. IMPOUNDMENT OF MOTOR VEHICLES (Reserved For Future Use)

ARTICLE 6. PARADE REGULATIONS

14-601. DEFINITIONS. The definitions of certain terms relating to parade regulations shall be as follows:

(a) Parade is any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display, in or upon any street, park or other public place in the city.

(b) Parade Permit is a permit as required by this article.

(c) Person is any person, firm, partnership, association, corporation, company or organization of any kind.
(Code 1973)

14-602. PERMIT REQUIRED, EXCEPTIONS. (a) No person shall engage in, participate in, aid, form or start any parade, unless a parade permit shall have been obtained from the chief of police.

(b) This article shall not apply to:

(1) Funeral processions;

(2) Students going to and from school classes or participating in education activities when such conduct is under the immediate direction and supervision of the proper school authorities;

(3) A governmental agency acting within the scope of its functions.

(Code 1973)

14-603. PROCEDURE. A person seeking issuance of a parade permit shall file an application with the chief of police on forms provided by such officer.

Repealed by:
ORDINANCE NO. 1264C
Adopted: 11/18/91
Effective: _____

(a) An application for a parade permit shall be filed with the chief of police not less than 48 hours before the date on which it is proposed to conduct the parade.

(b) The application for a parade permit shall set forth the following information:

(1) The name, address and telephone number of the person seeking to conduct such parade;

(2) If the parade is proposed to be conducted for, on behalf of, or by an organization, then the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible head of such organization;

(3) The name, address and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct;

(4) The date the parade is to be conducted;

(5) The route to be traveled, the starting point and the termination point;

(6) The approximate number of persons, animals and vehicles that will constitute such parade; the type of animals and description of the vehicles;

Repealed by:

ORDINANCE NO. 1264C

Adopted: 11/18/91

Effective:

- (7) The hours when such parade will start and terminate;
- (8) A statement as to whether the parade will occupy all or only a portion of the width of the streets to be traversed;
- (9) The location by streets of any assembly areas for such parade;
- (10) The time at which units of the parade will begin to assemble at any such assembly area or areas;
- (11) The interval of space to be maintained between units of such parade;
- (12) If the parade is designed to be held by, and on behalf of or for any person other than the applicant, the applicant for such permit shall file with the chief of police a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his or her behalf;
- (13) Any additional information which the chief of police shall find reasonably necessary to a fair determination as to whether a permit should issued.

(c) The chief of police, where good cause is shown therefor, shall have the authority to consider any application hereunder which is filed less than 48 hours before the date such parade is proposed to be conducted.

(d) There shall be paid at the time of filing the application for a parade a permit fee of \$10.
(Code 1973)

14-604. STANDARDS FOR ISSUANCE. The chief of police shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, he or she finds that:

- (a) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;
- (b) The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than to be occupied by the proposed line of march and areas contiguous thereto;
- (c) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas; and
- (d) The conduct of such parade will not interfere with the movement of firefighting equipment enroute to a fire.
(Code 1973)

14-605. APPLICATION FOR PARADE: DECISION BY THE CHIEF OF POLICE. The chief of police shall act upon the application for a parade within a reasonable time after the filing thereof. (Code 1973)

14-606. APPEAL PROCEDURE. Any person aggrieved shall have the right to appeal the denial of a parade permit to the governing body. The appeal shall be taken within 10 days after notice. (Code 1973)

14-607.

ALTERNATIVE PERMIT. The chief of police, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within 10 days after notice of the action of the chief of police, file a written notice of acceptance with the chief of police. An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit under this article. (Code 1973)

14-608.

NOTICE TO CITY AND OTHER OFFICIALS. Immediately upon the issuance of a parade permit the chief of police shall send a copy thereof to the following:

Repealed by:

ORDINANCE NO. 1264c

Adopted: 11/18/91

Effective: _____

- (a) Mayor;
- (b) City clerk;
- (c) City attorney;
- (d) City engineer;
- (e) Fire chief.

(Code 1973)

14-609.

CONTENTS OF PERMIT. Each parade permit shall state the following information:

- (a) Starting time;
- (b) Minimum speed;
- (c) Maximum speed;
- (d) Maximum interval of space to be maintained between the units of the parade;
- (e) The portions of the streets to be traversed that may be occupied by the parade;
- (f) The maximum length of the parade in miles or fractions thereof;
- (g) Such other information as the chief of police shall find necessary to the enforcement of this article.

(Code 1973)

14-610.

DUTIES OF PERMITTEE. A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.

(a) The parade chairperson or other person heading or leading such activity shall carry the parade permit upon his or her person during the conduct of the parade.

(Code 1973)

14-611.

PUBLIC CONDUCT DURING PARADES. The following rules of public conduct shall be observed during parades:

(a) No person shall unreasonably hamper, obstruct or impede, or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.

(b) No driver of a vehicle, streetcar or trackless trolley shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

(c) The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or

Repealed by:

ORDINANCE NO. 1264c

Adopted: 11/18/91

Effective: _____

part thereof constituting a part of the route of a parade. The chief of police shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this article.
(Code 1973)

Repealed by: 14-612.
ORDINANCE NO. 1264C
Adopted: 11/18/91
Effective: _____

REVOCATION OF PERMIT. The chief of police shall have the authority to revoke a parade permit issued hereunder upon application of the standards for issuance as herein set forth. (Code 1973)

CHAPTER XV. UTILITIES

- Article 1. Leawood Sanitary Sewer System
- Article 2. Private Sewage Disposal System
- Article 3. Storm Sewers
- Article 4. Solid Waste

ARTICLE 1. LEAWOOD SANITARY SEWER SYSTEM

15-101. APPLICATION. (a) The provisions of this article shall apply to all property within the city limits which lies north of I-435, not within the Johnson County Wastewater District and which also lies within that property described in Ord. 226, passed by the governing body on January 20, 1964.

Repealed by:

ORDINANCE NO. 1109C

Adopted: 7/17/89

Effective:

(b) For purposes of administering the Leawood sewer system, the system shall be divided into sewer districts. Each district shall be comprised of the sanitary sewer network for a natural drainage area. The existing system is hereby divided into the Dykes Branch Sewer District and the James Branch Sewer District as shown on that certain map of the Leawood Sewer System adopted by the governing body.

(Code 1973, 12-112; Code 1984)

15-102. DEFINITIONS. For the purposes of this article, the following terms shall have the meanings ascribed to them in this section, unless the context requires otherwise.

(a) Average Domestic Sanitary Wastes. Wastewater that has a BOD measurement of 300 milligrams per liter (mg/l) and a suspended solids concentration of 400 mg/l.

(b) BOD. The Biochemical Oxygen Demand which is the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter (mg/l).

(c) BOD Charge. The amount of charge per pound of BOD calculated as the cost of operation and maintenance allocated to the receipt, treatment and processing of each pound of BOD.

(d) Clean Water Act. The Federal Water Pollution Control Act, Public Law 92-500, and the Clean Water Act of 1977, Public Law 95-217, all as amended and codified in 33 U.S.C. Sec. 1251 et seq.

(e) Customer Service Cost. The amount of charge allocated for that portion of the operation and maintenance costs attributable to services performed in the administration of accounts of the users, including billing, mailing and information services.

(f) Discharge. The introduction of or addition of any wastewater or other substance, whether liquid, solid or gas, into the wastewater treatment facilities of the Leawood sanitary sewer system.

(g) Operation and Maintenance Cost. All expenditures during the useful life of the sewer system for materials, labor, utilities, and other items which

are necessary for management and maintenance of the sewer system to achieve the capacity and performance for which such facilities were designed and constructed and shall include replacement costs which are expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the wastewater treatment facilities to maintain the capacity and performance for which such facilities were designed and constructed but shall not include major capital improvement or expenses.

(h) Pollutant. Any substance discharged into water which alters the chemical, physical, biological or radiological integrity of the water.

(i) Residential User. Any user which is a single family or multi-family dwelling which is used solely as a personal residence of the occupants but shall not include any commercial or institutional dwelling such as a hotel, motel, dormitory or care facility.

(j) Shall is mandatory; May is permissive.

(k) Sewer System. Sanitary sewers, mains, pumping stations, treatment works, storage facilities, and all other appurtenances to the collection, storage, treatment and disposal of sewage or wastewater.

(l) Suspended Solids (ss). Solids that either float on the surface of or are in suspension in water, wastewater, or other solids and which are removable by laboratory filtering.

(m) Suspended Solids Charge. That amount of charge per pound of suspended solids calculated as the cost of operation and maintenance allocated to the receipt, treatment and processing of each pound of suspended solids.

(n) Unit Cost. The amount of operation and maintenance cost allocated per unit to the determined component parts of the level and type of service provided; including the wastewater load, the character of the discharge and the customer account administration.

(o) Useful Life. The estimated period during which a wastewater treatment facility will be operated without major renovations.

(p) User. Any person who is the owner or is in possession or control of any real estate property located within the prescribed service area of the sewer system of the city and who contributes wastewater into the sewer system.

(q) User Charge or User Charge System. The service charge, or system for establishment and assessment of the service charge, which is assessed to recover the cost of operation and maintenance of the sewer system and sewer services of the city based upon the allocation of costs to users of the sewer system in proportion of the use of sewer system by each user.

(r) Volume Charge. That amount of charge per 1,000 gallons of wastewater discharged calculated as the cost of operation and maintenance allocated to the receipt, handling, treatment and process of the volume and delivery flow rate or the discharge.

(s) Wastewater. All pollutant and waste carrying water, liquids or fluids discharged into, transported through, and treated by wastewater treatment facilities.

(Ord. 753)

15-103. ESTABLISHMENT AND ASSESSMENT OF USER CHARGE SYSTEM. For the purpose of paying for the costs of the operation and maintenance of the sanitary sewer system, including replacement, a user charge system is hereby established and a user charge is hereby assessed upon each user of the sanitary sewer system of the city in an amount and to be collected in the manner as hereinafter provided. (Ord. 753)

15-104. USER CHARGE RATE. The user charge shall be based upon the actual cost of service provided by the city to each user and shall be determined as provided in this section.

The director of public works, or his or her authorized designate, utilizing the prevailing standards of engineering practice, shall allocate the total annual operation and maintenance costs incurred by the city, including those costs of treatment allocated and assessed to the city by Kansas City, Missouri, to the cost components of volume, BOD, suspended solids, customer services, direct treatment costs, replacement, and infiltration and inflow. The director of public works shall then determine from actual use data or estimates, for each of the cost components, the per unit charge necessary for the city to recover funds sufficient to pay the total annual operation and maintenance costs and shall certify the per unit charges to the city council.

No later than the first duly scheduled meeting of September of each year, the city council shall adopt, by separate ordinance, the per unit charges certified by the director of public works and shall publish the ordinance once each week for two consecutive weeks in the official newspaper of the city.

The city clerk, or its authorized designate, shall maintain a current list of all users of the sewer system of the city and shall, no less frequently than once each year, obtain from the user, from water suppliers, or from testing and monitoring by the city or other governmental agency, sufficient data and information to determine the use of the sewer system by each user. (Ord. 753)

15-105. USER CHARGE CALCULATION. Each user of the sewer system of the city shall pay, within 30 days after receipt of the user charge bill, the user charge calculated in accordance with this section.

(a) Residential Users. Each residential user shall pay as a user charge that amount calculated from the following formula:

$$UC = (V_C \times 4V) + CSC + R + II$$

Where:

UC = User Charge in dollars;

V_C = The certified per unit volume charge;

V = The total volume of wastewater discharged by the user measured in 1,000 gallons and determined from water meter data during the months of January, February, and March of each year;

CSC = The certified customer service charge;

R = The certified per unit replacement charge; and

II = The certified per unit cost for infiltration and inflow.

In the event that sufficient water meter data is not available for any residential user, V shall equal the average volume of wastewater discharged by all residential users.

(b) All Other Users. All users other than residential users shall pay as a user charge that amount calculated from the following formula;

$$UC = (V_c \times V) + (BOD_c \times BOD) + (SS_c \times SS) + CSC + R + II$$

Where:

UC = User charge in dollars;

V_c = The certified per unit volume charge;

V = The volume of wastewater discharged by the user, measured in 1,000 gallons, during the year as determined from water meter data;

BOD_c = The certified per unit BOD charge; as determined from charges established by Kansas City, Missouri;

BOD = The number of pounds of BOD in excess of average domestic strength discharged by the user during the billing year;

SS_c = The certified per unit SS charge; as determined from charges established by Kansas City, Missouri;

SS = The number of pounds of suspended solids in excess of average domestic strength discharged by the user during the billing year;

CSC = The certified per customer service charge;

R = The certified per unit replacement cost; and

II = The certified per unit cost for infiltration and inflow.

In the event that a user subject to this section shall have a consumptive use of water or in some other manner uses water which is not returned to the wastewater collection system, the volume factor of the user charge may be determined by the user in a manner approved by the director of public works.

(c) Additional Charges. In addition to the amount calculated under subsections A and B of this section, a user shall pay as an additional user charge any treatment cost determined by the city to have been incurred by the city as a result of any pollutant discharged by that user.

(d) Minimum Charge. A minimum user charge to each user shall be equal to $CSC + R + II$, where CSC is the customer service charge, R is the per unit replacement cost, and II is the per unit cost for infiltration and inflow.

(e) Unavailable Data. In the event that sufficient data is unavailable to the city to accurately determine the volume usage of any user, then the user charge for such user shall equal:

$$(V_c \times 4V_a) + CSC + R + II$$

Where:

V_c = the certified per unit volume charge;

V_a = The average volume of wastewater discharged by similar users, measured in 1,000 gallons and determined from water meter data during the months of January, February, and March of each year;

CSC = The certified customer service charge;

R = The certified per unit replacement charge; and

II = The certified per unit cost for infiltration and inflow.

(Ord. 753)

15-106.

BILLING AND COLLECTION. (a) Procedure. The user charge provided for in this article shall be calculated and billed by the city clerk, or its authorized designate, annually, and the clerk shall cause a billing statement to be mailed to the user stating the total amount of the user charge to be paid and showing the figures used to calculate the user charge.

(b) Collection. The user charge shall be paid to and collected by the city clerk within 30 days after receipt of the billing statement by the user. any payment not received within 30 days after receipt of the billing statement shall be deemed delinquent and the city clerk and city attorney shall take such action as is necessary to collect the delinquent charges.

(c) Late Payment Penalty. A late payment penalty of 10% of the user charge will be assessed for each 90 day period for which the payment of a user charge is delinquent. The late payment shall be assessed and billed on the next regular user charge billing.
(Ord. 753)

15-107. **ADJUSTMENTS AND REVIEW.** Any user may apply to the director of public works for a review and adjustment of the user charge assessed to the user. The director of public works shall review the user charge assessed and shall provide the user an opportunity to submit data and documentation to justify the requested adjustment. If the director finds that the adjustment is justified, he or she shall issue a certificate to the city clerk specifying the adjustment and reasons therefor. If the director finds that the adjustment is not justified, he or she shall refuse any adjustment. The decision of the director shall be final. (Ord. 753)

15-108. **USE OF PROCEEDS.** The city clerk shall, upon receipt of any payment of user charges assessed under this article, deposit the proceeds from such payments into an account designated as the sewer operation, maintenance, and replacement account of the city. At least once annually, the city council shall audit the account to ensure that the amounts collected are sufficient to satisfy the operation and maintenance costs of the city, and shall designate that portion of the account to be used as a replacement fund. The proceeds of the account shall be used only for the purpose of paying the operation, maintenance and replacement costs of the city, including contract costs for treatment with Kansas City, Missouri. Any adjustments necessary to the account shall be made and adjusted annually in the determination of cost allocations and unit charges. (Ord. 753)

15-109. **ENFORCEMENT AND PENALTY.** The city council, after notice and opportunity for hearing as hereinafter provided, and upon a finding by the council that a user charge levied by or under the provisions of this article is overdue and unpaid, may issue an order directing that sewer system services be disconnected to the user not paying the charge unless, within 30 days of receipt of the order by the user, or person in charge thereof, the user charge is paid in full, together with any penalties, or the user demonstrates sufficient cause why the property should not be disconnected.

Notice of the intent to issue an order pursuant to this section shall be given at least 20 days prior to issuance of the order to the user, in writing, sent by certified mail to the address of the real property for which the user charge was assessed or other known address of the user, and shall state:

(a) The intent of the city to issue an order directing that the property be disconnected unless the charge is paid in full, together with any penalties or unless cause is shown by the user not to disconnect the property;

(b) The date the council intends to issue the order; and

(c) That the user has the right to request within the 20 days an opportunity appear before the council and be heard to show cause by such an order should not be issued.

Sewer system services shall be reconnected to the user upon payment by the user of all due and unpaid user charges, late charge penalties, and all costs for disconnection and reconnection to the city. (Ord. 753)

- 15-110. SEWER CONNECTION CHARGE. The governing body shall from time to time establish just, reasonable and equitable connection charges and may issue permits for connections to said system. For other than standard four inch residential connection, the connection fee shall be in terms of equivalent four inch connections as determined by the governing body. Connection charges are established by the Fee Schedule as prescribed in section 1-701. Any unauthorized connections to said sewer system or any authorized connections violating any of the rules and regulations hereinafter adopted by the governing body shall be promptly disconnected and the cost thereof assessed against such property. (Ord. 501; Code 1984)
- 15-111. NONTAX FUNDS. No revenue derived from ad valorem taxes shall be used for the operation, maintenance or acquisition of sewer facilities. (Code 1973, 12-105)
- 15-112. DISBURSEMENTS. Disbursements from any sewer account shall be made by the written authorization of the mayor, city clerk and city treasurer after approval by the governing body. (Code 1973, 12-107)
- 15-113. CONTRACTS WITH OTHER POLITICAL SUBDIVISIONS. The governing body shall have authority to make contracts with persons, firms, corporations, boards of county commissioners, township trustees, sewer districts and other municipalities and political subdivisions whether within or without the State of Kansas for the use, maintenance and operation of such sewers and sewage facilities upon such terms and conditions and for such period of time as the governing body may deem necessary and proper. (Code 1973, 12-108)
- 15-114. FAILURE OF PERFORMANCE UNDER CONTRACTS. The governing body shall have authority upon the breach of any provision of a contract under section 15-113, providing for payment to the city, to declare that failure of the owner to satisfy the claim of the city for payment under the contract within 90 days of the date of presentment thereof, authorizes the city clerk to certify to the county clerk costs to be assessed as a special assessment against the property and entered on the rolls of the county. (Code 1973, 12-108.5)
- 15-115. AUTHORIZATION TO EXECUTE AGREEMENT WITH OTHER MUNICIPALITIES. The mayor is hereby authorized and directed to execute, on behalf of the city, an agreement of cooperation for sewage service with Kansas City, Missouri, a municipal corporation of the State of Missouri, to provide for the payment of a monthly sewer service charge, moneys for capital improvements, maximum sewer connections and the method of

payment therefor, all in accordance with the terms and conditions of the agreement attached hereto and made a part hereof. (Code 1973, 12-109)

- 15-116. **RECORDING OF AGREEMENT.** Upon the effective date of the agreement as therein provided the city clerk of the city is directed to cause this ordinance and attached agreement together with a certified copy of the ordinance adopted by the City of Kansas City, Missouri, to be recorded in the office of the register of deeds of Johnson County, Kansas, at Olathe, Kansas. (Code 1973, 12-110)
- 15-117. **SUPPLEMENTAL AGREEMENTS.** From time to time as supplemental agreements to the above contract are required, such shall be entered into, execution authorized and recorded in the same manner as the original agreement. (Code 1973, 12-111)
- 15-118. **MODEL CODE FOR SANITARY SEWERS.** There is hereby incorporated by reference by K.S.A. 12-3009 and 12-3015, for the preparation of sewer plans, establishment of design criteria, and adoption of minimum construction standards that certain standard model code known as "Model Code for Sanitary Sewers," edition of 1970, published by the City of Leawood, Kansas. No fewer than three copies of such model code, marked or stamped "Official Copy as Incorporated by the Codification of Ordinances of the City of Leawood, Kansas," shall be filed with the city clerk, to be open to inspection and available to the public during regular office hours, except that such official copies shall not be removed from the city hall. (Code 1973, 12-201)
- 15-119. **APPLICATION.** The provisions of the Model Code for Sanitary Sewers shall govern the design, plan submission, construction, installation, alteration, extension or by-passing of all sanitary sewers within the territorial limits of the city, and all portions of the Leawood Sewer System situated outside the city limits. (Code 1973, 12-201)
- 15-120. **RAINWATER CONNECTIONS, DEFINITION OF.** For purposes of section 15-121 through 15-125, the term rainwater connections shall be deemed to include any type of connection by which rainwater may be introduced into the sanitary sewer lines and shall include, but not be limited to, rain leaders, downspouts, rain conductors or piping, exterior, patio, areaway or garage drains. (Code 1973, 12-301)
- 15-121. **RAINWATER CONNECTIONS, DISCONNECTION OF.** Whenever the governing body shall adopt a resolution declaring that the public health, safety, welfare or convenience requires that any premises now connected with any part of the sanitary sewer system by means of rainwater connections shall be disconnected from such sewer system, it shall thereupon become the duty of the owner, tenant or occupant of such premises to disconnect the same from such sanitary sewer system. (Code 1973, 12-302)
- 15-122. **CONTENTS OF RESOLUTION; SERVICE OF NOTICE.** Before the adoption of any resolution under the above section, the governing body shall ascertain the locality or district in the city wherein it is then and there

deemed in the interest of the public interest of the public health, safety, welfare or convenience to order the disconnection of any rainwater connection connecting any premises with any part of the sanitary sewer system. Such resolution shall contain a description in general terms of the sanitary sewer, or any part thereof from which the rain leader, downspout, rain conductor is to be disconnected and shall direct the director of public works to notify, in writing, the owner, tenant or occupant of premises connected with such sanitary sewer to disconnect such rainwater connection from such sanitary sewer within 60 days after the date of such notice. Such notice shall be directed to the owner, tenant or occupant of the premises. When so deposited in the post office of the United States, or an adjunct thereof, such deposit shall constitute due service of the notice upon the owner, tenant or occupant therein named. The director of public works shall make a careful survey of all districts provided with sanitary sewers and report to the governing body, as early as practical, the extent to which such sewers are being used for the disposal of rainwater or surface water, the location and condition of all overflows that have been provided, together with such recommendations as they may deem proper. (Code 1973, 12-303)

- 15-123. OPEN MANHOLES PROHIBITED. No person shall permit any sanitary sewer manhole to remain uncovered except when the removal of cover be actually required for access to the manhole. (Code 1973, 12-304)
- 15-124. MANHOLES, GRADING ADJACENT TO. No person shall alter the grade of any area adjacent to a sanitary sewer manhole so that infiltration of groundwater into the sanitary sewer system is possible. (Code 1973, 12-305)
- 15-125. MANHOLES, PROTECTION OF; DAMAGE REPORTS. During construction, excavation, grading or other operations that could damage a sanitary sewer manhole, same shall be marked and barricaded for protection from such operations. Any damage to a sanitary sewer manhole shall be promptly reported to the city engineer by the person in charge of the operations causing the damage. (Code 1973, 12-306)

ARTICLE 2. PRIVATE SEWAGE DISPOSAL SYSTEM

- 15-201. APPLICATION. The provisions and regulations of this article shall apply to all property lying within the corporate limits of the city. (Code 1984)
- 15-202. INCORPORATION OF JOHNSON COUNTY PRIVATE SEWAGE DISPOSAL SYSTEM CODE. There is hereby incorporated by reference, for the purpose of prescribing rules and regulations for controlling practices to minimize health and safety hazards, that certain sanitary code known as the "Johnson County Private Sewage Disposal System Code," 1982 edition, prepared and published by the Johnson County Health Department, and as amended from time to time.
- No fewer than three copies of such "Johnson County Private Sewage Disposal System Code," marked or stamped "Official Copy as adopted by Ordinance No. 788," shall be filed with the city clerk to be open for inspection and available to the public during regular office hours. (Ord. 788)

ARTICLE 3. STORM SEWERS

15-301.

INCORPORATING STORM SEWER SPECIFICATIONS AND STANDARDS. There is hereby incorporated by reference for the purpose of regulating the installation, construction, alteration and repairs of storm sewers those specifications and standards known as "Storm Sewer Specifications and Standards Prepared by the Kansas City Metropolitan Chapter of the American Public Works Association 1973" prepared and published by the Metropolitan Chapter of the American Public Works Association, as supplemented by the "Public Improvement Construction Standards" adopted by the governing body on May 2, 1983. No fewer than three copies of such specifications and standards shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Leawood, Kansas," and filed with the city clerk, to be open to inspection and available to the public at all reasonable hours. (Code 1973, 12-401; Code 1984)

Repealed by:
ORDINANCE NO. 845C
Adopted: 2/18/85
Effective: _____

15-302.

INCORPORATING DESIGN CRITERIA FOR STORM SEWERS AND APPURTENANCES. There is hereby incorporated by reference, for the purpose of regulating the installation, construction, alteration and repairs of storm sewers those specifications and standards known as "Design Criteria for Storm Sewers and Appurtenances Prepared and Published by the Metropolitan Chapter of the American Public Works Association, 1973," prepared and published by the Metropolitan Chapter of the American Public Works Association, as supplemented by the "Public Improvement Construction Standards" adopted by the governing body on May 2, 1983. No fewer than three copies of such specifications and standards shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Leawood, Kansas," and filed with the city clerk, to be open to inspection and available to the public at all reasonable hours. (Code 1973, 12-402; Code 1984)

Repealed by:
ORDINANCE NO. 845C
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entire article → Repealed by:
ORDINANCE NO. 1161C
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ARTICLE 4. SOLID WASTE

15-401.

DEFINITIONS. For the purposes of this article, the following terms, phrases, words and their derivation shall have the meanings given in this section:

- (1) Agricultural Waste. Solid waste resulting from the production of farm or agricultural products.
- (2) Air Pollution. The presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is, or tends significantly to be, injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property.
- (3) Approved Container. Container shall have a maximum capacity of 55 gallons and be so constructed so as to adequately contain all contents placed therein without spillage, leakage or emission of odors while awaiting collection. The weight of any individual container and its contents shall not exceed 75 pounds.
- (4) Bulky Waste. Items either too large or too heavy to be loaded in solid waste collection vehicles with safety and convenience by solid waste

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collectors, with the equipment available therefor, including but not limited to appliances, furniture, large auto parts, trees, etc.

- (5) City. The City of Leawood, Kansas.
- (6) Code. The Johnson County Sanitary Code for Sanitary Landfill.
- (7) Collection. Removal and transportation of solid waste from its place of storage to its place of processing or disposal.
- (8) Collector. Any person, public or private, engaged in collecting solid waste.
- (9) Combined Refuse Collection. The collection of mixed refuse (putrescible and nonputrescible).
- (10) Combined Solid Waste. Solid waste containing both garbage and rubbish. (See Mixed Refuse).
- (11) Commercial Waste. Solid waste emanating from establishments engaged in business. This category includes, but is not limited to solid waste originating in stores, markets, office buildings, restaurants, shopping centers, theatres and schools.
- (12) Commissioners. The Johnson County Board of County Commissioners.
- (13) Construction Waste. Waste building materials and rubble resulting from construction, remodeling or repair operations on houses, commercial buildings, other structures and pavements.
- (14) Contractor. The person or corporation holding a valid SWMS contract, whether public or private operation.
- (15) Demolition Waste. Waste materials from the destruction of residential, industrial or commercial structures.
- (16) Department. The Kansas State Department of Health.
- (17) Director. The director of solid waste management for the city, appointed by the mayor and approved by the governing body of the city, to administer the storage, collection and transportation of solid waste in the city in accordance with this ordinance, or in the event that a regular city officer is designated by the mayor and approved by the council, as the responsible officer for the administration and enforcement thereof, the person duly holding such city office shall be such director of solid waste management.
- (18) Disposable Solid Waste Container. Approved containers per a list maintained by the director, which are designed to be disposed of with the solid waste contained therein.
- (19) Disposal. Depositing solid waste in or at a facility approved by the city, Johnson County SWMP and the Kansas State Board of Health for such purpose.
- (20) Dump. A collection or consolidation of solid waste from one or more sources at a central disposal site which does not meet standards for proper disposal.
- (21) Dwelling Unit. Any room or group of rooms located within a structure, and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
- (22) Engineer. The Johnson County Engineer, designate and his or her department.
- (23) Garbage. The animal and vegetable waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking and serving of meat, produce and other foods, including unclean containers.

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(24) Hazardous Waste. Solid and liquid waste which requires special handling and disposal to protect and conserve the environment and human health including pesticides, acids, caustics, pathological waste, radioactive materials, flammable or explosive materials, oils and solvents, and similar organic and inorganic chemicals and materials, containers and materials that have been contaminated with hazardous waste.

(25) Incineration. The controlled process of burning solid and/or liquid waste.

(26) License. The permission for a contractor to be allowed to operate SWMS vehicles or facilities within the city upon payment of a specified fee upon meeting licensing requirements of the city and county.

(27) Mixed Refuse. A mixture of solid waste containing putrescible and nonputrescible materials. (See Combined Solid Waste).

(28) Nuisance. Anything which (1) is injurious to health or is offensive to the senses or any obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property, and (2) affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and (3) occurs during or as a result of the handling or disposal of solid waste.

(29) Official Adopted Solid Waste Management Plan. Referred to herein as "Official Plan" and "Official Plan for Solid Waste Management" means a comprehensive plan for the provision of an adequate solid waste management system adopted by any authority to provide such a system or having jurisdiction over the provision of such system, and submitted to and approved by the department as provided in K.S.A. 65-3405 and acts amendatory thereto.

(30) Occupant. Any person who, alone or jointly or severally with others, shall be in actual possession of any dwelling unit or any other improved real property, either as owner, guest, or as a tenant, either with or without the consent of the owner thereof.

(31) Owner. Any person who, alone or jointly or severally with others, has legal title to, or sufficient proprietary interest in, or have charge, care or control of any dwelling unit or any other improved real property, as title holder, as employee or agent of the title holder, or property, as title holder, as employee or agent of the title holder, or as landlord or manager or as trustee or guardian of the estate or person of the title holder.

(32) Person. Individual, partnership, corporation, institution, political subdivision or state agency.

(33) Putrescible Waste. Organic wastes which progressively decompose with the production of foul smelling compounds and/or material that attracts insect or animal life.

(34) Refuse. (See Solid Waste).

(35) Rubbish. Nonputrescible solid wastes consisting of combustible and/or noncombustible waste materials from: dwelling units, commercial, industrial, institutional, or agricultural establishments, including yard wastes and items commonly referred to as "trash."

(a) Bulky rubbish - (See Bulky Waste).

(b) Commercial rubbish - rubbish resulting from commercial, industrial, institutional, or agricultural activities.

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(c) Residential rubbish - rubbish resulting from the maintenance and operation of dwelling units.

(36) Sanitary Landfill. An area on which solid waste is dispersed of on the land without creating nuisances or hazards to the public health or safety by confining refuse to the smallest practical area, compacting it to the smallest practical volume by employing power equipment, and covering it with a layer of compacted earth or other suitable cover material at the conclusion of each day's operation.

(37) Service. The useful result; the product of labor and machines in property and effective management to dispose of solid waste.

(38) Solid Waste. Unwanted or discarded waste materials in a solid or semiliquid state, including but not limited to refuse, garbage, ashes, street refuse, rubbish, dead animals, animal and agricultural wastes, yard wastes, discarded appliances, abandoned vehicles, special wastes, industrial wastes, demolition and construction wastes and digested sludges resulting from the treatment of domestic sewage or a combination thereof.

(a) Commercial solid waste - solid waste resulting from the operation of any commercial, industrial, institutional or agricultural establishment.

(b) Residential solid waste - solid waste resulting from the maintenance and operation of dwelling units.

(39) Solid Waste Container. Any receptacle used by any person to store solid waste during the interval between solid waste collections.

(40) Solid Waste Disposal Area. Also referred herein as "disposal area" or "disposal site," means any area used for the disposal of refuse from more than one residential premise, or one or more commercial, industrial, manufacturing, or municipal operations.

(41) Solid Waste Management System. The entire process of storage, collection, transportation, processing, and disposal of solid waste by any person engaging in such process as a business, or any city, authority, county or any combination thereof.

(42) SWM. Solid Waste Management.

(43) SWMC. Johnson County Solid Waste Management Committee.

(44) SWMP. The approved and adopted Solid Waste Management Plan for Johnson County.

(45) Solid Waste Processing Facility. Also referred herein as "processing facility" means incinerator, compost plant, transfer station or any other facility where solid wastes are consolidated, temporarily stored or processed prior to being transported to a final disposal site.

(46) Storage. Keeping, maintaining or storing solid waste from the time of its production until the time of its collection.

(47) Temporary Storage. Proper accumulation and storage of solid waste between regularly scheduled refuse collection intervals.

(48) Transfer Station. A facility used as an adjunct to solid waste collection system. Such a facility may be fixed or mobile and may include recompaction of solid waste.

(49) Vector (Of Disease). An animal or insect having the capability of transmitting infectious diseases from one person or animal to another by biting the skin or mucous membrane or by depositing infective material on the skin, on food, or on another object.

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(50) Yard Wastes. All forms of botanical waste, including but not limited to grass clippings, leaves, tree trimmings, etc.
(Ord. 537)

15-402.

APPOINTMENT AND DUTIES OF DIRECTOR. The mayor shall, with the approval of the council, appoint a director of solid waste management. The director shall administer the storage, collection and transportation of solid waste in the city as provided by this article, and, further, shall be the principal enforcement officer of this article. (Ord. 537)

15-403.

STORAGE OF SOLID WASTE. (a) The owner or occupant of every dwelling unit and of every institutional, commercial or business, industrial or agricultural establishment producing solid waste within the corporate limits of the city, shall provide sufficient and adequate approved containers for the storage of such solid waste in adequate number to serve each such dwelling unit and/or establishment; and to maintain such solid waste containers and their environs at all times reasonably clean and in good repair; and to repair or replace same from time to time, without notice, when any such containers shall no longer meet the specifications therefor as established by regulations of the director.

(b) The occupant of every dwelling unit and of every institutional, commercial, industrial, agricultural or business establishment, from which solid waste collection is made under this article, shall place all solid waste in approved solid waste containers, except as otherwise provided herein, and shall maintain such solid waste containers and the area surrounding them in a clean, neat, and sanitary condition at all times. Whenever a portion of the solid waste is subject to decay or putrefaction, such an accumulation must be kept covered or in approved containers, closed bins or containers not subject to deterioration. All containers shall be screened in such a manner that they are not visible from any street or roadway except when placed in position for pickup.

(c) Residential solid waste shall be stored in approved containers of not more than 55 gallons. Containers shall be properly covered at all times except when depositing waste therein or removing contents. They shall be of light weight and sturdy construction. The weight of any individual container and its contents shall not exceed 75 pounds.

(d) Commercial solid waste shall be stored in solid waste containers, as approved by the director. The containers shall be water-proof, leak-proof and shall be covered at all times except when depositing waste therein or removing contents thereof; and shall meet all requirements as set forth in this article.

(e) Tree limbs less than four inches in diameter and brush shall be securely tied in bundles not larger than 48 inches long and 18 inches in diameter when not placed in storage containers.

(f) Yard wastes shall be stored in approved containers so constructed and maintained as to prevent the dispersal of wastes placed therein upon the premises served, upon adjacent premises, or upon adjacent public rights-of-way. The weight of any individual container and contents shall not exceed 75 pounds.

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(g) The director has the authority to collect and dispose of any nonconforming container and its contents with or without notice to the owner thereof.
(Ord. 537)

15-404.

COLLECTION AND DISPOSAL OF SOLID WASTE. (a) The city shall provide for the collection of all residential solid waste as follows:

(1) The city shall provide for and regulate the collection of all residential solid waste in the city. The city may provide for the collection service by contracting with a person, persons, county, or other city, or combination thereof, for the benefit of the entire city, or portions thereof for the benefit as deemed in the best interest of the city and its inhabitants. The city may likewise designate agents including but not limited to home associations for the purpose of having these associations provide for and regulate the collection of residential solid waste within their respective homes association area.

(2) The director may, after first obtaining the approval of the governing, after specific application has been made to the director, exempt dwelling units from city collection services, including, but not being limited to homes associations; provided, however, that the burden is upon the applicant to prove to the director and the governing body that all dwelling units included in the application for exemption are provided with solid waste collection services at a standard equal to or higher than that required by this article. Applications for exemption shall be filed with the city clerk by the July 15th preceding the calendar year for which the exemption is sought. All exemptions shall be for one year.

(b) Regulation of non-residential solid waste collection:

(1) The city will not provide solid waste collection services to institutional, commercial, industrial or business establishments, or to apartments, townhouses, or condominiums of four units or more.

(2) The regulatory and penalty provisions of this article shall apply to the non-residential properties and it shall be the duty of the owner to provide for collection of all solid waste produced upon all such premises at a standard at least equal to that prescribed by this article.

(Ord. 537)

15-405.

PERMITS. (a) Any person engaging in the business of collecting, transporting or processing of solid waste within the corporate limits of the city shall first obtain a permit therefrom from the director. Each applicant for any such permit shall state in his or her application the following:

(1) The nature of the permit desired (storage, collection and/or transportation of solid waste or any combination thereof);

(2) The characteristics of solid waste to be collected and transported;

(3) The number of solid waste vehicles and equipment to be operated thereunder;

(4) The precise location or location so solid waste processing or disposal for service to be used; and

(5) Such other information as required by the director.

(b) If the application shows that the applicant will collect and transport solid waste without hazard to the public health or damage to the environment

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and in conformity with the Johnson County Solid Waste Management System, the laws of the State of Kansas, and of this article, the city shall issue the permit authorized by this article. The permit shall be issued for the period of one year, and each applicant shall pay a fee of \$10 for each collection vehicle to be used in the city. The application must clearly show that the collection and transportation of solid waste will create no public health hazard or be without harmful effects on the environment. If such a showing is not made by the applicant, the director shall deny the application and not issue the permit. The applicant may appeal the refusal of the director to issue the application to the governing body. The governing body, after a hearing, may by a majority vote, order the director to issue the permit. Nothing in this section shall prejudice the right of the applicant to reapply at a later date for a permit.

(c) Permits shall not be required for the removal, hauling or disposal of demolition or construction wastes; however, all such wastes shall be conveyed in tight vehicles, trucks or receptacles, so constructed and maintained to prevent the material being transported from spilling upon the public highways.

(d) Before a valid permit shall be issued by the city, the applicant must furnish the city a certificate of insurance showing a minimum public liability insurance coverage of at least \$250,000 for each person injured or killed; and in an amount not less than \$500,000 in the event of injury or death of two or more persons in any single accident, and an amount not less than \$200,000 for damage to property. In the event the insurance is canceled during the term of the permit, insurance carrier shall notify the city in writing no less than 10 days prior to the effective date of such cancellation. The certificate of insurance shall provide that the insurance company agrees to so notify the city, and further, the insurance policy shall contain written provision which shall place the responsibility for the 10-day written notice upon the company issuing the policy in order that the coverage be considered proper.
(Ord. 537)

15-406.

RULES AND REGULATIONS. (a) The director, by and with the consent of the governing body, shall define and promulgate reasonable and necessary rules and regulations governing the solid waste management system, which rules and regulations shall be filed in the office of the city clerk. The rules and regulations shall include, but not be limited to:

(1) Time and day schedules of and routes for collection of solid waste, except as prohibited by this article.

(2) Specifications for solid waste containers, including the type, material and size thereof.

(3) Identification of solid waste containers, covers, and related equipment.

(4) Collection points of solid waste containers.

(5) Handling of special wastes such as toxic and hazardous wastes, sludges, ashes, agricultural wastes, construction wastes, automobiles, oils, greases, bulky wastes, etc.

(b) The director may classify certain wastes as hazardous wastes which will require special handling and which should be disposed of only in a manner acceptable to the director and banned in a manner which meets all city, county, state and federal regulations.

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(c) All residential solid waste, other than bulky waste, shall be collected at least once weekly. All commercial solid waste shall be collected at least once weekly or at more frequent intervals as may be fixed by the director upon a determination that more frequent intervals are necessary for the preservation of the health and/or safety of the public and general appearance of the area. The director may, upon application, reduce the collection frequency in specific cases consistent with other requirements of this article. (Ord. 537)

15-407.

PROHIBITED PRACTICES. (a) No solid waste shall be disposed of at a processing facility or a disposal site unless it is a site designated and approved by the Johnson County Engineer and, further, unless it complies with all requirements of the Johnson County Solid Waste Management Plan.

(b) No person shall engage in the business of collection, transportation or processing of solid waste within the corporate limits of the city without first obtaining a permit as defined and required in section 15-405.

(c) Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner shall have been granted written permission from the city to use public property for such purposes. The storage sites shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All storage areas shall be screened or otherwise located so as to not be in the view of persons using public streets or walkways.

(d) All collection vehicles shall be maintained in a safe, clean and sanitary condition, and shall be so constructed, maintained and operated as to prevent spillage of solid waste therefrom. All vehicles to be used for collection of solid waste shall be constructed with water-tight bodies and with covers which shall be an integral part of the vehicle or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever the vehicle is transporting waste, or, as an alternate, the entire bodies thereof shall be enclosed, with only loading hoppers exposed. No material shall be transported in the loading hoppers.

(e) All motors vehicles operating under any permit required by this article shall display the permit number or numbers on each side in colors which contrast with that of the vehicle. Such numbers must be clearly legible and not less than three inches high. (Ord. 537)

15-408.

ENFORCEMENT PROVISIONS. (a) The director is hereby authorized to exercise such powers as may be necessary to carry out and effectuate the purposes and provisions of this article. Included in the powers is the right to inspect all phases of solid waste management within the city. The director has the right to enter upon the premises for the purpose of making examinations and inspections, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and in the event entry is denied or resisted, the director shall obtain for this purpose an order from a court of competent jurisdiction.

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(b) In all instances where inspections by the director reveal violations of this article, the director shall issue notice to the violating person for each such violation and stating the violation or violations found, the time and date of the violation and the corrective measures to be taken, together with the time in which such corrections shall be made. When corrective measures have not been taken within the time specified in the notice, the director shall execute a complaint in the municipal court charging the person or persons with a violation or violations of this article. In those cases where an extension of time will permit correction and there is no public health hazard created by the delay, one extension of time not to exceed the original time period may be granted by the director before he or she executes the complaint.

(c) The director further has the power to appoint and fix the duties of such officer's agents and employee as he or she deems necessary to carry out the directions of this article, and, further, to delegate any of his or her functions and powers under this article to such officers, agents and employees as he or she may designate.
(Ord. 537)

15-409.

GENERAL PROVISIONS. (a) All solid waste collection shall, upon being loaded into collection equipment, become the property of the collection agency.

(b) Solid waste collectors, employed by the city or solid waste collection agencies operating under contract with the city, or solid waste collectors collecting from those dwelling units specifically exempted under section 15-405 are hereby authorized to enter in and upon private property for the purpose of collecting solid waste therefrom as is required by this article.

(c) All contracts providing for the storage, collection and transportation of solid waste to which the city is a party shall contain provisions for a performance bond in an amount not less than the total value of the services provided by the contractor. The bond shall be with a good and sufficient surety and shall be approved by the governing body before the execution of the contract. The bonds shall provide that the principal shall pay any and all damages which may be caused to any property, public or private, within the city when such injury or damage shall be inflicted by the principal or his or her agent, servant employee, workman, contractor, subcontractor, and such bond shall be conditioned also that the principal will serve, indemnify and protect the city from any and all liability, that he or she will in all respects, comply with all articles of the city and comply with the terms of his or her permit and be conditional upon his or her faithful performance of the contract. The form of such bond must be approved by the city attorney.

(d) The governing body of the city shall determine a proper amount to be charged for the storage, collection, transportation, processing and disposal of solid waste. The costs shall be based upon the costs of providing the service, including the costs of administration and collection. The costs for services provided either by the city or provided under a contract under this article shall be paid by the occupant or occupants of the premises. In addition to the charges, the city or the governing body may assess additional delinquent fees or charges for those who do not pay for the services in the time prescribed by the governing body. Fees not paid in the time prescribed by the governing

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Effective: _____

body shall be assessed as a special assessment against the lot or parcel of land from which the solid waste was removed, and the city clerk shall, at the time of certifying other city taxes, certify the unpaid portion of the fees, including delinquent fees, and the county clerk shall extend the same on the tax rolls of the county against the lot or parcel of land.

(e) The provisions of this ordinance are severable and if any provisions or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstance, such invalidity, unconstitutionality or inapplicability shall not affect or impair any provision of this article.

(Ord. 537)

Speed Message

To File _____

From _____

CODE OF 1984

Subject Sec. 16-201, adopting Zoning Ord. of 4-17-78

Sec. 16-401, adopting Subdivision Regulations of 1-16-78

Date 1/15/ 19 85

Phrase similar to "and as from time to time amended" omitted, so it seemed that these sections did not address amending ordinances between 1978 and 12/21/84, the effective date of the Code of 1984, and that we had "lost" them. Also, amending ordinance reference numbers are missing at the bottom of each section.

T/c Kaup week of 1/7 - he was very confident that sections are OK as written - that nothing is "lost" - that this is the manner in which these types of sections are written. This seems inconsistent to us as we mark ordinances repealed by the Code of 1984.

But if this bothers us, we can amend the sections now adding wording "as amended by subsequently passed (zoning or subdivision regulation) amending ordinances" OR wait for updates of Zoning Ordinance and Subdivision Regulations to be done.

JO decided to treat the amending ordinances as "special" rather than "general" so they would not be repealed.

Signed _____

CHAPTER XVI. ZONING AND PLANNING

- Article 1. City Planning Commission
- Article 2. Zoning Regulations
- Article 3. Board of Zoning Appeals
- Article 4. Subdivision Regulations

Repealed by:
 ORDINANCE NO. 1189C
 Adopted: 11/19/90
 Effective: 11/19/90

ARTICLE 1. CITY PLANNING COMMISSION

16-101. CREATION. A city planning commission shall be hereby created. (Code 1984)

16-102. MEMBERSHIP. The city planning commission shall consist of nine electors of which number, two members shall reside outside of, but within three miles of, the corporate limits of the city, but the remaining members shall be residents of the city. The members shall be appointed by the mayor, by and with the consent of the city council. The members of the commission first appointed shall serve respectively for terms of one year, two years and three years, divided equally or as nearly equal as possible between these terms as one, two and three years. Thereafter members shall be appointed for terms of three years each. Vacancies shall be filled by appointment for the unexpired term only. Members of the commission shall serve without compensation for their service. Members of the commission may be removed for cause as provided by law and any member who is absent from three consecutive regular monthly meetings may be removed by the mayor, by and with the consent of the city council. (Code 1984; K.S.A. 12-702)

Repealed by:
 ORDINANCE NO. 1189C
 Adopted: 11/19/90
 Effective: 11/19/90

16-103. MEETINGS; OFFICERS. The members of the city planning commission shall meet at least once a month at such time and place as they may fix by resolution. The planning commission shall select one of its members as chairperson and one as vice-chairperson who shall serve one year or until their respective successors have been selected. Special meetings may be called at any time by the chairperson or in his or her absence by the vice-chairperson. A majority of the planning commission shall constitute a quorum for the transaction of business. The city planning commission shall cause a record to be kept of its proceedings. (Code 1984; K.S.A. 12-703)

Repealed by:
 ORDINANCE NO. 1189C
 Adopted: 11/19/90
 Effective: 11/19/90

16-104. POWERS AND DUTIES. The planning commission shall make plans and maps of the whole or any portion of the city and of any land outside the city which in the opinion of the planning commission bears relation to the planning of the city and to make such changes in such plans or maps when it deems the same advisable. Such maps or plans shall show the planning commission's recommendations for new streets, bridges, parks, playgrounds or other public ground and public improvements; and the removal, relocation, widening and extension of such existing public works with a view to the systematic planning of the city. The planning commission may make recommendations

Repealed by:
 ORDINANCE NO. 1189C
 Adopted: 11/19/90
 Effective: 11/19/90

to the city council concerning the location of streets, transportation and communication facilities, public buildings and public grounds.

Whenever the planning commission shall have made and agreed upon a plan for the development of the city, or any portion thereof, such plan or plans shall be submitted to the city council for its consideration and action. (Code 1984; K.S.A. 12-704)

ARTICLE 2. ZONING REGULATIONS

16-201. ZONING ORDINANCE INCORPORATED. There is hereby incorporated by reference pursuant to K.S.A. 12-3009, K.S.A. 12-3010 and K.S.A. 12-3301, for the purpose of providing zoning regulations within the City of Leawood, Kansas all of the regulations contained in that document hereafter known and referred to as the "Zoning Ordinance of Leawood, Kansas, April 17, 1978."

Repealed by:
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective: _____

No fewer than three copies of such Zoning Ordinance, City of Leawood, Final Revised Edition, April 17, 1978, marked or stamped "Official Copy" as incorporated by the ordinances of the City of Leawood, Kansas, shall be filed with the city clerk, to be open to inspection and available to the public during regular office hours, except that such official copies may not be removed from city hall. City officials requiring the use of such zoning ordinance, shall be supplied at the expense of the city, such number of official copies of the zoning ordinance as may be deemed expedient by the governing body. (Ord. 581)

16-202. FEES. To partially cover the cost of administering the procedures set forth in the zoning ordinance of the city, 1978 Edition, fees shall be required at the time of submission of plans and/or applications. The fees are set forth in the Fee Schedule established and maintained by the city administrator, as prescribed in section 1-701.

Repealed by:
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective: _____

Applicant is responsible for the cost of publishing rezoning or special use permit ordinances following city council approval. (Ord. 768; Ord. 782; Code 1984)

ARTICLE 3. BOARD OF ZONING APPEALS

16-301. BOARD CREATED. (a) A board of zoning appeals is hereby created. The board shall consist of five members to be appointed by the mayor with the approval of the city council. All of the members of the board shall be residents of the city. None of the members shall hold any other public office of the city except that one member may be a member of the city planning commission.

(b) If a member of the planning commission is appointed to the board, appointment shall be in the same manner as other members of the board of zoning appeals. In the event such member's term on the planning commission shall expire prior to the expiration of the term on the board of zoning appeals, and in the event such member is not reappointed on the planning commission, his or her position on the board of zoning appeals shall become

vacant simultaneously with the expiration of the appointment to the planning commission.
(Code 1984; K.S.A. 12-714)

16-302. SAME; TERM. The members shall be appointed to terms of office as provided in K.S.A. 12-714. (Code 1984)

16-303. OFFICERS. (a) The board of zoning appeals shall annually elect a chairperson, a vice-chairperson and secretary. The secretary may be an officer or employee of the city.

(b) The chairperson, or in his or her absence the vice-chairperson, shall preside at all meetings, shall decide all points of order or procedure.
(Code 1984; K.S.A. 12-714)

16-304. RULES AND MEETINGS. The board may adopt rules to govern its proceedings in accordance with the provisions of this article. Meetings of the board shall be held at any time at the call of the chairperson and at such other times as the board may determine. All meetings of the board shall be held at such place or places within the city as the board may designate and shall be open to the public. The board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the board, decisions of the board, and the vote upon each question. (Code 1984; K.S.A. 12-714)

Repealed by:
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective: _____

16-305. POWERS AND DUTIES. The board of zoning appeals shall administer the details of appeals from the provisions of the zoning ordinance, or other matters referred to it regarding the application of the zoning ordinance as hereinafter provided. In exercising these powers, the board, in conformity with the provisions of this article, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, and attach appropriate conditions, and may issue or direct the issuance of a permit. (Code 1984; K.S.A. 12-715)

Repealed by:
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective: _____

16-306. INTERPRETATION; EXCEPTIONS. (a) Upon appeal from a decision by the building inspector or other administrative official, the board may decide any questions involving the interpretation of any provision of the zoning ordinance, including the determination of the exact location of any district boundary, if there is uncertainty with respect thereto, and the determination of an appropriate use group for a use that is not listed in the ordinance, and that the use is a similar use to the uses already in the use group.

Repealed by:
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective: _____

(b) The board may grant exceptions to the provisions of this article in those instances where the board is specifically authorized to grant such exceptions and only under the terms of the zoning ordinance. In no event shall exceptions to the provisions of the zoning ordinance be granted where the use or exception contemplated is not specifically listed as an exception in the zoning ordinance. Further, under no conditions shall the board have the power to grant an exception when conditions of this exception, as established in the zoning ordinance by the city council, are not found to be present.
(Code 1984; K.S.A. 12-715)

16-307.

VARIANCES. (a) The board may authorize in specific cases a variance from the specific terms of this article which will not be contrary to public interest and where, owing to special conditions, a literal enforcement of the provisions of this article, in an individual case, result in unnecessary hardship, and provided that the spirit of this article shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted in the zoning ordinance in such district.

Repealed by:
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective: _____

(b) A request for a variance may be granted in such case, upon finding of the board that all of the following conditions have been met:

(1) That the variance request arises from such conditions which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or applicant;

(2) That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

(3) That the strict application of the provisions of this article of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;

(4) That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and

(5) That granting the variance desired will not be opposed to the general spirit and intent of the zoning ordinance.

(Code 1984; K.S.A. 12-715)

16-308.

RECORDS. Every decision or determination by the board of zoning appeals shall be filed in the planning and development department not more than 10 working days following the date of hearing and shall become a public record. (Code 1984)

Repealed by:
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective: _____

16-309.

FEE. The fee for an application for appeal to the board shall be as prescribed in section 1-701, no part of which shall be refundable. The planning and development department shall be responsible for the collection of the application fee. (Code 1984)

Repealed by:
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective: _____

16-310.

APPEALS. (a) The board may hear and decide appeals where it is alleged that there is an error of law in any order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance. Such appeal shall be taken within 10 days after the order of action appealed from has been made by filing written notice of such appeal, specifying the grounds thereof, with the board of zoning appeals.

Re:
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective: _____

(b) The board shall also have those powers and duties specifically set forth in other parts of this article.

(Code 1984)

16-311.

SAME; PROCEDURE. (a) Applications to the board for any type of proceeding may be taken by any person aggrieved, or by any officer of the city, or any governmental agency or body affected by any decision of the officer administering the provisions of the zoning ordinance. All applications shall be made to the secretary of the board in writing on forms prescribed by the board within 10 days after the decision has been rendered by the building

Repealed by:
ORDINANCE NO. 1189C
Adopted: 11/19/90
Effective: _____

inspector or other administrative officer. Each application shall be accompanied by a current list of the names and mailing addresses of all property owners of record within 200 feet of the exterior boundaries of the property to be considered in the application.

(b) The board shall fix a reasonable time for the public hearing on each application. The secretary of the board of zoning appeals, shall cause to be published in the official paper of the city, a notice as to the time, place and date and subject of hearing for each application. Such notice shall appear at least once in the official city paper no less than 20 days prior to the date of hearing.

(c) The secretary shall also cause notice to be given by mail no less than 20 days prior to the date of the public hearing to each of the property owners of record within 200 feet of the exterior boundaries of the property to be considered in the application, as such owners are listed on the current list accompanying the application. Mailed notice shall also be given to each party to the appeal and to the secretary of the planning commission.
(Code 1984)

ARTICLE 4. SUBDIVISION REGULATIONS

16-401. SUBDIVISION REGULATIONS INCORPORATED. There is hereby incorporated by reference pursuant to K.S.A. 12-3009, K.S.A. 12-3010 and K.S.A. 12-3301, for the purpose of providing subdivision regulations within the City of Leawood, Kansas all of the regulations contained in that document hereafter known and referred to as the "Subdivision Regulations, of Leawood, Kansas, Final Revised Edition, January 16, 1978."

No fewer than three copies of such Subdivision Regulations, City of Leawood, Final Revised Edition, January 16, 1978, marked or stamped "Official Copy" as incorporated by the ordinances of the City of Leawood, Kansas, shall be filed with the city clerk, to be open to inspection and available to the public during regular office hours, except that such official copies may not be removed from city hall. (Ord. 571)

16-402.

FEEES. To partially cover the cost of administering the procedures set forth in the subdivision regulations of the city fees shall be required at the time the preliminary plat is submitted to the planning commission. The fees are set forth in the Fee Schedule as prescribed in section 1-701. (Ord. 680; Code 1984)

16-403.

VIOLATION; PENALTY. Pursuant to K.S.A. 12-710, as amended, any violations of this article shall be considered violations for each day on which they exist after written notice by the city to the last known address of the owner or occupant of said property on which said violation exists and shall be punishable by a fine of not more than \$500 per each day of violation. The city shall have further remedies of seeking injunctions to either prevent the violation of this article or to seek the correction of any violations under this article. (Code 1984)

16-401.

Repealed by:
ORDINANCE NO. 1216
Adopted: 5/6/91
Effective:

Repealed by:
ORDINANCE NO. 1216
Adopted: 5/6/91
Effective:

Repealed by:
ORDINANCE NO. 1216
Adopted: 5/6/91
Effective:

APPENDIX A - CHARTER ORDINANCES

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

CHAPTER ORDINANCE NO. 1 (Repealed; C.O. No. 8)

CHARTER ORDINANCE NO. 2 (Repealed; C.O. No. 8)

CHARTER ORDINANCE NO. 3 (Repealed; C.O. No. 8)

CHARTER ORDINANCE NO. 4

A CHARTER ORDINANCE EXEMPTING THE CITY OF LEAWOOD, KANSAS, FROM K.S.A. 79-1952; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT; AND REMOVING ANY LIMITATIONS OF TAX LEVY.

Section 1. The City of Leawood, Kansas, a city of the second class, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself from, and make inapplicable to it, K.S.A. 79-1952, and provide substitute and additional provisions as hereinafter set forth in this ordinance. K.S.A. 79-1952 is applicable to this city but is not applicable uniformly to all cities of the second class, and the legislature has not established classes of cities for the purpose of imposing tax limitations and prohibitions under said constitutional provision.

Section 2. The governing body of the City of Leawood, Kansas, is hereby authorized and empowered to levy taxes in each year on each dollar of assessed tangible valuation of said city for the following city purposes; provided, that the city purposes specifically authorized by other statutes are not excluded because they are not enumerated herein:

General operating fund (which shall include the following activities): General government; police department; fire department; health and sanitation, including refuse collection and disposal; highways (all public traveled ways, including bridges); storm sewer maintenance; parks, street lighting; ambulance service; civil defense; community buildings; recreation and flood control.

Said governing body may levy an amount necessary to meet the requirements of its adopted budget. (6-3-68)

CHARTER ORDINANCE NO. 5
(Repealed; C.O. No. 6)

CHARTER ORDINANCE NO. 6

A CHARTER ORDINANCE EXEMPTING THE CITY OF LEAWOOD, KANSAS, FROM THE PROVISIONS OF SECTIONS 7, 8, 31, 32, & 34, CHAPTER 274, SESSION LAWS OF 1968, AND REPEALING CHARTER ORDINANCE NO. 5 OF THE CITY OF LEAWOOD, KANSAS, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECTS, CONCERNING ELECTIONS, DATES OF CITY ELECTIONS, TERMS OF OFFICE, OFFICERS ELECTED, QUALIFICATIONS, AND MATTERS RELATED THERETO.

Section 1. The City of Leawood, Kansas, a mayor-council city of the second class, by the power invested in it by Article XII, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it Section 7, 8, 31, 32 and 34 of Chapter 274, Session Laws of 1968, and provide substitute and additional provisions therefor as hereinafter provided.

Section 2. Charter Ordinance No. 5 of the City of Leawood, Kansas, as passed and adopted July 15, 1968, is hereby repealed.

Section 3. The general election of city officers shall be held on the first Tuesday in April of each year, and the terms of city offices shall be two years. There shall be no primary election for city officers.

Section 4. The city council may by ordinance divide the city into wards and precincts, establish the boundaries thereof and number the same provided the number of wards shall not be less than four and the number of precincts shall not be less than eight. No ordinance redefining wards or precincts shall become effective less than 30 days prior to the next regular city election.

Section 5. (Repealed; C.O. No. 13)

Section 6. (Repealed; C.O. No. 13)

Section 7. (Repealed; C.O. No. 11) (11-18-68)

CHARTER ORDINANCE NO. 7

A CHARTER ORDINANCE EXEMPTING THE CITY OF LEAWOOD, KANSAS, FROM THE PROVISIONS OF K.S.A. 14-439 AND PROVIDING SUBSTITUTE

PROVISIONS RELATING TO POWER TO ENACT ORDINANCES AND PUNISHMENTS.

EXEMPTION. Section 1. The City of Leawood, Kansas, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and exempts itself from section 14-439 of the Kansas Statutes Annotated and provides substitute provisions as hereinafter set forth in this ordinance. K.S.A. 14-439 is applicable to cities of the second class but not uniformly to all cities.

POWER TO ENACT ORDINANCES; PUNISHMENTS; VALIDITY OF CONTRACTS WHEN ORDINANCE VIOLATED. Section 2. For any purpose or purposes mentioned in the preceding sections, the council shall have power to enact and make all necessary ordinances, rules and regulations, and they shall also have power to enact and make all such ordinances, bylaws, rules and regulations not inconsistent with the laws of the state as may be expedient for maintaining the peace, good government, and welfare of the city and its trade and commerce; and all ordinances may be enforced by prescribing and inflicting upon inhabitants or other persons violating the same, such fine not exceeding \$500 or such imprisonment not exceeding three months, or both such fine and imprisonment, as may be just for any one offense, recoverable with costs of suit, together with judgment of imprisonment until the fine and costs, or either, while in custody, may be compelled to work on the streets, alleys, avenues, areas and public grounds of the city under the direction of the street commissioner or other proper office, and at such rate per day as the council may by ordinance prescribe, until such fine and costs are satisfied: Provided, That the violation of ordinances shall not affect the validity of any contract, express or implied, which would otherwise be lawful. (6-1-70)

CHARTER ORDINANCE NO. 8

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCES 1, 2, AND 3 OF THE CITY OF LEAWOOD.

REPEAL. Section 1. Charter Ordinances Nos. 1 (adopted March 5, 1962), 2 (adopted March 16, 1964) and 3 (adopted September 5, 1967) of the City of Leawood, Kansas are hereby repealed. (6-1-70)

CHARTER ORDINANCE NO. 9

A CHARTER ORDINANCE EXEMPTING THE CITY OF LEAWOOD, KANSAS, FROM THE PROVISIONS OF K.S.A. 14-803 AND K.S.A. 14-804 AND PROVIDING SUBSTITUTE PROVISIONS RELATING TO THE HOURS OF OPERATION OF THE MUNICIPAL COURT AND PROVIDING FOR THE ESTABLISHMENT OF A TRAFFIC VIOLATIONS BUREAU AND THE APPOINTMENT OF A VIOLATIONS CLERK.

EXEMPTIONS. Section 1. The City of Leawood, Kansas, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and hereby exempts itself from Sections K.S.A. 14-803 and 14-804, and provides substitute provisions as hereinafter set forth in this ordinance. K.S.A. 14-803 and 14-804 are applicable to cities of the second class but not uniformly to all cities.

MUNICIPAL COURT. Section 2. The governing body of the City of Leawood may provide, at the expense of the city, a suitable room or office for the municipal judge, and shall hold court in such room and court shall be open every day at the court clerk's office except Saturdays, Sundays and legal holidays. In addition thereto, the court shall be in regular session at least weekly on a schedule to be established by the rules of the court for the purpose of arraignments and/or trials.

HOW PROSECUTIONS CONDUCTED. Section 3. All prosecutions for violating any city ordinance shall be entitled "The City of Leawood against _____" (naming the person or persons charged), and the municipal judge shall state in the docket the name of the complainant, the nature or character of the offense, the date of trial, the names of all witnesses sworn and examined, the finding of the court, the judgment of fine and costs, the date of payment, the date of issuing commitment, if any, and every other fact necessary to show the full proceedings in such case.

The complaint, when made by the marshal/chief of police, assistant marshal/chief of police or regular policeman against any person arrested without process and in custody, need not be in writing, but when the accused is not in custody, the complaint shall be in writing and sworn to before a warrant be issued for his or her arrest. In no case shall a judgment of conviction be rendered except upon sufficient legal testimony given on a public trial or upon a plea of guilty made, except as hereinafter provided in the case of certain traffic offenses, in open court.

TRAFFIC VIOLATIONS BUREAU. Section 4. The municipal court of Leawood, having determined that the efficient disposition of its business and the convenience of persons charged so requires, is hereby enabled to establish a Traffic Violations Bureau and shall, by the rules of the municipal court of the City of Leawood, set forth the procedure for its operation. The court shall, upon such determination of necessity and convenience having been made, appoint as an officer of the court, a violations clerk (or clerks) define the limits of authority of the violations clerk, and establish a schedule of fines which may from time to time be amended by order of the court, to be accepted by the violations clerk for pleas of guilty to offenses within the clerk's authority, said fines to be within the limits prescribed by the ordinances of the City of Leawood, Kansas.

PLEA AND PAYMENT OF FINES. Section 5. Any person charged with any traffic offense within the authority of the violations clerk may appear before the violations clerk and, upon signing an entry of appearance and plea of guilty, pay the fine established for the offense. Each defendant shall, prior to the acceptance by the violations clerk of the entry of appearance and

plea of guilty, be informed of his or her right to trial, and that his or her signature to a plea of guilty will have the same effect as a judgment of the court and that the record of conviction will be sent to the motor vehicle department of the State of Kansas as to the appropriate authority of the state in which defendant is licensed to drive or in which he or she resides. (7-6-70)

CHARTER ORDINANCE NO. 10

A CHARTER ORDINANCE EXEMPTING THE CITY OF LEAWOOD, KANSAS FROM THE PROVISIONS OF K.S.A. 12-1675 AND MAKING PROVISIONS RELATING TO INVESTMENT OF TEMPORARILY IDLE MONIES OF THE CITY OF LEAWOOD, KANSAS.

EXEMPTIONS. Section 1. The City of Leawood, Kansas, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and hereby exempts itself from Sections K.S.A. 12-1675, and provides substitute provisions as hereinafter set forth in this ordinance.

AUTHORITY TO INVEST TEMPORARY IDLE MONIES OF THE CITY OF LEAWOOD, KANSAS AND/OR ANY OF ITS COMMISSIONS. Section 2. Idle monies of the City of Leawood, Kansas, not currently needed, may be, in accordance with the procedure hereafter prescribed, invested in:

(a) United States Treasury Bills or notes having maturities of not less than 30 days. However, at the discretion of the city treasurer, the United States Treasury Bills or notes having maturities of less than 30 days may be purchased but in no event should any of said securities be sold before the date of their respective maturities.

(b) Time deposit, open accounts having maturities not less than 30 days,

(c) Certificates of deposit having maturities not less than 30 days,

(d) Temporary notes of the City of Leawood, Kansas, issued pursuant to K.S.A. 10-123 as amended,

(e) No fund warrants of the City of Leawood, Kansas,

(f) General obligation bonds of the City of Leawood, Kansas.

PRIORITY OF INVESTMENTS. Section 3. Prior to investing idle funds in United States Treasury Bills or notes the city treasurer shall attempt to place idle funds in a local commercial bank or local savings and loan association. Only if the local commercial bank or savings and loan association cannot or will not make a particular time deposit, open account or certificate of deposit available to the city at equal to or more than the rate then obtainable for the United States Treasury Bills or notes of similar maturity, should the treasurer then proceed to purchase United States Treasury Bills or notes.

CUSTODY AND SAFEKEEPING. Section 4. 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 savings and loan association protected by virtue of the Savings and Loan Insurance Corporation, or shall be kept by such officers in a safety deposit box of the city in a bank or trust company, or savings and loan association protected by virtue of the Savings and Loan Insurance Corporation. Securities in original or receipt form held in the custody of a bank or trust company, or savings and loan association, 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, or savings and loan association protected by virtue of the Savings and Loan Insurance Corporation, shall be personally deposited by such officers in a safety deposit box in the name of the city in a bank or trust company, or savings and loan association protected by virtue of the Savings and Loan Insurance Corporation, access to which shall be permitted only in personal presence and under the signature of at least two such officers. (10-1-73)

CHARTER ORDINANCE NO. 11
(Repealed; C.O. No. 12)

CHARTER ORDINANCE 12

A CHARTER ORDINANCE EXEMPTING THE CITY OF LEAWOOD, KANSAS FROM THE PROVISION OF K.S.A. 14-205 AND MAKING PROVISIONS RELATING TO QUALIFICATIONS OF OFFICERS, OATHS, AND BONDS.

EXEMPTIONS. Section 1. The City of Leawood, Kansas, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and hereby exempts itself from K.S.A. 14-205 and provides substitute provisions as hereinafter set forth in this ordinance.

REPEAL. Section 2. Charter Ordinance No. 11, as adopted October 15, 1973, is hereby repealed and the following enacted in lieu thereof:

Section 3. All officers elected shall be qualified electors of said city. All officers appointed shall be residents of Johnson County, Kansas. The qualifications required of assistants shall be the same as those of their principals. The city clerk shall enter every appointment to office, and the date thereof, on the journal of proceedings. The council may require all city officers, elected or appointed, to take and subscribe an oath and give bonds and security for the faithful performances of their duties. (6-7-76)

CHARTER ORDINANCE NO. 13

A CHARTER ORDINANCE REPEALING SECTIONS 5 AND 6 OF CHARTER ORDINANCE NO. 6 OF THE CITY OF LEAWOOD, KANSAS.

REPEAL. Section 1. Sections 5 and 6 of Charter Ordinance No. 6, adopted November 18, 1968, are hereby repealed. (12-4-78)

CHARTER ORDINANCE NO. 14

A CHARTER ORDINANCE EXEMPTING THE CITY OF LEAWOOD, KANSAS, FROM K.S.A. 79-5011; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT; AND AUTHORIZING THE LEVYING OF TAXES TO CREATE A SPECIAL FUND FOR THE PURPOSE OF PAYING COSTS FOR CONSTRUCTION AND MAINTENANCE OF STREETS, CURBS, GUTTERS, SIDEWALKS, STORM DRAINAGE FACILITIES, PARKS AND CITY OWNED IMPROVEMENTS.

(Charter Ordinance No. 14 failed by presentation of sufficient petition for referendum.)

APPENDIX B - FRANCHISES

ARTICLE I. KANSAS CITY POWER & LIGHT COMPANY: OVERALL OPERATION

Section 1. In consideration of the benefits to be derived by the city and the inhabitants thereof from the construction, operation and maintenance of an electric light and power system and the supplying of electric energy to the public, there is hereby granted to the company and to its successors and assigns, for the term of 20 years from the effective date hereof, a franchise and authority to construct, operate and maintain in the city all appropriate facilities and plants for carrying on a power and light business and all other operations connected therewith or incident thereto for the purpose of supplying the city and outlying areas with electric or other energy in such forms as may be reasonably required for domestic, commercial, industrial, municipal and other purposes and to produce and supply such energy by manufacture, generation, purchase or otherwise, and to transmit and distribute same by means of underground or overhead lines or otherwise, and for any or all of the purposes it is authorized to:

(i) Construct conduits or other underground facilities for the installation and protection of its underground wire and cables,

(ii) Place poles, map posts, guys and anchors for its overhead wires, cables and street lights on all streets, alleys, avenues, bridges, parks, parking and other public places or thoroughfares,

(iii) Construct, erect and maintain all buildings, machinery and attachments of any and every kind for any and all of the purposes, and

(iv) Enter upon any and all public places within the corporate limits of the city as they now exist or may hereafter be opened, widened, extended, laid out and established, including any other territory hereafter added thereto or coming under the city's jurisdiction, and to trim trees upon and overhanging such places and make such excavations thereon as may be appropriate for the construction, repair and renewal of the company's overhead and underground facilities and plants.

Section 2. Any pavements, sidewalks or curbing taken up or any and all excavations made shall be done under the supervision and direction of the governing body of the city under all necessary permits issued for the work, and shall be made and done in such manner as to give the least inconvenience to the inhabitants of the city and the public generally, and pavements, sidewalks, curbing and excavations shall be replaced and repaired in as good condition as before with all convenient speed by and at the expense of the company.

Section 3. The company shall at all times during the term of this franchise supply to consumers of electric energy, residing in the city, such electric energy as they may require, and shall extend and construct its lines and services in accordance with legal requirements, and rules and regulations as filed from time to time with the State Corporation Commission of Kansas. Nothing contained herein shall be construed as a guarantee upon the part of the company to furnish uninterrupted service, and interruptions due to Acts of God, fire, strikes, civil or military authority, orders of court and other

causes reasonably beyond civil or military authority, orders of court and other causes reasonably beyond the control of the company are specifically exempted from the terms of this section.

Section 4. All poles and wires shall be erected in accordance with the rules and regulations of the State Corporation Commission of Kansas as set out in Docket No. 1944 and any amendments thereto. All poles carrying wires shall be placed in such manner as to interfere with and obstruct as little as reasonably possible, the ordinary use of the streets, alleys, lanes and highways of the city, and shall not interfere with any gas main, water main or sewer now laid out or constructed in or under said streets, alleys, lanes and highways of the city.

Section 5. The company shall, at all times, in the construction, maintenance, and operation of its electric transmission, distribution and street lighting system, use all reasonable and proper precaution to avoid damage or injury to persons or property, and shall hold and save harmless the city from any and all damage, injury and expense caused by the sole negligence of the company, its successors and assigns.

Section 6. As further consideration for the rights, privileges and franchise hereby granted, and in lieu of all rental, license or occupation taxes, the grantee shall on or before the 30th day of April and the 31st day of October of each year in which this franchise is effective, pay to the city 5% of its gross receipts charged and collected from the sale of electric energy used within the present or future boundaries of the city for domestic, commercial and industrial consumption for the six months' period ending at the last meter reading preceding March 31 and September 30, respectively. The payment shall be made to the city in cash until any credit (existing on the effective date of this franchise ordinance) accumulated pursuant to Section 1, paragraph 14 of Ordinance No. 87 is depleted by company billings for street lighting and traffic signal service for the city; and upon such depletion or if no such credit exists on the effective date of this franchise ordinance, the payment shall be made by subtracting from the amount determined for the applicable six months' period in accordance with the first and last sentences of this section (the "Gross Receipts Amount Due") the amount due the company from the city for street lighting and traffic signal service billed for the applicable six months' period (the "SLTS Billings Amount") and by paying the remainder, if any, in cash to the city. If in any applicable six months' period the SLTS Billings Amount exceeds the Gross Receipts Amount Due, the company shall for such excess bill the city and the city shall pay the same in cash to the company. The term "gross receipts," as applied to the sales of electricity for domestic, commercial, or industrial purposes as used in this section shall not include:

- (1) The electrical energy sold to the United States or the State of Kansas or to any agency or political subdivision thereof;
- (2) The electrical energy sold for other use which cannot be classified as domestic, commercial, or industrial, such as the electrical energy used by public utilities, telephone, telegraph, and radio communication companies, railroads, pipeline companies, educational institutions not operating for profit, churches and charitable institutions and;
- (3) The electrical energy sold for resale.

Section 7. All provisions of this ordinance shall be binding upon and inure to the benefit of the company, its grantees and its successors and assigns.

ARTICLE 2. ELECTRIC STREET LIGHTS
(Kansas City Power & Light Company)

Section 1. The street lighting system shall be defined as and shall consist of street light luminaries, bracket arms, poles, lamps, control equipment, conductors and all other facilities necessary for the operation of electrically operated street lights in those portions of the corporate limits of the city now or hereafter located within the company's certificated territory. The street lighting system shall include all facilities presently owned by the company and located within such portions of the city as such facilities now exist, together with all additions thereto, changes therein, and removals therefrom as may be made by the company at the direction of the city during the term hereof. All facilities included within the street lighting system shall be furnished, installed, owned, operated and maintained by the company. The company supply all electric energy required for the operation of the street lighting service to be furnished by the company to the city hereunder.

Section 2. The number, size and type of the street lights on order or now installed by the company, operated and maintained by the company and paid for by the city under this agreement are specified in "Exhibit A" attached hereto and made a part hereof.

Section 3. The city shall pay to the company for municipal street lighting service furnished by the company hereunder at the rates and charges provided for in the company's rate schedule 2-ML for municipal street lighting service or any superseding schedule therefor as then in effect and on file with the State Regulatory Commission (the "Commission") from time to time during the term hereof. Provided that should street lighting be purchased or installed by developers and dedicated to the city, then in such event the rate schedule set out in this section shall not apply.

Section 4. The number of street lights set forth in Exhibit A shall be the number of street lights which shall be used and paid for by the city under this ordinance and if, when, and as additional street lights are installed, or street lights are removed, from time to time under and pursuant to this ordinance, the number as above set forth shall be increased or decreased in a like amount.

Section 5. Additions to the street light system, as the same may exist on the effective date of this agreement, may be ordered by and on behalf of the city from time to time by written order of a legally authorized officer of the city, and upon receipt the company will institute action to furnish and install street lighting facilities of the type and design specified by the city at the locations designated by the city, provided that the company shall have the right to reject such order if the facilities specified are not of a standard type

or design then being furnished and installed by the company under its standards for municipal street lighting facilities; provided further that the company may accept an order from the city for the installation of nonstandard street lighting facilities upon terms and conditions satisfactory to the company and to a legally authorized officer of the city, as evidenced by a written acceptance of any such order.

Section 6. The city by written order of a legally authorized officer of the city may require the company to change the type, location or direction of any facilities included in the street lighting system or to discontinue and remove any such street lighting facilities. Such change or discontinuances shall be completed by the company as soon as reasonably practical after receipt of the order. The city shall reimburse and pay to the company for each such change or removal the cost to the company of labor, transportation and materials incurred by the company in such change or removal, including, without limitation, applicable overheads, insurance and taxes, and remaining value of such facilities. As used herein the term "remaining value" shall mean the original cost of any facilities removed, less salvage value thereof, less depreciation on unrecovered original cost plus the cost of removal, unless the city requires the company to discontinue and remove street lighting facilities in the street lighting system so that it may install city-owned street lighting facilities at the same location. In that case, the city shall reimburse and pay to the company for each such removal the reproduction cost new, less depreciation, plus labor and transportation costs for removal of the street lighting facilities. A salvage credit will be allowed only when the particular pieces of equipment being removed have current, reusable value to the company.

Section 7. The city will enact reasonable ordinances for the protection of the property of the company against malicious destruction thereof. Nothing herein contained shall be construed to fix any liability upon the company for any failure of any or all street lights.

Section 8. In consideration of the municipal street lighting service and the maintenance thereof, the city agrees that it will each year during the term of this ordinance make a sufficient tax levy for street lighting purposes and within the maximum levy permitted by the laws of the State of Kansas.

Section 9. This ordinance, including the rates and services fixed herein, and all amendments thereto and all ordinances passed by the city concerning the subject matter of the same, shall be in all respect subject to the rules, regulations and order of the commission, or any other body established by law succeeding to the power now or hereinafter exercised by the commission.

Section 10. The method of payment for the municipal street lighting service shall be as provided in Section 6 of Ordinance No. 361 (Franchise Ordinance), and in the event the company should render bills as provided therein, the city shall pay all such bills for services furnished under this agreement within 15 days after receipt thereof. If any such bill is not paid within such period, a default shall have incurred and the city shall become

liable to pay the company interest on such bill at the rate of 10% per annum until the bill is paid. If any bill shall remain in default for 90 days, the company, at its option, discontinue the furnishing of services provided for in this agreement, until such time as the delinquent payments, together with all interest thereon, shall have been paid, and the city shall also be liable to the company for the value of its investment (undepreciated original cost) in the street lighting system.

Section 11. The company shall not be liable on account of any interruption or delay of service occasioned by and shall have no obligation to furnish service hereunder during the time service is interrupted by, an Act of God or any other cause not within the control of the company, including but not limited to, failure of facilities, load shedding for the protection or restoration of system operations, flood, drought, earthquake, storm, lightning, fire, explosion, epidemic, war, riot, civic disturbance, invasion, insurrection, labor disturbance, strike, sabotage, collision, or restraint or order by any court or public or military authority having jurisdiction. Any strike or labor disturbance may be settled at the discretion of the company.

Section 12. The company shall at all times protect and save harmless the city from all damages or loss to persons or property for, or arising out of, or by reason of, the company's negligence in the construction, maintenance, and/or operation of street lights as provided for herein.

Section 13. The city shall have the right and option to purchase at the expiration of this ordinance (the "purchase date"), upon one year's written notice to the company prior to the intended purchase date, only that portion of the street lighting system determined by the company in use and useful and devoted exclusive to furnishing street lighting service under this ordinance (the "property to be sold"). The purchase price for the property to be sold shall be and consist of all the following:

- (a) The reproduction cost new less depreciation;
- (b) The consequential and severance damages which will result or accrue to the company from the sale and transfer of the property to the city;
- (c) An allowance for the loss of a portion of the company's going concern value;
- (d) All materials and supplies related uniquely to the property to be sold;
- (e) All expense in connection with such sale;
- (f) All other damages sustained by the company by reason of such sale.

Section 14. In the event the city, pursuant to Section 13 hereof elects to and does purchase the property to be sold, the city shall purchase and receive from the company and the company shall sell and deliver to the city for a period of 10 years from the purchase date all of the electric energy required for the operation of all city-owned street lighting facilities then or thereafter located within the certificated service territory of the company at the applicable rate schedule for such service then or thereafter filed with and approved by the State Corporation Commission of the State of Kansas.

Section 15. This ordinance shall take effect and be in force from and after its passage and its publication as provided by law and, upon acceptance in writing by the company, shall constitute a contract to remain in full force and effect for a term of 10 years from the effective date of this ordinance.

ARTICLE 3. TRAFFIC CONTROL
(Kansas City Power & Light Company)

Section 1. This ordinance shall take effect and be in force from and after its passage and its publication as provided by law and, upon acceptance in writing by the company, and shall constitute a contract to remain in full force and effect for a term of 10 years from the effective date of this ordinance.

Section 2. (1) The traffic control system shall be defined as and shall consist of traffic control signals, poles, maps, control cables, conductors and all other facilities necessary for the operation of electrically operated signals in those portions of the corporate limits of the city now or hereafter located within the company's certificated territory. The traffic control system shall include all such facilities presently owned by the company and located within such portions of the city as such facilities now exist, together with all additions thereto, changes therein, and removals therefrom as may be made by the company at the direction of the city during the term hereof as herein provided.

(2) All facilities included within the traffic control system shall be furnished, installed, owned, operated and maintained by the company. However, the city shall reimburse and pay to the company, for any maintenance of traffic control facilities made necessary by inadequate maintenance of the roadways of the city, the cost to the company of labor, transportation and materials incurred by the company in such maintenance of traffic control facilities including, without limitation, applicable overheads, insurance and taxes.

(3) The city shall have the sole responsibility and authority to establish the timing of all traffic signals included in the traffic control system. The company shall regulate its facilities so as to establish the timing of traffic control signals as nearly as practical in accordance with the schedules and instructions thereof submitted to the company by a legally authorized officer of the city.

(4) The company shall supply all electric energy required for the operation of the traffic control system as part of the traffic control signal service to be furnished by the company to the city hereunder.

(5) All traffic control signals units shall be operated by the company 24 hours per day. In the event of an interruption in such continuous operation, the company will, after notice of such interruption is received by the company through its customer service center, restore such traffic control signal units to operation as soon as reasonably practical. During the period of any such interruption, the city shall use its best efforts to obtain appropriate police control of the traffic affected thereby.

Section 3. (1) Additions to the traffic control system, as the same may exist on the effective date of this ordinance, may be ordered by and on behalf of the city from time to time by written order of a legally authorized officer of the city, and upon receipt the company will institute action to furnish and install traffic control facilities of the type and design specified by the city at the locations designated by the city, provided that the company shall have the right to reject such order if the facilities specified are not of a standard type or design then being furnished and installed by the company under its standards for municipal traffic control facilities; provided further that the company may accept an order from the city for the installation of nonstandard traffic control facilities upon terms and conditions satisfactory to the company and to a legally authorized officer of the city, as evidenced by a written acceptance of any such order.

(2) The city by written order of a legally authorized officer of the city may require the company to change the type, location or direction of any facilities included in the traffic control system or to discontinue and remove any such traffic control facilities. Such changes or discontinuances shall be completed by the company as soon as reasonably practical after receipt of the order. The city shall reimburse and pay to the company for each such change or removal, the cost to the company of labor, transportation and materials incurred by the company in such change or removal, including, without limitation, applicable overheads, insurance and taxes, and remaining value of such facilities. As used herein the term "remaining value" shall mean the original cost of any facilities removed, less salvage value thereof, less depreciation on unrecovered original cost, plus the cost of removal, unless the city requires the company to discontinue and remove traffic control facilities in the traffic control system so that it may install city-owned traffic control facilities at the same location. In that case the city shall reimburse and pay to the company for each such removal the reproduction cost, new, less depreciation, plus labor and transportation costs for removal of the traffic control facilities. A salvage credit will be allowed only when the particular pieces of equipment being removed have current, reusable value to the company.

Section 4. The city shall pay to the company for traffic control signal service furnished by the company hereunder at the rates and charges as provided for in company's rate schedule 2-TR for municipal traffic control signal service or any superseding schedule therefor as then in effect and on file with the state regulatory commission from time to time during the term hereof.

Section 5. The method of payment for said municipal traffic signal service shall be provided in Section 6 of the city's Ordinance No. 361 (Franchise Ordinance), and in the event the company should render bills as provided therein, the city shall pay all such bills for services furnished under this agreement within 15 days after receipt thereof. If any such bill is not paid within such period, a default shall have incurred and the city shall become liable to pay to the company interest on such bill at the rate of 10% per annum until such bill is paid. If any bill shall remain in default for 90 days, the company may, at its option, discontinue the furnishing of services

provided for in this agreement, until such time as the delinquent payments, together with all interest thereon, shall have been paid, and the city shall also be liable to the company for the value of its investment (undepreciated original cost) in the traffic control system.

Section 6. The company shall not be liable on account of any interruption or delay of service occasioned by, and shall have no obligation to furnish service hereunder during the time service is interrupted by, an Act of God or any other cause not within the control of the company, including but not limited to, failure of facilities, load shedding for the protection or restoration of system operations, flood, drought, earthquake, storm, lightning, fire, explosion, epidemic, war, riot, civil disturbance, invasion, insurrection, labor disturbance, strike, sabotage, collision, or restraint or order by any court or public military authority having jurisdiction. Any strike or labor disturbance may be settled at the discretion of the company.

Section 7. A list of locations of the existing or authorized traffic control facilities included in the traffic control system is attached as Exhibit A hereto and made part hereof.

Section 8. The city shall have the right and option to purchase at the expiration of the ordinance (the "purchase date"), upon one year's written notice to the company prior to the intended purchase date, only that portion of the traffic control system determined by the company in use and useful and devoted exclusively to furnishing traffic signal service under this ordinance ("the property to be sold"). The purchase price for the property to be sold shall be and consist of all of the following:

- (a) The reproduction cost new less depreciation;
- (b) Consequential and severance damages which will result or accrue to the company from the sale and transfer of said property to the city;
- (c) An allowance for the loss of a portion of the company's going concern value;
- (d) All materials and supplies related uniquely to the property to be sold;
- (e) All expense in connection with such sale;
- (f) All other damage sustained by the company by reason of such sale.

Section 9. Purchase of Energy for City-Owned System. In the event the city, pursuant to section 8 hereof elects to and does purchase the property to be sold, the city shall purchase and receive from the company and the company shall sell and deliver to the city for a period of 10 years from the purchase date all of the electric energy required for the operation of all city-owned traffic control facilities then or thereafter located within the certificated service territory of the company at the applicable rate schedule for such service then or thereafter filed with and approved by the State Corporation Commission of the State of Kansas.

Section 10. The company shall at all time protect and save harmless the city from all damages or loss to persons or property for, or arising out of, or by reason of, the company's negligence in the construction, maintenance, and/or operation of said traffic signals as provided for herein.

ARTICLE 4. GAS SERVICE COMPANY

Section 1. Franchise. That there is hereby granted to The Gas Service Company, a corporation operating a gas distribution system in the City of Leawood, herein called the grantee, its successors and assigns, the right, privilege and franchise for a period of 20 years from the effective date hereof, to construct, maintain and operate in the present and future streets, alleys, bridges and public places in the city, its gas distribution system as now located, together with the right, privilege and franchise to acquire, construct, maintain and operate therein and thereon such additions and extensions thereto as may be necessary or desirable, all for the purpose of supplying natural gas for all purposes to the inhabitants of the city and consumers in the vicinity thereof.

Section 2. Rates To Be Charged. All rates established and charges made by grantee for gas distributed and sold hereunder shall be subject to valid and lawful orders of the State Corporation Commission of the State of Kansas or other competent authority having jurisdiction in the premises and the sale of gas to consumers shall be governed by the present operating rules, regulations and customs of grantee and such rules and regulations as may hereafter be prescribed and approved.

Section 3. Service. That in consideration of and as compensation for the right, privilege and franchise hereby granted, the grantee, its successors and assigns, shall furnish gas at such pressure and of such quality as shall be designated by lawful orders of the State Corporation Commission of said State, if such gas is reasonably procurable; shall furnish free of cost to each consumer a recognized standard meter or other instrument for measurement of gas sold or computation of consumer's bills and keep same in repair at its cost, which meter shall at all times be the property of the grantee but subject to inspection by the city; shall at all times save the city harmless from any and all damages which the city may be liable to pay that may arise from the construction, maintenance and operation of its plant system or any part thereof, shall limit all excavations of streets, alleys or public places to the necessities of efficient operation and shall not at any one time open or encumber more of any highway or public place than shall be reasonably necessary to enable grantee to proceed with advantage in laying or repairing mains or pipes and shall not permit such highway or public place to remain open longer than necessary for the purpose for which it was opened; shall refill all excavations and replace all pavement with like material and leave same in as good condition as when altered or removed; shall perform all work on streets, alleys and public places under supervision of a representative of the city if so desired; and shall repay the city all expense to which it has been put in the repair or replacement of streets, highways or pavements in the event such work is done by the city after the neglect or refusal of grantee to perform same in reasonable time.

Section 4. Reports and Payment. As a further consideration for the rights, privilege and franchise hereby granted and in lieu of all occupation and license taxes, the grantee shall not later than February 1st and

August 1st respectively in each year make a report to the governing body of the city of its gross receipts from the sale of gas for all purposes within the city for the six months' period ending at the last meter reading preceding December 31st and June 30th respectively; and at the time of making such report, pay into the city treasury a sum equal to 5% of the gross receipts from the sale of gas for domestic purposes, and 1% of its gross receipts from the sale of gas for industrial purposes, which shall have accrued subsequent to the effective date of this franchise. Industrial sales shall be considered as those made under special contracts providing for stand-by fuel and interruption of service at any time demands of domestic consumers may so require.

ARTICLE 5. SOUTHWESTERN BELL TELEPHONE COMPANY

Section 1. Franchise. The Southwestern Bell Telephone Company, its successors and assigns (herein referred to as "telephone company") shall continue to operate its telephone system and all business incidental to or connected with the conducting of a telephone business and system in the City of Leawood, State of Kansas (herein referred to as "city"). The plant construction and appurtenances used in or incident to the giving of telephone service and to the maintenance of a telephone business and system by the telephone company in the city shall remain as now constructed subject to such changes as may be considered necessary by the city in the exercise of its inherent powers and by the telephone company in the conduct of its business, and the telephone company shall continue to exercise its right to place, remove, construct and reconstruct, extend and maintain its plant and appurtenances as the business and purposes for which it is or may be incorporated may from time to time require, along, across, on, over, through, above and under all the public streets, avenues, alleys, bridges, and the public grounds and places within the limits of the city as the same from time to time may be established.

Section 2. Payment. That for the period September 1, 1983 to August 31, 1988, inclusive, the telephone company shall pay the city a sum equal to two percent of the class of service revenues for local exchange telephone communication service rendered wholly within the corporate limits of the city. Payment, for the initial period September 1, 1983 through August 31, 1984, shall be made on or about September 1, 1984. Thereafter, payments for the period September 1, 1984 through August 31, 1988, shall be payable quarterly 60 days after the end of the quarter to which the payment shall apply, being a term of five years ending August 31, 1988, and for successive terms of like duration, unless within four months prior to the expiration of the initial term, or of the successive terms ending on each five year anniversary following the expiration of the initial term, 60 days written notice is given one party to the other of its intention to terminate the same at the expiration of the then current five year term, it being expressly understood that each subsequent five year term provides for 20 quarterly payments and said payments to be in lieu of all other licenses, charges, fees or impositions (other than the usual general or special ad valorem taxes)

which might be imposed by the city under authority conferred by law. This agreement may also be terminated forthwith by the telephone company if authority to collect the amounts of such payments from its customers within the city shall be removed, cancelled, or withheld by legislative, judicial or regulatory act. The telephone company shall also have the privilege of crediting such sums with any unpaid balance due the company for the telephone service rendered or facilities furnished to the city.

Section 3. Service. The telephone company on the request of any applicant shall remove or raise or lower its wires temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the party or parties requesting the same, and the telephone company may require such payment in advance. The telephone company shall be given not less than 15 days written notice from the applicant detailing the time and location of the moving operations, and not less than 24 hours advance notice from the applicant advising of the actual operation.

Section 4. Permission is hereby granted to the telephone company to trim trees upon and overhanging streets, alleys, sidewalks and public places of the city so as to prevent the branches of such trees from coming in contact with the wires and cables of the telephone company. All the branches and trimmings to be promptly removed by the telephone company. Said trimming shall be under the supervision and direction of any city official to whom said duties have been or may be delegated.

Section 5. Nothing in this ordinance shall be construed to require or permit any telephone electric light, or power wire attachments by either the city or the telephone company on the poles of the other. If such attachments are desired by the city or the telephone company, then a separate non-contingent agreement shall be a prerequisite to such attachments.

Section 6. Nothing herein contained shall be construed as giving to the telephone company any exclusive privileges, nor shall it affect any prior or existing rights of the telephone company to maintain a telephone system within the city.

Section 7. Repealed. All other ordinances and agreements and parts of ordinances and agreements relating to the operation of a telephone system within said city are hereby repealed.

Section 8. Effectiveness. The telephone company shall have 60 days from and after passage and approval of this ordinance to file its written acceptance of this ordinance with the city clerk, and upon such acceptance being filed, this ordinance shall be considered as taking effect and being in force from and after the date of its passage and its publication as provided by law. (Ord. 813)

ARTICLE 6. TELECABLE

Section 1. Short Title. This ordinance shall be known as "The Community Antenna Television Franchise Ordinance of the City of Leawood, Kansas" and may herein and hereafter be cited as Leawood CATV Franchise Ordinance.

Section 2. Definitions. The following terms, phrases, words and their derivations shall have for the purposes of this ordinance the meanings herein stated; provided that when not inconsistent with the context, words used in the present tense shall include the future, and words in the plural shall include the singular number, and words in the singular number shall include the plural number; provided further, that the word "shall" is to be construed as mandatory and not simply directive; provided further, that the following definitions shall herein apply:

(a) City shall mean the City of Leawood, Kansas, a municipal corporation, or its successors, and shall include when appropriate to the use of the term in context, the territorial boundaries of the city as now constituted or as shall hereafter exist;

(b) Governing Body shall mean the present legislative body of the city of Leawood, Kansas, or any successor to the legislative powers of said present governing body;

(c) Committee shall mean a CATV Committee appointed by the mayor and approved by the city council to act in matters related to CATV;

(d) Franchise shall mean and include the right to conduct and operate a community antenna television system within the city subject to the terms and conditions hereinafter stated in the above captioned ordinance;

(e) Franchisee shall mean Telecable of Overland Park, Inc., its subsidiaries and affiliated companies or its successors, transferees or assigns which is granted the franchise, the terms and conditions of which are provided herein;

(f) Street shall mean any public street, roadway, highway, alley, or other public right-of-way now or hereafter subject to the jurisdiction and regulations of the City of Leawood, Kansas, as provided by the laws of the State of Kansas and any subsequent amendments thereof;

(g) Community Antenna Television System hereinafter referred to as "CATV System" shall mean an electronic system with properties and facilities suitable for the interception and receipt of electromagnetic radiation, and the transmission and distribution of same to subscribers by means of cables and other related facilities;

(h) Channel means a band of frequencies in the electromagnetic spectrum which is capable of carrying either one audio-video television signal and a number of non-video signals, or several hundred non-video signals;

(i) Subscriber shall mean any person which receives from the franchisee herein named, the services of said franchisee's community antenna television system, or any other services provided by the franchisee;

(j) Person shall mean any individual or association of individuals, any political subdivision or any firm, corporation, or other business organization; and

(k) Gross Annual Receipts shall mean and include any and all compensation and other legal consideration of any form whatsoever, and any contributing grant or subsidy received directly or indirectly by the franchisee herein named, from subscribers or users of the franchisee's services given in payment for the services, received by said persons within the city; provided, that the gross annual receipts shall also include any other revenues attributable to the CATV system and related operations in the city earned by the franchisee and/or lessee of channels or channel time from sources not otherwise enumerated herein; provided further, that the gross annual receipts of the franchisee shall not include any taxes on services furnished by the franchisee which are imposed directly upon any subscriber by the United States of America, or any state, city, or other political subdivision of the State of Kansas and collected by the franchisee on behalf of and for the benefit of any such government or political subdivision.

In the event the franchisee shall receive any revenue from any advertisement disseminated to subscribers both within and without the city, gross annual receipts shall, with respect to such advertisement, include an amount derived by multiplying such revenue by a fraction, the numerator of which is the number of subscribers in the city reached by such advertisement and the denominator of which is the total number of subscribers reached by such advertisement.

Section 3. Grant of Non-Exclusive Franchise. The City of Leawood hereby grants unto the franchisee herein named a non-exclusive franchise to construct, erect, operate and maintain a community antenna television system within the city, and in so doing to use the streets of the city by erecting, installing, constructing, repairing, replacing, reconstructing, maintaining, and retaining in, on, under, upon, or across any such streets, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to a CATV system, and in addition, so to use, operate and provide for all or part of such facilities by service offerings obtained from any franchised or operating utility company providing service within the city.

The authority hereby granted to conduct a CATV system within the city, and to use and to occupy the streets thereof does not and shall not be deemed an exclusive right or permission, and the city expressly reserves the right to grant other non-exclusive franchises to persons, firms, corporations or other business organizations, to construct, operate, and maintain other CATV systems within the city; but no such additional franchises shall in any way affect the rights or obligations of the franchisee herein named and set forth in this ordinance.

Section 4. Channel Allocation. The franchisee herein named shall transmit and distribute to its subscribers such electromagnetic radiation as are now, and may hereafter, be authorized by the Federal Communications Commission or any other administrative agency of the United States, the several states, or political subdivisions thereof having jurisdiction to regulate such activity.

Initial channel utilization of the system shall be allocated as follows:

- (1) Up to 12 channels for the off-air pickup and redistribution of signals from television broadcast facilities.
- (2) Two channels for the display of time, weather, news, and background music.
- (3) One channel for local programming originated by the franchisee.
- (4) One channel for use by the City of Leawood, jointly with other cities serviced by TeleCable of Overland Park, Inc., in Johnson County, Kansas.
- (5) Two channels for use by the public school and parochial districts located within the corporate limits of Leawood, Kansas.
- (6) One channel for public access on a leased channel basis.
- (7) One channel for the distribution of signals broadcast by FM radio stations.

The initial channel utilization authorized in this section shall be subject to allocation or reallocation by the committee. The franchisee shall make representations to the committee as to the proper allocations to be made in the light of the developments in the state of the art, the use of CATV as communications, educational, and entertainment media and the regulations of the F.C.C.

As channel utilization is increased, upon request by the franchisee, the committee may allocate or reallocate the channel utilization and/or the increased channel utilization. The committee shall approve whatever allocation is made of the available capacity of the CATV system.

Section 5. Term of Franchise. The franchisee herein named accepts and agrees to the terms and conditions set forth in this franchise ordinance by filing its acceptance in the office of the city clerk within 30 days from the effective date of this ordinance.

The franchisee's failure to timely file said acceptance as herein provided shall cause this ordinance to be deemed void and of no further force and effect.

The franchise shall become effective on the date accepted by the franchisee. It shall remain effective for 20 years, unless sooner terminated as herein provided. However, the governing body shall have the option, upon review, to terminate this contract, for reasonable cause, at the end of 10 years from the effective date. At that time, the governing body shall have the further option to make such reasonable modification of terms as it may approve in which case the franchisee shall have the right to accept or reject such terms.

Section 6. Franchise Payments. The franchisee herein named shall pay to the city during the term of the franchise a sum equal to seven percent of the gross annual receipts; provided that payment of said sum will be made quarterly, the first quarterly payment being due 30 days after the expiration of three months from the date upon which the term of the franchise herein granted commences, and that subsequent quarterly installments shall mature and be due and owing the city in like manner as herein provided; provided further that it is expressly understood that during the term of this franchise, the city will receive 80 quarterly payments from said franchise as herein provided, all as provided by K.S.A. 12-2001 paragraph Fifth, thereof.

Section 7. Reports. (a) During the first two years of this franchise, the franchisee shall furnish the committee with progress reports and maps indicating in detail the area of construction of the CATV system. Such periodic reports shall be furnished at monthly intervals, the first report to be made 60 days from the effective date of the franchise. Thereafter, on the anniversary of the effective date of the franchise, the franchisee shall file the map or set of maps showing all CATV equipment installed in the city as of the anniversary date.

(b) Within 60 days from the effective date of its franchise, the franchisee shall submit to the committee for approval a plan of the entire city indicating the date on which the franchisee expects the installation of the CATV system to be completed and available for service to subscribers in the various areas of the city.

(c) For the purpose of the city's evaluation of the operation of the channels, the company shall file quarterly with the committee and governing body a report or log describing the use being made, and the users, of such channels.

(d) Within 90 days after the expiration of each of the franchisee's fiscal years, the franchisee named herein shall submit to the governing body financial statements examined and reported thereon by certified public accountants. The financial statements shall clearly show the gross annual receipts of the franchisee during the preceding fiscal year, the receipts to be determined as defined herein; provided that in the event the franchise is terminated or forfeited prior to the end of the 20 year term herein provided, the franchisee shall immediately submit to the governing body financial statements and related report of the franchisee as hereinbefore required, showing the gross receipts of the franchisee for the period that has elapsed since the end of the period covered by the last 30 days following the termination or forfeiture of the franchise, the franchisee will pay to the city a sum equal to the percentage of the gross annual receipts as have accrued to the franchisee for the aforementioned period; provided further that the city reserves the right to independently examine the franchisee's gross annual receipts from which its franchise payments are computed, and any discrepancy between the examination and that filed by the franchisee with the governing body which results in the city's receiving a lesser sum than that which is due and owing from the franchisee will be determined and paid forthwith to the city; provided further, that the city's acceptance of any payment determined as hereinbefore provided, to be deficient, shall not be construed as a release of liability from the city or an accord and satisfaction of any claim the city may have for additional sums owned by said franchisee as hereinbefore provided.

(e) Within five days after the franchisee, its affiliates and/or subsidiaries have filed a report, petition, or communication with any city, state or federal agency pertaining to any aspect of operations pertaining to this franchise or the financial arrangements thereof, it shall file a copy of such report, petition or communication with the committee.

Section 8. Subscribers' Rate Schedule. Monthly rates for subscriber service shall be determined by franchisee and shall be uniform throughout the city for each type of service. Franchisee shall file with the city clerk a schedule of current rates in effect.

Subscriber rates for installation shall be determined by franchisee and shall be uniform, except where extraordinary installation procedures are required in order to establish service, in which case franchisee may charge the subscriber the actual cost of materials and labor plus 10 percent.

The governing body of the city may at any time require franchisee to provide sufficient financial information in order for the city to determine whether the unregulated rates charged to Leawood customers are in fact uniform and reasonably related to the cost of service.

Where a subscriber's service is disconnected for nonpayment of monies due, franchisee is authorized to collect a reconnection fee.

Section 8.1. Cost of Publication. Pursuant to K.S.A. 12-2001, the cost of publication of this ordinance shall be borne by TeleCable of Overland Park, Inc.

Section 9. Franchisee's Operating Regulations. The franchisee shall on the date it commences construction of its CATV system, or a date not later than 60 days thereafter, file with the committee the proposed rules, regulations, and rates governing the franchisee's extension of service to its subscribers, channel users and lessees, for approval by the governing body; provided that if the governing body has not filed with the franchisee its written objection to any or all of the proposed rules and regulations within 60 days after the same shall have been filed, the proposed rules and regulations shall be deemed approved; provided further, that the franchisee may thereafter modify or change such rules and regulations by filing with the committee such proposed changes or modifications as hereinbefore provided, and the same shall be approved or rejected in like manner; provided further, that in the event the governing body of the city rejects the proposed rules and regulations or any proposed change or modification thereof, the franchisee shall be entitled to a hearing before the governing body for consideration of such proposed rules and regulations or any proposed changes or modifications thereof at the next regular meeting following the governing body's rejection of the same by a resolution adopted at a regular meeting of the body.

Section 10. Notice to Parties. Whenever, under the terms of this franchise ordinance, either party hereto shall be required or permitted to give notice to the other, such notice shall be in writing, and if to be served upon the city, it shall be delivered either by first class United States mail addressed to the office of the mayor and governing body of the city or by personal delivery of the same to the persons or their duly authorized agent for receiving the same, and if the notice be addressed to the franchisee, the same shall be delivered by either first class United States mail addressed to an officer or the resident agent of the franchisee at the registered office of the franchisee or its resident agent, or by personally delivering the same to such person as hereinbefore provided, or such other person as the franchisee shall from time to time direct.

Section 11. Franchisee's Duty to Comply with State and Federal Law. Notwithstanding any other provisions of this franchisee ordinance to the

contrary, the franchisee shall at all times comply with all laws and regulations of the United States and the several states and any political subdivision thereof, or any administrative agency thereof, having jurisdiction to regulate community antenna television systems; provided that, franchisee's failure to comply with any law or regulation governing the operation of the CATV system may result in a forfeiture of the privileges conferred by this franchise ordinance when so determined by the governing body of the city as adopted by ordinance at one of its regular meetings.

Section 12. Location of Franchisee's Properties in the Public Way. The franchisee in the construction of its facilities to provide service to its subscribers shall use the existing poles and other properties of franchised public utility companies operating with the city, or shall bury its facilities in a manner and location approved by the committee, and the franchisee shall not construct, erect, or maintain any supporting poles or other properties within the public streets of the city for the operation of its CATV system except upon the express consent and permission of the city given in writing by the committee; provided that the franchise shall not be prohibited from relocating its facilities if the poles and other properties on or upon which the facilities attach and are affixed are relocated from constructing, operating, and maintaining its facilities upon other poles and properties of the franchised public utility companies as may hereinafter be constructed; provided further that, wherever within the city all or any part of the properties of the franchised public utility company with which the franchisee named herein has contracted for the use of the facilities, shall be located underground, it shall be the obligation of the franchisee to construct, operate, and maintain its properties underground in such locations; provided further, that if existing properties of the franchised public utility companies with which the franchisee herein named has contracted, relocate the properties underground, the franchisee shall forthwith relocate its properties, formerly attached thereto, underground in such places. However, the city reserves the right to permit the franchisee to maintain its existing facilities above ground in the locations whenever its committee shall so direct the same in writing to the franchisee.

Section 13. Relocation of Franchisee's Property. Whenever the city shall request of the franchisee the relocation or reinstallation of any of its properties along and within any of the streets of the city, the franchisee shall forthwith remove, relocate, or reinstall any such property as may be reasonably necessary to meet the request and the cost of such relocation, removal, or reinstallation of the properties shall be the exclusive obligation of the franchisee; provided that the franchise shall upon request of any person holding a validly issued building or moving permit of the city, the request having been given in writing to the franchisee not less than 48 hours prior to the date upon which the person intends to exercise its rights under the permits, the franchisee shall thereupon temporarily raise, lower, or relocate its wires or other property as may be required for the person to exercise the rights and privileges of its permit, and the franchisee may require the person to make payment in advance for any expense incurred by the franchisee pursuant to the person's request.

Section 14. Franchisee's Duty to Remove its Properties From the Public Way. Following the franchisee's commencement of service through and over its CATV system, the franchisee shall promptly remove from the public streets and other public ways where its properties are located, all or any part of its facilities so located, when one or more of the following enumerated conditions occur.

(a) That the franchisee ceases to use any part, or all, of its CATV system for a continuous period of 12 months from the date of the occurrence;

(b) That the franchisee fails to construct the system as hereinbefore and hereinafter provided;

(c) That the franchise is terminated or revoked pursuant to any provision herein.

Provided that the franchisee shall be entitled to receive notice in writing from the city setting forth one or more of the occurrences hereinabove enumerated, or such other occurrence hereinbefore or hereinafter provided, and that the franchisee shall have 90 days from the date upon which the notice is received to remove the properties as hereinabove required.

Section 15. Authority of the City to Require Removal of Franchisee's Properties from the Public Way. The committee is herein and hereby authorized to enforce the provisions of section 14 of this franchise ordinance as hereinafter provided:

(a) That the mayor shall notify the franchisee in writing of any occurrence provided for in section 14 hereof, for which the franchise may be terminated, forfeited, revoked, or declared void by the city, and that within 90 days following receipt of the notice, the franchisee shall remove from the public streets and all other public ways of the city upon, over, and under which its properties are located, all of the properties unless otherwise authorized and permitted by the mayor.

(b) The committee may declare abandoned any property of the franchisee remaining in place 90 days after notification from the mayor as hereinabove provided, and the same shall be considered permanently abandoned property unless the mayor extends the time for removal of the property for a period not to exceed 30 additional days.

(c) Any property abandoned by the franchisee as hereinabove or hereinafter provided shall become the property of the city and the franchisee agrees to execute and deliver an instrument in writing, transferring its ownership interest in any such property to the city; provided that any notice given the franchisee by the mayor, as provided herein, shall be deemed notice to any other persons claiming interest in the property of the franchisee, and the persons shall be subject to all provisions hereinbefore provided in sections 14 and 15.

Section 16. Standards for Construction of Franchisee's Facilities.
Construction of facilities:

(1) The construction of the properties and facilities of the franchisee's CATV system shall conform to the standards of the latest edition of the National Electrical Code of the National Board of Fire Underwriters at the time any such properties and facilities shall be constructed or reconstructed; provided further, that the construction shall be in conformance with all laws

and regulations of the United States of America and State of Kansas and any political subdivisions thereof, or any administrative agency thereof, having jurisdiction to regulate the construction of the CATV system.

(2) All transmission and distribution structures, lines, and equipment erected by the franchisee within the city shall be so located as to cause minimum interference with the proper use of streets, easements and swales, sidewalks, alleys and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the streets, easements and swales, sidewalks, alleys or other public ways and places.

(3) The franchisee shall have the authority to trim trees which are located upon and overhang the public streets and other public ways of the city, so as to prevent the branches of such trees from coming into contact with the franchisee's properties; provided that, the city may require that such work be done by the city or other persons whom it shall designate and the expense of such work shall be assessed and charged to the franchisee.

(4) The franchisee shall not construct or reconstruct any of its CATV system located upon, over, under, or within the public streets or public ways of the city without first having submitted in writing a description of its planned improvement to the committee and having received a permit for such improvement from the city.

(5) The franchisee shall establish and maintain a television studio for the joint use of Leawood, Kansas, and other cities serviced by TeleCable of Overland Park, Inc., in Johnson County, Kansas, with color telecasting equipment, video tape recording and playing facilities and vehicles and equipment for remote telecasting. The studio shall be available for use by the city for broadcasting over its channel as provided in section 4, for up to five hours per week at no charge; and shall be available for use by the users of the public service channel as outlined in section 4. This studio shall be located within a 10 mile radius of the city hall and shall be located in the State of Kansas.

(6) The franchisee shall install a reverse-direction audio and visual capability for at least three channels in the CATV system at the time of the initial installation of its facilities in the city.

Section 17. Standards for Operating and Maintaining Franchisee's CATV System.

(a) Operational Standards

(1) Franchisee's CATV system shall be constructed, operated, and maintained in accordance with the highest accepted standards of the Community Antenna Television industry to insure that the subscriber receives the highest quality of service.

(2) The franchisee shall undertake any construction and installation as may be necessary to keep pace with the latest developments in the state of the art, whether with respect to increasing channel capacity, furnishing improved converters, instituting two-way services, or otherwise.

(3) The franchisee shall furnish to its subscribers and customers for all services the best possible signals available under the circumstances existing at the time, and shall provide quality reception to each subscriber so that both sound and picture are produced free from visible and audible distortion and ghost images on standard television receivers in good repair.

(4) Whenever the franchisee redistributes off air pickup of the regular programming transmitted by any local or distant commercial station, the programming shall not be interrupted or interspersed by any additional commercials and shall be presented in its entirety.

(b) The system shall be designed and rated for a 24 hour a day continuous operation.

(c) Maintenance of System

(1) The company shall put, keep and maintain all parts of the CATV System in good condition.

(2) The franchisee shall respond to all service calls within 24 hours and correct malfunctions as promptly as possible, but in all events, within 72 hours after notice thereof, for that purpose the franchisee shall provide for competent, adequate and prompt service to its subscribers.

(3) Except where there exists an emergency situation necessitating a more expedited procedure, the franchisee may interrupt service, for the purpose of repair or upgrading of the CATV System, only during periods of minimum use, and only after 48 hours minimum notice to its subscribers.

(d) Subscriber Service. Franchisee's services must be made available to all persons requesting such services within the city, on a non-discriminatory basis.

Upon the reasonable request for service by any person located within the city, the franchisee shall furnish the requested service to such person as follows:

(1) During the construction period, service shall be furnished as the distribution cable installed without regard to type of installation required.

(2) After the initial installation, the franchisee shall, within 30 days, furnish the requested service, but in the order of request without regard to the type of installation required.

(3) A request for service will be unreasonable for the purpose of paragraphs 1 and 2 above if no distribution cable installation capable of servicing that person's block has as yet been installed, or, if occurring at any time and direct access cannot be obtained to such person's premises and all other means of access are highly impracticable.

(e) The franchisee will maintain and provide to its subscribers an office convenient to subscribers, which shall be available to said subscribers during normal business hours of every day, Monday through Friday inclusive, for the purpose of receiving complaints or requests for repairs, adjustments, or other service caused by some failure or malfunction of the system, and the franchisee shall provide its subscribers with facilities for receiving requests and complaints for service at a time other than that herein provided.

Section 18. Commencement of Construction of CATV System. Franchisee shall within 30 days following the date upon which its acceptance of the terms of this franchise ordinance is filed with the city, commence the construction of its CATV system; provided that the governing body of the city may grant to the franchisee an extension of time for the initial commencement of construction of the system, but that in no event, shall the franchisee be granted an extension of time more than 365 days following the date upon which its acceptance of the franchise is filed with the city; provided further, that the franchisee shall be able and willing to render

service within 365 days to all of the city unless the governing body of the city shall grant an extension of the period in the manner hereinabove provided, but the extension shall not be for a period longer than one year from the date upon which franchisee commences construction of its CATV system.

After the entire city has been provided service capability, the franchisee shall within 90 days following notification by the city, commence to install service to any area of the city which is not now developed, provided that the area is then being improved and developed.

Section 19. Rights Reserved to the City. Without limitation upon the rights which the city might otherwise have, the city does hereby expressly reserve the following rights, powers and authorities:

(a) The right to exercise the governmental powers, now or hereafter, vested in, or granted to, the city; and as are reserved to the city under K.S.A. 12-2001.

(b) The right to grant additional CATV franchises within the city subject to the provisions of section 3 hereof;

(c) The right of the governing body of said city to determine questions of fact arising from the interpretation and enforcement of the terms, conditions and provisions of this franchise ordinance, and that such determinations shall be binding upon the parties hereto.

Section 20. City's Failure to Enforce the Terms and Conditions of this Franchise. The city's failure to enforce and remedy any noncompliance by the franchisee of the terms and conditions of this franchise ordinance shall not constitute a waiver of the city's rights hereunder, and the franchisee shall continue to perform its obligations as herein provided.

Section 21. Conditions for Forfeiture of Franchise and Penalties. In addition to all other rights and powers herein reserved or otherwise enjoyed by the city, the city reserves as an additional and separate remedy the right to revoke the franchise herein granted and all rights and privileges of the franchisee conferred hereunder, upon the occurrence of any of the following events:

(a) That franchisee fails to remedy within 30 days following the date upon which written notice is received of the franchisee's failure to comply with the provisions of this franchise ordinance whether the same be committed by act or omission, the violation set forth in the notice; or

(b) That any provision of this franchise ordinance is adjudged by a court of competent jurisdiction to be invalid or unenforceable and the judicial act and declaration is deemed by the governing body of the city to constitute such a material consideration for the granting of the franchise as to cause the same to become null and void; or

(c) Franchisee is adjudged a bankrupt, becomes insolvent, suffers a transfer of its properties pursuant to an action of its creditors upon an instrument or judicial declaration securing the creditor's interest in the properties, and thereafter the same be not redeemed by the franchisee within 30 days from the date of the transfer, or the franchisee is otherwise unable or unwilling to pay its debts and obligations as the same accrue; or

(d) The franchisee commits an act of fraud or deceit against the city in obtaining the grant of the franchise herein conferred, or upon being granted aid franchise commits such an act against the city; or

(e) Franchisee transfer or attempts to transfer any of its properties for the purpose of preventing the city from purchasing and acquiring the same as the city may herein be entitled so to do; or

(f) The city condemns by lawful exercise of its power of eminent domain all of the properties of said franchisee located within the city; franchisee challenges or adjudicates, in a court of competent jurisdiction, any claim against the city, alleging that any provision, term, or condition of the franchise herein granted is unreasonable, arbitrary, or void, or that the city did not have the power or authority to make such provision, term, or condition in enacting this franchise ordinance; or

(g) Franchisee shall give to any person, firm, corporation or other business association, preference or advantage over some other person in assessing and levying its rates and charges, or in serving its subscribers, or in enforcing its rules and regulations or in any other respect; or

(h) No revocation except for the reason of condemnation, as provided in subparagraph (f) hereof, shall be effective unless, or until, the governing body of the city shall find at one of its regular meetings or such other special meeting as may be required, that a violation of the terms and conditions of the franchise ordinance as herein set forth, was committed or occurred by the franchisee; provided further, that the revocation and repeal of this franchise ordinance shall become effective only upon the enactment of an ordinance by the governing body of the city adopted not sooner than a date 30 days following the date upon which the franchisee is notified of any alleged act or commission for which the franchise may be revoked, as herein provided.

(i) For violation of material provisions of this ordinance, penalties shall be chargeable to the franchisee as follows:

(1) For failure to submit plans indicating expected dates of installation of various parts of the CATV System: \$100 per day.

(2) For failure to commence operations as provided herein: \$200 per day.

(3) For failure to commence and complete construction and installation of CATV System as provided herein: \$500 per day.

(4) For failure to supply data requested by the governing body or committee in connection with installation, construction, customers, finances or financial reports, or rate review, as provided herein: \$50 per day.

(5) For persistent failure to comply with reasonable recommendations of the governing body relating to rates or services as provided for herein, and/or interconnections, subdistricting, as provided herein, and such other reasonable requests or recommendations as may be made pursuant to authority granted by this ordinance: \$50 per day.

In cases where the company disagrees as to whether the requests which have been disregarded are "reasonable," appeal may be made to the governing body.

Section 22. Service to Schools and Other Public Facilities. (a) Upon the request of any private, parochial or public elementary or secondary school or any college or university located in the city, the franchisee shall furnish a

single service drop to such institution free of installation charge and monthly service charge.

(b) Upon the request of the city, the franchisee shall furnish a single service drop to the city hall and to any other city-owned building or facility used for public purposes free of installation charge and monthly service charge.

(c) Franchisee, at its sole expense, will provide a hook-up from the present school district studio to the school channels provided within Leawood either through Micro-Wave transmission or through an interface or direct hook-up with the system which now services the school district.

(d) The channel for public access shall be available to persons who lease channel time, provided further, that the franchisee shall make available studio space and studio equipment as part of the channel lease charge, such charge to be determined and filed as provided in section 9. Programming on this channel shall be free from any control by the franchisee as to program content, except as required by section 11, hereof.

(e) The channels reserved and provided in section 4 hereof for the city and for the public school districts shall be free of charge to the users thereof.

Section 23. Emergency Use of Franchisee's System. In the event of a civil disaster or other emergency, the franchisee shall upon request of the mayor or his or her authorized representative of the city, permit the city to broadcast information over its system advising the subscribers and residents of the city regarding the nature and extent of the civil disaster or other emergency as may be required to protect the persons in their safety and welfare; provided that, any such broadcast shall be conducted by or with the assistance of franchisee's authorized personnel.

Section 24. Franchisee's Duty to Secure Liability Insurance. Franchisee shall concurrently with the filing of its acceptance of the franchise herein granted as provided in section 5 hereof, deliver to the city a certificate of insurance naming the city as a co-insured and providing liability insurance to protect the following enumerated risks in the sums hereinafter set forth:

That the coverage shall insure the city and its officers, boards, commissions, agents, and employees from and against all claims by any persons whatsoever for loss or damage from personal injury, death, or property damage occasioned by the operation of the franchisee's CATV system, or alleged to so to have been caused or occurred, for an amount not less than \$500,000 for the personal injury or death to any one person and \$1,000,000 for person injury or death of two or more persons in any one occurrence, and \$300,000 for damages to property resulting from any one occurrence.

The policy shall not be cancelable until the city has had at least 15 days prior notice.

The coverage shall remain in full force and effect throughout the term of this franchise.

Section 25. Franchisee's Bonds. (a) The franchisee shall concurrently with the filing of its acceptance of this franchise as provided in section 5 hereof and at all times thereafter maintain in full force and effect during the

demands, actions, suits and proceedings by other persons against any and all liability to such other persons by reason of liability for damages arising out of any failure by the franchisee to obtain consent from owner, authorized distributors and licensees of programs transmitted or distributed by the franchisee under its CATV system and against any loss, cost, expense or damages resulting therefrom and including reasonable attorneys' fees incurred in the defense of any such action.

Section 30. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of this ordinance shall not be thereby affected.

Section 31. Time is of the Essence. Whenever this franchise shall set forth any time for any action to be performed by or on behalf of the franchisee, such time shall be deemed of the essence and any failure of the franchisee to perform within the time so specified shall be sufficient grounds for the city to revoke the franchise herein granted.

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